

TENAKEE SPRINGS MUNICIPAL CODE

TITLE 06

BOARDS AND COMMISSIONS

Chapters:

06.01 **BOARD OF ADJUSTMENT**

06.02 **PLANNING COMMISSION**

CHAPTER 06.01

BOARD OF ADJUSTMENT

Sections:	06.01.010	GENERAL PROVISIONS
	06.01.020	ADJUSTMENT PROCEDURE
	06.01.030	JUDICIAL REVIEW

06.01.010 General Provisions. A. The City Council is the Board of Adjustment. Meetings of the board are held at the call of the mayor. The mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public. The city clerk shall keep minutes of the proceedings of the Board of Adjustment as a public record.

B. The Board of Adjustment shall hear and decide:

1. appeals regarding alleged errors in enforcement of zoning and building codes; and
2. appeals from decisions of the planning commission on requests for conditional use; and
3. appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinances which are not contrary to the public interest when a literal enforcement would deprive a property owner of the rights commonly enjoyed by other properties in the same district.

C. A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardships or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited, except under conditional use for a period not to exceed five years.

06.01.020 Adjustment Procedures. A. An interested party, including, but not limited to, a city official, may file with the Board of Adjustment an appeal specifying the objections in writing and providing the address of the interested party. Copies of the appeal are filed with the city clerk within thirty days from the date of the decision or enforcement involved. The officer involved shall provide the board with all pertinent records, including his written decision. Such material shall become part of the reading of the appeal. An appeal to the board

stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

B. The mayor shall act as the presiding officer of the Board of Adjustment and shall exercise such control over the board's proceedings as is reasonable and necessary. In addition to his other duties, the mayor shall rule upon the admissibility of evidence before the board and may limit presentations before the board to a reasonable period of time.

C. A quorum of the Board of Adjustment shall consist of a majority of its voting members. Decisions by the board may be made and rendered by a majority of a quorum. Only those members of the Board of Adjustment who have been present throughout the hearing on an appeal may vote on that appeal.

D. The following procedure shall be followed at any hearing on an appeal before the Board of Adjustment:

1. The appeal number and the name of the party appealing shall be read into the record.
2. The mayor shall then determine if the appellant or an agent of the appellant is present. If no such person is present, the board will proceed with the hearing in such person's absence, unless the presiding officer rules that there were extenuating circumstances which prevented the appellant or an agent of the appellant from appearing.
3. The presiding officer shall require the appellant's presentation to be given first.
4. After the conclusion of the appellant's presentation, the official involved shall then make a presentation. That official shall answer any questions by any member of the board concerning his comments or appellant's comments.
5. The appellant shall then have the right to respond to the official's presentation.
6. All comments made by the official or the appellant shall be directed to the mayor. All questions directed toward the appellant or official shall be only by a member of the Board of Adjustment.
7. The decision of the Board of Adjustment on an appeal shall be by an affirmative motion.

06.01.030 Judicial Review. A. A municipal officer, a taxpayer or a person jointly or severely aggrieved may appeal an action of the Board of Adjustment to the superior court by filing with the city clerk written notice within ten (10) days of the action appealed. The notice shall specify grounds for appeal. When the notice is filed, the board shall at once transmit to the superior court clerk copies of all papers constituting the record in the case.

B. An appeal from the Board of Adjustment stays enforcement proceedings unless the court issues an enforcement order based on a certificate of imminent peril to life or property made by the board.

CHAPTER 06.02

PLANNING COMMISSION

Sections:	06.02.010	PLANNING COMMISSION ESTABLISHED-PURPOSE
	06.02.020	COMMISSION MEMBERSHIP\
	06.02.030	APPOINTMENT
	06.02.040	TERM OF OFFICE
	06.02.050	OFFICIALS
	06.02.060	OATH OF OFFICE
	06.02.070	VACANCIES
	06.02.080	QUORUM
	06.02.090	MEETINGS
	06.02.100	RECORD OF MEETINGS-JOURNAL
	06.02.110	RULES OF PROCEEDINGS
	06.02.120	ORDER OF BUSINESS
	06.02.130	OFFICE AND STAFF
	06.02.140	FORMAL ACTS BY RESOLUTION
	06.02.150	FUNDS
	06.02.160	COMPENSATION
	06.02.170	PLANNING COMMISSION – DUTIES AND FUNCTIONS
	06.02.175	NOTICE
	06.02.180	COMPREHENSIVE PLAN
	06.02.190	LAND USE REGULATION

06.02.010 Planning Commission Established – Purpose. A. There is hereby established the planning commission for the city to perform the functions of planning, platting and land use regulation for the city.

