

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Planning Department and
Watershed Management Services
For reading: October 9, 2018

ANCHORAGE, ALASKA
AO No. 2018-67(S-1)

1 AN ORDINANCE OF THE ANCHORAGE ASSEMBLY REPEALING AND
2 REENACTING ANCHORAGE MUNICIPAL CODE (“AMC”) SUBSECTION
3 21.07.020B. TO UPDATE PROVISIONS REGARDING WATERCOURSE, WATER
4 BODY, AND WETLAND PROTECTION; AMENDING AMC CHAPTERS 21.02
5 AND 21.03 TO TRANSFER VARIANCE AUTHORITY FOR VARIANCES FROM
6 WATERCOURSE, WATER BODY, AND WETLAND PROTECTION
7 REGULATIONS TO THE ZONING BOARD OF EXAMINERS AND APPEALS;
8 ADDING A NEW SECTION TO AMC CHAPTER 21.12 REGARDING
9 NONCONFORMITIES WITH SAID PROTECTIONS; AND AMENDING AMC
10 21.14.040, DEFINITIONS, ACCORDINGLY.

11
12 (Planning and Zoning Commission Case 2017-0133)

13
14 **WHEREAS**, in response to increasing water quality and floodplain issues in
15 Anchorage streams, the Municipality adopted the original stream protection
16 ordinance in 1984, which established a 25-foot ~~[=]~~ setback and regulations for all
17 streams; and

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19 **WHEREAS**, over the ensuing years, national trends in the science of water quality
20 and stream protection generally identified that larger setbacks are more effective at
21 maintaining water quality, protecting stream habitats and reducing floodplain and
22 storm event impacts; and

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24 **WHEREAS**, increased setback widths have also been shown to protect private
25 property from flooding and icing and potentially reduce flood hazard insurance
26 premiums; ~~[=]~~ and

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28 **WHEREAS**, during the public hearing process for the adoption of the new Title 21,
29 the stream protection setback issue drew considerable public interest and
30 testimony; and

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32 **WHEREAS**, in response to this public interest and with the complications of applying
33 alternative stream setback widths, the Assembly adopted the new Title 21 with a
34 placeholder in new Section 21.07.020. B.1., which directed the Planning and Project
35 Management and Engineering Departments to further evaluate options for setback
36 widths and related regulations and provide a new recommendation at a later date;
37 and

38
39 **WHEREAS**, during the 2040 Land Use Plan adoption process, the ecological and
40 economic value and importance of urban stream channel restoration projects were
41 ~~[was]~~ identified and highlighted in the Plan; and

42

WHEREAS, these departments did additional setback width research and evaluated potential impacts of these to streamside properties and drafted a new suite of stream channel setbacks; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code ~~T/~~Table 21.02-1., Table 21.02.02-1., Summary of Major Title 21 Decision-Making and Review Responsibilities is hereby amended to read as follows (The remainder of the section is not affected and therefore not set out):

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p><i>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</i></p> <p>A = APPEAL = Authority to Hear and Decide Appeals D = DECISION = Responsible for Review and Final Decision H = HEARING = Public Hearing Required R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Alcohol—Special Land Use Permit	21.03.040	D-H/A ¹						R/D ¹
Certificates of Zoning Compliance	21.03.060					A		D
Comprehensive Plan Amendments	21.03.070C.	D-H ²	R-H ²					R
Conditional Uses	21.03.080		D-H				A	R
Flood Hazard Permits	21.03.090					A		D
Land Use Permits	21.03.100				A ³	A ³		D
Marijuana—Special Land Use Permit and associated variances	21.03.105	D-H						R
Master Plan, Institutional	21.03.110A.	D-H	R-H					R
Minor Modifications	21.03.120		D ⁴	D ⁴		A ⁵	A ⁵	D ⁴
Neighborhood or District Plans	21.03.130	D-H	R-H					R
Public Facility Site Selection	21.03.140	D-H/ A-H ⁶	R-H/ D-H ⁶					R
Rezoning (Map Amendments)	21.03.160	D-H	R-H					R
Sign Permits	21.03. 170					A		D
Site Plan Review, Administrative	21.03. 180C.			A				D
Site Plan Review, Major	21.03. 180D.		D-H ⁷	D-H ⁷			A	R
Street Review	21.03. 190B.		R ⁸ /D	R ⁸ / D				R
Trail Review	21.03.190C.			R/D				R
Preliminary Plat	21.03. 200C.5.		D-H ⁹	D-H ⁹	D- H ⁹		A	R
Abbreviated Plat	21.03. 200D.				A- H			D

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</p> <p>A = APPEAL = Authority to Hear and Decide Appeals D = DECISION = Responsible for Review and Final Decision H = HEARING = Public Hearing Required R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Commercial Tract Plat	21.03.200E.		D-H ¹⁰	D-H ¹⁰	D-H ¹⁰			R
Title 21, Text Amendments	21.03. 210	D-H	R-H		R-H ¹¹			R
Vacation of Public and Private Interest in Land	21.03.230				D or A ¹²		A ¹²	R or D ¹²
Variations from the provisions of 21.05.040K., <i>Telecommunication Facilities</i> ; 21.06, <i>Dimensional Standards and Measurements</i> (except subsection 21.06.030D.9., <i>Airport Height Regulations</i>); 21.07.020B., <i>Watercourse, Water Body, and Wetland Protection</i> ; 21.07.050, <i>Utility Distribution Facilities</i> ; 21.09.060, <i>Dimensional Standards</i> ; 21.09.070J., <i>Utilities and Utility Equipment Standards</i> ; 21.10.060, <i>Dimensional Standards</i> ; 21.12, <i>Nonconformities</i> .	21.03. 240					D-H		R
Variations from the provisions of 21.07.020C., <i>Steep Slope Development</i> ; 21.07.060, <i>Transportation and Connectivity</i> ; 21.08, <i>Subdivision Standards</i> ; 21.09.070C., <i>Hazard Areas</i> ; 21.09.070F., <i>Transportation and Connectivity</i> ; 21.09.070G.1., <i>Street and Trail Lighting Standards</i> ; 21.09.070H., <i>Pedestrian Circulation</i> ; 21.10.070B., <i>Transportation and Connectivity</i> ; 21.10.080, <i>Subdivision Standards</i> .	21.03. 240		D-H ¹³	D-H ¹³	D-H		A	R

