

CHAPTER 7 – Land Use

ARTICLE 1-Planning, Platting, and Zoning

Section 7.105 Definitions

(Reserved)

Section 7.110. Planning, Platting, and Zoning.

The City shall provide for city wide Planning, Platting and Zoning.

Reviser's Note - AS 29.35.260(c) requires that first class cities outside of boroughs provide for planning, platting, and zoning as provided by AS 29.35180(b) for home rule boroughs.

Section 7.155. Planning Commission

- (a) There shall be a planning commission consisting of five members.
- (b) The five members shall be eligible voters of the municipality of Nenana. The term of office shall be three years except that the members first appointed shall draw lots so that two have three years terms, two have two year terms. And one have a one year term. Appointments to fill vacancies shall be for the unexpired term. The mayor shall be an ex officio member of the commission with full floor rights but no voting right. Appointments to the commission shall be by the mayor with the approval of the city assembly. The commission shall elect from among its voting members a presiding officer.
- (c) The commission shall, after holding at least one public hearing, recommend to the city assembly:
 - (1) a comprehensive plan consisting of maps and related text for the development of the city.
 - (2) A zoning ordinance to implement the plan;
 - (3) An official map of the city; Modification of (1) – (4) as required.
- (d) The commission shall:
 - (1) act as the platting board;
 - (2) act upon requests for variance; and
 - (3) act upon requests for conditional uses.
- (e) Subject to AS 29.40.170, no platting request, variance or conditional use may be granted except upon an affirmative vote of the majority of the commission.
- (f) The commission meetings shall be public and minutes of the meetings kept. The minutes shall be files with the city clerk and kept as public record.

Reviser's Note – The planning commission also acts as the Nenana Historical District Commission under section 5.210.

AS 29.40.170 outlines platting board jurisdiction and procedure.

Section 7.120. Comprehensive Plan.

- (a) The city assembly shall adopt a comprehensive plan based upon the recommendations of the commission. The council may modify the plan after receiving the commission's recommendations.
- (b) The comprehensive plan shall include the minimum elements prescribed in AS 29.40.030.

Reviser's Note – AS 29.40.010 – 29.40.050 provides: “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 borough (for purposes of Nenana, the City), and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.”

Section 7.125. Zoning.

A Zoning ordinance shall be adopted by the city assembly which is in accordance with the comprehensive plan

Reviser's Note – As 29.40.010 – 29.40.050 outlines in detail what a minimum zoning ordinance should include.

Reviser's Note - Section 7.127 of the Nenana Code of Ordinances was amended by Ordinance 88-12, adopted on 12/08/88. This Ordinance amended the prior Section 7.127.

Section 7.127. Subdivisions

Reviser's Note. Due to the volume of material contained in Section 7.127, the subsections of Section 7.127 are written in the format of sections and include a subsection directory at the beginning of each.

SECTION 7.127

SECTIONS:

- 7.127.04 General Provisions
- 7.127.08 Definitions
- 7.127.10 Abbreviated Plat Procedure
- 7.127.12 Preliminary Plat Approval Procedure
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SECTION 7.127.04

SUBSECTIONS:

7.127.04.010	Purpose
7.127.04.020	Authority
7.127.04.030	Jurisdiction
7.127.04.040	Compliance
7.127.04.50	General Principles of Acceptability

Section 7.127.04.010 Purpose.

- (a) Land subdivision is the first step in the process of community developments. Once land has been divided into streets, lots and blocks, and publicly recorded, the correction of defects is costly and difficult. Subdivision of land sooner or later becomes a public responsibility in the roads and streets must be maintained and various public services customary to urban areas must be provided. The welfare of the entire community is thereby affected in many important aspects, It is therefore in the interest of the public, the developer, and future owners that the subdivision be conceived, designed and developed in accordance with sound rules and proper minimum standards.
- (b) The purposes of these regulations are to promote an adequate and efficient street and road system, to prevent congestion on streets and promote traffic safety, to secure desirable public spaces, to insure the proper distribution of population, to provide for adequate utilities and public improvements, and to insure the accurate survey of the land and proper preparation of plats, and to protect and improve the health, safety and general welfare of the people.

Section 7.127.04.020 Authority.

These subdivision and platting regulations have been promulgated and adopted under the authority granted by Alaska Statutes 29.35.260(c), 29.35.180(b) and 40.15.070 and the City of Nenana Code of Ordinances. The City Assembly shall serve as the Board of Adjustment. Hereinafter the Planning Commission is referred to as the "Commission" .

Section 7.127.04.030 Jurisdiction

- (a) The subdividing or replatting of land within the City into lots or tracts comprising two or more lots or tracts, or containing a dedication of any part thereof as a public street or highway, is required to proceed under and in compliance with the provisions of this title.
- (b) No plan, plat or replat of land within the City is entitled to be recorded in the office of the recorder, unless approved by the Municipality, It is unlawful to file or record a plan, plat or replat of lands within the City unless it bears on it by endorsement or otherwise, the approval of the municipality.
- (c) The provisions of this Chapter shall be administered by the Commission and the City Administrator.

Section 7.127.04.040 Compliance

Every subdivision, plat or replat of land within the City must comply with the requirements of this Chapter and any of the applicable laws of the City and State of Alaska. No person, firm, corporation or entity may divide or replat land within the City except in compliance with these laws.

Section 7.127.04.050 General Principles of Acceptability

- (a) The commission shall take into consideration the general requirements of the community, the particular requirements of the neighborhood, and the best use of the land to be subdivided. Particular attention may be given to specific requirements for parks, playgrounds, school sites, public building sites, major streets, the adequacy of street connections and the suitability of the land for development.
- (b) The Commission shall consider the extent to which the proposed subdivision conforms to the city's comprehensive development plan. Particular consideration shall be given to lot size in relationship to the Alaska Department of Environmental Conservation regulations.

Reviser's Note. Section 7.127.04.060 Plat alteration was repealed by Ordinance 88-12.

SECTION 7.127.08

DEFINITIONS

Section 7.127.08.010. Definitions Generally

Unless the context otherwise requires, the following words and phrases in Sections 7.127.04 through 7.127.48 shall have the meanings ascribed to them in this Section.

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- (1) Alley: A permanent service right-of way providing a secondary access to abutting properties.
- (2) Block: A unit of lots.
- (3) Crosswalk: a public right of way between property lines, which provides pedestrian passage through a block.
- (4) Cul-de-sac: A street having one end open to traffic and being terminated at the other end by a vehicular turn-a-round.
- (5) Depth of lot: The mean horizontal distance between the front and rear property line of a lot.
- (6) Easement: An interest in the land owned by another that entitles the easement holder to a specified limited use.
- (7) Street improvements: Street grading, street surfacing and paving, curb and gutter, sidewalks, culverts, bridges and utilities.
- (8) Lot: A measured portion of a parcel or tract of land which is described and fixed on a plat filed for record.
- (9) Parcel: an unsubdivided plot of land.
- (10) Planting strip: A strip of land between the roadway and the sidewalk or sidewalk site.
- (11) Plat: A map or chart of a surveyed subdivision of land.
 - (i) "Sketch Plan" means an informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.
 - (ii) "Preliminary Plat" means a map showing the salient features of a proposed subdivision of land submitted to the Commission for purposes of preliminary consideration and approval.
 - (iii) "Final Plat" means a map of a subdivision of land made up in final form as required for approval and recording.
- (12) Roadway: The portion of a street designated for vehicular traffic, and where curbs are laid, the portion between curbs.
- (13) Street: The general term used to describe a right-of-way serving as a means of vehicular and pedestrian travel also furnishing space for sewers, public utilities and trees. Streets are classified by function as follows:
 - (i) "Major Roads, arterial streets and highways" are those which are used primarily for fast or heavy traffic, or traffic between neighborhoods.
 - (ii) "Collector Streets" bring traffic to arterial streets, serve as the principal entrance streets of a residential development and provide for traffic circulation within the development.
- (14) Subdivider: Any person, group, corporation or entity proposing to divide lands which constitute a subdivision as defined in this section.
- (15) Subdivision: Means the division of a tract or parcel of land into two or more lots, sited, or other divisions and includes a replat or resubdivision. When appropriate to the context, subdivision also means the process of subdividing the land or areas being subdivided.
- (16) Platting Board: Means the planning commission.

(17) Tract: Means an area of land which as been defined, but has not been designated by lot and block numbers.

