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# I. INTRODUCTION

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## A. OBJECTIVES FOR THE ANCHORAGE TITLE 21 UPDATE PROJECT

Clarion Associates is working with the Municipality of Anchorage, Alaska, to review and rewrite Title 21 of the Anchorage Municipal Code, which contains the zoning and land development regulations.

This diagnosis is intended to summarize the strengths and weakness of the current Title 21 as a first step toward revising those regulations. It is based on discussions with Municipal staff and elected officials; interviews with developers, citizens, and other Title 21 users; and comments from a citizen's advisory committee established by the Municipality to act as a sounding board throughout the project. Based on those discussions and comments, and also upon the consulting team's national experience in reviewing and writing land development regulations, this diagnosis has been prepared for public discussion. This diagnosis is not intended to be a comprehensive list of all proposed revisions to the Title 21; rather, it provides a targeted overview of both general and specific issues that must be addressed, and is intended to generate further discussion, which will be used in the coming months to prepare a detailed, annotated outline of a new Title 21.



The preparation of this diagnosis has been guided by several key objectives for the project as related by elected and appointed officials, staff, citizens, and various interested parties. In particular, two principal goals were emphasized by all these groups. First, the new Title 21 must be restructured, reformatted, and rewritten to be more understandable and to allow for more consistent interpretation and application. Second, the new Title 21 must support implementation of *Anchorage 2020*, the recently adopted comprehensive plan for the Anchorage Bowl, and also the plans for Chugiak-Eagle River, the Turnagain Arm, and Girdwood. In addition to these major goals, several other objectives for the project emerged during our interviews, including:

- Modernizing Title 21 to accommodate more innovative types of land development, including mixed-use and quality infill projects that are consistent with the Municipality's land use goals;
- Ensuring that Anchorage's neighborhoods are protected from the adverse effects of new development, while at the same time encouraging appropriate economic development; and
- Ensuring an efficient, coordinated, and uncomplicated process for development review, and making the review process and its results more certain for neighborhoods and developers alike.

Updating Title 21 will be a challenging task. There are complex political, social, and cultural dynamics regarding planning and zoning issues in Anchorage that must be addressed. On

issue after issue, we saw competing interests that must be reconciled if a new Title 21 is to be adopted. Just a few examples of where we saw a diversity of opinions include:

- *Plan Supporters versus Opponents.* Some people strongly support Anchorage 2020 and urge its implementation as quickly as possible through new zoning tools such as mixed-use districts and residential design standards. On the other hand, many members of the business community do not support all aspects of the plan and have indicated that they will oppose new regulations that they believe may hurt business and economic development.
- *Urban versus Rural.* Title 21 covers much of the 2000 square miles of the Municipality, and within its jurisdiction lie some of the state's most developed urban areas and also rural areas and undisturbed natural spaces. Each type of area presents very different issues that must be addressed as part of the revisions to Title 21. There clearly can be no one-size-fits-all approach to drafting development standards for such a diverse community.
- *More Notices versus Faster Processing.* The neighborhoods and community councils have indicated that they need more time and notice to review complex development proposals, yet the development community resists additional delays because of the climate and the short Anchorage building season.

Complicating the issue further is the volume of complex issues proposed for discussion. In our experience, it is unusual in a code rewrite project to tackle so many difficult issues at once, ranging from procedural streamlining, to drafting of numerous new types of development standards, to a comprehensive reevaluation of districts and uses. To ensure success, the Municipality will need to prioritize the numerous tasks that must be accomplished as part of the Title 21 update, and concentrate on the issues that deserve immediate attention. For example, issues like creation of new mixed-use districts, code reorganization and formatting, and new development standards can and should be tackled now. On the other hand, the downtown zoning can be modified now, but a complete overhaul of the downtown zoning really is needed; doing that properly could require a two-year effort on its own and formation of a separate advisory committee.

In the more effective projects in which we have been involved, the community has prioritized its efforts and worked strategically to implement its goals in stages over an extended period. This allows both staff and the community the time and the flexibility needed to work with new approaches and to fine-tune draft regulations before tackling new issues. It also allows coordination between the new regulations and other ongoing projects (like Anchorage's new sign regulations and commercial design standards).



It clearly will not be possible to achieve total community consensus on all the issues proposed for discussion in this diagnosis, but it will be possible to find middle ground on many of the most important issues. We look forward to working with Anchorage to develop a new Title 21 that can be embraced by the entire community and that successfully implements many of the most significant new ideas in Anchorage 2020.

## **B. KEY FEATURES OF EFFECTIVE CODES AND CODE REVISION PROJECTS**

In preparing this diagnosis, the consulting team drew on past practice in drafting and revising other development codes throughout the United States. In our experience, successful codes have a number of common traits. These are benchmarks that local governments and citizens can use to test their current code and to guide the drafting of code revisions. These key features include:



- 1) Input from citizens and code users on proposed changes should be secured in a timely, effective fashion -- before changes are set in stone.
- 2) Suggested revisions should be based on a good comprehensive plan, comments from users, (including elected officials, advisory board members, staff, developers, and citizens), and a methodical analysis of strengths and weaknesses.
- 3) Revisions should result in a code that includes:
  - i) A logical organization, and formatting that ensures user-friendliness;
  - ii) Administrative procedures that are efficient and easily understood;
  - iii) Substantive review standards that are clear, consistent, and illustrated where appropriate;
  - iv) Enforcement and administrative provisions that are realistic, based on available local resources and staff; and
  - v) Procedures and standards that are coordinated with other ordinances, policies, and plans of the Municipality.

We suggest that all of these key features be incorporated into the new Anchorage Title 21.

## **C. PROCESS FOR DRAFTING REVISIONS TO THE ANCHORAGE TITLE 21**

The new Title 21 will be drafted through a five-step process. These steps include:

- |         |                                |
|---------|--------------------------------|
| Task 1: | Project initiation (completed) |
| Task 2: | Diagnosis (this document)      |
| Task 3: | Annotated Outline              |
| Task 4: | Draft Title 21                 |
| Task 5: | Final Title 21                 |

As noted above, the first of these tasks was completed earlier this year. The consulting team reviewed current Municipal development plans, policies, and regulations; toured the Municipality; conducted a series of interviews with elected and appointed officials, staff, neighborhood groups, and Title 21 users, and held a project kick-off meeting with the citizens advisory committee.

This diagnosis will be discussed with Municipal staff and Title 21 users and presented to the citizens advisory committee at meetings in Anchorage in December 2002. The next step will be to analyze comments from those meetings and discussions and prepare a detailed annotated outline of the proposed new Title 21 for public review. The outline will identify a code framework that addresses all of the issues covered in this diagnosis.

#### **D. ORGANIZATION OF THE DIAGNOSIS**

This diagnosis is organized into three main sections. This Section I summarizes the project and the purpose of the diagnosis. Section II presents an overview of major themes for improving Title 21. These are recurring issues that came up throughout our review of Title 21 and during the initial interviews and discussions with Municipality officials. Section III presents a detailed chapter-by-chapter analysis of Title 21, identifying numerous specific changes and revisions that need to be made to achieve the project goals set forth above. Several appendices contain illustrations of new page formatting techniques and summary tables discussed in the diagnosis.



## **II. MAJOR THEMES FOR IMPROVEMENT**

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Throughout the interviews, meetings with staff and the advisory committee, and our own independent document review, a number of important major themes for improving Title 21 emerged. This section provides a summary overview of these major themes with illustrative examples; it is not intended to be exhaustive. These major issues provided guidance for our more detailed chapter-by-chapter analysis, which is presented in the following section of this diagnosis.

### **A. IMPROVE THE ORGANIZATION AND FORMAT TO ENSURE USER-FRIENDLINESS**

One of the strongest criticisms of the current Title 21 is that it is difficult to navigate and understand. We heard numerous examples of how the current structure and format of Title 21 frustrates citizens, developers, and MOA officials. A number of common-sense changes that will dramatically improve the user-friendliness of Title 21 are discussed below. The general goal of all these techniques will be to ensure that information is presented in the simplest, most efficient, and most effective manner possible.

[Please note that there are two separate versions of Title 21: the official version codified as part of the Municipal Code, and a separate version printed by the Planning Department that includes related appendices, such as excerpts from the Code of Regulations. We will work with staff to determine which of the structural and formatting changes recommended in this section apply to the two different versions of Title 21 – and whether two separate versions will continue to be necessary.]

#### **1. Revise Structure to Present Information in More Organized, Logical Fashion**

While the organization of Title 21 is better than some other development codes, there still is room for improvement. The casual reader quickly may become lost in the text, forgetting how the particular idea he or she is reading about fits into the big picture. Indeed, based on our interviews, even long-time users of the Anchorage regulations become frustrated with the awkward structure of the document. Title 21 is the product of numerous piecemeal amendments over the course of the past three decades, resulting in a confusing structure and some inconsistencies. Some topics are covered in numerous locations in the code, confusing readers who are not sure which set of regulations apply to their situation; landscaping requirements, for example, appear in at least four different locations. Some relatively minor topics are given their own chapters (e.g., mobile home parks). Interviewees reported trouble finding important provisions, such as the procedure for approving conditional uses and the requirements for off-street parking.