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</p> <p>A = APPEAL = Authority to Hear and Decide Appeals D = DECISION = Responsible for Review and Final Decision H = HEARING = Public Hearing Required R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Variances from the district-specific standards of 21.04, <i>Zoning Districts</i> ; 21.09.040, <i>Zoning Districts</i> ; 21.10.040, <i>Zoning Districts</i> . the use-specific standards of 21.05, <i>Use Regulations</i> (except subsection 21.05.040K., <i>Telecommunication Facilities</i> , and section 21.05.055 <i>Marijuana Establishments</i>); 21.09.050, <i>Use Regulations</i> ; 21.10.050, <i>Use Regulations</i> . 21.07, <i>Development and Design Standards</i> (except 21.07.020B., <i>Watercourse, Water Body, and Wetland Protection</i> , 21.07.020C., <i>Steep Slope Development</i> , 21.07.050, <i>Utility Distribution Facilities</i> , and 21.07.060, <i>Transportation and Connectivity</i>); Those subsections of section 21.09.070, <i>Site Development and Design Standards</i> , not reserved to the platting authority or the zoning board of examiners and appeals; 21.09.080, <i>Building Design Standards</i> ; 21.10.070, <i>Development and Design Standards</i> (except 21.10.070B., <i>Transportation and Connectivity</i>); 21.11, <i>Signs</i>	21.03.240			D-H			A	R
Administrative Variances	21.03.240J.						A	D
Verification of Nonconforming Status	21.03.250						A	D

Section 2. Anchorage Municipal Code section 21.02.040 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.02.040 Urban Design Commission

A. Decision-Making Authority

The urban design commission has decision-making authority over the following:

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6. Variances from:

- a. The district-specific standards of chapter 21.04, Zoning Districts, section 21.09.040, Zoning Districts, and

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section 21.10.040, Zoning Districts;

b. The use-specific standards of chapter 21.05, Use Regulations (except subsection 21.05.040K., Telecommunication Facilities), section 21.09.050, Use Regulations, and section 21.10.050, Use Regulations;

c. Chapter 21.07, Development and Design Standards (except subsections 21.07.020B., Watercourse, Water Body, and Wetland Protection, 21.07.020C., Steep Slope Development, 21.07.050, Utility Distribution Facilities, and 21.07.060, Transportation and Connectivity);

d. Those provisions of section 21.09.070, Site Development and Design Standards, for which variance authority is not given to the platting authority or the zoning board of examiners and appeals;

e. Section 21.09.080, Building Design Standards;

f. Section 21.10.070, Development and Design Standards (except subsection 21.10.070B., Transportation and Connectivity); and

g. Chapter 21.11, Signs; and

*** *** ***
(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2015-36, § 2, 5-14-15; AO No. 2017-55, § 3, 4-11-17)

Section 3. Anchorage Municipal Code section 21.02.060 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.02.060 Zoning Board of Examiners and Appeals

A. Decision-Making Authority
The zoning board of examiners and appeals has decision-making authority over the following:

*** *** ***
2. Variances from:

a. Chapter 21.06, Dimensional Standards and Measurements (except subsection 21.06.030D.9., Airport Height Regulations);

b. Subsection 21.05.040K., Telecommunication Facilities;

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- c. Subsection 21.07.020B., Watercourse, Water Body, and Wetland Protection,
- d. Section 21.07.050, Utility Distribution Facilities;
- e[D]. Section 21.09.060, Dimensional Standards;
- f[E]. Subsection 21.09.070J., Utilities and Utility Equipment Standards;
- g[F]. Section 21.10.060., Dimensional Standards; and
- h[G]. Chapter 21.12, Nonconformities;

*** *** ***
 (AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2015-36, § 4, 5-14-15)

Section 4. Anchorage Municipal Code section 21.03.240 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.03.240 Variances

A. Purpose and Scope

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B. Decision-Making Bodies for Variance Requests

*** *** ***

3. The urban design commission shall be authorized to review and decide all requests for variances to standards of the following sections:

- a. District-specific standards of chapter 21.04, Zoning Districts, section 21.09.040, Zoning Districts (Girdwood), and section 21.10.040, Zoning Districts (Chugiak-Eagle River);
- b. Use-specific standards of chapter 21.05, Use Regulations (except subsection 21.05.040K., Telecommunication Facilities), section 21.09.050, Use Regulations, and section 21.10.050, Use Regulations;
- c. Chapter 21.07, Development and Design Standards (except subsections 21.07.020B., Watercourse, Water Body, and Wetland Protection, 21.07.020C., Steep Slope Development, 21.07.050, Utility Distribution Facilities, and 21.07.060, Transportation and Connectivity);

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- d. Those subsections of section 21.09.070 that are not reserved to the platting authority or the zoning board of examiners and appeals;
 - e. Section 21.09.080, Building Design Standards;
 - f. Section 21.10.070, Development and Design Standards (Chugiak-Eagle River) (except subsection 21.10.070B., Transportation and Connectivity); and
 - g. Chapter 21.11, Signs, including the maximum sign area, the maximum sign height, the location of the sign, and the number of signs on the parcel.
4. The zoning board of examiners and appeals shall be authorized to review and decide variance requests from:
- a. Subsection 21.05.040K., Telecommunication Facilities;
 - b. Chapter 21.06, Dimensional Standards and Measurements (except subsection 21.06.030D.9., Airport Height Regulations);
 - c. Subsection 21.07.020B., Watercourse, Water Body, and Wetland Protection;
 - d. Subsection 21.07.050, Utility Distribution Facilities;
 - e[D]. Section 21.09.060, Dimensional Standards;
 - f[E]. Subsection 21.09.070J., Utilities and Utility Equipment Standards;
 - g[F]. Section 21.10.060, Dimensional Standards; and
 - h[G]. Chapter 21.12, Nonconformities.

