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AMENDMENTS & POLICY ISSUES

CHAPTER 1: General Provisions

- 1) 21.01.060 D. Added language on the Users' Guide that is referred to repeatedly throughout the proposed Title 21 to insure that the Users' Guide deals with process and procedure and NOT substantive land use regulation.
- 2) 21.01.060 B. Amendment # 1. Rejected. This Amendment would have eliminated the language from the Provisionally Adopted Code that makes it clear that the specific terms and provisions of Title 21 controlling land use. Instead, this section makes it crystal clear that the "specific design and development standards" in title 21 "trump" the "general provisions" of the Comprehensive Plan.
- 3) 21,01.070 B. Amended to require staff NOT to apply court invalidated provisions to any other applications. The current provision allowed the staff to continue to apply a provision of the code that the courts had invalidated on one case to any subsequent case.
- 4) Table 21.01-1 Comprehensive Plan Elements. Eliminated several of these Plan Elements. Many of the proposed elements that were eliminated from this table were not adopted plans. They were various "studies" that have never been reviewed or approved by the decision-making bodies. All adopted plans, many of which are undoubtedly out of date, were retained because they have been adopted by a decision making body. Those elements deleted, although not "official elements of the comprehensive plan...., may be valid planning tools."
- 5) 21.01.080 D. Amendment # 2. Rejected. Instead the existing language was amended to make it clear that the "goals, policies and objectives of the comprehensive plan are being implemented ..." by title 21. The purpose of title 21 is to implement the comprehensive plan so that the specific and detailed requirements of land use development are codified and the far more subjective provisions of the comprehensive plan are NOT the basis on which land use permits and applications are granted.

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- 6) 21.01.090 C. 1. This section provides that buildings and lots that legally existed on the effective date of this Title may become nonconforming under chapter 12. With the amendments made to chapter 12, this provision is acceptable.
- 7) 21.01.090 D. Amendment # 3. Adopted.
- 8) 21.01.090 E. Staff deleted the “Investment Backed Expectations”. See proposed amendment # 4. This has implications re: effective date.
 - a) POLICY ISSUE: With the elimination of the investment backed expectations concept (no language ever drafted), we have eliminated one tool to minimize the impacts of this new code.
 - b) However given the difficulty of writing language for this concept, I recommend consideration of an effective date for this code in the range of 12 months after adoption and timed to minimize the impacts on then current development plans.
 - c) Further, I recommend that, after adoption during the period leading up to the effective date, that should a developer elect to proceed under the new code that would be permitted.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 2: Boards & Commissions

- 1) Table 21.02-1. Summary of Major Title 21 Decision Making and Review Responsibilities.
 - a) Staff gave the Urban Design Commission (UDC) several new duties and responsibilities. I moved most of these to Planning (PNZ), to the Zoning Board of Examiners and Appeals (ZBEA) and to the Platting Board.
 - b) This resulted in language changes in 21.02.030 (PNZ), in 21.02.040 (UDC), 21.02.050 (Platting) and 21.02.060 (ZBEA).
 - c) Rejected Amendments 5 & 6. 5 because it is covered in the trails section and 6 because it puts UDC in charge of design landscaping for roads. Roads are being reserved for PNZ. See Chapter 3. 21.03.180 (formerly 190).

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CHAPTER 3: Review and Approval Procedures

Note: 21.03.170 Sign Permits. This section was moved to 21.11 which deals exclusively with signs. The remaining sections were renumbered. The new section numbers are used in this document.

- 1) 21.03.020 C. Community Meetings. Amended this section to simplify the process; to establish that Community Councils are the place to go for community presentations; and to delete the cumbersome and unnecessary reporting requirements imposed on applicants.
 - a) Community councils are recognized by the Charter of the Municipality “to afford citizens an opportunity for maximum community involvement and self-determination.” They should be where the applicant presents its application to the community.
- 2) 21.03.020 C. 2. b. Deleted the provision that allowed the Director to waive the requirement of attendance at a community council meeting.
- 3) 21.03.030-Administrative Permits. Currently, an administrative permit is issued for one (1) year.
 - a) POLICY QUESTION: Should these permits be for two (2) years?
- 4) 21.03.040 5. a and c. Alcohol Special Land Use Permits. I deleted the authority of the director to impose “such special terms and conditions or modify existing conditions governing operation...” Previously this was left to the Assembly, but the addition of authority to the director to do this was added to the provisionally adopted code.
 - a) POLICY QUESTION: In a discussion with Assembly attorney Julia Tucker, she recommended that the alcohol permit should be a conditional use, not a “special land use permit” because the law on conditional uses is clear while the law relating to “special land use permits” is not. It would be easy to put this under conditional uses which has its own section in chapter 3 without a substantive amendment.
- 5) 21.03.070 Comprehensive Plan Amendments. Subsection C. 1. e. Assembly Action. Amended e. i. to allow the Assembly to make

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amendments “deemed necessary and appropriate by the Assembly”.

- a) POLICY ISSUE: My view is that the policies of the MOA should be determined by the Assembly and the Administration after recommendations from the various appointed bodies (e.g. PNZ, Platting).
- 6) 21.030.070 Comprehensive Plan Amendments. Subsection C. 2. b. amended by adding language that allows the Assembly to determine the nature and extent of the appropriate amendments. See rationale in paragraph 5 above.
- a) POLICY ISSUE: 21.030.070 2. c. uses the phrase “comprehensive plan map”. I made inquiry of Weaver who replied that the staff prepares many maps (zoning map, land use plan map, etc). There is no issue if these maps are for planning purposes. However, staff approved maps should NEVER become law without review and a recommendation by PNZ and approval by the Assembly. If you concur, I will prepare language that makes this the clear policy in title 21.
- 7) 21.03.080 Conditional Uses. Subsection F. This subsection dealt with Residential Planned Unit Development as a Conditional Use. I moved this provision to 21.030.110 as a Master Plan and amended 110 to broaden it to include three (3) types of master plans (Residential PUD and Commercial/Industrial Business PUDs).
- a) POLICY ISSUE: There appears to be no valid reason to make a residential planned unit developments a conditional use.
 - b) Along with the PUD Residential, I also inserted Amendment 7 dealing with Business/Industrial Park PUDs into section 110 as a Master Plan rather than as a conditional use for the same reasons.
 - c) Amendment 8 was also incorporated into the Business/Industrial PUD.
- 8) 21.03.090 Flood Hazard Permits. No change.
- 9) POLICY ISSUE: 21.03.100 Land Use Permits. This is the term that will be applied to both the building safety area and to areas outside of the building safety area (Chugiak/Eagle River). Formerly, land use permits were used only outside of the building safety area and a

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building permit was used in the building safety area. Now to get a land use permit from the MOA you need to have a title 23 and a title 21 review (21.03.100 C .2.) Do we want to require two types of permits in the building safety area?

