

16.20.040 **Downtown Overlay District.**

A. Findings.

The city council finds as a matter of public policy that the aesthetic, economic and functional qualities of the city are worthy of enhancement and preservation and are essential to the promotion of the health, prosperity, safety and general welfare of the existing and future residents of the City of Wasilla. The city council further finds that proper development of the city's downtown district is best attained by setting certain standards for the downtown overlay zone that will be to the interest, benefit and advantage of each of the owners of nonresidential and upper-story residential sites within the city. The city further finds that the establishment of such standards will assist it to develop and promote a first class city that will serve to attract and retain high quality industrial and commercial development that will provide employment growth and economic development within the city. The city council specifically finds that the downtown overlay district will promote the general health, safety and welfare of the city; improve the efficient operation of traffic around the city; promote safe and efficient movement within the overlay districts for persons using all modes of travel-motorized vehicles, bicycles and walking; create a sense of place that is aesthetically appealing and environmentally responsible; encourage innovative development projects within set standards for landscaping, community design and aesthetics and establish consistent and harmonious design standards for public improvements and private property development within the downtown overlay district so as to unify the distinctive visual quality of the properties.

B. Purpose and intent.

The purpose of the overlay district provided for herein is to provide special design requirements for those properties located within the district regardless of their zoning classification in order to maintain a consistent appearance throughout the downtown overlay district. The intent is to create an identity that will enhance its economic vitality and protect the value of properties within the corridor or district. The major goal of these overlay district design standards is to ensure that the future development of land in the downtown overlay district will conform to the design, direction and intent of the Downtown Area Plan and the Wasilla Comprehensive Plan. These standards will help to guarantee that the development occurring within the overlay district is sited and built to standards that will support this vision and foster smart, pedestrian friendly and sustainable growth. The city's hope is that through these standards, a level of quality and a distinct personality will arise, setting Wasilla out from surrounding areas and ensuring it maintains wide ranging appeal among residents, businesses and visitors alike. Therefore, the purpose and intent of this section is to establish a uniform procedure for review and approval of projects; to protect, enhance, preserve, or reuse places, sites, buildings, structures, objects, streets, signs, street furniture, sidewalks, and landscape features; provide for aesthetic, economic, and functional value of properties, neighborhoods and structures; and address issues of traffic, traffic operations and congestion, transit, bicycle and pedestrian access and safety, aesthetics of the built environment, business viability, and public safety in the downtown overlay district. The scope of this section includes standards for sidewalks;

pedestrian and site lighting; street trees; site development; design, materials, location, size and orientation of buildings and accessory structures; landscaping; screening and materials; and signs. These standards are necessary to implement the goals contained in the Downtown Area Plan and the Wasilla Comprehensive Plan. Such goals include, but are not limited to, implementing an integrated transportation and land use plan; creating a town center; applying design guidelines; improving traffic and the pedestrian environment, aesthetics of the built environment, and business viability; and promoting public safety. These adopted design standards shall apply to all properties within the downtown overlay district. Land and structures shall be used in accordance with standards of the underlying zoning classification.

In summary, the purpose of the overlay district regulations shall be to:

1. Foster civic pride;
2. Promote attention to accepted design principles;
3. Raise the level of community understanding and expectation for quality;
4. Implement the comprehensive plan;
5. Implement the Downtown Area Plan and Wasilla Comprehensive Plan;
6. Protect and enhance local visual aesthetic, character and functional qualities of the downtown overlay district;
7. Stimulate business growth;
8. Increase opportunities for federal and state grant funding;
9. Guide the spatial relationships of structures and open spaces to each other;
10. Provide guidance to professionals and owners undertaking construction;
11. Recommend appropriate design approaches; and
12. Provide an objective basis for review, assuring consistency and fairness.

C. Guidelines versus standards.

'Design standards' are specific, legally enforceable, mandatory minimum standards to which a planner, architect, landscape architect, owner, developer or builder is held in developing any land or buildings under this section. These standards ensure that the vision of the community is reflected in the future built environment. For situations in which some of the requirements cannot be met, there are specific requirements for variances. Conversely, 'design guidelines' are simple voluntary advisory documents that encourage specific types or styles of development or building construction in order to promote a vision.