39 The zoning board may only grant variances from dimensional
40 standards.

41 *** *** ***

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43 (AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2015-36, § 10, 5-
44 14-15)

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46 **Section 5.** Anchorage Municipal Code subsection 21.07.020B. is hereby
47 repealed and reenacted to read as follows (in accordance with AMC section
48 1.05.050B., the complete text of the affected section being repealed is included in
49 Exhibit A attached hereto):
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21.07.020B. Watercourse, water body, and wetland protection.

1. Purpose

The following requirements are intended to promote, preserve, and enhance the important hydrologic, ecological, and aesthetic functions provided by watercourses, water bodies, and wetlands. Natural setbacks protect property values and prevent erosion, flooding, pollution and the spread of invasive plants.

These regulations recognize the interests of landowners of existing lots to make reasonable use of the land, and to allow uses that will conserve and protect streams, riparian vegetation, wetlands and water bodies ~~[to the extent practical]~~.

2. Applicability

This section applies in all zoning districts and to all development in the municipality, unless specifically exempted in this or another section of title 21.

3. Legally Established Uses

See section 21.12.045 for provisions relating to uses of setback areas that were legally established.

4. Relationship to Other Regulations

a. This subsection 21.07.020B. does not repeal or supersede any existing federal, state, or local laws. When this subsection imposes a higher or more restrictive standard than found in another applicable ordinance, statute, or regulation, this subsection shall apply.

b. No person shall engage in any activity that will disturb, remove, drain, fill, dredge, clear, destroy, or alter any area, including vegetation, within a wetland that falls in the jurisdiction of the federal government and its agencies, except as may be expressly allowed under a permit issued by the appropriate federal agency.

c. The decision-making body may grant final approval to any development or activity, including subdivisions and rezonings, in a wetland that falls within the federal government's jurisdiction conditioned upon all necessary federal approvals and permits having been obtained.

d. Stream, drainageway, water body, and wetland setback areas shall be credited toward any applicable private open space requirements or landscaping requirements only if such setback

1 areas serve the purposes of those requirements as set forth in
2 this title.

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4 5. Drainageways

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6 For all drainageways, flow paths may not be obstructed without
7 providing an alternate drainage path in accordance with B.7. below.

8
9 6. Stream Channel Alteration

10 A stream shall not be moved, ditched, or piped, except as follows:

- 11
12
13 a. The applicable federal and state agencies have authorized the
14 alteration, and
- 15
16 b. Watershed Management Services has authorized the
17 alteration, after considering potential impacts including the
18 following items:
- 19
20 i. Practical alternatives to moving, piping, or otherwise
21 altering the channel.
- 22
23 ii. The potential to increase flooding or erosion problems
24 upstream or downstream.
- 25
26 iii. Any potential obstruction of water flow.
- 27
28 iv. The flow lines of the altered section of the channel as
29 related to those in the existing channel at the endpoints
30 of the alteration.
- 31
32 v. The adequacy of the gradient/meander balance, grade
33 control, and bed stability to maintain the natural stream
34 function of water conveyance and sediment transport.
- 35
36 vi. If applicable, the impact on fish habitat or fish passage.
- 37
38 vii. The alteration does not increase the setback on adjacent
39 properties without written permission from the
40 impacted property owner(s). This written
41 permission shall be recorded in the Anchorage
42 Recording District, Third Judicial District, State of
43 Alaska.
- 44
45 viii. The alteration will not lead to an increase in flooding,
46 erosion, or icing problems upstream or
47 downstream.

48
49 7. Drainageway Alteration

1 A drainageway may be moved, culverted, or piped, in a manner that
2 preserves drainage continuity, subject to the following:

- 3
- 4 a. Authorization from a state or federal agency, if under the
5 jurisdiction of such agency;
- 6
- 7 b. Authorization from Watershed Management Services; and
- 8
- 9 c. The alteration will not lead to an increase in flooding, erosion,
10 or icing problems upstream or downstream.

11

12 8. Boundary Delineation

13

14 a. Official Definitions and Standards

15

16 i. In cases where watercourses or water bodies are not
17 mapped and recorded in official plans or other
18 documents, delineation of such features shall be made
19 according to Watershed Management Services
20 procedures, and shall be subject to formal verification by
21 **[the]** Watershed Management Services.

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23 ii. In cases where wetlands are not mapped and recorded
24 in official plans or other documents, including the
25 Anchorage Wetlands Management Plan, delineation of
26 such features shall be performed using procedures as
27 described by the U.S. Army Corps of Engineers.
28 Delineations shall be subject to formal verification by the
29 U.S. Army Corps of Engineers, which may expire.

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31 b. Watercourse Boundaries

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33 i. Watercourse boundaries shall be delineated at the
34 ordinary high-water mark or, if not readily discernible,
35 the defined bank of the stream, as those terms are
36 defined in chapter 21.14. In those instances where the
37 defined bank of the watercourse is not readily
38 discernible, **[the]** Watershed Management Services
39 shall establish the effective ordinary high-water mark.
40 Watershed Management Services shall maintain the
41 official record of the centerline of all watercourses.

42

43 ii. All new plats of record after [effective date] shall show
44 the centerline of all streams and major drainageways. A
45 plat note shall be included indicating that setbacks are
46 according to the current physical location of the stream
47 or drainageway and current version of title 21.

48

49 c. Wetland Boundaries

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1 i. Mapped Wetlands
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3 Boundary delineation of wetlands shall be established
4 by reference to the Anchorage Wetlands Management
5 Plan, an element of the Anchorage comprehensive plan.
6 Preliminary plats shall depict, or otherwise annotate,
7 wetland boundaries.
8

9 ii. Unmapped Wetlands
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11 The review of a development proposal may discover a
12 potential wetland that has not been mapped or for which
13 the boundaries have not been clearly established. In
14 such instances, the boundaries of the wetland shall be
15 delineated according to subsection 8.a.ii. above. Any
16 new wetland boundaries delineated herein shall be
17 submitted to the U.S. Army Corps of Engineers for
18 approval with notification provided to the municipal
19 planning department.
20

21 9. Stream Setbacks
22

23 Stream setbacks are intended to reflect the size and
24 characteristics of the waterbody, as well as the pattern of
25 adjacent land development. Large, meandering streams
26 require larger buffers than small, channelized streams.
27 Similarly, large buffers provide greater benefit where intact
28 riparian areas exist than those along sections of streams with
29 encroaching development.
30

31 a. Designation
32

33 Stream setbacks are established around all streams in the
34 municipality. Stream setbacks comprise two distinct zones:
35 the streamside zone and the riparian edge zone.
36

37 b. Setback Widths for Streams
38

39 i. Stream setback widths shall be measured horizontally
40 starting from the ordinary high-water mark or, if the
41 ordinary high water mark is not readily discernible, from
42 each side of the defined bank of the stream.
43

44 ii. Required minimum stream setback widths shall be as
45 provided in table 21.07-1 below. Exceptions to setback
46 widths are provided in subsection 9.c. below.
47

48 iii. For parcels where there are wetlands contiguous with a
49 stream, additional setback requirements are listed in the

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Wetland Designation and Enforceable and Administrative Policies and Management Strategies tables of the Anchorage Wetlands Management Plan.

