

## **Title 18**

### **PLANNING AND LAND USE REGULATION**

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**Chapter 18.04****COMPREHENSIVE PLAN****Sections:****18.04.010 Adoption.****18.04.020 Contents—Review.****18.04.010 Adoption.**

The city comprehensive plan was adopted by Ordinance 85-12, on December 5, 1985. (Ord. 92-21 § 4 (part), 1992.)

**18.04.020 Contents—Review.**

A. The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the city and may include, but is not limited to, the following:

1. Statements of policies, goals, and standards;
2. A land use plan;
3. A community facilities plan;
4. A transportation plan; and
5. Recommendations for implementation of the comprehensive plan.

B. With the recommendation of the planning commission, the city council shall adopt by ordinance a comprehensive plan. The city council shall, after receiving the recommendations of the planning commission, periodically undertake an overall review of the comprehensive plan and update the plan as necessary. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.08****PURPOSE****Sections:****18.08.010 Purpose.****18.08.020 Authority—Scope.****18.08.010 Purpose.**

The purpose of this title is to implement the comprehensive plan by providing for land use regulations which promote orderly development; lessen street congestion; enhance fire safety and public order; protect the public health and general welfare; prevent overcrowding; and stimulate the systematic development of transportation systems, utilities, recreation and other public facilities. (Ord. 92-21 § 4 (part), 1992.)

**18.08.020 Authority—Scope.**

In accordance with the comprehensive plan and in order to implement the plan, the city council, by ordinance, shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to:

- A. Zoning regulations restricting the use of land and improvements by geographic districts;
- B. Land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;
- C. Measures to further the goals and objectives of the comprehensive plan. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.12****DEFINITIONS****Sections:****18.12.010 Rules of construction.****18.12.020 Definitions.****18.12.010 Rules of construction.**

The language set forth in the text of this title shall be interpreted in accordance with the following rules of construction:

- A. Words used in the present tense shall include the past and future tenses.
- B. All references to the singular include the plural as well.
- C. The word "shall" is mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The word "person" shall include a corporation or partnership as well as an individual.
- F. The masculine gender shall include the feminine and neuter genders.
- G. The word "lot" shall include the words "plot," "parcel" or "tract."
- H. The word "building" shall include the word "structure."
- I. Any words not defined herein shall be construed according to their generally accepted meanings.

(Ord. 92-21 § 4 (part), 1992.)

**18.12.020 Definitions.**

For the purposes of this title, the words and terms defined herein shall be defined and interpreted as follows:

"Abut or abutting" means to have a common property line or land use district line.

"Access" means a means of vehicular or pedestrian approach, entry to or exit from property.

"Adequate" means sufficient and/or satisfactory in terms of public health and safety requirements.

"Adjacent" means touching or contiguous.

"Alley" means a right-of-way designed and intended to provide a secondary means of public access to abutting properties and not intended for general traffic circulation.

"Alteration" means any change in size, shape or location of a building or structure.

"Building" means a structure of more or less permanent construction, and used for the support, shelter or enclosure of persons, animals, business activity or property of any kind. A building shall include such extended structures as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, wannigans and windows. Where independent units with separate entrances are not joined by a common wall and/or ceiling or floor, each unit shall be considered as a separate building. Permanent structures considered to be buildings include houses, stores, mobile homes, manufacture homes, garages, storage sheds, shops, steambaths and smokehouses. Shipping vans placed in a location two years or longer are considered permanent buildings.

Building, Accessory. "Accessory building" means a building that is subordinate to and serves a principal building or use. An accessory building is subordinate in extent and/or purpose to the principal building or use and contributes to the comfort, convenience and/or necessity of the occupants of the principal use being served.

Building, Principal. "Principal building" means a building in which is conducted the principal use of the lot on which it is located. It is possible for a lot to have more than one principal use and principal building.

Building, Temporary. "Temporary building" means any building not designed or intended to be permanently located, placed or affixed in the place where it is located. Structures considered temporary buildings include tents, fish drying racks and dog houses. Shipping vans placed in a location for less than two years are considered temporary structures. If a van is moved to a different location on the same lot, it is classified as a permanent building and must comply with the yard requirements.

"Commercial" means a land use or business enterprise engaged in the buying and/or selling of goods and/or services.

Dwelling, Multiple-Family (Apartment). "Multiple-family (apartment) dwelling" means one building consisting of three or more dwelling units, each of which is attached to at least one other dwelling unit, by a common wall or vertical cavity wall extending from the ground to the roof and from exterior wall to exterior wall, or by a horizontal structural floor extending from exterior wall to exterior wall, except for a common stairwell exterior to the dwelling unit.

Dwelling, Two-Family Attached (Duplex). "Two-family attached (duplex) dwelling" means one building consisting of two dwelling units attached by a common wall or vertical cavity wall extending from the floor to the ceiling and from exterior wall to exterior wall, or a horizontal structural floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

"Dwelling unit" means a room or group of rooms intended for use as living quarters for one family, including washing, sleeping, cooking and eating facilities.

"Fence" means an artificial barrier of any material or combination of materials, excluding vegetation, erected to enclose or screen areas of land.

Floor Area, Gross. "Gross floor area" means the horizontal area of a floor or several floors of a building or structure measured from the exterior faces of exterior walls. Where a building or structure is not wholly surrounded by exterior walls, the gross floor area shall be that area between the vertical projection of the roof or floor above.

Floor Area, Net. "Net floor area" means the horizontal area of a floor or several floors of a building or structure measured from the interior faces of exterior walls, excluding those areas not directly devoted to the principal or accessory use of the building or structure such as storage areas, stairwells, courts, etc.