D. Relationship to other code provisions.

The adoption of the downtown overlay district is an amendment to the existing zoning provisions of this title. As such, the downtown overlay district shall be shown as such on the Official Zoning Maps of Wasilla, Alaska. The design standards are not to be considered comprehensive and are meant as an overlay to the city's existing zoning and development codes. This section does not in any way repeal, replace or otherwise negate any aspects of the remainder of this section or any other development regulations. All regulations and standards

published pursuant to this section are to be in addition to, or "over and above" any other legal requirements including local, state and federal regulations. In any case where provisions of this section conflict with other sections of this Code and other city regulations, the provisions of this section shall govern or prevail to the extent of the conflict.

E. Boundaries and maps.

Downtown Overlay District (DOD). The boundaries of the Downtown Overlay District (hereinafter referred to also as "DOD") are shown and established on the official Zoning Map of the City of Wasilla. Said maps and all explanatory materials included thereon accompany and are hereby made a part of this definition of the boundaries of the DOD. The boundaries of the DOD are more particularly described as follows:

USE STREET BOUNDARY TYPE DESCRIPTION VERSUS METES & BOUNDS

F. Interpretation of boundaries.

When uncertainty exists as to the boundaries of districts of the official overlay map, the following rules shall apply:

1. Boundaries following centerlines. Boundaries indicated as approximately following the centerlines of streets or bodies of water shall be construed to follow such centerlines.
2. Boundaries following lot or tract lines. Boundaries indicated as approximately following lot lines or tract lines shall be construed as following such lines.
3. Boundaries following center lines of creeks, streams and rivers. Boundaries indicated as approximately following the centerlines of water bodies shall be construed to follow such centerlines. In the event of change in the shoreline due to natural causes, the centerline shall move accordingly.
4. Boundaries following right-of-way lines for roads. Boundaries indicated as approximately following the right-of-way lines for public roads and highways shall be construed to follow such right-of-way lines. In the event of a change in the right-of-way such as might typically occur in a road widening project, the boundary will move concurrently with the establishment of the new right-of-way line.
5. Uncertainties. Where physical or cultural features existing on the ground are at variance with those shown on the official or current zoning or district overlay map, or in case any other uncertainty exists as to the proper location of district boundaries, the planning director shall interpret the intent of the official or current zoning map as to the proper location of the district boundaries.
 - a. If and when at some future time, a parcel along a boundary is split in any way, the historical boundary description shall prevail and the new parcel shall continue to be subject to the standards of the overlay district.
 - b. Any outside parcels combined with parcels inside the district boundary shall become subject to the overlay standards, regardless of whether or not the properties are re-platted as one.

G. Permitted uses. – CONSIDER CREATING A SEPARATE USE CHART FOR DOWNTOWN OVERLAY DISTRICT AND INSERTING HERE.

All uses permitted by the underlying zoning district shall be similarly permitted in the downtown overlay district except as prohibited in the subsection below.

H. Prohibited uses.

In addition to the uses prohibited by the underlying zoning district, the following uses are prohibited in the downtown overlay district:

1. Adult businesses.
2. Automobile service (including trucks and commercial vehicles), new or used sales, or leasing (except when no vehicles are stored on site).
3. Boat service, sales, or leasing (except when no boats stored on site).
4. Campgrounds or recreation vehicle parks.
5. Car washes, detail shops, and/or service stations.
6. Cemetery.
7. Check cashing establishments.
8. Contractor's establishments (except for purely professional offices without outdoor storage of equipment or supplies).
9. Convenience stores with gasoline pumps.
10. Digital or electrical signal transmission towers over ten feet in height (all types). **Cell towers too???**
11. Drive-throughs of any kind (including banks, restaurants, drug stores, etc.)
12. Flea market.
13. Funeral homes.
14. Garden center or plant nursery (does not include retail florist).
15. Gas stations.
16. Hospitals.
17. Indoor firing range.
18. Industrial uses (including manufacturing, distribution, warehouse, lumber yards, waste facilities, recycling collection or processing facilities, scrapyards, wrecked motor vehicle compounds, machine and welding shops, storage yards, heavy machinery storage, rental, sales and/or repair). Minor manufacturing for direct retail sales in the same building for uses such as artisan or craftsman shops is permissible.
19. Kennels.
20. Landscaping or lawn business (except for professional office space only without outdoor storage of equipment or supplies).
21. Massage parlors.
22. Mini-warehouse or pay storage facilities of any kind.
23. Palm reading or fortune telling.
24. Pawn shops.

25. Single-family (detached) or duplex.

I. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not defined herein shall be construed to have the meaning given in Section 16.04.070 entitled "Definitions" of Title 16 of the Wasilla Municipal Code or by Webster's Ninth New Collegiate Dictionary. The words "shall" and "must" are mandatory and the words "may" and "should" are permissive. As used in this section, the following terms shall be defined as follows:

Appearance - The outward aspect that is visible to the public.

Appropriate – Fitting to the context of a site, neighborhood or community.

Architectural concept – The basic aesthetic idea of a structure, or group of structures, including the site, signs, buildings and landscape development that produce the architectural character.

Architectural feature – A significant element of a structure or site.

Architectural merit – An acknowledgment by a recognized institution or organization of architecture or historical preservation such as the American Institute of Architects (AIA) that a building represents a high quality work or quality example of a specific architectural style.

Architraves – Molding around a door or window.

Attractive – Having qualities that attract and create interest and appeal in numerous, but not necessarily all, observers.

Building height – The distance from lowest point in the finished earthen grade around the building to the highest point on the roof or chimney.

Building setback – The distance from the right-of-way or property line to the face of the closest building or projection including roof overhangs and attached utilities. Projections shall be considered part of the building and therefore must be included in any setback determination.

Building site – Each buildable tract or parcel of real property that is contained in the downtown overlay district defined herein. For the purposes hereof, any adjoining or contiguous property conveyed to an owner of a building site shall be deemed to be part of the building site owned by said owner.

Build-to lines or zones – A line or zone along a public street to which the main face or wall of a building must directly abut or be built within. Unlike a setback which sets a minimum distance from the road, a "build-to" line ensures the building will be built closer to the road to create the

proper sense of scale for the sidewalk and streetscape within the district. The distance is measured from the back of curb and not the right-of-way.

Cohesiveness – Unity of composition among elements of a structure or among structures, and their landscape development.

Compatibility – Harmony in appearance of architectural features in the same vicinity.

Cornice – A horizontal molded projection that crowns or completes a building or wall.

Design and development standards – Those standards adopted hereby by ordinance of the Wasilla City Council from time to time and in accordance with the provisions of this section and maintained by the city clerk and made available by the city planning department.

Designation or designated – A decision by the city council wherein a property or district is declared an overlay district.

External design feature – The general arrangement of any portion of structures or landscaping that are open to the public view, including but not limited to, the type, and texture of the materials, the type of roof, windows, doors, lights, signs, and fixtures of portions.

Exterior architectural features – The architectural style, general design, and general arrangement of the exterior of a structure and site including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs, facade, landscaping, and other architectural fixtures, features, details, or elements relative thereto.

Fenestration – The arrangement of windows in a building.

Geographic area – The land area subject to the downtown overlay district regulations.

Harmony – A quality that represents an attractive arrangement of parts, as in an arrangement of various architectural elements.

Historical significance – The building or property that has been recognized and proven to be an integral part of a historically significant event or place by one of the following agencies: **Insert appropriate agencies.**

Improvements – Any and all building site developments, betterments, modifications and construction including, but not limited to, buildings, structures, walks, towers, tanks, patios, decks, driveways, signs, docks, walls, fences, screens, parking areas, drainage and utility conduit, excavations and grading. Routine maintenance is not an improvement.

Landscape – Plant materials, landscape beds, berms and earthen topography and other physical elements combined in relation to one another and to structures including pavement.

Landscape zones – An area a minimum of ten feet in width and located immediately adjacent to the curb and shall be continuous. This zone may be used for street trees, streetlights, benches, planters, trash receptacles, bicycle parking racks and other street furniture, pedestrian lights, landscaping or sod.

Logic of design – Widely accepted principles and criteria in the solution of design problems.

Lunette – A crescent-shaped or semicircular space, usually over a door or window that may contain another window, a sculpture or a mural.

Material change in appearance – A change in a structure or a parking lot within the downtown overlay district that exceeds ordinary maintenance or repairs (see definition) and requires either a sign permit, building permit, or land disturbance permit such as, but not limited to:

- (1) The erection, alteration, restoration, addition, or removal of any structure, signs, or parking lot;
- (2) Relocation of a sign or building;
- (3) Commencement of excavation; or
- (4) A change in the location of advertising visible from the public right-of-way.

Muntins/mullions – A strip of wood or metal separating and supporting and holding panes of glass in a window or panels set in series.

Nuisance – Any usage of a building site that:

- (1) So annoys, disturbs or affects the owners or occupants of any other building site or other property within the district or the owners or occupants of property contiguous to the district so as to obstruct or interfere with the reasonable or compatible use of such other building site or property or so as to render usage of the building site or property dangerous or damaging to persons or property thereon; or
- (2) Violates any federal, state, county or municipal law.

Occupant – An entity or person who may or may not also be an owner and is in lawful possession or has the lawful right to use any building site or portion thereof.

Owner – The record title holder, whether one or more persons or entities, of fee simple title to any building site located within the downtown overlay district and shall include the owner's heirs, executors, administrators, successors and assigns but exclude those persons holding title thereto merely as security for the performance of one or more obligations.

Ordinary maintenance or repair – The ordinary maintenance or repair of any exterior of any structure, parking lot, or sign in or on a downtown overlay district property to correct deterioration, decay or damage or to sustain the existing form and that does not involve a

material change in outer design, material, or appearance thereof. Painting, reroofing, resurfacing, replacement of a broken sign face, and other similar types of ordinary maintenance shall be deemed ordinary maintenance and repair.

Overlay district – A geographically definable area, possessing a significant concentration or linkage of sites, buildings, structures, objects or landscapes, including the adjacent area necessary for the proper treatment thereof, united by plan and/or physical development. An overlay district shall further mean an area designated by the city council as such.

Parapet – A low protective wall or railing along the edge of a raised structure such as a roof or balcony.

Project – An improvement, repair, upgrade, addition, change in appearance, modification, alteration or development on a site or building that requires some form of construction or labor to take place.

Projection – Any physical attached part of a building including, but not limited to, a roof overhang, steps, porch, stoop, elevated wood deck, raised patio or an attached utility such as an air-conditioning condenser. Note: Patios at grade may not be considered projections.

Proportion – A balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

Routine maintenance – Activities such as, but not limited to, cleaning building exterior and property, replacing deteriorated materials that compose less than 25 percent of the building's exterior, and/or painting.

Scale – The proportional relationships of the size of parts to one another and to humans. Also a drawing's relative size as referenced against a known dimensional standard.

Sidewalk clear zones – A continuous area located immediately contiguous to the landscape zone.

Street hardware – Objects other than buildings that are part of the streetscape. Examples include but are not limited to, street light fixtures, utility poles, traffic lights and their fixtures, benches, litter containers, planting containers, and fire hydrants.

Streetscape – The appearance and organization of buildings, paving, plantings, street hardware and miscellaneous structures along a street.

Transom window/panel – A small window or panel above a door that is usually hinged to a horizontal crosspiece over the door.

J. Reviewing Authority.

The city planner is responsible for reviewing applications for rezoning, land disturbance, building, use permits, sign permits, and any other zoning permits required in the downtown overlay district for compliance with the adopted development standards as outlined below. The city planner shall also be responsible for reviewing any public or private plans affecting the overlay district as directed by the mayor and city council.

1. The city planner shall review applications for sign permits, land disturbance permits, building permits, fence permits, rezoning, conditional use, and land use permits, variances, and modifications that propose changes to standards contained in this section. These applications shall be evaluated on the applicable standards contained in this section.
2. The city planner may recommend that an applicant apply for variances regarding standards contained in this section to be considered under the procedures set forth in the subsection M herein.
3. The City Planner's recommendations shall be forwarded to the Wasilla Planning Commission for consideration.
4. The City Planner shall issue, issue with modifications, or withhold a permit based on a project's conformance with the standards set out in this section, as represented by the subject to final action by the planning commission and/or city council on variances, rezoning, and/or modifications to conditions.

K. Affirmations and applicability.

1. ***Affirmation of existing building codes and zoning.*** Nothing in this section shall be construed to exempt property and business owners from complying with other existing city regulations whenever this section does not apply. If provisions in the downtown overlay district conflict with other provisions of Title 16 of the Wasilla Municipal Code, the stricter provisions of the downtown overlay district shall apply.
2. ***Applicability.*** In order to assure the orderly growth and compatible development of the City of Wasilla, the mayor and city council have adopted concurrently herewith by ordinance thereon downtown overlay district design standards as a mandatory land use control for all properties and structures within the downtown overlay district. These standards supplement and are adjunct to the Downtown Area Plan and the Wasilla Comprehensive Plan concerning zoning, signs, and subdivisions. When conflicts occur between requirements of these various regulatory documents, the most strenuous standard applies, as interpreted by the City Planner. Design review is required for all new construction within the downtown overlay district. Plan submittal is required for buildings built on vacant lots or for the replacement of demolished buildings.
3. ***Existing buildings.*** If an existing building is significantly renovated or replaced with a new building, the new structure or renovation shall comply with the standards for

renovated buildings. Renovations, which include new construction in the overlay districts, must submit the appropriate application to the city planner for review.

4. **Exemptions and thresholds for review.** Exempted projects include the following:
 - a. Interior alterations to interior or exterior features which are not visible from an exterior public space or street;
 - b. Routine maintenance projects; or
 - c. Replacement of dead, damaged or stolen landscaping, site furniture, paving materials or lighting that was previously approved.
5. **Thresholds for review by the City Planner.** If the project falls in any one of the following categories, it requires design review by the city planner:
 - a. *Major renovation.* Includes building addition, canopy or replacement of 25 percent or more of a building. The renovation or replacement of any complete (more than 75 percent) side of a building which fronts a street or public space regardless of the percentage of the total building shall also require review.
 - b. *Landscaping.* A landscaping plan is required to screen parking facilities and meet landscape requirements. Any project involving replacing or installing of plant material other than routine maintenance and damage replacement will require review.
 - c. *Parking.* A plan for meeting the parking requirements associated with new building construction is subject to design review. Any proposed additional parking for an existing building is also subject to review.
 - d. *Demolition.* Design review is required if a building predates [redacted] or has historical significance. Request for demolition permit must be submitted to the city planner accompanied by a plan for a replacement building.

L. **Review process and application procedure.**

1. **Approval of plans required.** No improvements shall be constructed, erected, placed, altered, maintained or permitted to remain on any building site by any owner or occupant until final plans and specifications therefore shall have been submitted to and approved in writing by the city planner. Such final plans and specifications shall be submitted in duplicate over the authorized signature of the owner or occupant, or both, of the building site or the authorized agent thereof. The plans and specifications shall be in such form and shall contain such information as may be reasonably required by the city planner.
2. **Improvements.** All improvements must comply with the then-current district design standards established for the district.
3. **Pre-application meeting.** Prior to application, the property owner, developer or representative shall schedule a pre-application meeting with the city planning and development department. The design review is a one-time review process of conceptual design drawings. However, an applicant may return voluntarily for design critiques as often as necessary. The purpose of the review is to identify design issues and provide recommendations and advice to the applicant on the design proposal relative to the district design standards. Conceptual drawings may take the form of

dimensioned sketches or may be more refined. However, the graphics should provide sufficient information so the city planner may determine if there are obvious conflicts with applicable codes and regulations.

4. ***Submittals—Applications.***

- a. All application submittals are subject to the application requirements in Chapter 16.12 and Chapter 16.16 of this title.
- b. Applications for improvements to developed sites and/or existing structures shall meet the standards contained in this section for installation of sidewalks, pedestrian lighting and street trees, when the proposed interior and/or exterior renovation of a building and/or site re-development improvements have a declared value equal to or greater than 40 percent (less??) of the property's most recent tax assessment.
 - i. Estimated costs of, including but not limited to, demolition, construction, installation and fabrication, including labor and materials, for both interior and exterior improvements, shall be submitted at the time a building and/or land disturbance permit application is filed.
 - ii. The declared value of improvements under multiple permits shall be cumulative and shall include the value of improvements under permits issued for the previous seven years from the date the most recent application is filed.

5. ***Basis for approval.*** Approval shall be based, among other things, upon adequacy of site dimensions, adequacy of structural design, conformity with the district design standards, harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical installations and conformity of the plans and specifications to the purpose and intent of this section. No plans will be approved that do not provide for the underground installation of power, electrical, telephone and other utility lines and the complete visual and landscaped screening of all transformer and terminal equipment. Except as otherwise provided in this section, the city planner shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:

- a. Failure to comply with any of the restrictions set forth in this section;
- b. Failure to include information in such plans and specifications as may have been reasonably requested by the city planner;
- c. Objection to the exterior design or the appearance of materials employed in any proposed structure;
- d. Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other building sites or other property in the vicinity of the subject property;
- e. Objection to the location of any proposed structure with reference to other building sites or other property in the vicinity;

- f. Objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any structure;
 - g. Objection to the number or size of parking spaces or to the design of the parking areas; or
 - h. Any other matter which, in the judgment of the city planner, would render the proposed improvements or use inharmonious with the design standards which the city may promulgate from time to time.
6. **Approval.** The city planner may approve plans and specifications as submitted, as altered or as amended or it may grant its approval to the same, subject to specific conditions and permit(s) issuance. Upon approval or conditional approval by the city planner of any plans and specifications, together with any conditions, one copy thereof shall be retained in the city and a copy of such approval together with any conditions shall be returned to the applicant submitting the same. Conceptual site plans and preliminary concepts may be considered by the city planner prior to completion of the final design.
7. **Commencement of work.** Upon receipt of approval from the city planner pursuant to subsection (6) hereof, the owner or occupant, or both, to whom the same is given shall, as soon as practicable, satisfy any and all conditions of such approval and shall diligently proceed with the commencement and completion of all approved excavation, construction, refinishing and alterations. In all cases, work shall commence within one year from the date the owner receives approval and, if work is not so commenced, approval shall be deemed revoked unless the city planner, pursuant to written request made and received prior to the expiration of said one-year period, extends the period of time within which work must be commenced.
8. **Completion of work.** Any improvement commenced pursuant hereto shall be diligently completed in a workmanlike manner and shall be completed within 18 months from the construction starting date. In the event of strike, fire, national emergency, natural disaster or other supervening force beyond the control of owner or occupant, the city planner may, upon written request made and received prior to the expiration of the period, extend the period of time within which work must be completed. Failure to comply with this section shall constitute a violation of this section and subject to the penalties set forth in subsection R of this section.
9. **City not liable.** The city shall not be liable for any damage, loss or prejudice suffered or claimed by any person (including environmental claims) on account of:
- a. The approval or disapproval of any plans, drawings and specifications, whether or not in any way defective;
 - b. The construction of any improvement or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
 - c. The inadequacy of any approved structure; or
 - d. The development of any lot within the district.

10. **General condition of building sites.** The owner or occupant of any building site shall at all times keep it and the buildings, improvements and appurtenances thereon in a safe, clean and wholesome condition and comply, at its own expense, with all applicable governmental, health, fire and safety ordinances, regulations, requirements and directives; and the owner or occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever which may accumulate upon such building site. Each building site and all improvements thereon shall at all times be constructed, kept and maintained by the owner or occupant of the building site in first-class condition, repair and appearance. All repairs, alterations, replacements or additions to such improvements shall be at least equal to the original work quality and class. The necessity and adequacy of such repairs shall be measured by the same standard as set forth herein for the original construction and maintenance. Landscaping shall be maintained in a well-kept condition. For specific district requirements, see the applicable design standards adopted for each district.
11. **Grounds.** The grounds of each building site (whether vacant or occupied) shall be maintained in a neat and attractive condition. Upon the failure of any owner and/or occupant to maintain the grounds of a building site (whether vacant or occupied) in a neat and attractive condition, the city may (but shall be under no obligation to) after seven days' prior written notice to such owner and occupant (if other than the owner) enter upon the building site and have the grass, weeds or other vegetation cut or trimmed when, and as often as, the same is reasonably necessary in its judgment and may have dead trees, shrubs and/or other plants and trash removed therefrom and, if appropriate, replaced. The owner of the building site (and when occupied by a non-owner, the occupant) shall be liable to the city for the cost of any such cutting, clearing, maintenance or removal determined by the city to be necessary and such amount shall also constitute a permanent charge and lien upon such building site enforceable by the city through any appropriate proceeding at law or in equity. For specific district requirements, see the applicable design standards adopted for each district.
12. **Improvements.** Improvements to a building site (whether occupied or vacant) including, without limitation, buildings, walls, walkways, fences, screens, driveways, parking areas and/or signs shall be cared for and properly maintained by the owner or occupant in a neat and attractive condition. Upon the failure of any owner or occupant to repair and maintain improvements to a building site to the reasonable satisfaction of the city, the city or its authorized representatives may in its reasonable discretion (but without obligation to do so) after seven days' written notice to the owner and to the occupant (if other than the owner) enter upon such building site and perform the necessary repair or maintenance when and as often as the same is necessary in its reasonable judgment. The owner of the building site (and when occupied by a non-owner, the occupant) shall be personally liable to the city for the cost of such necessary repair and/or maintenance as was incurred by the city and such

amounts shall also constitute a permanent charge and lien upon such building site enforceable by the city by any appropriate proceeding at law or in equity.

13. **Site inspection final completion.** Prior to the city's issuance of a certificate of completion (COC) for a project or development falling under the purview of this section, the owner or developer (or agent) shall notify the city of the project's substantial completion and the city staff shall visit the site and inspect the work performed. If the work is found to have been completed in compliance with the plans and documents and all other city requirements have been met, the city will issue a COC and deliver it to the owner, developer or agent.

M. Variance procedure.

1. **Design exceptions.** The planning commission may grant design exceptions if a proposed project is a unique and exceptional design concept that enhances the downtown overlay district or, if by reason of unusual circumstances, the strict application of any provision of this section would result in exceptional practical difficulty or undue hardship due to the circumstances unique to the particular property in question. The city planner, in passing upon applications, shall consider and issue exceptions to said provisions so as to relieve such difficulty or hardship provided such exceptions shall remain in harmony with the general purpose and intent of said provisions, so that the integrity or character of the property shall be conserved and substantial justice done. A hardship shall not qualify as an undue hardship if it is of a person's own making. In granting such exceptions, the planning commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this section. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met and no reasonable alternative exists. In reviewing such requests, the planning commission shall consider all technical evaluations, relevant factors and all standards specified in this and other sections of this section. A variance shall be issued only when there is:
 - a. A finding of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in threats to public safety, public expense or create a nuisance.
2. **Alternative compliance.** In the event an exception or variance is sought for any provisions in this section, the following alternatives are often considered as offsets that may be taken into consideration.
 - a. *Fences and walls in lieu of landscaping.* To screen parking when there is not enough room to provide an effective landscape screen, install fences and/or walls.
 - b. *Enhanced architectural details.* Offering to provide additional details, specifically period and style appropriate appointments and materials not typically used due to high cost.

- c. *Adding windows.* Providing more and higher quality architecturally appropriate windows to offset other design deficiency.
- d. *Public seating spaces:* Provision of quality public seating meeting the standards in this section to offset other design deficiency. Examples include benches in front of shops and businesses.
- e. *Decorative pavers.* Installing quality pavement designs, especially in areas highly visible to the public such as driveway aprons and building entrances along main streets to offset other design deficiency.
- f. *Green infrastructure.* Providing additional or alternative storm water design solutions such as bio swales, rain gardens and cisterns to offset other design deficiency.
- g. *Green building technologies.* Use of a new, innovative or non-traditional energy efficient building technology to offset other design deficiency. Use of solar panels and insulated prefabricated wall panels would be examples to consider.

N. Appeals procedure.

If the city planner denies an application, the planning commission shall hear and decide requests for appeals or variance from the requirements of this section, subject to the provisions in Chapter 16.34 of this title. The planning commission shall also hear and decide appeals when it is alleged that an error in any requirement, decision or determination is made by the city planner in the enforcement or administration of this section. At its discretion, the planning commission may accept this appeal and schedule a public hearing to hear public arguments on the matter. Any person aggrieved by the decision of the planning commission may appeal such decision subject to the provisions in Chapter 16.36 of this title.

O. Interpretation and enforcement.

1. **Interpretation.** This section shall be governed by Chapter 16.08 of this title.
2. **Enforcement.** This section shall be governed by Chapter 16.08 of this title. Design standards have been established for the downtown overlay district by ordinance as general requirements and shall apply to all improvements within the downtown overlay district, the boundaries of which are established under subsection F above. All applications for land disturbance permits shall comply with the standards contained in the section, unless a variance had been granted for relief from the standards contained herein; all rezoning, modification, and use permit applications shall comply with the standards contained in this section unless a variance has been approved in the case of modifications and use permits only or a concurrent variance is being sought for relief from the standards contained herein.

P. Actions or inactions subject to enforcement.

Any action or inaction that violates the provisions of this section or the downtown overlay district design standards may be subject to the enforcement actions outlined in subsection O. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and may be abated by **injunctive or other equitable relief**. The imposition of any of the penalties described in subsection O shall not prevent such **equitable relief**.

Q. Notice of violation.

1. The notice of violation shall contain:
 - a. The name and address of the owner or the applicant or the responsible person;
 - b. The address or other description of the site upon which the violation is occurring;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to bring the action or inaction into compliance with this section and the date for the completion of such remedial action;
 - e. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - f. A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 30 days after the notice of violation.

R. Penalties.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the city planner shall first notify the applicant or other responsible person in writing of its intended action and shall provide a reasonable opportunity, of not less

than 10 days to cure such violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient.) In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the city may take any one or more of the following actions or impose any one or more of the following penalties:

1. **Stop work order.** The city may issue a stop work order that shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
2. **Suspension, revocation or modification of permit.** The city may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the city may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
3. **Civil penalties.** In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 days or such greater period as the city shall deem appropriate (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the city has taken one or more of the actions described in this section, the city may impose penalties as provided in Chapter 1.20.

S. Standards applicable to development and maintenance.

All matters included in the general design standards shall apply in the development and maintenance of all building sites within the downtown overlay district designated therein. The design standards must be adopted by the Wasilla City Council by ordinance thereon after public hearing.

T. Submission of plans and specifications.

Prior to the commencement of construction of any improvements on a building site, two or more (as required) sets of plans along with the appropriate application form and fees shall be submitted to the City of Wasilla Planning Department. Plans formally submitted to the city planner for final review shall be finished in all respects and shall conform to the design and development standards for the downtown overlay district as well as all zoning requirements of the city. Plans shall be reviewed by the city planner and comments thereon returned to the owner or its designated agent.

U. Required information.

In addition to the site plan requirements in Chapter 16.08, all plans and specifications shall also include, at a minimum, the following:

1. A topographical map showing contour grades (with two-foot contour intervals) and showing the location of all proposed improvements. Existing and finished grades shall be shown at lot corners and at corners of proposed improvements. Lot drainage provisions shall be included as well as cut-and-fill details if any appreciable change in the lot contours is contemplated.
2. Exterior elevations of all buildings, structures, and appurtenances.
3. Exterior materials, colors, textures, and shapes.
4. Landscaping plan including construction details for walkways, fences and walls, elevation changes, watering systems, vegetation, and ground cover.
5. Screening including size, location, method, and description of materials and finish.
6. Proposed utilities and connections including routing of electrical and telephone cables.
7. Exterior illumination including location.
8. Signs including location, size, shape, color, materials and finish.
9. Mailbox design including location, size, shape, color, materials and finish.
10. Trash container storage locations and related screening with materials and finish.
11. Sidewalk or access way layout and material composition.

V. Adoption and Maintenance of Downtown Overlay District Design Standards.

Design standards for the downtown overlay district established herein shall be effective upon adoption by ordinance of the city council after public hearing and comment and shall be maintained at city hall by the city clerk and made available to the public through the planning department upon request.