SECTION 7.127.10

ABBREVIATE PLAT PROCEDURE

SUBSECTIONS:

- 7.127.10.010 Purpose
- 7.127.10.020 Pre-application conference
- 7.127.10.030 Applicability
- 7.127.10.040 Qualifications of Applicants
- 7.127.10.050 Applications – To Whom Made
- 7.127.10.060 Contents of Application
- 7.127.10.070 Objection by Utility or Other Agency
- 7.127.10.080 Notice
- 7.127.10.090 Approval or Disapproval of Application
- 7.127.10.100 Ground for Approval
- 7.127.10.110 Appeal of City Administrator's Decision
- 7.127.10.120 Appeal of Mayor's Decision
- 7.127.10.130 Application for Preliminary Plat Approval
- 7.127.10.140 Time Limits

Section 7.127.10.010 Purpose

The purpose of this Section is to provide a simplified procedure whereby subdivisions and replats of small tracts of land can be considered and approved efficiently without undue delay.

Section 7.127.10.020 Pre-application Conference

Applicants are strongly encouraged to request a conference with the City Administrator for informal review of the applicant's proposal prior to formal application, so that problems can be addressed with a minimum of delay and misunderstanding.

Section 7.127.10.030 Applicability

The applicant may elect to utilize the Abbreviated Plat Procedure for a subdivision or replat which means conditions specified in any of the following subsections.

- (a) The Abbreviated Plat Procedure may be utilized if:
 - (1) The proposed subdivision or replat will create not more than four (4) lots, tracts, or parcels of land; and
 - (2) Each lot, tract or parcel of land created will have legal access to a public street or highway; and

- (3) each lot, tract or parcel of land created is not larger than one acre.
- (b) The Abbreviated Plat Procedure may be used if:
 - (1) The proposal involves only the movement of lot lines within an area which has already been platted; and
 - (2) The movement will result in the existence of not more than four lots in the area affected; and
 - (3) Each lot resulting from the movement of lot lines will have legal access to and from a public street or highway.
- (c) The Abbreviated Plat Procedure may be used for the subdivision of a cemetery into burial plots, or
- (d) The abbreviated Plat Procedure may not be used for the dedication of public right of way or public area.

Section 7.127.10.040 Qualifications of Applicants

- (a) An application to subdivide a parcel of land into smaller lots, tracts or parcels must be signed by all record owners of the parcel to be subdivided.
- (b) An application to replat a tract of land which has already been platted, must be signed by the record owners of a majority of the lots which will be affected by the replat.

Section 7.127.10.050 Application – To Whom Made

The applicant shall submit the application to the City Clerk. The City Clerk shall accept the petition only if it meets the requirements of Section 7.127.10.060.

Section 7.127.10.060 Contents of Application

The application shall be submitted on a form satisfactory to the City Administrator and shall

- (a) contain a plot plan of the area to be subdivided or replatted, prepared by a licensed surveyor, showing the following:
 - (1) location of existing internal and external boundaries of the property;
 - (2) location of all existing structures and other improvements to the property;
 - (3) location of all easements, rights of way and other similar interests of record affecting the property;
 - (4) location of existing encroachments and that the plat will cure all encroachments;
 - (5) location of public access to the property;
 - (6) location of public access to the
- (b) Contain a certificate showing the holders of all record interests in the property within the plat, issued by a title insurance company licensed to conduct business in the State of Alaska, and dated not more than 10 days prior to the date of application; and
- (c) Contain proof satisfactory to the City Administrator that all property taxes which are then due and owing, including penalties, interest, attorney fees, and

administrative and other charges, against any parcel of land contained within the proposed plat, have been paid. If the plat will alter the boundary of any parcel of land for which taxes will be, but are not yet, due for the current year, the applicant shall prepay the amount of taxes which will become due on the property for the current year. If the mill rate has not been set for the current year, the amount to be prepaid will be calculated using the previous year's rate of levy; and

- (d) Comply with the provisions of Section 7.127.16.030; and
- (e) Contain proof satisfactory to the City Administrator that the applicant is qualified pursuant to subsection 7.127.10.040; and
- (f) Contain the name and current mailing address of the applicant; and
- (g) Contain the names and current mailing addresses of those persons entitled to receive notice according to subsection 7.127.10.080; and
- (h) Contain statements from each of the following agencies, that the agency has reviewed the proposal and does not object to it, and any conditions imposed by the agency as prerequisites for non-objection:
 - (1) Golden Valley Electric Association;
 - (2) Telephone Utilities of the Northland;
 - (3) Alaska Department of Environmental Conservation;
 - (4) If any lot, tract, or parcel has access onto a road maintained by the State of Alaska, the Alaska Department of Transportation and Public Facilities;
 - (5) Any other agency required by the City Administrator; and
 - (6) Contain any other information required by the City Administrator.

Section 7.127.10.070 Objection by Utility or Other Agency

In an agency specified in subsection 7.127.10.070 (g) objects to the proposal, the applicant cannot use the Abbreviated Plat Procedure for that proposal, and the City Administrator shall refuse to consider an application thereunder, until the agency withdraws its objection. The applicant may, however, apply at any time for approval of a preliminary plat.

Section 7.127.10.080 Notice

- (a) Not less than five days prior to the date on which the City Administrator mails notice to the applicant of his decision on the application, the City Administrator shall cause to be mailed by regular mail, to the owners of all parcels of land which adjoin the parcel which is the subject of the application, at the addresses specified in the application, a notice that the application is being considered.
- (b) For purposes of this subsection a parcel adjoins another parcel if the boundaries of the two parcels touch at any point, or if the parcels are separated at any point only by a street, easement, or other similar right of way.
- (c) The notice shall state that the application is pending and shall identify the parcel affected and the general nature of the proposed subdivision or replat. The notice

- shall inform the recipient that he may comment on the application by delivering his comments in writing to the City Administrator, not later than a date which must be at least one day prior to the date on which the City Administrator mails notice to the applicant of his decision on the application.
- (d) At least five days prior to the date on which the City Administrator mails notice to the applicant of his decision on the application, the City Administrator shall cause to be posted at three public places within the City of Nenana, a notice which complies with the provisions of subsection C.

Section 7.127.10.090 Approval or Disapproval of Application

The City Administrator shall approve or disapprove the application, without public hearing, within forty five (45) days following the date on which the applicant filed the application. The City Administrator shall promptly mail notice of his decision to the applicant by regular mail, at the address contained in the application, and if the application is approved and the plat meets all conditions of approval, shall endorse on the plat a certificate of approval sufficient to enable the applicant to record the plat. If the City Administrator fails to act within forty –five days, the application shall be deemed approved. In such a case, the City Administrator shall issue a certificate of approval, upon written demand by the applicant.

Section 7.127.10.100 Grounds for Approval

- (a) The City Administrator shall approve the application if he finds that it complies with all of the requirements and purposes of this Chapter and does not pose an unreasonable risk of harm to the public health, safety and welfare. The City Administrator may approve the application with or without conditions which the Administrator determines are necessary to protect the public health, safety and welfare, or to bring the subdivision or replat within the requirements and purposes of this chapter.
- (b) If the City administrator determines that the proposed subdivision or replat does not comply with the requirements and purposes of this Chapter, or that it poses an unreasonable risk of harm to the public health, safety and welfare, the Administrator may disapprove the application. The administrator is not required to attach conditions to an application in an attempt to bring the application into compliance with the standards imposed by subsection (a). If the application is approved, the notice to the applicant required by subsection 7.127.10.090 shall state the reasons for disapproval.

Section 7.127.10.110 Appeal of City Administrator's Decision

- (a) Any person or governmental entity, including the City of Nenana, may appeal a final decision by the City Administrator on an application not later than ten (10) days following the date on which the City Administrator mails the notice of his decision to the applicant by filing written notice of appeal, stating the grounds for

appeal, with the City Clerk. If the applicant is not the appellant, the City Clerk shall send the applicant written notice of the appeal immediately upon its receipt. The notice shall inform the applicant that he may submit written information concerning the appeal not more than ten (10) days following the date on which the notice was mailed to him.

- (b) The Mayor shall hear and decide the appeal. In deciding the appeal, the Mayor shall consider all records on file with the City regarding the application, and the written information provided by the appellant and the applicant, if any. The Mayor may, but is not required to, hold an informal hearing on the matter at which the appellant, the applicant, and City Administrator may appear and give evidence.
- (c) If the Mayor determines by a preponderance of the evidence that the City Administrator's decision complied with the requirements of this Chapter, he shall deny the appeal. Otherwise, he shall grant the appeal. In granting the appeal the Mayor may take any action with respect to the application which the City Administrator is authorized to take under this Abbreviated Plat Procedure. The Mayor shall decide the appeal within a reasonable time, and shall cause to be mailed notice of this decision to the appellant, the applicant, and the City Administrator.