TABLE 21.07-1. MINIMUM STREAM SETBACK WIDTH PER SIDE			
Stream	Streamside Zone	Riparian Edge Zone	Total Stream Setback Width Per Side
Bird Creek, California Creek, Eagle River, Eklutna River, Glacier Creek, Knik River, Placer River [CREEK], Portage Creek, Skookum Creek, Twentymile River,	25 feet	75 feet	100 feet
Bayshore Creek, Campbell Creek, Carol Creek, Chester Creek, Clunie Creek, Craig Creek, Crow Creek, Crystal Creek, Edmonds Lake Creek, Elmore Creek, Falling Water Creek, Fire Creek, Fossil Creek, Gunnery Creek, Hidden Creek, Indian Creek, Kern Creek, Little Peters Creek, Little Campbell Creek, Little Rabbit Creek, Little Survival Creek, Meadow Creek, McHugh Creek, Mink Creek, Mirror Creek, Parks Creek, North Branch North Fork Little Campbell Creek, North Fork Campbell Creek, North Fork Little Campbell Creek, Penguin Creek, Peters Creek, Peterson Creek, Potter Creek, Rabbit Creek, Ship Creek, South Fork Campbell Creek, South Fork Eagle River, South Branch North Fork Little Campbell Creek, South Fork Little Campbell Creek, Stuckagain Creek, Rainbow Creek, Tidewater Slough, Thunderbird Creek, Tiny Creek, Virgin Creek, Winner Creek,	25 feet	25 feet	50 Feet

Alyeska Creek, Eagle Loop Creek, Fish Creek, Furrow Creek, Hood Creek, Middle Fork Chester Creek, Moose Meadows Creek, North Fork Chester Creek, North Branch South Fork Chester Creek, Reflection Lake Creek, All other streams [named or otherwise,] and unnamed <u>stream</u> tributaries [of all streams]	25 feet	0 feet	25 feet
<u>Within the Hillside Watershed Protection Area: All named streams listed above</u>	<u>50 feet</u>	<u>0 feet</u>	<u>50 feet</u>
<u>Within the Hillside Watershed Protection Area: All other streams and unnamed stream tributaries</u>	<u>25 feet</u>	<u>25 feet</u>	<u>50 feet</u>
Ephemeral channels	10 feet	0 feet	10 feet

[iii.]

c [b]. Exceptions

i. Stream Setback Limited to 25-Feet on Small, Existing Parcels
Platted parcels, existing as of [effective date], abutting or encompassing a stream and less than 10,000 square feet in size are subject to only the 25-foot wide streamside zone [~~creek~~] stream setback requirement.

ii. Hillside Watershed Protection Area

Platted parcels, existing as of [effective date], abutting or encompassing a stream and less than 50,000 square feet in size are subject to only the 25-foot wide streamside zone stream setback and 25-foot riparian edge zone requirement.

[ii]iii. Streams in Pipes or Culverts

Segments of streams contained in pipes or culverts longer than 50 feet are exempt from the stream setback requirement. In cases where a drainage easement does not exist along the piped section of stream, a piped conveyance of any length will have a setback in accordance with B.10. below

[iii]iv. Streets in Stream Setbacks

Where a street or railroad existing as of [effective date] is located within a stream setback, the setback on the

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1 street side shall extend only to the edge of the improved
 2 street or railroad and not continue over or past the
 3 improvement. The full setback shall exist on the non-
 4 street side of the stream.

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 6 **v.** Alternate Means of Compliance and Alternate Setback
 7 Options; Including Urban Stream Restoration and
 8 Stream Daylighting Projects, Stream-Related Greenway
 9 Development Projects, and Similar Actions for the
 10 Comprehensive Plan

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 12 (A) The provisions of this section are not intended to
 13 prevent the implementation of measures or
 14 activities that achieve the goals outlined in B.1.
 15 above, or elements of the Comprehensive Plan,
 16 unless specifically prohibited by this code, and
 17 provided the alternate means of compliance are
 18 approved by Watershed Management Services

19
 20 (B) Watershed Management Services may approve
 21 any such alternate means of compliance provided
 22 that they find that the proposed design complies
 23 with the intent and purpose of this code, protects
 24 the integrity of stream buffers, and are resistant
 25 to effects of flooding, erosion and icing, in
 26 accordance with subsection B.6. above.

27
 28 (C) The details of any action granting modifications or
 29 the acceptance of a compliance alternative shall
 30 be recorded and entered into Watershed
 31 Management Services files.

32
 33 **d[e].**Streamside Zone

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 35 The uses/activities (and their maintenance) listed below are
 36 permitted in the streamside zone. Otherwise, no disturbance
 37 of the streamside zone is permitted. After disturbance
 38 associated with the uses/activities below, all disturbed areas
 39 shall be revegetated with non-invasive trees, shrubs, and
 40 ground cover similar to natural vegetation in the area.
 41 Revegetation shall occur during the same growing season as
 42 the disturbance activity, except as otherwise permitted by **[the**
 43 **director of]** Watershed Management Services.

44
 45 i. Vegetation maintenance or removal, in accordance with
 46 subsection B.13. below.

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 48 ii. Stream channel and/or stream bank enhancement
 49 and/or restoration activities, when authorized by
 50 Watershed Management Services.