- 10) POLICY ISSUE: 21.03.100 E Improvements Associated with Land Use Permits. This is the extortion provision in existing code (21.15.150) that results in the private sector being required by staff to make improvements to public facilities and infrastructure as a condition of obtaining a building permit. I have deleted 21.03.110 E 1 through 9.
- 11) 21.03.110 Master Planning. I have three major types of master plans under this section. Institutional, PUD Residential and PUD Commercial or Industrial. The two PUDs were formerly conditional use.
- 12) 21.03.120-150 No major changes.
- 13) 21.03.160 Rezones:
 - a) POLICY ISSUE: Purpose and Scope. The first two sentences are statements as to scope/purpose of section 160 A. The rest of paragraph A is a statement by staff about the general nature of zoning. I believe it is inappropriate and have deleted it.
- 14) 21.03.160 B. 3. I have deleted this subsection with its reference to the B-1A district because I have put the B-1B district back in the code (chapter 4) and provided that the mixed-use provisions of the Neighborhood Mixed Use (NMU) proposed district are a permitted use in these two districts (B-1A and B-1B). When we get to a discussion of Chapter 4 and the zoning districts, we will need to confirm that this is an appropriate decision, but since I am recommending the continuation of most of the existing districts, the elimination of special mixed use districts (making the mixed use standards part of the existing districts), the amendment to this section was appropriate.
- 15) 21.03.160 D. 1. a. Deleted the provision that would have allowed any director in any department of the MOA to initiate a rezoning.
- 16) 21.03.160 D. 7. a. Deleted the “at least as restrictive language” from this subsection. Let PNZ review the matter and if something that is not as restrictive makes better sense, then select the best

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option/strategy/answer/result as possible and make the recommendation to the Assembly.

- 17) 21.03.160 D. 8. B. Deleted the “at least as restrictive language” from this subsection. Let the Assembly review the matter and if something that is not as restrictive makes better sense, then select the best option/strategy/answer/result as possible.
- 18) POLICY ISSUE: 21.030.160 E: Approval Criteria. Under existing code there are 4 “standards for approval” of a re-zone. See 21.21.090. They are found in subsection A: “...further the goals and policies of the comprehensive plan,....” (very subjective) and subsection B: “...in the best interest of the public....” (another subjective term), as set out in subsection B. 1 thru 4. These 4 standards deal with (1) impacts of re-zoning on public facilities and services and possible mitigation; with (2) land supply; with (3) development time frames, probably a real property tax/revenue issue; and with (4) distribution of land uses.

The proposed code had 11 criteria that I reduced to 9. Eliminating subsections 3 a. and b. and subsection 9 which compelled compliance with the Comprehensive plan.

The staff also added additional criteria in 21.030.160 F. which staff entitled “Flexibility of Interpretation”. In fact, this section reduces the ability of the Assembly to re-zone property. Flexibility is allowed only where the comprehensive plan map is unclear or where the existing zoning is not the same as the zoning shown on the comprehensive plan map.

I eliminated subparagraph F on the basis that PNZ in making its recommendations to the Assembly and the Assembly in making its decision on re-zoning should not be constrained by a comprehensive plan map that staff developed.

- 19) 21.030.160 E 3. a. and b. Deleted. The proposed criteria in this subsection is an attempt by staff to try to force re-zones to comply with staff prepared land use maps. If there is a re-zone that the Assembly deems appropriate, then concurrent with that re-zone the land use maps can be revised. Code should determine/control re-zones, not staff generated maps.
- 20) 21.03.160 H: Rezoning to Planned Community Development. This should go into the Master Planning section of Chapter 3 along with

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Institutional Master Plan, Residential PUD Master Plan,
Commercial/Industrial Business Park Plan.

- 21) 21.03.170 Sign Permits: Moved to Chapter 11 along with the rest of the sign requirements.
- 22) POLICY ISSUE: 21.03.170 Site Plan Review (previously subsection 180). Amended the Purpose statement. Throughout the revisions to this proposed code, I am trying to make it clear that, when adopted, Title 21 is the statement of the goals, policies and objectives of the comprehensive plan. The staff continuously inserts language like that which I deleted, to wit: the purpose of site plan review is to "...encourage quality development in the municipality reflective of the goals, policies, and objections of the comprehensive plan." Staff appears to want to inject the comprehensive plan into a code that is intended to be specific and clear where the plan is subjective and unclear.
- 23) 21.03.170 C. Major Site Plan Review: Minor amendments to eliminate UDC review and replace with PNZ; to extend the time for commencement of work after approval (from 24 months to 36 months); eliminate the requirement that the development is consistent with the comprehensive plan (if it meets the title 21 requirements, it is, by definition, "consistent with the goals, objectives and policies of the comprehensive plan").
- 24) 21.03180 Street and Trail Review (previously subsection 190): Completely rewritten to simplify the process and reduce the level of review with regard to trails. As amended, major trails go to UDC and Roads go to PNZ. There is no cross-jurisdiction as provided by staff. Thus, amendment # 9 was rejected and the substitute language which I prepared for the Assembly Title 21 committee was inserted.
- 25) 21.03.190 Subdivisions: No Changes. This subsection was adopted into law about 3 years ago and should not need further revision. I will confirm that what is in the provisionally adopted code is what the Assembly adopted without material or significant changes.
- 26) POLICY ISSUE: 21.03 200 Title 21-Text Amendments: The staff is proposing to limit the Assembly's ability to amend title 21. Since it will be new law, there will undoubtedly be several things that we will learn after adoption that should be corrected and corrected expeditiously. There are two options:

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- a) Eliminate this section entirely so as not to have any limitations and let amendments come to the Assembly through PNZ as is the case now; or
 - b) Add a provision that states that during the three (3) years after adoption, the Assembly may, upon a finding that immediate change is necessary and appropriate for a specific stated reason, make any changes the Assembly deems necessary and appropriate in the circumstances. If this option is selected, then this section should also be further amended to deal with some specific issues under subsection C. approval criteria (deleted C. 2 as relates to the reference to the comprehensive plan.)
- 27) POLICY ISSUE: 21.03.210 Use Classification Requests (previously subsection 220). This subsection should be moved to Chapter 5 which deals with uses. It also should be revised.
- 28) POLICY ISSUE: 21.03.220 Vacation of Public and Private Interests in Lands (previously subsection 230). Why should the MOA be involved in the vacation of private interests in lands. This is not made clear in the proposed language.
- 29) 21.03.230 Variances (previously subsection 240). Amended to eliminate UDC role ins subsection B. 4. The changes send variances for this to either PNZ or Platting.
- 30) 21.03.240 Varification of Nonconforming Status. No changes.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 4: Zoning Districts

GUIDING PRINCIPALS

As has been the case with all revisions to the proposed code, I have followed a set of guiding principals. For Chapter 4 these are as follows:

- 1) To the extent possible do not create new zoning districts. The staff has proposed several new “mixed-use districts” which would require substantial rezoning throughout the Municipality. This would be very disruptive to business and to new developments in Anchorage. I have retained all of the existing zoning districts, e.g. B-1B was added back into the code.
- 2) In dealing with the issued of mixed residential and nonresidential development, rather than create numerous new zoning districts, I revised the proposed code to allow mixed-use development in existing zones. Many of the new standards set out in the proposed new mixed-use zoning districts are still required for mixed-use development. This methodology results in mixed-use development being something that a property owner can choose to do without the necessity of a rezone. This methodology will allow mixed-use development when the city is ready for it, not when the code mandates that it occur.
- 3) Retain existing provisions of law that limit the creation of non-conformities.

AMENDMENTS

- 1) Mixed-use Districts.
 - a) The staff created five (5) new commercial mixed-use districts. MT-1 and MT-2 for all of midtown, completely eliminating the B-3 district in Anchorage’s largest commercial, retail and private office area under the direction of the discredited and never to be adopted Midtown Plan. Both of these proposed districts have been eliminated.

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- b) The other three (3) commercial mixed-use districts proposed by staff are the NMU (neighborhood mixed-use), CMU (community mixed-use) and the RMU (regional mixed-use).
 - c) I have eliminated the RMU district entirely. I have changed the NMU and the CMU zoning districts from zoning districts to a set of standards for mixed-use (residential and nonresidential) development in the B-1A, B-1B and B-3 zones.
 - d) Instead of creating several new mixed-use zoning districts and requiring substantial rezoning of numerous properties, I changed the “mixed-use districts” to “mixed-use standards”. The NMU standards for residential/commercial developments apply to B-1A and B-1B zoning districts. The CMU standards for residential/commercial developments apply to the B-3 zoning districts. There are no RMU standards. This district/standard has been deleted from the draft.
 - e) The staff created two (2) new mixed-use residential zoning districts: R-2F and R-4F. These two districts are deleted. However, in the R-4 zoning district (an existing district under current code), mixed-use development is allowed under the standards for mixed-use development from the proposed R-4F zoning district. This approach eliminates the need for rezoning property and allows an additional use (mixed residential and nonresidential) in the R-4 zoning district. Property owners can elect to construct a mixed-use development without having to go through a rezoning process. Mixed-use thus becomes optional based on economic factors rather than mandatory.
- 2) Site Condos are dealt with in the R-2M zoning district. 21.04.020 G. There are two options provided.
- a) The existing text in the provisionally adopted code provides for an administrative site plan review when more than one principal structure is planned for a single parcel/lot. The total number of buildings are also limited in number
 - b) The option is found in Amendment 65. A revised Amendment 65 is provided in the latest draft of chapter 7.
- 3) 21.04.020 H 2. D (formerly 21.04.020 J). Floor Area Ratios. Floor Area Ratios are found in current code in the R-4 District

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(21.40.060 F.) A FAR of 2.0 is allowed currently in the existing code and the limitation is found only on large lots (11,500 square feet) and where the building has eleven (11) “or more families”.

- a) The provisionally adopted code has FARs in several districts. The draft code limits FARs to the R-4 district, but retains the old standard for all development of a FAR of 2.0.
- b) For mixed-use development in the R-4 district, there are bonus provisions that allow the FAR To be increased to 3.0.
- c) A revised amendment # 10 has been included in the draft code in the R-4 district.
- 4) 21.04.030 C. B-3 District. Amendment # 11 that would impose the FAR related provisions in the B-3 district has been rejected. There are no FAR limitations in the B-3 district.
- 5) 21.04.030 D. R-O District. Amendment # 12 that that would impose the FAR related provisions in the R-O district has been rejected. There are no FAR limitations in the R-) district.
- 6) Amendment # 13 has been rejected as it relates to the deleted mixed-use zoning districts that are no longer in the code.
- 7) Amendment # 14 has been rejected as it relates to the deleted mixed-use zoning districts that are no longer in the code.
- 8) 21.04.050 B (formerly 21.04.060 B) I-1 Light Industrial District. The purpose statement has been amended to be more in line with the existing code. Amendment # 15 has been rejected.
- 9) 21.04.050 B I-1 (formerly 21.04.060 B) In the I-1 zoning district, I have retained commercial and business and retail uses as permitted uses.
- 10) 21.04050 C I-2 (formerly 21.04.060 C). In the 1-2 heavy industrial zoning district, the draft adopts the current title 21 code language allowing “any legal business, commercial, manufacturing or industrial land use is permitted; Residential uses, hotels, etc are prohibited.