"Garage" means a building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

"Industrial" means a land use or enterprise where the primary use or activity is the warehousing, storage, movement, shipment, sale or use of heavy equipment, cargo, petroleum port activities, gravel, sand, lumber, timber or fish processing. The manufacturing of goods that emit obnoxious noise or fumes, requires the use of chemicals or materials that present a threat to the public health or safety, or require the use of heavy equipment of the premises are considered to be industrial uses.

"Ingress-egress" means an area for entering and leaving a parcel from a public right-of-way or public or private easement.

"Interior access lane" means a nondedicated driveway or small road that provides direct access to parking spaces, interior circulation on a lot and ingress-egress to a lot.

"Institutional" means a structure where the primary use is for religious, fraternal, educational, governmental or medical activities.

"Lot" means a parcel of land, established by plat, subdivision or otherwise permitted by law, adequate for occupancy by one or more uses or buildings.

“Minor amendment” means a change to an approved land use permit that does not change the use, add an additional use or expand the combined area of the approved buildings or uses by more than twenty-five percent.

“Off-street” means an area located entirely outside of the dedicated right-of-way of a street or alley.

“Owner” means a person holding title to a parcel or lot in accordance with the records of the office of the district recorder.

“Residential” means a building or area of buildings used primarily as dwelling units.

“Substantial progress” means the development of a use or structure that has been started and partially completed such that the foundation, footprint or boundaries of the development are clearly evident.

“Surveyed historic buildings” means buildings that are listed in the Alaska or have been officially surveyed by the Dillingham historic preservation commission.

“Surveyed historic or prehistoric sites” means sites that are listed on the Alaska Heritage Resource Survey recorded on the confidential map on file with the city or officially surveyed by the Dillingham historic preservation commission.

“Use” means the purpose for which land, structure or a building is arranged, designed, intended, occupied or maintained.

Use, Accessory. “Accessory use” means a use or structure that is clearly and customarily incidental and subordinate to the principal use of a building or premises and which is located on the same or contiguous lot as the principal use or building.

Use, Principal. “Principal use” means the main, major and dominant use of a building or premises as distinguished from an accessory use. It is possible for a lot to have more than one principal use and principal building.

“Variance” means a departure from the numerical standards of this title.

“Yard” means an open space on a lot that is unoccupied and unobstructed from its lowest level upward, except as permitted in this title, and which extends parallel to a lot line to a depth or width, measured at a right angle from said lot line specified in the required yard regulations.

Yard, Front. “Front yard” means a yard that is bounded by a lot line which is abutting the right-of-way or easement of a public or private street or road. Corner lots may have two or more front yards.

Yard, Rear. “Rear yard” means a yard that is bounded by a lot line which is most distant from and approximately parallel to the front lot line.

Yard, Side. “Side yard” means a yard that is bounded by a lot line which is not a front line or rear line.

“Zero lot line building” means a building that is located on a lot in such a manner that one or more of the building’s exterior walls lies directly on a lot line without any yard between the exterior wall and the lot line. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.16****LAND USE PERMITS****Sections:**

- 18.16.010 Land use permit required.**
- 18.16.020 Land use permit application.**
- 18.16.030 Land use permit administration.**

**18.16.010 Land use permit required.**

No party shall construct, construct an addition to, substantially improve, change the principal use of, or relocate a structure; or construct a driveway or fence within the city without first securing from the city planning department a land use permit for each parcel. (Ord. 92-21 § 4 (part), 1992.)

**18.16.020 Land use permit application.**

Application for a land use permit shall be filed with the planning department on forms supplied by the department. Each applicant shall be accompanied by the required fee. (Ord. 92-21 § 4 (part), 1992.)

**18.16.030 Land use permit administration.**

A. Administrator. The planning director is appointed to administer and implement this title by granting or denying land use permit applications in accordance with its provisions.

B. Alternate to Director. In the event that the planning director is out of town, the position is vacant, or the director is otherwise unavailable for more than one week, the city manager has the option of designating an interim administrator of this title. The interim administrator may include the city manager, another city employee or the planning commission.

C. Review. Following filing of the application, the planning director shall review the submittal, request any additional information deemed necessary, and determine whether the application complies with the requirements of this code.

D. Approval. If it is determined that the application complies with the requirements of this code, the planning director shall issue a permit granting administrative approval to proceed, subject to provisions of this code.

E. Revision of Permit. An applicant may seek approval from the planning director to revise an approved permit, without having to submit a new application, if:

1. The revision meets the definition of "minor amendment" in this title; or
2. The revision is for the purpose of mitigating impact to historic resources according to Chapter 18.32 of this title.

F. Expiration of Approval. An applicant has two years from the approval date to make substantial progress on the structures and uses that have been approved. If substantial progress has not been made within two years, the approval expires. If the applicant desires the structures and uses to be reapproved, a new permit application must be submitted. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.20****LAND USE DISTRICTS****Sections:**

- 18.20.010**     **Establishment of land use districts.**
- 18.20.020**     **Official land use district map.**
- 18.20.030**     **Boundaries.**
- 18.20.040**     **Procedures for changing land use districts.**

**18.20.010**     **Establishment of land use districts.**

In order to fulfill the purpose of this title, the city is divided into the following land use districts:

CB — Central business district

GU — General use district.

(Ord. 92-21 § 4 (part), 1992.)

**18.20.020**     **Official land use district map.**

A. The location and boundaries of the land use districts established by this ordinance are set forth in the official land use district map adopted by this reference and declared to be an official record and a part of this title.