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- iii. Utility mainline and service lines, road, and/or trail crossings, as close to perpendicular to the stream channel as possible. This exception does not apply to utility components that are chiefly part of a building, such as pedestals, masts, meters, etc.
 - iv. Flood prevention/control measures and storm water infrastructure, when authorized by the Watershed Management Services
 - v. Hydro power generation infrastructure, by administrative site plan review to minimize impacts to the setback area.
 - vi. Trails no wider than three feet and unpaved except where part of an **[urban]** stream restoration project.
 - vii. Structures used for fishing platforms, stream overlooks, wildlife viewing.
 - viii. Stream gaging and water quality monitoring.
 - ix. Emergency action(s) necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be taken at any time without advance notice; provided that, the notice shall be given at the earliest opportunity thereafter. These actions may be subject to the conditions of other municipal, state, or federal regulations.

31 **e[d]**. Riparian Edge Zone

32
33 The uses/activities (and their maintenance) listed below are
34 permitted in the riparian edge zone. Otherwise, no disturbance
35 of the riparian edge zone is permitted. After disturbance
36 associated with the uses/activities below, all disturbed areas
37 shall be revegetated with non-invasive trees, shrubs, and
38 ground cover similar to natural vegetation in the area.
39 Revegetation shall occur during the same growing season as
40 the disturbance activity, except as otherwise permitted by **[the**
41 **director-]Watershed Management Services.**

42
43 **[Uses/activities allowed in the streamside zone.]**

- 44
45
46
47
48
49
50
- i. Utilities service and main lines running parallel to the stream channel, when determined by the utility and Watershed Management Services that no other alternative exists. Access to such utilities for maintenance shall be at specific points rather than parallel to the utility corridor whenever possible. This

1 exception does not apply to utility components that are
 2 chiefly part of a building, such as pedestals, masts,
 3 meters, etc.

4
 5 ii. Paved or unpaved trails. Trails must be constructed
 6 near natural grade to minimize clearing, filling, and
 7 grading.

8
 9 iii. Recreational fields and golf course fairways open to the
 10 public.

11
 12 iv. Gardens, lawn, and other residential landscaping, up to
 13 one-half of the riparian edge zone area on the lot.

14
 15 v. Accessory structures less than 150 square feet and not
 16 on a permanent foundation.

17
 18 vi. Decks, not to exceed 500 square feet.

19
 20 vii. Wells.

21
 22 viii. Snow storage, in accordance with subsection
 23 21.07.040F.8.

24
 25 ix. The development footprint of items iv, v, vi, vii, and viii
 26 [~~and ix~~] of the subsection may not cumulatively exceed
 27 one-half of the riparian edge zone on the lot.

28 [~~x~~.]

29
 30 10. Major Drainageway Setbacks

31
 32 a. Purpose

33
 34 Drainageways provide for the orderly drainage of stormwater,
 35 snowmelt, groundwater discharge, and all other perennial or
 36 intermittent flows. Drainageway setbacks are necessary for the
 37 preservation of drainage continuity under current and future
 38 development.

39
 40 b. Setback Widths

41
 42 Buildings and accessory structures shall be set back no less
 43 than 10 feet horizontally from the edge of each side of a major
 44 drainageway, or from the middle of the major drainageway if no
 45 defined channel edge exists. Major drainageways are defined
 46 or verified by Watershed Management Services. Watershed
 47 Management Services, may require a greater setback for major
 48 drainageways if, in their professional judgment, the additional
 49 setback is necessary to prevent damage to property, reduce

1 risk to health or safety or necessary to comply with other
2 municipal, state, or federal requirements.

3
4 c. Uses in the Setback

5
6 The drainageway setback shall be maintained in a stable and
7 non-eroding state. Nothing in the drainageway setback shall
8 inhibit the passage of drainage flows, or cause erosion and/or
9 icing.

10
11 11. Water Body Setbacks

12
13 a. Setback Widths

14
15 All water bodies shall have setbacks. Buildings, accessory
16 structures, and other impervious surfaces shall be set back at
17 least 25 feet horizontally from the ordinary high water mark of
18 water bodies, except as allowed below. When wetlands are
19 present and contiguous to the water body, additional setback
20 requirements are listed in the Anchorage Wetlands
21 Management Plan.

22
23 b. Allowed and Prohibited Uses

24
25 The uses/activities (and their maintenance) listed below are
26 permitted in the water body setback. Otherwise, the setback
27 shall be vegetated

28
29 i. Water-related accessory structures less than 500
30 square feet, such as boathouses or floatplane storage
31 buildings. If the water body setback coincides with the
32 side or rear setback of the lot, this allowance shall
33 supersede the size limitation of subsection
34 21.05.070B.3.b.ii.

35
36 ii. Minimal areas to allow for access to uses, such as
37 docks, boathouses, and floatplane storage, that require
38 direct access to a water body by their very nature or
39 function.

40
41 iii. Municipal beaches and associated structures/facilities.

42
43 iv. Structures used for fishing platforms, water body
44 overlooks, wildlife viewing, and the like, when authorized
45 by [THE] Watershed Management Services.

46
47 12. Wetland Setbacks

48
49 a. Setback Widths

50

1 All wetlands shall have setbacks. All buildings, accessory
2 structures, fills, ~~[and other]~~ storage of materials, and
3 impervious surfaces shall be set back at least 15 feet
4 horizontally from the delineated edge of all wetlands except
5 those authorized for development.
6

7 b. Allowed and Prohibited Uses
8

9 No disturbance is permitted in the 15-foot setback area, other
10 than access to permitted decks, boardwalks, and wildlife
11 viewing platforms.
12

13 c. Implementation of the Anchorage Wetlands Management Plan
14

15 i. Zoning and Platting Actions
16

17 Zoning and platting actions taken under this title shall be
18 consistent with the Anchorage Wetlands Management
19 Plan. When feasible, accounting for lot sizes and
20 configurations, access needs, and viable economic use
21 of land, class A and those class B wetlands which, as a
22 result of a U.S. Army Corps of Engineers decision or
23 permit condition, are not authorized for development,
24 shall be platted into separate tracts and not included as
25 part of a development lot. Wetland classes are defined
26 and delineated in the Anchorage Wetlands Management
27 Plan.
28