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- a) POLICY ISSUE: The comprehensive recognizes that Anchorage has “a comfortable surplus of industrially zoned land.” There has been considerable debate about prohibiting any non-industrial uses in the I-2. There are concerns that, if this is done, there will be two consequences. One, the MOA will be sued for “taking” an existing right. Two, the MOA will lose valuable industrial property unless this limitation is imposed. My recommendation is that the current uses allowed by the current code be retained.

- 11) 21.04.070 G 2. (formerly 21.04.080 G) TA: Turnagain Arm District has been amended per Amendment # 16 by adding a new section 16 to state that only one principal structure is permitted per lot.

- 12) 21.04.070 I (formerly 21.04.080 I) TR Transition District. The staff has proposed retention of the Transition District “until the Airport District issues are resolved.” Apparently, the staff wants to regulate land use at TSAIA, but has not been able to reach any agreements with TSAIA on this subject. The proposals advanced by the MOA are opposed by the State (DOT/PF) and probably beyond the MOA’s authority. There is no reason to keep the Transition District unless its application is to other areas than TSAIA. Therefore, Amendment 17 has been rejected.

- 13) The following existing codes are not in the provisionally adopted or the revised draft: D-2 and D-3 districts (same standards as R-2M and may become DR) and the B-4 rural business district (21.40.190) and I-3 rural industrial district (21.40.220). The reason(s) for these omissions are not set out in the provisionally adopted code.

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AMENDMENTS AND POLICY ISSUES

**CHAPTERS 21.05.010 & 020 TABLES OF ALLOWED USES AND
GENERALLY APPLICABLE USE STANDARDS**

GUIDING PRINCIPALS

21.05.010 Table of Allowed Uses: Under existing title 21 (21.05.050 C. 1-8) there are eight general use classifications. They are as follows: Residential, Commercial, Industrial, Commercial-Industrial, Public Lands and Institutions, Environmentally sensitive land, Mixed Use and Commercial Recreation. Under existing code, uses are listed in each zoning district as permitted principal uses, permitted accessory uses and structures, conditional uses and prohibited uses and structures.

In the current draft of the code, there are four (4) general use classifications. They are as follows: Residential, Community, Commercial and Industrial. Accessory uses are also set out in Chapter 5.

The major difference between existing code and the proposed code is the number of specifically defined use categories (sub-categories) is significantly greater in the proposed code than what existing in the current code. The proposed code has two tables (21.05-1 and 21.05-2) that set out the sub-classifications and the sub-sub classification. Table 21.05-1 deals with uses in the general residential classification. Table 21.05-2 deals with uses in the three (3) other general use classifications. Together, these two tables are a combined is 13 pages long.

In the general residential classification, there are 2 sub-classifications and 13 sub-sub-classification.

In the general community classification, there are 11 sub-classifications and 24 sub-sub-classifications.

In the general commercial classification, there are 11 sub-classifications and 51 sub-sub-classifications.

In the industrial general classification, there were 5 sub-classifications and 31 sub-sub-classifications.

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As you can see, while there are only four proposed general use classifications in tables 21.05-1 and 21.05-2, inside of these general classifications, there are dozens of other sub-classifications and sub-sub-classifications. I have combined and reduced many of the sub-sub-classifications and some of the sub-classification to reduce the “spot zoning” that so many classifications would create.

For example, I have reduced the sub-classifications in commercial from 11 to 7 and the sub-sub-classification from 51 to 30. In the industrial general use classification, I have retained the 5 sub-classifications, but reduced the sub-sub-classifications from 31 to 23. My view is that it is important to avoid spot zoning and the costs imposed on property owners created by spot zoning, particularly when there is no particular benefit from this practice.

In order to make the table easier to use, I have combined 21.05-1 and 21.05-2 into one table. All uses and all classifications are now in one table.

In addition, some sub-classifications have been moved within the 4 general use classifications. For example, government buildings were moved from the community classification and put in the commercial classification. My rationale here is that offices, be they government or private sector have substantially the same impacts and should, therefore, be classified in the same manner. However, the sub-sub-category of government offices has been retained. There is a lengthy analysis in attached to my report on section 21.05.050 (commercial classification) that deals with government offices and buildings.

Further, in the combined Table, there are four (4) categories that determine whether or not a use is either permitted or requires either a administrative site plan review, a conditional use or a major site plan review. During the course of my analysis, changes were made relative to the requirements as relate to the sub-sub-categories of uses. To track these changes, a comparison of the combined tables must be made with the two tables in the draft code. In general, however, more uses were permitted and less were required to go through one of the three approval processes.

The majority of use specific standards for the sub-sub-categories were left generally intact. Specific amendments are noted in this and other chapter reports.

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AMENDMENTS

21.05.010 F: Amendments to the Tables. Since the Tables were consolidated and changes made as noted above, these amendments were all addressed in that process.

21.05.020 Generally Applicable Use Standards. No changes were made to this chapter.

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CHAPTER 21.05.030: Residential Uses: Definitions and Use-Specific Standards

See the report contained in the first file dealing with Chapter 5 for general information on 21.05.030, 050, 050, 060 and 070.

AMENDMENTS

None

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CHAPTER 21.05.040: Community Uses: Definitions and Use-Specific Standards

See the report contained in the first file dealing with Chapter 5 for general information on 21.05.030, 040, 050, 060 and 070.

AMENDMENTS

- 1) 21.05.040 A. Adult Care: Amended the vegetated open space requirements in 3. and required the facilities to meet the requirements of open space in AS 16.55.450.
- 2) 21.05.040 B. 1. Child Care Center: Amended subsection B. 1. b. by deleting subsection b. iii and c. iii dealing with the vegetated open space requirement equal to 25% of the lot and b. vi. deleting the snow storage requirement.
- 3) 21.05.040 C. Amended to include several more sub-categories from other sections in 21.05.040. The definitions and the use specific standards are unchanged.
- 4) 21.05.040 C. 4. Government Administration and Civic Buildings. Moved to 21.05.050 E. 2. Note the report on government buildings in the file that addresses 21.05.050.
- 5) 21.05.040 C 11: Adopted Amendment # 21 using the suggested language from the Parks and Rec commission. The Planning and Zoning Commission also submitted a proposal. The two proposals were never merged into one, so I made a choice as noted above.
- 6) 21.05.040 D. Education Facility (formerly Cultural Facility). The sub-sub categories found in the draft land use code under Cultural Facility were moved under 21.05.040 C. 21.05.040 D is now Educational Facility. The definitions and the use specific standards are unchanged.
- 7) 21.05.040 E Health Care Facilities (formerly Education Facility-now 21.05.040 D). The definitions and the use specific standards are unchanged.

