Title 8

PLANNING

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Chapter 8.04

PLANNING COMMISSION

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8.04.010 Planning Commission Established -- Purpose. There is hereby established the Planning Commission for the Borough to constitute a department of the Borough and to perform the area wide functions of planning, platting and zoning for the Borough.

8.04.020 Commission 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 Assembly. Members first appointed shall draw lots of 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 Assembly.

8.04.030 Commission 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. Commission officials shall be elected annually at the first Commission meeting subsequent to Assembly confirmation of regular appointments.

8.04.040 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 thirty days;

2. If a member departs from the Borough with the intent to remain away for a period of ninety or more days or moves his residence from the Borough limits for a period of ninety or more days;

3. If a member's resignation is submitted and accept ed by the Assembly;

4. If a member is physically unable to attend Commission meetings for a period of more than ninety days;

5. If a member misses three or more consecutive regular meetings, unless excused by the Commission; or

6. If a member is convicted of a felony or of an offense involving a violation of his oath of office.

B. The clerk shall keep attendance records and notify the chairman when vacancies occur.

8.04.050 Meetings.

A. Regular meetings will be held on the second Thursday of the month. Special meetings may be called by the Commission chairman or shall be called by the chair 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 Borough 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. A majority of voting membership constitutes a quorum. Except as otherwise set out herein, any act of the Commission requires a majority affirmative vote of those voting members present.

8.04.060 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;

5. Miscellaneous business.

B. The order of business at special meetings shall be prescribed by the chairman.

8.04.070 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 Borough.

B. The Commission shall 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.

8.04.080 Formal Acts by Resolution.

A. All formal actions of the Commission shall be by resolution bearing:

1. The heading "City and Borough of Yakutat Planning Commission,"

2. The space for the serial number to be assigned "Resolution Serial No. _____,"

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 signature after the text, "Adopted ___(date)___," and designated lines for the signatures of the Commission chairman and the Commission 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.

8.04.090 Funds. All funds of the Commission received as fees and charges or otherwise are those of the Borough and shall be deposited in the general fund of the Borough as receipts of the activities of the Commission.

8.04.100 Planning Functions. The planning functions of the Planning Commission are as follows:

A. To prepare from time to time plans for the systematic development of the Borough as a place of residence and business;

B. Comprehensive Plan. To develop and recommend to the Assembly the adoption of a comprehensive plan; and, to review and recommend to the Assembly from time to time changes in the comprehensive plan, with a written record of those proposed revisions made not less frequently than annually. The comprehensive plan shall be a compilation of policy statements,

goals, standards and maps for guiding the physical, social and economic development, both private and public, of the Borough. It may include, but is not limited to, the following: statements of policies, goal, and standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation;

1. With the recommendations of the Planning Commission, the Borough Assembly shall adopt by ordinance a comprehensive plan. The Assembly shall also, after receiving the recommendations of the Planning Commission, periodically undertake an overall review of the comprehensive plan and update the plan as necessary.

C. Capital improvements plan. To investigate and prepare, under such directions and conditions as the Assembly may from time to time request, the Commission's recommendations on a capital improvements program, and to review the same and recommend revisions to the Assembly from time to time, but not less frequently than annually. Review of the capital improvements program shall be a public process. Records of the review and all recommendations of the Commission shall be retained and will become permanent public records of the Commission;

D. Codes of technical regulations. To investigate and recommend to the Assembly 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;

E. Acquisition of public lands. To investigate and prepare, either on its own instigation or at the direction of the Assembly, reports on the availability of public lands by selection, transfer at less than appraised value, and otherwise, for Borough purposes. In this regard special attention shall be given to acquisition of lands for public recreation;

F. Report on the location and design of certain public recreation facilities. To investigate and prepare reports on the location and establishment of:

1. Outdoor public recreation,
2. Trap, skeet, rifle and pistol ranges, and
3. Public campgrounds;

G. To investigate and report upon the location and design of any public building, dock, beach, ski ground, statue, memorial, park, parkway, boulevard, street or alley, playground, public street, alley or grade thereof before final action is taken by the Borough or any department, office, or agency.

8.04.110 Additional Functions of the Planning Commission. The Planning Commission shall also:

A. Prepare and recommend to the Assembly:

1. A zoning ordinance;

2. The Official Zoning Map of the Borough;

3. A subdivision ordinance; and

4. Modifications to the documents specified in (1) through (3) of this Section;

B. Act as the platting authority. (see Chapter 8.28)

C. Act upon requests for variances. (see Chapter 8.24)

D. Act upon requests for conditional uses. (see Chapter 8.24).

E. Act upon zoning compliance permits, upon appeal from the decision of the zoning administrator. (see section 8.24.010(I).

F. Act upon appeals from enforcement orders. (see section 8.12.075(C)(2).

Chapter 8.08

APPEALS TO THE BOARD OF ADJUSTMENT

Sections:

8.08.010 Board of Adjustment.
8.08.011 Appeal Record.
8.08.012 Briefs - Notice of Meeting.
8.08.020 Procedure for Appeals Made Pursuant to Sections 8.08.010(A)(1-3).
8.08.030 Procedure for Appeals Made Pursuant to Section 8.08.010(A)(4).
8.08.040 Decision of the Board.
8.08.050 Appeals from the Board of Adjustment.

8.08.010 Board of Adjustment.

A. The Borough Assembly is the Board of Adjustment and meets at the call of the Mayor. The Board of Adjustment shall hear and decide:

1. Appeals from the decisions of the Planning Commission on requests for zoning compliance permits, enforcement orders and other alleged errors in the enforcement of the zoning ordinances and building codes;

2. Appeals from the decisions of the Planning Commission on requests for conditional use permits;

3. Appeals from the decisions of the Planning Commission on requests for variances from the terms of the zoning ordinance, provided:

a. The Board of Adjustment shall not grant a variance which is contrary to the public interest;

b. The Board of Adjustment shall not grant a variance because of special conditions caused by actions of persons seeking relief or for reasons of pecuniary hardship or convenience;

c. The Board of Adjustment shall not grant a variance which will permit a land use in a district in which that use is prohibited;

4. Appeals from the decisions of the Planning Commission, acting as the platting authority, regarding approval or disapproval of a subdivision plat, as provided in Section 8.08.030.

B. The notice of appeal shall be filed with the Borough Clerk on a form prescribed by the Borough, and must contain detailed and specific allegations of error.

C. The meetings at which the Board of Adjustment deliberates and decides appeals shall be open to the public and minutes shall be kept of its proceedings as a public record. The board of adjustment shall not hear argument or take additional testimony or other evidence.

D. All votes of the Board of Adjustment shall be roll call votes and shall be recorded.

E. All appeals submitted to the Board of Adjustment shall be accompanied by a filing fee, in the amount set forth in section 8.44.040.

F. Appeals alleging new evidence or changed circumstances shall not be heard by the board of adjustment but shall be remanded to the Planning Commission, which shall determine whether to rehear the matter.

Section 8.08.011 Appeal Record.

A. The record on appeal shall consist of a transcript of the proceedings before the Planning Commission from which the appeal has been taken, copies of all documentary evidence and other materials submitted to the Planning Commission prior to the decision from which the appeal is taken, and a copy of the written decision of the Planning Commission. The appellant is responsible for arranging and paying for preparation of the transcript of the proceedings, and filing it with the Borough Clerk. If there is more than one appellant, each appellant is jointly and severally responsible for preparation and filing of the transcript.

B. The transcript shall be filed with the Borough Clerk within thirty days of the filing of the notice of appeal. If the transcript is not timely and properly filed, the appeal shall be automatically denied.

C. The record on appeal shall be available for review and copying at the office of the Borough Clerk.

Section 8.08.012 Briefs - Notice of Meeting.

A. The appellant(s) and appellee(s) to the board of adjustment may file written briefs in support of their respective positions regarding the allegations of error specified in the notice of appeal, not later than 45 days after the filing of the notice of appeal. Such briefs shall not exceed 15 pages in length and be typewritten or neatly hand-written on 8½x 11 inch pages with one inch margins. The text of the brief shall be double-spaced and contain appropriate citations to the materials in the appeal record. The Borough Clerk shall make available, for use by an appellant or appellee,

a form which may be utilized in the preparation and filing of a brief before the board of adjustment.

B. An appellee brief may be filed only by (a) the party in whose favor the Planning Commission's decision was rendered; (b) a borough agency; and (c) a person who would be adversely affected if the decision of the Planning Commission was reversed by the board.

C. Following the time set for the receipt of written briefs, the notice of appeal and appeal briefs shall be distributed to the board of adjustment members, and a date set for consideration of the appeal by the board. Notice of the meeting shall be given by the Borough Clerk in accordance with section 8.44.030.

Section 8.08.020 Procedure for Appeals Made Pursuant to Sections 8.08.010(A)(1-3).

A. The applicant, a Borough official, and any person adversely affected by the action may file an appeal pursuant to Sections 8.08.010(A)(1-3).

B. Such appeal shall be filed no later than fifteen days after the decision of the Planning Commission from which the appeal is taken. If appeal is not made within the fifteen days specified herein, the right of appeal shall be lost.

C. Within ten days of the filing of a notice of appeal, the Borough Clerk shall transmit a copy of the notice to (1) the Planning Commission and (2) the party in whose favor the Planning Commission decision was rendered.

Section 8.08.030 Procedure for Appeals Made Pursuant to Section 8.08.010(A)(4). All decisions concerning approval or disapproval of a subdivision by the Platting Authority shall be final unless appealed to the Board of Adjustment as provided below:

A. A written notice of appeal must be filed by the aggrieved party no later than ten (10) days after the decision of the Platting Authority from which the appeal is taken. An aggrieved party is defined as limited to:

1. The subdivider;

2. Any governmental agency, including the Borough;

3. Owners of thirty percent (30%) or more of the adjacent property within 500 feet.

B. Within ten days of the filing of a notice of appeal, the Borough Clerk shall transmit a copy of the notice of appeal to (1) the Platting Authority and (2) the party in whose favor the Platting Authority decision was rendered.

C. If an appeal is granted by the Assembly, resulting in the approval of a plat previously denied, the Mayor of the Borough and the Borough Clerk shall sign and approve the plat in lieu of the Platting Authority clerk and chairman.

Section 8.08.040 Decision of the Board.

A. The board of adjustment may affirm or reverse the decision of the Planning Commission, in whole or in part, and may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the body from whom the appeal is taken. It shall decide an appeal on the basis of the record on appeal and the written appeal briefs.

B. A majority vote of the full Borough Assembly is required to reverse or modify the decision appealed from.

C. A decision of the board of adjustment shall be based upon written findings and conclusions adopted by the board.

D. A decision of the board of adjustment shall fully dispose of the matter on appeal, except that the matter shall be remanded to the Planning Commission where the board of adjustment determines that 1) there is insufficient evidence in the record on an issue material to the decision, or 2) there has been a substantial procedural error which requires further public hearing. A decision remanding the matter shall specify the grounds for remand and provide any necessary direction to the Planning Commission.

Section 8.08.050 Appeals from the Board of Adjustment.

A. Any borough official, taxpayer or person, jointly or severally aggrieved may appeal an action of the Board of Adjustment to the Superior Court, State of Alaska, First Judicial District, within thirty days of the decision of the board from which the appeal is taken.

Chapter 8.12

ZONING DISTRICTS

Sections:

8.12.010 Building and Land Use Regulations.
8.12.020 (Reserved).
8.12.030 Zoning Districts.
8.12.040 Establishment of Zones and Adoption of Official Zoning Map.
8.12.050 Rules for Interpretation of Zoning Boundaries and Permitted Uses.
8.12.060 Amendments.
8.12.070 Regulations Uniform.
8.12.075 Enforcement, Violations, Civil Penalties and Remedies
8.12.080 Regulations for "R-1" Residential Districts.
8.12.084 Regulations for "R-1-LD" Residential Districts
8.12.086 Regulations for "R-1-ES" Residential Districts
8.12.090 Regulations for "R-2" Residential Districts.
8.12.100 Regulations for "R-3" Residential Districts.
8.12.110 (Reserved).
8.12.120 (Reserved).
8.12.130 Regulations for "CO" Conservation Districts.
8.12.140 Regulations for "R-R" Residential Reserve Districts.
8.12.150 Regulations for "P" Public Districts.
8.12.160 Regulations for "M-R" Marine-Residential Districts.
8.12.170 Regulations for "C-R" Commercial-Residential Districts.
8.12.180 Regulations for "C" Commercial Districts.
8.12.190 (Reserved).
8.12.200 Regulations for "LI" Light Industrial Districts.
8.12.210 Regulations for "I" Industrial Districts.
8.12.220 Creation of "H" Holding District.

8.12.010 Building and Land Use Regulations. For the purpose of promoting the public health, safety and morals, the Assembly shall, upon having received the recommendations of the Planning Commission, regulate the heights, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or

other purposes, and may enact a building code regulating minimum construction, heating, lighting and other requirements and specifications within districts, defining offenses and prescribing punishment for their violation.

8.12.020 (Reserved).

8.12.030 Zoning Districts. The Assembly, upon the recommendations of the Planning Commission, shall divide the Borough into such districts as will best accomplish the purposes of the comprehensive plan and accommodate the building and the land use regulations authorized by law.

8.12.040 Establishment of Zones and Adoption of Official Zoning Map.

A. The City and Borough of Yakutat is hereby divided into the following zoning districts:

1. "R-1" Residential;
2. "R-1-LD" Residential Low Density;
3. "R-1-ES" Residential Estate
4. "R-2" Residential;
5. "R-3" Residential;
6. "CO" Conservation;
7. "R-R" Residential Reserve;
8. "P" Public;
9. "M-R" Marine-Residential;
10. "C-R" Commercial-Residential;
11. "C" Commercial;
12. "LI" Light Industrial;
13. "I" Industrial.
14. "H" Holding.

These zones shall be bounded and defined as shown on the Official Zoning Map, a certified copy of which shall be kept in the Borough offices. This Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Title.

B. Regulations applying to each zone are set forth in the following Sections of this Chapter.

C. No changes of any nature shall be made to the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind made by any person or persons shall be considered a violation of this Chapter. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map located in the Borough offices shall be the final authority as to the

current zoning status of land and water areas, buildings and other structures in the Borough. The Official Zoning Map shall be identified by the signature of the Mayor of the City and Borough of Yakutat under the following words: "This is to certify that this is the Official Zoning Map referred to in 8.12.040 of the Code Book of the City and Borough of Yakutat, Alaska."

D. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Borough Assembly by ordinance shall adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor of the City and Borough of Yakutat, under the following words: "This is to certify that this Zoning Map supersedes and replaces the Official Zoning Map adopted (here follows date of adoption of map being replaced) as part of Ordinance No. ____ of the City and Borough of Yakutat, Alaska."

8.12.050 Rules for Interpretation of Zoning Boundaries and Permitted Uses.

A. For interpretation of boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

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

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

3. Boundaries indicated as approximately following coastal and lake shorelines shall be construed to follow such shorelines. In the event of a change of shoreline, the zone boundary shall be construed as moving with the actual coastal or lake shoreline;

4. Boundaries indicated as parallel to or extensions of features indicated in Subsections (1) through (3) above shall be so construed;

5. The zoning regulations shall apply equally to private and public property;

6. Property which is located inside the prior City limits of the City of Yakutat as of the effective date of the creation of the Borough and which has not been specifically

included within a zone shall be classified as "R-1" Residential until such classification is changed by amendment to the zoning ordinance as provided by law;

7. Property which is located outside the prior City limits of the City of Yakutat as of the effective date of the creation of the Borough shall be classified as "H" Holding, subject to the conditions set forth in 8.12.220.

8. Where any public street is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street added thereto by virtue of such vacation.

8.12.060 Amendments. The Borough Assembly may, under the following procedure and by ordinance, amend or repeal these regulations or change the boundaries of zones.

A. Procedure:

1. Initiation of changes. Changes in this Chapter or in the boundaries of zones may be initiated by the following means:

a. By the Borough Assembly on its own motion;

b. By the Planning Commission on its own motion;

c. By petition signed by the owners of fifty-one percent of the property within an area proposed for rezoning. Said petition shall be filed with the Planning Commission through the Zoning Administrator. In addition to the necessary signatures, the petition shall contain:

i. A description by survey, block, and lot numbers of the property involved;

ii. Reasons for the proposed change; and

iii. A fee to cover legal notice and administrative costs, in the amount set out in section 8.44.040.

2. Planning Commission report:

a. Before any proposed zoning changes may be acted upon by the Borough Assembly, the Planning Commission shall study the proposed change, hold a public hearing on the matter, and shall make a report in writing to the Borough Assembly. Said report shall include:

i. Findings as to need and justification for the proposed change, including findings as to the effect which the proposed change would have on the objectives of the comprehensive plan; and

ii. A recommendation as to the approval or disapproval of the change.

b. The Planning Commission's report to the Borough Assembly shall be made within one hundred days after the

date of the filing of the petition or the motion from the Planning Commission or Borough Assembly.

c. The Planning Commission may recommend that more or less area be rezoned and/or that more or less restrictive rezoning than applied for be approved.

3. Hearings:

a. The Planning Commission shall set a date for and hold a public hearing not later than sixty days following the date of the filing of each properly submitted petition, or the motion from the Planning Commission or Borough Assembly.

b. From the time of filing a petition until the time of such hearing, the petition, together with all data submitted, shall be available for public inspection.

4. Borough Assembly ordinance:

a. After receipt of the Planning Commission report, the Borough Assembly shall hold a public hearing on the proposed amendment to the zoning ordinance or proposed map.

b. The Borough Assembly shall render its decision after the conclusion of the public hearing.

c. All ordinances changing zone boundaries shall be filed with an index in the office of the Borough Clerk and shall be noted on the zoning map as specified in Section 040 of this Chapter.

B. Appeals. An appeal from the decision of the Borough Assembly on a petition filed under subparagraph (A)(1)(c) above for a change in the boundaries of zones shall be appealable to the Superior Court, in the same manner as decisions of the Board of Adjustment under section 8.08.050.

C. Effective date of amendments changing the boundaries of zones:

1. An ordinance changing the boundaries of zones shall be effective: 1) upon passage; 2) at a specified time after passage; or 3) upon the occurrence of one or more specified events after passage, which may be required to occur on or before a specified time after passage.

2. An ordinance changing the boundaries of zones that is effective upon the occurrence of an event is effective only if the event occurs. If the event is required to occur on or before a specified time after passage, the ordinance is effective only if the event occurs on or before the specified time; provided that the Borough Assembly, for good cause, may extend the time within which the event may occur.

<u>8.12.070 Regulations Uniform</u>. The regulations authorized by this Chapter shall be uniform.

8.12.075 Enforcement, Violations, Civil Penalties and Remedies.

A. The Borough Planner shall act as the Zoning Administrator, unless a different person is appointed by the Borough Manager. The Zoning Administrator shall administer and enforce this Chapter.

B. Violations.

1. A structure, construction, alteration or repair of a structure, or use or occupancy of land or a structure, that conflicts with a provision of this chapter or a term or condition of a permit or other entitlement issued under this title, is a violation.

2. A violator is a person who:

a. occupies, maintains, alters, constructs or establishes a structure, or use of land or a structure, in violation of this title; or

b. owns, controls or has the right to control land or a structure where a structure, or use of land or a structure, is occupied, maintained, altered, constructed or established in violation of this title.

C. Enforcement Orders.

1. If the Zoning Administrator shall find that a violation has occurred, he shall notify the person responsible for such violation in writing, including the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; revocation or suspension of any permit or entitlement issued under this title under the authority, or purported authority, of which a violation of this title is occurring; the restoration of any structure, vegetation, land, water body or other thing upon the land that is destroyed, damaged, altered or removed in violation of this title; institute an action in a court of competent jurisdiction for recovery of a civil penalty and/or, any other action authorized by this title to insure compliance with or to prevent violation of its provisions.

2. An enforcement order issued under subparagraph 1. above may be directed to one or more violators. An order shall be deemed served on a violator when either delivered personally or mailed via certified mail to the last known address of the violator. An enforcement order is deemed final in all respects to that violator if not appealed to the Planning Commission within 15 days of its service. If such an appeal is timely

filed with the Planning Commission, the enforcement order shall be deemed final upon the Commission's issuance of a decision on the matter. An enforcement order need not be issued before legal action is commenced with respect to a violation, and the pendency of any proceeding regarding an enforcement order issued does not stay any other legal action with respect to the violation which is the subject of the enforcement order.

D. Complaints regarding violations. Whenever a violation occurs, any person may file a complaint in regard thereto. All such complaints shall be brought to the attention of the Zoning Administrator, who shall record such complaints and investigate immediately and report thereon to the Planning Commission.

E. Penalties and Remedies for violations.

1. For any and every violation of the provisions of this title, the violator shall be subject to a civil penalty of not more than One Thousand Dollars ($1,000.00) for each violation.

2. Each and every day that a violation is continued shall be deemed a separate and distinct violation.

3. The Borough may bring a civil action to:

a. Enjoin or abate the violation;

b. Require the restoration of any structure, vegetation, land, water body or other thing upon that land that is destroyed, damaged, altered or removed in violation of this title;

c. Recover damages suffered because of the violation; and

d. In addition to injunctive or compensatory relief, recover a civil penalty in the amount specified in subparagraph 1. above.

