

1 CODE ORDINANCE

By: Planning
Introduced: April 27, 2015
Public Hearing: May 11, 2015
Special Meeting: May 26, 2015
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Failed: June 8, 2015

7 Vote: O'Barr, Sullivan-Leonard, Buswell, Graham, Wall and Wilson opposed
8 Sent back to Planning Commission: June 8, 2015

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10 **City of Wasilla**
11 **Ordinance Serial No. 15-06**

12
13 **An ordinance of the Wasilla City Council adopting Wasilla Municipal Code**
14 **16.20.040 Downtown Overlay District, establishing a downtown overlay**
15 **zoning district and design standards for development.**

16
17 **Section 1. Classification.** This ordinance is of a general and permanent
18 nature and shall become part of the city code.

19
20 **Section 2. Adoption of section.** WMC 16.20.040, Downtown overlay
21 district, is adopted to read as follows:

22
23 **16.20.040 Downtown overlay district.**

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25 (A) *Purpose and intent.* The downtown overlay district provides
26 design requirements for land and structures in all underlying zoning districts
27 within the district to create a consistent appearance and distinctive identity
28 throughout the downtown overlay district that ensures that future
29 development conforms to the design, direction, and intent of the Downtown
30 Area Plan and the Wasilla Comprehensive Plan. The intent is to create an
31 identity that will enhance economic vitality and property values; foster
32 smart, pedestrian friendly and sustainable growth; improve the aesthetics of
33 the built environment, business viability, and public safety in the downtown
34 overlay district; address issues of traffic, traffic operations and congestion,
35 transit, bicycle and pedestrian access and safety; create a town center; and
36 establish a uniform procedure for review and approval of projects. The
37 major goal of the downtown overlay district design standards is to ensure
38 that the future development of land in the downtown overlay district will
39 conform to the design, direction and intent of the Downtown Area Plan and
40 the Wasilla Comprehensive Plan.
41

42 (B) *Boundaries and maps.* The boundaries of the downtown
 43 overlay district shall be as shown on the official “zoning map of the city of
 44 Wasilla, Alaska,” adopted by Section 16.08.130. The terms and conditions
 45 of the Downtown Overlay District supplement the regulations in all
 46 underlying zoning districts within its boundaries, and modify and supersede
 47 any conflicting regulations in the underlying zoning district or any other
 48 requirements of this title.

49
 50 (C) *Design Standards.* The document titled, “Downtown Overlay
 51 District Design Standards,” adopted on _____, 2015 (Ord. Ser.
 52 No. 15-16), is incorporated by reference herein. The Downtown Overlay
 53 District Design Standards are mandatory minimum standards for the
 54 development of land and structures in the downtown overlay district. These
 55 standards ensure that the vision of the community is reflected in the future
 56 built environment and supplement and are adjunct to the Downtown Area
 57 Plan and the Wasilla Comprehensive Plan. When requirements in these
 58 documents conflict, the most restrictive provision, as interpreted by the City
 59 Planner, shall govern.

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 61 (D) *Permitted uses.* The following chart summarizes the uses
 62 permitted in the downtown overlay district and the type of review required
 63 for each use (AA = administrative approval; UP = use permit; CU =
 64 conditional use; TUP = temporary use permit.) More than one building
 65 housing a permitted principal use may be erected on a single lot; provided,
 66 that each building and use shall comply with all applicable requirements of
 67 this title.
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USE	Review Type
Accessory use	AA
Animal hospital/veterinary clinic (indoor only)	CU
Appliance repair shop	AA
Antique stores	AA
Arcade amusement, bingo, pull-tab facility	CU
Artisan/specialty shop	AA
Assisted living home (upper story)	AA
Assisted living home (ground level)	CU
Baker (goods made and/or sold on premises)	AA
Banks and financial institutions (without drive-through)	AA

