

PLEASE POST

Planning Commissioners
Sabrina Savo, Seat A
Vacant, Seat B
Gregg Marxmiller, Seat C



William Corbett, Seat D
Andy Anderson, Seat E
Julie Baltar, Chair, Seat F
Vacant, Seat G

**DILLINGHAM PLANNING COMMISSION
REGULAR MEETING**

**March 11, 2015
5:30 p.m.**

Teleconference: 1-800-791-2345; participant code 19531

Agenda

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVE MINUTES OF November 12, 2014**
- IV. APPROVAL OF AGENDA**
- V. COMMUNICATIONS**
 - A. Communications to the Planning Commission
 - B. Planner's Report
 - C. Citizen's comments on items not on the agenda
- VI. PUBLIC HEARINGS**
 - A. none
- VII. UNFINISHED BUSINESS**
 - A. Floodplain Ordinance Review DISCUSS
- VIII. NEW BUSINESS**
 - A. Resolution 2015-01 Supporting a long term encroachment permit for an ADA compliant ramp to be constructed at 301 Main Street ACTION
 - B. Commissioner Training ACTION
 - C. FY17 CIP DISCUSS
- IX. CITIZEN COMMENTS**
- X. COMMISSIONER COMMENTS**
- XI. ADJOURNMENT**

I. CALL TO ORDER

The regular meeting of the Dillingham Planning Commission was called to order by Chair Julie Baltar at 5:37 p.m.

II. ROLL CALL (quorum is 4)

Members present:

Paul Liedberg, Seat B
Gregg Marxmiller, Seat C
Andy Anderson, Seat E
William Corbett, Seat D
Julie Baltar, Seat F

Public:

On Teleconference:
Clint Adler, ADEC
Phil Baumgartner, Bristol Alliance
Fuels
Allen Swift, resident

Members Absent:

Sabrina Savo

Staff in Attendance:

Jody Seitz, City Planner, Recorder

III. APPROVAL OF THE MINUTES OF October 8, 2014. (This happened after approval of the agenda).

MOTION: Andy Anderson moved and Gregg Marxmiller seconded the motion to approve the minutes of October 8, 2014.

Andy Anderson moved the previous question.
(Recorder's note: no second)

Chair commented that her comments under Commissioner Comments were to "move forward with a plan for a transit system."

VOTE: Unanimous consent to approve the minutes as amended.

IV. APPROVAL OF THE AGENDA

MOTION: Paul Liedberg moved and Andy Anderson seconded the motion to approve the agenda.

DISCUSSION:

- Planner Seitz proposed to amend the agenda to add a Resolution 2014-21 on the Floodplain Ordinance, if the City attorney's proposed changes are considered significant.

- Resolution 2014-20, a Long Term Encroachment Permit should be item VIII B.

MOTION: Andy moved to approve the amendment. Paul Liedberg seconded the motion.

VOTE: The motion to approve the amendment was approved unanimously.

VOTE: The motion to approve the agenda as amended was approved unanimously.

V. COMMUNICATIONS

- A. Communications to PC were largely about the changes proposed to the Floodplain ordinance. Not a huge change, but Baumgartner's ideas were important to bring to the attorney and the commission.

(Planner discovered we'd skipped approval of the minutes. See above).

Edra Garage was also the subject of comments, which Allen Swift is here to address.

- B. Planner Seitz reviewed her report with the Commission.

- C. Citizen's comments

Phil Baumgartner is here to listen on the discussion regarding proposed changes to the ordinance.

VI. PUBLIC HEARINGS

There were no public hearings.

VII. UNFINISHED BUSINESS

- A. Resolution 2014-21 Recommending Changes to Title 15 Floodplain Management

MOTION: Paul Liedberg moved and Andy Anderson seconded the motion to approve Resolution 2014-21.

DISCUSSION:

- Review of purpose for revising the ordinance – to get rid of requirement for Variance for shore-dependent uses.
- Planner reviewed the previous and recent changes in the ordinance.
- Delete "only" from the functionally dependent use definition.
 - The commission can approve any use it wishes to under a Variance.
 - Mr. Baumgartner- the word "only" is unnecessarily restrictive and seems counterproductive to the intent of this ordinance change.

- Gray areas are important to allow the public to weigh in. Can't spell out everything in the ordinance, and likely should not. Still need due diligence in reviewing the applications.
- Future Planning Commissions should have an opportunity to weigh in on those things that are not absolutely functionally dependent.
- Baumgartner commented on the cost of hiring an engineer to review plats and asked about being able to see the estimate of the cost for the review.
- Discussed "commercially reasonable" cost of review versus competitive bidding for a firm to review plats.
- That large projects have big design costs, and the cost of review could be substantial.
- Would like to see some type of review with developer of the estimated cost of the engineering services prior to agreeing to go forward with that.
- Amended that a commercially reasonable cost estimate for engineering review shall be provided to the developer and reviewed with the developer at their request.

VOTE: Amended by Unanimous consent.
 VOTE: Unanimously approved whole ordinance.

B. Resolution 2014-16 Title 17 Minimum Lot Size Postponed

i. Minimum Acreage background with Clint Adler of ADEC:

- 40,000 square feet is approximately enough to put in a septic and replacement system that protects a water well on the lot and won't encroach on neighboring lots and their wells. That's when the land is conducive to these systems.
- Septic systems will fail once every 15 years or so.
- 40,000 may not be enough if the land doesn't perk well, has a lot of permafrost or other poor soil conditions that don't accept water well, in that case have to do site specific solutions.
- Other technologies can be used, but are costly and need more active maintenance. Called advance treatment units.
- Aware of places where water supplies have been contaminated?
- Has seen places where subdivision lots were too small to meet separation distances and almost impossible to prevent contamination of wells.
- Besides contamination of wells, can have high density of population, and elevate the nitrates in the groundwater that people drink from.
- 10mg/ltr or more can affect elderly and infants and their ability to absorb oxygen in the blood. Leads to health impacts. Very common.
- See it even in lots where you have about 20,000 square feet next to each other and where you have water and sewer together on lots.
- Small lots sizes impact developability of lots especially in SE Alaska in Haines, Skagway. Have seen elevated nitrates in Matsu Valley where the density of

development is high. But we're not really monitoring the situation on an active basis. The situation could be worse than we realize.