4. Whenever an enforcement order has become final, as specified in (C)(2) above, and the violation continues to exist, the zoning administrator may bring an action to enforce the compliance order. A judgment entered in that action shall include the daily amount of civil penalties payable through the date of entry.

5. Any building or structure set up, erected, built, or moved, or any use of property contrary to the provisions of this Chapter shall be declared to be unlawful and a public nuisance and the Borough Assembly may immediately commence action for the removal thereof, in the manner provided by law, and may apply to such court or courts as may have jurisdiction to remove such building, structure, or use.

6. All remedies provided for herein shall be cumulative and not exclusive.

8.12.080 Regulations for "R-1" Residential Districts. The following regulations shall apply in all "R-1" districts and shall be subject to the supplementary district regulations of Chapter 8.16.

A. Purpose. The regulations for this district are intended to stabilize and protect the residential character of the district and to promote and encourage a suitable environment for family life.

B. Principal uses permitted:

1. Single family dwellings.

2. Public parks and playgrounds.

C. Accessory uses permitted:

1. Private garages and off street parking;

2. Home occupations as defined in 8.44.020;

3. Other uses and structures which are clearly indicated and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. A mobile home on one lot, provided that the Planning Commission may put a time limit on the length a mobile home may occupy said premises;

2. Multi-family dwellings;

3. Public and quasi-public buildings, structures and uses;

4. Boarding and rooming houses;

5. Bed and breakfast establishments;

6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Minimum lot area: 4,500 square feet per dwelling unit;

2. Minimum lot width: 45 feet;

3. Minimum yards:

a. Front yard - 15 feet, provided setback from major roads shall be as specified in Section 8.16.010;

b. Side yard - 5 feet, provided that the minimum yard on the street side of a corner shall be 15 feet;

c. Rear yard - 10 feet;

4. Maximum lot coverage: fifty percent;

5. Maximum building height: 35 feet;

6. Off-street parking shall be as stated in Section 8.16.020;

7. Other development requirements shall be as stated in Section 8.16.010.

8.12.084 Regulations for "R-1-LD" Residential Low Density Districts. The following regulations shall apply in all "R-1-LD" districts and shall be subject to the supplementary district regulations of Chapter 8.16.

A. Purpose. The regulations for this district are intended to minimize the impact of development on environmentally sensitive areas, to stabilize and protect the open residential character of the district and to promote and encourage a suitable environment for family life.

B. Principal uses permitted:

1. Single family dwellings.

2. Public parks and playgrounds.

C. Accessory uses permitted:

1. Private garages and off street parking;

2. Home occupations as defined in 8.44.020;

3. Other uses and structures which are clearly indicated and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. A mobile home on one lot, provided that the Planning Commission may put a time limit on the length of time a mobile home may occupy said premises;

2. Multi-family dwellings;

3. Public and quasi-public buildings, structures and uses;

4. Boarding and rooming houses;

5. Bed and breakfast establishments;

6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Minimum lot area: 80,000 square feet per dwelling unit;

2. Minimum lot width: 200 feet;

3. Minimum yards:

a. Front yard - 50 feet, provided setback from major roads shall be as specified in Section 8.16.010;

b. Side yard - 25 feet, provided that the minimum yard on the street side of a corner shall be 50 feet;

c. Rear yard - 100 feet;

4. Maximum lot coverage: 20 percent;

5. Maximum building height: 35 feet;

6. Off-street parking shall be as stated in Section 8.16.020;

7. Other development requirements shall be as stated in Section 8.16.010.

8.12.086 Regulations for "R-1-ES" Residential Estate Districts. The following regulations shall apply in all "R-1-ES" districts and shall be subject to the supplementary district regulations of Chapter 8.16.

A. Purpose. The regulations for this district are intended to minimize the impact of development on environmentally sensitive areas, to stabilize and protect the open residential character of the district and to promote and encourage a suitable environment for family life.

B. Principal uses permitted:

1. Single family dwellings.

2. Public parks and playgrounds.

C. Accessory uses permitted:

1. Private garages and off street parking;

2. Home occupations as defined in 8.44.020;

3. Other uses and structures which are clearly indicated and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. A mobile home on one lot, provided that the Planning Commission may put a time limit on the length of time a mobile home may occupy said premises;

2. Multi-family dwellings;

3. Public and quasi-public buildings, structures and uses;

4. Boarding and rooming houses;

5. Bed and breakfast establishments;

6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and

not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Minimum lot area: 125,000 square feet per dwelling unit;

2. Minimum lot width: 300 feet;

3. Minimum yards:

a. Front yard - 100 feet, plus any additional distance on major highway frontage as specified in Section 8.16.010;

b. Side yard - 50 feet, provided that the minimum yard on the street side of a corner shall be 100 feet;

c. Rear yard - 100 feet;

4. Maximum lot coverage: 15 percent;

5. Maximum building height: 40 feet;

6. Off-street parking shall be as stated in Section 8.16.020;

7. Other development requirements shall be as stated in Section 8.16.010.

8.12.090 Regulations for "R-2" Residential Districts. The following regulations shall apply in all "R-2" districts and shall be subject to the supplementary district regulations found in Chapter 8.16.

A. Purpose. The "R-2" Residential Zone is created to provide a unique district that promotes and encourages an environment for residential, family, facilities that include home-based businesses.

B. Principal uses permitted:

1. One and two family dwellings.

2. Public parks and playgrounds.

C. Accessory uses permitted:

1. Private garages and off street parking;

2. Home occupations as defined in 8.44.020;

3. Other uses and structures which are clearly indicated and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. A mobile home on one lot, provided that the Planning Commission may put a time limit on the length a mobile home may occupy said premises;

2. Multi-family dwellings;

3. Public and quasi-public buildings, structures and uses;

4. Boarding and rooming houses;

5. Bed and breakfast establishments that, in addition to the other provisions of this Code relating to bed and breakfasts, permit the use of bedrooms located in buildings on a common lot but not under a common roof with a primary residence;

6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Minimum lot area: 10,000 square feet per dwelling unit;

2. Minimum lot width: 100 feet;

3. Minimum yards:

a. Front yard - 15 feet provided setback from major roads shall be as specified in Section 8.16.010;

b. Side yard - 10 feet, provided that the minimum yard on the street side of a corner shall be 15 feet;

c. Rear yard - 10 feet.

4. Maximum lot coverage: fifty percent;

5. Maximum building height: 35 feet;

6. Off-street parking shall be as stated in Section 8.16.020;

7. Other development requirements shall be as stated in Section 8.16.010.

8.12.100 Regulations for "R-3" Residential Districts. The following regulations shall apply in all "R-3" districts, and shall be subject to the supplementary regulations stated in Chapter 8.16 unless otherwise stipulated in this Section.

A. Purpose. The "R-3" Residential Zone is created to maintain the uniqueness of the "Old Town"; and, to provide regulations which will allow the use of existing sub-sized lots for residential purposes.

B. Principal uses permitted:

1. Single-family dwellings.

2. Public parks and playgrounds.

C. Accessory uses permitted:

1. Private garages and off street parking;

2. Home occupations as defined in 8.44.020;

3. Other uses and structures which are clearly indicated and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. A mobile home on one lot, provided that the Planning Commission may put a time limit on the length a mobile home may occupy said premises;

2. Multi-family dwellings and two-family dwellings;

3. Public and quasi-public buildings, structures and uses;

4. Boarding and rooming houses;

5. Bed and breakfast establishments;

6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any uses or structures not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Minimum lot area: Single family - none, two family and multi-family - 4,500 feet per dwelling unit;

2. Minimum lot width: none;

3. Minimum yards:

a. Front yard - 10 feet, provided setback from major roads shall be as specified in Section 8.16.010;

b. Side yard - 5 feet, provided that the minimum yard on the street side of a corner shall be 10 feet;

c. Rear yard - 10 feet.

4. Maximum lot coverage: none;

5. Maximum building height: 35 feet;

6. Off-street parking requirements shall be deter mined by the Zoning Administrator at the time of permit approval. These requirements shall consider the size and configuration of the lot, its relationship to existing and platted streets, and the physical characteristics of the property. In no case shall the requirements for off-street parking exceed one parking space per residential unit;

7. Other development requirements shall be as stated in Section 8.16.010.

8.12.110 Regulations for "R-R" Residential Reserve Districts. The following regulations shall apply in all "R-R" districts and shall be subject to the supplementary district regulations found in Chapter 8.16.

A. Purpose: The Residential Reserve zone is intended to reserve land for possible future residential expansion while continuing to allow traditional subsistence, limited recreational, and compatible uses.

B. Principal uses permitted:

1. Traditional subsistence uses;

2. Temporary and casual recreational uses;

3. Protection of upland habitat.

C. Accessory uses permitted:

1. Uses and structures which are clearly incidental and subordinate to permitted uses and which will not create a nuisance or hazard.

D. Uses prohibited:

1. Any uses or structures not listed under principal uses permitted or accessory uses permitted.

8.12.120 (Reserved).

8.12.130 Regulations for "CO" Conservation Districts. The following regulations shall apply in all "CO" districts and shall be subject to the supplementary district regulations found in Chapter 8.16.

A. Purpose. The conservation zone is created to preserve and protect sensitive upland habitats, fish spawning and rearing areas and the potable water resources of the Borough, while at the same time allowing traditional subsistence and recreational uses.

B. Principal uses permitted:

1. Traditional subsistence uses, defined as the taking or gathering of fish, shellfish, berries, roots and other edible plant species;

2. Temporary and casual recreation uses, defined as hiking, camping for periods of short duration, picnicking, sportfishing, and photography.

C. Uses prohibited:

1. Any use or structure not listed under principal uses permitted.

2. Use of motorized vehicles off of established roads and trails.

D. Conditional uses permitted:

1. Floathomes.

8.12.140 (Reserved).

8.12.150 Regulations for "P" Public Districts. The following regulations shall apply in all "P" districts and shall be subject to the supplementary district regulations found in Chapter 8.16.

A. Purpose. The public zone is established to protect publicly-owned property for public use.

B. Principal uses permitted:

1. Public parks and playgrounds;
2. Borough buildings;
3. Borough harbor facilities.

C. Uses prohibited:

1. Any uses or structures not of a character indicated under permitted uses.

8.12.160 Regulations for "M-R" Marine-Residential Districts. The following regulations shall apply in all "M-R" districts and shall be subject to the supplementary district regulations of Chapter 8.16.

A. Purpose. The regulations for this district are intend ed to stabilize, protect, and enhance the marine-oriented service activities and residential uses characteristic of the shoreline areas of coastal communities in Alaska.

B. Principal uses permitted:

1. One and two family dwellings;
2. Boat Charter services and rentals;
3. Marine and moorage facilities;
4. Public parks and playgrounds.

C. Accessory uses permitted:

1. Private garages and off street parking;
2. Home occupations as defined in 8.44.020;
3. Other uses and structures which are clearly incidental and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. Multi-family dwellings;
2. Boat repair yards, dry docks, and the like;
3. Storage for crab pots, nets, floats, and like fishing equipment.
4. Retail sales of marine fuel;
5. Marine related experimental or research facilities;
6. Public and quasi-public buildings, structures, and uses;

7. Bed and breakfast establishments;

8. Floathomes;

9. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted, or conditional uses permitted.

F. Development requirements:

1. Residential uses:

a. Minimum lot area: none;

b. Minimum lot width: none;

c. Minimum yards:

i. Front yard - 10 feet, provided setbacks from major roads shall be as specified in Section 8.16.010;

ii. Side yards - 5 feet, provided that the minimum yard on the street side of a corner shall be 15 feet;

iii. Rear yard - 10 feet.

d. Maximum lot coverage: none;

e. Maximum building height: 35 feet;

f. Off-street parking shall be as stated in Section 8.16.020;

g. Other development requirements shall be as stated in Section 8.16.010.

2. Waterfront uses:

a. No activity or use shall involve any kind of manufacturing, compounding, processing or treatment of products where such operations are objectionable due to odor, noise, dust, smoke, vibrations, or similar nuisances;

b. Lot and yard regulations: none, except as necessary to provide required off street parking and to meet requirements specified in Section 8.16.010;

c. Maximum building height: 35 feet;

d. Maximum lot coverage: none;

e. All open storage visible from a street or the water shall be screened from view by a natural buffer or a sight-obscuring fence of good appearance acceptable to the Planning Commission.

8.12.170 Regulations for "C-R" Commercial-Residential Districts. The following regulations shall apply in all "C-R" districts and shall be subject to the supplementary district regulations of Chapter 8.16.

A. Purpose. The regulations for this district are intended to stabilize, protect, and enhance the marine-oriented commercial retail and service activities and residential uses characteristic of the shoreline areas of coastal communities in Alaska.

B. Principal uses permitted:

1. One and two family dwellings;
2. Boat Charter services and rental;
3. Marine equipment supply, sales and repair;
4. Marine and moorage facilities;
5. Gift and art shops;
6. General merchandise and commercial or sport fishing supply stores;
7. Public parks and playgrounds;
8. Eating and drinking establishments;
9. Other retail and service enterprises;
10. Hotels, motels and boarding establishments;
11. Service stations;
12. Pubic and quasi-public buildings, structures and land uses;
13. Business and professional offices;
14. Private clubs and lodges;
15. Boat repair yards, dry docks and the like;
16. Storage for crab pots, nets, floats and like fishing equipment;
17. Seafood processing plants and cold storage plants; wharfs, shipping terminals and the like;
18. Retail sale of marine fuel;
19. Ferry terminals;
20. Custom fish processing.

C. Accessory uses permitted:

1. Private garages and off street parking;
2. Home occupations as defined in 8.44.020;
3. Other uses and structures which are clearly incidental and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. Multi-family dwellings;
2. A mobile home on one lot, provided that the Planning Commission may put a time limit on the length a mobile home may occupy said premises;
3. Commercial fishing and cargo related docks;
4. Marine related experimental or research facilities;
5. Bed and breakfast establishments;
6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Residential use -

a. Minimum lot area: single family dwellings - none;

b. Minimum lot width: none;

c. Minimum yards:

i. Front yard - 10 feet, provided setbacks from major roads shall be as specified in Section 8.16.010;

ii. Side yard - 5 feet, provided that the minimum yard on the street side of a corner shall be 15 feet;

iii. Rear yard - 10 feet;

d. Maximum lot coverage: none;

e. Maximum building height: 35 feet;

f. Off-street parking shall be as stated in Section 8.16.020;

g. Other development requirements shall be as stated in Section 8.16.010.

2. Commercial Use and Waterfront Use:

a. No stores or businesses shall involve any kind of manufacturing, compounding, processing or treatment of products where such operations are objectionable due to odor, noise, dust, smoke, vibrations or similar nuisances;

b. Lot, yard and height regulations: none, except as necessary to provide required off-street parking and to meet requirements specified in Section 8.16.010;

c. Maximum lot coverage: no requirements;

d. All open storage visible from a street or the water shall be screened from view by a natural buffer or a sight-obscuring fence of good appearance acceptable to the Planning Commission.

e. Off-street parking requirements shall be as specified in Section 8.16.020.

8.12.180 Regulations for "C" Commercial Districts. The following regulations shall apply in all "C" districts and shall be subject to the supplementary district regulations of Chapter 8.16.

A. Purpose: The commercial zone is intended to provide for central commercial districts which are within convenient walking distance of centralized populations within the Borough and which can accommodate all of the Borough's foreseeable future needs for commerce.

B. Principal uses permitted:

1. General merchandise stores;
2. Eating and drinking establishments;
3. Other retail and service enterprises;
4. Hotels, motels and boarding establishments;
5. Gasoline service stations;
6. Public and quasi-public buildings, structures and land uses;
7. Business and professional offices;
8. Private clubs and lodges.

C. Accessory uses permitted:

1. Uses and structures which are clearly incidental and subordinate to permitted uses and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. One family, two family and multi-family dwellings;
2. Automobile repair shops and commercial garages when conducted entirely within a building;
3. Bed and breakfast establishments;
4. Floathomes;
5. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. No stores or businesses shall involve any kind of manufacture, compounding, processing or treatment of products where such operations are objectionable due to odor, noise, dust, smoke, vibrations or similar nuisances;
2. Lot, yard and height regulations: none, except as necessary to provide required off-street parking, to meet requirements specified in Section 8.16.010 and to prevent trees and structures from penetrating airport runway approach surfaces;
3. Maximum lot coverage: no requirements;

4. All open storage visible from a street or the water shall be screened from view by a sight-obscuring fence of good appearance acceptable to the Planning Commission;

5. Off-street parking requirements shall be as specified in Section 8.16.020.

8.12.190 (Reserved).

8.12.200 Regulations for "LI" Light Industrial Districts. The following regulations shall apply in all "LI" districts and shall be subject to the supplementary district regulations found in Chapter 8.16.

A. Purpose: The Light Industrial Zone is intended to accommodate those businesses which are not compatible with uses found in the Commercial District and industrial uses which do not create noise, smoke, odors, and other objectionable nuisances to the extent as to be detrimental to each other and to the surrounding areas.

B. Principal uses permitted:

1. Warehouse and storage facilities;

2. Equipment storage and maintenance facilities;

3. Dwelling for watchman, caretaker or owner-operator;

4. Marinas, small boat storage and repair;

Provided that all of the foregoing uses are not or will not be offensive by reason of the creation or emission of dust, gas, smoke, fumes, or other air pollutants, noise, vibrations, odors, liquids or solid refuse or wastes, radio activity, glare, fire or explosive; and provided that prior to the issuance of a zoning compliance permit, the Planning Commission may require evidence that adequate controls, measures or devices will be provided to ensure and protect the public interest, health, comfort, convenience, safety and general welfare.

C. Accessory uses permitted:

1. Uses and structures that are clearly incidental and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. Public and quasi-public uses and structures;

2. Floathomes;

3. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. Junk and wrecking yards;

2. Bulk fuel storage;

3. Dumping, disposal, incineration or reduction of refuse, including sanitary landfills;

4. Any manufacturing, fabricating, processing, disassembling and assembling plants;

5. Residential use, except as allowed under Subsection B(3).

F. Development requirements:

1. Minimum lot area: 5,000 square feet;

2. Minimum lot width: 50 feet;

3. Yard and height regulations: none, except as necessary to provide required off-street parking, to meet requirements specified in Section 8.16.010 and to prevent trees and structures from penetrating airport runway approach surfaces;

4. Maximum lot coverage: no requirements;

5. Off-street parking requirements shall be as specified in Section 8.16.020;

6. Any open storage visible from a street or the water shall be enclosed by a natural buffer or a sight-obscuring fence of good appearance acceptable to the Planning Commission;

7. Residential buffer: whenever an "LI" district abuts a residential zone, the use or building in the "LI" district shall be screened by a natural buffer or a sight-obscuring fence of good appearance acceptable to the Planning Commission and located on the industrial property.

8.12.210 Regulations for "I" Industrial Districts. The following regulations shall apply in all "I" districts and shall be subject to the supplementary district regulations found in Chapter 8.16.

A. Purpose: The purpose of the "I" district is to permit the normal operation of almost all industries, subject only to those regulations needed to control congestion and to protect the surrounding area from unnecessary environmental degradation.

B. Principal uses permitted:

1. Any manufacturing, fabricating, processing, disassembling and assembling plants;

2. Warehouse and storage facilities;

3. Docks, wharfs and other transportation and trans shipment facilities and services;

4. Equipment storage and maintenance facilities; and

5. Dwellings for a watchman, caretaker or owner-operator;

Provided that all of the foregoing uses are not or will not be offensive by reason of the creation or emission of dust, gas,

smoke, fumes or other air pollutants, noise, vibrations, odors, liquids or solid refuse or wastes, radio activity, glare, fire or explosives; and provided that prior to the issuance of a zoning compliance permit, the Planning Commission may require evidence that adequate controls, measures or devices will be provided to ensure and protect the public interest, health, comfort, convenience, safety and general welfare.

C. Accessory uses permitted:

1. Uses and structures that are clearly incidental and subordinate to principal uses permitted and which will not create a nuisance or hazard.

D. Conditional uses permitted:

1. Junk and wrecking yards;

2. Bulk fuel storage;

3. Dumping, disposal, incineration, or reduction of refuse, including sanitary landfills;

4. Construction camps and transient labor living camps and quarters;

5. Public and quasi-public uses and structures;

6. Floathomes;

7. Other uses which, in the judgment of the Planning Commission evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the other uses listed above.

E. Uses prohibited:

1. All residential uses, except for those listed in Subsections B(5) and D above;

2. Any use or structure not listed above under principal uses permitted, accessory uses permitted or conditional uses permitted.

F. Development requirements:

1. Minimum lot area: 5,000 square feet;

2. Minimum lot width: 50 feet;

3. Yard and height regulations: none, except as necessary to provide required off-street parking, to meet requirements specified in Section 8.16.010 and to prevent trees and structures from penetrating airport runway approach surfaces;

4. Maximum lot coverage: no requirements;

5. Off-street parking requirements shall be as specified in Section 8.16.020;

6. Any open storage visible from a street or the water shall be enclosed by a sight-obscuring fence of good appearance acceptable to the Planning Commission;

7. Residential buffer: whenever an "I" district abuts a residential zone, the use or building in the "I"

district shall be screened by a sight-obscuring fence of good appearance acceptable to the Planning Commission and located on the industrial property.