As a general strategy, we recommend reorganizing the chapters and sections of Title 21 into a structure that makes it easier to find frequently used information. For example, descriptions of all procedures should be located in one place, rather than scattered across several chapters as is done in the current code. Development standards also should be consolidated, and their applicability to different types of development activity clarified. Making it easier to find information is likely to improve the predictability of the review process and the overall quality of submittals.

Below is an example of a framework capable of accommodating all subjects within Anchorage's current code:

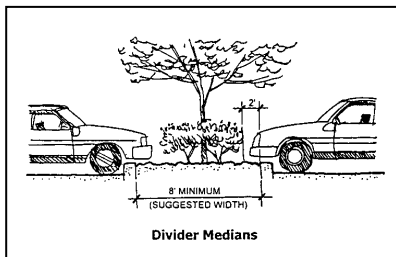
- 21.01 – General Provisions [authority, purpose, etc.]
- 21.02 – Administration [applications, procedures, boards and commissions]
- 21.03 – Zone Districts
- 21.04 – Use Regulations
- 21.05 – Development, Design, and Dimensional Standards
- 21.06 – Subdivisions Design and Improvements
- 21.07 – Nonconformities
- 21.08 – Enforcement
- 21.09 – Definitions, Rules of Construction/Interpretation

This is a model only, included to illustrate a suggested new framework. Separate chapters might also be necessary for topics such as incentives, or signs, or special standards applicable in Girdwood and/or Eagle River. Also, staff has suggested that gaps may need to be left in the numbering system as placeholders for future substantive additions. A precise framework for the new Title 21 will be developed with staff, officials, and the advisory committee during preparation and review of the Annotated Outline.

## 2. Improve Page Formatting and Layout

Another way to improve the overall user-friendliness of Title 21 and make key information more prominent will be to employ a variety of page formatting techniques that can more quickly alert a reader as to where he or she is in the document. More extensive use of headers and footers, section headings, and also a more creative use of font types and sizes, all may be used to illustrate the hierarchy of topics in the Title 21. More creative formatting techniques will help users quickly understand how the code is organized and locate key sections. Several examples of helpful page formats from other codes are provided in Appendix A.

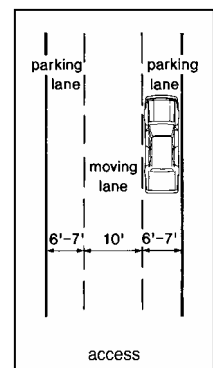
## 3. Include Graphics and Tables to Illustrate or Summarize Key Concepts



Illustrations, graphics, and tables should be used much more frequently in the new Title 21 to explain complex concepts and to summarize detailed information. The current code contains only a few such graphics, such as the illustration of different types of communication towers found in the definitions. Many users of Title 21, from design professionals to untrained individuals, will be able to more readily grasp the intent and specific requirements of the code if key

concepts are presented in a visual format. In addition, supplementing the text with illustrations typically results in higher quality submittals, since applicants understand better what is expected in development applications.

Graphics can be very useful to illustrate basic provisions of a code, such as the method for measuring building height, or measurement of side yard setbacks. Graphics can also be used to illustrate complex concepts, such as streetscape layout or buffering within transitional areas. In addition to illustrations of physical planning concepts, graphics such as flowcharts are useful for illustrating the steps in a review process and other administrative procedures. Maps may also be appropriate to incorporate into certain sections of Title 21,





provided that they do not define features, such as zone districts, that are subject to frequent revision and updating. Overlay district boundaries, or steep slopes and other hazard zones, are examples of features that may benefit from inclusion of maps within Title 21. A few sample illustrations are included here, and additional samples are included in Appendices A and B.

Tables are another visually oriented tool for communicating code requirements. We have found that summary tables, such as the one below, can be immensely helpful in avoiding repetition and reducing an ordinance’s overall bulk. There already are some summary tables used in the current Title 21, such as in Supplemental District Regulations, which contain matrices and tables regarding signage and child care services. Many more tables could be used, however.

<b>TABLE 7.8-5: MAXIMUM ILLUMINATION VALUES</b>	
<b>Property Line</b>	<b>Maximum Illumination (in Foot-Candles)</b>
Residential	0.5
Commercial	1.5
Industrial/Edge of Right-of-Way	2.5

In particular, we strongly recommend replacing the lengthy lists of permitted uses found in the zoning district sections with a new summary table (discussed in more detail below). Similarly, all dimensional requirements for the various zone districts should be presented in master summary tables. Some of these requirements already are in tables in the current Title 21 (e.g., Section 21.40.115(F)), but these requirements should all be consolidated in a master table that allows comparisons across districts. We recommend that the new code contain a separate section or chapter devoted solely to dimensional requirements, where a master summary table can list such information for all districts and rules of measurement can be presented alongside the summary table.

As part of the Title 21 rewrite, we will check all existing tables and matrices for accuracy and appropriateness, if they are proposed to be carried forward in the new code.

**4. Consolidate and Update Definitions**

In the existing Title 21, definitions are found in many different places, such as the mobile home park regulations (Chapter 21.70) and the utility distribution facility regulations (Chapter 21.90). The general rules of construction and interpretation are found in Chapter 21.35, along with many other definitions (Sec. 21.35.020). Interviewees noted that, because of the haphazard placement of definitions in the current Title 21, there have been disputes about the general applicability of some current definitions. We recommend consolidating all definitions into one location in order to make it easier for the user to find the meaning of key words and terms, and to eliminate any inconsistencies in multiple definitions of the same terms.

In addition to consolidating the definitions, we will add new definitions of key terms (e.g., “overlay district” and “plat”) and will update existing definitions as appropriate, based on consultation with staff and Title 21 users.

**5. Provide Detailed Tables of Contents, Indexing, and Cross-Referencing**

The current Title 21 has a master Table of Contents that lists only the chapters of the code immediately under the Land Use Planning title, and contains no other detail. While it may be

appropriate to have such a summary table at the very beginning of the code, in most cases, the listing of sections and possibly subsections one or two levels further down the organizational structure makes for a more helpful Table of Contents. A detailed Table of Contents makes it easier to understand the overall organization of the code, as well as providing for quicker reference to the specific provisions for which a user is searching. We also recommend that each chapter begin with its own separate table of contents.

A revision of the master index and new cross-references within the text will be necessary given significant revisions to the structure and/or content of Title 21. Opinions regarding cross-references vary among code users; some request more cross-referencing, while others believe that too much cross-referencing would make the document even more difficult to use. We believe that cross-referencing is no substitute for logical organization of the code, but we recommend that cross-references continue to be used in places where they can promote an understanding of relationships between various sections of the ordinance. For example, in the current code, cross-references may be appropriate to connect provisions relating yard setbacks to highway plan standards. As another example, yard setback provisions should cross-reference supplementary regulations for accessory buildings and fences.

Staff has also noted that a mechanism is needed for referencing code citations that have been used in past approvals, such as old code citations, included within the notes on a recorded plat.

## **6. Remove Obsolete Information**

Title 21 is currently a patchwork of regulations adopted over the course of several decades, some parts of which were adopted with the intent to address specific situations that no longer exist, or situations that are now dealt with more effectively through other provisions of the code. Today, for example, regulations regarding fallout shelters are more likely to be exploited as a loophole in the current code than out of a legitimate desire to construct underground buildings shielded against radioactive fallout. Other provisions may be time-sensitive and can now be removed, such as the 1998 amortization provisions for nightclubs (Section 21.45.245). Removing obsolete material will be an important part of bringing Title 21 up to date; throughout the redrafting process, we will work with staff to identify obsolete material that should be removed.

## **7. Adopt Other Techniques to Improve Structure and Format**

Several other techniques are appropriate to improve the overall effectiveness of the document.

- *Use Easily Understood Language.* An excessive amount of “legalese” and technical planning jargon makes the current code inaccessible to large portions of the regulated community. It is possible to maintain or even improve the precision and enforceability of Title 21 while drafting new provisions, or reworking existing provisions, in plain English. We will work with the Law Department to create an enforceable ordinance that is clear and is not subject to differing interpretations, yet is also easily understood.
- *Eliminate Redundancy.* Redundant language lengthens and complicates the format of a document. For example, lot coverage provisions are of general application under Title 21, but the language regarding churches specifically notes that churches are not allowed to exceed lot coverage requirements. This could be interpreted to mean that lot coverage requirements may not be required for development types where such a

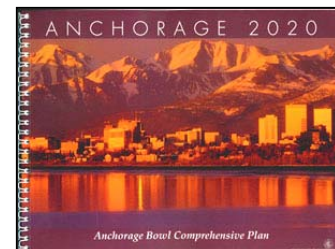
reference is not included. Eliminating redundant language will make Title 21 more efficient and less confusing.

