

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION

October 11, 2018

7:00pm

Agenda

A. CALL TO ORDER/ROLL CALL

B. AMENDMENTS TO THE AGENDA

C. APPROVAL OF MINUTES: September 13, 2018 and Special October 3, 2018

D. PERSONS TO BE HEARD

E. CORRESPONDENCE

F. OLD BUSINESS

1. Discussion of potential code changes to address noise standard.

G. NEW BUSINESS

H. PUBLIC COMMENT

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS

J. ADJOURNMENT

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION

September 13, 2018

7:00pm

Minutes

A. CALL TO ORDER/ROLL CALL: Chair Terri Henson called the meeting to order at 7:00 pm. Commissioners Don McConachie and Apryl Hutchinson were present. Commissioner Duke Mitchell and Charles Haubrich were absent. Also present was Recording Secretary Aleisha Mollen.

B. AMENDMENTS TO THE AGENDA: None

C. APPROVAL OF MINUTES: August 23, 2018

**M/S: McConachie/Hutchinson moved to approve the minutes as presented.
Motion approved unanimously by consent.**

D. PERSONS TO BE HEARD:

Andrew Hoyt was present to speak about the new hospital plat. He and his neighbor both have lots that encroach on the plats and wanted to get it into the record that they want to buy the land area and square them up once the hospital moves forward on their new plans. He has been in touch with SEARHC and the architect and no one sees this as a problem going forward.

E. CORRESPONDENCE:

- 1) Email from Kelley Decker and Staff response regarding noise discussion
- 2) Email from Haig Demerjian regarding noise discussion

F. OLD BUSINESS: None.

G. NEW BUSINESS

1. Preliminary Plat review of the W.M.C. Subdivision, the replat of lots 1 and 10, Block 54, Wrangell Townsite, according to Plat No. 68-81, and Tract "B", supplemental plat of Wrangell Townsite, USS 1119, according to Plat No. 68-129, and portion of Lot 1, portion of Lot 2, and Lots 9 and 10, Block 54, Townsite, USS 1119, creating Lot A, Block 54, W.M.C. Subdivision; and requesting vacation of an alleyway and portion of a scenic strip adjacent to these lots within Block 54, zoned Open Space/Public, requested by the City and Borough of Wrangell.

Public Hearing was opened for this item at 7:04 pm.
No one spoke on the item.

Public Hearing was closed at 7:05 pm.

M/S: McConachie/Hutchinson moved to recommend to the Assembly to vacate the alley way and a portion of the floating easements adjacent to the above described lots;

Motion approved unanimously by polled vote.

M/S: McConachie/Hutchinson moved to approve the preliminary plat of the W.M.C. Subdivision, the replat of lots 1 and 10, Block 54, Wrangell Townsite, according to Plat No. 68-81, and Tract "B", supplemental plat of Wrangell Townsite, USS 1119, according to Plat No. 68-129, and portion of Lot 1, portion of Lot 2, and Lots 9 and 10, Block 54, Townsite, USS 1119, creating Lot A, Block 54, W.M.C. Subdivision, subject to the following plat modifications:

- a) Create electrical easements along Reid Street and Bennett Street**
- b) The Assembly approves the vacation request of the alley and portion of scenic strip.**

Henson stated that she spoke to Carol Rushmore earlier and is in agreement with the plan. She explained the plat and the changes.

Motion approved unanimously by polled vote.

2. Preliminary Plat review of Health Care Subdivision III, a replat of Lots B-1, B-2 and B-3, Health Care Subdivision II, and Lot A, Health Care Subdivision, creating Lots 1,2,3 and 4, Health Care Subdivision III; and requesting vacation of unused floating easements within these lots, zoned Open Space/Public, requested by the City and Borough of Wrangell.

Public Hearing was opened for this item at 7:08 pm.

No one spoke on the item.

Public Hearing was closed at 7:08 pm.

M/S: McConachie/Hutchinson moved to recommend to the Assembly to vacate the floating easements in Lots B-3 and Lot B-1, Health Care Subdivision II, Plat No. 2010-6, as the actual locations of utilities and road will be placed into easements in the proposed new subdivision, Health Care Subdivision III.

Motion approved unanimously by polled vote.

M/S: McConachie/Hutchinson moved to approve the preliminary plat of Health Care Subdivision III, a replat of Lots B-1, B-2 and B-3, Health Care Subdivision II, and Lot A, Health Care Subdivision, creating Lots 1,2,3 and 4, Health Care Subdivision III, subject to the following plat modifications:

- a) Create a small triangular substandard lot at the corner of Ash Street and Etolin Ave from the proposed ROW, with a Plat note that it will be combined with Lot 20 in a replat of those City lots forthcoming shortly;
- b) Adjust the northerly boundary of proposed Lot 4, approximately 120 feet to the north into proposed Lot 1.
- c) Plat note 6: the easement should not be centered on the property line, but stop at the edge of the AICS building, so there is no overlap with the structure.
- d) Plat note 3: Certificate to plat will be from Ketchikan Title Company.
- e) Assembly approval of the vacation request of the floating easements.