29 ii. Application of Plan to Approved Projects
30

31 Conditional uses and preliminary plats approved prior to
32 July 9, 2014, the date of adoption of the current
33 Anchorage Wetlands Management Plan, shall not have
34 additional conditions imposed upon them as a result of
35 requirements of the plan except as follows:
36

37 (A) The "A" wetland designation shall apply
38 regardless of prior approvals.
39

40 (B) Approved plats or conditional uses in wetlands
41 that are returned to the platting authority or
42 planning and zoning commission for major
43 amendment may be examined for conformity with
44 goals and enforceable policies of the Anchorage
45 Wetlands Management Plan.
46

47 (C) A new U.S. Army Corps of Engineers permit is
48 required.
49

1 13. Maintenance
2

3 Maintenance, modification, or removal of trees or shrubs from stream,
4 water body, or wetland setback areas is allowed as follows:
5

6 a. Pruning of trees and woody shrubs for the health and/or
7 renewal of vegetation shall not result in removal of more than
8 25% of the living crown of a tree, nor jeopardize the health and
9 natural shape of a tree or shrub.

10
11 b. With Alaska Department of Fish and Game authorization, the
12 removal of downed trees from the stream channel is allowed.
13 The root structure shall be left for ground stabilization.
14

15 c. A tree or shrub, or portion thereof, may be removed for one or
16 more of the following reasons. If necessary, clarification of
17 these conditions shall be obtained from Watershed
18 Management Services:
19

20 i. The tree or shrub, or portion thereof, is dead.

21 ii. The tree or shrub is a safety hazard to person, property,
22 or public.
23

24 iii. The tree or shrub removal is for the purpose of
25 preventing the spread of disease to other trees.
26

27 iv. As part of a coordinated invasive plant control project
28 approved by a relevant municipal, state, or federal
29 agency.
30

31
32 d. Whenever a damaged, dead, or diseased tree is removed, it
33 shall be replaced with another tree having a minimum diameter
34 of two inches at 4.5 feet above ground. Whenever a shrub is
35 removed, it shall be replaced with another shrub having a
36 minimum height at time of planting of 18 inches.
37

38 e. The use of herbicides for the control or removal of vegetation
39 is prohibited in the streamside zone unless otherwise approved
40 by Watershed Management Services.
41

42 f. Unless otherwise accepted by the municipality, any
43 maintenance of the stream setback shall be the responsibility
44 of the property owner.
45

46 14. Violations
47

48 Where a violation of this subsection has been established, restoration
49 approved by Watershed Management Services shall be required. All
50 disturbed areas shall be revegetated with non-invasive trees, shrubs,

and ground cover similar to natural vegetation in the area. Revegetation shall occur during the same growing season as the disturbance activity, except as otherwise permitted by Watershed Management Services.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2016-34(S), § 1, 4-12-16)

Section 6. Anchorage Municipal Code section 21.12.10 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

21.12.010 General Provisions

A. Purpose

*** **

2. This chapter also regulates characteristics of use such as parking and landscaping. Section 21.12.060 addresses the requirements for developments that don't comply with the district-specific standards of chapter 21.04, the use-specific standards of chapter 21.05, or the design and development standards of chapter 21.07, [(] except for section 21.07.020B., Stream, Water Body, and Wetland Protection [)]. The nonconforming standards for this section are contained in 21.12.045., Nonconforming Encroachments into Watercourse, Water Body, and Wetland Setbacks.

(AO 2012-124(S), 2-26-13)

Section 7. Anchorage Municipal Code chapter 21.12 is hereby amended to add a new section 21.12.045 as follows:

21.12.045 Nonconforming encroachments into watercourse, water body, and wetland setbacks

A. Continuation of Nonconforming Structures and Uses Within Required Stream Setbacks

For the purposes of this code chapter, legally established means legally constructed, permitted, part of an approved conditional use, or part of an approved master plan. Structures and uses located within the streamside zone and the riparian edge zone that were legally established on or before [effective date] are permitted to remain subject to the following:

1. Streamside Zone

a. Structures, including portions of structures that are located within the streamside zone and are damaged,

1 removed, or destroyed, may be reconstructed within the
2 streamside zone as long as the structure is
3 reconstructed with the same dimensions (or less) and in
4 the same location as the previous structure, or moved to
5 a more conforming location. Reconstruction may require
6 approval of municipal, state, or federal agencies.
7

8 b. If a structure or portion of a structure located within the
9 streamside zone is damaged, removed, or destroyed,
10 and reconstruction is not begun within five years, then
11 the structure loses nonconforming rights and may only
12 be reconstructed in a conforming location.
13

14 c. Once a garden, lawn, or similar use has been removed,
15 the use may not be replaced with another garden, lawn
16 or similar use.
17

18 2. Riparian Edge Zone 19

20 a. Structures, including portions of structures, that are
21 located within the riparian edge zone and are damaged,
22 removed, or destroyed, may be reconstructed within the
23 riparian edge zone as long as the structure is
24 reconstructed with the same dimensions (or less) and in
25 the same location as the previous structure, or moved to
26 a more conforming location. Reconstruction may
27 require approval of municipal, state, or federal agencies.
28

29 b. If a structure or portion of a structure located within the
30 riparian edge zone is damaged, removed, or destroyed,
31 and reconstruction is not begun within five years, then
32 the structure loses nonconforming rights and may only
33 be reconstructed in a conforming location.
34

35 B. Continuation of Nonconforming Structures and Uses Within Required 36 Major Drainageway, Water Body, and Wetland Setbacks 37

38 Structures and uses located within a major drainageway setback, a
39 water body setback or a wetland setback that were legally established
40 on or before [effective date] are permitted to remain subject to section
41 21.12.040 (structures) or section 21.12.030 (uses).
42

43 C. Variance Requests 44

45 Anyone wishing to construct, reconstruct, or expand a structure within
46 the riparian edge zone that is not in compliance with subsection A.2.
47 above may request a variance from the Zoning Board of Examiners
48 and Appeals. The application fee for such variance requests shall be
49 waived for a period of five years, beginning [effective date].
50

Section 8. Anchorage Municipal Code section 21.12.60 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