- How did the city get into this position?
- Article 3 of [state] wastewater disposal regulations, in 1998, subdivision plat review, required state level review of subdivision platting. Reviewed soil conditions and lot sizes to make sure when the land was subdivided that the configuration of the geology and the land was suitable for onsite water and for disposal of wastewater.
- No plan B. Logic was that the ADEC is in the business of protecting health, not land use planning. Deferred to Title 29 which gives responsibilities to local governments. Looks at subdividing land as a land use planning duty.
- Discussion about retaining an engineer to review lot sizes in subdivisions for conventional septic.
- Dillingham has challenging [soil] conditions.
- Planner Seitz contacted BIA to find out what kind of review takes place for allotments, who said they don't do this type of review either, they rely on the City for that.
- Discussion that City would be forced to pass the cost of this along to the subdivider.
- The engineer (outside of Dillingham) would review based on perk tests.
- What are the consequences for the City after approving a subdivision which turns out that the lots do not all perk.
- Lake and Pen just writes on the plat, that lots [shall comply with the regulations of the ADEC when developed], essentially "buyer beware."
- Comment that we would be playing with fire to have buyer beware because whether legal or not, the City has some responsibility to maintain health conditions.
- Thinks it's a good idea for the Planning commission to want proof that there's enough room for water and wastewater disposal on a lot.
- Maybe that's why an engineer has insurance since they are the ones making the decision, it would be their liability.
- Looking at adding another \$1000 per lot for on-site water and sewer. Will have to spell out exactly what will be required submittals for subdivision documents.

MOTION: Move to postpone Resolution 2014-16 Title 17 Minimum Lot Size, by Paul Liedberg, second by Andy Anderson.

VOTE: Unanimous in favor of postponement until next meeting.

C. Public Involvement Plan for Title 17 Minimum Acreage Lot size Revision

- Planner Seitz advocated that the minimum acreage issue have more public discussion and the community be invited to be more involved. The weighing of Risk versus Cost should be a community conversation. JB recommends that if the chair is not available could involve other members of the Planning commission to be part of the publicity.

Suggested revisions to the Minimum Acreage Public Involvement Plan:

- Add in other commissioner to item 2.
- Add Choggiung Limited and BBNA Land Management to Workshop Guests
- Could the Commission get letters of support from the agencies?
- Determined to hold public meeting first, then workshop at 9:00 on Saturday, December 20.

D. Kanakanak Road Maintenance

- Two issues – potholes and dust. No dust issue at the moment.

VIII. NEW BUSINESS

A. Resolution 2014-19 Approving Edra Garage Preliminary Plat

Planner Seitz reviewed the subdivision. Allen Swift, a neighbor, provided testimony. His concern was over the size of the easement and that the traffic encroaches on his property. The discussion went as follows:

- Traffic from the Moravian church and the cemetery goes through his property.
- The houses on the lots which bear the private easement are very close to the easement.
- The easement is a private easement.
- Wondered if the easement met the City's access requirements.
- Pointed out that the easement is from 1979.
- A Street has never been built. The easement is the only car access to the Edra Garage.

(Julie Baltar had to leave the meeting.)

- We don't know exactly where the monuments are that mark the actual lot line.
- There might be enough room for both parking and access, but something that are being stored on Lots 4 and 5 might have to be moved.
- The Swifts are worried about losing property.

Planner Seitz reviewed her staff report on the Edra Garage Subdivision.

MOTION: William Corbett moved and Gregg Marxmiller seconded the motion to approve the Edra Garage Subdivision Preliminary Plat

VOTE: Unanimous approval.

B. Resolution 2014-20 Long Term Encroachment permit Utilities to Incinerator

MOTION: Andy Anderson moved and Gregg Marxmiller seconded the motion to approve Resolution 2014-20.

DISCUSSION: Nushagak waits for the long term permit to install power to the incinerator.

VOTE: Unanimous approval.

X. CITIZEN'S COMMENTS:

No citizens commented.

XI. COMMISSIONER COMMENTS:

Gregg Marxmiller - The road is terrible. Thanks City for sending him to Planning Commissioner training.

Paul Liedberg – roads are terrible. But it's wet and there's not much they can do about it.

So reminds people to slow down. Reminds that there is a City Council seat open.

Mayor is taking letters of interest through the First of December.

XI. ADJOURNMENT

Meeting Adjourned 7:47 p.m.

ATTEST:

Julianne E. Baltar, Chair

Jody Seitz, Recorder

Mayor
Alice Ruby

Manager
Rose Loera



Dillingham Planning Commission
Sabrina Savo, Seat A
Vacant Seat B
Gregg Marxmiller, Seat C
William Corbett, Seat D
Andy Anderson, Seat E
Julie Baltar, Seat F, Chair
Vacant, Seat G

MEMORANDUM

Date: March 6, 2015
To: Planning Commission
From: Jody Seitz, City Planner
Subject: Monthly Report

Greetings Commissioners! It's great to be back. I'm enjoying our warm weather and have a lot of appreciation this month for all we have managed to accomplish over the years.

Archive project: The City Clerk and I have been putting all the City's permanent records, starting with resolutions and minutes, into the Laserfiche program so that they can be easily searched. This will save a lot of time trying to discover the history of anything City-related. I was able to use this to quickly provide old minutes to Nushagak Cooperative, which is searching for utility permits for the Downtown Streets project.

FY17 Capital Improvement Plan: The process for the annual update of the City's CIP is once again evolving. I am making the process more expeditious by updating all project descriptions for City capital projects with the appropriate department head. The Planning Commission will review the six year CIP together and make its recommendations.

Ordinances: Titles 15 Floodplain Management, Title 18 Land Use, and Title 17 Subdivisions are all under revision. Title 15 went through FEMA review and came back with some edits which need clarifying as to whether they are negotiable and what the source for the recommendations is. Title 18 Attorney Patrick Munson's edits are awaiting our review. Title 17 is on hold at the moment. The commission should develop a plan for public involvement on these.

Pending plats:

ASLS 2005-51: There is a glitch with this final plat. Comments have been returned from ADNR and ADOT. Access is missing to state parcels which are part of the survey. The access is actually NOT within the survey area. I have been seeking advice from ADOT and asking if ADOT can provide access through dedicating its part of Kenny Wren Road as public right of way.

Crystal Subdivision: Have contacted the subdivider to request he ask for an extension.

Edra Garage: awaiting the mylar from the surveyor.

L&M Subdivision: Awaiting formal refusal of half the alley by ADNR to complete the final plat. Have contacted the surveyor to get the physical description of the parcel for ADNR.

*Our Vision. By 2015 to have an infrastructure that supports a sustainable, diversified and growing economy. * We will take a leadership role and partner with others to achieve economic development and other common goals. * We will develop a high quality City workforce to serve the community. * We will promote excellence in education.*

City of Dillingham

March 6, 2015 PC report, Page 1 of 2

Pacer Subdivision: The final plat had to go back to BIA for review. We are awaiting this plat to complete a final public hearing and approval.

Port Land Exchange: Have moved the property descriptions to the Assessor to prepare values.

Permitting: I am behind on this at the moment.

Encroachment Permits: none pending right now.

Floodplain Management: Notified landowner of harbor property USS 3643 Lot 2 that his property is in violation of the City's floodplain ordinance. Attorney advised that City should continue its permitting activities despite the foreclosure action against him.

Land Use Permits: Two driveway permits outstanding. Lack of driveway standards in Title 18 complicates actions for compliance.

Planning Commission training: I'd like to schedule two trainings – one for floodplain management since the commission has expressed interest in issuing the floodplain permits, and another for general commissioner training.