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8) 21.05.040 F Public Safety Facility (formerly Health Care Facilities-now 21.05.040 E). The definitions and the use specific standards are unchanged.

9) 21.05.040 G. Transportation Facility (formerly Parks and Open Areas-moved to 21.05.040 C 11 with no changes in the standards). The definitions and the use specific standards are unchanged.

10) 21.05.040 G 3. Heliport. Adopted amendment 22, but added an accessory use for heliports at hospitals as well as airports.

11) 21.04.050 H Utility Facility (formerly Public Safety Facility-now 21.05.040 F). The definitions and the use specific standards are unchanged.

12) 21.04.050 I Telecommunications Facilities (formerly Transportation Facility-now 21.05.0450 G). The definitions and the use specific standards are unchanged.

Essentially what has been done in 21.05.040 is a reduction in the number of subsection from 11 to 9 with one subsection (government buildings and offices being moved to 21.05.050 and other subsections combined in more logical categories. As noted, there are virtually no changes to the use specific standards except in the adult and childcare areas where other statutes deal with the subject matter.

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CHAPTER 21.05.050: Commercial Uses: Definitions and Use-Specific Standards

See the report contained in the first file dealing with Chapter 5 for general information on 21.05.030, 040, 050, 060 and 070.

AMENDMENTS

The draft land use code has 10 categories. As noted in the discussion found in the first folder dealing with 21.05, the number of use categories has been reduced. The enclosed draft of 21.05.050 has 7 categories. Categories have been combined. However, the definitions and the use specific standards are generally unchanged.

1) 21.05.050 A: Agriculture: The definitions and the use specific standards are unchanged.

2) 21.05.050 B: Animal Use (formerly Animal Sales, Service and Care). The definitions and the use specific standards are unchanged.

3) 21.05.050 C: now Entertainment and Recreation (formerly Assembly). The Civic and Convention Center has been moved to 21.05.040. The other sub-categories are remained in subsection C. The definitions and the use specific standards are unchanged.

4) 21.05.050 D: now Food and Beverage Services (formerly Entertainment and Recreation). The definitions and the use specific standards are unchanged.

5) 21.05.050 E: now Office (formerly Food and Beverage Service) The definitions and the use specific standards are unchanged, however government offices have been added as a category. See the report on government offices following this report in this file folder. In addition, amendment # 23 and alternative # 23 were NOT adopted.

6) 21.05.050 F: now Retail (formerly Office). Note that subsections G and I in the draft land use code which were entitled (G) Personal Services, Repair and Rental and (I) Vehicles and Equipment respectively, have now been included in this section.

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7) Amendment 24 NOT adopted as pharmacies were included in General Retail 21.05.050 F.

8) Amendments 25 and 26 NOT adopted.

9) 21.05.050 F 1: The definition of General Retail has been expanded to include the numerous sub-sub-categories that were found in the draft land use code. The purpose is to reduce the number of “changes of use” that would complete retailers and building owners to have to obtain permission for a “new or different” specific use if one tenant moves out and another moves in. The definitions and the use specific standards are unchanged.

8) 21.05.050 G. now Visitor Accommodations (formerly Personal Services, Repair and Rental). The definitions and the use specific standards are unchanged.

9) Amendments 24 through 26 are not necessary given the re-structuring of 21.05.050 as described above. Thus, there were NOT adopted.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 21.05.060: Industrial Uses: Definitions and Use-Specific Standards

See the report contained in the first file dealing with Chapter 5 for general information on 21.05.030, 040, 050, 060 and 070.

AMENDMENTS

The draft land use code has 5 categories. Those 5 categories are all retained in this section on industrial uses. 1) 21.05.050 A: Agriculture: The definitions and the use specific standards are unchanged.

1) 21.05.060 A: Industrial Service has been amended to include two subsections A. 1 General Industrial and Heavy Equipment Sales and Rental. The references to “Data Processing Facility” and “Dry Cleaning Establishment” have been moved to 21.05.050 E. 1. General Retail and F. 1. General Retail respectively. These are common activities in the commercial area. There is no requirement for them to be in the industrial area.

2) 21.050.060 B: Manufacturing and Production. Subsection B. 3 Commercial Crafts has been moved to 21.05.050 F. 2.

3) 21.05.060 C: Marine Facility. The definitions and the use specific standards are unchanged.

4) 21.05.060 D: Warehouse and Storage. Amendment 27 NOT adopted.

5) 21.05.060 D 1: Bulk Storage of Hazardous Materials. The definitions and the use specific standards are unchanged.

6) 21.05.060 D 2: Impound Yard. Amended to include all outdoor storage of operable motor vehicles, constructions equipment and materials. The use specific standards are the same. Subsection 21.05.060 D 5 has been incorporated in subsection D. 2.

7) 21.05.060 D 3: Motor Freight Terminal. The definitions and the use specific standards are unchanged.

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8) 21.05.060 D 4 b. x: Self-Storage Facility: the financial guarantee requirement was deleted.

9) 21.05.060 D 5, D 6 and D 7: Defines three different types of warehouses, as this is what exists in Anchorage now.

10) 21.05.060 E 1 through 5: Waste and Salvage. The definitions and the use specific standards are unchanged. These sub-sections are identical to existing law.

11) 21.05.060 E 6 b: Landfill. Amendment 28 adopted in part. The alternative amendment 28 rejected.

12) 21.05.060 E. 7: Recycling Drop-Off: Amendment 29 adopted in part.

13) 21.05.060 E. 8: Snow Disposal Site: The definitions and the use specific standards are unchanged.

14) 21. 05.060 E. 9. Amendment # 30 adopted in part.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 21.05.070: Accessory Uses: Definitions and Use-Specific Standards

See the report contained in the first file dealing with Chapter 5 for general information on 21.05.030, 040, 050, 060 and 070.