- *Prepare a Separate Manual for Submittal Requirements.* To the extent allowed by Anchorage law, the Municipality should consider setting forth submittal requirements and other supplemental materials in a document outside Title 21. An example of the type of submittal requirements that we recommend removing is the list of requirements for subdivision agreements (Section 21.87.010). While basic completeness and timing provisions for land use applications would be retained in Title 21, descriptions of submittal items, fees, and other requirements are subject to frequent revision and may be more appropriately located in a separate handbook or “User’s Manual” that could be updated without going through a formal code amendment process. Some of this material, such as the fee schedule, already is separate from Title 21 and is contained in the excerpts from the Code of Regulations that are located at the back of the Title 21 document printed by the Planning Department; even more of this information could be removed, however.
- *Consider Adding Annotations.* Some communities include annotations in their codes to summarize local legal opinions and judicial decisions that affect how the code text is to be interpreted. We will work the Law Department to determine whether such a system should be used in the new Title 21, and if so, will design a format for such annotations.
- *Computerize the Code.* The draft of the new Title 21 should be prepared with the goal of ultimately posting all information on a website. The availability of code information in a computerized format may speed the process of informing at least some local constituencies about the process and substance of planning regulations. Anchorage already is in the forefront of communities nationwide in terms of computerizing its planning and zoning information. An interactive, computerized Title 21 is the logical next step. To the right is an illustration of a computerized code from another community.

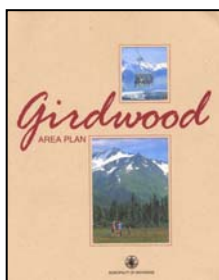
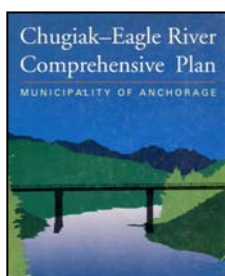


## B. IMPLEMENT ANCHORAGE 2020 AND OTHER PLANS, ESPECIALLY REGARDING ZONE DISTRICTS

The Municipality recently adopted a very impressive vision for the Anchorage Bowl—the Anchorage 2020 plan. The plan contains a detailed and ambitious implementation section that calls for a variety of approaches ranging from revamped land development regulations to incentives. There are many areas in which Title 21 is not equipped to implement the plan, and 2020 recommends numerous specific changes to the ordinance, both large and small. A major challenge of this project will be to identify and select priorities from among the many implementation steps listed, which cover some 40 pages of the plan.



It also will be important not to overlook other comprehensive plans that the Municipality has produced such as those for Chugiak-Eagle River, Turnagain Arm, and Girdwood. While these plans contain some implementation recommendations that mirror those in the 2020 plan (e.g., protection of natural resources), there are some important differences reflecting the distinctive physical and other differences such as community priorities between these places and the Anchorage Bowl. Code revisions will need to take these distinctions into account.



People we interviewed also stressed the need to use sweeteners as well as sticks—to consider regulatory incentives in addition to mandatory standards. For example, one possible incentive cited often was to allow reduced parking requirements to encourage infill development, an important plan goal. While the current Title 21 contains very broad plan implementation language (e.g., Section 21.05.180 states that development applications shall be approved only if they do not conflict with the goals, policies, and objectives of the 2020 Plan), staff and many others felt that more specific guidance is necessary.

The implementation of *Anchorage 2020* will take many forms in the rewrite of Title 21, ranging from revising zone districts, to reviewing uses allowed in districts and the standards controlling those uses, to drafting new substantive development standards such as residential building design standards. This section focuses on issues revolving around the zone districts. Substantive development standards, such as natural resource standards, are covered in subsequent sections of this diagnosis.

## 1. Create New Zone Districts

The 2020 plan embraces several innovative concepts such as creation of major employment centers, encouragement of mixed-use developments, and creation of town centers to focus commercial development and create lively focal points for community activities. One of the major stumbling blocks to implementing these goals is the current line-up of zone districts in Title 21. For example, mixed-use residential/commercial development is difficult, if not impossible, in the existing B3 and other business districts. No zone district exists that can be readily tailored to foster creation of town centers. Indeed, prospective town center developers cited the existing zone districts as a major stumbling block because of their rigid rules and standards. A new town center district could also prove helpful in helping to shape a more coherent, lively downtown in Eagle River, a goal of the Chugiak-Eagle River Comprehensive Plan. Other new districts that may be necessary include a transit-oriented development district. Overlay zoning districts have been mentioned as one tool that may be appropriate to implement, at least in part, some aspects of town centers, mixed use areas, and major employment centers. Overlay zones often add specific standards in an area, which remains subject to underlying densities and dimensional standards of the base zone district. Clearly, several new zone districts need to be created that are tailored to the vision of the 2020 and other plans.

## 2. Revise Existing District Regulations/Uses

While creation of new zone districts should be a priority, these new districts may not be utilized without revisions to the existing zone districts, particularly the ones discussed in this section.

**B3 General Commercial District.** The B3 might be characterized as a “Wild West” commercial district, because it allows a wide-open list of office, retail, wholesale, business services, and institutional uses. Moreover, according to many people interviewed, rezonings to B3 have been granted liberally throughout the city. The problem with this is that it has reportedly undermined development in downtown and undercut efforts to concentrate development in major centers as envisioned in the 2020 Plan. Changes should be considered to rein in the B3 district if Anchorage is serious about creating employment centers, mixed-use developments, and town centers. If an easy option continues to exist to develop commercial throughout the city, it is questionable whether the centers/mixed-use concepts will germinate and thrive.

Further, revamping the B3 district will help conserve the available residential land supply. One major issue identified in *Anchorage 2020* is the need to conserve an adequate residential land supply. Critics claim that liberally granted rezonings from residential to commercial erodes the the residential land base and leads to adverse impacts on existing neighborhoods.



Revamping the B3 district and its application will also help address the serious concerns expressed in the Chugiak-Eagle River plan about continued strip commercial development and the need to foster development in downtown Eagle River.

**Downtown.** Many downtown business interests and developers expressed frustration with the current central business district procedures and regulations, especially the bonus point system. They believe that the development approval process is cumbersome and unnecessarily time-consuming and that substantive regulations do not produce the type of development that the city envisions. They believe that, when combined with the liberal nature of the B3 district, it is not surprising that businesses are locating in locations outside the downtown such as Midtown.

**Industrial Districts.** Another recurring zone district issue relates to the need to ensure land availability for industrial and distribution uses. While the code contains three districts that are nominally for industrial development, in fact these districts allow a wide variety of commercial and business uses. The result is that industrial parks and land have been gobbled up for these other uses, creating a growing concern that industrial development may be choked off due to lack of appropriate sites. Anchorage may want to consider either revamping these districts to eliminate non-industrial uses, or create and map a new zone district that is truly industrial. Other cities such as Pittsburgh, Pennsylvania, have taken such steps to slow encroachment of commercial and entertainment uses into industrial zones.



**Residential Districts.** One recommendation of *Anchorage 2020* is to require minimum densities for developments in some multi-family residential districts to ensure that scarce land is not devoted to large-lot residential projects that can chew up available land quickly. However, neighborhood opposition can be expected unless increased densities are accompanied by

design standards, which now are lacking. New standards will be necessary to preserve the character of existing neighborhoods. (See discussion below.)

*Anchorage 2020* also encourages a variety of housing types and design standards, particularly for multi-family housing and affordable housing. The existing residential districts and any new districts will need to be evaluated and updated as necessary to ensure this diversity of housing types is possible under Title 21. Inclusionary zoning is listed in *Anchorage 2020* as one of the strategies to increase housing choice.

Each existing district is discussed in more detail below in the chapter-by-chapter analysis.

### **3. Encourage Infill Development**

One of the themes of the 2020 Plan, echoed in our interviews, was to create incentives for infill and redevelopment. Infill and redevelopment are often challenging for a variety of reasons—constrained sites, aging infrastructure, regulatory hurdles, high land values, and neighborhood concerns. While changes in zoning regulations are not the silver bullet that will result in infill and redevelopment, needless impediments should be removed. For example, creating mixed-use by-right zoning districts as discussed above can be helpful. Also, the development approval process for infill development could be streamlined by consolidating some processes or reducing the number of hearings. New design guidelines could be developed to help ensure that infill development is compatible with the character of surrounding neighborhoods, and thus could reduce opposition to streamlined processing.

As another example, existing parking standards, geared more for suburban environments, occasionally can stifle infill and redevelopment by requiring an excessive number of parking spaces, especially where bus options are available. Other communities have selectively revamped their parking standards to encourage infill and redevelopment, and this possibility could be explored in Anchorage. However, it should be noted that certain types of higher-density infill development (e.g., multi-family) can bring many cars to an area, so parking requirements should not be reduced without careful evaluation.