21.12.060 Characteristics of Use

A. Developments are Conforming

1. Development that was legally established before January 1, 2014 that does not comply with the district-specific standards of chapter 21.04, the use-specific standards of chapter 21.05, or the design and development standards of chapter 21.07 (except for section 21.07.020B., *Stream, Water Body, and Wetland Protection*) shall be considered conforming on January 1, 2014, and subject to this section. The standards for development that do not conform to section 21.07.020B., *Stream, Water Body, and Wetland Protection*, [SHALL BE CONSIDERED NONCONFORMING] are contained in 21.12.045., *Nonconforming Encroachments into Watercourse, Water Body, and Wetland Setbacks*.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2015-82, § 6, 7-28-15; AO No. 2017-55, § 13, 4-11-17)

Section 9/7. Anchorage Municipal Code section 21.14.040 is hereby amended as follows (the remainder of the section is not affected and therefore not set out):

21.14.040 Definitions

When used in this title, the following words and terms shall have the meaning set forth in this section, unless other provisions of this title specifically indicate otherwise.

*** *** ***

Dedication

The devotion of land or an interest in land by the owner to a public use, which is accepted and used presently or in the future for such public purpose.

[DEFINED BANK
THE USUAL BOUNDARIES, NOT THE FLOOD BOUNDARIES, OF A
STREAM CHANNEL.]

Density, Gross

The total number of dwelling units per acre within any defined geographic area.

*** *** ***

Entrance, Primary

1
2 A principal entry through which people, including customers, residents, or
3 members of the public enter a building. For any commercial or community
4 establishment which serves the visiting public, a primary entrance is open to
5 the public during all regular business hours and directly accesses lobby,
6 reception, retail, or other interior areas designed to receive the public. Fire
7 exits, service doors, vehicle entrances, doors leading directly into a garage
8 or storage space accessory to the use, and employee entrances are not
9 primary entrances. A building or establishment may have more than one
10 primary entrance. For residential dwelling units, the main front entry serving
11 the dwelling(s) is the "primary front entrance."

12 13 Ephemeral Channel

14
15 A natural watercourse [DRAINAGEWAY] that is channelized over part or all
16 of its length and conveys surface water flows from single storm or snow melt
17 events for short durations only. **[EPHEMERAL CHANNELS ARE different**
18 **from intermittent streams.]** They are transitional to streams but lack the
19 overall geomorphic, hydrologic, and biologic characteristics commonly
20 associated with stream features. Prolonged flow may occur along very short
21 and isolated segments of an ephemeral channel.

22 23 Erosion

24
25 The wearing away of land surface by the action of wind, water, gravity, or any
26 combination thereof.

27
28 *** *** ***

29 Hillside Watershed Protection Area

30
31 The Hillside Watershed Protection Area contains a high number of
32 headwater streams. Larger stream setbacks in this area are important
33 for protecting the quality of water flowing to downstream receiving
34 waters, including Potter Marsh. The boundary is defined as: starting at
35 the southeast intersection of Lake Otis Boulevard and Abbott Road,
36 continuing east to the boundary of Chugach State Park, following the
37 Chugach State Park Boundary south and west to the Seward Highway,
38 north along the Seward Highway to O'Malley Road, east to Lake Otis
39 Boulevard, and north to the starting point.

40
41 *** *** ***

42 43 Maintenance Easement

44
45 An easement on a lot or parcel permitting entry to that lot or parcel for the
46 purpose of maintaining, repairing, or reconstructing a structure or other
47 feature on the lot or parcel, or an abutting lot or parcel.

48 49 Major Drainageway

50

1 That portion of any drainageway, constructed or natural, that either does, or
 2 will under full development, carry a significant peak flow; [ALL EPHEMERAL
 3 CHANNELS ARE MAJOR DRAINAGEWAYS;] all constructed or natural
 4 drainageways with total contributing areas larger than 40 acres are major
 5 drainageways.

6
 7 **Manual of Uniform Traffic Control Devices (MUTCD)**

8
 9 The most current manual or successor document(s) addressing the design
 10 and use of traffic control devices, as published, amended and/or interpreted
 11 by the U.S. Department of Transportation.

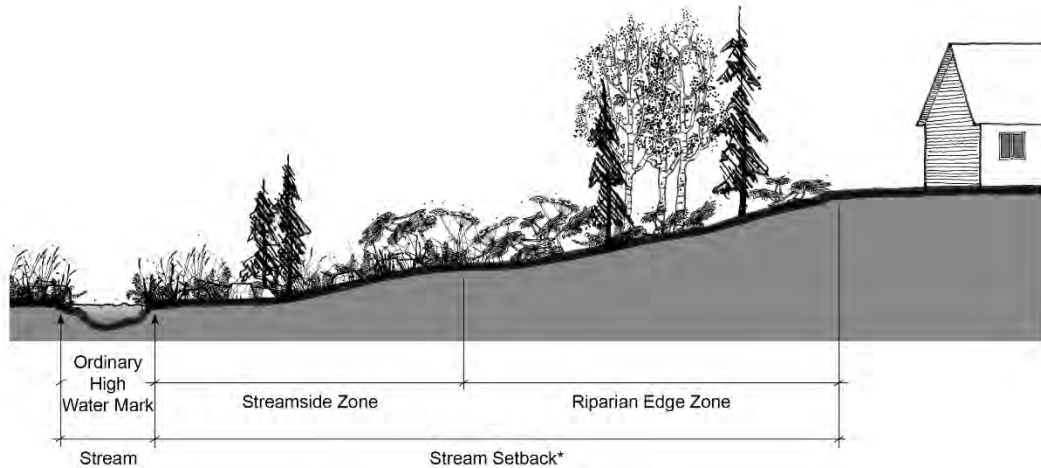
12 *** **

13
 14 **Right-of-Way**

15
 16 A defined area of land, reserved or dedicated for a street, alley, walkway,
 17 trail, utility, or other public purpose.

18
 19 **Riparian Edge Zone**

20
 21 The outer portion of the stream setback, extending landward from the outer
 22 edge of the streamside zone to the boundary of the stream setback.



*Width of stream setback and its streamside and riparian edge zones varies. Refer to AMC 21.07.020B.

23
 24 **Roof**

25
 26 The cover of any building or structure, including the eaves and similar
 27 projections.