AMENDMENTS

- 1) 21.06.070 A: Purpose. No changes
- 2) 21.05.070 B: General Standards. No Changes.
- 3) Table 21.05-4 and 21.05.-5: Tables of Accessory Uses combined into one table to conform to the changes made in 21.05.-1 and 21.05-2.
- 4) Amendment # 31. Not adopted.
- 5) 21.05.070 D 1 b iii B: Definitions and Use Specific Standards for Allowed Accessory Uses and Structures. No on amendment 32 that would permit ADU's in the R-1 and R-1A single family zoning districts.
- 6) 21.05.070 D 1 b iii C (1): Definitions and Use Specific Standards for Allowed Accessory Uses and Structures. Amendment 33 NOT adopted.
- 7) 21.05.070 D 6 b: Drive Through Service. Amendment 34 that states elimination of a drive thru is a change of use.
- 8) 21.05.070 D 7 through 11: No changes
- 9) 21.05.070 D 12 b vi: Connex containers. Amendment 35 adopted.
- 10) 21.05.070 D 13 through 19: No changes.
- 11) 21.05.070 E 2: The prohibition on fabric structures was deleted.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 6: Dimensional Standards and Measurements

Guiding Principals

The regulations in the provisionally adopted code required the use of significantly more land for both residential and commercial development. This results from such regulations as a height limitations in the B-3 district where none now exists; set backs that were increased; uses in set backs that were reduced; maximum set backs that were established in the commercial districts; height transition requirements that were required where commercial and R-4 developments were within 200 feet of residential zoned property; and floor area ratios that were extended to districts other than R-4 where they current are found with limited application. In short, these new requirements all increase the amount of land required for development both commercial and residential.

This is contrary to a major policy of the 2020 comprehensive plan that contemplates more efficient use of Anchorage’s remaining vacant and underdeveloped land. The comprehensive plan recognizes that “the remaining supply of vacant land in the Anchorage Bowl that is suitable fore development is limited”. Given this recognized limitation, any new laws should not further limit the use of property for development to a significant degree.

Subsection 21.06.010

- 1) 21.06.010 A. Purpose: The purpose statements have been revised to clarify that what is being done “regulates” development by “establishing” new requirements; it does not “promote” or “ensure”.
- 2) 21.06.010 B. Applicability: This subsection has been amended to reflect that these new regulations apply only to “new” development and redevelopment.

Subsection 21.06.020-Dimensional Standards-Tables

There were 4 tables in the provisionally adopted draft. These tables dealt with Residential Districts (21.06-1), Commercial and Industrial Districts (21.06-2), Mixed Use Districts (21.06-3) and Other Districts (21.06-4)

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Consistent with previous amendments in other chapters, made the following amendments to these tables.

1) Table 21.06-1 Residential Districts:

- a) Eliminated the R-2F and R-4A zones from the residential table;
- b) Changed the R-3 provisions to allow for single family and two family housing.
- c) Provided for mixed-use development in the R-4 and R-O districts.
- d) Confirmed that all set back, height and lot coverage requirements in all residential zoning districts remain the same as existing title 21 standards and changed those that were not the same.

2) Table 21.06-2 Commercial & Industrial Districts:

- a) Put the B-1B district back in the code.
- b) Provided for mixed-use development in the B-1A and B-1B districts
- c) Eliminated the height limitation in the B-3 district.
- d) Provided for mixed-use development in the B-3 district.
- e) Confirmed that all set back, height and lot coverage requirements in the commercial/industrial zoning districts remain the same as existing title 21 standards and changed those that were not the same.

Amendment 36 rejected

3) Table 21.06-3 Mixed Use Zoning Districts:

- a) Eliminated

Amendment 37 rejected

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4) Table 21.06-3 (formerly 21.06-4) Other Districts:

- a) Confirmed that all set back, height and lot coverage requirements in all residential zoning districts remain the same as existing title 21 standards and changed those that were not the same.

Amendment 38 incorporated into Table 21.06-3 (formerly 21.06-4)

Subsection 21.06.030 Measurements and Exceptions

This subsection provides regulation of lot areas, widths, setbacks, height limitations, lot coverages that explain and expand the general requirements set out in the tables in subsection 21.06.020. This subsection also establishes two new requirements: (maximum set backs and height transitions) and expands the application of floor area ratios beyond what is currently in code in the R-4 district.

AMENDMENTS

- 1) 21.06.030 C. 5. – Maximum Setbacks. This section was amended to apply only to mixed-use developments in the residential (R-4 and R-O) and commercial (B-1A, B-1B and B-3) districts.
- 2) 21.06.030 C. 6. - Setback from Planned Utility Transmission Facilities. This subsection prohibits “new structural or land development” in an area stated in the “Utility Corridor Plan” where there is a “projected easement or right-of-way”.
 - a) The “Utility Corridor Plan” was adopted in 1990 and, to the best of my knowledge, never upgraded.
 - b) The Plan is designated as part of the Comprehensive Plan in Table 21.01-1 in 21.01.080.
 - c) This provision may amount to a taking since it deals with “projected”, not existing, easements and rights-of-way.
 - d) Recommend that legal review this section.
- 3) 21.06.030 D. 7. – Setbacks from Projected Rights-of-Way. Table 21.06-4 (formerly 21.06-5) and the language in this section prohibits “new structure or land development activity” within these newly

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established setbacks from projected rights-of-way that are established by the Official Streets and Highways Plan (OSHP). The issues are the same as with 21.06.030.