Public Roads: I reviewed our list of public roads for the ADOT. This involved driving some, and sorting out the number of miles of paved and unpaved public roads there are in Dillingham.

Streets: ADOT will hold a public meeting in the evening of April 1 to discuss their projects in Dillingham.

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RESOLUTION 2015-01
A RESOLUTION OF THE DILLINGHAM PLANNING COMMISSION

Supporting a long term encroachment permit for an ADA compliant ramp to be
constructed at 301 Main Street

WHEREAS, Choggiung Limited wishes to install a ramp to make their building at 301 Main Street compliant with the American Disabilities Act; and

WHEREAS, the State of Alaska Department of Transportation and Public Facilities is going to reconstruct the City streets in 2016, including the sidewalk into which the ramp will encroach; and

WHEREAS, State engineers have reviewed the plans for the ADA ramp and found that they can design their project to work around the ramp; and

WHEREAS, per Dillingham Municipal Code 12.08.030, the city may issue a long term encroachment permit and may make limitations and conditions on that permit; and

WHEREAS; per DMC 12.08.030, the city may remove permitted encroachments if deemed necessary; and

WHEREAS, the ramp is to be constructed of wood and could be easily removed if needed; and

WHEREAS, the Dillingham Planning Commission is required to make a recommendation to the city council for long term encroachments and for excavation and construction in city rights-of-way and city property per DMC 12.08.020 (C) and DMC 12.08.070;

THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Dillingham, Alaska, recommends the City Council approve a long term encroachment permit for Choggiung Limited to install an ADA ramp to its building at 301 Main Street, with the following conditions:

- That at least 48 hours' notice be given to the City of Dillingham administration prior to beginning construction.
- That at some future date, the City may remove the ramp if necessary for City purposes.
- That Choggiung work with State engineers to resolve all potential conflicts in their two projects.

APPROVED AND ADOPTED THIS 11th DAY OF March, 2015.

Julianne E. Baltar, Presiding Officer

Jody Seitz, Recorder

LTE 2014-10



Encroachment Permit Application
City of Dillingham
PO Box 889, Dillingham, Alaska 99576

Application received: 9/8/14 Fee Paid \$: 75-

Applicant Name: Constantine Backford

Phone Number: 1-907-842-5218

Owner's Name: Choggings Ltd

Mailing Address: P.O. Box 802

City, State, Zip Code: Dillingham, Alaska 99576

Phone Number: 1-907-842-5218 Fax: 1-907-842-5462

Email: _____

Property Location/Description: Lot 6

Basis for encroachment permit request: Choggings Ltd needs to put in a Handicap ramp to be ADA compliant - for Nook Wac in order for the ramp to be legal, it will extend onto the sidewalk

Short Term Permit Long Term Permit Period requested: from ___/___/___ to ___/___/___

Provide all requested information above and attach appropriate as-built survey. You must include the \$75.00 non-refundable encroachment permit fee with your application to be processed.
Information included in this permit application is, to the best of my knowledge, true and complete. I acknowledge and will comply with the requirements set forth by this encroachment permit. I acknowledge that this permit does not grant approval to any other federal, state, or city permits that may be required.

Applicant's signature: [Signature] Date: 9-18-14

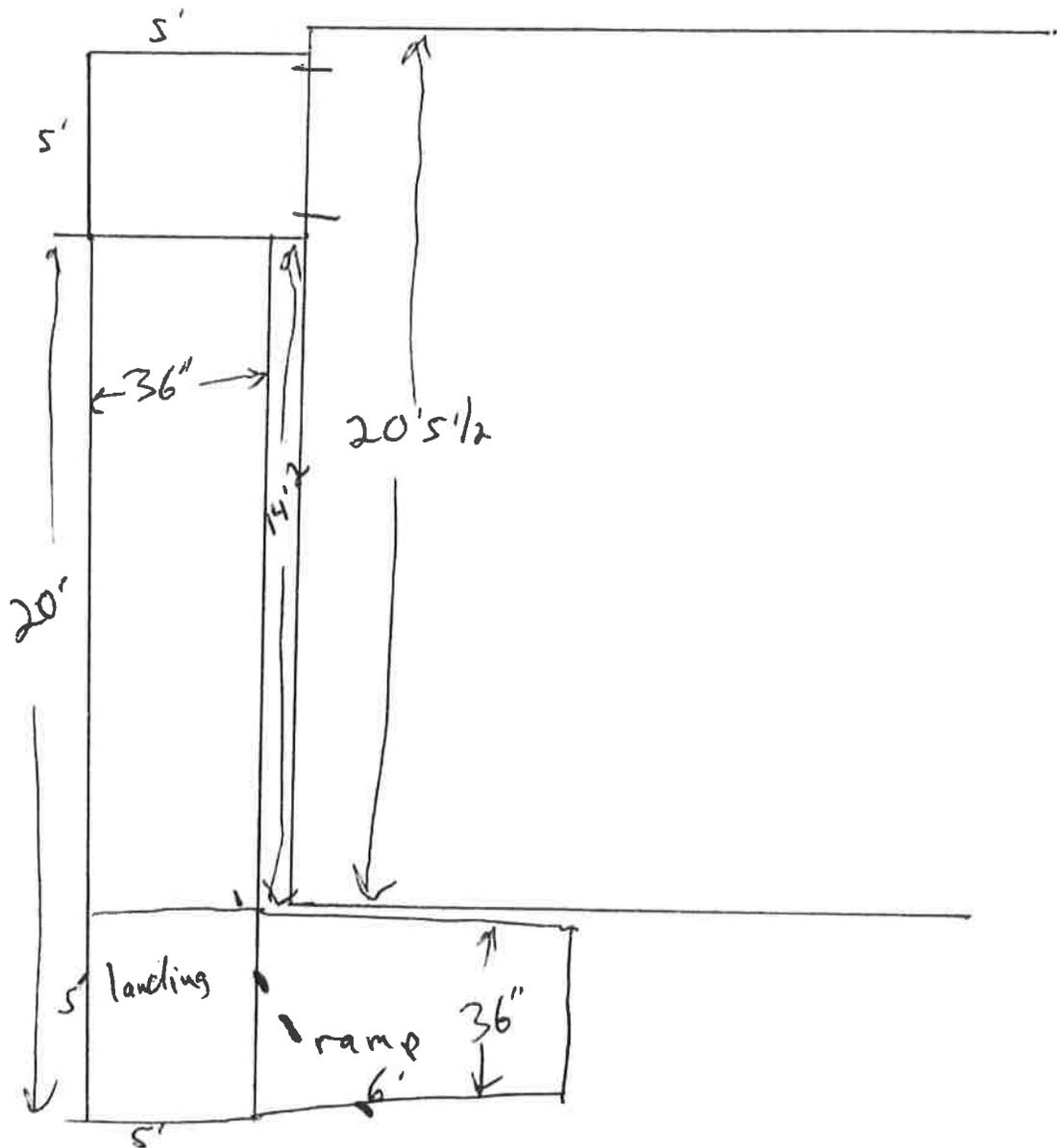
Landowner's signature: [Signature] Date: 9-17-14