Section 7.127.10.120 Appeal of Mayor's Decision

- (a) Any person or governmental entity, including the City of Nenana, affected by the Mayor's decision, may appeal the decision to the Planning Commission, by filing notice of appeal stating the grounds for appeal, with the City Clerk. The notice shall be filed not more than ten days after the date on which the Mayor mails notice of his decision to the applicant.
- (b) The Planning Commission must treat the appeal as an initial application for the preliminary plat approval by the applicant. The Planning Commission shall consider and decide the appeal in accordance with the requirements of this chapter for approving or disapproving preliminary plat application. The applicant shall have sixty (60) days from the date on which the notice of appeal is filed with the City Clerk, in which to meet all the requirements of this chapter for an application for preliminary plat approval. If the applicant fails to meet these requirements within sixty days, the applicant's proposal shall be deemed disapproved.

Section 7.127.10.130 Application for Preliminary Plat Approval

At any time while an application under the abbreviated Plat Procedure is pending, the applicant may apply for preliminary plat approval in accordance with Section 7.127.12, for a plat which includes all or part of the area which was the subject matter of his application under the Abbreviated Plat Procedure. Application for preliminary plat approval shall constitute withdrawal of the application for approval under the

Abbreviated Plat Procedure, and upon receipt of notice of said application, the City Administrator shall terminate consideration of the abbreviated plat application. Application for approval of a preliminary plat during the pendency of an appeal brought by the applicant, shall constitute withdrawal of the appeal brought by the applicant, shall constitute withdrawal of the appeal, and consideration thereof shall cease upon receipt of notification of said application.

Section 7.127.10.140 Time Limits

- (a) Except as provided in subsection 7.127.10.120 and .130 above, no person may apply for abbreviated plat approval under this Section or preliminary plat approval under Section 7.127.12, for a parcel of real property any portion of which was included in an application for abbreviated plat approval under this Section, within one (1) year after the date on which the City Administrator mailed notice of his decision on the application to the applicant under subsection 7.127.10.090.
- (b) No person may sign or submit an application for abbreviated plat approval for more that one (1) parcel of real property during any twelve (12) month period.

SECTION 7.127.12 PRELIMINARY PLAT APPROVAL PROCEDURE

SUBSECTIONS:

- 7.127.12.010 Purpose and applicability
- 7.127.12.020 Pre-application Conference
- 7.127.12.030 Qualifications of Applicants
- 7.127.12.040 Application – To Whom Made
- 7.127.12.050 Contents of Application
- 7.127.12.060 Public Hearing
- 7.127.12.070 Notice
- 7.127.12.080 Review by City Administrator
- 7.127.12.090 Conduct of Public Hearing
- 7.127.12.100 Acton by Planning Commission
- 7.127.12.110 Time Limit
- 7.127.12.120 Appeal

Section 7.127.12.010 Purpose and Applicability

- (a) The purpose of the preliminary plat procedure is:
 - (1) To provide the Planning Commission with general information concerning the proposed development.
 - (2) To provide guidelines for the subdivider concerning developmental policies of the City; and,

- (3) To acquaint the subdivider with the platting procedure and requirements of the City.
- (b) This procedure shall be used for all subdivisions and replats which do not qualify for the Abbreviated Plat Procedure contained in Section 7.127.10

Section 7.127.12.020 Pre-application Conference

Applicants are strongly encouraged to request a conference with the City Administrator for informal review of the applicant's proposal prior to formal application, so that problems can be addressed with a minimum of delay and misunderstanding.

Section 7.127.12.030 Qualifications of Applicants

- (a) An application to subdivide a parcel of land into smaller lots, tracts or parcels must be signed by all record owners of the parcel to be subdivided.
- (b) An application to replat a tract of land which has already been platted must be signed by the record owners of a majority of the lots which will be affected by the replat.

Section 7.127.12.040 Application – To Whom Made

- (a) The application shall be submitted on a form satisfactory to the City Clerk and shall be accompanied by:
 - (1) six copies of a plat which meets all of the requirements of subsections (b) and (c) below; and
 - (2) Proof satisfactory to the City Administrator that the applicant is qualified pursuant to subsection 7.127.12.030; and
 - (3) The name and current mailing address of the applicant; and
 - (4) The names and current mailing addresses of those persons entitled to receive notice according to subsection 7.127.12.070
 - (5) Proof satisfactory to the City Administrator, that all property taxes which are then due and owing, including penalties, interest, attorney fees, and administrative and other charges, against any parcel of land contained within the proposed plat, have been paid. If the plat will alter the boundary of any parcel of land for which taxes will be, but are not yet, due for the current year, the applicant shall prepay the amount of taxes which will become due on the property for the current year. If the mill rate has not been set for the current year, the amount to be prepaid will be calculated using the previous year's rate of levy; and
 - (6) Statements from each of the following agencies, that the agency has reviewed the proposal and does not object to it, and any conditions imposed by the agency as a prerequisite for non-objection;
 - (A) Golden Valley Electric Association,
 - (B) Telephone Utilities of the Northland
 - (C) Alaska Department of Environmental Conservation

- (D) If any lot, tract, or parcel has access onto a road maintained by the State of Alaska, the Alaska Department of Transportation and Public Facilities.
 - (E) Any other agency required by the City Administrator
- (7) A certificate showing the holders of all record interests in the property within the plat, issued by a title insurance company licensed to conduct business in the State of Alaska, and dated not more than 10 days prior to the date of application; and
 - (8) Written consent to the proposed plat signed by all holders of security interests in the property within the plat.
- (b) The plat must include all contiguous land described in a single legal description of record, which is owned by the applicant, regardless whether the applicant intends to develop all the land immediately.
 - (c) Each copy of the plat shall contain the following information.
 - (1) Name of subdivision;
 - (2) Legal description;
 - (3) Name and address of owner and subdivider and name of land surveyor, if any of the preliminary plat;
 - (4) The scale shall be fifty feet to the inch, or any multiple of one hundred feet to the inch;
 - (5) Date and north point;
 - (6) Topography shall be shown by contour lines separated by not more than five foot intervals in elevation;
 - (7) The locations, width and names of all existing or platted streets or other public ways within or adjacent to the subdivision, existing permanent buildings, railroad rights – of-way and other important features such as utilities, section lines and political subdivision lines;
 - (8) All parcels of land which are dedicated to the public, or which will be dedicated to the public on the final plat, or which are or will be reserved in deeds for the use of all property owners in the proposed subdivision, together with the conditions or limitations of the reservations, if any;
 - (9) The layout, numbers and approximate dimensions of proposed lots;
 - (10) The layout, names, centerline, and width of proposed streets and alleys and of proposed sewer, drainage, utility and other easements within the subdivision;
 - (11) Space for approval of the Municipality with additional space for date and seal;
 - (12) Existing natural water courses and culverts within the tract and immediately adjacent thereto, and if their location can reasonably be determined by an examination of the area and a review of any documents reasonably available, the location, grade, and pipe size of all sewer, water mains, pipelines, or other underground structures, within the tract and immediately adjacent thereto;
 - (13) Intended land use;

- (14)The location and means of public access to the subdivision;
 - (15)The names of adjacent subdivisions, or an indication that the adjacent land is not subdivided;
 - (16)A vicinity sketch or key, at a scale of not less than one inch to one mile, showing the relative locations of the area to be platted, principal road systems, and section lines;
 - (17)The distance of all lot lines; and
 - (18)Any notations or certifications required by the Alaska Department of Environmental Conservation
- (d) The application shall also contain any other information required by the Commission or the City Administrator
 - (e) The street layout shall be designed to facilitate extension of streets into adjoining areas which may be subdivided in the future. Cul-de-sacs which limit the possibility of future extension of streets shall not be favored. Lots or other parcels of land shall not be designed or created in a manner which results in unreasonable restriction of public access to land which is or will be dedicated to the public.

Section 7.127.12.060 Public Hearing

On receipt of the application, the City Clerk shall schedule a public hearing before the Planning Commission which shall occur not more than sixty (60) days following the date on which the City Clerk received the application.