- a) Recommend that legal review this section.
- 4) 21.06.030 D. 8. – Height Transitions for Neighborhood Compatibility.
- a) Under this requirement any commercial development or any development in the R-4 district would be required to incorporate step backs in any structure to insure “sunlight access and ambient daylighting” for all residential properties within 200 feet of the proposed development. It wouldn’t matter if the commercial or R-4 property were to the north of the residential property or it only a corner of the commercial or R-4 property was within 200 feet.
 - b) This subsection would have imposed a significant loss of value on commercial and R-4 property. As such, this provision may amount to a taking.
 - c) This subsection would restrict a commercial property owner’s or an R-4 property owner’s ability to develop the property in an economically feasible manner by requiring any commercial property within 200 feet of a residential property to
 - d) This subsection has been deleted.
- 5) 21.06.030 E. – Floor Area Ratios (FARs). In other amendments, this requirement has been limited to the R-4 district. This section was re-written to reflect earlier amendments.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 8: Subdivision Standards

Guiding Principles

As noted in the comprehensive plan, “most of the suitable land in the Anchorage Bowl is already developed. Much of the remaining vacant land is in areas where development is more difficult”. Further, the 2020 plan goes on to state that “the remaining supply of vacant land in the Anchorage Bowl that is suitable for development is limited”. Dealing specifically with single-family homes, the plan notes that “the current supply of land for new urban single-family homes in the Anchorage Bowl is limited” and that “the outflow of new single-family home construction to Chugiak-Eagle River and the Matanuska-Susitna Borough will continue to increase.

In addressing the Hillside, the plan states that this area of Anchorage “contains almost two-thirds of the Anchorage Bowl’s vacant residential land. It has the most vacant land suitable for single-family homes” The plan further notes that “much vacant land on the upper Hillside is poorly suited for building due to adverse environmental conditions and lack of infrastructure.”

In the decade since the adoption of the 2020 Comprehensive Plan we have seen substantial development in Chugiak-Eagle River, in the Mat-Su Borough and on the Hillside. Very little residential development has taken place in the Anchorage Bowl. This, it is clear that the predictions in the 2020 Plan have proven to a true and accurate forecast of what has actually occurred.

The provisionally adopted draft of title 21 unfortunately did not entirely recognize these facts. Much of the draft requires development standards of a type that reflect residential development in the Bowl. To the degree that these requirements are inappropriate outside of the Bowl area they have been modified to reflect what is truly happening on the ground in our City.

On the other, many sections of Chapter 8 were left virtually intact as they can apply to all types of residential development.

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Subsection 21.08.010 Purpose

Minor edits were made to 21.08.010 A. and B. for clarity

Subsection 21.08.020 Applicability

The only change was a reference to 21.03.190 Subdivisions and Plats made necessary by changes in the sections in 21.03

Subsection 21.08.030 Design Standards

21.08.030 F. 1. Streets Amended to provide for private streets and roads as is currently allowed.

21.08.030 F. 5 Cul-de-Sacs. Amended to provide that sidewalks, walkways, pathways and trails are not required within the cul-de-sac itself.

21.08.030 F. 6. Alleys. Amended to prohibit driveways on lot frontage where there are alleys.

21.08.030 F. 7. Street Names and Addresses. Amendment # 70 Adopted.

21.08.030 H. 2. Subdivisions on Slopes. Amendment # 71 Adopted.

21.08.030 H. 6. Sidewalks/Pathways. Amendment # 72 Adopted.

21.08.030 H. 8. Vehicular Routes. Amendment 73 Adopted.

21.08.030 I Seismic-Induced Ground Failure. Deleted.

This provision required a geotechnical investigation “to evaluate the potential for seismic-induced ground failures....” AMC 4.50.50 establishes a Geotechnical Advisory Commission “to make recommendations and give advise on geotechnical matters “....”toheads of executive departments” and to “....the platting board and the zoning commission”.

In addition, the Commission may “make such special studies on geotechnical matters as may be designated from time to time.”

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Mandating a geotechnical study for all development in zones 4 & 5 is an unnecessary burden. If a geotechnical study is required, then the platting board, zoning commission or the heads of executive departments have the authority to require such a study.

See attachment "A" for a copy of this deleted section.

Subsection 21.08.040 Dedication

21.08.040 A. Streets. Again provided for private roads and streets.

21.08.040 C. Walkways. Changed the language to provide the platting authority to require pedestrian walks when circumstances require. The change leaves the decision up to the platting authority. Also changed the word "dedication" to "dedicated easement".

21.08.040 D. Trails.

Subsection 1. a. Mandates that the platting authority "require the dedication of a public pedestrian easement for a trail designated or adopted municipals plans for connectivity with a trail or access point to a large Community Use Area or Natural Resource and Recreation Facility Plan or the Chigiak-Eagle River Comprehensive Plan. And for connectivity with a trail or access point identified in the most current Chugach State Park Access Inventory.

Subsection 1. B. Mandates that the platting authority "require the dedication of a vehicular right-of way for public access to trails and parks access points as defined in an adopted plan".

POLICY ISSUE: Since trails, walkways, sidewalks, etc are required in all new subdivisions, the requirement of a trail as found in subsection 1.a. is arguably appropriate where property being developed abuts the large community use areas. However, to require a vehicular right of way amounts to a substantial taking of property for a public purpose without compensation.

In addition, it puts a substantial burden on homeowners who live in the subdivision where the vehicular right of way is required. The requirement diminishes the value of the property there will undoubtedly arise a situation as currently exists in the Flat Top

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access area. There will be a significant increase in public parking in subdivisions where these vehicular rights of way are required.

The issue is not one of access, but rather who should pay the price for such access. The private property owner or the government. I retained subsection 1. a. and deleted subsection 1.b.

21.08.040 E. 4. Riparian Protections and Maintenance Easements. Clarified that where there are two or more easements, the greater easement requirements to be met.

21.08.040 G Utility Easements. Provided that electrical and telecommunication utility easement shall, to the extent practicable, be located in the rear of the property.

Subsection 21.08.050 Improvements

21.08.050 B Improvement Areas Defined and 21.08-1 Table for Improvement Areas.

POLICY ISSUE: During the course of work on Title 21, a concept has been developed relative to requirements in urban and rural areas generally identified by the zoning district in which the property is located. Class A Improvement Area is for zoning districts R-1, R-1A, R-2A, R-2D, R-2M, R-3, R-4 and R-5. Class B Improvement Area is for R-6, R-7, R-8, R-9 and R-10.

Current code 21.85.020 has five Improvement Area Classifications: Urban (R-1, R-1A, R-2A, R-2D, R-2M, R-3, R-4, R-5, R-O, B-1A, B-2A, B-2B, B-2C, B-3, B-4, I-1, I-2, D-2, D-3, MC and MI); Suburban (R-7, I-3); Rural (R-5A, R-6, R-8, R-9, R-10 & W); T & R-11; and PLI.