## **C. PROTECT NEIGHBORHOODS**

For a city that is relatively young, Anchorage has grown up with many close-knit neighborhoods and a strong sense of community. This is reflected in the numerous and active community councils whose members participated in the development of *Anchorage 2020* and other comprehensive plans and have expressed an active interest in the Title 21 amendments.

The preferred development scenario in the 2020 plan encourages more intensive and mixed-use developments in older in-town neighborhoods, with emphasis on neighborhood enhancements and protection as this scenario plays out. We heard many concerns about the impact of increased development in these neighborhoods, especially given the lack of design, buffering, and other



standards in the current code. Neighborhood activists also expressed deep concern over community involvement in development reviews and enforcement of code regulations.

There are several ways in which Title 21 can be updated to ensure high-quality development while also protecting the city's neighborhoods. This section discusses some of the more substantial ways in which this goal can be achieved.

## 1. Consider Providing Earlier Notice And Requiring Neighborhood Meetings

Neighborhood leaders explained that, while the city has a good system to notify them of projects in their backyards in a timely fashion, often they are not given adequate time to comment on projects once they receive an information packet from staff. For example, many complained that they receive review packets on a Friday before a hearing on a conditional use permit is held early in the following week. They do not have enough time to digest the details of the proposal and discuss it with their neighbors. Some also complained that applications that actually go before the boards have been substantially revised in response to staff and agency reviews, so that they no longer resemble what the neighborhood reviewed.



One solution might be to increase the amount of time neighborhoods have to respond to major development proposals. However, the development community probably would oppose longer review times.

Another solution might be to require that the applicant for any major project be required to meet with the neighborhood in an informal meeting prior to submitting an application, so that neighborhoods may be educated about the development review process

and issues may be discussed and, if necessary potential conflicts resolved on an informal basis. Over the last decade a growing number of communities in the lower 48 have codified the concept of the neighborhood meeting in their development codes. Generally, a procedure is established by which meetings are initiated by a development applicant for the purpose of educating neighbors about a proposed development, receiving neighbors' comments, and resolving concerns about the development proposal on an informal basis. In some codes, applicants are required to conduct the neighborhood meeting; in others, the procedure is established, but it is optional. In some communities, such meetings are required only for applications that require a public hearing, or for projects over a certain defined size, or for certain types of land uses that are usually controversial. Further discussion is needed about what types of applications could be subject to a neighborhood-meeting requirement in Anchorage, and whether such meetings would be mandatory or optional.

Also, while such meetings can be very valuable, such a procedure would have to be balanced with the business and development community's concern about not unduly lengthening or complicating the development process, especially in view of Anchorage's relatively short development window due to its long winter season.

The developers we discussed this issue with had mixed responses. Some have had success with neighborhood meetings in the past, and believe they can be a good opportunity to build community support for a project; they cautioned, however, that the overall time needed to consider and approve an application should not be lengthened. Other developers noted that

some community councils and neighborhoods are less well organized than others, and such meetings would not be meaningful with some of the less well-organized groups.

Another issue of concern to neighborhoods is the notification area. Certain types of land uses (e.g., liquor stores) may require a greater notification area than other proposed uses. We will discuss with staff and neighborhoods whether notification areas should be enlarged for certain uses in the new Title 21.

## 2. Enact Neighborhood Protection Standards

As noted above, the 2020 plan calls for densification of some of the older in-town established neighborhoods, including recommendations for minimum densities for new development. Not surprisingly, there is much concern about how additional residential and commercial development will affect the character of existing neighborhoods, particularly given some of the poor examples we were shown of existing transitions (or lack thereof) between commercial and



industrial development and established neighborhoods. Others worried about the continuing conversion of residential along arterials to commercial without adequate protection of adjacent residential areas, and the lack of landscaping and buffering between industrial areas and residential developments.

Higher-density residential traditionally has been used as a transition from single-family areas to arterial streets and/or commercial development. However, opposition to new higher-density residential can be strong, especially when it comes from single-family areas that have not developed to the maximum allowed densities (e.g., a single-family subdivision in a multi-family residential zone).

Many mature cities across the United States are facing the same issues that Anchorage will have to tackle as it promotes infill and redevelopment. Experience elsewhere clearly demonstrates that an infill/redevelopment strategy has a greater chance of success if neighborhoods have confidence that they will be protected through better building and site design standards, buffering and landscaping requirements, and lighting restrictions. Currently, Title 21 contains only very modest provisions to ensure compatibility of new development with existing residential areas. The challenge will be crafting such standards without unduly stifling the projects that the city would like to encourage as envisioned in the 2020 plan. Specific types of standards are discussed later in this diagnosis.

Another aspect of neighborhood protection involves the type of uses allowed in industrial and commercial districts next to residential developments. Currently, these zone districts permit some fairly obnoxious uses (e.g., liquor establishments, adult bookstores, auto repair) to locate next to residential neighborhoods. The city might want to consider rezoning such areas or prohibiting certain potential noxious uses in these districts within a specified distance of a residential zone. Or, the minimum lot sizes for such uses could be increased; currently the I-1 and I-2 zones have a minimum lot size of only 6,000 square feet, which is relatively small. Another possible approach could be to increase landscaping buffers between residential and industrial districts.



### **3. Strengthen Enforcement**

No other issue generated more negative comment, both from city officials and neighborhood representatives, than that of enforcement of Title 21. It will do little good to enact a variety of new neighborhood protection standards if they will not be enforced, along with existing regulations. This critical issue is discussed in greater detail below.

### **4. Codify the Neighborhood and District Planning Process**

There currently is much discussion and debate in Anchorage about the need for neighborhood plans, and the extent to which new development should be required to be consistent with such plans, some of which have not been developed yet.

The new Title 21 should include a requirement that there be an organized system or program for neighborhood planning. Title 21 also should include a framework for codifying land use maps, residential intensity maps, and other provisions of adopted town center, district and neighborhood plans. Beyond these provisions, however, the exact system or program for neighborhood planning should not be codified in Title 21. The Municipality is working to develop a more flexible neighborhood planning process, but it will not be codified in the new Title 21. The Planning Department is in the process of developing a Request for Proposals from consultants to develop a neighborhood plans manual.

## **D. REVISE AND UPDATE STANDARDS TO IMPROVE THE OVERALL QUALITY OF DEVELOPMENT**

In addition to being concerned specifically about the compatibility of development with neighborhoods, interviewees generally agreed that the Municipality's existing development standards should be improved and new standards should be adopted. Most of the substantive standards recommended in Anchorage 2020 lack adequate coverage in Title 21, and sometimes are in conflict with existing Title 21 provisions. This section discusses some of the new standards and revisions to existing standards that are necessary.

### **1. Consider Open Space Standards/Tools and Resource Protection Standards**

Anchorage 2020 and the other plans all highlight the overwhelming community consensus placed on protecting natural resources. Anchorage probably has no more distinctive defining element than its incredible natural setting and wildlife, making it unlike any other major city in the United States. In what other big city is sighting a moose a common everyday occurrence and stumbling across a grizzly bear while out walking a possibility?

The 2020 plan and the Girdwood and Chugiak-Eagle River plans focus on a wide range of environmental issues, including open space, wildlife habitat, steep slopes, wildfire protection, stream buffers, and tree/vegetation protection. While the city has some natural resource protection regulations and processes on the books (e.g., for wetlands), and is considering others (such as a proposed land clearance/vegetation protection ordinance), in



general the standards contained in Title 21 are modest at best, particularly when compared to other jurisdictions with significant environmental issues.

This section details some of the areas where new standards should be considered based on the various comprehensive plans and interviews with citizens. In implementing these plans with new regulations, it is important to keep in mind the concern over the impact any new regulations might have on economic development and the cost of housing.

**(a) Open Space**

The 2020 plan calls for a program of providing parks and open space throughout Anchorage. An open space acquisition program is one element. Another is to adopt revisions to Title 21 that include new standards and/or incentives for open space protection and set-asides during the subdivision and platting process. Currently, unlike numerous other jurisdictions in the United States, Anchorage does not require set aside of significant open space during the subdivision process. Jurisdictions that have such requirements also typically give planners the ability to work with developers to design projects that preserve important resource lands while allowing development to proceed on a site. In more urban areas, design standards are used to ensure that small open spaces mitigate higher density projects.

Another tool that should be further explored by the city is that of conservation subdivisions. Many local governments have adopted optional conservation subdivision provisions that allow developers to build allowable density on smaller lots on a smaller portion of a parcel in return for preserving a large portion of a site (e.g., 40-70%) in permanently protected open space. Anchorage has had some negative experiences with cluster subdivisions in the past because, reportedly, they were poorly designed and used as vehicles to squeeze more density out of a site. Any new provisions need to assure that sufficient blocks of open space result and that the clusters are well-designed.