B. The Planning Commission shall hold public hearings when necessary and make recommendations to the council on matters concerning or relating to planning and land use regulation, the enforcement of appropriate regulations and amendments to ordinances or other matters within the scope of planning and land use power.

C. The function of platting shall be performed from time to time by the commission, convened as the Platting Authority for the city, and completed upon it having approved or rejected proposed plats, replats and vacations of public ways according to law.

06.02.020 Commission Membership. The voting members of the Planning Commission shall be five citizens who are residents of the city.

06.02.030 Appointment. Members shall be appointed by the mayor and confirmed by the City Council. [Appointments to fill vacancies shall be for the un-expired term only.]

06.02.040 Term of Office. Members shall be appointed for a term of three years, except upon the condition of more than two vacancies occurring at the same time the first and second appointments shall be for three year terms, the third and fourth appointments shall be for two year terms, and the fifth appointment shall be for a one year term.

06.02.050 Officials. From its members, the commission shall elect a chairman as its presiding officer and to conduct the affairs of the commission, and a vice-chair to serve in the absence of the chair. The Planning Commission shall elect these positions at the first meeting of the calendar year.

06.02.060 Oath of Office. A. All members of the commission before entering upon the duties of office shall take the following oath and affirmation: “I, _____, do solemnly swear that I will support and defend the Constitution of the United States, the Constitution of the State of Alaska and the Ordinances of the City of Tenakee Springs, Alaska, and that I will honestly, faithfully, and impartially perform the duties of the office of Planning Commission Member to the best of my ability.”

B. This oath shall be filed with the municipal clerk.

06.02.070 Vacancies.

A. A vacancy shall be declared, and filled as provided, when the member:

1. fails to qualify and take office within thirty days after confirmation of the member’s appointment by the City Council;
2. departs from the city with the intent to remain away for a period of ninety or more days or is physically absent from the area the member was appointed to represent for a period of ninety or more days;
3. submits his or her resignation and the resignation is accepted by the City Council;
4. is physically or mentally unable to attend commission meetings for a period of more than ninety days;
5. misses three or more consecutive regular meetings of the commission, unless excused by the commission;
6. is convicted of a felony or of an offense involving a violation of the oath of office.

B. The clerk of the Planning Commission shall keep attendance records and notify the mayor when vacancies occur.

C. If a vacancy remains unfilled, the Mayor may appoint members of the City Council to provide a quorum on an as needed basis.

06.02.080 Quorum. A majority of voting membership constitutes a quorum. Any act of the commission requires a majority affirmative vote of those voting members present, except as provided in Section 06.02.170(D).

06.02.090 Meetings. A. The Planning Commission shall hold a regular meeting on the second Saturday of each month. The chairman may call special meetings or the chairman shall call special meetings at the request of two members of the commission.

B. Any change in the time for the regular meeting shall be posted at least one (1) week in advance of the usual time in at least three (3) public places.

C. The meetings of the commission shall be open to the public.

06.02.100 Record of Meetings – Journal. A. The commission shall maintain a journal of its official proceedings.

B. The minutes of the Planning Commission meetings shall constitute the journal of its official proceedings.

C. Minutes and records of the Planning Commission shall be filed with the municipal clerk and retained as public records.

06.02.110 Rules of Proceedings. Meetings shall be conducted under Robert’s Rules of Order, 10th Edition and such modified or amended rules as may be adopted by the commission

06.02.120 Order of Business.

A. The order of business at regular meetings shall be:

1. Call to Order/Roll Call
2. Minutes
3. Communications
4. Old Business
5. Consent Agenda
6. New Business
7. Public Comments
8. Commission Comments
9. Adjournment

B. The order of business at special meetings shall be prescribed by the chairman of the Planning Commission.

C. For regular commission meetings all requests for action or other matters shall be delivered to the city office at least one week prior to the meeting time or in time to meet applicable notice requirements. All requests for action or other matters for special meetings shall be delivered to the city office in time to meet applicable notice requirements.

D. Consent agenda items shall be limited to matters arising after close of the agenda for regular meetings that cannot be delayed until the regular meeting of the following month. The consent agenda shall be posted by noon of the day preceding the meeting.

06.02.130 Office and Staff. A. The commission shall be provided office file space for its needs and adequate to file its journals, resolutions, records, reference material, correspondence and maps, plats and charts; all of which shall constitute public records of the city.

