

TENAKEE SPRINGS MUNICIPAL CODE

TITLE 07

PLANNING, PLATTING, AND LAND USE

Chapters:

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CHAPTER 07.01

SUBDIVISIONS

<u>Sections:</u>	07.01.010	SUBDIVISIONS
	07.01.020	BEACH FRONTAL SUBDIVISIONS
	07.01.030	PENALTIES

07.01.010 Subdivisions.

- A. Subdivisions of lots shall conform to the lot size requirements in the zoning districts, as set forth in Chapter 07.04 of this title.
- B. Subdivisions shall contain platted dedications for:
 - 1. utility right-of-way easements extending out for a width of five feet (5') from both sides, along the entire length of each lot line; and
 - 2. street access, with a minimum width of thirty feet (30'), to each lot.

07.01.020 Beach Frontal Subdivisions.

Beach frontal subdivisions shall also contain alleyway access, with a minimum width of twenty feet (20'), from the beach to the upland boundary of the subdivision between every second lot.

07.01.030 Penalties.

Violation of any provision of this chapter is a civil violation for which a notice may be issued under the provisions set forth in Chapter 01.05 and subject to a civil penalty in the amount set forth in Section 01.05.030, not to exceed five hundred dollars (\$500.00).

CHAPTER 07.02
RIGHTS-OF-WAY

Sections:	07.02.010	PURPOSE
	07.02.020	RIGHTS-OF-WAY ESTABLISHED
	07.02.030	USE OF RIGHT-OF-WAY FOR PUBLIC UTILITIES
	07.02.040	PRIVATE PROPERTY ENCROACHMENTS IN THE RIGHT-OF-WAY
	07.02.050	ENCROACHMENT IN THE RIGHT-OF-WAY
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	07.02.090	NOTICE OF REMOVAL
	07.02.100	SUMMARY REMOVAL
	07.02.110	REMOVAL AFTER NONCOMPLIANCE AND REMOVAL EXPENSE
	07.02.120	ESTABLISHING, ALTERING, OR EXTINGUISHING RIGHTS-OF-WAY
	07.02.130	CITY HELD HARMLESS
	07.02.140	APPEALS
	07.02.150	ENCROACHMENTS DEFINED
	07.02.160	PENALTIES

07.02.010 Purpose.

The purpose of this ordinance is to protect public roads, streets, and trails by regulating the type and location of public and private encroachments on existing and future platted rights-of-way within the municipality of Tenakee Springs. This ordinance repeals Ordinance 81-02 and Ordinance 78-08.

07.02.020 Rights-of-Way Established.

Pursuant to AS 29.48.035, the City Council of the City of Tenakee Springs establishes the following public rights-of-way:

1. Those streets and alleyways described in the plat and supplemental plat of the Tenakee townsite (U.S.S. 1418).
2. A twenty-foot (20') wide right-of-way using as its center line the trail running from the eastern boundary of U.S.S. 1418 to the eastern boundary of the city, except:
 - a. A four-foot (4') wide right-of-way along said trail where it crosses

- patented property, when the “Letters of Patent” reserve a transportation easement, or when the “Field Notes of Survey” describe a trail in existence before the patent was issued.
3. A twenty-foot (20’) wide right-of-way using as its center line the trail running from the western boundary of U.S.S. 1418 to the western boundary of the city, except:
 - a. A four-foot (4’) wide right-of-way along said trail where it crosses patented property, when the “Letters of Patent” reserve a transportation easement, or when “Field Notes of Survey” describe a trail in existence before patent was issued.
 4. The rights-of-way as located on the recorded plats of subdivisions within the city limits exclusive of U.S.S. 1418.

07.02.030 Use of Right-of-Way for Public Utilities.

Public utilities such as electric transmission lines, telephone lines, pole lines, ditches, sewers, water mains, and flumes may be constructed, placed, or maintained across or along a street or trail upon review and recommendation by the Planning Commission and/or approval by the City Council.

07.02.040 Private Property Encroachments in the Right-of-Way.

A. Certain improvements associated with private property abutting the right-of-way are permitted but are limited to improvements which provide access to property, such as walks and stairways, domestic utility hookups and/or systems, and gardening and landscaping, upon review and approval of the Planning Commission.

B. A specific temporary and limited storage use, including a temporary structure with no foundation, which is associated with construction activities on private property abutting the right-of-way, may be permitted for a period of one (1) year, renewable annually upon review and approval of the Planning Commission and under the following conditions:

1. the use(s) shall not impede public access in the rights-of-way nor interfere with public safety; and
2. the use(s) are subject to relocation or removal at any time at the directive of the mayor or fire chief by either the private property owner, the City of Tenakee Springs, or a contractor of the City of Tenakee Springs; such removal or relocation shall be at the expense of the private property owner; and
3. the use(s), when a temporary enclosed structure with no foundation, shall not exceed eight by ten feet (8’ x 10’) [including roof] in size; and
4. the use(s) shall not be within five feet (5’) of a utility pole; and
5. the use(s) will not demonstrate nor cede any rights to the same or similar future use of the right-of-way, particularly as to dimensions, size, shape, construction type, and/or location.

C. Improved area abutting applicants’ private property to be used for ATV parking upon

approval of the Planning Commission in meeting these conditions:

1. it shall not impede public access in the right-of-way and does not interfere with public safety, snow plowing, or drainage; and
2. it shall not be within five feet (5') of utility poles; and
3. it is subject to relocation or removal at any time by the City of Tenakee Springs; and
4. it must be below grade of Tenakee Avenue; and
5. it will not have sides or a roof.

07.02.050 Encroachment in the Right-of-Way.

A. No encroachment may be constructed or placed until it is duly authorized by written permit issued by the Planning Commission.

B. Encroachments constructed or placed before January 1, 1978, are approved by the City Council; however, in so approving, the City Council does not thereby grant or cede a property right, nor does it establish a precedent for encroachment not authorized by this ordinance. Any structures, or portion thereof, built after January 1, 1978, without proper permits are unlawful and cannot be replaced or maintained as described in (E) and (F) of this section. Prior to any replacement or maintenance of unlawful structures, the appropriate “after the fact” permits must be obtained through the city office.

C. Encroachments in the right-of-way must be constructed in accordance with established acceptable methods, with suitable materials and so placed so as not to threaten the health, safety, welfare, and convenience of contiguous and nearby property owners and the general public.

D. Encroachment permit process: All right-of-way encroachment permit requests shall be submitted to the city clerk.

1. A drawing at a scale of one inch (1”) equals eight feet (8’) shall be submitted with the permit. The drawing shall illustrate the proposed encroachment and its location within the right-of-way, as well as list electrical requirements and a materials list.
2. Notice of public hearing will be posted in three (3) public places in the community two (2) weeks in advance of the date of the public hearing, and notice to adjacent property owners will be mailed prior to two (2) weeks before the date of the public hearing.
3. Encroachment permits will be approved or denied within a period of no more than ninety (90) days from the date of introduction at a Planning Commission regular meeting. Approval by default requires that the permit be issued by the Planning Commission.
4. A permit fee to be determined by the City Council may be charged. Said fee may be established or changed by resolution of the City Council.