McConachie asked if this addresses Mr. Hoyt's concerns and Henson said not at this time. Their issue cannot be dealt with until after construction of the hospital. The plat changes were clarified.

McConachie clarified that when the original plan for the Health Care Campus came up, the plat was confusing and full of easements and this will clarify it.

Motion approved unanimously by polled vote.

- 3. Final plat approval of Good/Edgley Subdivision, a replat of Lots 7-K and 7-R Block 67, creating Lot AA and Lot BB, zoned Single Family Residential, requested by Jeffrey Good.

M/S: Hutchinson/McConachie moved to approve the Final Plat of the Good/Edgley Subdivision, a replat of Lots 7-K and 7-R Block 67, creating Lot AA and Lot BB, requested by Jeffrey Good. Motion approved unanimously by polled vote.

H. PUBLIC COMMENT: None

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS:

Mollen stated that, per Carol Rushmore, there needs to be a Special Meeting scheduled for the first week of October to approve the final plats for the hospital so that it can be given to the Borough Assembly for their meeting on October 9th. It was agreed to have a Special Meeting on October 4th at 1:00 p.m. subject to any other potential conflicts.

J. ADJOURNMENT: 7:17 p.m.

CHAIRPERSON

SECRETARY

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION

Special Meeting

October 3, 2018

1:00pm

Minutes

A. **CALL TO ORDER/ROLL CALL:** April Hutchinson opened the special meeting at 1:05 and recessed for 10 minutes. Vice-Chair Don McConachie called the meeting to order at 1:15 pm. Commissioners Apryl Hutchinson and Charles Haubrich were present. Commissioners Duke Mitchell and Terri Henson were absent. Also present was Zoning Administrator Carol Rushmore.

B. NEW BUSINESS

1. **Final Plat Approval of the W.M.C. Subdivision, the replat of lots 1 and 10, Block 54, Wrangell Townsite, according to Plat No. 68-81, and Tract "B", supplemental plat of Wrangell Townsite, USS 1119, according to Plat No. 68-129, and portion of Lot 1, portion of Lot 2, and Lots 9 and 10, Block 54, Townsite, USS 1119, creating Lot A, Block 54, W.M.C. Subdivision, requested by the City and Borough of Wrangell.**

M/S: Hutchinson/Haubrich moved to approve the final plat as presented.

Rushmore explained the changes to the plat per the approval of the preliminary plat.

Motion approved unanimously by polled vote.

2. **Final Plat Approval of Health Care Subdivision III, a replat of Lots B-1, B-2 and B-3, Health Care Subdivision II, and Lot A, Health Care Subdivision, creating Lots 1,2,3 and 4, Health Care Subdivision III, requested by the City and Borough of Wrangell.**

M/S: Hutchinson/Haubrich moved to approve the final plat as presented.

Rushmore explained the changes to the plat per the approval of the preliminary plat, along with addition of Plat note #2 and Details A&B.

Motion approved unanimously by polled vote.

C. ADJOURNMENT at 1:25pm -

City and Borough of Wrangell, Alaska

Agenda F1

Date: October 10, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Discussion of potential code changes to address nuisance activities.

Attached is last month's staff report with sample code ideas from other Alaska municipalities, and a draft ordinance based on your August discussion.

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

For discussion on October 11, 2018

Noise

A. No person shall make, assist in making, continue, or cause to be made any unreasonably loud, disturbing, or unnecessary noise. The noise loudness measured at the boundary line of the premises from which the noise originates in the SF, MF, RR, RMU and Commercial districts shall not exceed 90 decibels between the hours of 7:00 a.m. and 8:00 p.m. weekdays and the hours of 10:00 a.m. and 8:00 p.m. weekends and holidays, and 50 decibels at other hours. Variance could be obtained for

B. Exceptions.

1. Emergency and Public Work. Noise or sound created in the performance of public service by governmental agencies or their contractors while performing construction, repair, maintenance or snow removal services; or emergency work engaged in by persons for the public safety, health or welfare; or to restore property to a safe condition following a public emergency; or work to restore essential public services, including construction activities directly related to the abatement of any emergency, shall not be subject to the provisions of this section.

2. Noises from Authorized Activities. The prohibitions of this section shall not apply to air traffic, parades, cultural events, athletic games, fairs, or functions approved by the borough.

3. Sirens, Horns and Whistles. The provisions of this section shall not apply to any siren, whistle, horn or bell used by emergency vehicles or civil defense or used by motor vehicles as warning devices to avoid collisions.