**(b) Tree/Vegetation Protection and Land Clearance**



Protection of natural vegetation rates highly among Anchorage's citizens, be they in inner city neighborhoods or the far reaches of Eagle River or Girdwood. Standard practice in many recent developments has been to strip the site prior to any development occurring. The 2020 plan contains a recommendation to adopt a land clearance ordinance that would require a permit prior to removing trees or other vegetation. Literally hundreds of communities across the United States have adopted such provisions in the last decade. Anchorage is currently considering adoption of a land clearance ordinance that will address these issues.

**(c) Steep Slopes**

The 2020 plan recommends adoption of enforceable design standards for development on steep slopes that would provide guidance on how to adapt structures and lot design for steep slope environments. Based on some of the egregious examples of steep slope development that were witnessed during tours of the community, especially in the Hillside area and Eagle

River—causing erosion and leaving large ugly cuts—it is clear that tougher regulations that better manage development on steep slopes are needed. Other northern and mountain communities such as Salt Lake County, Utah, and Summit County, Colorado, have adopted steep slope protections that limit the size of cuts, building structures on very steep slopes (25%+), construction of roads across steep slopes, and similar measures that can serve as models for Anchorage.



**(d) Wildlife**



*Alaska Department of Fish & Game*

With its abundance of wildlife, both big and small, Anchorage faces a range of challenging wildlife issues. Based on comments of citizens during our interviews and on recommendations in the various comprehensive plans, the city should consider site planning standards that are designed to protect critical wildlife habitat, especially wildlife movement corridors. These standards would be particularly appropriate in areas such as Eagle River and Girdwood. In other communities, such as Estes Park, Colorado, they have worked well in concert with open space protection standards, so that

required open space set-asides are used to protect wildlife habitat. There are other aspects of wildlife that the plan also recommends addressing, for example the adoption of standards for bear-proof trash containers in areas like the Hillside and for avoiding wildlife/landscaping conflicts.

**(e) Stream/Lake Setbacks**

Many jurisdictions across the United States have adopted riparian setbacks to meet federal water quality standards and to protect fish and wildlife habitat. Currently, the city's land development regulations contain no protections for lakes and only minimal setbacks (generally 25 feet) for streams. Nationally, setbacks of 100 feet on both sides of rivers and streams in more rural areas are generally recognized as a minimum to protect water quality, particularly on streams with healthy fish populations.

Only the R-10 district now has a 100-foot setback, and it should be clarified if 100 feet is required on both sides of a creek for a total of 200 feet, or if a 50-foot setback is required, it is measured from the mean high water line of the creek. Further, the specific bodies of water on which any new setbacks apply will have to be clearly defined (e.g., creeks, intermittent streams, etc.). We will discuss with staff whether there should be subcategories of creeks and streams, and whether some areas will require larger setbacks than others.



**(f) Wildfire**

Although the 2020 plan highlights the issue of wildland fire hazards and fire safety design, few people we discussed the issue with cited it as a major issue for the code revision project. This is puzzling in light of the swaths of dead spruce trees courtesy of the spruce bark beetle and the devastating wildfires that swept many other western states this summer. Defensible space regulations, coordinated carefully with tree protection provisions and landscaping regulations, would seem to be in order.

Proposed defensible space regulations were developed about one year ago by staff and have been under review by the Municipal Attorney. We will review these proposed regulations for possible inclusion in the new Title 21.

**2. Improve Landscaping Standards**

Closely related to the issue of vegetation protection is that of landscaping. We heard significant criticism of the existing landscaping provisions from neighborhood representatives, landscape designers, and developers. Existing standards have often produced unattractive landscapes, and developers find the current provisions to be inflexible and unrealistic (e.g., requiring trees that are not available or do not do well in Anchorage’s harsh climate). The new Title 21 needs to contain new landscaping standards that have clearer definitions of landscaping requirements, maintenance provisions, incentives for maintaining existing vegetation (particularly trees), and standards that will result in more attractive results. Landscaping standards should allow for more creativity in plant selections that are hearty enough to survive punishment by the winter and wildlife. Tree preservation regulations and incentives should be considered as part of the landscaping section.



Also, the current landscaping requirements have no replanting standard in case of a failed installation, and the code allows for plantings in easement areas that may be accessed by utility vehicles. Given the short growing season and difficulty in establishing vegetation in the Anchorage area, landscaping standards should probably be revised to direct landscaping away from inhospitable environments and to allow for greater use of existing vegetation. The landscape code is also criticized as prohibiting creative design, and a shift away from quantitative toward qualitative standards may be appropriate.

Many developers criticized the current “Master Tree and Shrub List,” which is found in Building Safety Handout #38. They note that the list relies on plant types that are not commercially available or practical to grow in the Anchorage climate. Though this is not a Title 21 issue per se, we will discuss these concerns with staff.

**3. Adopt Lighting Controls**

In a northern city such as Anchorage that has limited daylight for much of the year, appropriate lighting standards are critical. Standards are necessary to reduce glare, to reduce spillover light on adjacent properties, and to reduce over-lighting. Lighting also is a potential technique to add

visual interest and visual relief to the built environment without requiring drastic changes to construction practices.

While lighting standards have become common in many other communities throughout the country, especially in the West, there are no generally applicable lighting standards in the current Anchorage code. We heard that inappropriate or disruptive lighting is common in Anchorage, often in parking lots and from security lights. This issue will be addressed in the parking standards project, but some review may be necessary as part of the Title 21 update, as well. Staff notes that some Anchorage rural and suburban subdivisions have adopted their own standards for reducing street light glare; such standards should be researched for possible inclusion in Title 21.

#### 4. Adopt Design Standards

Another major emphasis of Anchorage 2020 is the adoption of design standards to control the appearance of new buildings. The community already has taken some steps in this direction through the adoption of some recent ordinances such as the interim big box regulations. Also, the city is working with a consultant to prepare a set of citywide retail design standards, concurrent with this project.

In addition to these efforts, some simple design controls in Title 21 could help address some of the major themes of the 2020 plan, such as neighborhood protection. For multi-family development, including apartments and condo complexes, the physical scale, site orientation, and street frontage of higher density residential development should be compatible with neighborhoods. Infill housing and mixed-use density housing are major issues in Anchorage 2020, and acceptable design will be key to neighborhood acceptance for these projects. Similarly, for single-family infill housing, simple design controls, such as requirements for contextual height and setback, or restrictions on front-facing garages, could go a long way towards making neighborhoods more comfortable with new development. Design standards also will be important for nonresidential development, including



mixed-use areas, town centers, and major employment centers (however, note that developing detailed design standards for town centers and mixed-use development would be a major undertaking on its own, and such standards probably would stand separate from Title 21).

For both residential and nonresidential development, standards taking the form of a menu may be appropriate to promote the effectiveness of certain parts of Title 21. Menus are particularly appropriate as a means to enhance design quality without being overly prescriptive. For example, the goal of drafting retail development standards may be to promote social interaction in a less monotonous space than standard development. A menu-based standard for this retail development could allow the developer to comply by choosing one type of site furnishing or shelter and two types of architectural variation. We drafted such menu-

based standards for Fort Collins, Colorado. Also, the current “point system” in Anchorage is a variant of a menu-based code.

There appears to be strong support for some new design controls in Anchorage. Even some of the developers we spoke with recognized the poor quality of some of the recent construction in the city and expressed cautious support for limited new controls; they will closely monitor the effect of such controls on housing costs, however. Their main concern is primarily that any new standards be applied on a consistent basis so that all developers are held to the same standards.



Enacting new design standards may require changes in Anchorage’s site plan standards and review procedures. In addition, staff has indicated that site planning requirements should be modified to better reflect the local harsh climate conditions and to incorporate northern design, which is a major theme in Anchorage 2020. For example, site plan review should in certain cases include mitigation of wind and shadowing (e.g., sunlight access for important public/civic spaces). Design review could be administrative for smaller projects to expedite the process.

## 5. Enact Controls on Site Condominiums

Anchorage has relatively weak subdivision standards, yet we were very surprised to observe numerous examples of developers building “site condominiums” in an apparent attempt to avoid complying with even these modest subdivision standards.

Generally, a “site condo” in Anchorage is a single-family building erected in a yard that is not created through the subdivision process; there are no lot lines and the purchaser owns only the structure, not the land on which the structure sits. There are many variations, with varying levels of density, but the common feature is no lot lines. There is no monumentation required, and no official review that is typically done through the platting process. Many site condos are created without any sort of review. There is no connection to surrounding properties since only private streets are created; each site condo development becomes, in effect, its own island. Open space is rarely, if ever, provided. Roadways often are not built to public standards. Site condos are required to obtain a building permit only, and the building official has no authority to require improvements.

The Municipality has several concerns about these site condos. The lack of peripheral improvements, like development of roads to municipal standards, is a major concern. Staff also is concerned about the lack of monumentation, since there will be no mechanism to resolve future boundary disputes. Further, staff notes that the homeowner fees being collected from site condo residents are low, and probably will not be sufficient to handle future maintenance problems, like street repairs. This means that site condo residents will likely attempt to have the Municipality fix these problems at taxpayer expense.