8.12.220 Creation of "H" Holding District. All property outside the prior city limits of the City of Yakutat as of the effective date of creation of the Borough, and all lands subsequently annexed to the Borough, shall be unrestricted until it is otherwise zoned, provided that no use commenced subsequent to the effective date of this ordinance and during such time as the property in question shall be unrestricted shall create any grandfather right or other right to continue such use if inconsistent with any subsequently enacted zoning regulation. Such property shall be known as the "H" Holding District.

Chapter 8.16

Supplemental Zoning Regulations, Parking and Signs

Sections:

8.16.010 Supplementary Zoning Regulations.
8.16.020 Parking Requirements.
8.16.030 Signs and Advertising Devices.

8.16.010 Supplementary Zoning Regulations. The regulations of this section are applicable to all zoning districts, in addition to the regulations applied to individual zoning districts in Chapter 8.12.

A. Essential services. Essential services, as defined in Section 8.44.020 of this Chapter, shall be permitted in all zones.

B. (repealed)

C. Yards for corner lots. The minimum side yard on the street side of a corner lot shall be the same as the minimum front yard required for that zone.

D. Yards of waterfront properties. No yard shall be required from lot lines which are in common with lake or coastal shorelines.

E. Setbacks from major roads. Minimum yards required by this Chapter shall be fifteen foot setback from all major roads as defined in Section 8.44.020 of this Chapter.

F. Yard requirements for accessory structures. Where yards are required, accessory structures shall be subject to the same requirements as principal structures except as follows:

1. Porches, cornices, and other similar architectural features not providing additional floor space may extend into a required yard except within three feet of any lot line;

2. A detached accessory building may be permitted to occupy a rear yard provided that no more than one-third of the total area of such rear yard shall be so occupied.

G. Erection of more than one principal structure on a lot. In any zone, more than one principal structure housing a permitted use may be erected on a single lot, provided that area, width, yard and all other development requirements of the zone shall be met for each principal structure as though each structure were on an individual lot.

H. Height limits. Height limitations stipulated elsewhere in this Chapter shall not apply to tanks, church spires, belfries, domes, monuments, fire and hose towers,

chimneys, flagpoles, radio and television towers, masts, aerials, antennae, transmission towers, and other similar structures or facilities.

I. Sight-obscuring fences or planting. The use for which a sight-obscuring fence or planting is required shall not begin operation until the fence or planting is established.

J. (repealed)

K. Front yards. Where twenty-five percent or more of the lots in any one block or portion thereof in the same zone have been improved with buildings, the required front yard may be of a depth equal to the average of the front yards of the improved lots.

L. Irregular lot shapes. Where irregular lot shapes prevent the direct determination of the area and yard requirements for a lot, the Zoning Administrator shall make determinations as necessary for the administration of this Chapter.

M. Requirements for water supply.

1. Where the water system of the City and Borough of Yakutat is available within 200 feet of any new water user, that new water user shall connect to the water system, except as may be provided by variance, in accordance with all applicable state and federal regulations.

2. Where the Borough's water system is not available, the individual lot owner shall provide a well or water supply system in accordance with the requirements of the State of Alaska, Department of Environmental Conservation and Department of Health and Social Services.

N. Requirements for sewage facilities.

1. Where sewer facilities of the City and Borough of Yakutat are available within 200 feet of any proposed structure of a residential, industrial, or retail nature, the owner will provide for connection to the system, except as may be provided by variance, in accordance with all applicable state and federal regulations.

2. Where the Borough's sewer system is not available, owners shall provide either individual or collective sewage facilities in accordance with the requirements of the State of Alaska, Department of Environmental Conservation and Department of Health and Social Services.

O. Side Yards.

1. Where side yards are required, eaves shall not extend into the yard beyond the point of five feet from the lot line.

8.16.020 Parking Requirements.

A. General Applicability. In all zones there shall be provided parking spaces in accordance with the requirements set forth herein at the time any building or structure is erected, enlarged, or expanded or when there is a change in the principal use thereof.

1. Maintenance. It shall be the joint responsibility of the owner and/or the occupant of any main building or structure to provide and maintain minimum, free, permanent parking spaces as required below.

2. Mixed Occupancy. In the case of two or more uses on the lot, the total requirement for parking spaces shall be the sum of the requirements for the several uses computed separately.

3. Enlargement or Change of Use. In cases of enlargement of a building or a change in the use existing on the original effective date of this ordinance, the number of additional parking spaces required shall be based only on the floor area added or subject to the increase in intensity or change of use. No additional parking spaces are required if the additional spaces would amount to less than 3 spaces.

4. Uses not specified. If a use is not specifically mentioned in this section, the Zoning Administrator shall determine the most similar use which is mentioned below. Applicable parking requirements shall be applied.

B. Design Standards:

1. Each parking space shall consist of a generally rectangular area at least 8 feet by 18 feet.

2. In parking areas containing 5 spaces or more, 20 percent of the parking spaces may be designed for small cars and consist of a generally rectangular area of at least 7.5 feet by 15 feet.

C. Location of Parking:

1. Off-street parking shall be located as hereinafter specified:

a. Parking spaces serving single and multi-family dwelling units shall be located on the same lot as the building served.

b. Parking spaces for other uses may be located off-site and shall not be more than 500 feet distant. This distance shall be measured along the route of access between the properties from the nearest point of the parking area to the nearest common entrance of the building it will serve.

2. Parking spaces on Borough street or state highway right-of-way may be used to satisfy parking requirements provided that the roadway is of sufficient width and design to allow parking without interfering with the normal flow of

traffic or with snow removal or other road maintenance, and where parking is not prohibited by an official traffic control device.

a. Parking on state highway right-of-way must be located at least ten feet from the traveled roadway as measured from the marked edge of the highway to the nearest point of the provided parking spaces.

3. Off-Site Parking Requirements.

a. The off-site lot must be owned or leased by the applicant. Written evidence of a long-term lease agreement must be presented to the Zoning Administrator. Upon expiration of the lease, the applicant shall be responsible for the continued provision of the required number of parking spaces.

b. The off-site lot must be within the 500 foot walking distance specified above.

c. Off-site parking shall not apply to the R-1 and R-2 zones.

D. Required Parking Spaces:

1. Shared parking. The Zoning Administrator may authorize the shared or joint use of the same parking area by two or more uses or structures within the "C", "M-R", "C-R, "LI", and "I" zones.

a. The required parking for two or more uses may be reduced by up to 50% when served by a shared parking area. The applicant must show to the satisfaction of the Zoning Administrator that sufficient parking spaces are available in the proposed shared parking area to accommodate the number of vehicles that ordinarily will be attracted to the use or building.

b. When it is shown that the generated parking demand will be at different hours, the required parking may be reduced by 75%. The applicant must show to the satisfaction of the Zoning Administrator that there is no substantial conflict in the principal operating hours of the two buildings or uses for which the joint use of parking is proposed.

c. Conditions required for shared use.

(1) The applicant shall present to the Zoning Administrator written evidence executed by the concerned parties providing for the shared or joint use of off-street parking facilities. Upon approval by the Zoning Administrator, such a statement or instrument shall be filed with the Planning Department and Borough Clerk.

(2) The common parking lot shall be located within the walking distance specified in subparagraph (C)(1) above.

2. Table of Minimum Number of Required Parking Spaces

USE	SPACES REQUIRED
Single Family and Duplex	1.5 per dwelling unit
Multi-Family units	1.5 per dwelling unit
Hotels, rooming houses, boarding houses	1 per each five guest rooms
Bed and breakfast	1.5 for owner, plus 1 per each rented bedroom
Churches and theaters	1 per each 10 seats
Schools	1 per employee
Offices	1 per 300 square feet
Retail, Grocery, and service establishments	1 per 400 square feet
Eating and drinking establishments	1 per each 7 seats
Manufacturing and processing industries	1 per company car plus 1/2 per resident employee
Community or social halls	1 per 400 square feet

E. Off-street loading. Every building or structure used for business and normally requiring truck loading and unloading shall provide permanently available off-street loading space as set forth below. Each off-street loading space shall not be less than 10 feet by 38 feet, and shall have an unobstructed height of 14 feet 6 inches.

USE	SPACES
Retail, business, and service establishments	One
Industrial plants	One
Shipping terminals (per 5,000 square feet of total floor area for storage warehousing and shipping)	One per 5,000 square feet

F. Flexibility in Administration. The Planning and Zoning Commission may permit deviations from the requirements of Subsections (D)(2) and (E) above if it finds that more or less parking spaces would better accommodate the number of vehicles that are reasonably expected to be attracted to the use or building.

8.16.030 Signs and Advertising Devices.

A. General Requirements:

1. A zoning compliance permit shall be obtained from the Zoning Administrator prior to the installation of any sign, nameplate, advertising sign or advertising structure excepting those less than two square feet in area;

2. (repealed);

3. No sign shall be erected at any location where, by reason of position, shape or color of such sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device;

4. No sign shall be placed within forty feet of any intersection measured at the centerline of the intersection streets;

5. Flashing signs and intermittent illumination are permitted only in commercial and industrial zones;

6. In all residential zones, lighting shall be indirect and shielded from adjacent property.

B. Signs Permitted in Residential Zones:

1. Real estate signs. One sign not exceeding two square feet in area advertising only the sale, rental or lease of the building or premises on which it is maintained;

2. Subdivision signs. Signs advertising the sale or lease of lots or buildings within new subdivisions of at least two and one-half acres are permitted providing they are non-illuminated and do not exceed thirty-two square feet in area. Not more than one such sign shall be located in each major approach to the subdivision and the front, side and rear yard requirements applying to principal structures shall apply to the location of such signs. The display of such signs shall be limited to a period of two years;

3. Bulletin boards. Bulletin boards used to display announcements of meetings to be held on the premises on which such boards are located shall be permitted for churches, schools, community centers and public, charitable or institutional uses. Unless otherwise permitted in the zone, such signs shall contain no more than twenty square feet in area; may be used as wall signs; may be used as ground signs when located a minimum of ten feet from the street lot line; may be indirectly illuminated; and one such sign shall be permitted for each street frontage;

4. Construction signs. During construction, repair or alteration of a structure, temporary signs which denote the architect, engineer, contractor or builder or which denote the name of the structure and its use or occupants-to-be may be

placed within the required yard setbacks as ground, wall or roof signs. Each sign shall be twenty-four square feet or less in size and no more than one such sign shall be permitted for each architect, engineer, contractor, building or denoting the name, use and occupants-to-be of the structure. Temporary private ground or wall signs exclusively relating to the safety of the public (e.g., no parking today, use covered walkway, do not enter, danger, loading zone) may be located as needed for public safety without limitation as to number, size or location so far as the requirements of this Chapter are concerned;

5. Signs identifying home occupations. One sign per use not exceeding two square feet in area. Such sign shall be no closer than ten feet to any property line or shall be flat against the building. No lighting is permitted;

6. Signs for non-conforming uses. A legal nonconforming use in a Residential zone may have one sign per property, unlighted and no larger than twenty square feet in area. Such signs shall be flat against the building or shall be located no closer than ten feet to any property line.

C. Signs permitted in Commercial and Industrial zones:

1. Signs located flat against a building or on a marquee;

2. Two ground poles or projecting signs per business not to exceed fifty square feet in area provided that signs projecting beyond the lot line may be no closer than six inches from the curb line and must be at least eight feet above the finished sidewalk grade.

D. Elimination of nonconforming signs. Signs which do not conform to the requirements of this Section shall be eliminated within three years from the date of original enactment of this Section.

Chapter 8.20

Nonconforming Uses

Sections:

8.20.010 Non-conformities -- Definitions and Intent.
8.20.020 Non-conforming lot of record.
8.20.030 Non-conforming use of land.
8.20.040 Non-conforming structure.
8.20.050 Non-conforming use of structure.

8.20.010 Non-conformities -- Definitions and Intent. When a lot, structure or use legally exists prior to the original effective date of applicable regulations but would be prohibited, regulated or restricted under the terms of this Title, or future amendments thereto, it shall be permitted to continue within the limits set forth in this Chapter. Under such circumstances, it is said to have "non-conforming" status. There are four types of non-conforming status:

1. Non-conforming lot of record. The lot width or area or both is smaller than the minimum permitted in the zone in which it is located;
2. Non-conforming use of land. The use to which the land is being put is not a principal, accessory or conditional use permitted in the zone in which it is located, and is not otherwise permitted in this Title.
3. Non-conforming structure. The structure fails to meet yard, coverage or height regulations or other development requirements established for the zone in which it is located;
4. Non-conforming use of structure. The use to which the structure or the structure and land in combination is being put is not a principal, accessory or conditional use permitted in the zone in which it is located, and is not otherwise permitted in this Title.

It is the intent of this Chapter to permit these non-conformities to continue until they are removed, but not to encourage their perpetuation. Non-conforming uses are declared by this Chapter to be incompatible with permitted uses in the zones involved. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded or extended, nor shall they be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

8.20.020 Non-conforming lot of record. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Title, a single-family dwelling and customary accessory buildings may be erected on any single lot which is of record at the effective date of the original adoption or amendment of applicable regulations. This provision shall apply even though such lot fails to meet the requirements for area, width, or both that are generally requirements applicable in the zone. Variance of yard requirements and of other development requirements except as specified above shall be obtained only through action of the Planning Commission as provided in Chapter 8.24.

8.20.030 Non-conforming use of land. Where, at the original effective date of applicable regulations, lawful use of land exists that is made no longer permissible under the terms of this Title as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the original effective date of adoption or amendment of the relevant regulations;

B. If such non-conforming use of land ceases for any reason for a period of more than twenty-four consecutive months, any subsequent use of such land shall conform to the regulations specified by this Title for the zone in which such land is located.

8.20.040 Non-conforming structure. Where a lawful structure exists at the original effective date of applicable regulations, that would not be allowed in the zone under the terms of this Title as enacted or amended, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;

B. A residential structure in a residential zone may be enlarged so long as the addition to the structure conforms to all the requirements set forth in this Title;

C. Should such structure be moved for any reason for any distance whatever it shall thereafter conform to the regulations for the zone in which it is located after it is moved;

D. Should such non-conforming structure or non-conforming portion of a structure be damaged by any means to an extent of more than fifty percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Title.

8.20.050 Non-conforming use of structure. Where, at the original effective date of applicable regulations, lawful use of a structure exists that is made no longer permissible under the terms of this Title as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this Title in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located;

B. Any non-conforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of original adoption of applicable regulations, but no such use shall be extended to occupy any land outside such building;

C. A non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Planning Commission shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use;

D. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed;

E. When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for twenty-four consecutive months, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.

Chapter 8.24

Zoning Compliance Permit, Conditional Uses and Variances

Sections:

8.24.010 Zoning Compliance Permit.
8.24.020 Conditional Use Permit - Intent.
8.24.030 Conditional Use Permit - Procedure.
8.24.040 Conditional Use Permit - General Standards for Approval.
8.24.045 Conditional Use Permit - Abandonment.
8.24.050 Conditional use standards - bed and breakfast establishments.
8.24.060 Conditional use standards - mobile home parks.
8.24.070 Conditional use standards - junk and wrecking yards.
8.24.080 Conditional use standards - excavation, extraction, or development of natural resources.
8.24.090 Conditional use standards - anchored floathomes.
8.24.100 Variances - Intent and Conditions.
8.24.110 Variances - Procedure.
8.24.120 Variance for Borough Water and Sewer System Connections - Standards and Procedures.

8.24.010 Zoning Compliance Permit.

A. No building or other structure shall be erected, altered or moved or any major excavation, fill and clearing of land or drainage way (natural or man-made) be initiated until application has been made for a zoning compliance permit and the permit has been issued by the Zoning Administrator in conformity with the provisions of this Chapter.

B. All applications for zoning compliance permits shall be accompanied by a plot plan, drawn to scale, showing the actual dimensions of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and, the location and dimensions of the proposed building or alteration. The application shall also include such other information as may lawfully be required by the Zoning Administrator, including a record of monument recovery which details lot corner monumentation; Borough water and sewer hook-up location, existing or proposed uses of the building and land; and such other matters as may be necessary to determine conformance with and provide for enforcement of this Title.

C. Applications for a Zoning Compliance permit shall be accompanied by a lot survey with a registered surveyor's stamp showing the property lines and stating property corners are in place except as follows:

1. Remodeling or additions to existing structures which do not require foundation work.

2. Replacement of or repairs to existing structures or buildings which utilize the existing foundations without modifications.

3. Detached accessory buildings or structures such as smokehouses, tool sheds, satellite dishes, and the like provided the roof area does not exceed 120 square feet.

4. Replacement of existing conforming foundations.

5. Where sufficient lot corner stakes or other monumentation placed by a registered surveyor exists to enable the Zoning Administrator to determine the location of lot lines or when it can be otherwise verified that setback requirements are adequately met.

D. The Zoning Administrator shall render his decision on each application for a zoning compliance permit within sixty days of its filing. However, this time limit may be extended by common consent and agreement signed by both the applicant and the Zoning Administrator.

E. One copy of the plans shall be returned to the applicant by the Zoning Administrator, together with a zoning compliance permit; or, the plans shall be marked and attested to as disapproved and shall be returned to the applicant. The second copy of the plans, similarly marked, shall be retained by the Zoning Administrator.

F. The Zoning Administrator shall number serially and maintain a file of all applications for zoning compliance permits. Copies shall be furnished upon request to any person.

G. All applications submitted to the Zoning Administrator for a Zoning Compliance Permit shall be accompanied by a filing fee, in the amount set out in section 8.44.040.

H. If the work described by an approved Zoning Compliance Permit has not begun within three months of the starting date indicated on the face of the permit, such permit shall become void and of no further effect unless renewed by applicant.

I. An applicant whose application for a zoning compliance permit is denied by the Zoning Administrator may appeal that denial to the Planning Commission, by filing such an appeal with the Zoning Administrator within fifteen days of the Zoning Administrator's decision. The appeal shall be filed on a form prescribed by the Borough, and must contain detailed and

specific allegations of the alleged error in the Administrator's decision.

8.24.020 Conditional Use Permit - Intent. There are some uses which, either because of their potential impact on neighboring properties or because of their public service nature, should receive Planning Commission review in each case. These conditional uses are specified within Sections .080 through .210 of Chapter 8.12. The Planning Commission shall permit these uses if all standards and requirements set forth in Section 8.24.040, and all applicable provisions set forth in Sections 8.24.050 through .090, are met.

8.24.030 Conditional Use Permit - Procedure.

A. A written application for a conditional use permit shall be filed with the Planning Commission through the Zoning Administrator, on a form or forms provided by the Borough. This application shall state the nature of the request and the means whereby the proposed use meets the conditions stated in the pertinent Section of this Chapter. An application for a conditional use permit shall be accompanied by a filing fee, in the amount set out in section 8.44.040.

B. Where necessary to determine compliance with the listed conditions, the Zoning Administrator may request a specific and detailed site plan or map.

C. In addition to the other requirements of this Section, all conditional use permit applications for mobile home parks shall be accompanied by the following:

1. The name of the proposed mobile home park;

2. A vicinity sketch or key map at not less than one inch to the mile showing the relative location of the proposed mobile home park, principle road systems, section lines and political boundaries;

3. A date and north arrow;

4. The total area of the proposed mobile home park;

5. The location, width and names of all existing or platted streets, easements or other public ways within one hundred feet of the proposed mobile home park;

6. All existing and proposed water and sewer systems, gas mains, culverts, manholes or other underground electrical and telephone systems;

7. All structures, section lines, and political boundaries in or within one hundred feet of the proposed mobile home park;

8. The name of adjacent subdivisions and platted lots, or an indication that the adjacent land is not subdivided;

9. The layout, names, width and length of all proposed streets, alleys and easements;

10. The layout, numbers and approximate dimensions of the proposed mobile home spaces.

D. In addition to the other requirements of this Section, all conditional use permit applications for junk and wrecking yards shall be accompanied by a site plan drawn to scale. Such site plan shall contain a legal description of the property, the location of all existing and proposed access points and off-street parking areas, and any prominent topographical features on the site or within three hundred feet of the site.

E. In addition to the other requirements of this Section, all use permit applications for the commercial excavation or extraction of earth or building materials, including the development of natural resources, shall be accompanied by:

1. A site plan of the proposal at a scale of one inch equals fifty feet. Such site plan shall contain the following information:

a. Graphic and legal descriptions of the site;

b. Existing topographic contours at not less than ten foot contour intervals;

c. Proposed topographic contours at not less than ten foot contour upon completion of the extractive process;

d. Existing and proposed structures with a description of their function;

e. Existing and proposed ingress and egress access points to be used by trucks and equipment;

f. The internal traffic circulation plan;

g. Existing landscape features.

2. A detailed narrative statement setting forth the following information:

a. Method of drainage;

b. Method of barricading the area to prevent casual access;

c. Estimated amounts of material to be removed;

d. Length of time necessary to complete the extraction;

e. Description of operations or processes which will be used in the extractive and/or finishing activities;

f. The program for upgrading and shaping the land for subsequent use.

g. Proposed hours of operation.

F. The Zoning Administrator shall, at the next regular meeting of the Planning Commission which is held no sooner than ten days following the date of filing, provide a copy of the application to the Planning Commission. The Planning Commission

shall thereafter set a date for and hold a public hearing on the application. Notice of the hearing shall be given in accordance with section 8.44.030.

G. The Zoning Administrator shall thereafter investigate and report to the Planning Commission at the public hearing on the extent to which the use requested in the application meets the conditions stated in this Title and Chapter.

H. From the time of filing such application until the time of such hearing, the application, together with all plans and data submitted, shall be available for public inspection.

