

Joint work session with Planning & Zoning Commission: March 9, 2004
 Joint work session with Planning & Zoning Commission: March 16, 2004
 Joint work session with Planning & Zoning Commission: June 3, 2004
 Commission Information:
 Initiated by: City Council
 First on agenda: May 6, 2004
 Date recommendation made: June 3, 2004
 Action: Not recommended for approval
 Council Information:
 Introduced by: City Council
 Introduced: June 22, 2004
 Public Hearing: July 13, 2004
 Action: Postponed to the October 12, 2004 Regular Meeting
 Vote: 4 – 3 (Erbey, Vanover, Pippel)
 Date: October 12, 2004
 Action: Adopted
 Vote: Unanimous

CITY OF PALMER, ALASKA

ORDINANCE NO. 632

AN ORDINANCE AMENDING TITLE 17 (ZONING) BY AMENDING SECTION 17.16.060 (ANNEXATION ZONING) AND ADDING CHAPTER 17.59 (TRANSITIONAL DISTRICT) OF THE PALMER MUNICIPAL CODE

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be of a permanent nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Section 17.16.060 is amended to read as follows (new language is underlined and deleted language is stricken out):

17.16.060 Annexation zoning.

~~Where land has become a part of the city by annexation, this property and land, except public land, is classified as R-1, Single Family Residential District. When the annexed land is owned by a governmental agency and intended for uses allowed in the public use district, such annexed land shall be classified as P, Public Use District, instead of R-1. Within sixty days after the annexation becomes final, the commission shall review the zoning classification. If these districts are not appropriate for the annexed area or portion thereof, the commission or other party may institute action for a map amendment in accordance with Section 17.80.010.~~

When land becomes a part of the city by means of annexation, the land shall be zoned as follows.

- A. Privately owned parcels primarily used for single-family residential purposes shall be classified as R-1, Single Family Residential.;
- B. Parcels owned by a governmental agency and intended for uses allowed in a public use district, shall be classified as P, Public Use.;
- C. Parcels owned by a governmental agency and not intended for uses allowed in a public use district shall be classified as T, Transitional Use;
- D. Privately owned parcels primarily used for other than single-family residential purposes shall be classified as T, Transitional Use.;
- E. Privately owned parcels not in use upon the effective date of the annexation shall be classified as T, Transitional Use.

Section 4. Title 17 is adopted to read as follows:

Chapter 17.59

T TRANSITIONAL DISTRICT

Sections:

- 17.59.010 Application and intent**
- 17.59.020 Zone effective upon annexation**
- 17.59.030 Review and possible rezoning**
- 17.59.040 Permitted principal and accessory uses and structures**
- 17.59.050 Conditional uses**
- 17.59.060 Prohibited uses**
- 17.59.070 Continuation of lawful prohibited uses**
- 17.59.080 Limitations to change of land use and structures**
- 17.59.090 Setbacks and buffers for expansion or new structures**
- 17.59.100 Maximum height of structures**
- 17.59.110 Off-street parking and loading**

17.59.010 Application and intent.

- A. The T, Transitional District zone applies automatically to privately-owned parcels annexed to the city that are then primarily used for other than single-family-residential purposes.
- B. The city recognizes that some or all of the land annexed into the city has not have been previously subject to zoning districts and that there is a need to provide a reasonable transition toward land use regulation by the city. Therefore, the Transitional district is intended to allow a broad range of continued land uses including limited expansion and development of continued uses. However, the Transitional district does not allow a change of use of any parcel. While nearly all Transitional district uses of land at the time of annexation will be permitted to continue (some subject to conditional use), more specific and different land use regulations, including more restrictive regulations, may be applied to such lands through the map amendment process in chapter 17.80, which includes public hearings

17.59.020 Zone effective upon annexation.

Immediately upon the effective date of the annexation, all privately-owned lands annexed into the city that are being used primarily for other than single-family-residential uses at the time of annexation shall be zoned T, Transitional.