Section 7.127.12.070 Notice

- (a) Not less than five days prior to the date of the public hearing, the City Clerk shall cause to be mailed by regular mail, to the owners of all parcels of land which adjoin the parcel contained in the application, at the addresses specified in the application, a notice of the public hearing. The notice shall be substantially similar in form and content to the notice given by the Clerk of public hearings at meetings of the Municipal Assembly.
- (b) For purposes of this subsection a parcel adjoins another parcel if the boundaries of the two parcels touch at any point, or if the parcels are separated at any point only by a street, easement, or other similar right of way.
- (c) The City Clerk shall also publish notice of the public hearing in the same manner and form as utilized for notices of public hearings at meetings of the Municipal Assembly.

Section 7.127.12.080

Review by City Administrator Prior to the public hearing, the City Administrator shall review the application for conformance with the public health, safety, and welfare, and the requirements and purposes of this Chapter, and shall make his recommendations to the Planning Commission concerning approval, disapproval, or conditions of approval, and shall state the reasons therefore, the report of the City Administrator's review shall

be available for public inspection.

Section 7.127.12.090 Conduct of Public Hearing

The Planning Commission shall conduct the public hearing in the same manner as public hearings are conducted by the Municipal Assembly.

Section 7.127.12.100 Action by Planning Commission.

- (a) After the public hearing, the Planning Commission shall determine whether the proposed subdivision or replat complies with all of the requirements and purposes of the Chapter and does not pose an unreasonable risk of harm to the public health, safety and welfare. The Planning Commission may approve the subdivision or replat, with or without conditions which the Commission determines are necessary to protect the public health, safety and welfare, or to bring the subdivision or replat within the requirements and purposes of this Chapter.
- (b) If the Commission determines that the proposed subdivision or replat does not comply with the requirements and purposes of this Chapter, or that it poses an unreasonable risk of harm to the public health, safety and welfare, the Commission may disapprove the application. The Commission is not required to attach conditions to an application in an attempt to bring the application into compliance with the standards imposed by subsection (a)
- (c) The Commission shall cause any conditions imposed under subsection (a) to be endorsed upon two copies of the plat submitted with the application. The City Clerk shall promptly mail or deliver one copy of the endorsed plat to the applicant and shall retain the other copy for the City's records.
- (d) The Commission shall cause to be mailed to the applicant written notice of its decision.

SECTION 7.127.16

FINAL PLAT APPROVAL

SUBSECTIONS:

- 7.127.16.010 Application
- 7.127.16.020 Qualifications of Applicants
- 7.127.16.030 Contents of Application
- 7.127.16.040 Action by City Administrator
- 7.127.16.050 Reapplication
- 7.127.16.060 Appeal
- 7.127.16.070 Action by Planning Commission

- 7.127.16.080 Appeal of Planning Commission's Decision\
- 7.127.16.090 Expiration of Preliminary Plat Approval
- 7.127.16.100 Recording of Plat

Section 7.127.16.010 Application

A person who has received preliminary or abbreviated plat approval may apply for final plat approval by submitting an application to the City Clerk not later than Two (2) years after the date on which notice of the preliminary or abbreviated plat approval was mailed to the applicant.

Section 7.127.16.020 Qualifications of Applicants

- (a) An application for final approval of a subdivision plat must be signed by all the record owners of the parcel being subdivided. If ownership of the parcel has changed since preliminary plat approval was granted, only the current record owners must sign the application.
- (b) An application for final approval of the replat of a parcel of land which was previously platted, must be signed by the current record owners of all of the lots which will be affected by the replat.

Section 7.127.16.030 Contents of Application

- (a) The application shall contain the name and mailing address of the applicant, shall be in a form satisfactory to the City Clerk, and shall be accompanied by a non-refundable application fee of two dollars (\$2.00) for each acre contained in the final plat in excess of fifty (50) acres. Regardless of the acreage of the plat however, the minimum fee shall be one hundred dollars (\$100).
- (b) The application shall be accompanied by one original and two prints of the final plat, in recordable form. The original plat shall be drawn on high quality reproducible mylar with non-fading black ink, and shall measure 24 inches by 36 inches. The plat shall be at a scale of either one inch equals 50 feet, or one inch equals any multiple of 100 feet. All distances shall be shown in feet and hundredths of feet, and all bearings shall be shown to the nearest five seconds. If more than one sheet is required to display the entire plat, each sheet shall be the same size and drawn to the same scale. In such a case, the application shall contain an index identifying the contents of each sheet. Each sheet shall be numbered consecutively and shall indicate the total number of sheets, e.g. sheet one of four. The application shall also contain the certificates required by Section 7.127.40.
- (c) The final plat shall be an accurate drawing based on a survey, with an allowable error of closure not exceeding one foot in five thousand feet.
- (d) The application shall be accompanied by an updated certificate showing any changes in record interests which have occurred with respect to the platted area since the date of the certificate which was filed with the application for

preliminary or abbreviated plat approval The certificate shall be issued by a title insurance company licensed to conduct business in the State of Alaska, and shall be dated not more than 10 days prior to the date of application.

- (e) There shall also be shown on the final plat the following information:
 - (1) True bearings and distances to the nearest established street lines and to all monuments used to locate the boundary of the platted area. The monuments shall be accurately described and delineated on the plat;
 - (2) The basis of bearing and its source;
 - (3) All monuments found during survey of the platted area;
 - (4) The external and internal boundary lines of the platted area, with accurate distance and bearings;
 - (5) The exact location and width of all existing or recorded streets intersecting the boundary of the tract;
 - (6) The center line and width of all streets within the platted area;
 - (7) The location and width of all easements and rights of way within the platted area;
 - (8) The square footage of each lot to the nearest 10 square feet, or the acreage of each lot to three decimal places;
 - (9) The boundaries of any property which is offered for dedication for public use with the purposes indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision;
 - (10) The location and width of all rights of way which provide access to the platted area;
 - (11) The stamp of a licensed surveyor;
 - (12) A numbering system for all lots in each block which is consecutive, simple and easy to follow;
 - (13) Any notations or certifications required by the Alaska Department of Environmental Conservation;
 - (14) Any other information required as a condition of preliminary or abbreviated plat approval.
- (f) The application shall contain proof satisfactory to the City Administrator that the corners of the subdivision or replatted parcel have been marked by permanent monuments, and that the corners of each lot have been staked so as to provide an efficient method of locating and identifying all lot boundaries.
- (g) The application shall demonstrate to the satisfaction of the City Administrator, that the plat or replat substantially complies with all conditions of preliminary or abbreviated plat approval.
- (h) The application shall contain proof satisfactory to the City Administrator that actual construction of all roads, streets, sewers, and other public ways and utilities, created by the plat or required to be constructed as a condition of preliminary or abbreviated plat approval, has been substantially completed in conformance with the conditions of preliminary or abbreviated plat approval and any other applicable governmental standards and regulations.

- (i) The plat shall be signed by all holders of record interests in the platted area.
- (j) The application shall also contain any other information required by the Planning Commission or the City Administrator.

Section 7.127.16.040 Action by City Administrator

If the City Administrator determines that the plat or replat complies with the requirements of Section 7.127.16, Final Plat Approval, and substantially complies with all the conditions of preliminary or abbreviated plat approval, he shall grant final plat approval, and shall endorse on the plat or replat a certificate of approval sufficient to enable the applicant to record the plat or replat. Otherwise, he shall reject the application. The City Administrator shall promptly cause to be mailed to the applicant, by regular mail, notice of his action on the application.

Section 7.127.16.050 Reapplication

An applicant whose application for final plat approval has been rejected, may reapply for final plat approval at any time not later than on (1) year after the date on which notice of the planning commission's preliminary plat approval was mailed to the applicant.

Section 7.127.16.060 Appeal

- (a) Any person or governmental entity including the City of Nenana, aggrieved by the City Administrator's decision may appeal the decision to the planning commission by filing written notice of appeal, stating the grounds for appeal, with the City Clerk not more than ten (10) days after the date on which notice of the Administrator's decision was mailed to the applicant. If the applicant is not the appellant, the Clerk shall mail notice of the appeal to the applicant at the address contained in the application, by regular mail, and the applicant shall have not more than ten days after the date of mailing to file written comments on the appeal with the Clerk. The clerk shall schedule a public hearing on the appeal and publish notice thereof as required by subsection 7.127.12.060 and 7.127.12.070.