I. After public hearing, the Planning Commission may grant the application if it finds that the conditional use conforms to the general standards for conditional uses set out in section 8.24.040 and any specific standards for the use in this Chapter and Title. A grant for the request of a conditional use permit shall require an affirmative vote of a majority of the fully constituted Commission. The Planning Commission's decision and the reasons therefore shall be entered in the records of the Commission and shall be available to the public.

J. In granting a conditional use permit, the Planning Commission shall state the conditions required. Any such condition must be complied with. Violations of any condition shall result in revocation of the permit. Any order revoking the permit shall state the grounds therefore and the requirements for reissuance.

K. In granting a conditional use permit, the Planning Commission may impose such conditions to its continued validity as may be necessary, in the Planning Commission's judgment, to assure compliance with all applicable laws, regulations and policies appropriate for consideration by the Planning Commission. The Planning Commission may limit the duration of a permit by a fixed or definable period of time, or a period limited to continued ownership or use of the property.

L. Unless the Commission specifies otherwise, approval of a conditional use permit shall automatically expire 18 months from the date it is granted if the conditional use has not been activated, unless a time extension has been sought and granted prior to the expiration date.

8.24.040 Conditional Use Permit - General standards for approval.

A conditional use permit application may be approved only if the following standards are met.

1. The use furthers the goals and policies of the Yakutat Comprehensive Plan and conforms to the Comprehensive Plan in all manner as required by law.

2. The use conforms to the standards for that use in this title.

3. The use will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its zoning district.

4. The use will not have a permanent negative impact on the items listed below substantially greater than that anticipated from permitted development.

a. Pedestrian and vehicular traffic circulation and safety;

b. The demand for availability of public services and facilities;

c. Noise, air, water, or other forms of environmental pollution;

d. The maintenance of compatible and efficient development patterns and land use intensities.

5. Whenever the appearance, traffic flow, noise or other characteristics of a use would have an adverse impact on neighboring properties, the applicant shall provide additional yards, site area, uncleared buffer strips, fences, or other safeguards sufficient to prevent any such adverse affect.

6. All school, government and civic buildings shall be of size, character, and location to provide maximum benefit and service to the public.

8.24.045 Conditional Use Permit - Abandonment. An otherwise lawful conditional use permit shall expire if:

1. For any reason the conditional use is abandoned in its entirety for a period of one year or longer; or

2. the property owner notifies the Zoning Administrator or Planning Commission of the abandonment of the conditional use.

8.24.050 Conditional use standards - bed and breakfast establishments.

A. In granting a conditional use permit for a bed and breakfast establishment, the Planning Commission shall consider and provide conditions as necessary to make adequate provision for noise, parking congestion, and other considerations which would tend to limit adverse impacts on the surrounding neighborhood. In addition, such a facility shall conform to the following requirements:

1. The operator of the facility shall establish and maintain the facility as his or her primary residence at all times while it is operated as a bed and breakfast, and shall be responsible for the on-premises conduct of renters.

2. The facility shall meet all applicable Borough and State regulations including, but not limited to, the payment of borough sales tax per CCBY 6.40.

3. No more than three guestrooms shall be offered for use at any one time, with a maximum of two adult guests per room. For purposes of this provision, "adult guest" is defined as a person seventeen years or older.

4. A breakfast meal only may be provided to the guests of the facility.

B. The conditional use permit may be revoked for noncompliance with its terms, pursuant to the provisions of Section 8.12.075.

C. A conditional use permit granted to an operator is non-transferable and shall expire upon the sale or transfer of the property and/or business.

D. The conditional use permit shall be issued for a period of two (2) years. Ninety days prior to expiration, an operator shall apply for renewal. Any proposed changes in the permit or any alleged violations of its terms shall be considered prior to renewal. Permits currently in existence shall be considered in effect for two (2) years from January 1, 1999.

8.24.060 Conditional use standards - mobile home parks. In granting a conditional use permit for a mobile home park, the Planning Commission may require such conditions as they deem necessary to assure the protection of the public health, safety, conveniences, and welfare. Minimum standards that will be required of all mobile home parks, however, include the following:

1. One single family or one two-family mobile home per mobile home space;

2. Three thousand square feet per single family mobile home space;

3. Four thousand five hundred square feet per two-family mobile home space;

4. Fifteen feet between mobile home;

5. Fifteen feet between accessory structures and mobile homes and between mobile homes and accessory structures located on adjacent lots;

6. Five foot front yards;

7. Mobile home space electrical service;

8. Streets surfaced with all-weather materials such as gravel, cinders, asphalt or concrete to a minimum width of thirty-four feet;

9. Minor street right-of-way of forty feet;

10. Major street right-of-way of fifty feet;

11. No dead-end streets;

12. Streets that extend no more than six hundred sixty feet without a street intersection;

13. Cul-de-sac streets that extend no more than six hundred feet not contain a cul-de-sac radius of less than fifty feet;

14. Street intersections which are as near to ninety degrees as possible but in no case less than sixty degrees;

15. Intersections not closer than one hundred fifty feet;

16. Except for reverse frontage lots, double frontage lots are prohibited;

17. Street system designs that discourage through traffic;

18. Street grades of not more than six percent;

19. Clear visibility along the centerlines of streets of not less than one hundred fifty feet;

20. Street centerline curvatures of at least one hundred feet where a deflection angle of more than ten degrees occurs;

21. Tangents of one hundred feet for reverse curves on streets;

22. Street grades of not more than four percent for one hundred feet from an intersection;

23. Streets and mobile homes spaces designed to a zero to five percent horizontal gradient;

24. A drainage plan;

25. A water and sewerage system approved by the Borough and/or Alaska Department of Environmental Conservation;

26. Stub streets which incorporate temporary turnarounds;

27. A design recognizing the special needs of circulation, access, topography and conservation of mobile home spaces;

28. Mobile home space access from an internal street and not requiring trespass across any other space;

29. Accessory commercial convenience uses (including required parking) of not more than ten percent of the park area;

30. Occupied camper and travel trailer areas segregated from the area permanently occupied by mobile homes with a toilet/water supply/service building approved by the Borough and/or Alaska Department of Environmental Conservation;

31. Removal of garbage as required by the Borough.

8.24.070 Conditional use standards - junk and wrecking yards. In granting a use permit for junk and/or wrecking yards, the Planning Commission may require such conditions be met as it deems necessary to protect the public health, safety, convenience and welfare. Minimum standards that will be required for all junk and wrecking yards, however, include the following:

1. A site that is not located within five hundred feet of any school, hospital, public building, residential subdivision or place of public assembly;
2. A site that has direct access from a major street;
3. A minimum lot size of two acres with a minimum lot frontage of one hundred fifty feet;
4. Complete enclosures and obstruction from public view by a solid fence or wall at least eight feet in height, by topography, or by evergreen planting or other natural planting of sufficient height and density to provide and maintain a year-round visual screen;
5. Provisions to prevent any contamination of the domestic water supply or excessive surface runoff from the site onto adjoining lands or streams;
6. No on-site burning or salvage of refuse materials.

8.24.080 Conditional use standards - excavation, extraction, or development of natural resources. In granting a conditional use permit for the development of natural resources, the Planning Commission may require such conditions as it deems necessary to insure the protection of the public health, safety, convenience and welfare. Minimum standards required for all extractive sites, however, including the following:

1. Access that minimizes the use of residential streets;
2. Access streets that are treated in a manner that will make them dust-free;
3. A strip of land not less than fifteen feet in width retained completely around the site. This periphery strip is not to be altered except for providing ingress and egress access.
4. All banks are to be left at a 4:1 (twenty-five percent) slope;
5. Precautions for periods of inactive use to prevent the site from becoming an attractive nuisance.

8.24.090 Conditional use standards - anchored floathomes.

A. Floathomes shall be approved through the conditional use process before they may be anchored in one location for more than thirty (30) days.

1. Notification of the public hearing for the conditional use permit shall be sent to all property owners within a 500' radius of the proposed floathome location, and to the Yakutat office of the Department of Fish and Game.

2. Prior to the issuance of a conditional use permit, evidence must be presented that a State tidelands permit has been issued if the floathome location is on State tidelands. In addition, if the location is in navigable water, the prospective permittee must present evidence that a Corps of Engineers permit has been issued or has been waived by the Corps.

3. Existing anchored floathome owners shall be notified of the original enactment of this ordinance and shall be required to apply for applicable State and Federal permits within 60 days of the date of enactment.

B. The following additional standards shall be met:

1. Floathomes must have USCG approved marine sanitation devices or an equivalent system approved by DEC.

2. Floathomes shall not ground at low tide and must be located at least 500 feet from anadromous fish streams.

3. The placement of floathomes shall avoid, biologically sensitive areas as identified by ADF&G during permit review; sites within 330 feet of eagle nest trees; areas of significant recreational use; heavily used harvest and subsistence areas; and historic and archeological sites.

4. The anchoring or mooring of floathomes shall not block or interfere with waterborne traffic.

5. Floathomes shall be allowed in an area only after adjacent upland owners are notified.

6. Floathomes shall be sited, constructed and maintained to avoid negative visual impacts. Views from adjacent shoreline residences shall not be blocked.

7. Where the need for upland access is anticipated, the floathome shall be sited to ensure that there is proper and legal upland access to the site.

8. Persons wishing to place floathomes adjacent to shorelines with road access must show that at least one legal parking space is available and the floathome residents will have clear access to the parking space.

9. A minimum of 50' will be maintained between floathomes unless multiple floathomes moorage is specifically allowed by the Planning and Zoning Commission.

10. Shore ties or other means which restrict passage around the location shall be prohibited unless specifically approved by the Planning and Zoning Commission and the upland owner.

11. Coast Guard regulations which prohibit the dumping of garbage into the marine environment by marine craft shall apply to floathomes.

12. If tag or trip lines are used they must not be bouyed, but shall return directly to the floathome.

13. The floathome owner shall be responsible for removing and disposing of the structure or related materials as necessary. Abandonment, casting loose or disposal on the beach are prohibited as disposal methods. The owner of abandoned floats or structures may be assessed a fee by the Borough if the Borough is required to undertake cleanup or removal operations.

C. Each floathome conditional use permit will be reviewed annually through the conditional use permit hearing process.

8.24.100 Variances - Intent and Conditions. There are a few instances where strict application of zoning regulations would result in an exceptional hardship. It is the purpose of a variance to grant relief from such exceptional hardship provided all five of the following conditions exist:

1. That special conditions exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the same district;

2. That strict interpretation of the provisions of this Title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;

3. That the special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience;

4. That granting the variance will be in harmony with the objectives of this Title, and not injurious to the neighborhood or otherwise detrimental to the public welfare; and

5. That the granting of the variance will not permit a land use in a zoning district that is normally a prohibited use.

8.24.110 Variances - Procedure.

A. Variance requests shall be made by application to the Planning Commission through the Zoning Administrator, on a form or forms provided by the Borough, shall include support drawings

and shall state specifically and show graphically the variance or variances being applied for. The application shall further allege and purport to show that every one of the five required conditions of Section 8.24.100 are satisfied. An application for a variance shall be accompanied by a filing fee, in the amount set out in section 8.44.040.

B. The Zoning Administrator shall, at the next regular meeting of the Planning Commission which is held no sooner than ten days following the date of filing, provide a copy of the application to the Planning Commission. The Planning Commission shall thereafter set a date for and hold a public hearing on the application. Notice of the hearing shall be given in accordance with section 8.44.030.

C. The Zoning Administrator shall thereafter investigate and report to the Planning Commission at the public hearing on the extent to which the variance requested in the application meets the conditions stated in this Chapter.

D. From the time of filing such application until the time of such hearing, the application, together will all plans and data submitted, shall be available for public inspection.

E. After public hearing, the Planning Commission may grant the application if it finds that the variance conforms to every one of the five conditions of Section 8.24.100 and other conditions of this Chapter. A grant of a variance shall require an affirmative vote of a majority of the fully constituted Commission.

F. In granting any variance, the Planning Commission may prescribe conditions and safeguards to assure conformity with the purposes of this Title. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and punishable accordingly.

G. Any variance granted shall be the minimum variance that will make possible a reasonable use of the land, building or structure, equivalent to but not exceeding the use of similar lands, buildings or structures permitted generally in the same use district. The Planning Commission may reduce the extent of the variance requested.

8.24.120 Variance for Borough Water and Sewer System Connections - Standards and Procedures.

A. Intent. There are a few instances where strict application of the Borough water and sewer system connection requirements would result in an exceptional hardship. It is the purpose of a variance to grant relief from such exceptional hardship provided the following conditions exist:

1. That special conditions exist which are peculiar to the land, structure or buildings involved which are not applicable to other lands, buildings or structures in the same district;

2. That strict interpretation of the connection requirements would deprive the applicant of rights commonly enjoyed by other properties in the same district;

3. That the special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience; and

4. That granting the variance will be in harmony with the objectives of this Chapter, and not injurious to the neighborhood or otherwise detrimental to the public welfare.

B. Procedure.

1. A variance request shall be made by application to the Planning Commission through the Zoning Administrator and shall include support drawings and shall state specifically and show graphically the variance being applied for. The application shall further allege and purport to show that every one of the four required conditions of Subsection (A) above are satisfied. The application shall be accompanied by a filing fee, in the amount set out in Section 8.44.040.

2. Concurrent with the submission of a variance application under this Section, the applicant shall, pursuant to Sections 11.30.050 and 11.32.080 of this Code, apply for a permit for construction of an individual water and/or sewage system. Prior to the approval of a variance, the applicant must demonstrate that the individual system permit has been applied for under 11.30.050 and 11.32.080. The validity of a variance granted under this Section shall be conditioned upon subsequent Borough approval of the permit application made pursuant to 11.30.050 and/or 11.32.080.

3. The Zoning Administrator shall, at the next regular meeting of the Planning Commission which is held no sooner than ten days following the date of filing, provide a copy of the application to the Planning Commission. The Planning Commission shall thereafter set a date for and hold a public hearing on the application. Notice of the hearing shall be given in accordance with section 8.44.030.

4. Both the Zoning Administrator and the Department of Public Works shall thereafter investigate and report to the Planning Commission at the public hearing on the extent to which the variance request meets the conditions stated in Subsection (A) above.

5. From the time of filing such application until the time of such hearing, the application, together will all plans and data submitted, shall be available for public inspection.

6. After public hearing, the Planning Commission may grant the application if it finds that the variance conforms to every one of the conditions of Subsection A above, other conditions of this Chapter, and all other requirements found in Chapter 11.30 and 11.32 of this Code. A grant of a variance shall require an affirmative vote of a majority of the fully constituted Commission.

7. In granting any variance, the Planning Commission may prescribe conditions and safeguards to assure conformity with the purposes of this Title and Title 11. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and punishable accordingly.

Chapter 8.28

GENERAL PROVISIONS REGARDING PLATTING ADMINISTRATION AND SUBDIVISION ORDINANCES

Sections:

8.28.010 Platting Regulation.
8.28.020 Plat Recordation.
8.28.030 Purpose.
8.28.040 Scope.
8.28.050 Jurisdiction.
8.28.060 Alteration, Replat or Vacation Petition.
8.28.070 Title to Vacated Area.
8.28.080 Variances from subdivision regulations.
8.28.090 Penalties.

8.28.010 Platting Regulation.

A. By ordinance, the Assembly shall adopt platting requirements that may include, but are not limited to, the control of (1) form, size, and other aspects of subdivision, dedications, and vacations of land; (2) dimensions and design of lots; (3) street width, arrangement, and rights-of-way, including requirements for public access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage and other public utility facilities and improvements; (4) dedication of streets, rights-of-way, public utility easements and areas considered necessary by the platting authority for other public uses.

B. The Planning Commission is hereby established as the platting authority to administer subdivision regulations and to perform other duties as required by this Title and by the Assembly.

8.28.020 Plat Recordation. If the Platting Authority approves a final plat, or an alteration, replat or vacation petition, the plat shall be acknowledged and filed in accordance with AS 40.15.010 through 40.15.020, and is thereafter the lawful plat.

8.28.030 Purpose. The purpose of the subdivision regulations set out herein is to promote and improve the health, safety, and general welfare of the citizens of the City and Borough of Yakutat. These regulations are designed to encourage the orderly development and use of land; to prevent congestion of streets and highways; to provide for adequate transportation,

water, sewage, schools, parks, and other public facilities; to provide adequate light and air; and to increase public safety from fire, disease, and other dangers. These regulations are designed to achieve the greatest economy to the City and Borough of Yakutat and its citizens while protecting the public interests involved in the subdivision of land within the Borough.

8.28.040 Scope. The subdivision regulations shall not apply to any lot forming a part of a subdivision legally created and filed for record prior to the original effective date of these regulations, unless the lot is further subdivided or resubdivided. Where these regulations impose a greater restriction upon land than is imposed or required by existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, restrictive covenants, or other private agreements running with the land, the provisions of these regulations shall prevail.

8.28.050 Jurisdiction. These regulations govern all subdivision of land within the City and Borough of Yakutat.

8.28.060 Alteration, Replat or Vacation Petition. A recorded plat shall not be altered or replatted, and a platted street shall not be vacated, except in conformance with Section 8.36.040.

8.28.070 Title to Vacated Area.

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

B. If the Borough acquired the street or other public area vacated for legal consideration or by express dedication to the Borough other than as a subdivision platting requirement, before the 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 to the Borough on final vacation.

8.28.080 Variances from subdivision regulations.

A. There are a few instances when the strict application of subdivision regulations would result in exceptional hardship. It is the purpose of a variance to grant relief from such exceptional hardship.

B. Required standards for the granting of variances under this section, as well as the procedures for securing variances, are contained in Chapter 8.24.

8.28.090 Penalties.

A. It is unlawful for the owner or agent of the owner of land located in a subdivision to transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and filed in accordance with this Title. It is unlawful for a person to file a plat or other document depicting subdivided land in a public recorder's office unless the plat or document has been approved by the Platting Authority. For a violation of a provision of this Title, a subdivision regulation adopted under this Title, or a term, condition, or limitation imposed by the Platting Authority in the exercise of its powers under this Title, a penalty not to exceed $1,000.00 may be imposed. A separate $1,000 penalty may be imposed, if applicable, for each lot or parcel transferred, sold, or included in an offer or contract to be sold. Each and every day that a violation is continued shall be deemed a separate and distinct violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

B. The Borough or an aggrieved person may institute a civil action against a person who violates a provision of this Title, a subdivision regulation adopted under this Title or a term, condition or limitation imposed by a platting authority. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

Chapter 8.32

SURVEY AND MONUMENTATION REQUIREMENTS

Sections:

8.32.010 General Survey Requirements.
8.32.020 Primary Monuments.
8.32.030 Secondary Monuments.
8.32.040 Lost Monuments.
8.32.050 Recovered or Disturbed Monuments.

8.32.010 General Survey Requirements.

A. All land being subdivided or surveyed in accordance with Title 8 of this Code shall be surveyed by a land surveyor licensed in the State of Alaska and in compliance with this Chapter.

B. All surveyors, prior to commencing field work within the boundaries of the Borough or as soon thereafter as practicable, shall notify the Borough of their project, and shall review this Chapter of the Code.

C. All surveyors, upon completion of field work or as soon thereafter as practicable, shall submit to the Borough a record of monuments set, reestablished, recovered, or not recovered, as provided on plat of survey or by a monument record.

D. Accuracy of survey. A minimum survey accuracy of 1:5,000 is required.

E. All monuments shall be located and set in a profession al manner to provide a permanent field record of plat or survey. If questions arise regarding monumentation, the Zoning Administrator shall have authority to interpret the intent of this ordinance and define suitable monumentation.

8.32.020 Primary Monuments.

A. Monument Material.

1. Where soil conditions are firm and unyielding, primary monuments shall consist of a minimum 2-inch diameter metal pipe at least 30" long, with a minimum 4-inch flange at the bottom. A minimum two and one-half inch diameter stamped brass or aluminum cap shall be permanently attached to the top.

2. In areas of swamp, unstable, or soft soil conditions, three-quarter inch drive rod may be used. The rods shall be driven to a minimum depth of nine feet or refusal. A minimum two and one-half inch stamped brass or aluminum cap shall be permanently attached to the top.

3. In areas of shallow soil, a two and one-half inch brass or aluminum cap may be grouted firmly into a boulder or bedrock.

4. If both the cap and the pipe are of nonferrous metal, additives with magnetic qualities shall be permanently attached to the top and bottom of the monument.

B. Primary monuments shall be permanently stamped with: corner identification; subdivision initials; surveyor registration number; and year set. This data shall be oriented so that it may be read when facing north.

C. Placement of Primary Monuments.

1. All angle points on lines that form the exterior boundaries of a survey shall have primary monuments. If tract configuration so warrants, this requirement may be modified by the Zoning Administrator.

2. If the length of an exterior boundary line exceeds 1,320 feet or the angle points are not intervisible, intermediate secondary monuments shall be set with consideration given to intervisibility and near midpoint location.

3. No point on or within the survey shall be more than 1,320 feet from a primary monument. If field conditions or tract configurations so warrant, this requirement may be modified by the Zoning Administrator.

4. If the point for a primary monument is in a place that would be impractical to monument because of natural obstacles, a witness corner shall be set at the nearest practical position on a survey property line. The witness distance to the true corner position shall be shown on the plat of survey. Witness corners shall comply with the standards for primary monuments. The witness distance shall be a multiple of five feet, and the distance stamped on the cap.