To Be Completed By City:

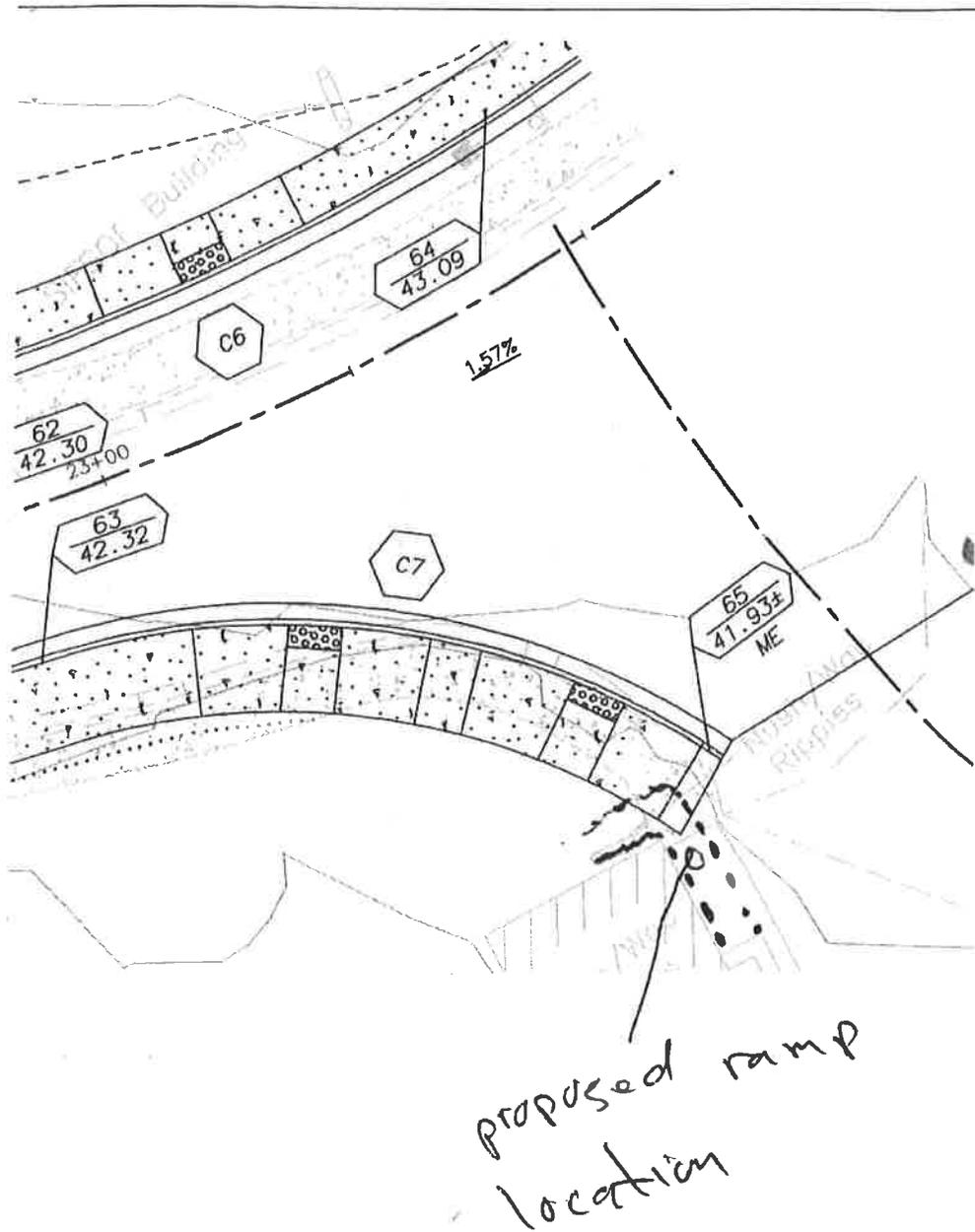
| | |
|--|------|
| | |
| City Manager | Date |
| Planning Director | Date |
| Public Works Director | Date |
| Action Taken by City: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Incomplete, return to applicant | |

Chog Tower- Nush Wac

Handicap Ramp



Main Street side.

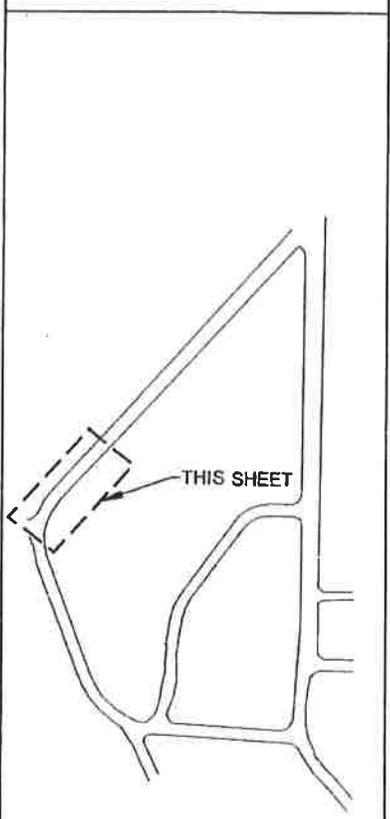


proposed ramp location

RBING ARE TO
OF TOP BACK
INCHES LESS
GRADE AT LIP
OF SIDEWALK

TO MATCH
IS DIRECTED

| SHEET NO. | TOTAL SHEETS | |
|---------------------|--------------|-------------|
| G4 | | |
| STATE | YEAR | |
| ALASKA | 2013 | |
| PROJECT DESIGNATION | | |
| 0001(335)/57180 | | |
| ADDENDUM NO. | | |
| ATTACHMENT NO. | | |
| REVISIONS | | |
| NO. | DATE | DESCRIPTION |
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Chapter 15.04 FLOODPLAIN REGULATIONS

Sections:

- 15.04.010 Statutory authorization, findings of fact and purpose.
- 15.04.020 Definitions.
- 15.04.030 Floodplain permit—Required.
- 15.04.031 Floodplain use permit—General provisions.
- 15.04.040 Floodplain permit—Application.
- 15.04.041 Floodplain permit—Administration.
- 15.04.050 Floodplain permit—Flood protection requirements.
- 15.04.060 Subdivision and utility regulations.
- 15.04.061 Residential structures.
- 15.04.062 Nonresidential structures.
- 15.04.063 Floodproofing.
- 15.04.064 Coastal high hazard areas.
- 15.04.065 Flood-related erosion hazard areas.
- 15.04.070 Existing structures.
- 15.04.075 Authority to enter contracts.
- 15.04.080 Conflicting provisions.
- 15.04.090 Warning and disclaimer of liability.
- 15.04.100 Variances.
- 15.04.110 Appeals.
- 15.04.120 Violation—Enforcement.
- 15.04.125 Violation—Penalties and remedies.