USE	Review Type
Banks and financial institutions (with drive-through)	CU
Bars and nightclubs	CU
Bed and breakfast	AA
Bicycle sales and service	AA
Bookstore	AA
Bowling alley, skating rink, billiard parlor	CU
Café, coffee shop, tea room (does not include portable vendors or coffee stands)	AA
Cattery/kennel	CU
Church	UP
Clothing and dry goods store	AA
Clothing and dry goods store	CU
Convenience store	AA
Daycare	AA
Drug store/pharmacy (without drive-through)	AA
Drug store/pharmacy (with drive-through)	CU
Laundromat or dry cleaner	CU
Educational facility	CU
Florist shop	AA
Food vendors (portable)	CU/TUP
Grocery, produce, meat store	AA
Hardware, home furnishings, and appliances	AA
Health club, spa, and fitness center (upper story)	AA
Health club, spa, and fitness center (ground level)	CU
Hotel	AA
Liquor store	AA
Medical or dental clinic, office, and other similar uses (upper story)	AA
Medical or dental clinic, office, and other similar uses (ground level)	CU
Mixed-use development	AA
Motel	CU
Movie theater, indoor	CU
Music, dance, or art studios	AA

USE	Review Type
Offices (upper story)	AA
Offices (ground level)	CU
Parking lot or garage (commercial)	AA
Performing arts theater	CU
Personal services	AA
Playground	UP
Public facility	UP
Residential multifamily (upper story)	AA
Residential multifamily (ground level)	CU
Restaurant (without drive-through)	AA
Restaurant (with drive-through)	CU
Tattoo parlor	CU
Utility facility	CU
Other retail or personal service uses that are similar or compatible to the uses above that would promote the intent and purposes of the downtown overlay district	AA
Any use listed above with greater than 10,000 SF GFA	CU

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- (E) *Prohibited uses.* In addition to any uses prohibited in the underlying zoning district, the following uses are prohibited in the downtown overlay district:
- (1) Adult businesses
 - (2) Animal shelter
 - (3) Adult businesses
 - (4) Automobile service (including trucks and commercial vehicles)
 - (5) Automobile sales
 - (6) Automobile leasing (except when no vehicles are stored on site)
 - (7) Batch plants, coalbed methane extraction, resource extraction, and other similar uses
 - (8) Boat and/or recreational vehicle service, sales, or leasing (except when no boats or recreational vehicles are stored on site)
 - (9) Campgrounds or recreation vehicle parks
 - (10) Car washes, detail shops, and/or service stations
 - (11) Cemetery

- 88 (12) Check cashing establishments
89 (13) Coffee stands (within a free-standing portable-type
90 structure)
91 (14) Contractor's establishments (except for purely
92 professional offices without outdoor storage of equipment or supplies)
93 (15) Convenience stores with gasoline pumps
94 (16) Communication equipment, digital or electrical signal
95 transmission towers, and/or cell towers over ten feet in height (all types)
96 (17) Convenience stores with gasoline pumps
97 (18) Donation boxes
98 (19) Drive-through of any kind (except as allowed in
99 subsection D of this section)
100 (20) Flea market
101 (21) Fortune tellers, palm readers, psychics, etc.
102 (22) Funeral homes and/or crematoriums
103 (23) Garden center or plant nursery (does not include retail
104 florist)
105 (24) Gas stations
106 (25) Head shops
107 (26) Helipad/heliport
108 (27) Hospitals
109 (28) Indoor firing range
110 (29) Industrial uses (These include, but are not limited to,
111 manufacturing, distribution, warehouse, lumber yards, waste facilities,
112 recycling collection or processing facilities, scrap yards, junkyards, wrecked
113 motor vehicle compounds, machine and/or welding shops, storage yards,
114 heavy machinery storage, rental, sales and/or repair, etc.)
115 (30) Minor manufacturing for direct retail sales in the same
116 building for uses such as artisan or craftsman shops is permissible
117 (31) Institutional home
118 (32) Landscaping or lawn business (except for professional
119 office space only without outdoor storage of equipment or supplies)
120 (33) Laundromats
121 (34) Marijuana sales
122 (35) Massage parlors
123 (36) Mini-warehouse or pay storage facilities of any kind
124 (37) Pawn shops
125 (38) Play field
126 (39) Residential single-family (detached) or duplex
127 (40) Zoo
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129 (F) *Definitions.* The following words, terms and phrases, when
130 used in this section and in the adopted Downtown Overlay District Design
131 Standards, shall have the meanings ascribed to them in this section, except
132 where the context clearly indicates a different meaning. Words not defined
133 herein shall be construed to have the meaning given in Section 16.04.070
134 entitled "Definitions" of Title 16 of the Wasilla Municipal Code or by
135 Webster's Ninth New Collegiate Dictionary. The words "shall" and "must"
136 are mandatory and the words "may" and "should" are permissive.
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138 *APPEARANCE.* The outward aspect that is visible to the public.