B. Regardless of the existence of purported copies of the official land use district map, which may from time to time be made or published, the official land use district map of the city shall be that map located in the office of the planning department of the city, and which shall be the final authority, as defined by ordinance, as to the current land use district status of all lands, water, areas, building, and structures in the city.

C. Whenever amendments or changes are made in land use district boundaries and/or classifications, such amendments or changes shall be promptly made on the official land use district map with reference made to the ordinance number and effective date of said change or amendment.

D. Changes of any kind shall not be made on the official land use map except in conformance with the procedures set forth in this title. Any unauthorized change of any kind by any person or party shall be a violation of this title and punishable as provided herein.

E. In the event that the official land use district map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and amendments thereto, the city council may adopt a new official land use district map which shall supersede the prior official land use district map. Unless the prior official land use district map is lost or has been totally destroyed, the significant parts of the map remaining after partial destruction shall be preserved together with all records regarding its adoption and/or amendment. (Ord. 92-21 § 4 (part), 1992.)

**18.20.030**     **Boundaries.**

A. The land use district boundary lines shall be: the centerline of either a street or alley right-of-way; the centerline of an easement; the thread of a stream, slough or river; or the boundary lines of sections, divisions of sections, tracts, blocks or lots; or such lines extended as otherwise indicated.

B. Where a land use district boundary line is indicated as approximately following the centerline of either a street or alley right-of-way; the centerline of an easement; the thread of a stream, slough or river; or



the boundary lines of sections, divisions of sections, tracts, blocks or lots; then said line shall be construed to be the land use district boundary.

C. Where a land use district boundary line is indicated as being approximately parallel to the centerline of either a street or alley right-of-way; the centerline of an easement; the thread of a stream, slough or river; or the boundary lines of sections, divisions of sections, tracts, blocks or lots; then the land use district boundary shall be construed as being parallel thereto and at a distance determined by the use of the scale shown in the official land use district map.

D. Where a land use district boundary line is not indicated as provided herein, and where a land use district boundary line divides a piece of property that may later be subdivided into new tracts, blocks and/or lots, the land use district boundary line shall be construed to include the new tract, block, and/or lot in their entirety if they have more than fifty percent of their land area within that land use district boundary line.

E. Whenever any street or alley right-of-way, or easement is vacated as provided by law, then the land use district adjoining each side of such street or alley right-of-way, or easement shall be automatically extended to the center of such vacation, and the area included in the vacation shall be subject to the regulations of the extended land use districts.

F. A land use district boundary line indicated as approximately following the thread of a stream, slough or river shall automatically move as the stream, slough or river changes its water course. (Ord. 92-21 § 4 (part), 1992.)

#### **18.20.040 Procedures for changing land use districts.**

A. Initiation. The city council may, from time to time, change the land use district of parcels of land within the city. These changes in land use classification shall be for the purpose of meeting the land use needs of the residents of the city in conformance with the comprehensive plan. A change in land use district may be initiated by:

1. Any member of the city council;
2. Any person or persons provided that an application for district change is accompanied by a petition favoring the proposed district change signed by the owner or owners of at least fifty-one percent of the property within the area proposed to be changed. If any individual property owner owns more than twenty-five percent of the land area proposed for a district change, then the petition shall contain such property owner's signature.

B. Application for changing land use district. Any member of the city council may initiate a district change by preparation of a suitable ordinance and introduction of same to the city council in accordance with council procedures. Any person or persons who wishes to initiate a district change shall complete and submit the application forms provided by the planning department along with all requested information and appropriate fees. The application must be submitted to the planning department at least fifteen days prior to the scheduled public hearing. The written consent of the owner of the interest in the property to have the change of district, or an authorized representative having power of attorney, shall accompany all applications. The written consent of a holder of a security interest in the property does not need to be obtained. The application shall also include the following information:

1. The legal and common description of the property to have the district change;
2. The property's present and proposed land use district;
3. The recommendation for use of the property by the city's comprehensive plan;
4. The reasons for requesting the district change.

C. Public Hearing. The planning commission shall conduct public hearings on all proposed changes in land use districts, including district changes initiated by member of the city council. The public hearing shall be conducted within sixty days of the receipt of an application.

D. Public Hearing Notification. Notice of the hearing shall be posted in at least five public places for at least five days immediately prior to the date set for the hearing. Additional notice shall be mailed to property owners within three hundred feet of the property for which the change of district is requested. Notice of public hearing shall be mailed at least ten days prior to the public hearing. The notice shall indicate the time and place of the hearing, and by whom the application for the district change was filed.

E. Public Hearing Testimony. Testimony at public hearings conducted by the planning commission and city council shall be limited to matters dealing with public health, safety, and general welfare.

F. Hearing and Recommendation by the Planning Commission. The planning commission shall review, hear and recommend whether or not a request for district change should be approved. The planning commission shall consider all oral and written statements from the applicant, the public, the planning department, and its own members prior to making its recommendation. The planning commission shall also consider and adopt findings of fact demonstrating whether or not the proposed district change conforms to the comprehensive plan and to the public health, safety and welfare. The planning commission shall recommend either the approval or denial of the request or recommend an amendment to the request to a more appropriate land use district.

G. Submission to the City Council. Within thirty days of the planning commission's recommendation on a request for district change, a report of said recommendation together with an ordinance shall be submitted to the city council and a public hearing date shall be established.

H. Hearing and Determination by the City Council. The city council shall review, hear and decide whether or not a request for district change shall be approved. The city council shall either approve or deny the request or amend the request to a more appropriate land use district.