E. Repair or replacement of an existing non-enclosed, non-roofed right-of-way encroachment used for property access is divided into two categories, each having different permitting requirements:

1. “New construction” of an existing non-enclosed, non-roofed encroachment structure occurs when more than fifty percent (50%) of the structural components above the piling caps within the right-of-way require replacement within a ten (10) year period. Structural components are defined here as joists, decking, stringers, framing members, and logs.
 - a. The replacement percentage is determined by the building permit official.
 - b. A building permit is required for this category.
 - c. The dimensions (i.e., height, floor plan within the right-of-way) and location of the access structure must remain the same as approved in the originally issued encroachment permit.
 - d. If the location or dimensions of the access structure are changed from the originally issued encroachment permit, a new encroachment permit is required in addition to a building permit.
 - e. In the case of pre-1978 access structures in which an encroachment permit was not originally issued, a new encroachment permit is required in addition to a building permit.
 2. “Maintenance” of an existing non-enclosed, non-roofed encroachment structure includes painting, replacing or adding additional handrails, stair treads, screws, nails, new traction material (i.e., shingles), and piling bracing. This category requires no permits.
- F. Repair or replacement of an existing enclosed and/or roofed right-of-way encroachment is divided into three categories, each having different permitting requirements:
1. “New construction” of an existing enclosed and/or roofed encroachment structure occurs when more than fifty percent (50%) of the structural components above the piling caps within the right-of-way require replacement within a ten (10) year period, and is disallowed by this code. Structural components are defined here as joists, decking, stringer, framing members, logs, and rafters.
 - a. The replacement percentage is determined by the building permit official.
 - b. In these cases, the encroaching portion of the structure located in the right-of-way, whether previously legally permitted or constructed unlawfully, must be removed from the right-of-way back to the legal property line.
 2. “Renovation” of an existing enclosed and/or roofed encroachment structure occurs when less than fifty percent (50%) of the structural components above the piling caps within the right-of-way require replacement within a ten (10) year period. Structural components are defined here as joists, decking, stringers, framing members, logs, and rafters.
 - a. The replacement percentage is determined by the building permit official.
 - b. A building permit is required for this category.
 - c. No increases can be made to the dimensions of the building (i.e., height, floor plan within the right-of-way).
 - d. Pilings and piling caps can be replaced in this category, and are exempt

from percentage and time restrictions.

3. “Maintenance” of an existing enclosed and/or roofed right-of-way encroachment structure includes painting, replacement of roofing, sheathing, siding, skirting, windows, and bracing within the setback. No permits are required for this category.

07.02.060 Disallowed Encroachments on Right-of-Way.

Structures of other facilities that impede access and maintenance or drainage to the platted right-of-way and the air space above the right-of-way are disallowed, including but not limited to:

1. walled and/or roofed additions or accessory structures to the residence;
2. barricades, fences, and garden support and ornamental devices that would impede trail traffic, maintenance, snow removal, and drainage;
3. covered walkways, covered stairs, or shelter for vehicles or animals;
4. roofline slopes which may shed snow on the right-of-way are disallowed, unless adequate measures are taken to prevent the roof from shedding on the right-of way.

07.02.070 Relocation or Removal of Encroachment.

If incidental to the construction, maintenance, or other project on a street, road, or trail, or it is determined that an existing encroachment has become hazardous, the Planning Commission determines and orders that an encroachment must be changed, relocated, or removed, the owner of the encroachment shall change, relocate, or remove it at no expense to the city within a reasonable time set by the Planning Commission. If the owner does not change, relocate, or remove an encroachment within the time set by the Planning Commission, the encroachment shall be considered an unauthorized encroachment, subject to the provision of Section 07.02.080 of this ordinance.

07.02.080 Unauthorized Encroachments.

If an unauthorized encroachment exists in, on, under, or over a public right-of-way, the City of Tenakee Springs may require the removal of the encroachment in a manner provided in Sections 07.02.070 – 07.02.110 of this ordinance.

07.02.090 Notice of Removal.

Except as otherwise provided, notice shall be given to the owner, occupant, or person in possession of the encroachment, or to any other person causing or permitting the encroachment to exist, by serving upon them a notice demanding the removal of the encroachment. The notice shall describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice shall be made by certified mail.

07.02.100 Summary Removal.

The City of Tenakee Springs may at any time remove from a public right-of-way an

encroachment which obstructs or prevents the use of a street, road, or trail (described in Section 07.02.020 of this ordinance) by the public.

07.02.110 Removal After Noncompliance and Removal Expense.

After a failure of the owner of an encroachment to comply with a notice or demand of the Planning Commission under the provisions of this ordinance, the City of Tenakee Springs may remove, or cause to be removed, the encroachment, and the owner of the encroachment shall pay to the City of Tenakee Springs:

1. the expenses of the removal of the encroachment;
2. all costs and expenses paid by the city as a result of a claim or claims due to delays because the encroachment was not changed, removed, or relocated according to the order of the Planning Commission; and
3. costs and expenses of suit.

07.02.120 Establishing, Altering, or Extinguishing Rights-of-Way.

A. The City Council shall by ordinance establish public rights-of-way, alter existing rights-of-way, or extinguish rights-of-way.

B. Existing rights-of-way may be altered so as not to traverse patented property:

1. when rerouting is approved by the Planning Commission; and
2. when the party requesting the change pays all costs for the construction of a new route (public right-of-way).

07.02.130 City Held Harmless.

The holder of a permit issued under this section, his successor, heirs, and assigns, shall forever hold harmless and defend the city against all claims and suits of any nature arising in any manner out of the issuance or existence of authorized encroachment, the existence of the structure in the public way, the failure of the city to cause the structure to be removed from the public way or to take preventative or protective measures, or for any other reason related to the existence of the encroachment.

07.02.140 Appeals.

A. The City Council shall sit as a Board of Adjustment, to hear appeals from the denial of an application for an encroachment permit under 07.02.060, or a notice for the removal of an encroachment under 07.02.090. The board meets at the call of the mayor, and shall hear and decide:

1. appeals regarding alleged errors in the enforcement of this ordinance;
2. appeals from the decision of the Planning Commission denying an application for an encroachment permit; and
3. appeals from the decisions of the Planning Commission requiring the removal of an encroachment.

B. Procedure:

1. Any interested party may file an appeal with the Board of Adjustment through the city clerk.
2. An appeal must be filed within thirty (30) days of the action on which the appeal is based.
3. The appeal must be in writing and must specifically state the alleged error and the interpretation that the appellant believes should have been given.
4. The Board of Adjustment shall make its decision on the record and electronically record any testimony taken. It shall render its decision of the matter in writing that explains the basis for its decision, that it is the final decision on the matter, and that an aggrieved party may appeal to the superior court.
5. An aggrieved party denied by the Board of Adjustment may appeal the board's decision to the Superior Court of the State of Alaska, First Judicial District at Juneau under Alaska Appellate Rule 601; however, such appeal must be made within thirty (30) days of the clerk mailing the written decision to the aggrieved party.

07.02.150 Encroachment Defined.

For the purposes of this ordinance, authorized encroachments shall include only those used and described in Sections 07.02.030 and 07.02.040 of this ordinance.

07.02.160 Penalties.

Violation of any provision of this chapter is a civil violation for which a notice may be issued under the provisions set forth in Chapter 01.05 and subject to a civil penalty in the amount set forth in Section 01.05.030, not to exceed five hundred dollars (\$500.00).

CHAPTER 07.03

PLATTING AUTHORITY

Sections:	07.03.010	PLATTING AUTHORITY ESTABLISHED
	07.03.020	PLAT PROCEDURE
	07.03.030	ABBREVIATED PLATS AND WAIVER
	07.03.040	INFORMATION REQUIRED
	07.03.050	ALTERATION OR REPLAT PETITION
	07.03.060	NOTICE OF HEARING
	07.03.070	HEARING AND DETERMINATION
	07.03.080	RECORDING
	07.03.090	TITLE TO VACATED AREA
	07.03.100	VIOLATIONS
	07.03.110	REMEDIES
	07.03.120	SUBDIVISION OF STATE LAND

07.03.010 Platting Authority Established.

The Planning Commission shall be the Platting Authority and administer subdivision regulations and perform other duties as required by this code or by the City Council. The Platting Authority has jurisdiction over platting requirements including, but not limited to, the control of:

1. form, size, and other aspects of subdivisions, dedications and vacations of land;
2. dimensions and designs of lots or tracts;
3. street width, arrangement, and right-of-way, including allowances for public access to lots and utility facilities and improvements.
4. dedication of streets, right-of-way, public utility easements, and areas considered necessary by the Platting Authority for other public uses.

07.03.020 Plat Procedure.

A. The Platting Authority shall approve or disapprove a plat within sixty (60) days after it is filed or shall return the plat to the applicant for modification or correction. Unless the applicant for plat approval consents to an extension of time, the plat is considered approved and a certificate of approval shall be issued by the Platting Authority on demand if the Platting Authority fails to act within sixty (60) days.

B. The Platting Authority shall state in writing its reasons for disapproval of a plat.

C. If the Platting Authority approves a plat, the plat shall be acknowledged, filed, and recorded in accordance with Alaska Statutes 40.15.010 – 40.15.020.

07.03.030 Abbreviated Plats and Waiver.

The Platting Authority shall, in individual cases, waive the preparation, submission for approval, filing, and recording of a plat upon satisfactory evidence that each lot created by the subdivision is five acres or larger and that the subdivision will:

1. subdivide a single lot into not more than four (4) lots;
2. provide legal and physical access to a public highway or street for each lot created by the subdivision;
3. not contain or require a dedication of a street, right-of-way, or other area;
4. not require a vacation of a public dedication of land or a variance from a subdivision regulation; and
5. not be for the purpose of, or in connection with, a present or projected subdivision development.

07.03.040 Information Required.

A plat shall show:

1. initial point of survey;
2. original or re-established corners and their descriptions;
3. actual traverse showing area of closure and all distances, angles, and calculations required to determine initial point, corners, and distances of the plat; and

4. other information that may be required by this code.

07.03.050 Alteration or Replat Petition.

A recorded plat may not be altered or replatted except by the Platting Authority on petition of the state, the city, a public utility, or the owners of a majority of the land affected by the alteration or replat. A platted street may not be vacated, except on petition of the state, the city, a public utility, or owners of a majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the Platting Authority and shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

07.03.060 Notice of Hearing.

The Platting Authority shall fix a time for a hearing on an alteration or replat petition that may not be more than sixty (60) days after the petition is filed. The Platting Authority shall give notice by publishing once a week for two (2) consecutive weeks in a newspaper of general circulation or by posting in three (3) public places for two (2) weeks prior to the hearing. The notice shall state when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The Platting Authority shall also mail a copy of the notice to each affected property owner who did not sign the petition.

07.03.070 Hearing and Determination.

- A. The Platting Authority shall consider the alteration or replat petition at a hearing and make its decision on the merits of the proposal.
- B. Vacation of a city street may not be made without the consent of the City Council. The City Council shall have thirty (30) days from the decision of the Platting Authority in which to veto a vacation of a street. If no veto is received by the Platting Authority within the thirty (30) day period, consent is considered to have been given to the vacation.

07.03.080 Recording.

If the alteration or replat is approved, the revised plat shall be acknowledged, filed, and recorded in accordance with AS 40.15.010 – 40.15.020.

07.03.090 Title to Vacated Area.

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

B. If the municipality acquired the street or other public area vacated for legal consideration or by express dedication to the municipality other than as a subdivision platting requirement, before the final act of vacation the fair market value of the street or public area shall be deposited with the Platting Authority to be paid to the municipality on final vacation.

C. The City Council may vacate streets, alleys, crossings, sidewalks, or other public ways that may have been previously dedicated or established when the City Council finds that the streets, alleys, crossings, sidewalks, or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the City Council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (A) of this section but remains in the city.

07.03.100 Violations.

A. The owner of land located in a subdivision may not transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, filed, and recorded in accordance with this chapter. A person may not file or record a plat or other document depicting subdivided land in a public recorder's office unless the plat or document has been approved by the Platting Authority.

B. Violation of any provision of this chapter is a civil violation for which a notice may be issued under the provisions set forth in Chapter 01.05 and subject to a civil penalty in the amount set forth in Section 01.05.030, not to exceed five hundred dollars (\$500.00).

07.03.110 Remedies.

A. The municipality or an aggrieved person may institute a civil action against a person who violates a provision of this chapter, a subdivision regulation adopted under this code, or a term, condition, or limitation imposed by the Platting Authority. In addition to other relief, a civil penalty not to exceed one thousand dollars (\$1,000.00) may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.

B. Each day that an unlawful act or condition continues constitutes a separate violation.

07.03.120 Subdivision of State Land.

A. The subdivision requirements adopted under this chapter and this code apply to a subdivision plat of undeveloped state land for disposal under Alaska Statute 38.05 or Alaska Statute 38.08 filed with the Platting Authority. Subdivision ordinances and regulations adopted after the Platting Authority is notified by the commissioner of natural resources of a proposed sale of subdivided state land under Alaska Statute 38.05 or Alaska Statute 38.08 do not apply to the state land in the proposed sale.

B. The Platting Authority shall approve and sign a subdivision plat of state land within sixty (60) days after its receipt from the commissioner of natural resources unless the Platting

Authority:

1. determines that the plat does not comply with subdivision requirements; and
 2. notifies the commissioner of each determination of noncompliance within the sixty (60) day period established in this subsection.
- C. The commissioner of natural resources may withdraw the subdivision plat and amend it in response to the determination of noncompliance by the Platting Authority under (B) of this section. The Platting Authority shall respond within thirty (30) days to the amendment or response from the commissioner of natural resources.
- D. Nothing in this section relieves the Department of Natural Resources of its obligation to provide legal access to a subdivision.

Zoning Map

CHAPTER 07.04

ZONING

Sections:	07.04.010	INTRODUCTION
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	07.04.040	RESIDENTIAL DISTRICT
	07.04.050	TOWNSITE CORE
	07.04.060	INDUSTRIAL DISTRICT
	07.04.070	WATERSHED RESERVE DISTRICT
	07.04.080	PUBLIC USE DISTRICT
	07.04.090	COMMERCIAL/RECREATIONAL DISTRICT
	07.04.100	VARIANCES
	07.04.110	PROCEDURE
	07.04.120	BUILDING PERMIT ADMINISTRATION
	07.04.130	APPEALS
	07.04.140	NON-CONFORMING LOTS, USES, AND STRUCTURES
	07.04.150	SIGNS
	07.04.155	PENALTIES
	07.04.160	DEFINITIONS

07.04.010 Introduction.

This text and the accompanying map comprise the zoning ordinance for the City of Tenakee Springs. The text and map are based on the *Tenakee Springs Community Plan*, and provide the legal basis for land-use decision making. Three important factors guided the preparation of the ordinance: relative ease of administration and enforcement; freedom from burdensome, unnecessary requirements; and logical extension from the policies and other expressions of the *Tenakee Springs Community Plan*. The document which has resulted provides reasonable land-use regulations and will be useful to the city should it undergo additional growth. No less important, the ordinance will allow the city to collect data on land-use activities and maintain record of land development activity.

07.04.020 Purpose.

Local government regulations, particularly those which govern an individual's right to use private property, must not only be of practical use to the community, they must also fulfill a valid, recognized public purpose. This ordinance does so by:

1. providing for the health, safety, and welfare of the residents of Tenakee Springs;
2. providing rational guidelines for development and land-use decision making;

3. providing sufficient land to accommodate industrial growth;
4. providing a basis for the continued mixed-use of the townsite core;
5. providing for settlement while maintaining large lots and public open space outside the townsite core.

07.04.030 Districts.

The City of Tenakee Springs is divided into six (6) zoning districts: residential; townsite core; industrial; watershed reserve; commercial/recreational; and public use. These districts are delineated by color on the zoning map on the page preceding this chapter.

07.04.040 Residential District.

A. Purpose: The purpose of this district is to provide land for low-density settlement in locations outside of the townsite core. Large lots will help assure the maintenance of environmental health standards, as well as preserve community character and rural living opportunities.

B. General provisions:

1. No domestic animals shall be allowed to pasture or graze within twenty-five feet (25') of a stream or other body of water used as a domestic water source, unless such pasturing and grazing occurs downstream from all domestic users.
2. In no event shall there be:
 - a. more than two (2) single-family dwellings permitted on a single conforming lot of record;
 - b. more than one (1) single-family dwelling and one (1) guest house permitted on a single non-conforming lot of record.
3. Maximum building height permitted within the residential zone shall be thirty-five feet (35') measured from grade.
4. Roofline slopes which may shed snow on the right-of-way are disallowed, unless adequate measures are taken to prevent the roof from shedding snow on the right-of-way.

C. Permitted uses: Permitted uses are those uses which are allowed outright within a particular zone. In the residential zone those uses are:

1. single-family dwellings;
2. guest houses;
3. agricultural crops, pastures, and grazing, including commercial agriculture;
4. home occupations;
5. domestic log milling;
6. bed and breakfast as an accessory use to a principal residence meeting all of the following conditions:
 - a. business will be conducted in an owner-occupied residence;
 - b. three or fewer rental rooms.

D. Accessory uses: Accessory uses are those uses which are incidental to the permitted use.

In the residential zone, accessory uses include but are not limited to:

1. barns, woodsheds, greenhouses, smokehouses, tool sheds, steam-baths, saunas, and workshops, provided they are within the required setbacks;
2. chicken coops, rabbit hutches, and other structures and enclosures housing animals and fowl, provided they are within the required setbacks.

E. Dimensional requirements: Dimensional requirements establish the minimum lot size and setback standards within the zoning district:

1. minimum lot size: two (2) acres;
2. minimum lot width: two hundred feet (200');
3. minimum side-yard setbacks: ten feet (10');
4. minimum front and rear-yard setbacks: ten feet (10');
5. rear-yard setbacks shall not apply on lots where the property line is defined as mean high water (MHW) or was surveyed as MHW at the time of the survey, except in a case where there is an adjoining tideland surveyed lot not owned by the same entity;
6. there is no setback for lot lines abutting rights-of-way with a minimum width of thirty feet (30');
7. rear-yard setbacks shall not apply on property lines abutting the watershed reserve district.

F. Permitted uses within a setback:

1. Permitted uses that require a building permit:
 - a. access to property including walkways, stairs, and tramways;
 - b. retaining walls;
 - c. fences over six feet (6') in height;
 - d. replacement of pilings, bracing, and piling caps.
2. Permitted uses that do not require a building permit:
 - a. vegetation;
 - b. fences under six feet (6') in height;
 - c. lawn and garden accessories under one hundred (100) pounds in total weight (i.e., planters);
 - d. gutters no more than six inches (6") into setback;
 - e. water and sewer lines, but this requires submission to the city of a drawing showing the location of lines;
 - f. items listed below in (3)(c)(ii) and (4)(c);
 - g. structures constructed or placed before January 1, 1978, are approved by the City Council; however, in so approving, the City Council does not establish a precedent for such structures in setbacks not authorized by this code.
3. Restrictions for access to property structures within setbacks:
 - a. Property access walkways, stairs, and tramways shall be no more than five feet (5') into the setback, and shall not be covered or enclosed.

- b. Structures shall be constructed of approved fire-resistant materials, including:
 - i. wood timbers at least two and a half inches (2.5”) by five and a half inches (5.5”) in height and width;
 - ii. earth, sand, or gravel;
 - iii. steel or aluminum;
 - iv. concrete, mortar, stone, or brick.
 - c. Repair or replacement of non-enclosed, non-roofed access to property structures within a setback are divided into two categories:
 - i. Any structural members to be replaced (i.e., pilings, piling caps, joists, decking, stringers, framing members, and logs) requires a building permit.
 - ii. Maintenance includes painting, replacing or adding additional handrails, stair treads, screws, nails, new traction materials (i.e., shingles), and piling bracing; this category requires no permits.
- 4. Maintenance or replacement of enclosed and/or roofed structures within setbacks are divided into three categories, each having different permitting requirements:
 - a. “New Construction” of an existing enclosed and/or roofed structure occurs when more than fifty percent (50%) of the structural components above the piling caps within the setback require replacement within a ten (10) year period. Structural components are defined here as joists, decking, stringers, framing members, logs, and rafters.
 - i. A building permit is required for this category.
 - ii. The replacement percentage is determined by the building permit official.
 - iii. A pre-demolition inspection by the building permit official is required, along with a written narrative and drawings of the existing structures as described in 07.04.120 (E)(2); photo documentation may also be required.
 - iv. No increases shall be made to the dimensions of the building (i.e., height, floor plan within the setback).
 - v. Portions of the structure within the setback must be constructed with fire-resistant materials.
 - b. “Renovation” of an existing enclosed and/or roofed structure occurs when less than fifty percent (50%) of the structural components above the piling caps within the setback require replacement within a ten (10) year period. Structural components are defined here as joists, decking, stringers, framing members, logs, and rafters.
 - i. A building permit is required for this category.
 - ii. The replacement percentage is determined by the building permit official.

- iii. No increases shall be made to the dimensions of the building (i.e., height, floor plan within the setback).
- iv. Portions of the structure within the setback which are removed must be replaced with fire-resistant materials.
- v. Pilings and piling caps can be replaced in this category, and are exempt from percentage and time restrictions.
- c. “Maintenance” of an existing enclosed and/or roofed structure includes painting, replacement of roofing, sheathing, siding, skirting, windows, and bracing within the setback. No permits are required for this category.

G. Prohibited uses within a setback:

- 1. Flammable materials not in an approved container.
- 2. Firewood.
- 3. Any structure not approved above. Any structure, or portion thereof, built after January 1, 1978, without proper permits is unlawful, and cannot be replaced or maintained as described in (3) and (4) of this section. Prior to any replacement or maintenance of unlawful structures, the appropriate “after the fact” permits must be obtained through the city office.

07.04.050 Townsite Core.

A. Purpose: To maintain the existing mixed-use character in the original townsite, and assure that new development does not substantially detract from the town’s historic character.

B. General provisions:

- 1. The exterior siding on structures must be non-glare, except for window surfaces. Roofing is excluded from this requirement.
- 2. Structures on the shoreline side of Tenakee Avenue may not exceed twenty-eight feet (28’) in height, measured from grade, which is the center-line of the developed road of the Tenakee Avenue right-of-way.
- 3. Structures uphill from Tenakee Avenue shall not exceed twenty-eight feet (28’) in height measured from grade.
- 4. Commercial and industrial activities may not produce dust, glare, noise, smoke, odor, or other disturbances which would constitute a nuisance, and which would be objectionable at a fifty-foot (50’) distance from the site after regular business hours. Milling activities shall occur only during regular hours (8:00 a.m. to 6:00 p.m.).
- 5. Gravel extraction may occur only on the beach, and after the appropriate state and federal permits have been obtained.
- 6. Rear-yard setbacks shall not apply on lots where the property line is defined as mean high water (MHW) or was surveyed as MHW at the time of the survey, except in a case where there is an adjoining tideland surveyed lot not owned by the same entity.
- 7. Roofline slopes which may shed snow on the right-of-way are disallowed, unless

adequate measures are taken to prevent the roof from shedding snow on the right-of-way.

8. There is no setback for lot lines abutting rights-of-way with a minimum width of thirty feet (30').
9. Rear-yard setbacks shall not apply on property line abutting the watershed reserve district.

C. Permitted uses: Permitted uses are those uses which are allowed outright within a particular district. Within the townsite core, those uses are:

1. residences;
2. commercial activities;
3. industrial activities;
4. public facilities and public open space;
5. single-family rentals.

D. Density provisions:

1. Residential structures consisting of one (1) or two (2) dwelling units per structure are a permitted use. Residential structures of three (3) or more dwelling units per structure are allowed only as a conditional use. Multi-unit residential structures of three (3) or more units, whether used for permanent or transient residences, not to exceed a total of ten units per structure, shall be permitted within the townsite core if the following conditions are met:
 - a. approval of sewage and waste water disposal methods by the Department of Environmental Conservation;
 - b. the addition of two hundred square feet (200 ft²) of lot size for every unit in excess of two (2) units;
 - c. piped water into the structure(s).
2. Permitted uses. A minimum lot of record is allowed two residential dwellings on it; an additional three thousand seven hundred and fifty square feet (3,750 ft²) per single-family dwelling is required on larger lots.
3. Accessory uses are uses which are incidental to the permitted use. For residences within the townsite core, accessory uses include:
 - a. smokehouses, saunas, and steams-baths must be inspected by the public safety officer to assure that they do not pose a fire hazard;
 - b. boathouses and boat ramps for personal use and storage;
 - c. outdoor sheds for the storage of tools and other implements; woodsheds, smokehouses, saunas, steam-baths, and workshops.
4. Dimensional requirements establish minimum standards for lot size and property line setbacks:
 - a. minimum lot size: three thousand seven hundred and fifty square feet (3,750 ft²) up to two (2) single-family dwellings or a duplex;
 - b. minimum lot width: sixty feet (60');
 - c. minimum front and rear-yard setback: five feet (5');

- d. minimum side-yard setback: five feet (5’);
- e. minimum lot size for new subdivision will be four thousand five hundred square feet (4,500 ft²), with minimum lot width sixty feet (60’).

E. Commercial provisions:

1. Commercial uses are considered those which sell a service, or a product not manufactured on the site. Exceptions to this latter provision are given under “Home occupations” below. Rental accommodations containing more than three (3) units are permitted as a conditional use. Multi-unit residential structures of three (3) or more units, whether used for permanent or transient residences, not to exceed a total of ten units per structure, shall be permitted within the townsite core if the following conditions are met:
 - a. approval of sewage and waste water disposal methods by the Department of Environmental Conservation;
 - b. the addition of two hundred square feet (200 ft²) of lot size for every unit in excess of two (2) units;
 - c. piped water into the structure(s).
2. Permitted uses are:
 - a. retail businesses;
 - b. cafes and taverns;
 - c. home occupations;
 - d. government and civic buildings;
 - e. business and professional offices.
3. Dimensional requirements establish minimum standards for lot size and setbacks from property lines:
 - a. minimum lot size: zero square feet (0 ft²);
 - b. minimum lot width: sixty feet (60’);
 - c. minimum front and rear-yard setbacks: five feet (5’);
 - d. minimum side-yard setbacks: five feet (5’).
4. Home occupations. Hand-crafted items may be made and sold from a residence. Such items would include but not be limited to jewelry, woodcarvings, baskets, sculpture, dolls, and the like. The manufacture of handcrafted items may not result in conditions which exceed the limitations expressed elsewhere in this ordinance.

F. Permitted uses within a setback:

1. Permitted uses that require a building permit:
 - a. access to property including walkways, stairs, and tramways;
 - b. retaining walls;
 - c. fences over six feet (6’) in height;
 - d. replacement of pilings, bracing, and piling caps.
2. Permitted uses that do not require a building permit:
 - a. vegetation;

- b. fences under six feet (6') in height;
 - c. lawn and garden accessories under one hundred (100) pounds in total weight (i.e., planters);
 - d. gutters no more than six inches (6") into setback;
 - e. water and sewer lines, but this requires submission to the city of a drawing showing the location of lines;
 - f. items listed below in (3)(c)(ii) and (4)(c);
 - g. structures constructed or placed before January 1, 1978, are approved by the City Council; however, in so approving, the City Council does not establish a precedent for such structures in setbacks not authorized by this code.
3. Restriction for access to property structures within setbacks:
- a. Property access walkways, stairs, and tramways shall be no more than three feet (3') into the setback, and shall not be covered or enclosed.
 - b. Structures shall be constructed of approved fire-resistant materials, including:
 - i. wood timbers at least two and a half inches (2.5") by five and a half inches (5.5") in height and width;
 - ii. earth, sand, or gravel;
 - iii. steel or aluminum;
 - iv. concrete, mortar, stone, or brick.
 - c. Repair or replacement of non-enclosed, non-roofed access to property structures within a setback are divided into two categories:
 - i. Any structural members to be replaced (i.e., pilings, piling caps, joists, decking, stringers, framing members, and logs) requires a building permit.
 - ii. Maintenance includes painting, replacing or adding additional handrails, stair treads, screws, nails, new traction materials (i.e., shingles), and piling bracing; this category requires no permits.
4. Maintenance or replacement of enclosed and/or roofed structures within setbacks are divided into three categories, each having different permitting requirements:
- a. "New Construction" of an existing enclosed and/or roofed structure occurs when more than fifty percent (50%) of the structural components above the piling caps within the setback require replacement within a ten (10) year period. Structural components are defined here as joists, decking, stringers, framing members, logs, and rafters.
 - i. A building permit is required for this category.
 - ii. The replacement percentage is determined by the building permit official.
 - iii. A pre-demolition inspection by the building permit official is required, along with a written narrative and drawings of the

existing structures as described in 07.04.120 (E)(2); photo documentation may also be required.

- iv. No increases shall be made to the dimensions of the building (i.e., height, floor plan within the setback).
- v. Portions of the structure within the setback must be constructed with fire-resistant materials.
- b. “Renovation” of an existing enclosed and/or roofed structure occurs when less than fifty percent (50%) of the structural components above the piling caps within the setback require replacement within a ten (10) year period. Structural components are defined here as joists, decking, stringers, framing members, logs, and rafters.
 - i. A building permit is required for this category.
 - ii. The replacement percentage is determined by the building permit official.
 - iii. No increases shall be made to the dimensions of the building (i.e., height, floor plan within the setback).
 - iv. Portions of the structure within the setback which are removed must be replaced with fire-resistant materials.
 - v. Pilings and piling caps can be replaced in this category, and are exempt from percentage and time restrictions.
- c. “Maintenance” of an existing enclosed and/or roofed structure includes painting, replacement of roofing, sheathing, siding, skirting, windows, and bracing within the setback. No permits are required for this category.

G. Prohibited uses within a setback:

- 1. Flammable materials not in an approved container.
- 2. Firewood.
- 3. Any structure not approved above. Any structure, or portion thereof, built after January 1, 1978, without proper permits is unlawful, and cannot be replaced or maintained as described in (3) and (4) of this section. Prior to any replacement or maintenance of unlawful structures, the appropriate “after the fact” permits must be obtained through the city office.

H. Industrial provisions:

- 1. Industrial activities such as those described under “Permitted uses” have occurred traditionally within the Tenakee townsite, and have been accepted historically as elements of the town’s daily life. The potential exists for nuisances created by noise and glare, however, particularly from activities such as a seafood processing plant or sawmill. The following standards shall therefore apply to industrial activities within the townsite core:
 - a. Any dust, gas, smoke, glare, vibration, odor, or other nuisance generated by an industrial activity shall not be objectionable at a fifty-foot (50’) distance from the perimeter of the site after regular business hours.

- b. Any open storage visible from a public right-of-way shall be enclosed by a sight-obscuring fence of good appearance acceptable to the Planning Commission.
 - c. All petroleum and chemical products, and any other hazardous or toxic materials, shall be safely stored in approved containers, so as not to endanger the health or safety of the residents of Tenakee Springs.
- 2. Permitted uses are:
 - a. sawmills;
 - b. on-shore seafood processing and freezing;
 - c. boat haul-out, repair, and building;
 - d. transportation and freight trans-shipment facilities such as docks, wharves, seaplane floats, and boat harbors;
 - e. heavy equipment storage and maintenance facilities.
- 3. Dimensional requirements establish minimum standards for lot size and setbacks from property lines:
 - a. minimum lot size: six thousand square feet (6,000 ft²);
 - b. minimum lot width: seventy-five feet (75’);
 - c. minimum front-yard setback: fifteen feet (15’);
 - d. minimum side and rear-yard setbacks: eight feet (8’).

07.04.060 Industrial District.

A. General provisions: The city requires industrially zoned land in addition to land within the townsite core which may be used for industrial uses to occur which would be unsuitable or unacceptable within the townsite core. The following standards shall also be applied within the industrial zone:

- 1. Any dust, gas, smoke, glare, vibration, odor, or other nuisance generated by an industrial activity shall not be objectionable at a fifty-foot (50’) distance from the perimeter of the site after regular business hours.
- 2. Any open storage visible from a public right-of-way shall be enclosed by a sight-obscuring fence or buffer of good appearance acceptable to the Planning Commission.
- 3. All petroleum and chemical products, and any other hazardous or toxic materials, shall be safely stored in approved containers, so as not to endanger the health or safety of the residents of Tenakee Springs.
- 4. A green strip shall be required in the front, side, and rear-yard setbacks to screen the industrial property from adjacent properties.
- 5. Roofline slopes which may shed snow on the right-of-way are disallowed, unless adequate measures are taken to prevent the roof from shedding snow on the right-of-way.

B. Permitted uses: Permitted uses are those uses which are allowed outright within a particular district. Within the industrial district, those uses are:

1. log transfer facilities;
 2. on-shore seafood processing and freezing facilities;
 3. boat haul-out, repair, and building.
- C. Dimensional requirements: Dimensional requirements establish minimum standards for lot size and property line setbacks:
1. minimum lot size: one (1) acre;
 2. minimum lot width: one hundred feet (100');
 3. minimum front-yard setback: thirty feet (30');
 4. minimum side and rear yard setback: twenty feet (20').

07.04.070 Watershed Reserve District.

- A. Purpose: The purpose of the watershed reserve zone is to protect the quantity and quality of drinking water available to Tenakee Springs residents, and to control activities likely to contaminate or pollute water supplies. The watershed reserve is not only contiguous with a river drainage or drainages, but also includes all of the upland areas above the platted and settled property along the shoreline.
- B. General provisions: Roofline slopes which may shed snow on the right-of-way are disallowed, unless adequate measures are taken to prevent the roof from shedding snow on the right-of-way.
- C. Permitted uses: Permitted uses are those which are permitted outright within a particular district. Within the watershed reserve district, those uses are:
1. water reservoirs;
 2. water treatment plants;
 3. water pumping stations;
 4. water transmission lines;
 5. snow and water gauging stations;
 6. water, sewer, and utility lines;
 7. public utility structures.
- D. Dimensional requirements: This section is not applicable.

07.04.080 Public Use District.

- A. Purpose: The city owns land which is to be retained in public ownership and used for public purposes. The intent of the zone is to identify and preserve such lands.
- B. General provisions: Roofline slopes which may shed snow on the right-of-way are disallowed, unless adequate measures are taken to prevent the roof from shedding snow on the right-of-way.
- C. Permitted uses: Permitted uses are those which are permitted outright within a particular district. Within the public use district, those uses are:
1. public schools;
 2. wildlife refuges and sanctuaries;
 3. public utility facilities;

4. campgrounds, picnic areas, and parks;
 5. boat ramps, docks, and floats.
- D. Disallowed uses: Those uses which are not allowed without a permit.
1. Storage or placement of material, gear, vehicles, boats, or sheds/shelters;
 - a. not intended to include vehicles parked temporarily by harbor patrons.
- E. Dimensional Requirements: This section is not applicable, except: any structure which is constructed under the terms of this section shall meet the setback standards in the industrial district.

07.04.090 Commercial/Recreational District.

- A. Purpose: This designation acknowledges the potential for development of hunting lodges, camps, destination resorts, and other visitor and tourist-oriented facilities.
- B. General provisions:
1. The exterior siding of all structures must be non-glare, except for windows. Roofing is excluded from this requirement.
 2. Rear property line setbacks shall not apply where property lines extend or are below the mean high tide line. Side-yard setbacks shall apply.
 3. Roofline slopes which may shed snow on the right-of-way are disallowed, unless adequate measures are taken to prevent the roof from shedding snow on the right-of-way.
- C. Permitted uses: Permitted uses are those uses which are permitted outright within a particular district. Within the commercial/recreational district, those uses are:
1. single-family residences;
 2. hunting lodges, fishing lodges, and resort camps containing rental accommodations;
 3. food service facilities;
 4. equipment rental;
 5. docks and piers.
- D. Accessory uses: Accessory uses are uses which are incidental to permitted uses. Within the commercial/recreational district they include:
1. barns, woodsheds, greenhouses, smokehouses, tool sheds, boathouses, steam-baths, saunas, and workshops, provided they are within the required setbacks;
 2. chicken coops, rabbit hutches, and other structures and enclosures for housing animals and fowl.
- E. Dimensional Requirements: Dimensional requirements establish minimum standards for lot sizes and property line setbacks:
1. minimum lot size: two and a half (2.5) acres;
 2. minimum lot width: two hundred feet (200');
 3. minimum lot line setback: fifty feet (50');

07.04.100 Variances.

Intent: Variances allow the Planning Commission to waive the requirements of the zoning ordinance in certain instances where application of the requirements would cause an exceptional burden to the property owner. It is the purpose of a variance to grant relief from such an exceptional burden, provided that all of the following conditions are met:

1. that special conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures in the same district;
2. that strict interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
3. that the special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience;
4. that granting the variance will be in harmony with the objectives of this ordinance, and not injurious to the neighborhood or otherwise detrimental to the public welfare;
5. that granting of the variance will not permit a land use in a zoning district that is normally a prohibited use.

07.04.110 Procedure.

A. At least two weeks prior to the next regular Planning Commission meeting, the applicant must submit an application to the Planning Commission containing a written justification for the proposed variance which satisfies the five (5) conditions shown above (07.04.100). The commission shall approve a variance only if it meets the above conditions. The commission may also require the applicant to submit a drawing or set of drawings which graphically portray the variance and/or the reason for it.

B. A reasonable fee, to be set by City Council resolution, shall be charged for a variance application.

C. The commission shall make a good faith effort to act upon the variance within sixty (60) days of its submission. Failure by the commission to act within sixty (60) days will cause the variance to be granted. Appeals may be obtained only through action of the Board of Adjustment.

D. For purposes of this section, commission action may include commission discussion and consideration of an application as a regular or special agenda item, or tabling such request to allow time to obtain further information to clarify the request. Said action may occur at any regular meeting or special meeting held for consideration of that request or tabling such request to allow time to obtain further information to clarify the request.

E. Notice of public hearing will be posted in three (3) public places in the community two (2) weeks in advance of the date of the hearing and notice to adjacent property owners will be mailed prior to two (2) weeks before the date of the public hearing.

07.04.120 Building Permit Administration.

A. The building permit official or a member of the Planning Commission may administer these duties. The mayor may appoint a person to be the building permit official, or a member of the Planning Commission may serve as the designee.

B. Notwithstanding other limitations imposed by provisions of this code, building of structures and additions to the exterior dimensions of existing structures in excess of two hundred square feet (200 ft²) combined floor space shall require a building permit. All structures of any size within ten feet (10') of a property line shall require a building permit, excluding exceptions provided for in 07.04.040 and 07.04.050.

C. Construction within any required setbacks in this chapter shall require a variance through action of the Planning Commission, excluding exceptions provided for in 07.04.040 and 07.04.050. Construction on municipal land or municipal rights-of-way require an encroachment permit except as noted in Chapter 07.02.

D. A person wishing to obtain a building permit application may request an application packet from the city clerk. A completed application shall be returned to the city clerk who will send it to the city building permit official, who will review building permit applications for completeness and need for further required permits. Applications for building permits will be available at the Tenakee Springs city office.

E. The building permit application shall consist of a map drawn to scale and a written narrative to the city building permit official. The application must contain the following information:

1. Attach copies of required variance, encroachment, easement, or other applicable land use permits.
2. Attach a written narrative describing the proposed building and materials; a map drawn to scale showing the legal property/boundary (at least two survey markers must be shown on the map and/or plans); the location of the structure as well as any associated accessory buildings or outbuildings and their location on the lot, including exact roof overhang dimensions, elevation drawing, and dimensions of the structure walls. The number of acceptable existing corner survey monuments on the lot is up to the discretion of the building permit official (as many as six [6] may be required). If such markers are not present, or are in question, the building permit official may require a new survey be conducted, at the owner's expense, prior to permit approval.
3. Specify the location of rights-of-way and easements.
4. Identify adjacent and surrounding uses and activities.
5. Identify and explain proposed sewage and wastewater disposal methods.
6. Show the location and source of domestic water supplies.
7. Show the location of the mean high tide line and the mean low tide line, if applicable.
8. Show placement of electric meter. Meters should be placed where they are easily

accessible for reading by the Electric Department [please complete the application for electrical service if applicable].

9. There are additional requirements for removal and replacement of pre-1978 or otherwise legally permitted structures within setbacks. See Sections 07.04.040 (F)(4), and 07.04.050 (F)(4).

F. The city building permit official shall not accept an application until the applicant has obtained all applicable permits including variance, encroachment, and easement permits. The city building permit official shall approve or deny a completed application within sixty (60) days of the date the completed application is accepted for review. Reasons for denial shall be in writing. If no action is action is taken on an accepted complete application within sixty (60) days, the application shall be considered approved. The city building permit official shall return the application to the city clerk who will send a copy of the accepted or denied application to the applicant and the Planning Commission. Substantial construction must be started within one (1) year from the date the permit is approved. The permit may be extended by the building permit official after review to ensure there are no substantial changes to the plans as issued.

1. Permits issued prior to January 28, 2015, where construction has not substantially begun shall be reviewed for compliance with current regulations.
2. If substantial construction has not begun within two (2) years, permits expire and are revoked.

G. Inspections: All building permits shall be posted on/in site.

1. First inspection: Once the foundation is laid out and before construction begins.
2. Second inspection: Once the roof framing is constructed but before roofing is installed.

H. A reasonable fee, to be set by City Council resolution, shall be charged for a building permit application.

I. A person failing to comply with the building permit application requirements in this section shall be notified of the permitting process by certified mail and given ten (10) days to comply.

J. Failure to obtain a building permit prior to undertaking an activity covered under the terms of this code shall be an infraction and shall be punishable by a fine of not more than five hundred dollars (\$500.00).

07.04.130 Appeals.

A. Powers and duties: The City Council shall sit as a Board of Adjustment to hear appeals from any party wishing to challenge the legality of a Planning Commission or city building permit official decision made under the terms of this ordinance. The board meets at the call of the mayor, and shall hear and decide:

1. appeals regarding alleged errors in the enforcement of this ordinance;
2. appeals from the decisions of the Planning Commission on requests for conditional use permits;
3. appeals from the decisions of the Planning Commission on requests for variances

from the terms of the zoning ordinance.

B. Procedure:

1. Any interested party may file an appeal with the Board of Adjustment through the city clerk.
2. An appeal must be filed within thirty (30) days of the action on which the appeal is based.
3. The appeal must be in writing and must specifically state the alleged error and the interpretation which the appellant believes should have been given.
4. An appellant denied by the Board of Adjustment may appeal the board's action to the Superior Court of Alaska, First Judicial District; however, such appeal must be made within fifteen (15) days.

07.04.140 Non-Conforming Lots, Structures, and Uses.

Definition: A lot, structure, or use which legally exists prior to the adoption of this ordinance, but does not meet the requirements of the ordinance, shall be permitted to continue within the limits set forth in this section. There are three (3) types of non-conforming status:

1. Non-conforming lots. The lot width and/or lot area is smaller than the minimum permitted in the zone in which it is located. Setbacks and requirements other than those applying to area or width, or both, shall conform to the regulations of the district in which such a lot is located. Variances from setbacks and other requirements shall be obtained only through action of the Planning Commission.
2. Non-conforming structures. The structure fails to meet setback, lot coverage, and/or height regulations for the zone in which it is located. Structures and accessory buildings constructed, placed, or maintained before January 1, 1978, and non-conforming structures which were lawfully permitted since that time, are allowed to continue and be renovated and maintained as defined in 07.04.040 and 07.04.050. Variances from setbacks and other requirements shall be obtained only through action of the Planning Commission.
3. Non-conforming uses. The use occurring on a lot is not a principal, accessory, or conditional use permitted in the district in which it is located. Variances from a non-conforming use can be obtained only through action of the Planning Commission.

07.04.150 Signs.

The following standards shall apply to signs:

1. No neon or flashing signs shall be allowed.
2. Signs attached to structures shall not exceed twenty percent (20%) of the surface of the side of the building on which the sign is located. Freestanding signs shall not exceed thirty-two square feet (32 ft²) in size. Such signs shall be flush to the wall surface, unless the bottom of the sign is at least eight feet (8') above the ground, measured from the ground, measured from the centerline of Tenakee

Avenue. Attached signs and freestanding signs shall not extend in a perpendicular direction into Tenakee Avenue and shall not exceed the height limitations for structures in the zoning district where the sign is displayed.

3. Signs announcing public facilities or public services are exempt from these provisions.

07.04.155 Penalties.

Violation of any provision of this chapter is a civil violation for which a notice may be issued under the provisions set forth in Chapter 01.05 and subject to a civil penalty in the amount set forth in Section 01.05.030, not to exceed five hundred dollars (\$500.00).

07.04.160 Definitions.

- A. “Accessory building” is a building whose use is incidental to the use of the main building on the same lot.
- B. “Agriculture” means the use of land for farming, dairying, apiculture, horticulture, floriculture, and animal and poultry raising.
- C. “Boathouse” means a structure used to house boats that are in or out of the water.
- D. “Building” means a structure that has a roof and/or is enclosed on at least fifty percent (50%) of the area of its sides.
- E. “Dwelling” means a structure, or portion thereof, which is used exclusively for human habitation.
- F. “Guest house” refers to a single-family dwelling which may or may not contain kitchen facilities, which is used for non-rental, transient occupancy.
- G. “Grade” means a point on the ground from which elevation is measured. On a horizontal lot, grade shall be determined from the ground surface cleared for a foundation. On a sloped lot, grade shall be determined from a point on the ground midway between the front and back elevations of the proposed building structure. For the shoreline side lots of Tenakee Avenue within the townsite core district, grade is the center-line of the developed road surface of the Tenakee Avenue right-of-way.
- H. “Green strip” is a strip of vegetation not less than five feet (5’) in width which screens a site from view.
- I. “Heavy equipment” is equipment of a type which includes, but is not limited to, dump trucks, front-end loaders, road graders, bulldozers, backhoes, and cranes.
- J. “Home occupation” refers to any business or activity which meets the following standards:
 1. may be conducted only by a member or members of a family residing in the residence;
 2. is clearly secondary and incidental to use of the property as a residence;
 3. maintains an exterior condition in keeping with surrounding residential uses;
 4. does not require the installation of heavy equipment or power sources not common to a residence;

5. does not create a level of noise, vibration, dust, smoke, odor, heat, or glare which would be objectionable within thirty feet (30') of the residence.
- K. "Lot" means a contiguous parcel of land identified by deed, title, or other legal instrument.
- L. "Lot of record" means a lot which has been recorded in the Office of the District Recorder, or a lot or parcel described by meets and bounds, the description of which has been so recorded.
- M. "Non-conforming building" means a structure which does not conform to the regulations of the zone in which it is located.
- N. "Non-conforming lot" is a lot smaller than the minimum lot size for the zone in which the lot is located.
- O. "Non-conforming use" is a use of land which does not conform to the regulations of the district in which the use is located.
- P. "Rear-yard" on a waterfront lot is the lot line which fronts, and/or is within the water.
- Q. "Regular business hours" refers to the hours between 8:00 a.m. and 6:00 p.m., Monday through Saturday.
- R. "Residence" means a structure which contains accommodations for both sleeping and food preparation, whose primary or only use is to provide permanent housing.
- S. "Sawmill" refers to a plant that produces lumber and shakes from round logs.
- T. "Seafood processing plant" means a plant which cans, freezes, or otherwise prepares for shipment or for sale seafood products such as salmon, crab, and halibut.
- U. "Setback" is that part of a lot on which no structure, either permitted or accessory, may be located, unless a variance or building permit has been obtained.
- V. "Structure" means any object in, on, or above the ground. Any man-made thing constructed or erected or moved onto a lot when the use requires a fixed location on the ground or attachment to something located on the ground or is not easily moved by one person without the aid of mechanized equipment. Exclusions: lawn/garden accessories, vegetation, and fences under six feet (6') tall.
- W. "Transient residence" refers to a hotel or motel room or other accommodation intended for rental on a daily or weekly basis.
- X. "Variance" refers to a relaxation of the terms of the zoning ordinance, where a literal enforcement of the ordinance would result in an unnecessary and undue hardship. A variance may not be used to permit a use or activity not otherwise permitted in a zoning district or permitted by this ordinance, but shall be granted only when the physical conditions or limitations of a parcel of property so warrant.

CHAPTER 07.05

MOBILE HOMES

Sections:	07.05.010	MOBILE HOMES PROHIBITED
	07.05.020	PENALTIES

07.05.010 Mobile Homes Prohibited.

The City of Tenakee Springs hereby prohibits mobile or trailer homes, offices, or buildings anywhere within its boundaries.

07.05.020 Penalties.

Any persons, person, firm, partnership, or corporation willfully violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof may be fined not more than five hundred dollars (\$500.00) or be imprisoned for a period of not more than thirty (30) days.

CHAPTER 07.06

PUBLIC BUILDINGS

Sections:	07.06.010	PUBLIC BUILDINGS – CODE
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07.06.010 Public Buildings – Code.

- A. The City of Tenakee Springs hereby adopts the *Uniform Building Code, 1994 Edition*, for all public buildings. Chapter 1, Volume 1, shall not apply.
- B. In addition, the following design standards shall be used:
1. Snow: Forty (40) pounds per square foot;
 2. Wind: One hundred (100) miles per hour;
 3. Earthquake: Zone 3.

CHAPTER 07.07

HARBOR UPLANDS

<u>Sections:</u>	07.07.010	INTRODUCTION
	07.07.020	VISION
	07.07.030	GENERAL PROVISIONS
	07.07.040	PUBLIC USE
	07.07.050	COMMERCIAL
	07.07.060	RECREATIONAL
	07.07.070	COMMUNITY GARDEN

07.07.080	RECYCLE/SOLID WASTE
07.07.090	COMMUNITY LAND TRUST
07.07.100	RESIDENTIAL
07.07.110	INDUSTRIAL

07.07.010 Introduction.

This text and the accompanying map comprise the zoning areas within the seventeen (17) acres known as the harbor uplands. The text and map are based on the harbor uplands community survey and expressions of the community gathered from public meetings, and provide the basis for land-use decision making. The new chapter which has resulted provides reasonable land-use regulations and will be useful to the council, commission, and public for determining the addition of more land-use activities and zoning areas as necessitated by the community.

07.07.020 Vision.

The vision of the harbor uplands is to have a multi-use area for community needs. In the survey, many desires were mentioned: boat haul-out and storage lots for both commercial and non-commercial needs; public recreation areas, campsites, recycling center, and space for solid waste such as a burn box with an ash landfill; residential lots, the community garden, and public use areas. It is not the intention of this ordinance to be restrictive for the council and commission, but to allow for adding to and altering these zoning areas and requirements as the needs arise in the community. It is the intent to keep the land a multi-use area allowing for growth and adjustments as needed for the future of the community of Tenakee Springs.

07.07.030 General Provisions.

If any of the harbor uplands has not yet been dedicated for a specific use, it will remain under the general provisions as outlined in the “Public Use” zoning until such time as the City Council deems it practical to change the zoning for another use.

07.07.040 Public Use.

A. Purpose: The intent of this zone is to identify and temporarily preserve the zoning restrictions and the allowable uses until such time as the council re-zones all or part of this area. These portions of the harbor uplands that have not yet been given a specific zoning status will be for the use of the public.

B. Permitted Uses: Permitted uses are those which are permitted outright within a particular zone. Within the public use zone, those uses are:

1. public educational facilities;
2. wildlife refuges and sanctuaries;
3. public utility facilities;
4. campgrounds, picnic areas, parks, and gardens;
5. boat ramps, docks, and floats.

C. Disallowed uses: Those uses which are not allowed without a permit:

1. Storage or placement of material, gear, vehicles, boats, or sheds/shelters.
 - a. Not intended to include vehicles parked temporarily by harbor or recreating patrons.
 - b. Not intended to include shelters owned and/or sanctioned by the City of Tenakee Springs.
 2. Alterations to any city facilities, structures, or landscape.
- D. Dimensional Requirements: This section is not applicable, except:
1. Any structure which is constructed under the terms of this section shall meet the following requirements:
 - a. minimum setback: ten feet (10') on all sides;
 - i. parking of vehicles allowed within setback;
 - b. maximum building height: thirty-six feet (36') – a two and a half (2.5) story structure.

07.07.050 Commercial.

- A. Purpose: This designation acknowledges the potential for commercial development of businesses and commercial use. This includes the leasing of commercial lots to private businesses, gear storage, boat storage, and other commercial uses as may be beneficial to Tenakee Springs.
- B. General provisions:
1. Street access, with a minimum width of thirty feet (30') to each lot.
 2. (For City Council determination – fees, stipulations, lot size, etc.).
 3. (For City Council determination – fees, stipulations, lot size, etc.).
 4. (For City Council determination – fees, stipulations, lot size, etc.).
- C. Permitted uses: Permitted uses are those uses which are allowed outright within a particular zone. Within the commercial zone, those uses are:
1. sawmills;
 2. parking areas;
 3. on-shore food processing facilities;
 4. boat haul-out, repair, and building;
 5. storage facilities;
 6. welding, hardware, mechanic, and other related.
- D. Accessory uses: Accessory uses are those uses which are incidental to the permitted use. Within the commercial zone, accessory uses include but are not limited to:
1. public restrooms;
 2. maintenance facilities;
 3. harbor facilities.
- E. Dimensional requirements: Dimensional requirements and building restrictions unless otherwise permitted:
1. Leased storage lots:
 - a. minimum lot size: ten feet (10') by twenty feet (20');

- b. minimum setback: none;
 - c. maximum building height: fourteen feet (14');
 - d. must not shed snow onto right-of-way or other lots.
- 2. Commercial leased lots:
 - a. minimum lot size: fifty feet (50') by fifty feet (50');
 - b. minimum setback: ten feet (10') on all sides;
 - i. parking of vehicles allowed within setback.
 - c. maximum building height: thirty feet (30') – a two (2) story structure.
- 3. Parking area and boat maintenance lots:
 - a. minimum lot size: ten feet (10') by twenty feet (20');
 - b. minimum setback: none;
 - c. no permanent structures.
- F. Disallowed uses: Those uses which are not allowed without a permit:
 - 1. Storage or placement of material, gear, vehicles, boats, or sheds/shelters.
 - a. Not intended to include vehicles parked temporarily by harbor or recreating patrons.
 - b. Not intended to include shelters owned and/or sanctioned by the City of Tenakee Springs.
 - 2. Alterations to any city facilities, structures, or landscape.

07.07.060 Recreational.

- A. Purpose: This designation acknowledges the potential for maintenance to and/or development of facilities for public recreational uses as may be beneficial to Tenakee Springs.
- B. General provisions:
 - 1. Fires shall be limited to designated areas and will be properly extinguished upon vacating the premises.
 - 2. All rubbish such as trash and food debris shall be removed from the area and properly disposed of by the person or persons producing said rubbish.
- C. Permitted uses: Permitted uses are those uses which are allowed outright within a particular zone. Within the recreational zone, those uses are:
 - 1. playground facilities;
 - 2. group picnic and barbeque facilities;
 - 3. individual picnic facilities.
- D. Accessory uses: Accessory uses are those uses which are incidental to the permitted use. Within the recreational zone, accessory uses include but are not limited to:
 - 1. Private or community outdoor game activities.
 - a. Permanent outdoor game facilities may only be established and constructed either by or with written authorization from the City of Tenakee Springs.
 - b. Temporary outdoor game facilities may be implemented by the public so long as such facilities do not permanently alter any existing structures or

landscaping.

2. Private or community gatherings such as potlucks, movies, or presentation viewing.

E. Disallowed uses: Those uses which are not allowed without a permit:

1. Storage or placement of material, gear, vehicles, boats, or sheds/shelters.
 - a. Not intended to include vehicles parked temporarily by harbor or recreating patrons.
 - b. Not intended to include shelters owned and/or sanctioned by the City of Tenakee Springs.
2. Alterations to any city facilities, structures, or landscape.

07.07.070 Community Garden.

A. Purpose: This designation acknowledges the need to provide land for community members to grow food for non-commercial personal use.

B. General provisions:

1. Community garden plots are open to any and all Tenakee residents.
2. The protocols of the community garden are established by the citizens working the garden at any given time.

C. Permitted uses: Permitted uses are those which are allowed outright within a particular zone. Within the community garden zone, those uses include but are not limited to:

1. greenhouse structures;
2. cold frames;
3. storage structures;
4. fencing;
5. compost bins;
6. water catchment systems.

D. Accessory uses: Accessory uses are those uses which are incidental to the permitted use. Within the community garden zone, accessory uses include but are not limited to:

1. fruit orchards.

07.07.080 Recycle/Solid Waste

A. Purpose: This designation acknowledges the potential for uses as may be beneficial to Tenakee Springs.

B. General provisions:

1. (Reserved).
2. (Reserved).
3. (Reserved).

C. Permitted uses: Permitted uses are those uses which are allowed outright within a particular zone. Within the recycle/solid waste zone, those uses are:

1. (reserved);
2. (reserved);

3. (reserved);

D. Accessory uses: Accessory uses are those uses which are incidental to the permitted use. Within the recycle/solid waste zone, accessory uses include but are not limited to:

1. (reserved);

2. (reserved);

3. (reserved);

E. Dimensional requirements: Dimensional requirements and building restrictions:

1. (Reserved).

2. (Reserved).

3. (Reserved).

07.07.090 Community Land Trust.

(Reserved for future consideration).

07.07.100 Residential.

(Reserved for future consideration).

07.07.110 Industrial.

(Reserved for future consideration).