4. Bells or Chimes. The provisions of this section shall not apply to any bell or chimes, or any device for the production or reproduction of the sound thereof, which are associated with a clock or time-keeping device, church or school.

5. Burglar Alarms. The provisions of this section shall not apply to any burglar alarm or security device; provided, however, no burglar alarm or security device shall sound for more than fifteen minutes after being activated.

6. Construction Activity or Equipment. The provisions of this section shall not apply to any construction activity or equipment operated between the hours of seven a.m. and eight p.m. weekdays; and ten a.m. and eight p.m. weekends and holidays.

7. Power Tools, Equipment and Machinery. The provisions of this section shall not apply to any power tools, equipment and machinery reasonably operated between the hours of seven a.m. and eight p.m. week days and ten a.m. and eight p.m. weekends and holidays.

8. Vessels. The provisions of this section shall not apply to the operation of any boat or vessel.

9. Motor Vehicles. The provisions of this section shall not apply to the normal and usual operation of motor vehicles.

10. Residential/Commercial Snow Removal Activity or Equipment. Noise or sound created in the performance of residential/commercial snow removal by property owners or their contractors.

C. **Temporary Use permit.** If the applicant demonstrates to the satisfaction of the Zoning Administrator, that immediate compliance with the requirements of this Article would be impractical or unreasonable, the Administrator may issue a Temporary Use Permit to allow exception from any or all of the provisions contained in this Article, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be for an initial term as specified by the Zoning Administrator not to exceed thirty days. Longer terms up to one hundred twenty days may be granted by the Planning and Zoning Commission.

In determining whether a temporary use permit should be issued and the nature and scope of any conditions to be imposed, the Administrator shall consider the following factors:

- (1) The level and intensity of the noise;
- (2) The level and intensity of the background noise, if any;
- (3) The proximity of the noise to residential areas;
- (4) The time of day when the noise occurs;
- (5) The duration of the noise, and whether it is recurrent, intermittent or constant;
- (6) The nature and zoning of the area within which the noise emanates or to which it is transmitted.

City and Borough of Wrangell, Alaska

Agenda G4

Date: August 16, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Discussion of potential code changes to address nuisance activities.

Background:

Last fall, the Manager and Assembly began discussing ways to clean-up properties from Junk that seems to be more than typical for residence. More recently, there was a complaint by a land owner regarding activities on an adjacent property that he deems are inappropriate and a nuisance.

The Borough Manager recently presented to the Assembly an initial DRAFT ordinance that would replace WMC Chapter 9 Nuisance with a completely new code. Attached is the draft code, much of it taken from the Valdez Nuisance code that she helped develop. It is still being modified, as my recent conversation with the Manager indicated she had found sections from other codes or other ideas that might work better in Wrangell. Also because of the recent complaint and issues regarding that complaint, staff is reviewing potential changes to the zoning code to help clarify and address similar situations.

Zoning Code Changes:

In reviewing the zoning ordinance, to address the specific complaint and issues presented by the Demerjians, changes to Chapter 20 zoning code would need to occur either in each Zoning district as types of uses allowed or not allowed, or allowed by conditional use, or in the Noise Standard. At this time, I have been reviewing potential changes to the Noise Standard.

The existing Noise Standard WMC 20.52.060 is:

20.52.060 Noise.

The noise emanating from a premises used for industrial activities shall be muffled so as not to become objectionable due to intermittent beat, frequency or shrillness. Where the use adjoins a residential district (SF, MF, RR-1, RR-2, and RMU), the noise loudness measured at the boundary line of the premises used for industrial activities shall not exceed 90 decibels between the hours of 7:00 a.m. and 8:00 p.m. weekdays and the hours of 10:00 a.m. and 8:00 p.m. weekends and holidays, and 40 decibels at other hours. [Ord. 867 § 1, 2013; Ord. 462 § 6, 1984.]

Below are excerpts that have merit from zoning codes of other communities. These are just a few that I have pulled for your review.

The following language is from the Valdez ordinance and pertains to "any use" rather than just "noisy" uses:

Any use which causes or may reasonably be expected to cause excessive noise, vibration, odor, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

If you modify the above and Wrangell's existing code just for the noise standard, one version could read:

- 1) In the SF, MF, RR, RMU and Commercial districts, any use which causes or may reasonably be expected to cause excessive noise, vibration, or sounds objectionable due to intermittent beat, frequency or shrillness beyond any lot line of the lot on which it is located is prohibited. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

In this sample version, the decibel level is eliminated, the interpretation becomes more subjective than it is currently, and it prohibits any loud use. If loud uses are prohibited, a literal reading could impact construction activities, unless it is clearly specified.