As part of the Title 21 rewrite, a new process is needed to provide more administrative review of site condos or prohibit this type of development. Also, some basic standards will need to be drafted, including monumentation, to improve the quality of development.

The development of a new process and standards should be sensitive to the time and costs that will be added to review as the rules are tightened. We spoke with some developers of site condos, and they generally agreed that some very bad construction already has been done through the site condo loophole. They urged that the site condos not be prohibited altogether, however. They said that they would support a review process for site condos.

Staff has prepared a draft ordinance that attempts to resolve some, but not all, of the problems with site condos. It primarily is addressed at the issue of peripheral improvements, and does not address the issue of the buildings themselves. The Planning and Zoning Commission recommended approval of this ordinance in November 2002, and it has been forwarded to the Assembly for their review.

Many of the same concerns that apply to site condos also apply to multi-family development, especially apartment complexes. As we work to develop new standards and procedures for review of site condos, we also will develop new use-specific regulations to improve the visual quality and site design of apartment complexes (e.g., by requiring pedestrian connections to surrounding properties).

#### **E. MAKE THE PLANNING PROCESS EFFICIENT AND CONSISTENT, WHILE MAINTAINING DEVELOPMENT QUALITY**

Without expensive winter heating equipment and enclosures, the construction season in Anchorage is at best six months, and so delays in the planning process can be expensive. Because of the short building season, the development community is very concerned about a review process that it already considers too slow, and perceived inconsistencies in interpretation and application of the rules.



We heard a variety of specific complaints relating to a perceived lack of fairness and consistency on the part of the Municipal staff. One sore spot is the issue of submittals, and a belief that the staff is inconsistent in the materials that are required for applications, such as traffic impact analyses. Another concern is that the bulk of applications are required to go through the public hearing process, which results in a backlog of cases before City boards and commissions. It is not unusual, according to developers, to experience a delay of weeks to months to resolve any issue, even when an application is completely ready for review.

Also, some said that staff interpretations of the code are frequently inconsistent. Others complained that some substantive standards are too rigid – for example, the landscaping code requires the same treatment of sites in rural and urban areas without exception.

Balanced against these criticisms, it must be noted that substandard development can be unattractive and a bad neighbor, not to mention potentially dangerous, so it is important to continuously maintain high standards for development in Anchorage.

In response to all these concerns, we recommend a number of strategies to expedite the planning review process, while at the same time ensuring that the process is fair and produces quality development.

## **1. Examine a Variety of Approaches to Improve Fairness and Consistency**

We recommend several general approaches to addressing issues of administrative fairness and consistency. First, projects whose impacts can be fully addressed through standardized techniques or with staff supervision alone should not consume the time of boards and commissions. More staff approvals of routine development proposals – a technique being widely employed elsewhere -- will speed the approval process for all projects and, if subjected to consistent guidelines that are set forth in the code, will lead to greater consistency.

The need for faster approvals due to the short construction season justifies an examination of the timing of each stage of the review process. Referral agencies, for example, perhaps could be given shorter timelines for response in order to shorten the review period. (This issue should be considered carefully, however, since review times that are too short may lead to less consideration being given to applications.)

Also, the code should allow for concurrent review of multiple applications under one project -- for example, rezoning and platting in larger subdivision cases, or rezoning and conditional use/site plan applications. As another example, local approval should be conditioned on state or federal permitting, but not held up by these processes.

The possibility of allowing more by-right development should also be explored as a way to eliminate unnecessary procedures. The Municipality could eliminate conditional use review hearings, for example, where it is possible to replace hearings and case-by-case conditions with more use-specific standards in the code, such as design standards to protect neighborhoods. An improved incentives system could also accelerate the review process by more quickly bringing developers and the Municipality to a resolution on aesthetic issues and public amenities. An effective incentives system could not only speed the process and add flexibility, it could attract developers downtown that are currently motivated to look elsewhere due to the complexity and additional burdens placed on downtown development (though land aggregation problems may stymie development downtown more than design issues).

Finally, the content of staff reports perhaps could be revised to make them more useful to the development applicants and to review and decision-making bodies. The Planning Department has contracted with the American Planning Association to review the Planning Department's staff reports and recommend options for improvement. We will coordinate with APA to codify their recommendations, as necessary, in the new Title 21.

## **2. Clarify Roles and Responsibilities**

The existing Title 21 does not clearly identify the review and decision-making responsibilities of the city's various boards and staff. The work of reviewing and approving a land use application in Anchorage is shared by numerous agencies, boards, and commissions defined under Title 21. The expectations of both applicants and citizen organizations are often based on erroneous or incomplete readings of the procedures for hearings and appeals under Title 21. For example, the authority to appeal for zoning relief is split between the Zoning Board of Examiners and



Appeals and the Board of Adjustment, resulting in some confusion. The availability and process for appeals should be codified at one location in the revised Title 21.

Also, it may be advisable for the revised code to explicitly authorize joint hearings of the Platting Board and the Planning and Zoning Commission. While the Platting Board and Planning and Zoning Commission have distinct and separate responsibilities, they often hear different aspects of the same projects. Joint hearings of these two boards could make the approval process quicker while reducing the chances that important testimony will be lost between the two hearings.

The responsibilities of the Urban Design Commission are especially in need of examination. Comments from interviewees, including members of the UDC itself, reflect a great deal of confusion and dissatisfaction over the commission's role in the review process. According to the text of Title 21, the UDC may review and condition all public sector projects, including schools, highway improvements, and even skyways. Section 21.10.028 also lists additional functions to be performed by the UDC and relies on reference to other sections of the code to set forth the timing and criteria, if any, for UDC review. In practice, the Urban Design Commission has been criticized for adding significant costs (e.g., \$2 million in landscaping for a high school) to projects, while largely duplicating the review functions of other boards. Some observers believe that the public's opinion of the UDC may be so negative at this point that it may make sense to disband the body and form a new entity to handle any new design review functions. Alternatively, major ordinance revisions are needed to clarify the authority of the UDC. The functions of the UDC should be better defined to prevent duplicative review or results that disproportionately burden some types of development. The Planning Department and the Municipal Attorney currently are working on an ordinance that clarifies the authority of the UDC and delegates to them (from the Planning & Zoning Commission) the review of public facility site plans. We will work with staff to integrate this proposed ordinance into the new Title 21.

Many planning projects are reviewed by several administrative departments and divisions within the Municipality of Anchorage, making it important to coordinate the internal review of land use regulations. Traffic, Planning and Zoning, and Physical Planning may each interpret the code differently and convey a different understanding of the application of the code to an applicant. We suggest clarifying the review process in flowcharts and general regulations that clearly vest authority for interpreting regulations in appropriate departments. Traffic staff, for instance, should have the authority to determine if a project will produce an unacceptable impact on the level of service at a particular intersection, but the Planning and Zoning staff should have authority to determine if unresolved traffic issues will prevent a project from meeting Conditional Use standards.

On a related note, a new system or procedure must be drafted in the new Title 21 that specifies the process for tracking staff interpretations of Title 21 (e.g., determinations of permitted uses in a zoning district).

### **3. Clarify Submittal Requirements**

Projects submitted under Title 21 can be delayed due to nothing more than lack of a complete application. There is confusion in the development community about whether submittals are required. For example, the need for a Traffic Impact Analysis (TIA) is currently determined solely by the planning staff, not by criteria set forth in Title 21, and then, if required, the TIA must be produced before the application can be heard before the Planning and Zoning Commission. Further, staff is often unable to review last-minute submittals given directly to boards and

commissions by an applicant, leading to questions about the fairness of the process. Last-minute additions by staff to subdivision agreements and other development conditions have likewise raised fairness questions.

A related concern is that current applications do not adequately account for the impacts of a development. The current approach requires a case-by-case determination of impacts (e.g., on traffic or schools), causing delays while staff makes a determination.

We recommend restructuring the code provisions regarding submittal requirements and supplementary information. First, to use resources effectively, Title 21 should clearly state that applications will not be processed until complete. Title 21 should also state who will be responsible for making a determination of completeness (typically the Planning Director).

Beyond Title 21, the Municipality must better explain and publicize a consistent set of application requirements. The specific requirements for various types of applications should be removed from Title 21 and enacted in the form of a manual that can be updated periodically without requiring amendment of Title 21. This approach allows the Municipality to refine the scope of projects to which certain requirements, like Traffic Impact Analysis, will apply. This freestanding handbook or manual should also contain current fee information, set forth quantitative and qualitative standards for submittals (e.g., sheet size, number of copies, etc.), and provide the developer with guidelines for amending an application.