Section 7.127.16.070 Action by Planning Commission

After the public hearing the Planning Commission may:

- (a) Grant final plat approval if it determines the plat or replat complies with the requirements of Section 7.127.16, Final Plat Approval, and substantially complies with all of the conditions of preliminary or abbreviated plat approval; or
- (b) Amend the conditions of preliminary or abbreviated plat approval, if it determines that a substantial change in circumstances affecting the area sought to be subdivided or replatted since the date of preliminary or abbreviated plat approval requires an amendment, or if newly discovered evidence which could not reasonably have been presented at the time of the hearing on preliminary plat

- Approval. If not, the applicant may apply for final plat approval in accordance with this Section at any time not later than two (2) years following the date on which notice of the Planning Commission's action under this subsection is mailed to him; or
- (c) The Planning Commission may deny final approval
 - (d) The Planning Commission shall cause a notice of its action to be promptly mailed to the applicant at the address contained in the application.

Section 7.127.080 Appeal of Planning Commission's Decision

Any person or government entity including the City of Nenana, aggrieved by the Commission's decision, may appeal the decision of the Planning Commission the Municipal Assembly as provided in Chapter 7.127.44

Section 7.127.16.090 Expiration of Preliminary Plat Approval

- (a) Except as otherwise provided, preliminary or abbreviated plat approval expires one (1) year from the date notice of the approval was mailed to the applicant. Thereafter, the applicant may not receive final plat approval without first reapplying for preliminary or abbreviated plat approval.
- (b) During the time period specified in subsection (a), the applicant may apply to the Planning Commission for an extension of time I which to apply for final plat approval. The application shall be in writing on a form satisfactory to the City Clerk, and shall be filed with the Clerk. The application shall comply with the requirements of subsection 7.127.16.020. The Clerk shall issue notices and schedule a public hearing as required by subsection 7.127.12.060. The Clerk shall issue notices and schedule a public hearing as required by subsection 7.127.12.060 and 7.127.12.070. If the Planning Commission determines that circumstances beyond the applicant's control, or which the applicant could not have reasonably foreseen at the time of the public hearing on preliminary plat approval, justify an extension, the Planning Commission may approve an extension to a date certain. If not, the Planning Commission shall deny the request. The Planning Commission's decision may be appealed in the manner provided in subsection 7.127.16.080.

Section 7.127.16.100 Recording of Plat

Immediately upon the granting of final plat approval, the City Administrator shall cause to be endorsed on the plat a certificate of approval in a form which enables the applicant to record the plat.

SECTION 7.127.20

SUBDIVISION DESIGN STANDARDS

I. STREETS

SUBSECTION

- 7.127.20.010 Generally
- 7.127.20.020 Principal
- 7.127.20.030 Tract Requirements
- 7.127.20.040 Residential
- 7.127.20.050 Intersections or Residential Streets
- 7.127.20.060 Alleys
- 7.127.20.070 Grades on Streets
- 7.127.20.080 Grade Changes
- 7.127.20.090 Closed Ends
- 7.127.20.100 Half Streets
- 7.127.20.110 Sight Distances
- 7.127.20.120 Right-of-way Width
- 7.127.20.130 Deflection Angles
- 7.127.20.140 Reversed Curves
- 7.127.20.150 Flat Grades
- 7.127.20.160 Boundary Streets
- 7.127.20.170 Names
- 7.127.20.180 Property Lines

II. BLOCKS

- 7.127.20.210 Generally
- 7.127.20.220 Width and Depth Requirements
- 7.127.20.230 Pedestrian Crosswalks

III. LOTS

- 7.127.20.240 Generally
- 7.127.20.250 Varying Dimensions
- 7.127.20.260 Septic Tank Construction
- 7.127.20.270 Abutment
- 7.127.20.280 Side Lines
- 7.127.20.290 Double Frontage Lots
- 7.127.20.300 Frontage – Arterial Streets
- 7.127.20.310 Vacations

I. STREETS

Section 7.127.20.010 Generally

The streets shall be designed and located in relation 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. Roads and streets are to meet construction specifications in accordance with standards established by the City of Nenana.

Section 7.127.20.020 Principal

Principal streets in adjoining subdivisions shall be continued and shall be of at least equal width. Street jogs shall be avoided wherever possible. The street system shall provide for the future projection of the principal streets into adjoining unsubdivided lands.

Section 7.127.20.030 Tract Requirements

When a tract fronting on a major road for a distance of 500 feet or more and an average depth from the major road of more than 350 feet is to be subdivided into more than eight residential lots adjoining the major road, the Commission may require that access to such roads be provided with frontage on collector streets.

Section 7.127.20.040 Residential

Residential streets shall be so laid out that their use by through traffic will be discouraged

Section 7.127.20.050 Intersection of Residential Streets

There shall be a minimum number of intersections of residential streets with arterial streets or major streets. Streets shall intersect as nearly as possible at right angles and not more than two streets shall intersect at one point.

Section 7.127.20.060 Alleys

Alleys at least 20 feet wide shall be provided in all commercial, industrial and business districts, except where other definite and assured provision is made for service access as well as for access to off-street parking and loading areas. Alleys may not need to be provided in residential blocks, except where the subdivider produces evidence satisfactory to the Commission of the need for alleys. Residential alleys shall be at least 15 feet wide.

Section 7.127.20.070 Grades on Streets

The grades of streets shall not exceed 10 percent, except upon consent of the Commission. Grade on arterial streets may not exceed four percent to provide for proper drainage

Section 7.127.20.080 Grade Changes

All changes in street grades shall be connected by vertical curves

Section 7.127.20.090 Closed Ends

Cul-de-sacs shall be provided with a suitable turn-a-round with a minimum radius of 50 feet.

Section 7.127.20.100 Half Streets

Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated.

Section 7.127.20.110 Sight Distance

Adequate stopping sight distance will be provided at each intersection. Sight distance must be equal to or exceed the stopping site distance required for the speed limit of the intersecting street. In no case will sight distance be less than 200 feet.

Section 7.127.20.120 Right-of-way Width

Except as provided for in Section 7.127.20.170, the minimum right-of-way for streets shall be as follows:

Arterial street, Major streets and highways	80ft
Collector streets	60ft
Cul-de-sacs	60ft
Alleys (residential)	15ft
Alleys (Industrial/Commercial)	20ft

Section 7.127.20.130 Deflection Angles

When a deflection angel of more than ten degrees in the alignment of a street occurs, a curve of reasonable radius shall be introduced. On streets sixty feet or more in width, the centerline radius of curvature may not e less than three hundred feet; and other streets, not less than one hundred feet.

Section 7.127.20.140 Reverse Curves

Between reversed curves on all streets there should be a tangent at least one hundred feet long where possible.

Section 7.127.20.150 Flat Grades

Flat grades are preferred from 50 to 100 feet away from an intersection, but in no case may grades exceed four percent for a distance of at least 50 feet from an intersection.

Section 7.127.20.160 Boundary Streets

Boundary streets adjoining unsubdivided land may be dedicated as two-thirds the normal width where it is anticipated that the remaining width will be dedicated by the adjoining owner in the foreseeable future.

Section 7.127.20.170 Names

Streets shall be named in such a manner as to conform to adjacent areas and particular attention shall be given to avoid duplication; streets that are continuations of others already in existence shall bear the name of existing streets.

Section 7.127.20.180 Property Lines

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

II. BLOCKS

Section 7.127.20.210 Generally

The length, width and shapes of blocks shall be determined with due regard to the special needs of the type of use contemplated, need for convenient access and circulation, topography, conservation of the building site, and regulations in Section 7.127.20.220 through 7.127.20.230.

Section 7.127.20.220 Width and Depth Requirements

Blocks should not exceed 600 feet, nor be less than 300 feet in length. Blocks shall be wide enough to allow two tiers of lots of minimum depth except where fronting on major streets or prevented by topographical conditions or size of the property, in which case the Commission may approve a single tier of lots.

Section 7.127.20.230 Pedestrian Crosswalks

Pedestrian crosswalks no greater than ten feet wide shall be required in blocks longer than 600 feet where considered essential to provide reasonable circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

III. LOTS

Section 7.127.20.240 Generally

The shape of lots and their orientation shall be appropriate to the location of the proposed subdivision, the type of development contemplated, the contour of the land, and subject to the following regulations in Sections 7.127.20.250 through 7.127.20.310.

Section 7.127.20.250 Varying Dimensions

Varying dimensions of lots are permitted. However, no individual lot shall be less than one acre in size as measured around its exterior boundary. The dimension of lots shall be a length to width ratio of approximately two to one.