15.04.010 Statutory authorization, findings of fact and purpose.

The Legislature of the State of Alaska has in Statute 201 of the Flood Disaster Protection Act of 1973, delegated the responsibility to local government units to adopt regulations to promote the public health, safety, and general welfare of its citizenry. The City of Dillingham is further authorized under AS 29.40.040 to adopt and amend land use regulations in accordance with the Comprehensive Plan. Therefore, the City Council of Dillingham, Alaska, does ordain as follows:

A. Areas within the city are periodically subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. Areas within the city have been designated as floodprone pursuant to Section 201 of the Flood Disaster Protection Act of 1973 and the city is required to join the National Flood Insurance Program to

make flood insurance and federally regulated financial assistance available to the residents within the flood hazard areas.

C. The purpose of this chapter is to promote the public health, safety and general welfare and to minimize those losses described in subsection A of this section and to meet the requirements for participation in the National Flood Insurance Program. To accomplish this purpose, it is the intent of this chapter to:

1. Establish a land use permit system for development occurring in the flood hazard areas of the city;
2. Require that land uses vulnerable to floods, including public facilities and utilities which serve such uses, shall be protected against flood damages at the time of initial construction or substantial improvement;
3. Restrict or prohibit land uses which are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocity;
4. Insurance that subdivision and development of land within the city are consistent with the need to minimize flood hazards. (Ord. 75-2 § 1, 1975; Ord. 86-13 § 1, 1986; Ord. 87-04 § 1, 1987.)

15.04.020 Definitions.

As used in this chapter, the following words have the meanings ascribed to them in this section:

- A. "Federal Insurance Administration" (FIA) of the Federal Emergency Management Agency (FEMA) is responsible for administration of the National Flood Insurance Program.
- B. "Fill" means nonload bearing material susceptible to wash or erosion such as dredge spoils, debris, sand or dirt.
- C. "Flood hazard area" includes all area within the corporate limits subject to the one-hundred-year flood as delineated on the flood insurance rate map for the city published by the Federal Insurance Administration.
- D. "Flood insurance rate map" (FIRM) means the map of the city issued by the Federal Insurance Administration which delineates the area subject to the one-hundred-year flood and the risk premium zones applicable to the community.
- E. "Mean lower low water" means the elevation datum (0.00 feet) referenced on the flood insurance rate maps. MLLE is 10.0 feet below the National Geodetic Vertical Datum of 1929 (NGVD) in Dillingham.
- F. "One-hundred-year flood" means a flood of a magnitude which can be expected to occur on the average of once every one hundred years. It is possible for this size flood to occur during any year. The

Commented [WK1]: See comments made on proposed ordinance amendment, especially adding a definition for Areas of Special Flood Hazard and correction for "structure".

odds are one to one hundred that this size flood will occur during a given year; there is a one percent chance that a flood of this magnitude will occur each year. Statistical analysis of available streamflow or coastal storm records, or analysis of rainfall and runoff characteristics of the watershed, or coastal topography and depth of the one-hundred-year flood. Also referred to as the base flood or regulatory flood.

G. "Structure" means a building which is used for residential, business, agricultural or religious purposes, or which is occupied by a private, nonprofit organization, or which is owned by a state or local government or any agency thereof; the term includes mobile homes and other modular units.

H. "Substantially improved" means any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the property either as such value exists before the improvement is started or if the property has been damaged and is being restored, as such value existed before the damage occurred.

I. "Lowest floor" means the lowest enclosed area (including basement).

J. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

K. "Variances" are grants of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance. (Ord. 75-2 § 7, 1975; Ord. 82-6 § 1, 1982; Ord. 86-13 § 1, 1986; Ord. 87-04 § 1, 1987.)

15.04.030 Floodplain permit—Required.

No party shall make any changes to improved or unimproved real estate, including mine, dredge, fill, grade, pave, excavate, construct, construct an addition to, substantially improve or relocate a structure within areas of the city within a flood hazard area without first securing from the city planning department, a floodplain permit for each structure. It is not the intent of this chapter to require a floodplain permit outside of flood hazard areas. (Ord. 75-2 § 2, 1975; Ord. 82-6 § 2, 1982; Ord. 86-13 § 1, 1986; Ord. 92-21 § 2 (part), 1992.)

15.04.031 Floodplain use permit—General provisions.

A. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Dillingham.

B. The areas of special flood hazard identified by the Federal Insurance Administration are a scientific and engineering report entitled, "The Flood Insurance Study for the City of Dillingham, Alaska," dated

Commented [WK2]: Consider being more specific to "areas of special flood hazard," unless the city is applying Chapter 15.04 to flood hazard areas outside of the Special Flood Hazard Areas as well.

September 30, 1982, with accompanying Flood Insurance [Rate](#) Maps, is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at City Hall.

C. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Penalties and remedies for violations of this chapter are found in Section [15.04.125](#).

D. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 87-04 § 1, 1987; Ord. 92-21 § 2 (part), 1992.)

15.04.040 Floodplain permit—Application.

A. Application. Application for a floodplain permit for each development or structure shall be filed with the planning department and shall be accompanied by the required fee. The application for a permit shall be made on a form furnished by and returned to the planning department.

B. Information Required. The information furnished in the application shall include, but is not limited to:

1. The name and address of the owner of the tract;
2. A legal description of the tract;
3. Statement of the following elevations:
 - a. The ground elevation after site preparation,
 - b. Projected lowest floor elevation, (including basement) in relation to mean low water of all structures,
 - c. Elevation in relation to mean lower low water to which any [non-residential](#) structure has been [dry](#)-floodproofed.
4. Certification by a registered professional engineer, architect, surveyor or city permit official that the proposed floodproofing methods for any nonresidential structure meet the floodproofing criteria in this chapter;

Commented [WK3]: Add the correct reference.

Commented [WK4]: Consider including NGVD 29 as well.

5. Information which demonstrates that the structure will be adequately protected against flood damage and that the structure or site preparation will not adversely affect flood elevations or velocities. The required protective measures are set forth in Section 15.04.050.

C. Evaluation. Following the filing of the application, the planning department shall review the submittal, request any additional information deemed necessary, and evaluate the application based upon the provisions of this chapter. (Ord. 75-2 (part), 1985; Ord. 82-6 § 3, 1982; Ord. 86-13 § 1, 1986; Ord 92-21 § 2 (part), 1992.)

15.04.041 Floodplain permit—Administration.

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

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

C. Duties of the Director. Duties of the planning director shall include, but not be limited to:

1. Permit Review.

a. Review all land use permits to determine that the permit requirements of this ordinance have been satisfied;

b. Review all land use permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.04.031(B) the planning director shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer this chapter.