139 *APPROPRIATE.* Fitting to the context of a site, neighborhood or
140 community. *ARCHITECTURAL CONCEPT.* The basic aesthetic idea of a
141 structure, or group of structures, including the site, signs, buildings and
142 landscape development that produce the architectural character.

143 *ARCHITECTURAL FEATURE.* A significant element of a structure
144 or site.

145 *ARCHITECTURAL MERIT.* An acknowledgment by a recognized
146 institution or organization of architecture or historical preservation such as
147 the American Institute of Architects (AIA) that a building represents a high
148 quality work or quality example of a specific architectural style.

149 *ARCHITRAVES.* Molding around a door or window.

150 *ATTRACTIVE.* Having qualities that attract and create interest and
151 appeal in numerous, but not necessarily all, observers.

152 *BUILDING HEIGHT.* The distance from lowest point in the finished
153 earthen grade around the building to the highest point on the roof or
154 chimney.

155 *BUILDING SETBACK.* The distance from the right-of-way or
156 property line to the face of the closest building or projection including roof
157 overhangs and attached utilities. Projections shall be considered part of the
158 building and therefore must be included in any setback determination.

159 *BUILDING SITE.* Each buildable tract or parcel of real property that
160 is contained in the downtown overlay district defined herein. For the
161 purposes hereof, any adjoining or contiguous property conveyed to an owner
162 of a building site shall be deemed to be part of the building site owned by
163 said owner.
164

165 *BUILD-TO LINES OR ZONES.* A line or zone along a public street to
166 which the main face or wall of a building must directly abut or be built
167 within. Unlike a setback which sets a minimum distance from the road, a
168 "build-to" line ensures the building will be built closer to the road to create
169 the proper sense of scale for the sidewalk and streetscape within the district.
170 The distance is measured from the back of curb and not the right-of-way.

171 *COHESIVENESS.* Unity of composition among elements of a
172 structure or among structures, and their landscape development.

173 *COMPATIBILITY.* Harmony in appearance of architectural features
174 in the same vicinity.

175 *CORNICE.* A horizontal molded projection that crowns or completes
176 a building or wall.

177 *DESIGN AND DEVELOPMENT STANDARDS.* Those standards
178 adopted hereby by ordinance of the Wasilla City Council from time to time
179 and in accordance with the provisions of this section and maintained by the
180 city clerk and made available by the city planning department.

181 *DESIGNATION OR DESIGNATED.* A decision by the city council
182 wherein a property or district is declared an overlay district.

183 *EXTERNAL DESIGN FEATURE.* The general arrangement of any
184 portion of structures or landscaping that are open to the public view,
185 including but not limited to, the type, and texture of the materials, the type of
186 roof, windows, doors, lights, signs, and fixtures of portions.

187 *EXTERIOR ARCHITECTURAL FEATURES.* The architectural style,
188 general design, and general arrangement of the exterior of a structure and
189 site including, but not limited to, the kind or texture of the building material
190 and the type and style of all windows, doors, signs, facade, landscaping, and
191 other architectural fixtures, features, details, or elements relative thereto.

192 *FENESTRATION.* The arrangement of windows in a building.

193 *GEOGRAPHIC AREA.* The land area subject to the downtown
194 overlay district regulations.

195 *HARMONY.* A quality that represents an attractive arrangement of
196 parts, as in an arrangement of various architectural elements.

197 *HEAD SHOP.* A retail store specializing in tobacco paraphernalia
198 used for the consumption of tobacco, marijuana, and/or other non-legal
199 substances. Other products offered for sale often include pipes, pipe
200 screens, bongs/water pipes, clips, vaporizers, rolling papers, incense,
201 lighters, and counterculture art, magazines, music, clothing, and home decor.
202

203 *HISTORICAL SIGNIFICANCE.* The building or property that has
204 been recognized and proven to be an integral part of a historically significant
205 event or place any agency lawfully authorized to assign a historical
206 designation.