I. Limitations. A proposed district change which has been denied by the city council on a particular tract of land for a particular purpose cannot again be applied for within six months from the date of the denial, unless a new request is submitted that is determined to be substantially different from the original request. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.24****CB CENTRAL BUSINESS DISTRICT****Sections:****18.24.010 Intent.****18.24.020 Standards.****18.24.010 Intent.**

The CB district is intended to provide for commercial uses for the entire community in a central location and a compact, high density setting. (Ord. 92-21 § 4 (part), 1992.)

**18.24.020 Standards.**

In the CBD, central business district, geometric standards are:

- A. Required yard for all buildings.
  - 1. Front yard shall not be less than ten feet.
  - 2. Side yard shall not be required.
  - 3. Rear yard shall not be required.
- B. Exceptions to yard requirements. See Chapter 18.40.
- C. Street Intersection Visibility. See Chapter 18.40.
- D. Parking. See Chapter 18.36. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.28****GU GENERAL USE DISTRICT****Sections:****18.28.010 Intent.****18.28.020 Standards.****18.28.010 Intent.**

The intent of the general use district is to provide for all uses with a minimum of standards required for public health, safety and welfare. (Ord. 92-21 § 4 (part), 1992.)

**18.28.020 Standards.**

In the GU, general use district, geometric standards are:

- A. Required yard for all buildings.
  - 1. Front yard shall not be less than fifteen feet.
  - 2. Side yard shall not be less than five feet.
  - 3. Rear yard shall not be less than five feet.
- B. Exceptions to Yard Requirements. See Chapter 18.40.
- C. Street Intersection Visibility. See Chapter 18.40.
- D. Parking. See Chapter 18.36. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.32****HISTORIC RESOURCES****Sections:**

- 18.32.010 Identification of historic resources.**
- 18.32.020 Notification of historic preservation commission.**
- 18.32.030 Voluntary consultation.**
- 18.32.040 Discovery of artifacts.**

**18.32.010 Identification of historic resources.**

The planning department shall review land use permit applications and determine if any of the following applies:

- A. The existing structure is a surveyed historic building;
- B. The existing structure is not on a surveyed list, but appears to have historic value;
- C. The proposed structure would be built on or may otherwise negatively impact a prehistoric or historic site. (Ord. 92-21 § 4 (part), 1992.)

**18.32.020 Notification of historic preservation commission.**

A. If a historic resource is identified according to Section 18.32.010, the planning department shall immediately notify the historic preservation commission of the land use permit application.

B. If a historic resource is identified according to Section 18.32.010, approval of a land use permit may be delayed up to five working days while the historic preservation commission reviews the land use permit application and pursues voluntary consultation with the applicant as described in Section 18.32.030.

C. The approval of a land use permit shall not be denied because of the identification of historic resources, unless otherwise restricted by federal or state law. (Ord. 92-21 § 4 (part), 1992.)

**18.32.030 Voluntary consultation.**

The historic preservation commission may meet to determine whether the proposed development will negatively impact a prehistoric or historic resource. The commission may consult with the applicant to suggest design alternatives and/or other mitigating measures that would preserve the historic resource. (Ord. 92-21 § 4 (part), 1992.)

**18.32.040 Discovery of artifacts.**

If artifacts are discovered during construction of a structure, the planning director and museum director shall review the material with the historic preservation commission, and report the discovery to the appropriate state or federal agencies. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.36****OFF-STREET PARKING REQUIREMENTS****Sections:**

- 18.36.010**    **General provisions.**
- 18.36.020**    **Computation of parking spaces.**
- 18.36.030**    **Minimum standards for off-street loading facilities.**
- 18.36.040**    **Location of parking spaces.**
- 18.36.050**    **Shared parking spaces.**
- 18.36.060**    **Design.**
- 18.36.070**    **Minimum standards for off-street parking spaces.**

**18.36.010**    **General provisions.**

A. On all parcels and lots in the city, off-street parking and loading areas shall be provided in the amount and location as set forth herein.

B. Any area once designated for required off-street parking and loading shall not thereafter be used for any other purpose unless and until equal facilities are provided elsewhere in conformance with this title. (Ord. 92-21 § 4 (part), 1992.)

**18.36.020**    **Computation of parking spaces.**

A. The number of required off-street parking spaces to be provided for each use shall be determined as follows:

1. Where the computation of required parking space results in a fractional number, the determination of required parking spaces shall be made by rounding the fractional number to the nearest whole number.

2. Except as otherwise indicated, the number of parking spaces shall be determined by the net floor area, which for the purpose of this chapter, shall mean that floor area of the building accessible to or primarily for use by the customer or patron of a business establishment. Net floor area shall not include those areas used for storage, cooking, stairwells, rest rooms, etc.

B. Areas used for storage, parking of boats or heavy equipment, or any other use that precludes use as a vehicular parking spot shall not be counted when computing required off-street parking spaces. (Ord. 92-21 § 4 (part), 1992.)

**18.36.030**    **Minimum standards for off-street loading facilities.**

A. For every use requiring the loading and unloading of merchandise, off-street facilities for loading and unloading within or adjacent to the building shall be provided in a manner as to not obstruct the traffic movement on adjacent streets and alleys. No off-street parking space shall be used as an off-street loading facility.

B. Each loading and unloading area shall have a minimum width of ten feet, a minimum height clearance of fourteen feet, and a minimum length sufficient to provide maneuvering room entirely on the parcel. A suggested minimum for full size freight trucks is forty feet. (Ord. 92-21 § 4 (part), 1992.)