17.59.030 Review and possible rezoning.

- A. Within five years after the annexation becomes effective for annexed lands, the commission shall conduct public hearings regarding their land use. After the hearings, the city may rezone parcels zoned T, giving due consideration to the results of the public hearing process. This process may result in a rezoning of parcels or parts of parcels zoned T to more restrictive zoning classifications. This section does not require that all or any parcels in the T district must be rezoned within five years.
- B. Owner-initiated zoning map amendments may be made at any time in accordance with chapter 17.80.
- C. No city-initiated zoning map amendment may become effective until five years after the annexation date unless consented to in writing by all the owners of land to be rezoned; provided, however, if there is a use of land that poses a significant threat to public health or safety, a city-initiated map amendment may occur in accordance with chapter 17.80 regarding such land.
- D. Subsection C notwithstanding, the city may change the text of this chapter 17.59 at any time in accordance with chapter 17.80, and also the city may enforce all other laws regarding land use, to include without limitation, chapter 8.36 (Nuisances).

17.59.040 Permitted principal and accessory uses and structures.

- A. Lawful uses are permitted to continue in the T zone, except those prohibited uses specified in section 17.59.070 and those permitted to continue only by conditional use as specified in section 17.59.060.
- B. Lawful accessory uses and structures are allowed to continue.

17.59.050 Conditional uses.

The following uses are prohibited, except that they are permitted to continue only as conditional uses subject to the conditions established after a hearing by the commission:

- A. Any expansion or change of legal use for all conditional uses for which the Matanuska-Susitna Borough granted a conditional use permit under MSBC 17.60 or 17.61;
- B. Any expansion or change of legal use for all uses for which the Matanuska-Susitna Borough granted a permit under MSBC 17.48 (mobile home park), MSBC 17.70 (use involving alcohol beverage sales and dispensing), or MSBC 17.90 (adult business);
- C. Cemeteries;
- D. Storage of more than 10,000 gallons of petroleum products;
- E. Chemical plant;
- F. Manufacture or storage of explosives, gunpowder, or fireworks; and
- G. Noxious, injurious or hazardous uses, as defined in PMC section 17.59.070, are prohibited; provided, however, that the city may grant a conditional use for such uses when it finds that the public health, safety, welfare and convenience will be adequately protected by location, topography, buffer landscaping or a screening structure. This subsection does not apply to agricultural facilities or operations to the extent protected by AS 9.45.235.

- H. A use permitted under this section shall be subject to the terms and conditions of the conditional use permit and the use does not have the expansion rights set out elsewhere in this chapter.

17.59.060 Prohibited uses.

The following uses are prohibited in the T zone:

- A. Unlawful prohibited uses may not continue and are prohibited;
- B. Uses prohibited by any zoning or land use planning law or regulation applicable to the land immediately prior to annexation;
- C. Conditional uses that were subject to the Matanuska-Susitna Borough Code immediately before the date of the annexation but were not in full compliance with the code at the time of annexation. Examples are mobile home parks (MSB 17.48), uses involving alcohol beverage sales and dispensing (MSB 17.70), adult businesses (MSB 17.90) and all uses subject to MSB 17.60 and 17.61.
- D. Use that constitutes a nuisance as set out by sections Palmer Municipal Code Sections 8.36 or 8.37; provided, however, this subsection does not apply to agricultural facilities or operations to the extent protected by AS 9.45.235;
- E. Noxious, injurious or hazardous uses, which are defined as any use that may be noxious, injurious, or hazardous to surrounding property or persons by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, or similar substances or conditions; provided, however, this subsection does not apply to agricultural facilities or operations to the extent protected by AS 9.45.235.

17.59.070 Continuation of lawful prohibited uses.

Lawful prohibited uses in existence upon the effective date of annexation may continue as non-conforming uses under chapter 17.68. For example, a mobile home not located in a mobile home park may continue as a non-conforming use. Unlawful prohibited uses may not continue and are prohibited. For example, a junkyard that was subject to Matanuska-Susitna Borough Code Chapter 17.60 immediately before the date of annexation but did not fully comply with that chapter may not continue and it is prohibited.