28 *** **

29
 30 **Stream Bed**

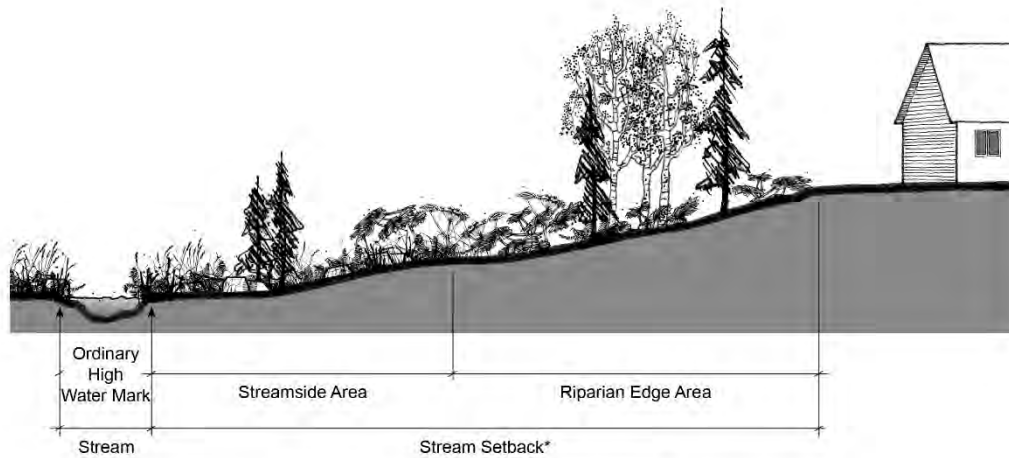
31
 32 That portion of a stream utilized for water flow during nonflood periods,
 33 normally extending from the thalweg (low point) to each bank.
 34
 35

Stream Setback

A minimum setback from the edge of a stream, within which development is limited and the land adjacent to the stream is substantially protected in a natural state, in conformance with section 21.07.020. The stream setback comprises the streamside zone and riparian edge zone.

Streamside Zone

The inner portion of the stream setback, extending landward from the defined bank of the stream at ordinary high water, out to the riparian edge zone of the stream setback.



*Width of stream setback and its streamside and riparian edge areas varies. Refer to AMC 21.07.020B.

Street

A thoroughfare improved or intended to be improved for vehicular and pedestrian travel permanently open to general public use, that affords the principal means of access, frontage and address to individual buildings, lots and blocks. Streets include a road, avenue, place, drive, boulevard, highway or any other similar means of public thoroughfare, except an alley. A street is not a driveway. Unless otherwise indicated, the term street shall refer to both public and private streets. A street may be located on private property and not be publicly owned or maintained, if it performs the roles of a public street.

*** *** ***

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2015-82, § 7, 7-28-15 ; AO No. 2015-100, § 9, 10-13-15 ; AO No. 2015-133(S), § 6, 2-23-16 ; AO No. 2015-138, § 5, 1-12-16 ; AO No. 2015-142(S-1), § 10, 6-21-16 ; AO No. 2016-3(S), § 18, 2-23-16 ; AO No. 2016-144(S) , § 2, 1-1-17; AO No. 2017-55 , § 14, 4-11-17; AO No. 2018-12 , § 2, 2-27-18))

Section 10/81. This ordinance shall be effective immediately upon passage and approval by the Assembly.

1 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
2 _____, 2018.

3 _____
4 Chair

5 ATTEST:
6 _____
7 Municipal Clerk



MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 502-2018(A)

Meeting Date: October 9, 2018

1 **From:** MAYOR

2
3 **Subject:** AN ORDINANCE OF THE ANCHORAGE ASSEMBLY
4 REPEALING AND REENACTING ANCHORAGE MUNICIPAL
5 CODE (“AMC”) SUBSECTION 21.07.020B. TO UPDATE
6 PROVISIONS REGARDING WATERCOURSE, WATER BODY,
7 AND WETLAND PROTECTION; AMENDING AMC CHAPTERS
8 21.02 AND 21.03 TO TRANSFER VARIANCE AUTHORITY FOR
9 VARIANCES FROM WATERCOURSE, WATER BODY, AND
10 WETLAND PROTECTION REGULATIONS TO THE ZONING
11 BOARD OF EXAMINERS AND APPEALS; ADDING A NEW
12 SECTION TO AMC CHAPTER 21.12 REGARDING
13 NONCONFORMITIES WITH SAID PROTECTIONS; AND
14 AMENDING AMC 21.14.040, DEFINITIONS, ACCORDINGLY.
15

16 The Project Management and Engineering Department, Watershed Management
17 Division (WMS) identified necessary changes to Anchorage Municipal Code, to
18 update provisions regarding Stream, Water Body, and Wetland Protection.
19

20 The proposed changes include modifications to several chapters of Title 21
21 including Chapter 7, Stream, Water Body, and Wetland Protection; Chapters 2,
22 which transfer variance authority for variances from stream, water body, and
23 wetland protection regulations to the Zoning Board of Examiners and Appeals;
24 adding a new section to Chapter 12 regarding nonconformities with said
25 protections and setbacks; and amending Chapter 14, Definitions.
26

27 The primary driver for this effort is language contained in the current code
28 instructing the MOA to revisit the issue of stream setbacks and:
29

- 30 1. To provide wider stream protection setbacks; and
31 2. To provide relief for property that would be impacted or rendered
32 nonconforming by such wider setbacks.
33

34 This ordinance addresses both goals outlined by Title 21.
35

36 The version of this ordinance before the Assembly has taken into account
37 amendments approved by the Planning and Zoning Commission during their May
38 7, 2018 meeting.
39

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14

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by: Shawn Odell, Senior Planner, Planning
Department
Approved by: Michelle J. McNulty, Planning Director
Concur: Christopher M. Schutte, Director
Office of Economic & Community Development
Concur: Lance Wilber, Director
Office of Management and Budget
Concur: Alexander Slivka, CFO
Concur: Rebecca A. Windt Pearson, Municipal Attorney
Concur: William D. Falsey, Municipal Manager
Respectfully submitted: Ethan A. Berkowitz, Mayor