**18.36.040**    **Location of parking spaces.**

All required off-street parking spaces shall be located within the property lines of the same lot, or on a lot within three hundred feet of the lot that accommodates the building, structure or use being served. Areas

required for building setbacks (required yards) may be sued for off-street parking, provided that they are in compliance with the street intersection visibility requirement of this title. (Ord. 92-21 § 4 (part), 1992.)

**18.36.050 Shared parking spaces.**

Spaces that only meet the requirements of one establishment may serve more than one establishment of the same parking lot; provided, that sufficient evidence is presented which shows that the normal hours of operation of such establishments do not overlap, and that all such establishments conform to the parking standards. A written agreement assuring the retention of the shared parking spaces, shall be included with the land use permit application for the proposed use. (Ord. 92-21 § 4 (part), 1992.)

**18.36.060 Design.**

A. All parking (except for one-, two- and three-family residences) shall be arranged so that space for interior access lanes, turning and maneuvering is located entirely on the lot or lots providing the required parking. Alleys may be used for access lanes and maneuvering areas, but road rights-of-way may not be used.

B. Each parking space shall be accessed by either a road or interior access lane. The minimum width of an interior access lane is twenty feet.

C. Each parking space shall have a minimum dimension of nine feet in depth and eighteen feet in length.

D. All off-street parking spaces and loading facilities, including interior access lanes, shall be paved or surfaced with at least two inches of compacted gravel and graded and drained.

E. 1. A driveway or interior access lane that accesses a parcel across a public right-of-way is by definition considered an encroachment in the right-of-way. A driveway in a state right-of-way requires a driveway permit from the Alaska Department of Transportation and Public Facilities. Encroachments in other public right-of-ways are subject to the provisions of Chapter 12.08 of this code. For the purposes of this code, driveways approved as part of land use permit under the provisions of this title, shall be considered an approved encroachment under Chapter 12.08.

2. Driveways or interior access lanes shall be designed to provide for drainage. Drainage may be accommodated by providing culverts or bridges, or by other structures if approved by the public works director. Culverts shall be a minimum of eighteen inches in diameter. (Ord. 92-21 § 4 (part), 1992.)

**18.36.070 Minimum standards for off-street parking spaces.**

A. On all parcels and lots in the city, the following minimum number of off-street parking spaces are required:

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|--|--|
| 1. Dwellings, apartment buildings, motels, motor lodges, and tourist courts.   | One space per dwelling unit in the building or buildings.  |
| 2. Rooming houses, and boardinghouses.   | One space per two guest rooms.   |
| 3. Hotels.   | One space per three guest rooms.   |
| 4. Schools, churches, synagogues, auditoriums, dance halls, exhibition halls, restaurants, skating rinks, taverns, theaters and other places of public assembly. | One space per four seats based on maximum seating capacity; or one space per four occupants based on maximum capacity as calculated under the provisions of the Uniform Building Code. |

- |  |  |
|--|--|
| 5. Hospitals, sanitariums, nursing homes, convalescent homes and similar institutions.       | One space per three employees, plus one space per four beds, based on maximum capacity, plus one space per three hundred square feet of out patient clinic space.  |
| 6. Food stores, grocery stores and retail square feet of sales area. trade shopping centers. | One space per three hundred square feet of sales area.   |
| 7. Other retail establishments, post offices, clinics, professional and business offices.    | One space per three hundred square feet.   |
| 8. Wholesale stores, mercantile establishments, warehouses and storage buildings.            | One space per two employees, but not less than two parking spaces for any one such use.  |
| 9. Industrial and manufacturing establishments in which there are five or more employees.    | One space per five hundred square feet of gross floor area, or one space per five employees.   |
| 10. Repair garages and gasoline service stations.  | Four spaces per service stall. All vehicles in the custody of the operator of the business for the purpose of service, repair, or storage shall be stored on the premises or on a separate off-street parking lot or building. |

B. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be the same as the use which, in the opinion of the planning director, is most similar to the use not specifically mentioned.

C. In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. (Ord. 92-21 § 4 (part), 1992.)



**Chapter 18.40****YARD REQUIREMENTS****Sections:**

**18.40.010 Exceptions to required yard.**

**18.40.020 Street intersection visibility.**

**18.40.010 Exceptions to required yard.**

A required yard shall remain open and unobstructed, except as follows:

A. Eaves, ornamental features and other ordinary projections normally associated with a residential building or structure may project not more than two feet into the required yard.

B. Open stairways and balconies, decks, arctic entries, chimneys and other structures greater than two and one-half feet in height, may project a distance of not more than two feet into the required yard.

C. Decks, paved terraces, patios, driveways and other similar structures, no greater than two and one-half feet in height, may be located in the required yards.

D. In all land use districts, and except as provided otherwise, required off-street parking may be located in the required yards. (Ord. 92-21 § 4 (part), 1992.)

**18.40.020 Street intersection visibility.**

A. On corner lots in all land use districts, no fence, wall, sign, hedge, berm or other structure, that impedes or obstructs the visibility of traffic on the adjacent street shall be placed between the height of two and one-half feet and eight feet above the finished grade of the adjacent street within a triangular area formed by the intersection point of the property lines that are adjacent to the street and two points each fifteen feet in distance from the intersection point measured along both property lines.