Section 7.127.20.260 Septic Tank Construction

In areas where no public sewer system is available, the lots shall be large enough to afford the construction of septic systems and seepage pits in accordance with the regulations and specifications of the Alaska Department of Environmental Conservation.

Section 7.127.20.270 Abutment

Each lot shall abut on a dedicated street or other approved access.

Section 7.127.20.280 Side Lines

Side lines of lot shall be approximately at right angles or radial to the street line.

Section 7.127.20.290 Double Frontage Lots

Double frontage lots, other than corner lots, shall be permitted only under unusual condition.

Section 7.127.20.300 Frontage- Arterial Streets

Where a new subdivision involves frontage on an arterial street, lots fronting on it must be at least twenty percent deeper than the average lot in the subdivision unless access streets are provided.

Section 7.127.20.310 Vacations

Street, alley, and public way vacations shall be processed as per state law, as found in Alaska Statutes Title 40, Chapter 15. Final action shall be by the Assembly.

SECTION 7.127.24

PUBLIC USE AND SERVICE AREAS

SUBSECTION

- 7.127.24.010 Dedication for Public Utilities
- 7.127.24.020 Dedication of Public Use Lands
- 7.127.24.030 Natural, Cultural Features
- 7.127.24.040 Streams, Watercourses
- 7.127.24.050 State Approval

Section 7.124.24.010 Dedication for Public Utilities

Rights-of-way or easements at least 10 feet wide, five feet on each side of the rear or side property lines of lots, together with the right of ingress and egress thereto and therefrom, shall be dedicated on the final plat where necessary for public utilities. An anchor pole easement 10 feet wide, 25 feet deep, appropriately places, together with the right of ingress and egress thereto and therefrom shall be provided where necessary for public utilities. Buried utilities are recommended wherever possible.

Section 7.127.24.020 Dedication of Public Use Lands

Due consideration should be given to the allocation of suitable areas for school, park, playground, and other areas to be dedicated for public use or for future acquisition by a public body.

Section 7.127.24.030 Natural, Cultural Features

Outstanding natural and cultural features such as scenic spots, watercourses, and historic sites shall be maintained insofar as possible.

Section 7.127.24.040 Streams, Watercourses

Wherever any stream or important surface watercourse is located in a subdivision, the subdivider shall provide and dedicate easements along the stream at least 20 feet wide, or in such width as it is determined by the Commission necessary for the purposes of bank stabilization, flood control, stream protection and for sanitary or recreational use.

Section 7.127.24.050 State Approval

Prior to final plat approval by the Commission, approval of the State of Alaska, Department of Health and Social Services and Department of Environmental Conservation shall be obtained for the method proposed for water and sewer service

SECTION 7.127.28

SUBDIVISION IMPROVEMENTS.

SUBSECTIONS

7.127.28.010 General Purpose

7.127.28.020 Guarantee of Required Improvements

7.127.28.030 Maintenance Agreement

Section 7.127.25.010 General Purpose

The purpose of this section is to establish and define the improvements which will be required under the subdivision agreement to be constructed by the subdivided as a condition of final plat approval and to outline the procedures and responsibilities of the sub divider and the City of Nenana to assure compliance with these requirements.

Section 7.127.28.020 Guarantee of Required Improvements

Prior to final approval by the Commission, required surveying, documentation, street, sewer, water, drainage, and other improvements must be either constructed to the satisfaction of the Commission or an acceptable surety bond or certified check in an amount approved by the Commission to completely construct the improvements and maintain said improvements for one year, must be furnished by the subdivider. In the event the improvements are not completed within one year of approval of the final plat, the improvements shall be completed by the City at the liability and expense of the subdivider and his bonding company.

Section 7.127.28.030 Maintenance Agreement

The subdivider shall guarantee that the required improvements provided will remain in good conditions for a period of one year after the date conditional acceptance by the City of Nenana and agrees to make all repairs to and maintain said improvements in good condition during the one year period at no cost to the City of Nenana.

SECTION 7.127.32

VARIANCES

Section 7.127.32.010 Generally

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by existing development conditions that application of the provisions of this title shall result in substantial hardship, the Commission may vary or modify the requirements to the end that the subdivision may be developed in a manner consistent with public welfare and safety.

SECTION 7.127.36

WAIVER

Section 7.127.36.10 Generally

The Planning Commission may, in individual cases, waive the preparation, submission, and recording of a plat upon satisfactory evidence that a conveyance of a larger tract is not made for a present or projected subdivision development, and constitutes an isolated transaction which does not fall within the general intent of this title and that no dedication of a public area or use is involved or required. The applicant shall apply for a waiver, and the City Administrator shall process the application, in the manner provided in Section 7.127.12m except that subsection 7.127.12.050 shall not apply. The applicant shall submit a drawing in ink on 100 percent rag paper sufficient to enable the Commission to determine the location of the property and the effects the request will have on the surrounding area.

SECTION 7.127.40

CERTIFICATES

SUBSECTIONS

7.127.40.010 Generally

7.127.40.020 Certificate of Ownership and Dedication

7.127.40.030 Engineer's Certificate

Section 7.127.40.010 Generally

The final plat shall be accompanied by certificates and affidavits as listed hereafter.

Section 7.127.40.020 Certificate of Ownership and Dedication

The following certificate shall be printed on or attached to the plat and signed by all persons holding a record interest in the property. The certificate illustrated in this section may be amended if circumstances or ownership warrant. Any signatures appearing on the certificate shall be notarized by a notary public for the State of Alaska.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all streets, alleys, walks, parks, and other open spaces to public or private use as noted.

Date

Owner

Witness

Owner

Notary's Acknowledgement

Section 7.127.40.030 Engineer's Certificate

The following certificate shall be printed on all plats which contain a certificate of approval by the City sufficient to permit the plat to be recorded, and shall be properly signed by the engineer or surveyor making the survey:

CERTIFICATE OF REGISTERED ENGINEER OR SURVEYOR

I hereby certify that I am registered professional civil engineer/land surveyor and that this plat represents the survey made by me or under my direct supervision, and the monuments shown thereon actually exist as located, and that all dimensional and other details are corrected.

Date

Registered Engineer/Surveyor

(seal)

Section 7.127.40.040 Certificate of Approval by the Commission

The following form of certification shall be printed on the final plat by the person preparing the plat to be filled in after final plat approval is granted:

“CERTIFICATE OF APPROVAL”

I hereby certify that the plat shown heron has been found to comply with the subdivision regulations of the Municipality of Nenana and that said plat has been duly approved by the Municipality of Nenana for recording in the Office of the district court, ex officio recorder, _____, Alaska.

Date

City Administrator

ATTEST:

Secretary

Seal

SECTION 7.127.44

PENALTIES AND APPEALS

SUBSECTIONS:

7.127.44.010 Penalties

7.127.44.020 Appeals

Section 7.127.44.010 Penalties

- (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or agrees or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded in compliance with the provisions of this Chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel transferred, sold agreed to or included in a contract to be sold. In addition to any other penalty or remedy provided by law, the Municipality may enjoin a transfer or sale or agreement to transfer or sell land in violation of this Chapter, and may recover by civil action from the owner or an agent of the owner, a civil penalty of \$500 for each lot or parcel transferred, sold, or included in a contract for transfer or sale in violation of this chapter.
- (b) No person may file or record a plat or replat of land located within the Municipality of Nenana in any public office unless the plat bears the approval of the Municipality. Any person who files or records a plat or replat in violation of this requirement upon conviction is punishable by a fine of not more than \$500, or

by imprisonment for not more than six months, or by both. In addition to any other penalty or remedy provided by law, the Municipality may enjoin the recording of a plat or replat in violation of this Chapter, and may recover by civil action from the owner or an agent of the owner of the property platted or replatted, a civil penalty of \$500 for each lot or parcel of land contained within the plat or replat recorded or sought to be recorded in violation of this chapter.

Section 7.127.44.020 Appeals

- (a) An appeal of a final action of the Planning Commission under Sections 7.127.10 through 7.127.44, may be filed with the Municipal Assembly in the manner provided in subsection 7.127.10.110 (a), for appeals from decisions of the City Administrator. The Clerk shall schedule a public hearing on the appeal and publish notice thereof as required by subsections 7.127.12.060 and 7.27.12.070. The Assembly shall consider the matter de novo and shall decide the appeal based on compliance with the requirements of this Chapter. The Assembly shall cause notice of its decision to be mailed to the applicant and the appellant.
- (b) Any person or governmental entity including the City of Nenana, may appeal a decision of the Municipal assembly to the Superior Court in the manner provided in the Alaska Rules of Appellate Procedure for appeals from actions by administrative agencies.