5. A witness post is required for all primary monuments. Witness posts shall be a carsonite post or a nominal two by four, five feet long, painted red, and shall be set solidly one to two feet from the monument with three feet protruding above ground.

8.32.030 Secondary Monuments

A. Monument Material

1. Secondary monuments shall consist of at least five-eighths inch reinforcing rod, at least 30 inches, with a minimum two inch stamped aluminum cap permanently attached to the top.

2. Secondary monuments shall be permanently stamped with: location and identification; surveyor registration

number; and year set. This data shall be oriented so that it may be read when facing north.

B. Placement of Secondary monuments.

1. Secondary monuments shall be used for interior subdivision corners, all other corners which do not require primary monumentation, street intersections, and on interior lines that exceed 1,320 feet in length and are not monumented by primary monuments.

2. Monuments which are located in gravel road surfaces shall be installed 6 inches below the finished surface. Two reference monuments shall be set.

8.32.040 Lost Monuments.

A. A surveyor who in the course of a survey identifies as lost a: U.S. public land survey monument or; an Alaska state land survey primary monument or; an exterior primary monument controlling a recorded survey or; a geodetic control monument established by a state or federal agency, shall so inform the Zoning Administrator.

B. Upon notification of a lost monument, the Borough shall, at its expense, cause the monument to be reestablished as soon as practicable.

C. A surveyor who reestablishes a monument shall file a monument record according to AS 34.65.040.

8.32.050 Recovered or Disturbed Monuments.

A. No markings of any kind shall be added to any recovered survey monument.

B. Primary monuments found in a disturbed condition shall be returned to the original position and condition as nearly as possible or replaced so as to perpetuate the position. Rehabilitated monuments shall be noted on the plat of record or a monument record filed in accordance with AS 34.65.040.

C. Any person or agency whose activities may disturb or destroy a primary or secondary monument shall so inform the Borough and shall submit information identifying the monument. The Borough shall evaluate the circumstances and grant or deny permission to disturb or destroy a monument. The person or agency whose activities disturb or destroy a monument shall be responsible for having a surveyor restore or replace the monument after the activities have ceased.

D. All monumentation disturbed or destroyed shall be replaced with the same type of monument or as described as in this Chapter.

Chapter 8.36

PLATTING PROCEDURES

Sections:

8.36.010 Preapplication.
8.36.020 Preliminary Plat.
8.36.030 Final Plat.
8.36.040 Alteration or Replat Procedure.
8.36.050 Abbreviated Plat Procedure and Waivers.
8.36.060 Notification of Public Hearings.

8.36.010 Preapplication. A preapplication shall be required for all proposed subdivisions. The preapplication shall include all the land under contiguous ownership.

A. Purpose: The propose of the preapplication is:

1. To provide the Platting Authority with general information concerning developmental policies of the Borough; and

2. To provide guidelines for the subdivider concerning development policies of the Borough; and

3. To acquaint the subdivider with the platting procedure and requirements of the Borough.

B. Requirements: The preapplication shall include the following in written and/or graphic form:

1. A sketch plan of the entire development drawn to scale;

2. Existing conditions and characteristics of the site and of all land within five hundred feet (500') of the boundaries of the site;

3. The area proposed or required to be set aside for schools, parks, or other community facilities;

4. Information concerning flood plains, unstable slopes, watersheds, topography, and soil composition which might constitute a hazard;

5. Statement of the intended use of the property.

C. Procedure: The subdivider shall submit six (6) copies of the required material to the Platting Authority chairman at least thirty (30) days prior to the Platting Authority meeting at which it is scheduled to be reviewed. The Platting Authority will review the preapplication with the subdivider, inform the subdivider of the Borough's development policies, and indicate whether any changes in the proposed subdivision need to be made prior to proceeding with a preliminary plat. One copy of the

required materials may be returned to the subdivider with written comments by the Authority.

8.36.020 Preliminary Plat. After a preapplication meeting with the Platting Authority, the subdivider shall submit a preliminary plat to the Authority in order that general agreement may be reached on the layout, arrangement, and design of streets and lots before development begins and a final plat is prepared. The preliminary plat shall include all land under contiguous ownership. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be part of the preliminary and final plat. Requirements for surveying this remaining tract may be waived upon petition and at the discretion of the Authority.

A. Requirements: The following information shall be included in the preliminary plat application:

1. A written application on forms provided by the Authority.

2. A location or vicinity map and a topographical survey map.

3. Three (3) copies each of the location and topographical maps drawn to a scale of 1 inch to 50 feet, 1 inch to 100 feet, or 1 inch to 200 feet, which shall include:

a. Date, scale, and north arrow.

b. The proposed subdivision name, which shall not be so similar to the name of any plat previously recorded in the area to cause confusion. The proposed subdivision, however, may be a numbered addition to an adjacent plat previously recorded by the same subdivider.

c. The name and address of the owner, the subdivider, and the registered engineer or surveyor preparing the plat.

4. The location map shall include:

a. Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land.

b. The existing zoning classification and present use of the plat and adjacent properties.

c. The number of the section, township, range and grid showing adjoining roads, physical features, townships, or section lines to which reference may be made;

5. The property and topographic survey map of the plat area shall include:

a. The location of all property lines. Adjacent property lines will be shown with a dashed line to show their relationship to the plat area.

b. The number, dimensions and area of each lot, and dimensions and the total number of lots by block.

c. Topographic lines at intervals of two feet (2') for any portion of the proposed subdivision within the flood plain or any stream.

d. The location of streams, lakes, swamps, flood plains, mean high tide lines, and the drainage pattern of the plat area.

e. Dedicated rights-of-way, patent reserves, road easements and reservations, including section line easements and other constructed roadways located within and adjacent to the area to be platted, including rights-of-way and surface widths and purposes.

f. The location of existing facilities and structures within the proposed subdivision, such as buildings, sewage and water systems, utility easements of record or in use, excavations, bridges, culverts, wells, and any other information required by the Platting Authority.

g. The proposed location of streets, water, sanitary and storm sewers, drainage facilities, and other public improvements, uses, rights-of-way and easements, containing enough information and specifications to enable the Platting Authority to make a preliminary determination as to applicable Borough and State of Alaska standards.

6. The subdivider shall submit supporting written information, including:

a. A Certificate of Plat showing the legal and equitable owners (including mortgagee, contract purchasers, and fee owners) of the land to be platted, plus all grants, reservations, covenants, deed restrictions, and easements of record which may condition the use of the property.

b. All plans, data, and engineering reports required by the Department of Environmental Conservation to substantiate the availability of a safe and adequate volume of water for domestic purposes and the capability of the proposed subdivision to adequately dispose of all waterborn domestic waste.

c. A soils report stating soils characteristics and land bearing capacity is required in all cases where individual on-site sewage disposal and water supplies are proposed and in other cases as deemed desirable by the Platting Authority.

d. If proposed, copies of protective covenants, deed restrictions, and/or home association bylaws affecting the proposed subdivision.

B. Procedure:

1. The subdivider shall submit the preliminary plat application to the Platting Authority at a regular meeting or to the chairman of the Platting Authority at any other time. At the time of submission, the subdivider shall pay a filing fee, in the amount set out in section 8.44.040. The Platting Authority shall thereafter set a date for and hold a public hearing on the application.

2. The Platting Authority shall obtain comments on the preliminary plat from the Borough Engineer, Department of Public Works, Fire Department, applicable State agencies, and any affected utility companies before taking action on the plat.

C. Action: The Platting Authority shall approve, approve with conditions, or disapprove the preliminary plat within sixty (60) days of its submittal by the subdivider. The Platting Authority shall state its decision in the minutes and will return a written copy of its decision and comments together with one copy of the preliminary plat to the subdivider. If the Platting Authority takes no action within sixty (60) days, the preliminary plat is considered approved and a certificate of approval shall be issued on demand. The subdivider may consent to the extension of the period for action by the Platting Authority.

D. Preliminary plat approval-effect and duration:

1. The approval of a preliminary plat does not constitute approval of the subdivision or the acceptance of any dedication within the subdivision, but only authorizes the applicant to proceed to prepare final plat. Application for approval of a final plat, including any final plat submitted under a phased development master plan, may be submitted only after approval of the preliminary plat, and only while the approval of the preliminary plat remains effective.

2. Approval of a preliminary plat expires twenty-four months after its issuance, unless the Platting Authority extends its duration at the request of the applicant. The Platting Authority may approve an extension only if it finds that the conditions supporting approval of the preliminary plat have not materially changed. A subdivider may proceed upon an expired preliminary plat only by reapplying for a preapplication conference in accordance with Section 8.36.010.

8.36.030 Final Plat. After approval of the preliminary plat, and after compliance with any and all conditions on the approval of the preliminary plat, the subdivider shall submit a final plat for approval.

A. Requirements: The final plat shall be drawn on high-quality reproducible material and be at least eighteen inches

(18") by twenty-four inches (24") in size. All lines and printing shall be made with non-fading black ink, using a scale of one hundred feet (100') to the inch unless otherwise specified by the Platting Authority. Information shown on the plat will include:

1. The date, scale, and north arrow.

2. The initial point of survey, original, or re-established corners and their description; actual traverse showing area of closure and all distances, angles, and calculations required to determine initial point, corner, and distances of the plat; the exact length and bearing of the exterior boundaries of the subdivision; and all monuments as required in this Title;

3. Within the subdivision, the final plat shall show the center lines of all streets; lengths, tangents, radii, and central angles of all curves; the total width of each street; the width of the portion being dedicated and the width of the existing dedications together with the width of portions of streets each side of the center line; and, the width of rights-of-way of railroads, patent reserves, section line easements, flood control and drainage channels, and any other easements appearing on the plat;

4. The width, bearing, and other data necessary to delineate all easements to which the lots are subject. If the easement is not definitely located on the record, a statement referring to the easement shall appear on the plat. Easements for storm drains, sewers, utilities, and other purposes shall be denoted by broken lines;

5. 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 be set forth on the plat;

6. All lot and block numbers. Sufficient data shall be shown to determine readily the bearing and distance of each line;

7. The names and lot numbers of adjacent land not subdivided should be so noted on the plat.

B. Certificates, Affidavits and Fees: The following certificates, affidavits and fees shall accompany the final plat when submitted by the subdivider for approval:

1. A notarized certificate from the owners of the subdivision stating ownership, acknowledging all dedications, and describing all easements;

2. A certificate by the registered surveyor attesting to the accuracy of the survey and to the installation and correct location of all monuments required;

3. A certificate from the tax-collecting official stating that all taxes levied against the property at that date have been paid;

4. A guarantee of improvements and maintenance as stipulated in Sections 8.40.110 and 8.40.120 of this Title;

5. A certificate of approval of the Alaska Department of Environmental Conservation as to domestic water supply and sewage disposal;

6. A filing fee, in the amount set out in Section 8.44.040, and the recording fees. If the plat is disapproved, the recording fees shall be returned to the applicant.

C. Procedure:

1. The subdivider shall submit an original and five (5) copies of the final plat to the Platting Authority for approval. The final plat shall be submitted to the Platting Authority at the time of a regular meeting or to the chairman of the Platting Authority at any other time. The Platting Authority shall thereafter set a date for and hold a public hearing on consideration of the final plat. The final plat must be submitted by the subdivider for approval within two years of the approval of the preliminary plat.

2. The Platting Authority shall obtain comments on the final plat from the Borough Engineer, Department of Public Works, Fire Department, applicable State agencies, and any affected public utility company before taking action on the plat.

D. Actions:

1. The Platting Authority shall approve, return to the subdivider for modification, or disapprove the final plat within sixty (60) days of its submittal. The Authority shall state its decision in the minutes and will return a written copy of its decision and comments to the subdivider. If the Platting Authority does not so act within sixty (60) days, the final plat is considered approved and a certificate of approval shall be issued on demand. The subdivider may consent to the extension of the period for action by the Platting Authority.

2. When the final plat is approved, it will be stated in writing on the final plat and copies thereof that the plat has been approved, the date, and the signatures of the chairman and clerk of the Platting Authority.

3. The Platting Authority will then return one copy of the approved final plat to the subdivider, and the original plat and one copy thereof to the Borough Clerk. The Borough Clerk shall record the original of the final plat with the District Recording Office, pursuant to Title 40, Section 15, of

the Alaska Statutes. The Borough Clerk shall retain one copy of the approved final plat in the Borough's records.

8.36.040 Alteration, Replat or Vacation Procedure.

A. A recorded plat shall not be altered or replatted except by the Platting Authority on petition of the State, the Borough, the Planning and Zoning Commission on its own initiative, a public utility, or the owners of a majority of the land affected by the alteration or replat.

B. A platted street may not be vacated, except on petition of the State, the Borough, the Planning and Zoning Commission on its own initiative, a public utility, or owners of a majority of the land fronting the part of the street sought to be vacated.

C. The petition shall be filed with the platting authority and shall be accompanied by a copy of the existing plat showing the proposed alteration, replat or vacation. All petitions submitted shall be accompanied by a filing fee, in the amount set out in section 8.44.040, and the recording fees. If the petition is denied, the recording fees shall be returned to the petitioner.

D. Notice of Hearing: The Platting Authority shall thereafter fix a time for and hold a public hearing on the petition.

E. Hearing and Determination:

1. After the hearing, the Platting Authority shall consider the plat and make its decision on the merits of the proposal.

2. Vacation of a Borough street may not be made without the consent of the Assembly. The Assembly shall have 30 days from the decision of the platting authority in which to veto a vacation of a street. If no veto is received by the platting authority within the 30-day period, consent is considered to have been given to the vacation.

8.36.050 Abbreviated Plats and Waivers.

A. Authorization. The abbreviated plat procedure may be used in those instances where the specific requirements of this section are met. The abbreviated plat procedure shall apply to a plat that will:

1. Subdivide a single lot into no more than four lots and;

2. Provide legal and physical access to a public highway or street for each lot created by the subdivision and;

3. Not contain or require a dedication of a street, right-of-way, or other area and;

4. Not require a vacation of a public dedication of land or a variance from a subdivision regulation.

B. Abbreviated Plat procedure.

1. Submission requirements. The submission requirements of Section 8.36.030(A) and (B) shall apply. Any variation from these requirements shall be approved in advance by the Platting Authority.

2. The Zoning Administrator is hereby established as the Platting Official to accept abbreviated plats for filing.

3. The subdivider shall submit an original and five copies of the plat to the Platting Official no less than 15 days before the regular meeting of the Platting Authority at which the plat is to be considered. The Platting Official shall within five days notify the Platting Authority in writing of the receipt of the plat, and shall review the plat for completeness. If the plat does not meet the requirements of this section, the subdivider and surveyor shall be so notified within five days of the filing of the plat. If the plat does conform to the requirements of the abbreviated plat procedure, the Platting Official shall so notify the subdivider and submit the plat to the Platting Authority for review and public hearing at the next regular meeting.

4. The Platting Authority shall approve or disapprove the plat within 60 days after it is filed with the Platting Official. The Platting Authority shall set a date for and hold a public hearing nor more than 45 days after the filing of the plat, and shall approve, return to the subdivider for modification, or disapprove the plat within the 60 day timeframe. Unless the applicant for plat approval consents to an extension of time, the plat is considered approved and a certificate of approval shall be issued by the Platting Authority on demand if the Authority fails to act within 60 days.

5. The Platting Authority shall state in the minutes its reasons for disapproval of a plat.

C. Waiver in certain cases.

1. The Platting Authority shall waive the preparation, submission for approval, filing, and recording of a plat on satisfactory evidence that the subdivision meets the requirements of (A) of this section and each lot created by the subdivision is five acres or larger.

2. Waiver procedure.

a. The applicant shall submit a written application and an accurate map (minimum scale 1" equals 100') of the area showing the total property involved, changes desired, existing development, and other such information as may

be necessary for the Platting Authority to decide on the merits of the proposal. At the time of submission, the applicant shall pay a filing fee, in the amount set out in section 8.44.040, and the recording fees. If the application is denied, the recording fees shall be returned to the applicant.

b. Approval of a waiver application by the Platting Authority shall be by resolution which shall contain a legal description of the land for which the waiver has been granted. The resolution shall be recorded by the Borough Clerk in the District Recording office.

8.36.060 Notification of Public Hearings. Notification of public hearings held under this Chapter shall be made in accordance with the provisions of Section 8.44.030 of this Code.

Chapter 8.40

SUBDIVISION DESIGN STANDARDS AND SUBDIVISION IMPROVEMENTS

Sections:

SUBDIVISION DESIGN STANDARDS

8.40.010 Intent.
8.40.020 Conformity to Federal, State, and Local Regulations.
8.40.030 Streets.
8.40.040 Drainage Facilities.
8.40.050 Blocks.
8.40.060 Lots.

SUBDIVISION IMPROVEMENTS

8.40.070 Provision of Improvements.
8.40.080 Required Improvements.
8.40.090 Extent of Improvements.
8.40.100 Dedication of Improvements.
8.40.110 Guarantee of Required Improvements.
8.40.120 Maintenance Agreement and Bond.

SUBDIVISION DESIGN STANDARDS

8.40.010 Intent. These provisions establish general design standards for subdivision development which, except as provided otherwise, shall govern all subdivisions within the Borough.

8.40.020 Conformity to Federal, State, and Local Regulations. All proposed subdivisions shall conform to:

A. The applicable provisions of Title 29, Alaska Statutes;

B. All applicable ordinances of the City and Borough of Yakutat;

C. The provisions of the Yakutat Comprehensive Development Plan and the Yakutat Coastal Management Plan; and

D. The requirements of the State of Alaska, Department of Health and Social Services and Department of Environmental Conservation, in regard to lot sizes, setbacks, and drainage in areas where public water and sewer facilities are not available.

8.40.030 Streets.

A. General Intent: It is the intent of this Chapter that all streets be designed and located with consideration given to existing and planned streets, to topographical conditions and natural terrain features such as streams and existing growth, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

B. General Statement of construction standards. All streets shall conform to the current standard specifications established by this Chapter or the Alaska Department of Transportation and Public Facilities' "Standard Specifications for Highway Construction", whichever is more stringent.

C. General policy by street type.

1. Major streets shall be properly integrated with the existing and proposed system of major streets and highways.

2. Collector streets shall be properly related to transit systems and special traffic generated by such uses as schools, churches, small shopping areas, population centers, and the access to major streets.

3. Minor streets shall be laid out to conform as much as possible to topography, to discourage use by through traffic, to provide the minimum amount of street necessary to provide convenient, safe access to residential lots, and to provide an efficient route for utility systems.

4. Alleys.

a. Commercial and industrial subdivisions. Alleys shall be provided in all commercial and industrial districts. The Platting Authority may waive the requirement where other definite and assured provisions are made for service access such as off-street loading and parking consistent with and adequate for the uses provided.

b. Residential subdivision. Alleys shall not be approved in residential areas unless necessitated by exceptional topographical circumstances.

5. Cul-de-sacs and dead-end streets. Cul-de-sacs and dead-end streets shall be discouraged. If conditions necessitate the construction of a cul-de-sac, the street length will not exceed 500 feet and shall terminate with a turn-around having a diameter of at least 100 feet and a roadway of at least 75 feet in diameter.

D. Rights-of-Way and roadway widths:

1. Intent. Street rights-of-way shall be wide enough to provide for the present road surface, future road expansion, sidewalks, access for installation and maintenance of street drainage facilities or other utilities, and proper snow

removal. Rights-of-way shall not have permanent structures built upon them by property owners.

2. Right-of-way surface widths. Unless otherwise prohibited by unusual topographic, physical, or design features, the right-of-way and roadway width of all streets shall be at least the width specified below:

	Right-of-Way	Roadway
Major Streets	60 feet	28 feet
Collector Streets	50 feet	28 feet
Local Streets	50 feet	24 feet
Alleys	20 feet	16 feet

A wider right-of-way may be required by the Authority where storm water is accommodated in an open ditch along the street.

E. Grade and crowns:

1. The grade of major streets shall not exceed six percent, and the grade of all other streets shall not exceed ten percent. The Authority may approve exceptions to this standard only on the basis of exceptional topographical features of the land proposed for subdivision.

2. All streets shall have a crown of a minimum of two percent in order to facilitate proper surface run-off.

F. Surfacing.

1. All roads shall be constructed with a base of at least twenty-four (24) inches of gravel material. This base may consist of on site material, material brought to the site, or any combination thereof. No more than six (6) percent by weight of the material can pass the number 200 sieve.

2. In addition to the base described in paragraph 1 above, all roads shall be constructed with a waring course comprised of one inch minus screened aggregate, in conformance with the State of Alaska Department of Transportation classification for D-1.

3. All trees, brush and organic material shall be removed or burned prior to placement or construction of a road base, unless an engineering plan has been submitted and approved by the Borough Engineer which provides for the use of corduroy, and/or the overlay of gravel material of sufficient depth to withstand anticipated traffic use.

4. All construction shall be contained within the right-of-way except where the taking of additional slope easement is noted on the plat.

5. The subdivider shall grade and compact all roadway surfaces prior to final inspection.

G. Intersections:

1. Right angle. Streets shall intersect as nearly as possible at right angles or more than two streets shall intersect at one point.

2. Rounded. Property lines at street intersections shall be rounded with a radius of 15 feet.

3. Offset intersections or jogs. Street jogs with center line offsets of less than 125 feet shall be avoided. Where streets intersect major streets, their alignment shall be continuous.