B. On corner lots in all land use districts, no vehicle shall be parked nor shall any parking space be provided or designed, in the triangular area described herein above. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.44****NONCONFORMING (GRANDFATHERED) USES AND LOTS****Sections:**

- 18.44.010 Purpose.**
- 18.44.020 Authority to continue.**
- 18.44.030 Restrictions.**

**18.44.010 Purpose.**

The purpose of this chapter is to provide for the regulation of nonconforming buildings, structures, uses and lots, and to specify the circumstances and conditions under which they shall be allowed to continue as legal nonconforming uses and lots. (Ord. 92-21 § 4 (part), 1992.)

**18.44.020 Authority to continue.**

A. Any nonconforming building, structure, use or lot that existed lawfully prior to the effective date of the ordinance codified in this title may be continued.

B. Any lawful building, structure, use or lot that has become nonconforming upon the adoption of said ordinance or any subsequent amendment thereto, may be continued.

C. Any building, structure or use with an approved land use permit, which became nonconforming upon the adoption of said ordinance, may be continued.

D. Any change in ownership of such a building, structure, use or lot does not void grandfather rights. Nonconforming (grandfather) rights run with the land, not with the owner. (Ord. 92-21 § 4 (part), 1992.)

**18.44.030 Restrictions.**

A. A nonconforming building or structure shall not be enlarged or altered in a manner that increases or contributes to the nonconformity.

B. If a nonconforming building, structure or use is damaged or destroyed by fire or other casualty so that it cannot be repaired or put back into use, no part of the structure shall be reconstructed except in conformity with this title.

C. If any nonconforming use of land ceases for any reason for a period of more than one year, the use is considered abandoned and any subsequent use of the land shall conform to the land use district in which it is located. The planning commission may approve an extension of one year to this period to allow relief from emergencies or other extenuating circumstances that are outside the control of the landowner.

D. Nothing in this chapter shall be deemed to prevent the strengthening or restoring of a structure to a safe condition. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.48****VARIANCES****Sections:**

- 18.48.010**    **Variances—Generally.**
- 18.48.020**    **Variances—Application and hearing.**
- 18.48.030**    **Required findings of fact.**

**18.48.010**    **Variances—Generally.**

A. Variances from provisions of this title may be granted by the planning commission when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in a similar area. (Ord. 92-21 § 4 (part), 1992.)

**18.48.020**    **Variances—Application and hearing.**

A. An application for a variance shall be made in writing to the planning commission and submitted to the planning director and shall include:

1. Sketch plat or copy of an existing survey;
2. Evidence that title is vested in the applicant;
3. A statement setting forth the conditions, facts and reasons why a variance should be granted and why such conditions, facts and reasons constitute compliance with the variance requirements cited at Sections 18.48.010(A) and 18.48.030;
4. The required fee.

B. The planning director shall review the application and, if complete, shall submit it to the next meeting of the planning commission, provided the application has been submitted at least fifteen calendar days prior to the scheduled meeting. The planning director shall submit an evaluation and recommendation to the commission accompanying the application.

C. Within sixty days of receipt of an application filed under this section, the planning commission shall conduct a public hearing on the variance request. Notice of the hearing shall be posted in at least three public places for at least five days immediately prior to the date set for the hearing. Additional notice shall be mailed to property owners within three hundred feet of the property for which the variance is requested. The notice shall be mailed at least ten days prior to the public hearing. The notice shall indicate the time and place of the hearing, by whom and on what date the variance application was filed, the purpose and a general description of the variance sought.

D. The commission shall act upon the application within thirty days of the public hearing. (Ord. 92-21 § 4 (part), 1992.)

**18.48.030**    **Required findings of fact.**

Variations shall only be granted upon the determination that the variance:

- A. Is the minimum necessary to afford relief;
- B. The granting of the variance will not be detrimental to the public safety or welfare or injurious to adjacent property;
- C. Special conditions that require the variance are not caused by the person seeking the variance;
- D. The variance will not permit a land use in a district in which that use is prohibited;

E. The variance is not sought only to relieve financial hardship or inconvenience. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.52****APPEALS****Sections:****18.52.010 Appeals.****18.52.010 Appeals.**

Appeals of decisions by the planning director or planning commission alleging errors in any requirement, decision or determination made in the enforcement or administration of the land use regulations shall be heard by the board of adjustment pursuant to the procedures established at Chapter 18.56 of this title. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.56****BOARD OF ADJUSTMENT AND PROCEDURE****Sections:**

- 18.56.010 Meetings—Duties.**
- 18.56.020 Appeal—Notice and records.**
- 18.56.030 Presiding officer—Evidence.**
- 18.56.040 Quorum.**
- 18.56.050 Procedure.**
- 18.56.060 Judicial review.**

**18.56.010 Meetings—Duties.**

A. The city council is the board of adjustment. Meetings of the board are held at the call of the mayor. The mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public. The city clerk shall keep minutes of the proceedings of the board of adjustment as a public record.

B. The board of adjustment shall hear and decide:

1. Appeals regarding alleged errors in administrative enforcement of land use ordinances and building codes;
2. Appeals from the decisions of the planning commission on request for variances. A variance shall not be granted if any of the following conditions are present:
  - a. Special conditions that require the variance are caused by the person seeking the variance,
  - b. The variance will permit a land use in an area in which it is prohibited, and
  - c. The variance is sought solely to relieve pecuniary hardship or inconvenience. (Ord. 92-21 § 4 (part), 1992.)

**18.56.020 Appeal—Notice and records.**

An interested party, including by not limited to a city official, may file with the board of adjustment an appeal specifying in writing his/her objections and his/her address. Copies are filed with the administrative officer involved in the decision or enforcement and with the city clerk within thirty days from the date of the decision or enforcement involved. The officer shall provide the board with all pertinent records, including a written decision. Such material shall become part of the reading of the appeal. (Ord. 92-21 § 4 (part), 1992.)