Because there are some properties zoned for one type of district that are in the “wrong improvement area”, I have written an amendment that describes the table as a general classification of improvement areas but has a qualifier if the zoning does not match the improvement area, the classification by area shall be determined by the classification of 75% of the properties in proximity to the subject property.

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This concept of improvement classification areas carries over into other aspects of this chapter in addition to this subsection 050 B and this table 21.08-1. See subsection 050 C and 505 H

The concept is important, but imperfect. The amendment helps, but does not resolve the issue. More work is required.

21.080.050 C. Improvement Requirements by Improvement Area and 21.08-2 Table of Required Improvements by Improvement Area. This section deals with what is required in the way of streets, pedestrian amenities, street lighting, traffic control devices, utilities, drainage, sewer and water and landscaping.

See comments immediately above concerning Improvement Areas.

21.08.050 D. Interior Streets

POLICY ISSUE: This section of chapter 8 carries over street classifications from existing title 21.85. for “Residential Interior Streets”. It divides the Residential Interior Streets into two (2) sub-classifications: Residential Minor Streets and Residential Major Streets. Classifications are determined by “Average Daily Trips” as set out in the Institute of Transportation Engineers Trip Generation Manual. This new classification results in five (5) new sets of standards for paved residential streets (Table 21.08-3) and for strip paved streets (Table 21.08-4) and for commercial and industrial streets (Table 21.08-5)

The problem is that these new classifications do not conform to what is found in other controlling provisions of law such as the Official Streets and Highways Plan (OSHP) and the Long Range Transportation Plan (LRTP).

The current OSHP (October 2005) “recommends and identifies a system of streets and highways” “based upon the function of a given street or highway....” The plan identifies six major categories of streets and highways: Freeways, Expressways, Arterials (major and minor), Collectors, Local Streets and Country Lanes. In the OSHP there is a single classification for “Local Streets” which include “Country Lanes” and have traffic volumes of less than 2,000 trips per day.

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The OSHP references existing AMC 21.80 which is entitled Subdivision Standards; Dedications, Reserve Tracts and Design. However, it is in existing AMC 21.85 where streets are classified.

The LRTP (September 2005) references the same classifications, but recommends additional sub-classifications. Freeways, Expressways, Arterials and Collectors are found in the LRTP as well as the OSHP. However, the LRTP provides for residential streets, commercial streets and industrial streets, main streets, mixed-use streets, park land streets, institutional district streets and low-density residential streets. See Appendix C. Street Typology Additional to Functional Classifications.

For purposes of subdividing property, the draft code (21.08.050) mostly carries over existing law as found in AMC 21.85.050 through 21.85.070 and Tables A Urban Residential Streets, Minimum Standards; Table B Urban Commercial and Industrial Streets, Minimum Standards; Table C Strip Paved and Gravel Streets, Minimum Standards; and Table D Rural and Suburban Commercial Industrial Streets, Minimum Standards.

The point of all of this is that there are a number of different classifications of roads and streets that should be clarified as recommended by the LRTP. The problem with numerous different classifications in different code or plan sections leads to confusion and subjective application of the law.

Subsection 21.08.060 Subdivision Agreements.

21.08.060 H Release of Guarantee of Improvements: This section deals with the warranty for work required by the subdivision agreement. I amended this section to provide that, after the initial inspect that takes place after the construction of the subdivision and after correction of all noted deficiencies arising out of the initial inspection, the warranty period begins. Any subsequently discovered deficiencies are to be corrected during the warranty period, but the warranty period begins after the correction of all deficiencies noted in the initial inspection.

21.08.060 K End of Warranty Period. I also amended this section to conform to the amendments to subsection 060 H.

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This amended is intended to stop the practice of repeatedly finding deficiencies and delaying the commencement of the warranty. Delaying the commencement of the warranty allows for continued inspection fees and leaves the cost of snow plowing and other costs on the developer.

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AMENDMENTS AND POLICY ISSUES

CHAPTER 12: Nonconformities

Guiding Principles

Since the adoption of a new land use code will undoubtedly result in the creation of a significant number of nonconforming lots, structures and uses, it is important to do as much as possible to reduce the number of these because of the attendant expense and dislocation that becoming a nonconformity will cause.

Subsection 21.12.010 General Provisions

21.12.010 F. Added a new subsection g that allows for the restoration to good and sound condition so long as the non conformity does not increase.

21.12.010 G. Adopted A mendment # 82

Subsection 21.12.020 Single andTwo-Family Structures and Mobile Homes.

No changes.

Subsection 21.12.030 Nonconforming Uses of Land or Structures

21.12.030 D. 1. Amended to insure that any presumption of abandonment of a use is a rebuttable presumption.

21.12.030 D. 1. d. Added language to reflect that economic circumstances that keep a use from occurring does not constitute an abandonment of that use.

21.12.030 E. Overcoming Presumption of Abandonment. Again, made the presumption rebuttable upon a showing of “substantial compliance” with the factors that overcome the presumption. Also, in subsection E. 4. Amended to make it clear that any activity that demonstrates that there was no intent to abandon when the property is actively and continuously marketed.

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21.12.040 Nonconforming Structures

21.12.040 A Continuation of Nonconforming Structures Generally. Amended the language in paragraph A to reflect the concern expressed in the Guiding Principles section of this report.

21.12.050 Nonconforming Lots of Record

No changes

21.12.060 Characteristics of Use

21.12.060 A. 1. Deleted the provision that made existing developments nonconforming if it did not comply with 21.07.020B.

21.12.060 A. 2 Amended to make clear that all changes that move toward compliance under 21.04, 21.05 or 21.07 are permitted.

21.12.060 C. 1. b. Amended to make the section apply to exterior appearance of the building and excluding interior work related to tenant improvements and repair and maintenance.

21.12.060 C. 2. Amended by reducing the percentages of expenditure required and allowing the expenditures to move a structure towards conformity to apply to subsection C. 5

21.12.070 Nonconforming Signs

No Changes