SECTION 7.127.48

MISCELLANEOUS

SUBSECTION:

7.127.48.010 Changes and Amendments

7.127.48.020 Severability

Section 7.127.48.010 Changes and Amendments.

With the advice of the Planning Commission, the Assembly may amend the provisions of this Chapter. However, failure to obtain the advice of the Planning Commission shall not affect the validity of any amendment to this Chapter.

Section 7.127.48.020 Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this ordinance.

CHAPTER 7 – LAND USE, PLANNING, PLATTING AND ZONING

ARTICLE 2 – FLOOD CONTROL REGULATIONS

Reviser's Comments: Regulations to control land use in flood hazard areas are required to participate in the National Flood Insurance Program. AS 29.35.260 permits a Municipality to provide for planning, platting and zoning of land use. This article was added with the adoption of Ordinance 85-03 8/15/85 and amended by adoption of ordinance 88-02 3/10/88.

Section 7.205. Definitions

- (a) "Federal Emergency Management Agency" is the agency responsible for administration of the National Flood Insurance Program.
- (b) "Flood Hazard Area (also Special Flood Hazard Area) means the land area covered by the flood, having a one percent of chance of occurring in any given year.
- (c) "Flood Hazard Area 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.
- (d) "Flood Hazard Boundary Map(FHBM)" means the map of the community issued by the FEMA which delineates the area subject to the 100 year flood, the water surface elevation of the base flood and the insurance rate zones.
- (e) "Flood Insurance Rate Map (FIRM)" means the map of the community issued by the FEMA which delineates the area subject to the 100 year flood, the water surface elevation of the base flood and the insurance rate zones.
- (f) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, usually one foot, at any point.
- (g) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (h) "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 found at Section 7.225(d)(2).

- (i) “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 connected to the required utilities. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.
- (j) “One Hundred Year Flood” (also called Regulatory Flood or Base Flood) means the flood having a one percent chance of being equaled or exceeded in any given year, and possible in successive years. Statistical analysis and run off characteristics of the watershed, or topography and storm characteristics are used to determine the extent and depth of the 100-year flood.
- (k) “Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and /or walk ways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- (l) “Structure” means a walled and roofed building including liquid or gas storage tank that is principally above ground.
- (m) “Substantial improved” means any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the property either (1) as such value exist before the improvement is started or (2) if the property has been damaged and is being restored, as such value existed before the damage occurred.

[Reviser’s Note- Section 7.210 was amended by adoption of Ordinance 99-04 adopted on March 11, 1999. Ordinance 99-04 updates the code as to new flood base level.]

Section 7.210 Statement of Purpose

The purpose of this ordinance is to promote the public health, safety and general welfare, and to minimize flood losses. To accomplish this purpose, it is the intent of this ordinance to:

- (a) Incorporate as a part of this Ordinance the areas of special flood hazard identified by the “Federal Insurance Study for Nenana, Alaska” dated June 9, 1972 and January 9, 1976 and April 7, 1999 with accompanying Flood Insurance Maps;
- Chapter 7, Article 2, Page 2

- (b) Establish a land use permit system;
- (c) Require that land uses vulnerable to floods, including public facilities and utilities which serve such uses, shall be protected against flood damages at the time of initial construction or substantial improvement;
- (d) Restrict or prohibit land uses which are dangerous to health, safety or property in times of flood or cause excessive increases
- (e) Insure that subdivision and development of land within the Municipality are consistent with need to minimize flood hazards
- (f) Insure that potential buyers are notified that property is in a flood hazard area.
- (g) Insure that those who occupy the flood hazard areas assume responsibility for their actions.

Section 7.215 Land Use Permit

- (a) No party shall engage in development within the mapped flood hazard area within the Municipality of Nenana without first securing a land use permit.
- (b) The land use permit shall be required for all structures, including manufactured homes.

Section 7.220 Application

- (a) Applications for land use permits shall be made to the Floodplain Administrator on forms furnished by the Municipality.
- (b) The information furnished in the application shall include, but is not limited to:
 - (1) The name and address of the owner(s) of the structure(s), the tract upon which the structure(s) is or will be located, and a legal description of the tract;
 - (2) Elevation of the lowest habitable floor (including basement) of the structure(s);
 - (3) Elevation to which the structure(s) has been floodproofed;
 - (4) Certification by a registered professional engineer or architect that any non-residential structure is watertight, with walls substantially impermeable to the passage of water, and structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy that would be caused by the depths, pressures, velocities, impact and uplift forces associated with the base flood.
 - (5) A list of any additional permits required by State or Federal law before construction may begin, indicating the responsible agency and for what the permit was issued. At a minimum, this includes the Alaska Department of Fish and Game, the Alaska Department of Natural Resources and the U.S. Army Corps of Engineers.

Section 7.225 Protection Against Flood Damage

Within flood hazard areas no land use permit shall be approved unless all of the following requirements are satisfied:

- (a) Anchoring Any new or substantially improved construction shall be designed (or modified) and anchored to prevent floatation, collapse or lateral movement of the structure, and shall be installed using practices that minimize damage.
- (b) Construction Materials and Methods Construction materials, practices and methods that are resistant to and minimize flood damage shall be utilized. Electrical, heating, ventilation, plumbing, and air conditioning equipment 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.
- (c) Utilities construction or substantial improvement shall not be permitted unless the applicant demonstrates that new or replacement water supply systems and sanitary sewage systems, including on-site waste disposal systems, will be designed and constructed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.
- (d) Residential Structures.
 - (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation
 - (2) 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 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.
- (e) Non-residential construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effect buoyancy;
 - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standard of practice for meeting provisions of this review of the structural design, specifications and plans. Such certifications shall be provided to the official as set for in Section 7.220(b).
 - (4) Non- residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 7.225(d).
 - (5) Applicants floodproofing non-residential buildings shall be notifies that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
- (f) Encroachments. The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Section 7.230 Subdivision Proposals

Permission to subdivide land shall be denied within flood hazard areas if the subsequent uses will raise the base flood level more than one foot, and unless the following requirements have been fulfilled:

- (a) The subdivision proposal is consistent with the need to minimize flood damages.
- (b) Adequate drainage shall be provided to reduce the exposure of structures, utilities and facilities to flood hazards.
- (c) The fact that a lot is in a flood hazard area shall be disclosed in any contract to purchase, rent or lease the lot.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).
- (e) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

Section 7.235 Manufactured Homes

All manufactured homes to be placed or substantially improved within Zone A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.225(a).

Section 7.240 Variances

- (a) Variances from the requirements of this Ordinance may be granted by the Municipal Assembly, but only if all of the following conditions are met;
 - (1) A showing of good and sufficient cause,
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisances, cause fraud on or victimize the public or conflict with existing local laws or ordinances, and
 - (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (b) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.
- (c) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (d) The Municipality shall notify the applicant in writing with the signature of the Municipal Floodplains Administrator the:
 - (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance commensurate with the increased risk resulting from the reduced lowest flood elevation, up to an amount as high as \$25 for \$100 of insurance coverage.
 - (2) Such construction below the base flood level increases risks to life and property.
- (e) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use.
- (f) The Municipal Clerk or Floodplains Administrator shall maintain a record of all variance actions, including justification for their issuance, and notification.

Section 7.245 Implementation

- (a) The Mayor shall appoint a Floodplains Administrator to implement this Ordinance.