Where elevation is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

3. Information to be Obtained and Maintained.

a. Where base flood elevation data is provided or required through the Flood Insurance Study, obtain and record the actual elevation, (in relation to mean lower low water sea

level), of the lowest floor, (including basement), of all new or substantially improved structures, and record whether or not the structure contains a basement. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

b. For all new or substantially improved floodproofed structures: (i) verify and record actual elevation, (in relation to mean lower low water sea level); (ii) maintain the floodproofing certifications required; and (iii) maintain for public inspection all records pertaining to this chapter.

4. Alteration of Watercourses.

a. Notify adjacent communities and the State Department of Community and Regional Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. Interpretation of Flood Insurance Rate Map (FIRM) Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards, (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.04.110. (Ord. 87-04 § 1, 1987; Ord. 92-21 § 2 (part), 1992.)

15.04.050 Floodplain permit—Flood protection requirements.

A. Within flood hazard areas no permit shall be approved by the planning director unless all of the following requirements are satisfied:

1. Any new or substantially improved structure shall be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

3. Construction materials and utility equipment that are resistant to flood damage and construction practices and methods that will minimize flood damages shall be utilized.

4. Construction or substantial improvement shall not be permitted unless the applicant demonstrates that any associated new or replacement water supply system and sanitary sewage system, including on-site systems, will be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

5. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. In determining if the requirements of this section have been fulfilled, the intent of this chapter and at least the following items shall be considered:

1. The adequacy of anchorage to resist flotation and lateral movement;
2. The installation of watertight doors, bulkheads, and shutters, or similar methods of closure;
3. The reinforcement of walls to resist water pressures;
4. The use of paint, membranes, or mortars to reduce seepage of water through walls;
5. The addition of mass or weight to structures to resist flotation;
6. The installation of pumps to lower water levels in structures;
7. The construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters;
8. The installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;
9. The building design and construction to resist rupture or collapse caused by water pressure or floating debris;
10. The location and installation of all electrical equipment, circuits, appliances and heating systems so that they are protected from inundation;
11. The location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare; or design such facilities to prevent flotation of storage containers which could result in the escape of toxic materials into floodwaters;
12. The use of materials such as sheathing, siding, subflooring and underlayment that are not subject to water damage due to prolonged submersion;

13. The use of closed-cell insulation to prevent waterlogging and consequent loss of insulating ability;
14. The location of oil storage tanks outside the structure and anchoring to prevent disturbance by floodwater. Tanks should be placed upon and secured to a concrete base slab of sufficient volume to prevent flotation. In the calculation of required anchorage, little recognition should be given to shear of friction values of the soils as they will be substantially reduced due to saturation. Both fill and vent pipes should extend above the high water level;
15. The installation of a backwater valve in sewer lines in an accessible location immediately adjacent to the exterior foundation wall. (Ord. 75-2 § 4, 1975; Ord. 86-13 § 1, 1986; Ord. 87-04 § 1, 1987; Ord. 92-21 § 2 (part), 1992.)

15.04.060 Subdivision and utility regulations.

- A. The city shall deny permission to subdivide or develop land within flood hazard areas unless the following requirements have been fulfilled:
1. The land subdivision and development are consistent with the need to minimize flood damages;
 2. All public utilities and facilities such as sewer, gas, electrical and water systems shall be located, elevated or constructed to minimize or eliminate flood damage;
 3. Adequate drainage shall be provided to reduce the exposure of structures, utilities and facilities to flood hazards;
 4. The preliminary and final plat shall include the ground elevation at convenient reference points and as approved by the planning director.
- B. All new or replacement water supply systems and sanitary sewage systems, including on-site systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- C. All new or replacement public utilities such as gas, electric and telephone systems shall be designed or constructed to eliminate disruptions due to flooding and associated hazards.
- D. In determining if the requirements of this section are fulfilled, the city shall consider the intent of this chapter and at least:
1. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses;
 2. The danger that intended uses may be swept onto other lands or downstream to the injury of others;

3. The adequacy of proposed water supply systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance of the services provided by the proposed facility to the community;
6. The requirements of the subdivision for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
8. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed subdivision to the comprehensive plan and floodplain management program for the area;
10. The safety of access to the property for emergency vehicles in times of flood;
11. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;
12. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges;
13. The installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwaters into buildings or structures. (Ord. 75-2 § 5, 1975; Ord. 86-13 § 1, 1986.)

15.04.061 Residential structures.

The lowest floor of new construction or substantial improvement shall be located at or above the ~~base flood elevation~~ base flood elevation. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 15.04.050(A)(2). (Ord. 94-01, 1994.)

15.04.062 Nonresidential structures.

A. The lowest floor of new construction or substantial improvement shall be located at or above the one-hundred-year flood level or ~~dry-~~ dry- floodproofed to that level.

Deleted: one-hundred-year flood level.

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B. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section [15.04.050\(A\)\(2\)](#). (Ord. 82-6 § 4 (part), 1982; Ord. 86-13 § 1, 1986; Ord. 87-04 § 1, 1987.)

15.04.063 Floodproofing.

Where floodproofing is utilized for a particular structure either:

A. A registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificates indicating the specified elevation to which such structures are floodproofed shall be maintained by the community; or

B. A certified copy of a local regulation containing detailed floodproofing specifications which incorporate standard, accepted watertight performance standards shall be submitted to the Federal Emergency Management Agency (FEMA) for approval. (Ord. 82-6 § 4 (part), 1982; Ord. 86-13 § 1, 1986.)

15.04.064 Coastal high hazard areas.

A. Within coastal high hazard areas (V zones) the city shall:

1. Require that all new construction within zones V1-V30 on the FIRM be located landward of the reach of mean high tide, or that water-dependent structures that require an over-water location shall petition for a variance;
2. Provide, that all new construction and substantial improvements within zones V1-V30 on the FIRM are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
3. It shall be the responsibility of the applicant that a registered professional engineer or architect certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and storm wave wash;
4. Provide, that all new construction and substantial improvements within zones V1-V30 on the FIRM have the space below the lowest floor free of obstructions, or be constructed with breakaway walls intended to collapse under stress due to abnormally high tides or wind-driven water without jeopardizing the structural support of the structure. Such temporarily enclosed space shall not be used for human habitation;
5. Prohibit the use of fill for structural support of buildings within zones V1-V30 on the FIRM.

B. .

Commented [WK6]: What does this refer to? Also, a certified floodproofing certificate is required for a property owner to receive the insurance benefit of the dry-floodproofing.

Commented [WK7]: The community must also keep the plans that certify the structure was built to withstand the velocity and storm wave wash and scour.

Commented [WK8]: Consider adding the specifics on breakaway walls. See Technical Bulletin 5, dated August 2005.

Deleted: Gravel or rock with armor rock or other substantial material such as sheet piling, or concrete bulkhead in front shall be considered suitable for structural support (Ord. 82-6 § 4 (part), 1982; Ord. 86-13 § 1, 1986.)