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

212 *LANDSCAPE.* Plant materials, landscape beds, berms and earthen
213 topography and other physical elements combined in relation to one another
214 and to structures including pavement.

215 *LANDSCAPE ZONES.* An area a minimum of ten feet in width and
216 located immediately adjacent to the curb and shall be continuous. This zone
217 may be used for street trees, streetlights, benches, planters, trash receptacles,
218 bicycle parking racks and other street furniture, pedestrian lights,
219 landscaping or sod.

220 *LOGIC OF DESIGN.* Widely accepted principles and criteria in the
221 solution of design problems.

222 *LUNETTE.* A crescent-shaped or semicircular space, usually over a
223 door or window that may contain another window, a sculpture or a mural.

224 *MATERIAL CHANGE IN APPEARANCE.* A change in a structure or
225 a parking lot within the downtown overlay district that exceeds ordinary
226 maintenance or repairs (see definition) and requires either a sign permit,
227 building permit, or land disturbance permit such as, but not limited to:

228 (1) The erection, alteration, restoration, addition, or removal of any
229 structure, signs, or parking lot;

230 (2) Relocation of a sign or building;

231 (3) Commencement of excavation; or

232 (4) A change in the location of advertising visible from the public
233 right-of-way.

234 *MIXED-USE DEVELOPMENT.* A building containing nonresidential
235 and residential uses. The nonresidential uses(s) shall occupy the first or
236 bottom floor and the residential use(s) occupy the second or upper floor(s).

237 *MUNTINS/MULLIONS.* A strip of wood or metal separating and
238 supporting and holding panes of glass in a window or panels set in series.

239 *NUISANCE.* Any usage of a building site that:

240 (1) So annoys, disturbs or affects the owners or occupants of any
241 other building site or other property within the district or the owners or
242 occupants of property contiguous to the district so as to obstruct or interfere
243 with the reasonable or compatible use of such other building site or property

244 or so as to render usage of the building site or property dangerous or
245 damaging to persons or property thereon; or

246 (2) Violates any federal, state, county or municipal law.

247 *OCCUPANT.* An entity or person who may or may not also be an
248 owner and is in lawful possession or has the lawful right to use any building
249 site or portion thereof.

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

255 *ORDINARY MAINTENANCE OR REPAIR.* The ordinary
256 maintenance or repair of any exterior of any structure, parking lot, or sign in
257 or on a downtown overlay district property to correct deterioration, decay or
258 damage or to sustain the existing form and that does not involve a material
259 change in outer design, material, or appearance thereof. Painting, reroofing,
260 resurfacing, replacement of a broken sign face, and other similar types of
261 ordinary maintenance shall be deemed ordinary maintenance and repair.

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

267 *PARAPET.* A low protective wall or railing along the edge of a raised
268 structure such as a roof or balcony.

269 *PERSONAL SERVICE.* A business or enterprise providing individual
270 services generally related to personal needs, including, but not limited to,
271 barber shops, beauty, nail, or tanning salons, shoe or watch repair, and tailor
272 shops.

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

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

280 *PROPORTION.* A balanced relationship of parts of a building, signs
281 and other structures, and landscape to each other and to the whole.

282 *ROUTINE MAINTENANCE.* Activities such as, but not limited to,
283 cleaning building exterior and property, replacing deteriorated materials that
284 compose less than 25 percent of the building's exterior, and/or painting.

285 *SCALE.* The proportional relationships of the size of parts to one
286 another and to humans. Also a drawing's relative size as referenced against a
287 known dimensional standard.

288 *SIDEWALK CLEAR ZONES.* A continuous area located immediately
289 contiguous to the landscape zone.

290 *STREET HARDWARE.* Objects other than buildings that are part of
291 the streetscape. Examples include but are not limited to, street light fixtures,
292 utility poles, traffic lights and their fixtures, benches, litter containers,
293 planting containers, and fire hydrants.