17.59.080 Limitations to change of land use and structures.

- A. The use of land upon the effective date of annexation into the city may not be changed to another use without rezoning under section 17.80 if the use existing at the time of annexation or the use to be changed to is a use described by or similar to a use described by chapters 17.28 through 17.58. For example, if a parcel's use upon annexation is a second-hand store (subsection 17.32.020 8), the use of the land may not be changed to refrigeration maintenance and repair (subsection 17.36.020 12) without rezoning under section 17.80. Similarly, if a parcel's use upon annexation is nursery and Christmas tree sales (subsection 17.32.020 18), the use of the land may not be changed to motel or hotel use (subsection 17.32.020 2) without approval under chapter 17.80.
- B. If the use of land upon the effective date of annexation is a use described by or similar to a use described by chapter 17.24 or 17.26 (R-2/R-3 Medium-Density Residential District), the use of the land must remain residential, however the number of dwelling units may be increased by fifty percent without rezoning under chapter 17.80.

- C. For all structures in the Transitional zone, the square footage of structures upon the effective date of annexation may not be increased by more than fifty percent without rezoning under chapter 17.80.
- D. For all uses in the Transitional zone, the area of land in use upon the effective date of annexation may not be increased by more than fifty percent without approval under section 17.80. For example, if five acres of a forty-acre parcel is in use upon annexation, the amount in use may not be increased by more than fifty percent without approval under section 17.80.
- E. The limitations set out in this section are in addition to and not in lieu of limitations set out elsewhere in this title 17 or at law.
- F. Lawful prohibited uses may not be changed or expanded without rezoning under section 17.80 because they are non-conforming uses.
- G. Permitted uses under this chapter are not subject to the limitations or restrictions set out in chapter 17.68; provided however, if a structure is destroyed, its reconstruction is limited as set out in chapter 17.68.

17.59.090 Setbacks and buffers for expansion or new structures.

The following establish the setback and buffer requirements for expansion or new structures on a parcel in this district. These requirements do not apply to structures existing as of the date of annexation, but only to expansion of, or new structures. The setback and buffer requirements vary depending upon the nature of the expanding or new structure and the nature of the zoning or use of the abutting parcel.

- A. As a minimum setback, any expansion or new structure must be set back at least twenty-five feet from any public right-of-way and ten feet from any other property line.
- B. Expansions and new structures used for permitted uses, or uses similar to permitted uses, listed in the General Commercial, Industrial, Business Park, Airport Commercial, or Airport Industrial zoning districts, excluding uses listed in the Limited Commercial district, shall be set back twenty five feet from all property lines.
- C. Expansions and new structures used for permitted uses, or uses similar to permitted uses, listed in the General Commercial, Industrial, Business Park, Airport Commercial or Airport Industrial zoning districts, excluding uses listed in the Limited Commercial district, that are within thirty-five feet of property zoned or used for residential purposes shall have buffer landscaping. The landscaping shall be along the property line facing the residential use for the length of the expanded or new structure, plus thirty feet on either side of the structure.
 - 1. Buffer landscaping shall consist of shrubs, trees, or a combination which will attain a mature height of at least six feet, with an average height of eight feet, planted at intervals less than ten feet on center. The landscaping bed shall be eight feet in width. Deciduous trees or bushes may no make up more than fifty percent of the mixture.
 - 2. All landscaping requirements must be met within twelve months of occupancy, and continue to meet such standards thereafter. All dead shrubs and trees shall be replaced to maintain the landscaping.

17.59.100 Maximum height of structures.

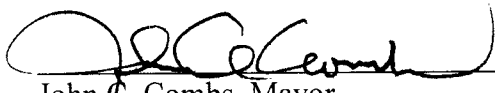
Maximum height of structures is thirty five (35) feet.

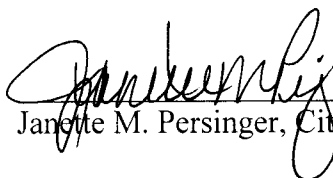
17.59.110 Off-street parking and loading.

Off-street parking and loading shall comply with chapter 17.64.

Section 5. Effective Date. This ordinance shall become effective immediately upon its adoption.

Adopted by the City Council of the City of Palmer, Alaska, this 12th day of October, 2004.



John C. Combs, Mayor

Janette M. Persinger, City Clerk