15.04.065 Flood-related erosion hazard areas.

A. In floodprone areas not covered by the Dillingham flood insurance study and maps, all structures shall be set back from the tidal waterfront sufficiently to avoid possible damage from wave runup flooding; to protect shoreline resources from unnecessary degradation, and maintain public access and scenic values. All new or expanded shoreline development which does not require a water edge or water surface location shall be set back twenty-five feet from the ordinary high water mark, provided that, on erosional or otherwise geologically unstable bluffs or banks exceeding ten feet in height or on banks sloping more than thirty percent, any setback shall be measured from bank rim to top of such slope respectively. These setbacks apply to primary structures and accessory buildings. These setbacks do not apply to shoreline-dependent development that requires an over-water or water-edge location (e.g., seafood processing) or to outdoor decks or patios. Water-dependent structures that require an over-water or water-edge location shall be elevated at least two feet above the ordinary high or at or above base flood elevation, whichever is the higher.

B. Shoreline setbacks may be altered by the planning commission if site-specific conditions (e.g., topography) make the setback impracticable. (Ord. 82-6 § 4 (part), 1982; Ord. 86-13 § 1, 1986.)

15.04.070 Existing structures.

Nothing in this chapter shall be construed as applying to any structures existing prior to the effective date of the ordinance codified in this chapter unless they are substantially improved or relocated after the effective date of the ordinance codified in this section, or September 30, 1982, the effective date of the flood insurance rate maps. (Ord. 82-6 § 5, 1982; Ord. 75-2 § 6, 1975; Ord. 86-13 § 1, 1986.)

15.04.075 Authority to enter contracts.

The city is authorized to enter into contracts and agreements with other government entities for the purpose of implementing the provisions of this chapter. (Ord. 75-2 § 6(c), 1975; Ord. 86-13 § 1, 1986.)

15.04.080 Conflicting provisions.

Permits issued pursuant to this chapter shall conform to all ordinances or regulations as are from time to time established or amended; however, this chapter shall control in the event of any conflict unless specifically stated otherwise or unless the conflicting ordinance is more restrictive. (Ord. 75-2 § 6(a), 1985; Ord. 86-13 § 1, 1986.)

15.04.090 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods may occur on rare occasions and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof or the Federal Insurance Administration for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 86-13 § 1, 1986.)

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Commented [WK10]: These structures must be at least above base flood elevation.

15.04.100 Variances.

A. Variances may be issued by the planning commission for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this section. Procedures for the granting of variances by the city are as follows:

1. Variances shall not be issued by the city within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances may be issued by the city for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs A3, 4, 5, and 6 of this section.
3. Variances shall only be issued by the city upon:
 - a. A showing of good and sufficient cause,
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

In passing upon variance applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- a. the danger that materials may be swept onto other lands to the injury of others;
- b. the danger to life and property due to flooding or erosion damage;
- c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. the importance of the services provided by the proposed facility to the community;
- e. the necessity to the facility of a waterfront location, where applicable;
- f. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

- g. the compatibility of the proposed use with existing and anticipated development;
 - h. the relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;
 - i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - k. the cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, and bridges.
5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this ordinance, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
6. Variances may be issued to accommodate the needs of functionally dependent uses. A "functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
7. Variances may be issued for nonresidential buildings to allow a lesser degree of floodproofing than watertight or dry floodproofing, where the economic activity and resulting benefit to the community outweighs the damage potential.
8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
9. Variances may be issued for nonresidential new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria for variance are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
10. The city shall notify the applicant in writing over the signature of the planning director that:

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage, and

b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph A6 of this section, and

11. The planning department shall:

a. Maintain a record of all variance actions, including justification for their issuance, and

b. Report such variances issued in its annual report submitted to the Federal Insurance Administrator. (Ord. 82-6 § 6, 1982; Ord. 86-13 § 1, 1986; Ord. 87-04 § 1, 1987.)

15.04.110 Appeals.

Appeals of decisions by the planning director or planning commission alleging errors in any requirement, decision or determination made in the enforcement or administration of the floodplain regulations shall be heard by the board of adjustment pursuant to the procedures established at Chapter 18.56. (Ord. 86-13 § 1, 1986; Ord. 92-21 § 2 (part), 1992.)

15.04.120 Violation—Enforcement.

The planning director will administer and enforce this chapter, unless otherwise designated under Section 15.04.041(B). The planning director or designee may order the discontinuance of unlawful uses of land, buildings or structures; the removal or abatement of unlawful buildings or structures or any unlawful additions or alterations thereto; the discontinuation of construction or preparatory activity leading to an unlawful structure or use of land; or any other action necessary to ensure compliance with this chapter. City police officers are also authorized to issue citations to any person who violates any provision of this chapter. (Ord. 92-21 § 2 (part), 1992; Ord. 13-19 § 20, 2013.)

15.04.125 Violation—Penalties and remedies.

A. Violation. A violation of provisions of this chapter shall be an infraction. Upon conviction, the court shall levy a fine of three hundred dollars for each day the violation exists up to a maximum fine of one thousand dollars and assess any surcharge required to be imposed under AS 12.55.039. Each day that an unlawful act or condition continues constitutes a separate violation.

B. Remedies.

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

2. Pursuant to AS 29.40.190, the city or an aggrieved person may institute a civil action against a person who violates a provision of this chapter, or a term, condition or limitation imposed by the planning commission. (Ord. 75-2 § 6(b), 1975; Ord. 86-13 § 1, 1986; Ord. 92-21 § 2 (part), 1992; Ord. 99-04 § 18, 1999; Ord. 13-19 § 21, 2013.)

CODE ORDINANCE

Requested by: Planning Commission
Introduced: _____, 2014
Public Hearing Scheduled for: _____, 2014
Adopted: _____

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2014-__

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING CHAPTER 15.04 OF THE DILLINGHAM MUNICIPAL CODE TO ALLOW FOR REVIEW OF PERMIT APPLICATIONS BY A REGISTERED PROFESSIONAL ENGINEER AT THE COST OF THE APPLICANT, AND TO ESTABLISH CRITERIA FOR ISSUING FLOODPLAIN DEVELOPMENT PERMITS FOR FUNCTIONALLY DEPENDENT USES AND MODIFY VARIANCE STANDARDS

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Amendment of Section 15.04.020. Section 15.04.020 of the Dillingham Municipal Code is hereby amended to read as follows: [new language is underlined deleted language is overstruck]:

15.04.020 Definitions.

As used in this chapter, the following words have the meanings ascribed to them in this section:

"Area of Special Flood Hazard" means the land in the flood plain within the community subject to a 1 percent or greater chance of flooding in any given year.

A. Base Flood or "One Hundred Year Flood" means the NFIP flood of regulation for floodplain management. Defined as a flood that has a 1% chance of being equaled or exceeded in a given year.

B. "Federal Insurance Administration" (FIA) of the Federal Emergency Management Agency (FEMA) is responsible for administration of the National Flood Insurance Program.