294 *STREETSCAPE.* The appearance and organization of buildings,
295 paving, plantings, street hardware and miscellaneous structures along a
296 street.

297 *TRANSOM WINDOW/PANEL.* A small window or panel above a
298 door that is usually hinged to a horizontal crosspiece over the door.
299

300 (G) *Applicability.*

301 (1) *Approval of plans required.* No improvements shall be
302 constructed, erected, placed, altered, maintained, or permitted to remain on
303 any building site by any owner or occupant until final plans and
304 specifications have been submitted to and approved in writing by the city
305 planner or planning commission, as required in subsection D of this section.
306 Such final plans and specifications shall be submitted in duplicate with the
307 authorized signature of the owner and/or occupant, of the building site, or
308 the authorized agent thereof. The plans and specifications shall be in such
309 form and shall contain such information as may be reasonably required by
310 the city planner and the design must comply with the then-current district
311 design standards established for the downtown overlay district.

312 (2) *Thresholds for review.* The following project types
313 require review:

314 (a) *Existing buildings/developed sites.* If an existing
315 building is significantly renovated or replaced with a new building, the new
316 structure or renovation shall comply with the standards for renovated
317 buildings. Applications for improvements to developed sites and/or existing
318 structures shall meet the standards contained in this section for installation of
319 sidewalks, pedestrian lighting, and street trees when the proposed interior
320 and/or exterior renovation of a building and/or site redevelopment
321 improvements have a declared value equal to or greater than 25 percent of
322 the property's most recent tax assessment. The estimated costs of, including
323 but not limited to, demolition, construction, installation and fabrication,
324 including labor and materials for both interior and exterior improvements,
325 shall be submitted at the time an application is filed. The declared value of

326 improvements under multiple permits shall be cumulative and shall include
327 the value of improvements under permits issued for the previous seven years
328 from the date the most recent application is filed.

329 (b) *Major renovation.* Includes building addition, canopy,
330 or replacement of 25 percent or more of a building. The renovation or
331 replacement of any complete (more than 75 percent) side of a building
332 which fronts a street or public space regardless of the percentage of the total
333 building shall also require review.

334 (c) *Landscaping.* A landscaping plan is required to screen
335 parking facilities and meet landscape requirements. Any project involving
336 replacing or installing of plant material other than routine maintenance and
337 damage replacement will require review.

338 (d) *Parking.* A plan for meeting the parking requirements
339 associated with new building construction is subject to design review. Any
340 proposed additional parking for an existing building is also subject to
341 review.

342 (e) *Demolition.* Design review is required if a building has
343 historical significance. Request for demolition permit must be submitted to
344 the city planner accompanied by a plan for a replacement building.

345 (3) *Exemptions from review.* The following are exempt from
346 review:

347 (a) Interior alterations to interior or exterior features which
348 are not visible from an exterior public space or street;

349 (b) Routine maintenance projects; or

350 (c) Replacement of dead, damaged or stolen landscaping,
351 site furniture, paving materials or lighting that was previously approved.

352 (d) Change of tenant in lawfully existing commercial
353 building with no change in building footprint or increase in parking
354 requirements.

355 (H) *Application and review.*

357 (1) *Pre-application meeting.* Prior to submitting an application
358 under this title for property in the downtown overlay district, the applicant
359 shall schedule a pre-application meeting with the city planner. The purpose
360 of the pre-application meeting is to identify design issues and provide
361 recommendations and advice to the applicant on the design proposal relative
362 to the Downtown Overlay District Design Standards. At the pre-application
363 meeting, the applicant shall present dimensioned sketches or more refined
364 conceptual drawings for the project that is the subject of the application that
365 provide sufficient information so the city planner may identify conflicts with
366 the Downtown Overlay District Design Standards and any other applicable

367 regulations in this title. One pre-application meeting shall be required per
368 application; however, the applicant may schedule subsequent pre-application
369 meetings to obtain additional design evaluations and recommendations.