**18.56.030 Presiding officer—Evidence.**

The mayor shall act as the presiding officer of the board of adjustment, and shall exercise such control over the board's proceedings as is reasonable and necessary. In addition to his other duties, he shall rule upon the admissibility of evidence before the board and may limit presentations before the board to a reasonable period of time. (Ord. 92-21 § 4 (part), 1992.)

**18.56.040 Quorum.**

A quorum of the board of adjustment shall consist of a majority of its voting members. Decisions by the board may be made and rendered by a majority of a quorum. Only those members of the board of adjustment

who have been present throughout the hearing on an appeal may vote on that appeal. (Ord. 92-21 § 4 (part), 1992.)

**18.56.050 Procedure.**

A. The following procedure shall be followed at any hearing on an appeal before the board of adjustment:

1. The appeal number and the name of the party appealing shall be read into the record.
2. The mayor shall then determine if the appellant or his/her agent is present. If no such person is present, the board will proceed with the hearing in such person's absence, unless the presiding officer rules that there were extenuating circumstances which prevented the appellant or his/her agent from appearing.
3. The presiding officer shall require the appellant to give his/her presentation first.
4. After the conclusion of the appellant's presentation, the official involved shall then make a presentation. That official shall answer any questions by any member of the board concerning his/her comments or appellant's comments.
5. The appellant shall then have the right to respond to the official's presentation.
6. All comments made by the official or the appellant shall be directed to the mayor. All questions directed toward the appellant or official shall be only by a member of the board of adjustment.
7. All testimony before the board shall be under oath, to be administered by the city clerk.

B. An appellant may, in lieu of a personal appearance before the board of adjustment, present the appeal in writing supported by any affidavits appellant considers necessary. Such affidavits shall be filed by appellant at the time of filing the notice of appeal.

C. Appellant, other interested persons and any official may be represented by legal counsel at the board of adjustment.

D. The burden of proof is upon the appellant to prove his/her case by a preponderance of the evidence.

E. The formal rules of evidence applicable to an action at law do not apply to hearings before the board of adjustment. Evidence and testimony shall be relevant to the appeal.

F. The decision of the board of adjustment on an appeal shall be by an affirmative motion. (Ord. 92-21 § 4 (part), 1992.)

**18.56.060 Judicial review.**

Pursuant to AS 29.40.060, any municipal officer or person aggrieved by a final decision under this chapter, may appeal that decision to the superior court by filing with the city clerk written notice within thirty days of the action appealed. An appeal to the superior court under this section is an administrative appeals heard solely on the record established by the board of adjustment. The notice shall specify grounds for appeal. When the notice is filed, the board shall provide for the timely transmittal to the superior court clerk copies of all papers constituting the record in the case. (Ord. 92-21 § 4 (part), 1992.)

**Chapter 18.60****VIOLATIONS—PENALTIES AND REMEDIES****Sections:****18.60.010 Violation—Enforcement.****18.60.020 Violation—Penalties and remedies.****18.60.010 Violation—Enforcement.**

The planning director or designee may order the discontinuance of unlawful uses of land, buildings or structures; the removal or abatement of unlawful buildings or structures or any unlawful additions or alterations thereto; the discontinuation of construction or preparatory activity leading to an unlawful structure or use of land; or any other action necessary to ensure compliance with this title. (Ord. 92-21 § 4 (part), 1992.)

**18.60.020 Violation—Penalties and remedies.**

A. Violation. A violation of provisions of this title shall be a civil offense. Upon conviction, the court shall levy the appropriate fine of three hundred dollars for each day the violation exists not to exceed one thousand dollars plus any surcharge required to be imposed under AS 12.55.039.

**B. Remedies.**

1. In case any structure is constructed or substantially improved in violation of this title, the city, in addition to other remedies, shall institute any proper actions or proceedings necessary, including enjoining of connections to public utilities, to restrain, correct or abate such violations.

2. Pursuant to AS 29.40.190, the city or aggrieved person may institute a civil action against a person who violates a provision of this title, or a term, condition or limitation imposed by the planning commission. (Ord. 92-21 § 4 (part), 1992; Ord. 99-04 § 20, 1999.)





Land Use Permit Application  
 City of Dillingham  
 PO Box 889, Dillingham, Alaska 99576

Permit # _____	Application received: ____/____/____
\$25 Fee Paid: _____	Received by: _____

**Note: A land use permit IS NOT the same thing as a building permit. The State Fire Marshal is the State Building Official and issues building permits. Building plans must be reviewed by the Plan Review Bureau before a building permit can be issued.**

**Part One: To Be Completed By Applicant**

1. Applicant: \_\_\_\_\_ Phone: \_\_\_\_\_
2. Mailing Address: \_\_\_\_\_
3. Property Owner: \_\_\_\_\_ Phone: \_\_\_\_\_
4. Mailing Address: \_\_\_\_\_
5. Legal description of property: \_\_\_\_\_
6. Street address of property: \_\_\_\_\_
7. Proposed development: \_\_\_\_\_
 

<input type="checkbox"/> Construct new building	<input type="checkbox"/> Addition to existing building
<input type="checkbox"/> Change primary use of existing building	<input type="checkbox"/> Construct a fence only
<input type="checkbox"/> Substantial improvement (renovation) to building	<input type="checkbox"/> Construct a driveway only
<input type="checkbox"/> Move a building onto the property	
8. Describe the proposed use(s): \_\_\_\_\_

9. If residential, total number of dwelling units \_\_\_\_\_ If non-residential, total building square feet \_\_\_\_\_
10. Has a land use permit been approved for this property within the last two years:  Y  N
11. Please draw plot plan on Attachment A

12. Information included in this permit application is, to the best of my knowledge, true and complete. I acknowledge and will comply with the requirements set forth by this land use permit. I acknowledge that this permit does not grant approval to any other federal, state, or city permits that may be required. I acknowledge that the City has provided me with information on other permits that may be required.