H. Tangents: A straight section of street at least 100 feet in length shall be built between curves on major and collector streets.

I. Sight Distances: A minimum sight distance, with visibility measured along the center line of the street, shall be provided for both vertical and horizontal curves as follows:

	Horizontal	Vertical
Major	300	300
All others	As approved by the Platting Authority subject to maximum conditions available for safety and development.	

J. Half Streets: Where a half street is adjacent to a subdivision, the other half of that street shall be dedicated by the subdivider.

K. Reserve Strips: Reserve strips controlling access to streets shall be prohibited except where their control is placed in the Borough under conditions approved by the Platting Authority and noted on the plat.

L. Street Names:

1. New street names shall not duplicate the names of existing streets, but streets that are continuations of other streets already named shall bear the same name.

2. Streets shall be designated as ways, places, avenues, roads, etc.

8.40.040 Drainage Facilities. Drainage ditches and culverts shall be provided of sufficient depth and size to carry seasonal high water volumes. Minimum culvert size for drainage shall be eighteen (18) inches in diameter with at least a one (1) percentage drainage grade through the pipe.

8.40.050 Blocks.

A. In platting residential lots containing less than ten thousand (10,000) square feet, the depth of the block should not exceed twice the minimum width allowed under the zoning district in which the lot is located.

B. No block shall be longer than 1,200 feet. Where blocks are over 1,000 feet in length, a crosswalk at least ten feet in width may be required near the center of the block.

C. Pedestrian crosswalks not less than ten (10) feet wide may be required by the Platting Authority where deemed necessary to provide for pedestrian access to schools, shopping centers, playgrounds, or other community facilities.

8.40.060 Lots.

A. The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related topography and other character of surrounding development.

B. All side lines of lots shall be at right angles to straight angles to straight street lines and radial to curved street lines, except where a variation to the rule will provide a better street and lot layout. Lots with double frontage shall be avoided.

C. Dimensions:

1. All lot dimensions shall conform to the requirements of the zoning regulations.

2. Lots should be designed with a suitable proportion between width and depth. Neither long and narrow nor wide and shallow lots are encouraged. Normal depth should not exceed two and one-half (2-1/2 times) the width.

D. Corner lots should be large enough to allow full setback of buildings from both streets as required by the regulations of the appropriate zoning district.

E. All remnants of lots left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

F. Lots deemed by the Platting Authority to be uninhabitable due to natural conditions shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property, or which may aggravate existing natural hazards.

G. Every lot shall have access directly onto a public street. No lot shall be allowed access directly onto a major thoroughfare. Commercial and industrial site access shall meet all requirements of the State of Alaska, Department of Transportation and Public Facilities.

SUBDIVISION IMPROVEMENTS

8.40.070 Provision of Improvements.

A. Purposes: The purposes of these provisions are to establish and define the improvements which will be required under the subdivision agreement to be constructed by the subdivider as a condition of final plat approval; to outline the procedures and responsibilities of the subdivider and public officials and agencies concerned with the administrating, planning, design, construction, and financing of public facilities; and to establish procedures for assuring compliance with these requirements.

B. Responsibility: It shall be the responsibility of the subdivider to have prepared by a registered engineer a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data for the hereinafter required public streets, utilities, and other facilities. Such construction plans shall be based on data contained in the approved preliminary plat.

8.40.080 Required Improvements. Prior to approval of the final plat, the subdivider shall have installed or shall have furnished an adequate financial guarantee for the ultimate installation of the following improvements:

A. Monumentation: Survey monumentation is required to perpetuate the location of exterior boundaries of subdivisions and lot corners and shall be set in conformance with Chapter 8.22 of this Code.

B. Streets:

1. All streets shall be surfaced in accordance with applicable standard specifications of the Borough.

2. Curbs, gutters, culverts, or other drainage structures for all streets shall be provided in accordance with applicable standard specifications of the Borough.

C. Water Supply:

1. Where the water system of the City and Borough of Yakutat is available within 200 feet of the proposed subdivision, each lot within the subdivision shall be provided with a connection thereto, in accordance with all applicable State and Federal regulations.

2. Where the Borough's water system is not available, the subdivider shall provide wells or a water-supply system for each lot in accordance with the requirements of the State of Alaska, Department of Environmental Conservation and Department of Health and Social Services.

3. Fire hydrants shall be installed in all subdivision with a community water system.

D. Sanitary Sewer System:

1. Where the sewer facilities of the City and Borough of Yakutat are available within 200 feet of the proposed subdivision, the subdivider will supply both collectors and laterals and provide for connection to the community system, in accordance with all applicable State and Federal regulations.

2. Where the Borough's sewer system does not exist, the subdivider shall provide either individual or collective sewage facilities in accordance with the requirements of the State of Alaska, Department of Environmental Conservation and Department of Health and Social Services.

E. Oversize Utility Lines: The Platting Authority may require the subdivider to install oversize water and/or sewer lines in order to accommodate probable and desirable growth in the immediate area. When such oversize lines are required, the subdivider will be reimbursed for the excess costs in providing oversize utility lines above the costs of providing standard utility lines.

F. Surface Drainage: The subdivider shall be responsible for a total surface drainage plan showing all drainage facilities and slopes.

G. Easements:

1. Utility easements along rear or side lines of all lots will be provided and will be at least 10 feet wide, although utilities shall be placed in public rights-of-way whenever possible.

2. Drainage easements will be provided wherever the subdivision is traversed by a water course drainage way, channel, or stream conforming to the course of that feature and wide enough to provide access for maintenance and improvement.

8.40.090 Extent of Improvements. All the required improvements shall be installed to the boundaries of the subdivision and shall be designed to provide for future extension to the service of contiguous areas.

8.40.100 Dedication of Improvements.

A. All streets, facilities, and improvements shall be expressly dedicated to public use at the time of completion and acceptance of the final plat.

B. Dedication of streets, rights-of-way, easements, or other areas for public use by the Assembly may not be construed to require the Borough to maintain, improve, or provide for Borough services in the area dedicated and the dedication does

not impose any liability on the Borough for the condition of the area dedicated.

8.40.110 Guarantee of Required Improvements. Before considering the final plat of a subdivision, the Commission must be satisfied that all improvements required by this Chapter have been constructed. If the required improvements have not been completed, the subdivider may be required by the Commission to include with the final plat a surety bond of 125% or certified check in an amount equal to the cost of completion of those improvements as estimated by the Borough. The guarantee will be subject to the condition that the improvements will be completed within twenty-four months after approval of the final plat. If completed, the Borough will return the full amount of the guarantee to the subdivider; if not completed, the Borough may complete construction of the improvements with the guarantee. Any amount of the guarantee in excess of the cost of completing the required improvements will be returned to the subdivider, but the subdivider cannot be charged with any amount in excess of the original guarantee.

8.40.120 Maintenance Agreement and Bond. The subdivider shall guarantee that the required improvements provided will remain in good condition for a period of one (1) year after the date of conditional acceptance by the City and Borough of Yakutat and agrees to make all repairs to and maintain said improvements in good condition during the one (1) year period at no cost to the Borough. The subdivider may be required by the Platting Authority to include with the final plat a surety bond or certified check in an amount equal to 5 percent of the cost of improvements for payment of costs for any correction, reconstruction, repair, or maintenance of the improvements during the one (1) year warranty period. Any amount of the maintenance guarantee in excess of the costs of correction, reconstruction, repair or maintenance will be returned to the subdivider.

Chapter 8.44

GENERAL PROVISIONS

Sections:

8.44.010 Severability.
8.44.020 Interpretation and Definitions.
8.44.030 Notice of Public Hearing.
8.44.040 Fees.

8.44.010 Severability. If any Section, sentence, clause, or phrase of this Title is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this Title.

8.44.020 Interpretation and Definitions. Unless otherwise provided or the context otherwise requires, the following interpretations and definitions apply to this Chapter:

A. General interpretation:

1. Words used in the present tense include the future tense, the singular includes the plural, and the masculine gender includes the feminine unless the context clearly indicates otherwise.

2. The words "shall" and "will" are always mandatory; the word "may" is permissive.

3. Any word or term not defined in this article shall be used with that meaning common in standard use.

4. The word "person" includes a company, partnership, corporation or other entity as well as an individual.

5. The word "lot" includes the words "plot" and "parcel".

B. Specific definitions.

1. Accessory building. A detached building, the use of which is appropriate, subordinate and customarily incidental to that of the main building or to the main use of the land and which is located on the same lot as the main building or use. An accessory building shall be considered to be a part of the main building when joined to the main building by a common wall.

2. Accessory use. A use customarily incidental and subordinate to the principal use of the land, building or structure and located on the same lot or parcel of land.

3. Alteration. Any change, addition or modification in the construction, location or use classification.

4. Attractive nuisance. Something unsafe and unprotected and often under construction that tempts children to risk injury by playing with, in or on it.

5. Bed and Breakfast Establishment. A use that is subordinate to the principal use of a dwelling unit as a residence, in which extra bedrooms are rented to transient guests and a breakfast meal only is provided for the renters. Bed and breakfast operations do not include accessory commercial services, retail sales of any kind, or other activities which are not permitted uses for the residential dwelling unit.

6. Block. A piece or parcel of land that is entirely bounded by rights-of-way excepting alleys, physical barriers, exterior boundaries of a subdivision, or a combination thereof.

7. Boarding house. A building other than a hotel where lodging, with or without meals, is provided for compensation for three or more persons on an other than day-to-day basis and which is not open to transient guests.

8. Borough. The City and Borough of Yakutat.

9. Borough Engineer. A registered professional civil engineer authorized to practice engineering in the State of Alaska and who is retained by the Borough on a temporary or permanent basis.

10. Building. Any structure built for the support, shelter or enclosure of persons, animals or property of any kind.

11. Building area. The total of area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of steps.

12. Building, existing. A building erected prior to the original adoption of applicable regulations.

13. Building height. The vertical distance from the "grade", as defined herein, to the highest point of the roof.

14. Building, principal or main. A building in which is conducted the principal or main use of the lot on which said building is situated.

15. Center line. The line which is in the center of a public right-of-way.

16. Commission. The Planning Commission of the City and Borough of Yakutat.

17. Community Water and Sewer Systems. The water and sewer systems of the City and Borough of Yakutat. This definition may be extended, where necessary, to include privately or publicly developed systems in areas beyond the extent of existing community systems provided that such new systems shall meet all applicable Borough and State standards.

18. Comprehensive Plan. A document designed to portray general, long-range proposals for the arrangement of land uses in the City and Borough of Yakutat and which has been adopted by the Borough as a guide to setting policy for achieving orderly and coordinated community development.

19. Coverage. The percentage of the total lot area covered by the total building area.

20. Dedication. The intentional appropriation by deed of land by the owner to public use.

21. Drainage way. Any lake, river, stream, creek or man-made drainage which does or may carry normal or storm drain age waters from natural lakes, ponds, springs or drainage areas.

22. Dwelling. A building or any portion thereof designed or used exclusively for residential occupancy including one-family, two-family, and multiple-family dwellings, but not including any other building wherein human beings may be housed.

23. Dwelling unit. One or more rooms in a dwelling designed as a unit for occupancy by not more than one family for living or sleeping purposes.

24. Dwelling, one-family. Any detached building containing only one dwelling unit.

25. Dwelling, two-family. Any building containing only two dwelling units.

26. Dwelling, multi-family. Any building containing three or more dwelling units.

27. Easement. An interest in the land owned by another that entitles the easement holder to a specified limited use.

28. Essential service. The erection, construction, alteration or maintenance by public or private utility companies of utility systems and equipment associated therewith. This definition shall not be interpreted to include public or private utility buildings.

29. Family. Any number of individuals living together as a single housekeeping unit in a dwelling unit.

30. Fence, height. The vertical distance between the ground directly under the fence and the highest point of the fence.

31. Floathome. Any structure which is designed, intended, or fitted out as a place of habitation and is not principally used for transportation. Floathomes include houseboats, barges, boats (powered or not) and the like which are anchored at a certain site for a period of 30 days or more.

32. Floor area. The total area of each floor of a building within the surrounding outer walls.

33. Frontage. All the property fronting on one side of a street between intersecting streets.

34. Garage. An accessory building or any portion of a main building used for the storage of passenger motor vehicles.

35. Grade (ground level). The average level of the finished ground at the center of all walls to a building.

36. Guest room. Any room in a hotel, boarding or rooming house used and maintained to provide sleeping accommodations for not more than two persons.

37. Home occupation. An accessory use customarily conducted within a dwelling by the residents of the dwelling in a manner which is clearly secondary and incidental to the residential use of the dwelling. Said use shall not permit the conduct of trade on the premises, nor shall more than forty percent of the total area of any building be devoted to the home occupation.

38. Hotel. Any building or group of buildings in which there are guest rooms used, designed or intended to be used for the purpose of offering to the general public food or lodging, or both, on a day-to-day basis.

39. Improvements. Any construction incident to servicing or furnishing facilities for a subdivision, including but not limited to grading, street surfacing, curbs and gutters, driveway approaches, sidewalks, water mains and lines, sanitary sewers, storm sewers, other utilities, culverts, traffic control devices, bridges, and other appropriate items.

40. Lot. A measured portion of a parcel or tract of land which is described and fixed on a plat filed for record; also a parcel of land occupied or to be occupied by a principal use and having frontage on a public street.

a. Corner Lot. A lot located at the intersection of two or more streets.

b. Lot Frontage. All property abutting the right-of-way of a dedicated street measured along the right-of-way between side lot lines of a lot. In no case shall the line along an alley be considered as lot frontage.

c. Double Frontage. A lot other than a corner lot with frontage on more than one street.

d. Lot Depth. The mean horizontal distance between the front and rear property lines of a lot.

41. Lot area. A total horizontal area within the property lines of a lot, excluding streets.

42. Lot, corner. A lot situated at the junction of, and bordering on, two intersecting streets.

43. Lot coverage. That percentage of the total lot area covered by the building area.

44. Lot Line. The fixed boundaries of a lot described by survey and located on a plat filed for record.

a. Front Lot Line. The boundary of a lot measured along the edge of the right-of-way of a dedicated street. In the case of a corner lot, either line which meets the above description may be considered a front lot line provided that the other is considered to be a side lot line.

b. Rear Lot Line. The boundary of a lot which is most parallel to the front lot line and does not intersect the front lot line.

c. Side Lot Line. The boundary of a lot which is neither a front nor a rear lot line.

45. Lot width. The average distance between the side lot lines measured parallel to the street right-of-way lines or parallel to the chord between the two front lot corners when the right-of-way line is a curve.

46. Major road. A street or highway which serves as a principal artery of through traffic movement. State primary and secondary aid roads fall within the intent of this definition.

47. Mineral or natural resource development. Commercial or industrial operations involving removal of timber, native vegetation, peat, muck, topsoil, fill, sand, gravel, rock or any other mineral and other operations having similar characteristics.

48. Mobile home. Any vehicle or portable structure mounted or designed for mounting on wheels, used or intended for use for single family dwelling purposes, including structural additions, except parked and unoccupied camping type trailers. Any such vehicle or structure shall be deemed to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation. Modular or prefabricated dwelling units are specifically excluded from this definition.

49. Mobile home park. Any property used for the accommodation of two or more inhabited mobile homes on a tenancy or lease basis. This term shall not be construed to mean tourist facilities for parking travel trailers or campers.

50 Monument. A permanent survey control point.

51. Non-conforming lots of record. The lot width or area or both is smaller than the minimum permitted in the zone in which it is located.

52. Non-conforming use of land. The use to which the land is being put is not a principal, accessory or conditional

use permitted in the zone in which it is located, and is not otherwise permitted in this Title.

53. Non-conforming structures. The structure fails to meet yard, coverage or height regulations or other development requirements established for the zone in which it is located.

54. Non-conforming use of structure. The use to which the structure or the structure and land in combination is being put is not a principal, accessory or conditional use permitted in the zone in which it is located, and is not otherwise permitted in this Title.

55. Nursery, children's. Any home or institution used and maintained to provide day care for children not more than seven years of age.

56. Parties of interest. All real property owners of record on the Borough's assessing records within the area and a five hundred foot periphery of the area.

57. Parking space. An area not less than one hundred forty-four square feet in area, accessible from streets, for the storage of passenger motor vehicles operated by individual drivers.

58. Person. A natural person, his heirs, executors, administrators or assigns, and also including a firm, partnership, corporation or other entity, its or their successors or assigns or the agent of any of the aforesaid.

59. Planned Unit Development: A group or combination of certain specified residential, commercial, and/or industrial uses developed as a functional and integral unit in an area where some or all of the uses might not otherwise be permitted but which protects the character and quality of adjacent land use through appropriate design requirements.

60. Planning Commission. The Planning Commission of the City and Borough of Yakutat.

61. Plat. A map or chart of a subdivision of land.

a. Sketch Plat. An informal plan drawn to scale showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

b. Preliminary Plat. A map showing the required features of a proposed subdivision of land submitted to the Platting Authority for purposes of preliminary consideration and approval.

c. Final Plat. A map of a subdivision of land made up in final form as required for approval and filing.

62. Platting Authority. The Platting Authority of the City and Borough of Yakutat.

63. Principal use. The major or predominant use of a lot or parcel of land.

64. Public use. A use operated by a public body, said use having the purpose of serving the public health, safety or general welfare and including such uses as public schools, parks, playgrounds, hospitals and administrative and service facilities.

65. Public Utility. All persons, firms, corporations, or Borough or other public authorities which are certified as public utilities by the State of Alaska.

66. Quasi-public use. A use operated by a private nonprofit educational, religious, recreational, charitable or medical institution. Said use having the purpose primarily of serving the general public, and including uses such as churches, schools and universities, community youth and senior citizen recreational facilities, hospitals and the like.

67. Replat. The alteration of a plat of record which shall be submitted in a required form to the Platting Authority for approval and recording.

68. Right-of-Way. Land reserved, used or intended to be used for a street, alley, walkway, or other public purpose.

69. State highway. A right-of-way classified by the State of Alaska as a Primary, Secondary A or Secondary B highway.

70. Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than fifty percent of the total perimeter or is more than twelve feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered a story.

71. Street. A public right-of-way used as a thorough fare and which is designed and intended to provide the primary means of access to property abutting thereon; also a right-of-way which provides for vehicular and pedestrian access to abutting properties.

a. Local Street. A street designed to provide traffic access to individual abutting properties.

b. Collector Street. A street designed to move traffic from local streets to major streets.

c. Major Streets. A street designed to move traffic between major traffic generators in the Borough.

d. Alley. A public right-of-way shown on a plat which provides secondary access to a lot, block, or parcel of land.

e. Cul-De-Sac. A local street of short length having only one outlet with provision for a turn-around at its termination.

f. Street Width. The shortest distance between the lines delineating the right-of-way of streets.

72. Structure. That which is built or constructed, an edifice or a building of any kind, composed of parts joined together in some definite manner.

73. Subdivision. The division of a tract or parcel of land into two or more lots or other divisions for the purpose of sale, lease, or building development, or the establishment or change of dedicated public areas of rights-of-way or the land so divided.

74. Surveyor. A land surveyor registered in the State of Alaska.

75. Tract. An area of land which has been defined but has not been designated by lot and block numbers.

76. Use. The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is occupied or maintained.

77. Variance. A relaxation of the development requirements under the procedures specified in Chapter 8.24 in cases where unusual physical features of the property involved would make strict application of the zoning regulations unreasonable. Variances shall not be defined as a means of permitting a use of land or structure which is not otherwise permitted in the zone.

78. Yard. An open unoccupied space unobstructed from the ground to the sky, except where specifically provided by this Chapter, on the same lot on which a building is situated.

79. Yard, front. A yard extending across the full width of the lot, measured between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.

80. Yard, rear. A yard extending across the full width of the lot between the rear main building and the rear lot line.

81. Yard, side. A yard on each side of a main building and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.

82. Zoning change. The alteration or moving of a zone boundary; the reclassification of a lot, or parcel of land, from one zone to another; or the change of any of the regulations contained in this Title.

8.44.030 Notice of Public Hearing.

A. When a provision of this Title requires a public hearing, notice of the hearing shall be given in conformity with this section.

B. Notice by posting and mailing is required for:

1. Public hearings before the Planning Commission or Assembly on any changes to the boundaries of zoning districts;

2. Public hearings before the Planning Commission on applications for conditional use permits or variances;

3. Public hearings before the Platting Authority on plats and petitions filed under Sections 8.36.020 through 8.36.050; and

4. Public hearings before the Board of Adjustment.

Notice by posting only is required for any other public hearing under this Title.

C. All notices of a public hearing shall be posted in at least three public places, and mailed if required by subsection B above, no less than 10 days before the public hearing. In the case of a plat or petition filed under sections 8.36.020 through 8.36.050, notice shall additionally be posted on the subject property, if feasible.

D. A posted or mailed notice shall state:

1. The date, time and location of the public hearing;

2. A description of the subject matter of the hearing and the name of the person who filed the appeal, application, plat or petition; and

3. The legal description of the property which is the subject of the hearing.

E. The Borough shall provide notice by mailing to:

1. the appellant(s) and appellee(s), for a public hearing to be held before the Board of Adjustment;

2. the petitioner, plat submitter or applicant and all parties of interest, for a hearing set out in subparagraphs (B)(1) through (3) above.