370 (2) *Application submittals.* All application submittals for
371 property within the downtown overlay district are subject to the application
372 requirements in Chapters 16.08, 16.12, and 16.16 of this title. In addition to
373 those requirements, all of the following items must be submitted with the
374 application:

375 (a) Existing and finished grades shall be shown at lot
376 corners and at corners of proposed improvements. Lot drainage provisions
377 shall be included as well as cut-and-fill details if any appreciable change in
378 the lot contours is contemplated.

379 (b) Exterior elevations of all buildings, structures, and
380 appurtenances.

381 (c) Exterior materials, colors, textures, and shapes.

382 (d) Landscaping plan including construction details for
383 walkways, fences and walls, elevation changes, watering systems,
384 vegetation, and ground cover.

385 (e) Screening including size, location, method, and
386 description of materials and finish.

387 (f) Proposed utilities and connections including routing of
388 electrical and telephone cables.

389 (g) Exterior illumination including location.

390 (h) Signs including location, size, shape, color, materials
391 and finish.

392 (i) Mailbox design including location, size, shape, color,
393 materials and finish.

394 (j) Trash container storage locations and related screening
395 with materials and finish.

396 (k) Sidewalk or access way layout and material
397 composition.

398 (l) Any other elements that are required to demonstrate the
399 application's conformity to the requirements of the Downtown Overlay
400 District Design Standards or this title.

401 If changes to the site plan that is submitted with an application are
402 required as conditions of the approval of the application, the applicant shall
403 submit a revised site plan that incorporates the required changes before the
404 application is approved. The approved site plan shall be part of the approved
405 application, and development under the approved application shall conform
406 to the approved site plan.

407 (3) *Approval.* Approval shall be based upon adequacy of site
408 dimensions, structural design, conformity with the downtown overlay
409 district design standards, harmony of external design with neighboring
410 structures, effect of location and use of proposed improvements upon
411 neighboring lots, proper facing of main elevation with respect to nearby
412 streets, adequacy of screening of mechanical installations and conformity of
413 the plans and specifications to the purpose and intent of this section.
414 Reasonable conditions may be placed on the permit to ensure that the use
415 will be consistent with the purpose and intent of this section. One copy of
416 the approved plans and specifications shall be retained by the city and the
417 other copy shall be returned to the applicant.

418
419 (I) *Construction requirements.*

420 (1) *Commencement of work.* Upon approval of the plans and
421 specifications, the applicant shall, as soon as practicable, satisfy any and all
422 conditions of such approval and shall diligently proceed with the
423 commencement and completion of all approved excavation, construction,
424 refinishing and alterations. In all cases, work shall commence within one
425 year from the date of approval. If work is not so commenced, approval shall
426 be deemed revoked unless the city planner, pursuant to written request made
427 and received prior to the expiration of said one-year period, extends the
428 period of time within which work must be commenced.

429 (2) *Completion of work.* Any improvement that has received
430 final approval shall be prosecuted diligently and in a workmanlike manner
431 and shall be completed within 18 months from the construction starting date.
432 In the event of strike, fire, national emergency, natural disaster or other
433 supervening force beyond the control of the applicant, the city planner may,
434 upon written request made and received prior to the expiration of the period,
435 extend the period of time within which work must be completed.

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

444
445 (J) *Maintenance standards.*

446 (1) *Buildings and site improvements.* Each building site and
447 all improvements thereon (whether occupied or vacant) including, without

448 limitation, buildings, walls, walkways, fences, screens, driveways, parking
449 areas and/or signs shall at all times be constructed, kept and maintained by
450 the owner or occupant in a neat and attractive condition. All repairs,
451 alterations, replacements or additions to such improvements shall be at least
452 equal to the original work quality and class. The necessity and adequacy of
453 such repairs shall be measured by the same standard as set forth herein for
454 the original construction and maintenance. Landscaping shall be maintained
455 in a well-kept condition. Upon the failure of any owner or occupant to
456 repair and maintain improvements to a building site to the reasonable
457 satisfaction of the city, the city or its authorized representatives may in its
458 reasonable discretion (but without obligation to do so) after seven days'
459 written notice to the owner and to the occupant (if other than the owner)
460 enter upon such building site and perform the necessary repair or
461 maintenance when and as often as the same is necessary in its reasonable
462 judgment. The owner of the building site (and when occupied by a
463 non-owner, the occupant) shall be personally liable to the city for the cost of
464 such necessary repair and/or maintenance as was incurred by the city.