C. "Fill" means nonload bearing material susceptible to wash or erosion such as dredge spoils, debris, sand or dirt.

D. "Flood" means a general and temporary condition of partial or complete inundation of 2 or more acres of land or 2 or more properties or 2 legal "buildable" lots from 1) overflow of inland or tidal waters; 2) unusual and rapid accumulation or runoff of surface waters from any source; 3) mudflow; 4) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood.

~~C. "Flood hazard area" includes all area within the corporate limits subject to the one-hundred-year flood as delineated on the flood insurance rate map for the city published by the Federal Insurance Administration.~~

E. "Flood insurance rate map" (FIRM) means the map of the city issued by the Federal Insurance Administration which delineates the area subject to the one-hundred-year flood and the risk premium zones applicable to the community.

Commented [WK1]: Consider adding this definition to more specifically tie your community's ordinance to the Flood Insurance Rate Map for Dillingham [Chapter 15.04.031(B)].

Commented [WK2]: Referencing the 2 or more acres or 2 or more properties or buildable lots is applicable to insurance claims; the definition for floodplain management purposes should be more broad to be applicable for substantial damage determinations due to flooding.

F. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, ship building and ship repair facilities, fuel storage facilities, and seafood processing facilities but does not include long term storage facilities.

G. "Lowest floor" means the lowest enclosed area (including basement).

H. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

I. "Mean lower low water" means the elevation datum (0.00 feet) referenced on the flood insurance rate maps. MLLE is 10.0 feet below the National Geodetic Vertical Datum of 1929 (NGVD) in Dillingham.

J. "One hundred year flood" means a flood of a magnitude which can be expected to occur on the average of once every one hundred years. It is possible for this size flood to occur during any year. The odds are one to one hundred that this size flood will occur during a given year; there is a one percent chance that a flood of this magnitude will occur each year. Statistical analysis of available streamflow or coastal storm records, or analysis of rainfall and runoff characteristics of the watershed, or coastal topography and depth of the one hundred year flood. Also referred to as the base flood or regulatory flood.

K. "Special Flood Hazard Area (SFHA)" means areas subject to the Base Flood. The SFHA includes A and V zones.

L. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, which is used for residential, business, agricultural or religious purposes, or which is occupied by a private, nonprofit organization, or which is owned by a state or local government or any agency thereof; the term includes mobile homes and other modular units.

M. "Substantially improved" means any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the property either as such value exists before the improvement is started or if the property has been damaged and is being restored, as such value existed before the damage occurred.

N. "Variances" are grants of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

Section 2. Amendment of Section 15.04.040(C). Section 15.04(C) of the Dillingham Municipal Code is hereby amended to read as follows[new language is underlined]:

C. Evaluation. Following the filing of the application, the planning department shall review the submittal, request any additional information deemed necessary, and evaluate the application based upon the provisions of this chapter. The department may retain the services of a

Commented [WK3]: Structures are not limited to these uses, but the city can include these as examples.

professional engineer licensed in Alaska to assist in the review of the submittal. The cost shall be

commercially reasonable and an estimate shall be provided to the applicant and reviewed with the applicant at their request. The costs of the engineering services shall be paid for by the permit applicant.

Section 3. Amendment of Chapter 15.04. Chapter 15.04 of the Dillingham Municipal Code is hereby amended by the addition of a new Section 15.04.055 to read as follows:

15.04.055 Functionally Dependent Uses.

A. The Planning Director may grant a floodplain permit for a structure that has a functionally dependent use and is located in the coastal high hazard area (zones V1-V30) as designated in the most recent Flood Insurance Rate Map only upon determining that the following conditions have been met:

1. Any new or substantially improved structure shall be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure.
2. Construction materials and utility equipment that are resistant to flood damage and construction practices and methods that will minimize flood damages shall be utilized.
3. A failure to grant the permit would result in exceptional hardship to the applicant
4. Granting the permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public.
5. The requirements of Section 15.04.064(A)(2)-(5) will be met.

B. In deciding whether to grant a floodplain permit for a proposed functionally dependent use the planning director shall consider :

1. the danger that materials may be swept onto other lands to the injury of others;
2. the danger to life and property due to flooding or erosion damage;
3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the compatibility of the proposed use with existing and anticipated development;
6. the relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;
7. the safety of access to the property in times of flood for ordinary and emergency vehicles;

Commented [WK4]: Great point to note.

8. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
9. the cost of providing governmental services to the facility during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, and bridges.
10. whether granting the permit would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances.

C. Upon consideration of the factors of subsection (B) of this section, the planning director may attach such conditions to the granting of permits for functionally dependent uses as the director deems necessary to further the purposes of this ordinance.

Section 4. Amendment of Section 15.04.064(A(1)). Section 15.04.064(A)(1) of the Dillingham Municipal Code is hereby amended to read as follows [new language is underlined; deleted language is overstruck]:

15.4.64 Coastal high hazard areas.

A. Within coastal high hazard areas (V zones) the city shall:

1. Require that all new construction other than functionally dependent uses within zones V1-V30 on the FIRM be located landward of the reach of mean high tide. ~~or that waterdependent structures that require an over water location shall petition for a variance~~

Section 5. Amendment of Section 15.04.100. Section 15.04.100 of the Dillingham Municipal Code is hereby amended to read as follows [new language is underlined, deleted language is overstruck]:

15.04.100 Variances.

A. Variances may be issued by the planning commission for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this section.

B. Standards for the granting of variances by the city are as follows:

1. ~~Variances shall not be issued by the city within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.~~

2 1. Variances may be issued by the city for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.

3 2. Variances shall only be issued by the city upon:

- a. A showing of good and sufficient cause,
- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant,
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing ordinances, and
- d. ~~Variances shall only be issued upon~~ A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. In passing upon variance applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- a. the danger that materials may be swept onto other lands to the injury of others;
- b. the danger to life and property due to flooding or erosion damage;
- c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. the importance of the services provided by the proposed facility to the community;
- e. the necessity to the facility of a waterfront location, where applicable;
- f. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. the compatibility of the proposed use with existing and anticipated development;
- h. the relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;
- i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. the cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, and bridges.

~~5-D.~~ Upon consideration of the factors of subsection ~~(A)(4)-C~~ of this section and the purposes of this ordinance, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

~~6.~~ Variances may be issued to accommodate the needs of functionally dependent uses. A "functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

~~7-E.~~ Variances may be issued for nonresidential buildings to allow a lesser degree of floodproofing than watertight or dry floodproofing, where the economic activity and resulting benefit to the community outweighs the damage potential.

~~8.~~ Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

~~9.~~ Variances may be issued for nonresidential new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria for variance are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

~~E. -40.~~ The city shall notify the applicant in writing over the signature of the planning director that:

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as ~~twenty five dollars for one hundred dollars of insurance coverage~~, and

b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph ~~G A6~~ of this section, and

~~G. 41.~~ The planning department shall:

a. Maintain a record of all variance actions, including justification for their issuance, and

b. Report such variances issued in its annual report submitted to the Federal Insurance Administrator..

Section 6. Effective Date. This ordinance is effective upon adoption.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk