

TITLE 19: ZONING

CHAPTER 19.05: DEPARTMENT OF PLANNING AND COMMUNITY SERVICES

§ 19.05.010 CREATED.

§ 19.05.020 DIRECTOR OF PLANNING AND COMMUNITY SERVICES.

§ 19.05.030 DUTIES AND POWERS OF DIRECTOR.

§ 19.05.040 FUNCTIONS OF DEPARTMENT.

§ 19.05.010 CREATED.

There is created within the North Slope Borough a Department of Planning and Community Services.

(Ord. 91-08, passed 10-8-91)

§ 19.05.020 DIRECTOR OF PLANNING AND COMMUNITY SERVICES.

(A) The principal executive officer of the Department of Planning and Community Services shall be the Director of Planning and Community Services.

(B) The Mayor shall appoint the Director of Planning and Community Services.

(Ord. 91-08, passed 10-8-91; Am. Ord. 91-08-04, passed 11-9-04)

§ 19.05.030 DUTIES AND POWERS OF DIRECTOR.

(A) The Director of Planning and Community Services shall:

(1) Act in furtherance of the Department's goals of providing for a balanced and orderly community development process and the encouragement of economic development throughout the North Slope Borough;

(2) Perform and exercise all powers incident to the duties of this office as prescribed by state and federal law, this code of ordinances and such other duties not in conflict therewith as may be assigned by the Mayor.

(3) Have authority over and direct the activities and functions of the Department; and

(4) Prescribe policy and procedure, with the approval of the Mayor, as be necessary for the efficient and effective operation of the Department.

(Ord. 91-08, passed 10-8-91)

§ 19.05.040 FUNCTIONS OF DEPARTMENT.

(A) The Department of Planning and Community Services shall be responsible for the following functions:

- (1) Administer the Borough's planning and zoning ordinances, the Coastal Zone Management Plan and the Barrow Zoning Ordinance.
- (2) Ensure compliance with local, state and federal law regarding land use.
- (3) Provide review and comment on development issues Borough-wide.
- (4) Provide for a geographical database covering the entire Borough including mapping and graphic services.
- (5) Gather information and develop comprehensive capital improvement program plans for the North Slope Borough.
- (6) Provide teleconferencing facilities Borough-wide.
- (7) Gather and preserve data regarding Inupiat history, language and culture.
- (8) Administer the Borough's support of the Simeon Paneak Museum in Anaktuvuk Pass. (Ord. 91-08, passed 10-8-91)

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TITLE 19: ZONING**CHAPTER 19.10: GENERAL PROVISIONS**§ 19.10.010 INTRODUCTION.§ 19.10.020 PURPOSES.§ 19.10.030 GEOGRAPHIC SCOPE.§ 19.10.040 VALIDITY OF PROVISIONS.§ 19.10.050 CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM.**§ 19.10.010 INTRODUCTION.**

This title creates a unique set of land management principles and procedures for development in the Borough. The ideas contained in this title were developed by officials and residents of the Borough in many public meetings held to develop the Borough's Comprehensive Plan, Coastal Management Program and other planning studies. This title was revised after approval of the Borough's Coastal Management Program Procedural and administrative matters are designed to be as efficient and fair as possible to all concerned, and to comply with legal requirements.

(75 Code, § 19.10.010) (Ord. 75-6-23, passed 4-12-90)

§ 19.10.020 PURPOSES.

This title is adopted:

- (A) To achieve the goals and objectives, and implement the policies, of the North Slope Borough Comprehensive Plan, including its Coastal Management Program;
- (B) To ensure that the future growth and development of the Borough is in accord with the values of its residents;
- (C) To identify and secure, for present and future residents, the beneficial impacts of development;
- (D) To identify and avoid, mitigate or prohibit the negative impacts of development; and
- (E) To ensure that future development is of the proper type, design and location, and is served by a proper range of public services and facilities.

(75 Code, § 19.10.020) (Ord. 75-6-23, passed 4-12-90)

§ 19.10.030 GEOGRAPHIC SCOPE.

This title applies to all private, state, Borough and municipally owned land in the Borough. To the extent allowed by law or administrative regulation it also applies to federal lands, tidelands or

submerged lands in the Borough.

(75 Code, § 19.10.030) (Ord. 75-6-23, passed 4-12-90)

§ 19.10.040 VALIDITY OF PROVISIONS.

Should any provisions of this title be held to be in violation of state law, the State Constitution, federal law or the United States Constitution, such holding shall not affect the validity of any other provision.

(75 Code, § 19.10.040) (Ord. 75-6-23, passed 4-12-90)

§ 19.10.050 CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM.

The Coastal Management Program is a component of the Borough Comprehensive Plan, and the policies contained in the Coastal Management Program are included as part of these regulations and govern (together with all other applicable rules and policies) development in the coastal area. Issuance of any permit or approval within the coastal area shall contain a recommendation or determination addressing consistency of the proposed development or use with the policies of the North Slope Borough Coastal Management Program. The recommendation or determination shall include a justification of any conditions required to make the proposed development or use consistent with the policies of the North Slope Borough Coastal Management Program.

(75 Code, § 19.10.050) (Ord. 75-6-23, passed 4-12-90)

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TITLE 19: ZONING

CHAPTER 19.20: DEFINITIONS§ 19.20.010 RULES OF CONSTRUCTION.§ 19.20.020 DEFINITIONS.**§ 19.20.010 RULES OF CONSTRUCTION.**

Within this title, the following rules and definitions apply.

- (A) Words used in the present tense include the future tense.
- (B) The singular includes the plural, and the masculine includes the feminine and neuter.
- (C) The word PERSON includes a corporation, partnership, joint venture, the Borough and any other public agency, as well as an individual or individuals.
- (D) The terms SHALL and MUST are mandatory and the word MAY is permissive.
- (E) The words USED and OCCUPIED as applied to tidelands, water areas, land, structures or buildings includes INTENDED, ARRANGED, or DESIGNED to be used or occupied.
- (F) The word INCLUDING means INCLUDING BUT NOT LIMITED TO.

(75 Code, § 19.20.010) (Ord. 75-6-23, passed 4-12-90; Am. Ord. 75-6-24, passed 3-3-92)

§ 19.20.020 DEFINITIONS.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY. Applied to a use or structure, means customarily subordinate to or incidental to, and located on the same lot with a principal use or structure.

ADMINISTRATIVE APPROVAL. An approval for a use or development issued by the Administrator pursuant to § 19.50.010(B) which does not involve public notice.

ADMINISTRATOR. The Borough Land Management Administrator, or designee.

AIRPORT-RELATED COMMERCIAL. A use which is directly related to, dependent upon or supportive of aviation activities or facilities.

ALTERATION. Any change, addition or modification in construction or occupancy.

ASSEMBLY. The North Slope Borough Assembly.

BARROW. The City of Barrow, Alaska.

BOROUGH. The North Slope Borough, Alaska.

BOTTOM FOUNDED STRUCTURES. Includes gravel and grounded ice islands, single steel drilling caissons (SSDC), concrete island drilling systems (CIDS) and other offshore drilling platforms which rest on and are supported by the ocean floor, and have primary blowout preventers above the water surface.

BROWERVILLE. The City of Browerville, Alaska.

BULK FUEL STORAGE. Storage of more than 660 gallons of petroleum products above or below ground in temporary containers or permanent structures.

CEMETERY. The providing of burial plots for individuals from many different families. The provision of burial plots for family members is not a **CEMETERY**.

CLUB or **MEETING HALL.** A building devoted to periodic use by private or public organizations for gatherings and meetings.

COASTAL AREA. The area within the coastal boundary as defined by the North Slope Borough Coastal Management Program. The boundary generally encompasses the area within the 200-foot topographic contour, plus one-mile corridors along anadromous fish streams in the western and mid-Beaufort area and extending seaward to the limit of state waters. The coastal area is depicted on "Map 1 - Coastal Area Boundary" in the most recent edition of the Resource Atlas for the North Slope Borough Coastal Management Program.

COMMERCIAL. A use involving the storing, wholesaling, retailing or rental of any article, service or substance for cash, trade or any form of compensation, and supporting activities. Exceptions are commercial uses which are conducted in a dwelling unit or accessory building and are clearly subordinate to the use of the dwelling for residential purposes provided that:

1. The primary use and appearance of the lot and structures remains residential and generally conforming to the appearance of the existing development in the surrounding area;
2. No equipment or process shall be used which creates significant noise, vibration, glare, fumes or odors, detectable to normal senses off the lot, or interference in any radio or television receivers off the premises, or causes any line voltage fluctuation off the premises. Hazardous materials shall not be used or stored on the premises in quantities beyond that required for normal household use;
3. Outside storage of materials or stock shall be on a temporary basis (less than six months); and
4. Adequate parking and traffic circulation shall be provided.

COMMERCIAL GARAGE. The building, or portion of building, in which repairs are made to motor vehicles that are brought in by the general public, in which a fee in cash or trade in excess of the cost of parts is charged, and which operates more than 20 hours per week.

COMMERCIAL RECREATION. A development involving the commercial provision of services in support of any of the following: hiking, hunting, camping, boating or overland and water travel. The term includes the activities of guides and outfitters.

COMMUNICATION EQUIPMENT. Includes navigational aides, satellite dishes, antennas and airport approach lighting.

COMPLIANCE PLAN. A plan developed by the Administrator to bring uses and development into compliance with the terms of the ordinance.

CONDITIONAL DEVELOPMENT. A development subject to approval by the Borough Planning Commission. **CONDITIONAL DEVELOPMENTS** are listed by land use district in Chapter 19.40, and are approved through the process in Chapter 19.60.

CONDITIONAL USE. A use subject to approval by the Barrow Zoning Commission.

CONDITIONAL USES are listed by land use district in Chapter 19.40, and are approved through

the process in Chapter 19.60.

CONSISTENCY DETERMINATION. The formal finding of consistency of a proposed development or use with the standards of the Alaska Coastal Management Program including the enforceable policies of the North Slope Borough Coastal Management Program, and is made by the coordinating agency pursuant to state regulations in 6 AAC 50. The definitions under 6 AAC 50.190(9)(A) and (B) are hereby incorporated to define this term.

CONSISTENCY RECOMMENDATION. The formal finding of consistency of a proposed development or use with the standards of the Alaska Coastal Management Program and the enforceable policies of the North Slope Borough Coastal Management Program, and is submitted by the Borough to a state agency designated the coordinating agency for a particular consistency review.

CONVENIENCE STORE. A commercial use which is:

1. Conducted only on the first floor of a structure;
2. Occupies 1,000 square feet or less of the structures; and
3. Retail merchandise primarily to the neighborhood.

COORDINATING AGENCY. The agency responsible for making a formal finding of consistency of a proposed development or use with the standards of the Alaska Coastal Management Program including the enforceable policies of the North Slope Borough Coastal Management Program. Where a proposed development requires a federal or state permit in addition to a Borough approval, a state agency will be designated the coordinating agency; where only a Borough approval is required the Borough is the coordinating agency.

DANCE HALL. A structure used for dancing on a regular basis.

DAY. Any calendar day, Monday through Sunday, exclusive of Borough holidays.

DAY CARE FACILITY. A use where more than five children are cared for as a paid service.

DENSITY. The number of dwelling units per square feet of lot area.

DEVELOPER. The person who makes the application for a permit for a development or use under the provisions of this title, and his successors in title or interest.

DEVELOPMENT.

1. Inclusions. Except where excluded, includes the following:
 - a. Construction, reconstruction, relocation, placement or alteration of a structure;
 - b. Change in the use or material increase in use of site, including any structure thereon;
 - c. Disturbance of the surface of the ground (including submerged ground) or sea ice. Disturbance includes dredge or fill activities; creation of an equipment or material storage site, or tailing pile; creation of a refuse pile, dump or landfill; creation of a reservoir, settling or evaporation pond, reserve pit or leach fields or placer mining; or seismic exploration;
 - d. Activities directly related to resource extractions; and
 - e. Tundra travel.
2. Exclusions. The following are specifically excluded from the term **DEVELOPMENT**.
 - a. Subsistence, including the construction or placement of structures such as ice cellars, drying racks and hunting blinds in furtherance of subsistence activities;

- b. Development approved by the Borough prior to the effective date of the ordinance codified in this chapter;
- c. Transfer of title, sales or exchanges of land;
- d. Emergency actions (see Chapter 19.50);
- e. Tundra travel for the maintenance of existing or approved development;
- f. Pre-exploration activities; and
- g. Activities excluded by resolution of the Planning Commission.

DEVELOPMENT PERMIT. A permit for a development issued by the Administrator under the provisions of Chapter 19.50.

DWELLINGS.

1. **MULTI-FAMILY DWELLING.** A building designed for or occupied by three or more families.
2. **SINGLE-FAMILY DWELLING.** A detached building designed for long-term human habitation exclusively by one family, having complete living facilities. The term includes factory-built and prefabricated dwellings.

DWELLING UNIT. A building or portion thereof providing independent and complete cooking, living, sleeping and toilet facilities for one family or for one or more unrelated individuals.

EMERGENCY ACTION. Operations necessary to avert imminent danger to human health, safety or welfare, wildlife or wildlife habitat. (See Chapter 19.50.)

EXISTING USE. The use or uses made of a site on the effective date of this title.

FEASIBLE AND PRUDENT ALTERNATIVE. Consistent with sound engineering practice and not causing environmental, social or economic problems that outweigh the public benefit to be derived from compliance with the standard which is modified by the term feasible and prudent.

HAZARDOUS MATERIAL.

1. This definition shall include:
 - a. Any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act (FWPCA);
 - b. Any element, compound, mixture, solution or substance designated pursuant to Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act;
 - c. Any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act, but not including any waste, the regulation of which under the Solid Waste Disposal Act, has been suspended by Act of Congress;
 - d. Any toxic pollutant listed under Section 307(a) of the FWPCA;
 - e. Any hazardous air pollutant listed under Section 312 of the Clean Air Act; and
 - f. Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the Federal Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act.
2. This term does not include petroleum, including crude oil or any fraction thereof, except as identified in divisions 1.a. through f. above. In addition, this term does not include natural gas,

natural gas liquids, liquified natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas.

HEAVY EQUIPMENT. Vehicles with a gross vehicle weight of over 10,000 pounds. This term includes semi-trailer tractors, buses, construction and earth-moving equipment such as front end loaders, backhoes, dump trucks, graders, bulldozers and other tracked or large-tired vehicles.

HOTEL. Any building containing six or more rooms intended, used, designed to be used, rented out or occupied on a temporary basis for sleeping purposes.

LOT. A distinct parcel of land for ownership or tax purposes. Unless otherwise specified, the lot will be deemed to be the site for a development or use. **LOT** also includes the words **PLOT**, **PARCEL** or **TRACT**.

MASTER PLAN. The plan of development required with the application for rezoning to the resource development district. The approved Master Plan indicates the location and type of development which may be administratively approved.

MINOR ALTERATION. A change to an approved or existing development or use which will not significantly impact the environment, or have only minimal impacts over and above that originally approved or requested, as determined by the Administrator. It includes the placement of 5,000 cubic yards or less of gravel as part of an existing development, or the displacement of an approved development not more than 1,320 feet from the originally permitted site.

NET PUBLIC BENEFIT. That the beneficial impacts of a development or use outweigh its detrimental impacts, as set forth in the policies contained in Chapter 19.70. Impacts are measured on the Borough and its residents, with special consideration given to residents of the village(s) area of influence. Within the coastal area, uses of state concern and national interest receive the special considerations specified in AS 46.40.200.

NEIGHBORHOOD NOTIFICATION AREA. The area in Barrow within a minimum of 200 feet of the proposed activity.

NONCONFORMITY. A lot, structure, use or portion thereof, which was lawfully erected, altered or maintained, but no longer conforms to the provisions for the zoning district in which it is located.

OFFICE. A building or portion of a building maintained and used as a place of business for administrative, executive and clerical uses.

ONE HOUR CONSTRUCTION. Building construction using methods and materials which are fire-rated for one hour in the Uniform Building Code.

PARKING SPACE. An area located outside any street, right-of-way, easement or setback requirements of § 19.40.100 which is used for the temporary parking of operating motor vehicles. This space should include adequate room for opening both doors, maneuvering and access to a public street and so designed that a vehicle may be parked and unparked.

PERSONAL SERVICE. A use involving the provision of a skill, whether for profit or not, and accessory uses. Common uses in this category include beauty and barber shops, and word processing.

PLAN. The North Slope Borough Comprehensive Plan.

PLANNING COMMISSION. The North Slope Borough Planning Commission. (The Zoning Commission is a separate body.)

PRE-EXPLORATION. Includes reconnaissance activities related to resource extraction including surface geologic mapping, surveys other than seismic surveys and geologic sampling including samples taken by hand or lightweight equipment which will not penetrate the tundra or submerged lands to a depth of more than 50 feet.

PRINCIPAL STRUCTURE. A structure in which is conducted the main use of the lot on which the structure is situated.

PUBLIC FACILITY. A park, building or structure owned or used by a federal, state or local government agency, school board or utility company.

RESIDENTIAL. A use involving the occupation of a building or structure for living, cooking, sleeping and accessory uses.

RESOURCE EXTRACTION. A use involving the removal for commercial purposes of native vegetation, topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore or any other mineral, and other operations having similar characteristics.

RETAIL FUEL SALES. A retail place of business engaged in the sale of motor fuels, or the supplying of goods and services required in the operation and maintenance of vehicles.

SALVAGE OR JUNK YARD. A use involving the collection, storage, processing or sale of discarded materials, or the commercial dismantling, storage, salvaging or demolition of vehicles, machinery, boats or building materials.

SETBACK. The distance between a building and another building or between a building and a property line or right-of-way. When used in a coastal management policy, the term refers to a specific distance to be maintained between a type of development and a particular resource, including a body of water, shoreline or habitat.

SITE. The location of a development. The **SITE** is the lot in an cases except resource extraction and its accessory uses, in which case the site is the surface area to be disturbed, plus a radius of 100 feet.

STREET. Any right-of-way, private or public, which provides for vehicular or pedestrian circulation, including snow machines and related vehicles commonly used in the Arctic.

STRUCTURE. Anything which is placed, constructed, erected or located on or under the ground, or attached to something fixed to the ground, such as a floating structure anchored to submerged ground, regardless of size, purpose or temporality, including:

1. A building;
2. A tower, antenna, pole or similar structure;
3. Drilling or excavating apparatus, pipelines, pump stations and similar structures;
4. A foundation, or gravel pad; and
5. A street, road, ice road, parking area or storage area.

SUBJECT USES. Activities which require state permits or federal licenses and permits which are subject to an individual project review under State Administrative Code 6 AAC 50. **SUBJECT USES** must be found consistent with the standards of the Alaska Coastal Management Program and the Borough Coastal Management Program.

SUBSISTENCE. An activity performed in support of the basic beliefs and nutritional needs of the residents of the Borough and includes hunting, whaling, fishing, trapping, camping, food gathering and other traditional and cultural activities.

THRESHOLD DEPTH. The depth below surface at which a significant accumulation of oil and gas can reasonably be expected to be encountered while drilling a well.

TUNDRA TRAVEL. The off-road operation of vehicles except snow machines weighing less than 600 pounds.

USE. Includes a development or activity conducted from within, or function of a development.

USE PERMIT. A permit for a use issued by the Administrator under the provisions of Chapter 19.50.

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

VILLAGE. The communities of Point Hope, Point Lay, Wainwright, Atqasuk, Nuiqsut, Anaktuvuk Pass and Kaktovik.

VILLAGE AREA OF INFLUENCE. The area outside the village which is used in common by some or all of the residents thereof for subsistence, transportation, public facilities or other purposes, as indicated on the Comprehensive Plan maps 11 A, B and C.

VILLAGE COUNCIL. The city council of incorporated cities and the IRA council of unincorporated villages.

WETLANDS. Areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adopted for life in saturated soil conditions.

ZONING COMMISSION. The Barrow Zoning Commission. (The North Slope Borough Planning Commission, a separate body, is noted in this section as the Planning Commission.)

('75 Code, § 19.20.020) (Ord. 75-6-23, passed 4-12-90)

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TITLE 19: ZONING

CHAPTER 19.30 ADMINISTRATIVE PROVISIONS

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§ 19.30.010 ASSEMBLY.

The Assembly shall:

- (A) Review and act upon all applications for rezoning and amendments to this title; and
- (B) Hear and decide appeals of the Planning Commission and the Zoning Commission decisions. The Assembly's decision shall be final.

(75 Code, § 19.30.010) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.020 BARROW ZONING COMMISSION; CREATION AND MEMBERSHIP.

A Barrow Zoning Commission is established. The purpose of the Zoning Commission is to implement the Comprehensive Development Plan for Barrow and aid in fire prevention and the delivery of emergency medical services. The Zoning Commission shall consist of five Barrow residents. Two appointed by the Mayor and three appointed by the Barrow City Council for staggered terms of three years. One of the two appointed by the Mayor shall be the Barrow member of the Borough Planning Commission. The Mayor and Barrow City Council may each designate one alternate member of the Commission for staggered terms of three years to attend all meetings and hold full voting powers when substituting for a regular member. Alternates are appointed for three-year terms and may be reappointed by the city and the Borough. All members and alternates will be subject to confirmation by the Assembly.

(75 Code, § 19.30.020) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.030 ADMINISTRATOR.

An Administrator shall be appointed by the North Slope Borough Mayor. The Administrator is authorized and empowered to carry out all of the duties set forth in this chapter, shall serve as staff' to the Planning and Zoning Commissions and shall have all other power and authority reasonably necessary and desirable to carry out those duties, including the power to delegate those duties as appropriate.

(75 Code, § 19.30.030) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.040 COMMISSION PROCEDURES.

The Planning Commission and Zoning Commission shall adopt by resolution such rules governing the conduct of their business as each deems necessary and desirable.

(75 Code, § 19.30.040) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.050 PLANNING COMMISSION; POWERS AND DUTIES.

The Planning Commission has all powers and duties of a planning commission of a home rule Borough as set forth in law. The Planning Commission may, from to time, consider amendments to the Comprehensive Plan, Coastal Management Program and land management regulations; and if appropriate, recommend amendments to the Assembly for adoption. The Planning Commission powers and duties include the following:

- (A) Rezoning and amendments. The Planning Commission shall review and make recommendations to the Assembly on amendments to the text of this title and all rezoning requests outside the City of Barrow.
- (B) Review of the Capital improvements program. The Planning Commission shall annually review the capital improvements program of the Borough and submit its recommendations thereon to the Assembly. The Mayor shall submit the proposed capital improvements program to the Commission a reasonable period in advance of the annual budget review.
- (C) Reports and recommendations on public improvements. The Planning Commission shall review and report to the Assembly regarding the location, design, construction, demolition or disposition of any public building, facility, collector or arterial street, park, greenbelt, playground or other public facility. The report and recommendation of the Commission shall be based upon

the policies of the Comprehensive Plan and the capital improvements program.

(D) Subdivisions. The Planning Commission shall decide all preliminary plats, except those for minor subdivisions. Decisions shall be based on adopted policies and plans, the capital improvements program, and the subdivision regulations.

(E) Conditional uses and appeals. The Planning Commission shall hear and decide conditional uses and appeals of the decisions of the Administrator for the area outside the City of Barrow.

(75 Code, § 19.30.050) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.060 ZONING COMMISSION; POWERS AND DUTIES.

The Barrow Zoning Commission shall:

(A) Develop, adopt and recommend to the Assembly a Comprehensive Plan for Barrow;

(B) Make recommendations to the Administrator about enforcement and interpretation of the sections of this title which are applicable to Barrow;

(C) Review and act on all requests for conditional uses in Barrow;

(D) Review and make recommendations to the Assembly on all requests for rezoning within Barrow and changes to the text of this title which govern development within Barrow;

(E) Hear and decide appeals of Administrator's decisions within Barrow;

(F) Hear and decide requests for adjustments to the dimensional requirements of this title.

(G) Hear and decide conditional uses and appeals of the decisions of the Administrator within the city limits of Barrow.

(75 Code, § 19.30.060) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.070 DURATION AND CONDITIONS ON APPROVALS.

Approvals are valid only during developer's compliance with this title and the terms and conditions of approval. However, approvals and permits expire automatically 12 months after issuance if no construction, activity or occupancy has commenced, or if the development or use has been suspended for 12 consecutive months. Requests for extensions after a 12-month period of suspension are a new application and subject to the appropriate approval process. The Administrator, Planning or Zoning Commission may place limits on the duration of an approval or establish a longer duration. Approved development or uses, unless ordered to cease by the Administrator, shall be allowed to continue during the appeal of the issuance of an approval. The Planning Commission, Zoning Commission or Administrator may place conditions upon issuance of any approval which are necessary or desirable to ensure that a policy, standard or intent will be implemented in a manner consistent with this title, the Comprehensive Plan and Coastal Management Program. Any permit or approval issued under this title shall comply with the State Fire Code and any other federal, state or local regulations which are applicable to the activity.

(A) *Surety*. Prior to the commencement use or development, or as a condition of approval of a rezoning, the Administrator or appropriate Commission may require surety.

(1) The form and amount of surety shall be set by the Borough based upon the magnitude, type and costs of the activities planned and the nature, extent and duration of the operations. The amount of surety shall be reasonably related thereto, to protect the Borough and insure compliance with the requirements of the plan; however, the amount of the surety shall not exceed

100% of the estimated cost of the reclamation or mitigation.

(2) The liability under the surety provisions shall continue until such time as released in part, or in its entirety, by the Administrator.

(3) Evidence of self-insurance, proof of financial responsibility or the existence of sufficient surety filed with another governmental entity may be accepted as a means of surety that fulfills the requirements of this section.

(B) *Reclamation plan.*

(1) A reclamation plan may be required by the Administrator or Commission as a condition of approval. A satisfactory plan may be required prior to final approval of the proposed development or use or at a date prior to the cessation of the activity. The plan at a minimum shall contain:

(a) A grading and site plan drawn and certified by an Alaska licensed professional engineer or land surveyor, indicating the areas excavated or filled, the proposed finished grades and contours, drainage directions and any control structures to be installed;

(b) The methods and plans to be employed for reclamation of the site during and after the activity shall be stated along with a time table for completions;

(c) A description of all roads and structures and a site map showing the locations of all roads and development which will be built indicating which will remain after cessation of activities;

(d) A description of any known reclamation requirements of any other governmental entity, and a copy of any reclamation plan under development or in existence for the activity; and

(e) All maps shall be submitted at a scale of one inch equals 200 feet extending 200 feet beyond the site area with a maximum contour interval of five feet. The scale requirements may be adjusted by the Administrator to fit unusual circumstances.

(2) The Administrator or Commission shall not impose reclamation requirements in conflict with the reclamation requirements of any other governmental entity, but shall work with the applicant to reach a satisfactory compromise with the other governmental entity. If a suitable reclamation plan is already in existence, the Administrator or Commission may find that plan fulfills the requirements of this section.

('75 Code, § 19.30.070) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.080 REVIEWING PARTIES.

The Commission may by resolution identify those parties that are to be included in the review of proposed actions under this title. These parties may include city, Borough, state or federal agencies and private individuals or groups potentially affected or with interests in the proposed action. Either Commission may establish by resolution new groups to participate in the review process. The parties and established groups will be provided with all relevant materials and may submit comments and recommendations concerning the proposed actions.

('75 Code, § 19.30.080) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.090 FEES.

The Planning Commission and Zoning Commission shall establish a schedule of fees for actions under this title by resolution. The fees in the schedule may be waived by the Administrator when the Borough, state, federal or a local government is the applicant.

('75 Code, § 19.30.090) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.100 COMPLIANCE.

Any use or development, including one administratively approved, may be ordered to cease by the Administrator if in conflict with the terms of this title or if the terms and conditions of any rezoning, Planning or Zoning Commission approval, administrative approval or Master Plan are violated.

(A) Violation Complaint. Any person may bring to the attention of the Administrator suspected violations of this title. The complaint may be by phone or in writing. The Administrator is authorized to levy fines, seek remedies, initiate compliance plans, make inspections and take such actions authorized herein as may be necessary to ensure compliance with this title.

(B) Violation Notice. After a violation has been discovered, investigated and verified, the Administrator will notify by written finding the person responsible for the violation and the property owner by certified mail and/or notice posted on the site of the violation. The finding will specify the violation(s) and order abatement. The finding shall direct the person to cease the violation, or appeal the finding within ten days after receipt. All violation notices will be reported to the appropriate Commission at its next meeting.

('75 Code, § 19.30.100) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.110 ENFORCEMENT ORDERS.

Upon substantiation of a violation, the Administrator may order:

(A) The discontinuance of activity for any use or development which does not comply with the terms of this title;

(B) The removal or abatement of buildings or structures; and

(C) The Administrator may order the submittal of a plan for compliance with the terms, of this title. The plan shall include a schedule for completion and procedures to accomplish compliance. The Administrator will review and approve, condition or deny the plan pursuant to the administrative approval procedures of Chapter 19.50.

(D) Any other action necessary to ensure compliance with all provisions of this title, including revocation or suspension of approvals.

('75 Code, § 19.30.110) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.120 PENALTIES AND REMEDIES.

(A) The Administrator may institute a civil action against a person who violates a provision of this title or a term, condition or limitation imposed on a permit or approval under this title. Each act of violation and every day a violation exists is a separate offense. In addition to other relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

(B) Criminal Remedies. Any act where the maintenance of any condition prohibited by this title, or violation of any condition placed upon any permit issued pursuant hereto, is unlawful and the willful commission of such act or maintenance of that condition is unlawful and is punishable by a penalty not to exceed a fine of \$1,000 (or less) and imprisonment not to exceed 90 (or fewer) days.

(C) Schedule of Fines. The Planning Commission and the Zoning Commission shall establish by resolution for various violations a schedule of civil fines which can be disposed of without court appearance.

(D) Parties. A proper party for any enforcement action under this title may include the owner of the site or any part thereof; any lessee or occupant of the site or any part thereof, and the developer, and its agents, contractors and subcontractors and employees.

('75 Code, § 19.30.120) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.130 APPEALS TO COMMISSIONS.

Any aggrieved person, including the developer, may appeal the decision of the Administrator by serving written notice to the secretary of the appropriate Commission and the developer within 30 days of receipt of the decision. The notice shall state the reasons why the appellant believes the decision of the Administrator is improper. The issues before either Commission shall be limited to those raised on appeal, and the evidence shall be limited to a review of the record, although further argument may be allowed. The burden of proof shall be on the appellant. The Commission may affirm or reverse the Administrator's decision, return the matter to the Administrator for further evidence, or change the conditions attached to any approval issued by the Administrator. Approved uses and development may proceed during the appeal process unless ordered to cease by the Administrator.

('75 Code, § 19.30.130) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.140 APPEAL TO ASSEMBLY.

An appeal to the Assembly of either Commission's decision may be made in the same manner as set forth above for appeals to the Commission. The Assembly's decision shall be final within the jurisdiction of this title.

('75 Code, § 19.30.140) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.150 APPEAL UNDER COASTAL MANAGEMENT.

Appeal of a coastal consistency recommendation or determination is subject to the procedures and requirements of state and federal law.

('75 Code, § 19.30.150) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.160 APPEAL FROM ASSEMBLY DECISIONS.

Any person aggrieved by the final decision of the Assembly may appeal such a decision or action to the Superior Court.

('75 Code, § 19.30.160) (Ord. 75-6-23, passed 4-12-90)

§ 19.30.170 INTERPRETATIONS.

All questions of the Administrator's interpretation of the provisions of this title shall be treated as an appeal, pursuant to § 19.30.130.

(75 Code, § 19.30.170) (Ord. 75-6-23, passed 4-12-90)

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TITLE 19: ZONING**CHAPTER 19.40: ZONING DISTRICTS**§ 19.40.010 MAPS.§ 19.40.020 BARROW MIXED USES (MU) DISTRICT.§ 19.40.030 BARROW SUBURBAN RESIDENTIAL (S) DISTRICT.§ 19.40.040 BARROW INDUSTRIAL AND STORAGE (I) DISTRICT.§ 19.40.050 BARROW RESERVE (R) DISTRICT.§ 19.40.060 VILLAGE (V) DISTRICT.§ 19.40.070 CONSERVATION (C) DISTRICT.§ 19.40.075 SCIENTIFIC RESEARCH (SR) DISTRICT.§ 19.40.080 RESOURCE DEVELOPMENT (RD) DISTRICT.§ 19.40.090 TRANSPORTATION CORRIDOR (TC) DISTRICT.§ 19.40.100 DIMENSIONAL STANDARDS.§ 19.40.110 NONCONFORMITIES.**§ 19.40.010 MAPS.**

The map entitled "Zoning District Map of the North Slope Borough, Alaska" and the map entitled "Barrow Zoning Districts" are hereby adopted and made a part of this title. These maps graphically depict the geographic location of the zoning districts set forth in this title. The maps may be amended only by the process set forth in Chapter 19.60. The maps may require interpretation with respect to specific properties and the following apply:

(A) The official map, regardless of the existence of copies, is located in the Borough Planning Department. The determination of the Administrator is the authority as to the status of land within the Borough.

(B) The limits of the village district for Point Lay are the lots, tracts and right-of-way indicated on the H.V. Lounsbury and Associates Plot.

(C) The city limits of each incorporated city are the boundaries of the applicable village district.

(D) District boundaries shall be construed to follow section lines, lease area boundaries, unitization area boundaries, lot lines and the centerline of streets, highways, alleys or platted lines. Tidelands seaward of an adjoining district are within the conservation district unless otherwise mapped. Boundaries indicated as following shorelines are construed to follow those shorelines, and in the event of change of the shoreline shall be construed as moving with the actual shoreline.

(E) Changes to land use district boundaries or other information portrayed on the zoning map shall be made on the date the ordinance amendment becomes effective. If the zoning map becomes damaged, destroyed, lost or difficult to interpret, the Assembly may by ordinance adopt a new zoning map which shall supersede the prior zoning map. The new map may correct drafting errors and other errors or omissions.

(75 Code, § 19.40.010) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.020 BARROW MIXED USES (MU) DISTRICT.

(A) *Purpose.* The MU District is a residential and general use area, reflecting the traditional settlement pattern of the older sections of the cities and villages in the Borough. The District is characterized by a mixture of residential, commercial and other uses. Some areas in this District contain large buildings which are for government or private enterprise. Future uses should enhance economic opportunities, but should not intrude into residential areas with unnecessary congestion, noise or environmental impacts.

(B) *Administrative approval.* The following are administratively approved without public notice:

- (1) Single and two-family residential dwellings;
- (2) Placement of fill in a wetland in accordance with the Army Corps of Engineers general permit.

(C) *Use permit.* The following may be established upon approval by the Administrator after public review:

- (1) Public facilities;
- (2) Churches;
- (3) Clubs and meeting halls;
- (4) Day care facilities;
- (5) Utility facilities;
- (6) Offices;
- (7) Personal services;
- (8) Banks/savings and loans;
- (9) Dwellings, three units and greater;
- (10) Hotels;
- (11) Commercial garages;
- (12) Dance halls;
- (13) Restaurants;
- (14) Retail fuel sales;
- (15) Cemeteries;
- (16) Commercial; and
- (17) Any use or structure within the watershed which provides the community's drinking water.

(D) *Conditional uses*. The following may be established upon approval of the Zoning Commission:

(1) Any use elevated for review pursuant to § 19.50.020.

(‘75 Code, § 19.40.020) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.030 BARROW SUBURBAN RESIDENTIAL (S) DISTRICT.

(A) *Purpose*. The S District is a low density quiet residential area. This District encourages development which reflects the traditional Inupiat settlement pattern of individual family home sites. The primary purpose of this District is to protect and provide for low density quiet residential areas on large lots in newly platted subdivisions or suburban areas. This District provides an area for single-family homes on large lots that have large spaces between houses and ample storage area for vehicles, boats and subsistence equipment, such as fish and game drying racks, and individual game processing areas.

(B) *Administrative approval*. The following are administratively approved without public notice:

(1) Single and two-family residential dwellings; and

(2) Placement of fill in a wetland in accordance with the Army Corps of Engineers general permit.

(C) *Use permit*. The following may be established upon approval by the Administrator after public review:

(1) Public facilities;

(2) Utility facilities;

(3) Day care;

(4) Convenience stores; and

(5) Any use or structure within the watershed which provides the community’s drinking water.

(D) *Conditional uses*. The following may be established upon approval of the Zoning Commission:

(1) Any use elevated for review pursuant to § 19.50.020.

(E) Browerville Addition No. 5 Subdivision. Individual lots within Phase I of Browerville Addition No. 5 Subdivision are zoned Barrow Suburban District effective the date of adoption of Ordinance 91-09. Individual lots within Phase II of Browerville Addition No. 5 Subdivision are zoned Barrow Suburban District effective when borough construction standard road access is available to the individual lots, as determined by the Land Management Administrator in consultation with CIP/RELI.

(‘75 Code, § 19.40.030) (Ord. 75-6-23, passed 4-12-90; Am. Ord. 91-09, passed 2-11-92)

§ 19.40.040 BARROW INDUSTRIAL AND STORAGE (I) DISTRICT.

(A) *Purpose*. The I District is intended to provide and preserve areas which are used for airports, and storage and warehousing of materials and goods in bulk. This is an area of uses which are generally not compatible with residential and commercial uses because of safety conflicts including aircraft, heavy truck and equipment traffic which should be segregated from pedestrian,

residential and business traffic. The District is characterized by loading docks, terminals, storage sheds and accessory offices connected with the primary use. This District is also intended to provide for uses which are predominantly related to and dependent upon or connected to aviation, shipping and other transit.

(B) *Administrative approval.* The following are administratively approved without public notice:

(1) Placement of fill in a wetland in accordance with the Army Corps of Engineers general permit; and

(2) Tundra travel.

(C) *Use permit.* The following may be established upon approval by the Administrator after public review:

(1) Accessory residential;

(2) Bulk fuel storages;

(3) Garbage transfer, storage or disposal;

(4) Resource extraction;

(5) Salvage or junk yard;

(6) Hazardous or noxious materials;

(7) Airports;

(8) Airport-related commercial;

(9) Warehouses;

(10) Heavy equipment storage or repair;

(11) Accessory offices;

(12) Utility facilities;

(13) Communication equipment; and

(14) Any use or structure within the watershed which provides the community's drinking water.

(D) *Conditional Uses.* The following may be established upon approval of the Zoning Commission:

(1) Any use elevated for review pursuant to § 19.50.020.

('75 Code, § 19.40.040) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.050 BARROW RESERVE (R) DISTRICT.

(A) *Purpose.* The Reserve District is intended to provide protection for environmental resources, local subsistence and recreational opportunities; and to act as a holding area for lands which require urban infrastructure such as roads, sewer, water and power before they can be developed. Limited temporary or seasonal subsistence-related use is allowed, along with limited public, communication and related uses. Protection of the environmental resources, especially watersheds, for the benefit of all the residents of the area is a prime objective.

(B) *Administrative approval.* The following are administratively approved without public notice:

- (1) Communication equipment;
- (2) Placement of fill in a wetland in accordance with the Army Corps of Engineers general permit; and
- (3) Tundra travel.

(C) *Use permit.* The following may be established upon approval by the Administrator after public review:

- (1) Utility facilities;
- (2) Public facilities;
- (3) Cemeteries;
- (4) Resource extraction; and
- (5) Any use or structure within the watershed which provides the community's drinking water.

(D) *Conditional use.* The following are conditional and may be established upon approval of the Zoning Commission:

- (1) Any use elevated for review pursuant to § 19.50.020.
(75 Code, § 19.40.050) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.060 VILLAGE (V) DISTRICT.

(A) *Purpose.* The Village District governs the city limits of each incorporated village and the sites and immediate environs of unincorporated villages in the Borough. The intent of the Village District is to accommodate uses which:

- (1) Reinforce traditional values and lifestyles;
- (2) Are in accord with the Borough Comprehensive Plan, Capital Improvements Program and Comprehensive Development Plan for the village; and
- (3) Are in accord with the desires of the residents of the village.

(B) *Administrative approval.* The following are administratively approved without public notice:

- (1) Placement of fill in a wetland in accordance with the Army Corps of Engineers general permit.

(C) *Development permit.* The following may be established upon approval of the Administrator after public review:

- (1) Public facilities;
- (2) Commercial development; and
- (3) Any use or structure within the watershed which provides the community's drinking water.

(D) *Conditional development.* The following are conditional and may be established upon approval of the Planning Commission:

- (1) Resource extraction; and

(2) Any use elevated for review pursuant to § 19.50.020.

('75 Code, § 19.40.060) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.070 CONSERVATION (C) DISTRICT.

(A) *Purpose.* The Conservation District encompasses the undeveloped areas of the Borough. The District is intended to conserve the natural ecosystem for all the various plants and animals upon which Borough residents depend for subsistence. Subject to this overall intent, it can accommodate resource exploration and development on a limited scale, but major resource development projects must apply for rezoning to the Resource Development District.

(B) *Administrative approval.* The following is administratively approved without public notice:

(1) Temporary use (including fuel storage) of existing gravel airstrips in support of preexploration activities;

(2) Archaeological surveys;

(3) Tundra travel; and

(4) Minor alterations to existing development.

(C) *Development permit.* The following may be established upon approval by the Administrator after public review:

(1) Commercial recreation;

(2) Ice roads and ice pads;

(3) Exploration, prospecting or limited development in anticipation of resource extraction; and

(4) Offshore development in compliance with the policies of § 19.70.040.

(D) *Conditional development.* The following may be established upon approval of the Planning Commission:

(1) All development elevated by the Administrator under § 19.50.020.

('75 Code, § 19.40.070) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.075 SCIENTIFIC RESEARCH (SR) DISTRICT.

A. *Purpose.* The Science Research district encompasses the areas of the Borough proposed to be used exclusively for Scientific Research and the support facilities necessary for that purpose. This district is an elective district that may only be requested by the landowner or authorized agent or the landowner. The district is intended to conserve areas that have scientific research value or have been used for scientific research for more than 20 years. These areas should also accommodate subsistence use by North Slope residents that is customary and traditional on the North Slope, but other uses should be highly discouraged when there is potential to disturb long term scientific uses of land.

B. *Master Plan Approval.* Consistent with the provisions of § 19.60.070, a Master Plan approved by the Planning Commission and the Assembly shall be approval to implement all improvements shown on the Master Plan. A Master Plan approved for this district shall project uses of land for at least ten years.

C. Administrative Approval. The following is administratively approved without public notice:

(1) Minor alterations to an approved Master Plan.

D. Development Permit. The following may be established upon approval by the Administrator after public review:

(1) Major alterations to existing development; and

(2) Development not indicated on the Master Plan.

E. Conditional Development. The following may be established upon approval of the Planning Commission:

(1) All development elevated by the Administrator under Section 19.50.020; and

(2) Any development or use of land involving introduction of radioactive materials.

(Ord. 75-6-40, passed 12-5-00)

§ 19.40.080 RESOURCE DEVELOPMENT (RD) DISTRICT.

(A) Purpose. The Resource Development District is designed and intended to address the cumulative impacts of large scale development, and to offer developers quick, inexpensive, predictable permit approvals. The purpose of the Resource Development District is to accommodate large scale resource extraction and related activities which:

(1) Do not permanently and seriously impair the capacity of the surrounding ecosystem to support the plants and animals upon which Borough residents depend for subsistence;

(2) Are planned, phased and developed as a unit, or series of interrelated units under an approved Master Plan, with provisions made for all necessary public and private facilities; and

(3) Meet the policies of the Comprehensive Plan and Coastal Management Program as well as the conditions of approval and special policies imposed on each individual Resource Development District at the time of designation.

(B) Administrative Approval. The following is administratively approved without public notice:

(1) All development indicated on an approved Master Plan;

(2) Minor alterations;

(3) Exploration, prospecting or limited development in anticipation of resource extraction; and

(4) Ice roads and ice pads.

(C) Development Permit. The following may be established upon approval by the Administrator after public review:

(1) Major alterations to existing development; and

(2) Development not indicated on the Master Plan.

(D) Conditional Development. The following may be established upon approval of the Planning Commission:

(1) All development elevated by the Administrator pursuant to § 19.50.020.

(E) Resource Development Areas. The following areas are included in the Resource Development District as preexisting development.

(1) Prudhoe Bay, Milne Point, Duck Island and Kuparuk River. The relevant plan of development and operations for the unitized fields as approved by the Alaska Department of Natural Resources (ADNR) and subsequent annual updates approved by ADNR and the Borough, are hereby adopted as the Master Plan for these areas. Other reservoirs which are located in different geologic strata directly under these existing areas are also included in the Resource Development District.

(2) Hemi Springs, Gwydyr Bay and Point Thomson. No Master Plan is approved for any part of these areas and until time as a Master Plan is approved for all or part thereof there are no administratively approved uses or development in these areas.

('75 Code, § 19.40.080) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.090 TRANSPORTATION CORRIDOR (TC) DISTRICT.

(A) *Purpose.* The Transportation Corridor District is established to provide a strip of land to accommodate linear transportation facilities such as roads and pipelines. The District will ensure that development complies with all Borough policies including those that apply specifically to transportation corridors. Within the District specific nodes for development are provided for development of public and commercial facilities and services associated with the increased use of the highway. These nodes include the existing pad areas of the former construction camps at Happy Valley and Chandalar Shelf. Development within this corridor is intended to minimize the negative impacts of increased access to the Borough, accommodate industrial, commercial recreation and visitor industry development and enhance economic opportunities for residents of the Borough. Development must comply with the Transportation District policies in Chapter 19.70. The regulations in this section apply to uses and activities along roadways, but do not apply to traffic upon the roadway.

(B) *Administrative Approval.* The following is administratively approved without public notice:

- (1) Minor alterations and maintenance of existing developments;
- (2) Tundra travels;
- (3) Communication equipment; and
- (4) Exploration, prospecting or preliminary work in anticipation of resource extraction.

(C) *Development permit.* The following may be established upon approval by the Administrator after public review within or outside of identified development nodes:

- (1) New transportation facilities including gas lines, oil lines, associated roads, pump stations, pipeline maintenance facilities, resource extraction and necessary supporting developments;
- (2) Limited non-commercial public facilities inclusive of roadside pullouts, rest rooms, trash receptacles, public telephone, and interpretive signs;
- (3) Bulk fuel storage; and
- (4) Temporary construction facilities.
- (5) Staging or equipment storage on existing pads or abandoned airstrips.

(D) *Conditional development.* The following may be established upon approval of the Planning Commission within identified development nodes:

- (1) Commercial recreation activities;
 - (2) Roadside services;
 - (3) Retail stores and food services; and
 - (4) Commercial activities;
 - (5) Hotels.
 - (6) Any use or development elevated by the Administrator pursuant to § 19.50.020.
- (75 Code, § 19.40.090) (Ord. 75-6-23, passed 4-12-90; Am. Ord. 75-6-36, passed 3-3-98)

§ 19.40.100 DIMENSIONAL STANDARDS.

The purpose of these standards is to provide adequate parking, privacy, separation between traffic and buildings and to ensure fire access and safety. These standards apply only to the Mixed Use (MU), Suburban Residential (S), Industrial (I) and Reserve (R) Districts. No dimensional standards are applied to the other zoning districts except those in an approved Master Plan or as a condition of approval. The Zoning Commission may modify through the conditional use process in Chapter 19.60 these dimensional standards to individual properties. Where more stringent State Building Code or related standards require greater setbacks, those standards take precedence over the standards of this title.

(A) Table of density applicable to individual districts.

	Density (Square Feet): District S	Density (Square Feet): District MU	Density (Square Feet): District I	Density (Square Feet): District R
Lot area for principal structure	4,500	3,000	N/A	N/A
Maximum residential density (dwelling units per square feet of lot area)	1/4,500	1/2,000	N/A	N/A

(B) Table of off-street parking spaces applicable to individual districts. Parking spaces are required to be 400 square feet per dwelling unit. The required parking area must be on the same lot as the use or principal structure or on an adjacent lot under the same ownership. The space must be well-drained and have a firm surface suitable for vehicle parking.

	Spaces Per Dwelling: District S	Spaces Per Dwelling: District MU	Spaces Per Dwelling: District I	Spaces Per Dwelling: District R
Number	1	1*	1*	N/A*

* Nonresidential uses must have one additional parking space per 400 square feet of gross floor area; except warehouse and storage buildings where the ratio is one space per 1,000 square feet of gross floor area.

(C) Setback provisions applicable to individual districts. The setbacks below may be reduced up to 10% by the Administrator after an investigation and finding that the resulting lesser setback would meet the purpose of the standards. However, where other setback standards are applicable, the most restrictive setback standards apply. The following are the building setback and additional standards:

(1) Side and rear yard setbacks are ten feet. The Administrator may approve setbacks for residential buildings less than ten feet but more than five feet from the property line, if one hour construction is used for the wall facing the property line and all openings on the wall are protected. Platted alleyways in Browerville are exempt from the rear yard setbacks.

(2) Front yard setback is five feet, provided that 400 square feet of parking space per dwelling unit is provided inside all setbacks.

(3) Additional standards:

(a) Residential buildings on same lot must be separated by ten feet. The Administrator may approve setbacks for residential buildings on the same lot of less than ten feet but more than five from each other, if at least one of the buildings has the wall facing the other building constructed to one hour standards and all openings on the wall are protected.

(b) Height of structures is limited to 30 feet in height above the average finished grade of the lot.

(c) Incidental architectural features such as window sills, cornices and eaves may project not more than two feet into any required setback.

(d) For industrial uses, a minimum 50-foot setback is required from any residential lot.

(e) In the case of mixed uses, the total requirement for off-street parking spaces shall be the sum of the requirements for the various uses computed separately.

(f) In calculating the number of dwelling units allowed on a lot or the number of parking spaces required, the Administrator shall round fractional units above two up to the next whole number if that fraction equals or exceeds one-half. (Example: Four units are allowed if the density calculating yields 3.50 units. If the density calculation yielded 3.48 units, only three units would be allowed).

(g) Corner lots have an additional setback requirement of an additional five feet (ten total) from the right-of-way for 25 feet from the apex of the corner at the intersection.

(75 Code, § 19.40.100) (Ord. 75-6-23, passed 4-12-90)

§ 19.40.110 NONCONFORMITIES.

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

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

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

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

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

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

(1) Uses. A nonconforming use may be changed to another nonconforming use with approval of the Administrator as a use permit. The Administrator must find the new use is more consistent with the uses allowed in the zoning district, or is less of a fire or safety hazard. When a nonconforming use is discontinued or abandoned for 12 months or more at any time after the effective date of this title, it shall not thereafter be resumed unless an extension is approved by the appropriate Commission under the procedures specified in Chapter 19.60. When a nonconforming use is damaged so that the cost of repair exceeds 65% of the current assessed value of the structure, the use must be changed to a use which is allowed in the district.

(2) Structures. The moving, replacement, repair and maintenance of the nonconforming portion of a structure is allowed; provided that no additional structure or new structure is added within the setback lines and that the structure complies with all other district requirements. Any nonconforming residential structure which has been damaged may be repaired, rebuilt or replaced within one year of such damage; provided, that the replacement does not extend or expand the previously existing nonconformity. Other nonconforming structures which are damaged so that the cost of repairs exceeds 65% of the current assessed value of the structure shall not be continued, unless the structure conforms with all requirements of the applicable zoning district or an extension is approved by the appropriate Commission under the procedures specified in Chapter 19.60.

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

('75 Code, § 19.40.110) (Ord. 75-6-23, passed 4-12-90)

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TITLE 19: ZONING

CHAPTER 19.50: ADMINISTRATOR APPROVALS

§ 19.50.010 APPROVALS.

§ 19.50.020 ELEVATION.

§ 19.50.030 APPROVAL CRITERIA.

§ 19.50.040 EMERGENCY ACTIONS.

§ 19.50.010 APPROVALS.

All uses and development as defined in § 19.20.020 must receive approval prior to commencement.

(A) Application. An application shall be submitted to the Administrator. Within five days of receipt of the application, the Administrator shall determine if the application is complete and the submission requirements are met. If the requirements are not met, the Administrator shall return the application to the developer for modification or correction. If the Administrator fails to act on the application within five days the application shall be considered complete and accepted. If the proposal requires a coastal management consistency determination by a state agency, the Administrator will contact the coordinating agency and may request additional information or an extension in conformity with state regulations 6 AAC 50.110.

(B) Administrative approval. If the accepted application is for an administratively approved use or development, the Administrator may issue a letter of approval including a coastal management consistency determination or recommendation. The Administrator may place reasonable conditions on the approval to ensure that the use or development will occur harmoniously with other activities occurring or allowed in the district and with adopted Borough policies. If the Administrator fails to act on the application within ten days after acceptance, the application shall be considered approved and a letter of approval shall be issued on demand, unless the developer consents to an extension beyond the ten-day period.

(C) Draft permit. If the accepted application is for a use or development permit the Administrator shall within ten days of acceptance issue a draft permit for review and comment.

(D) Notice. The Administrator shall mail or electronically transmit the draft permit to the applicant, reviewing parties, appropriate commission members, city or Borough Mayor and to landowners in the neighborhood notification area. The draft permit shall be posted in a public place in Barrow and the affected village. The Administrator may cause a public service announcement on radio or television. Notice of intent to conduct a coastal management consistency review will be included as appropriate in the draft permit.

(E) Comment period. Comments on the draft permit within the Barrow districts must be received within 15 days of the date of transmittal of the draft permit to be considered. Comments on actions within all other districts must be received within 20 days.

(F) Decision. The Administrator's decision to approve the draft permit, approve a revision of the draft permit, deny approval or elevate the decision shall be issued within five days of the close of the comment period. The decision shall be sent to all who submitted comments, the appropriate Commission, and the applicant.

(G) Appeal. A decision of the Administrator may be appealed pursuant to Chapter 19.30.

(75 Code, § 19.50.010) (Ord. 75-6-23, passed 4-12-90)

§ 19.50.020 ELEVATION.

The Administrator may elevate a permit decision to the Planning or Zoning Commission based on a written finding that the permit decision satisfied one or more of the following criteria:

(A) The proposed development or use would have potential, significant or negative impacts on or conflict with Borough interests, resources or activities in a manner or to a degree that warrants consideration by the Commission.

(B) The proposed use or development would conflict with adopted Borough policies in a manner or to a degree that warrants consideration by the Commission and cannot be easily decided by the Administrator.

(C) (1) The proposed use or development raised a particular issue or set of issues that warrants consideration by the Commission.

(2) In addition, the Administrator shall elevate the permit decision as a result of a request from one member of the Commission if the Administrator determines, based on a written finding, that the request from the Commission member satisfies one or more of the criteria above. The Administrator may elevate the decision at any time between the acceptance of the application and the close of the decision period in § 19.50.010(F). When the decision to elevate is made, the Administrator shall commence the conditional use procedure of Chapter 19.60.

(75 Code, § 19.50.020) (Ord. 75-6-23, passed 4-12-90)

§ 19.50.030 APPROVAL CRITERIA.

An approval will be granted by the Administrator if all the standards set forth below are met. The approval shall include a finding by the Administrator that the proposal is consistent with the Borough Comprehensive Plan, can occur harmoniously with other activities allowed in the district and will not disrupt the character of the general neighborhood. Such findings shall be in writing and shall become part of the record and the permit case file. The Administrator shall report all permits and administrative approvals to the appropriate Commission at its first regular meeting following issuance.