465 (2) *Grounds.* The grounds of each building site (whether
466 vacant or occupied) shall be maintained in a neat and attractive condition.
467 Upon the failure of any owner and/or occupant to maintain the grounds of a
468 building site (whether vacant or occupied) in a neat and attractive condition,
469 the city may (but shall be under no obligation to) after seven days' prior
470 written notice to such owner and occupant (if other than the owner) enter
471 upon the building site and have the grass, weeds or other vegetation cut or
472 trimmed when, and as often as, the same is reasonably necessary in its
473 judgment and may have dead trees, shrubs and/or other plants and trash
474 removed therefrom and, if appropriate, replaced. The owner of the building
475 site (and when occupied by a non-owner, the occupant) shall be liable to the
476 city for the cost of any such cutting, clearing, maintenance or removal
477 determined by the city to be necessary.

478
479 (K) *Nonconforming structures and uses.* In addition to the
480 requirements of Section 16.28.020 regarding nonconforming structures and
481 uses, the provisions of subsection G apply to all properties within the
482 downtown overlay district.

483
484 (L) *Design exceptions.* The planning commission may grant
485 design exceptions if a proposed project is a unique and exceptional design
486 concept that enhances the downtown overlay district, or if by reason of
487 unusual circumstances, the strict application of any provision of this section
488 would result in exceptional practical difficulty or undue hardship due to the

489 circumstances unique to the particular property in question as provided in
490 this subsection. The planning commission may impose additional conditions
491 to ensure that the design is consistent with the purpose and intent of this
492 section.

493 (1) *Application.* After the pre-application conference, the
494 applicant shall submit an application for the design exception to the city
495 planner with the appropriate application fee. The site plan for the application
496 shall depict all information relevant to the requested waiver or modification.

497 (2) *Public hearing.* The planning commission shall hold a
498 public hearing on the application. The notice, comment period, and hearing
499 procedure shall be the same as provided in Section 16.16.040 for a
500 conditional use.

501 (3) *Consideration.* In evaluating an application, the planning
502 commission may consider any of the following alternatives to offset a design
503 deficiency, if they find that the proposed alternative will serve the purpose of
504 this section:

505 (a) Fences and walls may be used in lieu of landscaping
506 may be allowed to screen parking when there is not enough room to provide
507 an effective landscape screen.

508 (b) Additional enhanced architectural details, consisting of
509 period and style appropriate appointments and materials not typically used
510 due to high cost.

511 (c) More and higher quality architecturally appropriate
512 windows.

513 (d) Quality public seating meeting the standards in this
514 section, such as benches in front of shops and businesses.

515 (e) Installation of quality decorative pavement/paver
516 designs, especially in areas highly visible to the public such as driveway
517 aprons and building entrances along main streets.

518 (f) Additional or alternative storm water design solutions
519 such as bio swales, rain gardens and cisterns.

520 (g) Use of a new, innovative or non-traditional energy
521 efficient building technology, such as solar panels and insulated
522 prefabricated wall panels.

523 (4) *Decision.* The planning commission may approve an
524 application only if they find that the application meets one or more of the
525 following standards:

526 (a) The waiver or modification is consistent with the
527 purpose of this section will not materially adversely affect the surrounding
528 area or the downtown overlay district as a whole;

529 (b) The proposed project is a unique and exceptional design
530 concept that enhances the downtown overlay district; and

531 (c) Strict application would result in exceptional practical
532 difficulty or undue hardship due to the circumstances unique to the particular
533 property in question. A hardship shall not qualify as an undue hardship if it
534 is of a person's own making.

535
536 **Section 3. Adoption of Downtown Overlay District Development**
537 **Standards.** The Downtown Overlay District Development Standards contained in
538 Exhibit A of this ordinance are adopted by reference as part of WMC 16.20.040,
539 Downtown Overlay District.

540
541 **Section 4. Effective date.** This ordinance shall become effective upon
542 passage and approval.

543
544 FAILED by the Wasilla City Council on June 8, 2015.

545