In addition to an application guidebook, new requirements could be added to promote better understanding of planning rules. For example, Anchorage 2020 calls for more frequent use of pre-application conferences for larger projects. Also, procedures should be clarified for projects that require multiple approvals; for example, Title 21 should state that an application should include all materials produced in satisfaction of the National Environmental Policy Act.

#### **4. Clarify the Relationship of Title 21 to Other Regulations**

Land use applications are often initiated under Title 21 without applicants being aware of other requirements in the Municipality's ordinances or state or federal regulations. Two particular problem areas are requirements of the Title 24 right-of-way code and the state coastal zone management regulations. Cross-references between various Titles of the MOA code and to federal/state regulations should be incorporated into the new Title 21 to help address this problem.

Also, the new Title 21 will need to specify the relationships between Title 21 and other local standards and guidelines that are contained in separate documents, such as the Design Criteria Manual and the Traffic Department standards and policies. These relationships will need to be discussed on an issue-by-issue basis during the drafting process. For example, the Design Criteria Manual has standards for preliminary drainage plans, and we will need to work with staff to determine whether those standards should be repeated in the new Title 21, or simply cross-referenced, or if new standards are needed in Title 21 to supplement the Manual's standards.

#### **5. Draft Transitional Rules**

During the rewrite of Title 21, a key issue is what happens to applications submitted during the rewrite process, and to entitlements granted under the old code. Should they be exempt from any new regulations and procedures? Such situations typically are addressed through transitional rules within the new code. Examples of topics we recommend addressing in specific

transitional rules for Anchorage include the continued enforceability of violations under the old ordinance, the status of applications and projects pending or approved under the old ordinance, the continued legality of nonconformities under the old ordinance, and the status of land uses rendered nonconforming by the adoption of the new ordinance.

Options for addressing zoning incompatibilities created by code revisions include rezoning particular problem spots to a district in which the land use will be in conformity with zoning, generally treating uses that were permitted prior to the revision as legal non-conformities, or addressing potential incompatibilities with specific transitional zoning rules. To the extent possible, we recommend the latter course of action, as specific transitional zoning rules can be limited to the minimum number of exceptional situations necessary to address the particular needs of the community and such specific rules can be tailored to encourage compatibility and compliance with zoning in the most expedient manner possible.

A particular of area is concern in this context are the special limitation rezonings. By one estimate, rezonings using special limitations have resulted in at least 100 distinct zoning classifications within the Municipality. We will discuss with the Municipal Attorney how those properties currently subject to a special limitation will be treated after the transition is made to the new code. If, as is recommended below, the special limitations process is eliminated or amended to limit its scope, transitional zoning regulations will be needed to define the conditions and rules for maintaining legal land uses in areas currently classified with special limitations.

## **6. Tighten Rezoning Procedures**

Some existing procedures need to be evaluated to ensure that they are accomplishing their intended purposes and to ensure that consistent criteria are being imposed by decision-makers. In particular, some people noted that the procedures for rezoning have become too liberal and should be tightened. Rezoning applicants, we were told, sometimes do not even attempt to justify proposed rezonings based on existing criteria in Title 21. Staff has requested, in particular, that stricter criteria be developed for rezoning residential land to commercial land.

## **7. Add New Procedures to Improve Efficiency and Consistency**

We recommend that the new Title 21 add several new procedures to improve administration of the code, including:

- Create a process for amending the text of Title 21. The current amendment provisions cover only rezonings, making it difficult to make periodic adjustments to outdated or unsuccessful areas of Title 21. A new process is necessary that allows amendments to any section of Title 21. The process must specify that amending Title 21 is different than other Municipal Code amendments; for example, Title 21 amendments will require more involved notice procedures than the 14-day notice minimum required for other Code amendments. Title 21 amendments would require review and recommendation by the Planning and Zoning Commission, and decision by the Assembly. A public hearing would be required.
- Provide for administrative adjustments, including staff approval of minor modifications to approved site plans. An increasing number of jurisdictions are choosing to delegate authority to staff to grant minor modifications to certain standards, such as off-street

parking requirements, in order to streamline zoning administration. As mentioned above, the Anchorage planning staff, given appropriate guidelines, could in many cases render effective decisions without high-level review or public hearings. Providing for more administrative review will expedite the overall processing of cases. Some work in this area already has been done with the variance ordinance revisions recently passed, but we heard from interviewees that the new provisions are not yet being used effectively.

- Consolidate common procedures. As part of making Title 21 more user-friendly and eliminating repetition, we will draft a set of common provisions that apply to all procedures, such as public notice and public hearing requirements, the timing of fees, and pre-application scheduling.

## F. REVISE THE USE CLASSIFICATION SYSTEM

A key feature of any zoning ordinance is the set of uses that are allowed within the zoning districts. The lists of uses regulated in Title 21 need extensive revision. Currently Title 21 lists all uses permitted by-right and conditionally in a cumbersome narrative format that takes dozens of pages. Our interviews suggested that this awkward system, which we have encountered numerous times throughout the country, is a key source of frustration with Anchorage's existing Title 21 for many users.



The keys to fixing the current system will be eliminating redundancy wherever possible and improving organization. To start, we recommend consolidating most use-related material into a new article, to be called "Use Regulations." The first part of this new chapter will be the summary use table, discussed above as one of the key techniques for making the Title 21 more user-friendly. This new table will summarize all uses permitted by-right, permitted conditionally or prohibited; this information currently is presented as lists in Chapter 21.40. (See Appendix C for a sample master use table.)

Next, we will update the lists of allowed uses. The current Title 21 takes the approach of providing, for each zoning district, an exhaustive list of land uses allowed by right and by conditional use. The pinpoint precision used in the current code has resulted in an incomplete and distorted field of regulation. Because the land uses are classified with such a high level of specificity, it is not uncommon for a newly proposed use to defy classification. We will refine this system by creating a set of general "use categories," within which will be located specific "use classifications." For example, the general use category of "vehicle services" might include the following specific use classifications: "automobile service stations," "car washes," "vehicle sales and rental," and "vehicle repair."

We will clarify the process for adding new uses. Several interviewees noted that a clear process is necessary for dealing with proposed uses that are not specifically listed in the Title 21. We will propose a system in which the Planning Director can examine new uses and can determine whether they are similar enough to an existing use category or type to be given the same treatment for zoning purposes, or whether they should be added to the Title 21 as an

entirely new use category or type. (There is a system in place now to do this using the Zoning Board of Examiners and Appeals, but staff notes that it is not much better than a normal ordinance amendment, since the Assembly still must make the final decision.)

The new use regulations chapter also will include the use-specific regulations. These are the regulations that consistently apply to the same uses, regardless of what zone districts those uses are located in. So, for example, all of the conditions applying to child-care centers would be listed in this section and would have general applicability across all districts. Many of these regulations are called “conditional use standards” in the current Title 21 and are listed in Chapter 21.50. Other use-specific standards are contained in the use lists of Chapter 21.40 (such as the honey-bee keeping regulations, which are repeated numerous times). We will carry forward these regulations, making updates as appropriate, and also will add new use-specific standards as necessary based on input from staff and the advisory committee. We recommend codifying any regulations that are frequently applied to the same use as use-specific regulations. We will examine all current uses and use-specific regulations for appropriateness.

Finally, we suggest including all provisions relating to accessory and temporary uses and structures in the proposed new “Use Regulations” article. Currently, the accessory use and structure provisions are scattered in Chapter 21.40. New standards will be necessary for some types of accessory uses, such as accessory dwelling units, which are called for in Anchorage 2020. There appear to be no comprehensive standards in Title 21 addressing temporary uses or structures, which has led to noted abuses (e.g., “temporary” coffee shacks). (There are some regulations for temporary structures in the municipal building code. A legal opinion from the Municipal Attorney regarding coffee shacks has been requested. Several versions of a draft ordinance regarding these shacks also are under review by legal department.)



## **G. ENSURE COORDINATION OF CURRENT LAND-USE PROJECTS**

Anchorage officials and staff have been working to improve the Municipality’s land use regulations on a wide variety of fronts. Projects range from the drafting of new retail design standards, to overhauling the sign ordinance, to rewriting the off-street parking requirements, to this Title 21 rewrite. In addition to these projects, all of which involve outside consultants, MOA staff have been working on a variety of ordinances in-house to address specific issues, such as street standards, land clearing, and manufactured housing.

Many interviewees from the private sector whom we spoke with expressed concern that the MOA is attempting to do too much in too short a time period, and they worry that there is no larger vision guiding all these efforts. Many of these efforts have the potential to work at cross-purposes if larger coordinating techniques are not implemented. It will be important to coordinate the rewrite of the landscaping provisions in Title 21, for instance, with both the new commercial design standards and also the rewrite of the parking regulations.

Because of the large number and breadth of projects underway, it will be important to ensure that all efforts are coordinated as effectively and efficiently as possible. For example, the new zone districts designed to implement the Town Center concept will need to be coordinated with the new retail development standards. It may be worthwhile for staff to convene periodic meetings with one or more consultant teams working on these projects, and with staff from various departments, to ensure that this coordination occurs.