F. Notice of a hearing held before the Planning Commission or the Borough Assembly on any change to the zoning ordinances set out in this Title shall be given in accordance with the standard notice requirements for meetings of those bodies. No additional posting or mailing requirements are imposed hereunder.

G. In addition to the notice requirements set out above, the Board of Adjustment, Planning Commission or Platting Authority may prescribe additional notice to be given, including 1) publication in a newspaper of general circulation in the Borough, if one exists, or 2) direct box holder mail outs, to be conducted through the United States Postal Service.

8.44.040 Schedule of Fees.

A. Permit Applications.

Fees for the review of applications for zoning compliance permits, conditional use permits, variance requests and rezoning requests shall be non-refundable and shall be paid in full when the application is submitted to the Planning Commission, except that Borough, state and federal agencies shall be exempt from payment of such fees. The fees shall be used to cover the costs of maps, legal publications, notices to affected property owners, and other administrative expenses involved in processing the applications. The following fees apply:

1.	Zoning Compliance Permit	$ 25.00
2.	Conditional Use Permit	$ 25.00
3.	Variance	$ 25.00
4.	Rezoning Request	$ 25.00

B. Plats.

Fees charged for the review and recording of plats shall be non-refundable and shall be paid in full when an application is submitted to the Planning Commission, except that Borough, state and federal agencies shall be exempt from payment of such fees. The schedule of fees required by the Planning Commission shall be as follows:

1.	Preliminary Plat	$ 10.00
2.	Final Plat	$ 25.00
3.	Abbreviated Plat	$ 25.00
4.	Alteration or Replat, including Vacation of Right-of-Way	$ 15.00
5.	Waivers	$ 5.00
6.	Recording Fee	(Amount of payment to be in accordance with the schedule developed by the District Recorder's office)

C. Appeals.

Fees charged for appeals filed to the Board of Adjustment pursuant to Chapter 8.08 shall be non-refundable and shall be paid in full when an appeal is submitted, except that Borough, state and federal agencies shall be exempt from payment of such fees. The schedule of fees shall be as follows:

1.	Appeals to the Board of Adjustment	$25.00

Chapter 8.48

NATIONAL FLOOD INSURANCE PROGRAM

Sections:

8.48.010 Statutory authorization, findings of fact, and purpose.
8.48.020 Definitions.
8.48.030 Land to which this Chapter applies.
8.48.040 Administration.
8.48.050 Provisions for Flood Hazard Reduction.
8.48.060 Severability.

8.48.010 Statutory authorization, findings of fact, and purpose. The Assembly of the City and Borough of Yakutat, Alaska, does recognize that the Borough is periodically subject to flooding, and erosion, furthermore, both hazards may result in loss of life and property, health and safety hazards, and public expenditures for flood protection, relief and erosion control, all of which adversely affect the public health, safety and general welfare. This purpose of this Chapter is to promote public health, safety and general welfare and to minimize flood losses. To accomplish this purpose, it is the intent of this Chapter to:

A. Encourage land uses vulnerable to floods or erosion be protected against flood damages at the time of initial construction or substantial improvement;

B. Modify land uses which are dangerous to health, safety or property in time of flood or cause excessive increase in flood heights or velocity;

C. Insure that subdivision and development of land within the city are consistent with the need to minimize flood hazards; and ensure that the sale of flood insurance is available to residents, and that those who occupy the areas of special flood hazard assume responsibility for their actions.

8.48.020 Definitions.

A. "AREA OF SPECIAL FLOOD HAZARD" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

B. "BASEMENT" means any area of the building having its floor sub-grade (below ground level) on all sides.

C. "DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings

or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

D. "FLOOD" or "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters and/or

2. the unusual and rapid accumulation of runoff of surface waters from any source.

E. "LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

F. "MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

G. "RECREATIONAL VEHICLE" means a vehicle,

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

H. "STRUCTURE" means a walled and roofed building, manufactured home, and includes a gas or liquid storage tank that is principally above ground.

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

J. "SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. before the improvement or repair is started, or

2. if the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term can exclude, at the discretion of the Local Administrator, a) any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

8.48.030 Lands to which this Chapter applies. This Chapter shall apply to all flood hazard areas within the jurisdiction of the City and Borough of Yakutat. Until such time as a "Flood Insurance Study" and "Flood Insurance Maps" are published by the Federal Insurance Administration for the City and Borough of Yakutat, the Borough shall reasonably utilize the High Water Marks of Record.

8.48.040 Administration.

A. Development Permit Required. A development permit shall be obtained before construction or development begins to determine if such development is proposed within flood-prone areas. The permit shall be for all structures, including manufactured homes, and for all development including fill and other activities.

B. Designation and Duties of the Local Administrator. The Borough Planner is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions. Duties of the Borough Planner shall include, but not be limited to:

1. Review all development permits to determine if the proposed development is located in a flood hazard area.

2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed building sites will be reasonably safe from flooding.

4. Maintain for public inspection all records pertaining to the provisions of this Chapter.

5. Where base flood elevation data or High Water Marks of Record are provided, obtain and record the actual elevation of the lowest floor of all structures; and if applicable, elevation to which any non-residential structure has been flood proofed.

8.48.050 Provisions for Flood Hazard Reduction.

A. General Standards. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall meet the following standards:

1. Anchoring. Be designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure; all manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (44 CFR 60.3(b)(8)). For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing, air condition, and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge into flood waters; sewage lift station electrical panels shall be elevated above High Water Marks.

4. Residential Construction.

a. In all flood prone areas, new construction and substantial improvement of any residential structure shall have the lowest floor elevated to or above base flood elevation if established, or the high water marks of record.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(iv) be used solely for parking of vehicles, building access, or storage.

(v) Below grade, crawlspaces are prohibited at sites where the velocity of floodwaters exceeds five (5) feet per second.

(vi) All building utility systems within the crawlspace shall be elevated above base flood elevation or be designed so that floodwaters cannot enter or accumulate within the system component during flood conditions.

(vii) The interior of a crawlspace below the base flood elevation must not be more than 2 feet below the

lowest adjacent exterior grade (LAG) and the height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation must not exceed 4 feet at any point.

(viii) Below grade, crawlspaces constructed in accordance with the requirements listed in this subsection shall not be considered basements. However, applicants who construct buildings that have below grade crawlspaces are hereby advised that such buildings will have higher flood insurance premiums than buildings that have crawlspaces with interior elevations at or above the lowest adjacent grade.

5. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor elevated to or above the level of the base flood elevation or high water marks of record; or, together with attendant utility and sanitary facilities shall:

a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

b. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section and such certifications shall be provided to the Borough Manager.

c. Fully enclosed areas below the lowest floor in nonresidential elevated structures that are subject to flooding need be designed to allow for the entry and exit of flood waters, or are prohibited.

6. Manufactured Homes. All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation (BFE) or high water marks of record and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

7. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

a. Be on the site for fewer than 180 consecutive days; or

b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

c. Meet the requirements of 8.48.050(4) above and the elevation and anchoring requirements for manufactured homes.

B. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

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

8.48.060 Severability. If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Chapter 8.52

EXPLORATION AND MINING

Sections:

8.52.010 Purpose and intent.
8.52.020 Exploration notices and grants of authority, financial warranties and procedures, release of financial warranties for exploration notices.
8.52.030 Small mine permits, financial warranties and procedures.
8.52.040 Large mine permits, financial warranties and procedures.
8.52.050 Standards for issuance of permits and conduct of operations.
8.52.060 Financial warranty.
8.52.070 Term of notices and permits; temporary cessation.
8.52.080 Annual reports; monitoring; monitoring fee.
8.52.090 Technical revisions, summary approval, and amendments.
8.52.100 Appeal.
8.52.110 Release of warranties for mining operations.
8.52.120 Successor operators.
8.52.130 Confidentiality.
8.52.140 Suspension or revocation of notices and permits.
8.52.150 Definitions.
8.52.160 Severability.

8.52.010 Purpose and intent.

(A) It is the purpose of this chapter to foster the development of a safe, healthy and environmentally sound mining industry while protecting the overall interests of public health, safety and the general welfare and minimizing the environmental and surface effects of mining projects for which an exploration notice or mining permit is required. This chapter establishes the review and permit procedures necessary to conduct exploration, to gain approval to open a mine, to conduct mining operations, and to provide for final reclamation and financial warranty release at the conclusion of exploration and mining operations and reclamation of affected surface. This chapter does not include regulation of surface or subsurface water, geothermal resources, gravel, common varieties of construction aggregate, or natural oil, gas, coal and peat or

associated by-products recovered therewith, except to the extent that such substances are developed or extracted as a mining by-product in a mining operation.

(B) The intent of this chapter is to regulate areas of local concern, reserving to the Borough all regulatory powers not preempted by state or federal law. The Borough may require a permit to be obtained or a notice given for federally approved activities on federal lands, including unpatented mining claims, so long as the purpose of the review process is not to deny use or expressly prohibit mining, but rather the purpose of the review is to impose conditions for the protection of the environment, health, safety and general welfare of the Borough.

8.52.020 Exploration notices and grants of authority, financial warranties and procedures, release of financial warranties for exploration notices.

(A) In order to ensure that exploration is conducted in accordance with the environmental, health, safety and general welfare concerns of the Borough, any operator intending to conduct or continue exploration operations other than pursuant to a previously filed exploration plan shall file with the Borough a notice of its intent to conduct exploration activities, and provide a financial warranty in the amount established by the Department. Such notice shall identify, on a map of a scale of 1:63,360, the area of and schedule for the exploration activities. The notice shall also describe the operator's plan for reclamation of the areas disturbed by its exploration activities and shall contain information as to the methodology and cost of such reclamation sufficient to enable the Department to determine an appropriate financial warranty. The notice shall also contain copies of any prospecting permits, notice of intent to conduct exploration, or operating plans filed with any federal or state agency, with all modifications, revisions and amendments thereto. In conducting exploration operations, the operator shall comply with all applicable federal, state and borough laws, rules and regulations, including but not limited to section 8.52.050, and such compliance shall be a condition of the effectiveness of the authority to operate under an exploration notice.

(B) Upon completion of exploration activities, and all necessary reclamation, the operator shall notify the Borough that exploration and reclamation are complete and shall submit a map on a scale of 1:63,360 showing the location of the exploration and reclamation activities. The Department shall determine whether an inspection of the lands explored is necessary to determine whether reclamation has been properly

completed and, if so, shall inspect the lands explored and reclaimed within 60 days of such notification or as soon thereafter as weather conditions permit. In determining whether an inspection is necessary, the Borough shall consider whether there has been a state or federal inspection and whether that inspection fulfills the requirements of this section and section 8.52.050. If the Department finds that the reclamation satisfies the standards of subsection 8.52.050(B), the financial warranty shall be promptly released. If it finds that the standards have not been satisfied, it shall notify the operator within 30 days of the inspection, or the review of other agency records, of the additional steps necessary to achieve compliance with subsection 8.52.050(B). The Department shall give the operator a reasonable time to complete reclamation and request another inspection, in which case the inspection, or review of other agency records, shall be repeated. If the Department, after such inspection or review, is not satisfied that the standards of subsection 8.52.050(B) have been complied with, it may declare so much of the financial warranty as necessary forfeited and, after notice thereof and an opportunity for the operator to appeal pursuant to section 8.52.100, apply the financial warranty to complete reclamation.

(C) The requirement of a financial warranty may be waived if the Department determines that a financial warranty is not necessary to ensure compliance with the requirements of this chapter. The waiver shall be in writing and shall set for the reasons for the waiver.

8.52.030 Small mine permits, financial warranties and procedures.

(A) No new small mine shall commence mining operations after February 1, 2009, unless the operator shall have obtained a small mine permit pursuant to this chapter. No small mine which is in operation on February 1, 2009 may remain in operation more than one year thereafter, unless the operator has submitted a permit application and the permit has not been denied.

(B) A small mine permit application shall include information establishing the right to use the affected surface, a map showing the location of the small mine and the affected surface for that small mine on a scale of 1:63,360 or a more detailed scale, a description and timetable of the mining operation, including the mining plan, the plan for reclamation and the potential environmental, health, safety and general welfare impacts of the operation, and other information reasonably requested by the Borough. The application shall also

require a description of the measures to be taken to mitigate the adverse effects of such impacts, to mitigate adverse effects of mining operations on neighboring land, and to comply with section 8.52.050. The application shall additionally include a listing of all permits applied for or granted by other agencies as well as amendments to those other applications as they are filed. To the extent that the information required by this subsection is provided in applications to other agencies, the operator may respond on its application form by cross reference to the relevant portions of those applications, which shall be attached thereto. The requirement to provide information is continuing, and supplemental information regarding any changes in the information submitted must be provided to the Borough throughout the duration of the application process.

(C) Upon receipt of an application, and the processing fee set out in section 8.44.040, the Department shall review the application, and within 35 days make a recommendation as to whether the proposed mining operation will mitigate adverse environmental, health, safety and general welfare impacts. This review shall include, but not be limited to, the following determinations: whether air and water quality standards will be maintained in accordance with federal, state, and borough laws, rules and regulations; whether sewage, solid waste, hazardous and toxic materials will be properly contained and disposed of in accordance with federal, state and borough laws, rules and regulations; whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and to mitigate adverse impacts on the public and on neighboring properties such as those from traffic, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion; and whether appropriate historic sites designated by the Borough as significant will be protected. If the Department makes a favorable recommendation, it will also make a recommendation on the amount of the financial warranty as provided in section 8.52.060. The Department's recommendations shall be forwarded to the Borough Planning Commission where the matter shall be placed on the agenda for the next regularly scheduled meeting after notice has been published as provided in section 8.44.030. If the Commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of this chapter, including section 8.52.050, it shall approve the application and set the amount of financial warranty pursuant to section 8.52.060. When the operator has submitted a financial warranty in the amount set by the Commission and in a form

satisfactory to the Borough, the permit shall be promptly issued by the Department.

(D) If the Department determines that the proposed mining operations does not meet the standards of this chapter, including section 8.52.050, it shall so advise the operator, stating the reasons therefore. The operator may then either allow the Department's recommendation to be forwarded to the Commission pursuant to subsection (C) of this section, or revise its plans, if appropriate, and resubmit the application for processing in accordance with subsection (C) of this section. If the application is resubmitted within 180 days of the initial submission, no new processing fee will be required.

8.52.040 Large mine permits, financial warranties and procedures.

(A) No new large mine shall commence mining operations after February 1, 2009, unless the operator shall have obtained a large mine permit pursuant to this chapter. No large mine which is in operation on February 1, 2009 may remain in operation more than one year thereafter, unless the operator has submitted a permit application and the permit has not been denied.

(B) The permit application shall be submitted in the form of a report containing sufficient information so that the Borough can, after reviewing the application, evaluate, in accordance with the standards of subsection 8.52.050(A), the impacts described in this subsection that the mining operation may have on the Borough. The application shall contain a map on a scale of 1:63,360, or a more detailed scale, a description of the mine site and affected surface; description and timetable of the proposed mining operation, including all roads, buildings, processing and related facilities; a description and timetable of proposed reclamation; a description of proposals for the sealing of open shafts, adits and tunnels upon the completion or temporary cessation of mining operations; a description of methods to be used to control, treat, transport and dispose of hazardous substances, sewage and solid waste; and a description of other potential environmental, health, safety and general welfare impacts, as well as neighboring property impacts and measures to be taken to mitigate their adverse effects. The application shall also contain additional information normally prepared by the operator for its feasibility studies and mining plans, including information establishing the right to use the affected surface, labor force characteristics and timing, payroll projections, anticipated duration of the mining operation, construction schedules, infrastructure description,

and other information reasonably requested by the Borough. The application shall additionally include a copy of each application submitted to other agencies and a report on the current status of all such applications, as well as amendments to those other applications as they are filed. To the extent that the information required by this subsection is provided in applications to other agencies, the operator may respond on its application form by cross reference to the relevant portions of those applications. The requirement to provide information is continuing, and supplemental information regarding any changes in the information reasonably requested must be provided to the Borough throughout the duration of the application process.

(C) As part of the application process, and pursuant to section 8.52.050(A)(7), a socioeconomic impact assessment shall be conducted.

(1) The Department, in consultation with the operator, shall determine the scope and budget of the socioeconomic impact assessment. The socioeconomic impact assessment shall, at the Borough's discretion, be prepared by the Borough, by the operator, or by both. All costs and expenses of the assessment shall be borne by the operator, and the operator shall pay to the Borough, prior to the initiation of the assessment, any such costs and expenses to be incurred by the Borough. For the purposes of this section, the term "socioeconomic impact assessment" shall be and mean a report or study that shall address the beneficial and adverse impacts, including direct impacts and indirect impacts, of the mining operation on existing and future local conditions, facilities and services, including transportation and traffic; sewer and water; solid waste; public safety and fire protection; education, native history and culture; health; recreation; housing; employment; local businesses; the rate, distribution and demographic characteristics of any population changes induced by the mining operation; and the fiscal impacts of the mining operation on public facilities and services, including general government functions. The socioeconomic impacts to be studied must be reasonably foreseeable and demonstrable. Highly speculative impacts need not be studied. The purpose of this impact assessment shall be to provide information to the Borough concerning possible beneficial and adverse mining operation impact on the Borough, in order to allow the Borough to determine the extent of these impacts and how these impacts can be mitigated. The impact assessment shall be completed before the time that the Department must make a recommendation on the application. Review of those portions of the application that would not be affected by information to be included in the

assessment shall not be delayed while the impact assessment is being prepared for review.

(2) The Department may waive the requirement that any operator submit particular information required by this subsection, or that the impact assessment required by this subsection address certain impacts, if it determines that such information is not essential to evaluate what impact the mining operation will have on the Borough, that such information has been previously provided, or that such information is adequately presented in another report previously submitted to the Borough or another agency. The waiver shall be in writing and shall set forth the reasons for the waiver.

(D) The Department shall conduct a preliminary review of the application within 20 days of its submission and schedule promptly thereafter a meeting with the operator to request such additional information as may be necessary to make the application complete. At this meeting, the Department and the operator shall establish the procedures for coordinating the review of the application with the review by other agencies of the applications submitted to them by the operator.

(E) The fee for processing the application shall be as specified in section 8.44.040. This fee is intended to cover the Borough's costs of review of the application. If, after receipt of the application, the Department determines that the cost of review is likely to substantially exceed such fee, the Department may, after consultation and discussion with the operator, recommend an additional fee to the Borough Assembly. Such additional fee shall be approved by the Assembly by motion and shall be set in an amount that will, as far as can be determined, cover the cost of review of the application, including reasonable administrative and overhead expenses. In recommending and approving the additional fee, the Borough may consider, among other factors: that proper review will require the Borough to retain outside professional assistance either to review the application or to perform original study and research; that significant staff effort will be required by the Borough to adequately review the application; the involvement in the review process of other governmental agencies, either through a federal environmental review process or other procedure; the necessity for extraordinary travel and transportation costs that may be incurred by the Borough during review; the potential benefit of information generated by the application review to other mining operations or to the Borough; and the necessity for extraordinary communication, duplication or publication costs arising from the review.

(F) Unless the operator agrees to an extension, within 90 days after the Borough has received all additional information requested at the initial meeting described in subsection (D) of this section and the fee has been established and paid, the Department shall complete its review of the application, unless an Environmental Impact Statement (EIS) is required by the National Environmental Policy Act (NEPA). If an EIS is required, then the timing of the review of the application shall be in accordance with the provisions of subsection (H) of this section. The application review shall include the following determinations: whether air and water quality will be maintained in accordance with federal, state and borough laws, rules and regulations; whether sewage, solid waste, hazardous and toxic material will be properly contained and disposed of in accordance with federal, state and borough laws, rules and regulations; the extent to which the operator will agree to mitigate adverse impacts on the Borough; whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and will mitigate adverse impacts on the public and on neighboring properties such as those from traffic overloading, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion; and whether appropriate historic sites will be protected. The Department shall form a recommendation as to whether the permit should be approved and, if so, it shall make a recommendation on the amount of the financial warranty as provided in section 8.52.060. The Department's recommendation may include such conditions or stipulations as deemed to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation. The recommendation shall be provided to the operator and forwarded to the Planning Commission where the matter shall be placed on the agenda for the next regularly scheduled meeting after notice has been published as provided in section 8.44.030. If the Commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of section 8.52.050, it shall approve the application and set the amount of the financial warranty.

(G) If the Department determines that the proposed mining operation does not meet the standards of section 8.52.050, it shall so advise the operator, together with the reasons therefor. The operator may then either withdraw its application or allow the recommendation to be forwarded to the Planning Commission pursuant to subsection (F) of this section. If the application is withdrawn, it may be revised and resubmitted within 180 days upon payment of an additional processing fee as

determined by the Department to be reasonably necessary to defray the cost of reviewing the revised application to the extent that it is different from the original submittal. Revised applications shall be processed in accordance with the procedures set forth in subsections (D), (E), (F) and (H) of this section.