- (b) Permits issued pursuant to this Ordinance shall conform to all ordinances or regulations as are from time to time established or amended; however, this Ordinance shall control in the event of any conflict unless specifically stated otherwise or unless the conflicting ordinance is more restrictive.
- (c) The Municipality shall be responsible for maintaining for public use and inspection appropriate records and information relevant to implementation of this Ordinance. Such records and information shall include but not be limited to:
 - (1) floor elevations of all new or substantially improved structures located in the flood hazard area, and whether or not such structures have basements,
 - (2) elevations, to which structures are floodproofed,
 - (3) Flood Insurance Rate Maps and accompanying Flood Insurance Study,
 - (4) Any other available reports, or studies or flooding data on flood hazards in the community,
 - (5) A copy of the biennial report,
 - (6) A file of all land use permit applications, supporting documentation and municipal action, and
 - (7) Any variance actions, including justification for issuing variances.
- (d) The Municipality shall file with the FEMA a biennial report on forms provided by the FEMA. This annual report shall be verified and signed by the Mayor or designated Floodplains Administrator. A copy of the biennial report shall be retained by the Municipality and one copy shall be sent to the State coordination agency, the Department of Community & Regional Affairs, Division of Municipal & Regional Assistance.
- (e) If any structure is constructed or substantially improved in violation of this Ordinance, the Municipality shall institute any proper actions or proceedings necessary as specified in the Municipal code.
- (f) Prior to enactment of any changes in this Ordinance due to changes in the flood hazard area as a result of natural or man-made causes, such changes shall be approved by the FEMA.
- (g) Any changes in the Municipality's boundaries or authority to regulate land uses must be reported at least annually to the FEMA.
- (h) Nothing in this Ordinance shall be construed as applying to any structures existing prior to the effective date of this ordinance or the effective date of the FIRM, unless substantial improvements are made after the effective date.

Section 7.250 Interpretation of FIRM Boundaries

The Municipality (or designated Floodplains Administrator) may make interpretations where needed, as to the exact location of the flood hazard area boundaries where there appears to be a conflict between a mapped boundary and actual field conditions. Reasonable opportunity must be provided for appeals of boundary interpretations. In the interpretation and application, all provisions of this Ordinance shall be considered as minimum requirements, and construed in favor of the governing body.

Section 7.255 Severability and Disclaimer of Liability

- (a) If any portion of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable
- (b) The grant of a lands use permit or approval of a subdivision plan in the flood hazard areas shall not constitute a representation, guarantee or warranty of any kind by the Municipality or any official or employee there of the practicability or safety of the proposed use, and shall create no liability upon the Municipality, its officials or employees.
- (c) The degree of flood protection required by this ordinance is considered reasonable and is based on scientific and engineering considerations. Larger floods can occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that locations outside flood hazard areas or land uses permitted within such areas will be free from flooding or flood damages.

CHAPTER 7 – LAND USE, PLANNING, PLATTING AND ZONING

Article 3 – Municipal Airport Zoning

Reviser's note – Article 3 was added to Chapter 7 of the Code by adoption of Ordinance 87-09 on 1/28/88.

Section 7.300 Short Title

This Ordinance shall be known and may be cited as the Nenana Municipal Airport Zoning Ordinance.

Section 7.305 Definitions

- (a) "Airport" means The Nenana Municipal Airport
- (b) "Airport Elevation" means the highest point of an airport's usable landing area measured in feet from sea level.
- (c) "Airport Manager" means the individual duly appointed by the Municipal Assembly to supervise the operation, maintenance and management of the Municipal Airport.
- (d) "Approach Surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 7.315 of this Ordinance. In plan the perimeter of the approach surface should coincide with the perimeter of the approach zone.
- (e) "Approach, Transitional, and Horizontal Zones" means those zones as set forth in Section 7.310 of this Ordinance.
- (f) "Board of Appeals" means the Municipal Assembly of the Municipality of Nenana, convened as a Board of Appeals.
- (g) "Hazard to Air Navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (h) "Height" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, means sea level elevation unless otherwise specified.
- (i) "Horizontal Surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan should coincide with the perimeter of the horizontal zone.
- (j) "Nonconforming Use" means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- (k) "Obstruction" means a structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 7.315 of this Ordinance.

- (l) "Person" means an individual, firm, partnership, corporation, company association, joint stock association, or governmental entity, including a trustee, receiver, an assignee, or a similar representative of any of them.
- (m) "Primary Surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface extends to each end of but not beyond that runway. The width of the primary surface is set forth in Section 7.310 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (n) "Runway" means a defines area prepared for landing and takeoff of aircraft.
- (o) "Structure" means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
- (p) "Transitional Surfaces" means surfaces which extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions or the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- (q) "Tree" means any object of natural growth.

Section 7.310 Airport Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces and horizontal surface, within the corporate limits of the Municipality of Nenana as they apply to Nenana Municipal Airport. Such zones are shown on Nenana Municipal Airport zoning map consisting of 1 sheet, dated October, 1987, which is attached to this Ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows.

- (a) Utility Runway Visual Approach Zone- The inner edge of this approach zone coincides with the end of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- (b) Runway Larger Than Utility With a Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone. - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (c) Transitional Zone – The transitional zones are the areas beneath the transitional surfaces.
- (d) Horizontal Zone – The horizontal zone consists of all area within the corporate limits of the Municipality of Nenana excluding the approach and transitional zones and primary surfaces.

Section 7.315 Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each zone as follows:

- (a) Utility Runway Approach Zone – Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (b) Runway Larger Than Utility Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevations as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (c) Transitional Zones – Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface. And extending to a height of 150 feet above the airport elevation, which is 362 feet above mean sea level.
- (d) Horizontal Zone – Established at 150 feet above the airport elevation or at a height of 512 feet above mean sea level.
- (e) Excepted Height Limitations – Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 95 feet above the surface of the land, outside of the approach zones, transitional zones and primary surfaces.

Section 7.320 Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or

interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. No area, surface, or structure may be constructed, erected, maintained or modified for use as a runway for aircraft within any zone established by this Ordinance unless and until a Notice of Intent, as provided in the regulations of Federal Administration (FAA), Part 157, has been duly submitted to the FAA, and a determination of No Objection has been made by the FAA. If the FAA determines that the proposed facility is objectionable, the construction , erection, maintenance or modification is hereby prohibited.

Section 7.325 Nonconforming Uses

- (a) Regulations Not Retroactive – The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, if the structure is diligently used, constructed, and/or altered and is not abandoned.
- (b) Marking and Lighting – Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights s shall be deemed necessary by the Municipality of Nenana to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Municipality of Nenana.
- (c) Abandonment – Any nonconforming use of land or water which is discontinued for any period of 12 consecutive months shall be considered to be abandoned, and all subsequent use(s) of such land or water shall be subject to all of the requirements of this Ordinance.

Section 7.330 Enforcement

It shall be the duty of the Airport Manager to administer and enforce the regulations prescribed herein. Applications for variances shall be made to the City Clerk in written form. Applications required by this Ordinance to be submitted to the City Clerk shall be promptly considered and granted or denied within 30 days of the date of submittal. Application for action by the Board of Appeals shall be forthwith transmitted by the City Clerk.

Section 7.335 Board of Appeals

- (a) There is hereby created a Board of Appeals to have and exercise the following powers:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Airport Manager in the enforcement of this Ordinance;
 - (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Appeals under such regulations may be required to pass; and
 - (3) to hear and decide requests for specific variances
- (b) The Board of Appeals shall adopt rules for its governance and in harmony with the provisions of this Ordinance. Meetings of the Board of Appeals shall be held at the call of the Mayor and at such other times as the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceeding showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the City Clerk and on due cause shown.
- (c) The Board of Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Ordinance.
- (d) The concurring vote of a majority of the members of the Board of Appeals shall be sufficient to reverse any order, requirement, decision, or determination of the Airport manager or decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

Section 7.340 Appeals

- (a) Any person aggrieved, by a decision of the Airport Manager made in the administration of this Ordinance, may appeal to the Board of Appeals.
- (b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Appeals by filing with the City Clerk a notice of appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- (c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Manager certifies to the Board of Appeals, after the notice of appeal has been filed with the Board, that by reason of the facts stated in the certificate a stay would in the opinion of Airport Manager cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Appeals on notice to the Airport Manager and on due cause shown.
- (d) The Board of Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

- (e) The Board of Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as may be appropriate under the circumstances.

Section 7.345 Judicial Review

Any person aggrieved, by any decision of the Board of Appeals, may appeal to the Superior Court of The State of Alaska as provided by the Alaska Administrative Procedure Act, Alaska Statutes 44.62.569, et. al.

Section 7.350 Penalties

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than 1,000 dollars or imprisonment for not more than 30 days or both; and each day a violation continues to exist shall constitute a separate offense.

Section 7.355 Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Section 7.360 Severability

If any of the provisions of this Ordinance or the application thereof to any person or circumstance are held to be invalid, such invalidity shall not affect any other provisions or applications of the Ordinance which can be given effect without the invalid provision or application; such other valid provisions or applications should be and to be given effect without the invalid provision or application, and for this purpose, the provisions of this Ordinance are declared to be severable.