(A) Policies. The proposal is substantially consistent with the policies of Chapter 19.70.

(B) Reviewing parties. Consideration has been given to the comments and recommendations of reviewing parties.

(C) Villages. For approvals within the villages or their areas of influence, due deference has been given to the opinions of residents of the village and the proposal is in conformance with adopted village plan policies.

(D) Dimensional standards. The dimensional standards of § 19.40.100 are met.

(E) Utilities and drainage. The proposal shall be adequately served by water, sewer, electricity and other utilities and shall be properly drained to prevent additional drainage problem for the surrounding area.

(F) Historic and cultural resources. Proposals shall not disturb traditional activities or values at historic or cultural sites identified in published studies or by the Commission on Inupiat History, Language and Culture. The proposed development shall not impact any historic, prehistoric or

archaeological resource prior to the assessment of that resource by a professional archaeologist.

(G) Watershed protection. The proposal shall provide for the conservation of natural features such as drainage basing and watersheds, permafrost stability and the general environment of the area. The proposal shall provide for the protection of watershed areas during and after construction. Conditions of approval shall be designed to minimize or eliminate siltation, road and surface runoff and pollution of the water supply.

(H) Fire safety and emergency access. The proposal shall not pose a fire danger as determined by the North Slope Borough Fire Chief, the Barrow Fire Chief or the State Fire Marshal.

(I) Noise and nuisance. The proposal shall not significantly impact surrounding residential properties with excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises.

(J) Tundra travel. Vehicles shall be operated in a manner such that the vegetative mat of the tundra is not disturbed and blading or removal of the tundra vegetative cover is prohibited. Snow ramps, snow/ice bridges or cribbing shall be used to cross-frozen water bodies to preclude cutting, eroding or degrading of their banks. Snow ramps and snow/ice bridges shall be substantially free of soft and debris and of sufficient thickness to support vehicles. Snow/ice bridges must be removed or breached, and cribbing removed after final use or prior to breakup, whichever occurs first. Frozen watercourses shall be crossed at shallow riffle areas, if such areas exist. Where those areas do not exist, an environmentally preferred location will be identified. Vehicles shall not be abandoned. A minimum of six inches of snow or ice on 12 inches of frozen ground is required for tundra travel.

(75 Code, § 19.50.030) (Ord. 75-6-23, passed 4-12-90)

§ 19.50.040 EMERGENCY ACTIONS.

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

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

(B) In the event of a blowout or other continuing and uncontrolled release of oil or gas, a developer may undertake emergency construction and other activities reasonably necessary to control and contain the flow of oil and gas, consistent with an approved oil spill or blowout contingency plan.

(C) A developer shall inform the Administrator of any action taken pursuant to this section as soon as possible.

(75 Code, § 19.50.040) (Ord. 75-6-23, passed 4-12-90)

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TITLE 19: ZONING

CHAPTER 19.60: PLANNING AND ZONING COMMISSION APPROVALS

§ 19.60.010 APPROVAL REQUIRED.

§ 19.60.020 BURDEN OF PROOF.

§ 19.60.030 PROCEDURE.

§ 19.60.040 APPROVAL CRITERIA.

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§ 19.60.060 REZONING.

§ 19.60.070 MASTER PLAN APPROVAL.

§ 19.60.080 MASTER PLAN UPDATE.

§ 19.60.090 TEXT AMENDMENTS.

§ 19.60.010 APPROVAL REQUIRED.

All conditional development or uses and master plans must receive approval prior to commencement.

(A) Emergency actions. Notwithstanding regulations to the contrary, emergency actions may be conducted without approval subject to the same criteria as under Chapter 19.50.

(75 Code, § 19.60.010) (Ord. 75-6-23, passed 4-12-90)

§ 19.60.020 BURDEN OF PROOF.

In all applications for a conditional approval, the burden of proof shall be on the developer to prove, by a preponderance of the evidence, that the criteria set forth in this title are met.

(75 Code, § 19.60.020) (Ord. 75-6-23, passed 4-12-90)

§ 19.60.030 PROCEDURE.

The following procedure applies to requests for a conditional use, conditional development or master plan approval.

(A) Application. An application shall be submitted to the Administrator in conformity with § 19.50.010(A).

(B) Public notice. If the application is accepted the Administrator shall:

- (1) Place the application on the agenda of the next meeting of the appropriate Commission;
 - (2) Publish the agenda item in a newspaper of general circulation in the Borough, or cause public service announcements on radio or television;
 - (3) Within ten days of acceptance, issue a draft recommendation based upon the appropriate criteria:
 - (4) Mail or electronically transfer a copy of the agenda item and draft recommendation to the applicant, the village council or councils if the development is in a village area of influence, and to reviewing parties;
 - (5) In the mixed use, suburban residential, industrial and reserve districts the agenda item and draft recommendations shall be sent to the owners of land within a minimum of 200 feet of the boundary of the site. The Administrator may expand the area for notification, based on the impacts of the proposed development or uses;
 - (6) Deliver a copy of the agenda item and draft recommendation five days prior to the date of the meeting to the appropriate Commission members and mayor, and
 - (7) Notice of intent to conduct a coastal management consistency review will be included as appropriate in the notices above. (The consistency review notice will include the date of the deadline for receipt of public comments, the date of issuance of a Borough recommendation and the date of the deadline for appeal of the consistency determination or recommendation.)
- (C) Comment period. Written comments on the proposal and draft recommendation must be received within five days of the date of the public hearing to be included in the Commission meeting packet. The public hearing shall be held no sooner than 30 days from the acceptance of the application by the Administrator.
- (D) Public hearing. The appropriate Commissions' shall conduct a public hearing to review and receive comments. Each Commission shall adopt by resolution rules of order to conduct public hearings.
- (E) Decision. The Commissions' decision will be made immediately following the public hearing portion of the Commission meeting. The decision may be made at a later date if agreed to by the applicant.

(75 Code, § 19.60.030) (Ord. 75-6-23, passed 4-12-90)

§ 19.60.040 APPROVAL CRITERIA.

A conditional use or development will be granted if all of the standards set forth below are met. The approval shall include a written finding that the proposal can occur consistent with the Borough Comprehensive Plan, can occur harmoniously with other activities allowed in the district and will not disrupt the character of the neighborhood. Such findings and conditions of approval shall become part of the record and the case file.

- (A) Policies. The proposal is substantially consistent with the policies of Chapter 19.70.
- (B) Reviewing parties. Consideration has been given to the comments and recommendations of reviewing parties.
- (C) Villages. For approvals within the villages or their areas of influence, due deference has been given to the opinions of residents of the village and the proposal is in conformance with adopted village plan policies.
- (D) Dimensional standards. For residential buildings separated by five or less feet, or less than five feet from a property line, all interior walls, partitions and ceilings must be one-hour

construction or a sprinkler system must be installed throughout the building.

(E) Density. The proposal shall not unduly increase the number of people or buildings per lot above that of the surrounding neighborhood.

(F) Appearance and solar access. The proposal shall blend in with the general neighborhood appearance and shall not excessively deprive the neighbors of solar access.

(G) Traffic. The proposal shall be shown by the developer not to overload the street system with traffic or result in unsafe streets or dangers to pedestrians.

(H) Parking. The parking and loading spaces for the proposal shall be adequate, safe and properly designed to prevent excessive noise, lack of parking for occupants or neighbors or danger to pedestrians.

(I) Utilities and drainage. The proposal shall be adequately served by water, sewer, electricity and other utilities and shall be properly drained to prevent additional drainage problems for neighbors.

(J) Peak use. The proposal shall not have significantly different peak use or occupancy characteristics than the surrounding neighborhood.

(K) Historic and cultural resources. Proposals shall not disturb traditional activities or values at historic or cultural sites identified in published studies or by the Commission on Inupiat History, language and Culture. The proposed development shall not impact any historic, prehistoric or archaeological resource prior to the assessment of that resource by a professional archaeologist.

(L) Watershed protection. The proposal shall provide for the conservation of natural feature such as drainage basins and watersheds, permafrost stability and the general environment of the area. The proposal shall provide for the protection of watershed areas during and after construction. Conditions of approval shall be designed to minimize or eliminate siltation, road, and surface runoff, and pollution of the water supply.

(M) Fire safety and emergency access. The proposal shall not pose a fire danger as determined by the North Slope Borough Fire Chief, Barrow Fire Chief or the State Fire Marshal. The proposal shall have clear and easy accessibility for fire and emergency apparatus and police protection.

(N) Noise and nuisance. The proposal shall not significantly impact surrounding properties with excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises.

(O) Tundra travel. Vehicles shall be operated in a manner such that the vegetative mat of the tundra is not disturbed and blading or removal of the tundra vegetative cover is prohibited. Snow ramps, snow/ice bridges or cribbing shall be used to cross-frozen water bodies to preclude cutting, eroding or degrading of their banks. Snow ramps and snow/ice bridges shall be substantially free of soil and debris and of sufficient thickness to support vehicles. Snow/ice bridges must be removed or breached, and cribbing removed after final use or prior to breakup, whichever occurs first. Frozen watercourses shall be crossed at shallow riffle areas, if such areas exist. Where those areas do not exist, an environmentally preferred location will be identified. Vehicles shall not be abandoned. A minimum of six inches of snow or ice on 12 inches of frozen ground is required for tundra travel.

(75 Code, § 19.60.040) (Ord. 75-6-23, passed 4-12-90)

§ 19.60.050 NEIGHBOR PROTESTS.

If written objections opposing a conditional use in Barrow are received at least one working day prior to the meeting considering the application from 20% or greater of the total owners of land notified by the Administrator, it shall take at least a two-thirds or greater favorable vote of the

Zoning Commission to approve the application. Owners in common shall be considered as a single owner for the purposes of calculating objections.

(75 Code, § 19.60.080) (Ord. 75-6-23, passed 4-12-90)

§ 19.60.060 REZONING.

Rezoning are changes to zoning district boundaries as shown on the official zoning map. Prior to submission of an application, the developer is encouraged to contact the Administrator for the purpose of discussing the site, the proposed development and the approval procedure.

(A) Initiation. A rezoning may be initiated by the developer, the Administrator, any member of the Planning or Zoning Commission, a city council or Assembly member; or by a petition bearing the signatures of the owners of at least two-thirds of the property within the area proposed to be rezoned.

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

(C) Procedure. The application, acceptance and notice procedures for a rezoning shall follow the procedures set forth for conditional use in Chapter 19.60. The Planning or Zoning Commission's affirmative recommendations shall be forwarded to the Assembly.

(D) Review and decision. The Planning or Zoning Commission as appropriate shall hold a public hearing on the rezoning application. The Planning or Zoning Commission shall approve or disapprove the application or return it to the developer for modification or corrections, based on the requirements of this title, within 60 days of its acceptance by the Administrator, unless the developer consents to an extension of the 60-day period. If the Planning or Zoning Commission fails to act within the 60-day period, the recommendation shall be considered for approval and the application shall be forwarded to the Assembly.