(H) In order to prevent duplication of studies and to avoid premature decision-making, if an EIS is required to be completed on the mining operation pursuant to NEPA, then the application will not be considered to be complete until the draft environment impact statement (DEIS) is concluded. The Department will begin its review of the application upon its filing. The operator shall advise the Borough immediately at any time during the application process or thereafter if NEPA is involved so that the Borough may participate in the NEPA process. The DEIS, the final environment impact statement and all comments and testimony related thereto will be considered as part of the application. The Department may, before the final environment impact statement is complete, prepare its recommendation as to whether the permit should be approved. If the recommendation is prepared before the final environment impact statement is complete, the recommendation shall not be presented to the Planning Commission until the final environment impact statement has been published, and the Department has considered the final environment impact statement in its recommendation. The recommendation may include such conditions or stipulations as staff deems to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation. The Department shall also recommend the amount of the financial warranty as provided in section 8.52.060. The recommendation shall be provided to the operator and forwarded to the Planning Commission where the matter shall be placed on the agenda for the next regularly scheduled meeting and a notice has been published as provided in section 8.44.030. If the Commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of section 8.52.050, it shall approve the application and set the amount of the financial warranty.

(I) After a permit has been approved by the Commission, a financial warranty in the amount set by the Commission has been submitted in a form satisfactory to the Borough, and the operator has agreed to such conditions as are deemed appropriate by the Commission, the Department shall promptly issue a permit.

8.52.050 Standards for issuance of permits; conduct of operations.

(A) In determining whether to recommend or issue a permit, the Borough shall require that:

(1) The mining operations be conducted in accordance with this chapter and any other applicable provisions of the Borough Code in such a way as to mitigate adverse environmental, health, safety and general welfare impacts;

(2) Air and water quality be maintained in accordance with federal, state and borough laws, rules and regulations;

(3) Hazardous and toxic materials, sewage, and solid waste be properly contained and disposed of in accordance with applicable federal, state and borough laws, rules and regulations;

(4) The mining operations be conducted so as to minimize to the extent reasonably practicable safety hazards and to control and mitigate adverse impacts on the public and neighboring properties, such as from traffic overloading, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion;

(5) Appropriate historic sites designated as significant by the Borough be protected;

(6) Reclamation of the affected surface be in accordance with the approved reclamation plan of the operator; and

(7) With respect to a large mine permit application, the operator negotiate and enter into a mitigation agreement with the Borough, which agreement shall establish responsibility for the mitigation of reasonably foreseeable and demonstrable adverse impacts, including direct impacts and indirect impacts. The operator shall be responsible for mitigating the direct impacts. The Borough shall be responsible for mitigating indirect impacts except where the costs of mitigating specific indirect impacts are found by the Borough to:

(a) Exceed the amount of any Borough nonproprietary revenue increase attributable to the mining operation; and

(b) Require a direct and significant increase in local taxes or fees to adequately mitigate the impact.

Highly speculative impacts shall not be included in the mitigation agreement. Taxes and nonproprietary revenues generated as a result of the proposed mining operation shall be a factor considered in negotiating the mitigation agreement. This agreement shall be incorporated as part of the permit. This subsection does not limit or otherwise affect the authority of

the Borough to condition or place stipulations on a permit pursuant to this chapter.

(B) Reclamation of all affected surfaces shall be completed as soon as is reasonable after affected surface areas are no long being used in exploration and mining operations. Reclamation shall include the following:

(1) Cleanup and disposal of dangerous, hazardous or toxic materials;

(2) Regrading of steep slopes of unconsolidated material to create a stable slope;

(3) Backfilling underground shafts and tunnels to the extent appropriate;

(4) Adequate pillaring or other support to prevent subsidence or sloughing;

(5) Plugging or sealing of abandoned shafts, tunnels, adits or other openings;

(6) Adequate steps to control or avoid soil erosion or wind erosion;

(7) Control of water runoff;

(8) Revegetation of tailings and affected surface areas with plant materials that are capable of self-regeneration without continued dependence of irrigation and equipment where appropriate;

(9) Rehabilitation of fisheries and wildlife habitat; and

(10) Any other conditions imposed by the commission.

(C) Subsequent to the issuance of a permit or the authority to operate under an exploration notice, the operator's compliance shall be measured against the requirements contained in that permit or the conditions of the exploration notice, and the operator's plans submitted with the permit application or the notice.

(D) In the event mining or exploration operations violate or threaten to violate this chapter, a permit issued under this chapter, the conditions of an exploration notice, or the operator’s plans, the operator shall notify the Borough of such fact and of the steps to be taken to return to compliance, or resolve the potential noncompliance.

8.52.060 Financial warranty.

(A) No permit shall be issued or exploration authorized pursuant to this chapter, until any financial warranty required has been submitted by the operator, and accepted by the Borough. The purpose of any financial warranty shall be to ensure that, during all phases of exploration or a mining operation, the operator will carry out all those obligations or requirements of

the permit or conditions of an exploration notice, which are necessary to protect the environmental, health, safety, general welfare and reclamation requirements of the Borough, or that, if the operator does not carry out those obligations, there will be sufficient funds available to the Borough to enable it to complete the necessary work, taking into account the financial warranties which the operator must submit to other agencies. The Borough reserves the right to seek forfeiture of the financial warranty, in whole or in part, in the interest of protecting the environmental, health, safety and general welfare requirements of the Borough if it determines that the operator has violated the obligations or requirements of the permit or the conditions of an exploration notice. The forfeiture shall be limited to the extent necessary to satisfy the requirements or conditions that the operator has violated.

(B) The amount of financial warranty for an exploration notice shall be set by the Department. The amount of financial warranty for small mines and large mines shall be determined by the Planning Commission. In recommending and setting the amount of the financial warranty, the Borough shall take into consideration the amount and scope of any financial warranties which have been submitted to other agencies. When the performance of such obligations is guaranteed by financial warranties that have been submitted to other agencies, the operator may be required to post a separate financial warranty with the Borough if the Borough determines that the financial warranty submitted to another agency does not create a lien or interest sufficient to protect the interests of the Borough. Examples of obligations to be covered by the financial warranty required under this section include but are not limited to;

(1) Construction of berms, dikes, spillways, channels or other facilities to control, detain, retain or reduce runoff, soil erosion and siltation, or to divert water around waste, tailings, stockpiles or other facilities or disturbed areas;

(2) Installation and maintenance of landscaping, including berming, tree planting and other required grading or planting to provide visual and sound barriers and to eliminate or reduce the appearance of scarring;

(3) Installation and maintenance of road or highway improvements to mitigate the impact of increased traffic or heavy trucking which is measurable and directly attributable to the mining operation; such facilities may include speed access ramps or lanes, turn lanes, intersection improvements, traffic-control devices or private haulage ways where necessary to avoid the use of public roads or highways. The cost of installation or maintenance described in this subsection shall be shared by the

operator and the Borough in relation to the proportion of the directly attributable and measurable impact on traffic of the operator's activities or the facilities being maintained, installed or improved;

(4) Reclamation of affected surfaces during and following exploration and mining operations;

(5) Regrading of steep slopes of unconsolidated materials to create a stable slope;

(6) Installation of facilities required to prevent or reduce degradation of air or water quality or to contain or control toxic or hazardous wastes;

(7) Removal of buildings, structures or equipment where appropriate; and

(8) Such other obligations as necessary to conform with the Borough's determinations under subsections 8.52.050(A) and (B).

(C) The financial warranty required under this chapter for a large or small mine permit or an exploration notice may be in any one or a combination of the following forms at the option of the operator; provided, that the cumulative amount is equal to the amount provided in subsection (B) of this section:

(1) Cash;

(2) Certificate of deposit;

(3) An irrevocable standby letter of credit from a United States bank; or

(4) A surety bond from a bonding company licensed to do business in the state which is satisfactory to the Borough for credit worthiness.

Interest on cash deposits or certificates of deposit will accrue to the credit of the operator.

(D) In addition to the forms of financial warranty set forth in subsection (C) of this section, with respect to a small mine permit or an exploration notice, the operator may elect to use a property bond as a form of financial warranty; provided, that at least ten percent of the total amount of the financial warranty shall be cash or a certificate of deposit; and provided further, that the Planning Commission or Department, as applicable, determines that the value of the property is equivalent to the amount required to be generated for satisfaction of the obligation and that the bond creates a lien with sufficient priority to permit its collection should such become necessary.

(E) The form of financial warranty shall provide that the funds may be used by the Borough to satisfy the obligations described in subsections (A) and (B) of this section when there has been a determination by the Borough that the operator has

not completed its obligations in a timely manner or has otherwise violated the terms of its permit or conditions of its exploration notice, and after notice and opportunity to perform the obligation has been given to the operator.

(F) The amount of the financial warranty shall be reviewed annually by the Borough, and a determination shall be made whether the amount should be increased or decreased, taking into account changes in the obligations of the operator to be undertaken during the ensuing year, cost of current obligations of final reclamation, and changes due to inflation of deflation.

(G) If the amount of financial warranty is to be increased or decreased by the determination made in subsection (F) of this section, then the actual increase or decrease shall be made according to the procedure in subsection (B) of this section.

8.52.070 Term of notices and permits; temporary cessation.

(A) Exploration notices and permits for mining operations shall remain in effect for the duration of the operation, as stated in the notice or in the application, subject to the conditions of this section; and provided, that the following conditions are met:

(1) The financial warranty must remain in full force and effect;

(2) The operator must not be found to be in substantial violation of this chapter; and

(3) With respect to a large or small mine permit, mining operations must be continued in accordance with the plan contained in the application for at least 90 days in each year as to a large mine, and for at least 30 days in each year as to a small mine.

(B) During the term of any exploration notice or permit, the Borough may, pursuant to subsection 8.52.060(F), revise the amount of the financial warranty. If the amount of financial warranty is increased, the operator shall submit the appropriate amount of additional financial warranty within 60 days of the Borough's determination.

(C) The operator shall advise the Borough within ten days of the date upon which the operator receives notice that a financial warranty which has been submitted to any other agency is reduced or released.

(D) If at any time during the term of a permit, the operator determines that it will not conduct mining operations for the applicable time minimums established in subparagraph (A)(3) above, it shall notify the Department of that intent and request that its mining operation be placed in an inactive status. In conjunction with this notification, and as a

condition to granting a request for inactive status, the operator shall advise the Department of the measures it will employ to prevent hazardous or dangerous conditions, erosion or other environmental damage which may result from the operator's activities, and the security measures it will employ at the mining operation during the inactive period. An operator may continue in inactive status for a five-year period and may, with the permission of the Department, obtain successive five-year extensions of that status. At the conclusion of inactive status, the operator shall either resume operations or commence final reclamation in accordance with its plans. If an operator ceases operations for more than one year but does not request inactive status, the Department may require the operator to commence final reclamation in accordance with its plans.

(E) Throughout the duration of a large mine permit, the operator of a large mine shall also notify the Department not less than 60 days prior to requesting placement on inactive status. The operator and the Borough shall maintain a process to exchange information regarding the impact on the Borough that may result from a change in mining operations. In addition, the operator shall provide the Department with copies of any notification it may be required to provide to federal agencies under federal law concerning proposed personnel layoffs at its mining operation. The Department may waive any of these notification requirements in the event of an unforeseen act of God or disaster.

8.52.080 Annual reports; monitoring; monitoring fee.

(A) During the term of each exploration notice, the operator shall submit an annual progress report to the Department on or before March 31 of each year and shall describe the areas in which exploration was conducted during the preceding year, the amount of acreage which was disturbed by such exploration, and the nature and extent of associated reclamation activities.

(B) During the term of each small mine permit or large mine permit, including any inactive period, the operator shall submit an annual progress report to the Department on or before March 31 of each year, for the preceding year, describing the status of the mining operation in relation to the mining plan and timetable in the application, and describing reclamation activities during the year.

(C) The Department shall have ongoing authority to monitor any mining operation for which a permit has been issued in order to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in

the permit. The operator shall, upon reasonable notice, provide the Department with access, at reasonable times, to the premises and to the records of the mining operation to the extent such access to the premises and records is necessary to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in the permit.

(D) Throughout the duration of the term of a small mine permit or a large mine permit, the operator shall pay to the Borough an annual monitoring fee to defray the costs of inspecting and reviewing the affected surface and compliance with the permit. The annual monitoring fee shall be in such an amount as may be established by the Planning Commission, from time to time, as necessary to cover the reasonable costs of inspection and review. The fee shall be paid within thirty days of the annual due date established by the Department.

8.52.090 Technical revisions, summary approval, and amendments.

(A) During the term of a permit, the operator shall notify the Department of all technical revisions to its operations. As used in this section a "technical revision" is a change in operations which does not, in the judgment of the Department, have more than a minor effect on reclamation and which does not change the total amount of disturbance or the overall environmental or socioeconomic impact of the mining operation. After the operator’s notification is submitted to the Borough, the Department shall, within 30 days, determine and notify the operator whether the technical revisions may be accomplished under the operator's existing permit, or whether the change is such that a permit amendment or summary approval of the change is required.

(B) If the operator or the Department determines that the change to the mining operations will require preparation of a new or supplemental environmental impact statement, or will increase the acreage of affected surface or otherwise have a significant effect on reclamation or the environmental or socioeconomic impact of the mining operation, the permit shall be amended pursuant to subsection (C) below, unless summary approval of the change is granted pursuant to subsections (D) and (E).

(C) The operator shall file with the Department an application for amendment to its original permit, except that no operator will be required to resubmit any information which duplicates applicable previous submittals. The permit amendment application shall be processed in accordance with the same

procedure as established for processing permits under sections 8.52.030, 8.52.040 and 8.52.050. The operator shall not commence changes requested in its amendment application until the permit amendment has been approved and, if appropriate, additional financial warranties submitted.

(D) Upon request of the applicant, the Department may, upon Planning Commission ratification, summarily approve a proposed change in mining operations not constituting a new land use or separate development upon a written determination that:

(1) the mine is located entirely outside the Borough service area;

(2) the application is complete, providing all of the information necessary for the Department to make the summary approval determinations set forth in subsections (i)--(iv);

(3) the proposed change in mining operations will have no significant impact within the Borough service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion; and

(4) the proposed change in mining operations has undergone or is undergoing environmental review and approval by one or more federal agencies, state agencies, or both.

The Department shall make the determination required by this subsection within 45 days of submission by the operator of the completed application, unless additional information is required. If the Department requires additional information to make the determination, upon written notification to the operator the time for determination may be extended for up to 20 additional days after submittal by the operator of the additional information. If an environmental impact statement is required by one or more federal agencies, completion of the draft environmental impact statement is necessary for summary approval.

(E) The Department shall promptly forward the proposed summary approval to the Planning Commission after the determination is completed. The Commission may ratify or reject the proposed summary approval. If the Commission rejects the proposed summary approval, it may:

(1) return the matter to the Department for further consideration of whether the Department, in consultation with the operator, can address issues identified by the Commission through imposition of conditions or changes in the proposed mining operation; or

(2) direct that the proposed change be processed by the Department as an amendment under subsection (C) above.

8.52.100 Appeal. Any person who is aggrieved by a decision of the Department or the Planning Commission with respect to this chapter, may appeal that decision to the Commission or the Assembly, as applicable, as provided in chapter 8.08 and section 8.04.110.

8.52.110 Release of warranties for mining operations.

(A) Upon completion of mining operations, the operator shall file a written notice of completion with the Department when it believes it has completed any or all requirements of this chapter and its permit with respect to any or all of its affected surfaces. The Department shall, within 90 days after receiving the notice, or as soon thereafter as weather conditions permit, inspect the lands and reclamation described in the notice to determine whether the operator has complied with all applicable requirements.

(B) If the Department determines that the operator has successfully complied with all the requirements of this chapter and the permit, it shall release all financial warranties applicable to said requirements. Release shall be in writing and shall be delivered to the operator promptly after the date of such filing.

(C) If the Department finds that the operator has not complied with the requirements of this chapter or the permit, it shall so advise the operator not more than 90 days after the date of the inspection. The operator shall be given a reasonable time to comply with requirements before a second inspection. If the operator does not complete the requirements, or if after reinspection the Department is not satisfied that the operator has complied with all the requirements of this chapter or the permit, the financial warranty shall be subject to forfeiture to the extent necessary to satisfy any outstanding requirements.

8.52.120 Successor operators. Any operator desiring to transfer its rights under an exploration notice, a small mine permit, or a large mine permit shall submit to the Department a request for transfer. This request shall identify the name and address of the new operator. The request shall be forwarded by the Department to the Planning Commission, along with the Department's recommendation. The Planning Commission may approve in writing the request for transfer if it finds that: the proposed operator will conduct the operations covered by the notice or permit in accordance with the requirements of this chapter and any additional requirements set by the Borough; the proposed operator has submitted a financial warranty at least equivalent to the financial warranty of the original operator or

such other amount as may be determined using the procedures in section 8.52.060; the proposed operator will continue to conduct the operations involved in full compliance with the terms and conditions of the original notice or permit; and all obligations and responsibilities undertaken by the original operator shall be accepted and assumed by the proposed operator. The Commission may deny approval of the request for transfer if the original operator has any existing notice or permit violations at the time of the request until such time as the violations have been remedied. If the Commission approves the transfer, the financial warranty submitted by the original operator shall be released.

8.52.130 Confidentiality. Upon the request of any operator, information in any application or report relating to the location, size, grade, geology or geochemistry of any ore deposit, proprietary process information, or information as to cost of mine construction or operation shall be kept confidential by the Borough to the extent permitted by state or other applicable law. Information to be maintained as confidential must be separately presented to the Borough and must be marked "Confidential."

8.52.140 Suspension or revocation of notices and permits.

(A) Subject to the procedures of this section, the Planning Commission may suspend or revoke a permit issued under this article, or the authority to operate under an exploration notice pursuant to section 8.52.020, upon a determination by the Commission that:

(1) The exploration or mining operations are not in material and substantial compliance with the requirements of the exploration notice or permit and such material and substantial noncompliance remains unremedied after issuance of a compliance order; or

(2) The exploration or mining operations under the notice or permit have a history or pattern of intentional or grossly negligent noncompliance and compliance orders have previously been issued for such past events of noncompliance. Good faith efforts to remedy events of noncompliance shall create an inference that such noncompliance is not a cause for suspension or revocation.

(B) The Department shall provide the operator with written notification that it is recommending that the Planning Commission consider the entry of a suspension or revocation order under subsection (A) of this section. The written notification shall set forth the reasons for the Department's recommendation and the operator's right to a hearing before the

Commission. The operator shall have 15 days from the date of the mailing of the notification to request such a hearing; the request by the operator must be in writing. If a hearing is timely requested, it shall be held by the Commission within 30 days of receipt by the Department of the operator's request. At the hearing, the Department shall have the burden of establishing that the operator is not in material and substantial compliance with the permit or authority to operate under an exploration notice, or that there is a past history or pattern on noncompliance sufficient to justify suspension or revocation.

(C) Upon written notification of the entry of a suspension or revocation order to the operator or to any person operating under the authority of the permit or exploration notice, all exploration or mining operations shall cease except those specifically authorized by the Commission in the order or except if the Assembly stays the order pending appeal.

(D) A suspended notice or permit may be reinstated by the Commission upon a determination that the exploration or mining operations have been brought into compliance with the conditions of the notice or permit. A notice or permit which has been revoked may not be reissued by the Commission until the Commission determines that the exploration or mining operation has been brought into compliance with the terms and conditions of the notice or permit, and the operator has clearly and convincingly demonstrated that preventative measures have been taken to ensure that those conditions which gave rise to the revocation will not reoccur.

(E) A suspension or revocation order may be appealed to the Assembly in accordance with chapter 8.08. Pending appeal, the Assembly may in its discretion stay an order of suspension or revocation.

8.52.150 Definitions.

(A) *Department* means the Planning Department of the City and Borough of Yakutat.

(B) *Large mine* means

(1) a mining operation involving more than 20 acres of affected surface disturbance;

(2) a mining operation having 75 or more personnel employed at the mining operation in the Borough, whether direct employees or employees of independent contractors, in any consecutive three-month period; or

(3) a mining operation which a federal agency has determined would involve a major federal action significantly affecting the quality of the human environment so that the

preparation of an environmental impact statement in accordance with NEPA is required.

(C) *Mineral commodity* means an inanimate constituent of the earth which, when extracted from the earth, is usable in its natural form or is capable of conversion into a form usable as metal, a metallic compound, a chemical, quarry stone, an energy source, or a raw material for manufacturing or as construction material. For the purposes of this chapter, the term "mineral commodity" does not include surface or subsurface water, geothermal resources, gravel, common varieties of construction aggregate, or natural oil, gas, coal and peat, or associated by-products recovered therewith.

(D) *Mining* means the extraction of mineral commodities. The term "mining" also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the mine site or as part of a mining activity.

(E) *Mining operation* means the development, construction or reclamation of a mine, including associated infrastructure, or the exploitation or extraction of a mineral commodity from its occurrence on or in the earth, or the operation of a mine. The term "mining operation" includes but is not limited to open pit mining, placer mining and underground mining, and the disposal of refuse, tailings or waste rock from any such operation. The term "mining operation" also includes transporting, concentrating, milling, evaporating and other on-site processing. The term "mining operation" does not include off-site smelting, refining, cleaning, preparing, transportation or other surface operations not conducted on the affected surface.

(F) *Reclamation* means procedures to minimize disruption and to rehabilitate the affected surface through grading and the protection and restoration of plant cover, soil stability, water resources, or other features relevant to the subsequent use of such lands.

(G) *Small mine* means a mining operation other than a large mine.

8.52.160 Severability. If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held unlawful or otherwise invalid, such holding shall not affect the remaining portions of the chapter. The Borough declares that it would have enacted this chapter and each and every part thereof, irrespective of the fact that any one or more parts might be held unlawful or otherwise invalid.