B. The City Council may, within budgetary limitations, provide the commission secretarial assistance at each meeting to assist in preparing its journals and resolutions, and as required to prepare its correspondence and other materials under the direction of the commission chairman and clerk.

C. The City Council may, within budgetary limitations, provide for such engineering and planning experts as the commission’s duties and functions may require.

06.02.140 Formal Acts by Resolution. A. All formal acts by the commission shall be made by resolution bearing:

1. the heading “City of Tenakee Springs Planning Commission”;
 2. the space for the serial number to be assigned – “Resolution (No.)“;
 3. a short and concise title description of its subject and purpose;
 4. short premises and whereas clauses descriptive of its subject and purposes;
 5. the resolving clause, “Be It Resolved...”; and
 6. provision for signature after the text, “Adopted (vote) (date) “ and with designated lines for the signature of the commission chairman and municipal clerk,
- B. All resolutions adopted by the commission, whether at the instance of and presentation of third parties, or on the motion of and instance of the commission, shall conform to that set forth in (A) above and shall be on white 8 ½ by 11 inch paper with 1 ½ inch left margin suitable for permanent filing.

06.02.150 Funds. A. A reasonable fee, to be set by City Council Resolution, shall be charged for applications and other general requests for planning commission action.

B. All funds of the commission received as fees and charges or otherwise shall be deposited in the general fund of the city as receipts of the activities of the commission.

06.02.160 Compensation. Compensation and expenses of the Planning Commission and its staff are paid as directed by the City Council.

06.02.170 Planning Commission – Duties and Functions. A. The Planning Commission shall prepare and recommend to the City Council:

1. a comprehensive plan consisting of maps and related texts for the systematic development of the city;
 2. a zoning and land use ordinance to implement the comprehensive plan;
 3. a public rights-of-way ordinance;
 4. the official map of the city; said map shall include reference to zoning and 5. other applicable restrictions prescribed by the commission;
 6. modifications to the documents specified in (1) – (5) of this section.
- B. The commission shall publish notice of and hold at least one public hearing before submitting its recommendations under (A) of this section to the City Council. Notice shall be published in the same manner as in the case of ordinances.
- C. The Planning Commission shall:
1. act as the Platting Board;
 2. act upon requests for variances;
 3. act upon request for conditional and special uses;
 4. act upon requests for permits; and
 5. act upon requests for any other prescribed in this code to be under the jurisdiction of the Planning Commission.
- D. Subject to any ordinance adopted pursuant to Alaska Statute 29.40.170, no platting request, variance, conditional and special uses, permit, or request for other use prescribed in this code may be granted except upon an affirmative vote of a majority of the entire voting membership of the commission.

06.02.175 Notice. The planning commission shall post notice of a public hearing on requests for an encroachment permit, a variance or other land use request two (2) weeks prior to

consideration of the matter at a regular commission meeting. Notice of the public hearing shall be mailed to adjacent property owners at least two (2) weeks prior to the public hearing. This notice shall also include those directly or diagonally across any ROW common to both properties.

06.02.180 Comprehensive Plan. A. The comprehensive plan (Community Plan) provided for in Section 06.02.170 (A)(1) shall be a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the city, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation.

B. The City Council shall adopt a comprehensive plan based upon the recommendations of the Planning Commission. The City Council may modify the plan, provided that it first obtains the recommendations of the Planning Commission. The Planning Commission shall undertake an overall review of the plan at least once every two years and shall present recommendations based on the review to the City Council.

06.02.190 Land Use Regulation. A. In accordance with the comprehensive plan, the City Council shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to:

1. zoning regulations restricting the use of land and improvements by geographic districts;
 2. land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;
 3. measures to further the goals and objectives of the comprehensive plan.
- B. A variance from a land use regulation adopted under this section may not be granted if:
1. special conditions that require the variance are caused by the person seeking the variance;
 2. the variance will permit a land use in a district in which that use is prohibited; or
 3. the variance is sought solely to relieve pecuniary hardship or inconvenience.
- C. Zoning regulations adopted under (A) of this section may include, but are not limited to restriction of:
1. land use;
 2. minimum lot size, and
 3. rights-of-way and easements for highways, roads, trails and utilities.
- D. Zoning regulations are designed to:
1. provide for orderly development;
 2. promote fire safety and public order;
 3. protect the public health and general welfare;
 4. prevent overcrowding; and
 5. stimulate systematic and controlled development of transportation, water, sewer, school, park and other public facilities.