(E) Criteria. The Planning or Zoning Commission shall make a recommendation based on written findings that each of the following criteria have been addressed:

- (1) The proposed rezoning must comply with the policies in Chapter 19.70;
- (2) The proposed rezoning is in an area with adequate services, including roads, parking, boardwalks, water, sewer, garbage collection, gas, electricity, drainage, police and fire protection or the developer has agreed to provide to all the necessary improvements or services for the area;
- (3) The comments from reviewing parties on the proposed rezoning have been adequately addressed;
- (4) There is a demonstrated need for additional land in the zoning district being requested;
- (5) The resulting district or expanded district will be a logical, integrated area and will not constitute spot zoning; and
- (6) An approved master plan is available for the area to be developed.

(F) Assembly. The Assembly shall review and act on a rezoning by ordinance. The Assembly shall consider the application and Commission recommendation at its next regular meeting after receipt of the Commission's recommendation. Upon enactment of the ordinance, the Administrator shall cause the official zoning map to be changed accordingly. The Assembly's decision shall be final.

(75 Code, § 19.60.060) (Ord. 75-6-23, passed 4-12-90)

§ 19.60.070 MASTER PLAN APPROVAL.

An application for a rezoning to the Scientific Research or Resource Development Districts shall be accompanied by a Master Plan containing the following:

(A) Maps, at a scale to be determined by the Administrator, indicating the site requested to be rezoned, the land ownership and status within the area to be rezoned, the land ownership and status of all adjoining lands, all existing development on the site and within two miles of the site, and all proposed development as determined in these regulations on the site to be governed by the proposed district;

(B) An estimate of the schedule for development of the proposed development;

(C) An analysis of the impact of the proposed development in the proposed district pursuant to each applicable policy in Chapter 19.70;

(D) Requested policy changes (modifications in wording or application of policies, additions of new policies, or suspension of existing applicable policies) for the proposed district, and an analysis of the cumulative impact of the proposed development in the proposed district pursuant to the policies if changed;

(E) Each area rezoned for Resource Development or Scientific Research shall designate a land manager who is responsible for implementation of the Master Plan; and

(F) Such other information as the Commission by rule may prescribe.

(75 Code, § 19.60.070) (Ord. 75-6-23, passed 4-12-90; Am. Ord. 75-6-40, passed 12-5-00)

§ 19.60.080 MASTER PLAN UPDATE.

The Commission may require periodic updates to the Master Plan to indicate changes in the development from the approved Master Plan and new development not shown on the approved plan. All development approved by the Commission on the updated Master Plan will be administratively approved at the actual time of construction. The land manager may submit updates of the plan of development and operation to the commission for approval as an update to a Master Plan. Master Plan updates are reviewed pursuant to the procedures of § 19.60.030.

(75 Code, § 19.60.080) (Ord. 75-6-23, passed 4-12-90; Am. Ord. 75-6-40, passed 12-5-00)

§ 19.60.090 TEXT AMENDMENTS.

An amendment to the text of this title shall be enacted by ordinance by the Assembly.

(75 Code, § 19.60.090) (Ord. 75-6-23, passed 4-12-90)

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TITLE 19: ZONING

CHAPTER 19.70: BOROUGH POLICIES§ 19.70.010 INTRODUCTION.§ 19.70.020 VILLAGE POLICIES.§ 19.70.030 ECONOMIC DEVELOPMENT POLICIES.§ 19.70.040 OFFSHORE DEVELOPMENT§ 19.70.050 COASTAL MANAGEMENT AND AREA-WIDE POLICIES.§ 19.70.060 TRANSPORTATION CORRIDOR POLICIES.**§ 19.70.010 INTRODUCTION.**

The policies contained in this chapter are applicable to the approval of all development and uses within the Borough. Economic development and area-wide policies are applied to all lands and waters within the Borough boundary. Village coastal management, Beaufort offshore and transportation corridor policies are applied to approvals within their respective areas.

(75 Code, § 19.70.010) (Ord. 75-6-23, passed 4-12-90)

§ 19.70.020 VILLAGE POLICIES.

The following policies are intended to guide the approval of development and uses in the village

- (A) Development and uses will not be allowed which grossly violate guidelines on the rate or amount of growth adopted by a village as a part of its Comprehensive Development Plan.
- (B) Development and uses in a village are required to be consistent with the relevant adopted village Comprehensive Development Plan.
- (C) Development and uses are encouraged which provide or materially contribute to lower-cost fuel or power.
- (D) Development and uses are encouraged which provide local employment in the villages.

(75 Code, § 19.70.020) (Ord. 75-6-23, passed 4-12-90)

§ 19.70.030 ECONOMIC DEVELOPMENT POLICIES.

Consideration will be given to the following beneficial impacts from development and uses.

- (A) Development which uses suppliers or subcontractors from within the Borough for work which can be accomplished competitively by local private businesses or regional or village corporations.

(B) Development which will significantly employ local Borough residents, unless residents of the local villages express no interest in the work.

(C) Utilization of flexible employment procedures by the applicant to allow subsistence pursuits by local Borough resident employees.

(D) Incorporation of job training programs by the applicant for Borough residents.

(E) Development and uses which are related to or encourage Inupiat arts and crafts.

(F) Utilization of locally obtained energy, such as locally produced coal and natural gas, or renewable sources of energy.

(G) The generation of excess of tax revenues over demand for expenditures by the development.

(75 Code, § 19.70.030) (Ord. 75-6-23, passed 4-12-90)

§ 19.70.040 OFFSHORE DEVELOPMENT

The following policies are intended to guide the approval of development and uses in the portion of the Beaufort Sea within the Borough boundary. Case-by-case extensions to the time periods below may be granted during approval or as a use permit if the activity will not significantly impact subsistence activities, will have minimal environmental risk and all review agency comments have been addressed.

(A) Drilling shall be conducted from bottom founded structures.

(B) Drilling above threshold depth may occur year-round.

(C) Drilling below threshold depth shall be conducted during the winter (November 1 through April 15) and be completed as early in this period as practicable.

(D) Confirmation, extension or delineation drilling, well testing and other well completion activities shall be completed by June 15. Consistent with division (C) above, any additional drilling or other activities shall not penetrate any new oil or gas bearing formations, or significantly increase the risk of an oil spill.

(E) All nonessential boat, barge and air traffic associated with drilling activity shall occur prior to or after the period of whale migration through the area. Essential traffic (traffic that could not reasonably occur prior to or after the period of whale migration through the area) shall avoid disrupting the whale migration, subsistence activities and be coordinated with the Alaska Eskimo Whaling Commission.

(F) Year-round drilling can occur following the unitization and approval of the plan of operation and Borough approval of a Master Plan and rezoning to the Resource Development District for the proposed development.

(75 Code, § 19.70.040) (Ord. 75-6-23, passed 4-12-90)

§ 19.70.050 COASTAL MANAGEMENT AND AREA-WIDE POLICIES.

The Borough has developed these policies that identify general and specific courses of action to achieve region-wide Comprehensive Plan goals and the implementation of the Coastal Management Program. The policies in this section are a guide for the actions and programming of agencies and organizations currently active or anticipating development activities anywhere in the Borough. They are also the approval criteria for subject uses and are the standards under

which a coastal consistency recommendation or determination is made within the coastal area. All development and uses must comply with each of the policies set out in this section unless the Administrator finds that the policy is not applicable. These policies are referenced at the end (such as, 2.4.3(a)) to the Borough Coastal Management Plan section from which they came.

(A) (1) When extensive adverse impacts to a subsistence resource are likely and cannot be avoided or mitigated, development shall not deplete subsistence resources below the subsistence needs of local residents of the Borough. 2.4.3(a).

(2) Intent: The impacts addressed in this policy may result from a single project or from a series of projects. To implement this policy, the North Slope Borough would need to establish:

(a) Documentation of subsistence needs; and

(b) A preponderance of the evidence indicating that the project will deplete a subsistence resource below the level necessary to meet those needs.

(B) (1) Offshore drilling and other development within the area of bowhead whale migration during the migration seasons shall not significantly interfere with subsistence activities nor jeopardize the continued availability of whales for subsistence purposes. 2.4.3(b).

(2) Intent: The area of the bowhead whale migration will be determined annually on the basis of best scientific information available, including that provided by the North Slope Borough and National Marine Fisheries Service monitoring programs. With respect to seismic exploration, the policy will be implemented by prohibiting seismic exploration in the vicinity of migrating whales when the exploration is likely to significantly interfere with subsistence activities or to jeopardize the continued availability of whales for subsistence purposes.

(C) Development on barrier islands and in the marine and estuarine waters within three miles of the passes of Kasegaluk Lagoon intensively used by beluga whales shall not significantly interfere with subsistence use of beluga whales; shall not cause the whales to be displaced from these passes; and shall not jeopardize the continued use of these passes and lagoon system by beluga whales. The passes intensively utilized by beluga whales are Kukpowruk Pass, Akunik Pass, Utukok Pass, Icy Cape Pass and Alokiakatat Pass. (See Coastal Resource Atlas Map 11.) 2.4.3(c).

(D) (1) Development shall not preclude reasonable subsistence user access to a subsistence resource. 2.4.3(d).

(2) Intent: The intent of this policy is to ensure that development will not preclude reasonable subsistence user access to a subsistence resource on which they depend. REASONABLE ACCESS is access-using means generally available to subsistence users. Reasonable opportunities for access to customary subsistence resources must not be precluded. PRECLUDING ACCESS addresses not only means of access, but access to areas where resources are present and can be used by subsistence users.

(E) Development which is likely to disturb cultural or historic sites listed on the National Register of Historic Places; sites eligible for inclusion in the National Register, or sites identified as important to the study, understanding or illustration of national, state or local history or prehistory shall be required to avoid the sites; or be required to consult with appropriate local, state and federal agencies and survey and excavate the site prior to disturbance. (Descriptions of sites identified are contained in Appendix C of the North Slope Borough Coastal Management Program Background Report and referenced on Map 2 of the Coastal Resource Atlas. Information regarding recently discovered sites is available from the Administrator.) 2.4.3(e).

(F) Development shall not significantly interfere with traditional activities at cultural or historic sites identified in the Coastal Management Program. 2.4.3(f).

(G) Development shall not cause surface disturbance of newly discovered historic or cultural sites prior to archaeological investigation. 2.4.3(g).

(H) Development shall comply with state or federal land, air and water quality standards or regulations. 2.4.3(h).

(I) The following features are required for all applicable development.

(1) Vehicles, vessels and aircraft that are likely to cause significant disturbance must avoid areas where species that are sensitive to noise or movement are concentrated at times when such species are concentrated. Concentrations may be seasonal or year-round and may be due to behavior (for example, flocks or herds) or limited habitat (for example, polar bear denning and seal haul outs). Horizontal and vertical buffers will be required where appropriate. Concern for human safety will be given special consideration when applying this policy. 2.4.4(a).

(2) Offshore structures must be able to withstand geophysical hazards and forces which may occur while at the drill site. Design criteria must be based on actual measurements or conservative estimates of geophysical forces. In addition, structures must have monitoring programs and safety systems capable of securing wells in case unexpected geophysical hazards or forces are encountered. 2.4.4(b).

(3) Development resulting in water or airborne emissions must comply with all state and federal regulations. 2.4.4(c).

(4) Industrial and commercial development must be served by solid waste disposal facilities which meet state and federal regulations. 2.4.4(d).

(5) Development not on a central sewage system is required to impound and process effluent to state and federal quality standards. 2.4.4(e).