Another version could read:

- 2) The noise emanating from a premises in the SF, MF, RR, RMU and Commercial districts shall be muffled so as not to become objectionable due to intermittent beat, frequency or shrillness, repetition or type of equipment. The noise loudness measured at the boundary line of the premises from which the noise originates in the SF, MF, RR, RMU and Commercial districts shall not exceed 90 decibels between the hours of 7:00 a.m. and 8:00 p.m. weekdays and the hours of 10:00 a.m. and 8:00 p.m. weekends and holidays, and 40 decibels at other hours.

Adding in decibel readings or time restrictions, provides two measurable parameters. Dealing with unexpected or temporary activities is unclear.

From Juneau's code, the following was found as it relates to noise:

- (1) It is unlawful for any person to make or continue, or cause or permit to be made or continued, any unreasonable noise.
- (2) As used in this section, "unreasonable noise" means noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of a reasonable person of ordinary sensibilities in the vicinity. The factors which will be considered in determining whether a noise is unreasonable will include, but not be limited to, the following:
 - (A) The volume of noise;
 - (B) The intensity of the noise;
 - (C) Whether the nature of the noise is usual or unusual;
 - (D) Whether the origin of the noise is natural or unnatural;
 - (E) The volume and intensity of the background noise, if any;
 - (F) The proximity of the noise to residential sleeping facilities;
 - (G) The nature and zoning of the area within which the noise emanates;
 - (H) The density of the inhabitation of the area within which the noise emanates;
 - (I) The time of the day or night the noise occurs;
 - (J) The duration of the noise;
 - (K) Whether the noise is recurrent, intermittent or constant;
 - (L) Whether the noise is produced by a commercial or noncommercial activity; and

(M) Whether the noise contains pure tones.

This provides more guidance and criteria to determine excessive or unreasonable.

From Anchorage code, the following *excerpts* on noise restrictions may want to be considered for inclusion in a noise standard:

15.70.060 Prohibited acts and conditions. A. No person shall unreasonably make, continue or cause to be made or continued any noise disturbance.

Animals. No person shall own, possess or harbor any animal that frequently or for continued duration makes sounds common to its species.

Construction. No person shall operate or cause the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work:

a. So that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise-sensitive zone between the hours of 10:00 p.m. and 6:00 a.m. during the construction season, between the hours of 10:00 p.m. and 7:00 a.m. during other months, or at any time on Sundays or state holidays;

b. So that the sound level therefrom exceeds an Leq of 80 dB(A) at or within a residential real property boundary or within a noisesensitive zone during any one hour of the daily period from 6:00 a.m. to 10:00 p.m. during the construction season or from 7:00 a.m. to 10:00 p.m. during other months;

or c. So that the sound level therefrom exceeds an Leq of 80 dB(A) at or within a commercial or industrial real property boundary during any one hour of the daily period from 6:00 a.m. to 10:00 p.m. during the construction season or from 7:00 a.m. to 10:00 p.m. during other months.

The restrictions of subsection B.3 of this section do not apply to emergency work of public service utilities as provided in Section 15.70.020.B, the use of domestic power tools as permitted in subsection B.4 of this section or construction work for which a permit has been issued pursuant to Section 15.70.070.A.

Domestic power tools. No person shall operate or permit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower or similar device used in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

Motor vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify, idle, run, accelerate or test any motor vehicle or any auxiliary equipment attached to such vehicle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone.

15.70.080 Property line noise emission standards.

- A. Except as otherwise provided in subsections B and C of this section, no person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level that exceeds the limits set forth for the receiving land use category in table 1 when measured at or within the property boundary of the receiving land use.

TABLE 1. SOUND LEVELS BY RECEIVING LAND USE

Receiving Land Use Category	Time	Sound Level Limit (dB(A))
Residential area	7:00 a.m.--10:00 p.m.	60
	10:00 p.m.-- 7:00 a.m.	50
Commercial area	7:00 a.m.--10:00 p.m.	70
	10:00 p.m.-- 7:00 a.m.	60
Industrial area	At all times	80

- B. No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level measured at any location on a boundary between two receiving land use categories that exceeds the arithmetic mean of the respective sound level limits set forth for such receiving land use categories in table 1.

Within the draft proposed ordinance submitted by the Manager, there is a section on Noise. That section would either replace or need to be compatible with whatever is included within the zoning code. After talking with the Manager, I suggested that the Noise section in the draft code she presented might be modified using language from some of the codes I have been looking at or even included here. The Planning and Zoning Commission can certainly make a recommendation one way or the other regarding the Noise section and zoning standard, and any other comments related to the draft code.

The City and Borough of Wrangell's current Nuisance Code can be found online <http://www.codepublishing.com/AK/Wrangell/> Chapter 9.08 Nuisances.