Applicant's signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Landowner's signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Part Two: To Be Completed By City:**

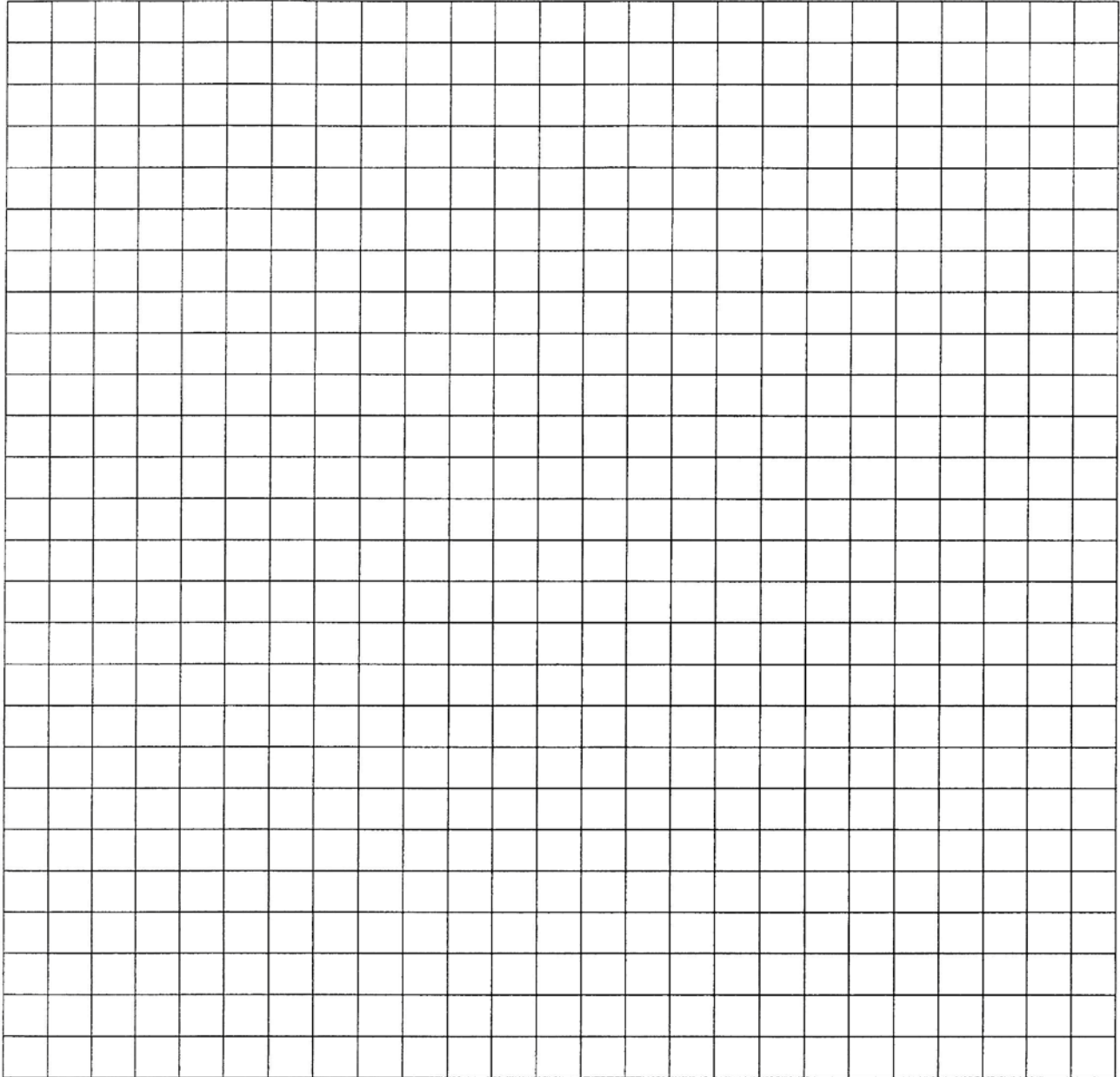
13. Land Use District _____	14. Front Yard Req. _____
15. Side Yard Req. _____	16. Rear Yard Req. _____
17. Flood Zone _____	18. Floodplain Permit Required _____
19. Parking Spaces Required _____	
20. City Action of Permit <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Incomplete, return to applicant	
21. If permit was denied or returned, reason: _____	
22. Permit processed by: _____	Date: _____

\*\*\*The Planning Department typically reviews land use permit applications, depending on the complexity of the proposed land use, within 10 working days from date of fees paid. Please do not make proposed improvement until you are in receipt of an approved land use permit.

# Attachment A

Draw a plot plan, to scale, with dimensions in feet. Please include property boundaries, existing structures, proposed structures, and the distance the proposed structures are from all lot lines and other structures. Indicate all roads adjacent to the property. Show parking and spaces parking access lanes.

Note Please be aware of any easements of record, such as utilities or section lines

A large grid for drawing a plot plan, consisting of 20 columns and 20 rows of squares.

Please indicate north arrow

Scale. One square = \_\_\_\_\_ feet

Comments

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