(6) Plans for offshore drilling activities are required to include a relief well drilling plan and an emergency countermeasure plan. The relief well drilling plan must identify suitable alternative drilling rigs and their locations identify alternative relief well drilling sites; identify support equipment and supplies including, mud, casings and gravel supplies which could be used in an emergency; and specify the estimated time required to commence drilling and complete a relief well. The emergency countermeasures plan must identify the steps which will be taken to protect human life and minimize environmental damage in the event of loss of a drilling rig; ice override; or loss or disablement of support craft or other transportation systems. 2.4.4(f).

(7) (a) Offshore drilling operations and offshore petroleum storage and transportation facilities are required to have an oil spill control and clean-up plan. The plan must contain a risk analysis indicating where oil spills are likely to flow under various sets of local meteorological or oceanographic conditions. Impact areas must be identified and strategies fully developed to protect environmentally sensitive areas; the spill control and clean-up equipment which is available to the operator and the response time required to deploy this equipment under the various scenarios must be contained in the risk analysis. 2.4.4(g).

(b) Intent: Policies 6 and 7 are not intended to establish new regulations for offshore facilities. They restate and highlight requirements of existing regulations. Industry will not be required to go to considerable additional effort as a result of these policies.

(8) Offshore oil transport systems (for example, pipelines) must be specifically designed to withstand geological hazards, specifically sea ice. 2.4.4(h).

(9) All causeways are required to be sited and designed to allow free passage of fish, marine mammals and molting birds with due consideration for migration patterns; to prevent changes in water circulation patterns that would have significant adverse impacts on fish and wildlife; and to ensure adequate sediment transport. 2.4.4(i).

(10) Residential development associated with industrial and resource extraction development must be removed and the area rehabilitated to standards consistent with the Coastal Management Program when the industrial or extractive use is completed, unless removal is more environmentally harmful than not removing it. 2.4.4(k).

(11) Impermeable lining and diking is required for fuel storage facilities with a capacity greater than 660 gallons. 2.4.4(k).

(J) The following best efforts are required of all applicable development. All development must comply with each of the policies set out in this section unless the following criteria have been established or the policy is not applicable to the development:

(1) There is a significant public need for the proposed use and activity; and

(2) The developer has rigorously explored and objectively evaluated all feasible and prudent alternatives to the proposed use or activity and cannot comply with the policy. When alternatives are eliminated from consideration, the reasons for their elimination shall be briefly documented by the developer.

(3) Development of the following categories or types will be allowed only if the development has met the criteria above, and the developer has taken all feasible and prudent steps to avoid the adverse impacts the policy was intended to prevent.

(a) Development that will likely result in significantly decreased productivity of subsistence resources or their ecosystems. 2.4.5.1(a).

(b) Development which restricts subsistence user access to a subsistence resource. 2.4.5.1(b).

(c) Development activities from June 15 to July 31 that will likely displace beluga whales from Kasegaluk Lagoon. These development activities may include, but are not limited to, extensive barge or boat traffic; low altitude or frequent plane and helicopter traffic; and other activities resulting in excessive noise or other forms of disturbance. 2.4.5.1(d).

(d) Development on or near a shoreline that has the potential of adversely impacting water quality (for example, landfills, hazardous materials storage area, dumps and the like). (Near, as used in the phrase NEAR THE SHORELINE is defined as that area within a 1,500-foot setback from the mean high water mark along the coast, lakeshore or river). 2.4.5.1(e).

(e) public highway development, except for village roads and streets and highways indicated in the state and/or local capital improvements program. 2.4.5.1(f).

(f) Transportation development, including pipelines, which significantly obstructs wildlife migration. 2.4.5.1(g).

(g) 1. Development to accommodate large scale movement of crude oil or natural gas via marine tankers. 2.4.5.1(h).

2. Intent: The intent of this policy is to limit development to accommodate large scale movement of crude oil or natural gas via marine tankers to instances where no feasible and prudent alternative exists, recognizing that development of marine tanker facilities is a use of state concern.

(h) Duplicative transportation corridors from resource extraction sites. 2.4.5.1 (i).

(i) Mining of beaches, barrier islands or offshore shoals. In those circumstances where no feasible and prudent alternatives exist, substantial alteration of shoreline dynamics is prohibited. 2.4.5.1(j).

(j) Placement of structures in floodplains subject to a 50-year recurrence level and in geologic hazard areas as identified on the following coastal resource atlas maps:

1. Map 6 - Areas of moderate and severe ridging and historic ice override.

2. Map 7 and 22 - Areas of moderate and severe ice ridging. 2.4.5.1(k)

(R) The following are required of applicable development except where the development has met

the criteria above, and the developer has taken all feasible and prudent steps to maximize conformance with the policy.

(1) Mining (including sand and gravel extraction) in the coastal area shall be evaluated with respect to type of extraction operation, location, possible mitigation measures, and season so as to lessen, to the maximum extent practicable, environmental degradation of coastal lands and waters (for example, siltation of anadromous rivers and streams). 2.4.5.2(a).

(2) Development is required to be located, designed and maintained in a manner that prevents significant adverse impacts on fish and wildlife and their habitat, including water circulation and drainage patterns and coastal processes. 2.4.5.2(b).

(3) Resource extraction support facilities, including administration offices, operations, residence, and other uses not absolutely required in the field must be located in a designated service base which is sited, designed, constructed and maintained to be as compact as possible and to share facilities to the maximum extent possible. 2.4.5.2(c).

(4) Gravel extraction activities within the floodplain shall maintain buffers between active channels and the work area, avoid in-stream work, permanent channel shifts and ponding of water, clearing of riparian vegetation and disturbance to natural banks. 2.4.5.2(d).

(5) New subdivisions or other residential development must provide state-approved water and sewer service to prevent damage to fish and wildlife and their habitat. 2.4.5.2(e).

(6) Transportation facilities and utilities must be consolidated to the maximum extent possible. 2.4.5.2(f).

(7) Development within the Alaska Coastal Management Program-defined coastal habitats must be conducted in accordance with ACMP Standard 6 AAC 80.130(b), (c) and (d), and applicable policies of the North Slope Borough Coastal Management Program. These habitats include: Offshore areas, estuaries, wetlands and tide flats, rock islands and sea cliffs, barrier islands and lagoons, exposed high-energy coasts, river, streams and lakes and important upland habitats. 2.4.5.2(g).

(8) Development is required to be located, designed and maintained in a manner that does not interfere with the use of a site that is important for significant cultural uses or essential for transportation to subsistence use areas. 2.4.5.2(h).

(L) Applicable development is required to minimize its negative impact.

(1) Development associated with purely recreational uses of land and wildlife habitat (such as, commercial hunting and fishing camps and recreational second-home subdivisions) shall minimize adverse impacts on subsistence activities. 2.4.6(a).

(2) Siting, design, construction and maintenance of transportation and utility facilities (including ice roads) are required to minimize alteration of shorelines, water courses, wetlands, tidal marshes and significant disturbance to important habitats and to avoid critical fish migration periods. 2.4.6(b).

(3) Development is required to maintain the natural permafrost insulation quality of existing soils and vegetation. 2.4.6(c).

(4) Airports and helicopter pads are required to be sited, designed, constructed and operated in a manner that minimizes their impact upon wildlife. 2.4.6(d).

(5) (a) A means of providing for unimpeded wildlife crossing shall be included in the design and construction of structures such as roads and pipelines that are located in areas used by wildlife. Pipeline design shall be based on the best available information and include adequate pipeline elevation, ramping or burial to minimize disruptions of migratory patterns and other major movements of wildlife. Aboveground pipelines shall be elevated a minimum of five feet from the ground to the bottom of the pipe, except at those points where the pipeline intersects a road, pad

or caribou ramp, or is constructed within 100 feet of an existing pipeline that is elevated less than five feet. Temporary pipelines (not to exceed six months) are exempt from this policy. 2.4.6(e).

(b) Intent: In areas used by wildlife, this policy establishes a five-foot minimum pipeline elevation where elevation is the preferred means or providing for unimpeded wildlife crossings. Best available information will be evaluated during project review to determine if pipeline burial, ramping, elevation or a combination thereof, will be employed.

(6) Development in floodplains, shoreline areas and offshore areas is required to be silted, designed and constructed to minimize loss of life or property due to riverine flooding, icings, stream bank erosion, oceanic storms, sea waves, ice gouging and override and shore erosion. 2.4.6(f).

(7) Seismic exploration must be conducted in a manner that minimizes its impact on fish and wildlife. 2.4.6(g)

(75 Code, § 19.70.050) (Ord. 75-6-23, passed 4-12-90)

§ 19.70.060 TRANSPORTATION CORRIDOR POLICIES.

All uses and development requiring an approval in a Transportation Corridor District must comply with these policies. The policies in this section are used as a basis for approval stipulations by the Borough for development and uses in this District.

(A) Uses will be directly related to the use of the Haul Road (also known as, Dalton Highway) as a public highway as designated by the State of Alaska which serves both as a public access road and an industrial road serving the Trans Alaska Pipeline, future resource extraction related development and approved resource development districts.

(B) Research facilities are encouraged to be in a central facility in the disturbed area at Toolik.

(C) Any expansions or reactivation of airstrips must be done on the basis of plans and permits reviewed and approved by the Borough and appropriate villages. Airport land use shall minimize residential and recreational use at the airport. Land use at airports shall be directly related to the primary industrial uses in the area.

(D) Sand and gravel use for operation, maintenance and construction of a new natural gas pipeline, and the existing road and pipeline have first priority. Essential government and industrial uses are allowed gravel use but only if it is not feasible and prudent to use existing pads and developed areas.

(E) Extraction must be conducted in accordance with reclamation plans that provide for enhancement to wildlife habitat, or minimize environmental impacts or improvement to the affected area for human use.

(F) Reclamation of all upland and floodplain mined sites shall be required unless such reclamation would cause greater adverse impact to the environment than leaving the area unreclaimed. Excavated areas should be converted to fish or waterfowl habitat whenever feasible and prudent.

(G) Where feasible and prudent, stream banks and lake shores of fish-bearing waters and drinking water supplies shall be protected by providing an adequate buffer strip of undisturbed vegetation to mitigate adverse impacts.

(H) Where feasible and prudent, all development shall be located outside active floodplains.

(I) Uses and development may be prohibited in sensitive habitats such as wolf den areas, mineral licks and during a lambing season in identified Dall sheep lambing areas.

(J) Development within the historical and cultural resource area (see zoning map) is required to identify and document archeological sites prior to construction.

(K) Existing commercial recreational operators which have been permitted prior to the effective date of this title are allowed to continue in conformance with their status as nonconforming uses. New commercial recreational operations are allowed only at designated development nodes as defined in § 19.40.090. Such uses include commercial recreational activities; campgrounds; visitor accommodations such as lodges, and hotels; convenience stores; food services; roadside services such as gas stations, emergency and accident response services.

(L) Developments on the Dalton Highway are required to be serviced by adequate facilities and services inclusive of sanitation and utilities relative to the type of activity developed. Such facilities and services must be already available or provided by the developer prior to or on a concurrent basis as a condition of development approval.

(75 Code, § 19.70.060) (Ord. 75-6-23, passed 4-12-90; Am. Ord. 75-6-36, passed 3-3-98)

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