## H. EXAMINE ENFORCEMENT POLICIES AND REGULATIONS



The issue that came up most frequently during our interviews was how difficult Title 21 is to understand and use -- yet the issue of enforcement ran a close second. Simply put, there is tremendous frustration in Anchorage with an enforcement system that many believe is dramatically under-funded and thus ill-equipped to consistently and meaningfully enforce Title 21. We heard comments along these lines from MOA staff, elected and appointed officials, community councils, and the development community. Three Assembly members ranked enforcement as one of the most important issues to be addressed. Some interviewees even questioned whether an update to

strengthen Title 21 is worthwhile, given the MOA's perceived failure to adequately enforce the current regulations.

Despite the availability of a range of enforcement measures in the text of Title 21, the municipality has had on-going problems with numerous types of land use violations. There is a strong perception that enforcement of Title 21 is uneven and often politically motivated. Enforcement is seen as primarily reactive. There is a perception that citizen complaints are disregarded and that conditions on land use approvals are not consistently tracked or enforced.

Many of the problems appear related to budgetary and resource allocation issues, and thus are beyond the scope of this project. A relatively small staff of five enforcement officers covers the entire municipality, which extends over some 2,000 square miles. Enforcement is minimal on weekends, when many violations occur (e.g., illegal temporary sales). In addition to having to cover a large area, these officers have other duties in addition to enforcement (for example, final zoning inspections for building permits).

The enforcement provisions in Title 21 are located in Chapter 21.25. We will discuss these provisions in greater detail with the code compliance staff and the MOA Attorney to ensure that all appropriate enforcement measures are included in the code, and the enforcement procedures, as written, match the way the procedures are being applied in practice. Fines should be increased to the extent allowed by Alaska law. To the extent possible, we recommend that flexibility be incorporated into the enforcement process, including providing sufficient incentives to encourage code compliance.



Some additional code-related enforcement issues may warrant further investigation and discussion. Notably, a provision for citizen-initiated enforcement of land use regulations exists (at AMC 21.25.035) but apparently has only been used once, due at least in part to a lack of citizen awareness. The private enforcement provision may be too political or cumbersome to effectively address enforcement problems; we will explore this issue with the advisory committee.

Efforts to de-politicize the enforcement provisions of Title 21 should also look at the wide latitude of discretion given to administrative officials. Currently, under AMC 21.25.030, enforcement officials “may” decide to take action or not take action in any code violation case. The code should be revised such that, in cases satisfying appropriate criteria, such as persistent and noxious violations of the zoning code, an order to abate or provide another remedy may be compelled.

The special limitations process creates numerous enforcement problems. Because each special limitation case creates a unique zoning situation, it is often difficult for the affected neighbors or city zoning enforcement officials to track the particular uses allowed on a site or the particular conditions applied to an approval. Also, special limitations generally dilute the effectiveness of zoning restrictions in any locale where they are prevalent. Revision or elimination of the special limitation process is recommended as part of this Title 21 update, particularly for cases in which a new or modified standard zone district introduced in the new Title 21 will accommodate uses that were previously permitted only by way of a special limitation rezoning.

Other code-related approaches to improving enforcement include providing more explicit standards for activities and areas that perennially have code enforcement problems, such as snow dumping; and clarifying administrative procedures for better tracking of violators.

Again, solutions to code enforcement problems in Anchorage may rest primarily with staffing and budgetary decisions outside the scope of Title 21. Enlargement of the enforcement staff, or even dedication of the part of the existing staff to enforcement activities, has the potential to resolve many current enforcement issues.

### III. CHAPTER-BY-CHAPTER DISCUSSION OF KEY PROVISIONS

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#### A. CHAPTER 21.05: COMPREHENSIVE PLAN

##### ***General Comments on Chapter***

This chapter sets forth the scope and purpose of the Comprehensive Plan and its various component plans. Because the Comprehensive Plan is considered the basic policy guide for the administration of Title 21, we typically recommend that these provisions be located in the first chapter of the code, as is done here. However, we also typically merge these provisions with other provisions of general applicability, rather than giving them their own chapter. Yet, this chapter is written very specifically so that it and the incorporated documents constitute the actual Comprehensive Plan of the MOA. Staff, especially the legal department, should provide guidance as to whether this material must remain its own chapter in the new Title 21 or if it can be folded into a new chapter of general provisions.

##### ***Comments on Specific Sections***

##### **21.05.010 Adoption; Scope of Chapter**

##### **21.05.020 Purpose**

Like most provisions in Title 21, these provisions contain parenthetical references to the ordinances that have affected the provision (e.g., “(AO No. 85-165).”) Unless instructed otherwise, we will remove all such references for provisions that are carried forward as part of the comprehensive Title 21 rewrite. When the new Title 21 is adopted, the MOA will essentially be starting with a “clean slate” in terms of code amendments.

##### **21.05.030 Elements**

The list of plan elements in this section will need to be checked closely for accuracy and updated if necessary. There is a lengthy list of footnotes to this section, and we will need to work with staff to determine how many of these references, if any, get carried forward into the new Title 21.

##### **21.05.040 Procedure for Modification**

The Municipality should consider presenting these procedural provisions for amending the Comprehensive Plan in a new chapter devoted to administrative procedures. Also, we recommend that the new code distinguish between cosmetic amendments (e.g., correction of typographic errors) to the Comprehensive Plans, which can be handled administratively, from substantive amendments, which should require a full public hearing process and decision by the Assembly.

##### **21.05.050 Land Use Classifications**

##### **21.05.060 Residential Densities**

The level of plan detail in these sections typically is not included in development codes. Further, we do not believe that these provisions are applied consistently in all elements of the Anchorage Comprehensive Plan. We recommend that these sections not be carried forward into the new Title 21.

##### **21.05.070 Implementation – Generally**

##### **21.05.080 Implementation – Anchorage 2020 Anchorage Bowl Comprehensive Plan**

##### **21.05.090 Implementation – Eagle River-Chugiak-Eklutna Comprehensive Plan**

##### **21.05.100 Implementation – Turnagain Arm Comprehensive Plan**



- 21.05.110 Implementation – Transition (T) District**
- 21.05.115 Implementation – Anchorage Wetlands Management Plan**
- 21.05.120 Implementation – Hillside Wastewater Management Plan**
- 21.05.130 Implementation – Coastal Zone Management Plan**
- 21.05.140 Implementation – Spenard Commercial District Development Strategy**
- 21.05.150 Implementation – Chugiak-Eagle River Transportation Plan**

This series of sections calls for implementation of the various components of the Comprehensive Plan. Generally, development activity (including subdivisions, conditional uses, and rezonings) is required to “conform” to the adopted plans.

The first section deals with Anchorage 2020. It calls for specific land use plans and functional plans to be developed to implement the plan. Until those new plans are available, the text lays out a transition policy that requires development applications to be reviewed for conformity to the 2020 plan in accordance with a hierarchy laid out in the text (e.g., conformance with general goals of 2020, conformance with Land Use Concept Plan, etc.). For areas not covered by the new Land Use Concept Plan or another element of the Anchorage Comprehensive Plan, the old Generalized Land Use Plan and Residential Intensity Plan must be consulted. All proposals must conform to those documents unless the approving authority finds that one of several listed exceptions is met.

Further discussion will be necessary on these important sections. The hierarchy of reviews was included here because Anchorage 2020 is a framework plan that lacks a land use map or residential intensity map. Staff notes that the use of the hierarchy is awkward, but staff does use it to review rezonings and other proposed development. Thus, the section still is necessary and will need to be carried forward in some form. However, existing phrases such as “adequate internal circulation, open space, and transitional space or buffering” need to be better defined and made more objective. We will draft new standards for such issues in the new Title 21, and so the relationship of this section to those new standards will have to be reexamined once the new standards are drafted.

In addition, we understand that neighborhood plans, which will help implement 2020 on a neighborhood scale, are the subject of much controversy in Anchorage. Some plans have already been prepared, and other plans are proposed but are not expected to be completed for several years (e.g., Hillside). Some interviewees suggested that the process for preparing and adopting neighborhood plans should be codified. If such procedures were to be drafted, this is the section where they should be located. However, few communities codify neighborhood planning procedures; if they are formally adopted at all, they are contained in a separate resolution or policy statement. Such an approach gives the community more flexibility to address the neighborhood planning issue, which can vary greatly by neighborhood, than a rigid set of rules in the development code. Direction needed from staff on this issue.

After the section on Anchorage 2020, subsequent sections deal with other elements of the Comprehensive Plan. A variety of plan conformance strategies are presented here, ranging from the very general (e.g., for the Turnagain Arm Comprehensive Plan) to the very specific (e.g., the Anchorage Wetlands Management Plan). Staff will need to provide direction on which of these sections should be carried forward in their current form, which must be updated, and which should be deleted (if any).

Generally, regarding all these implementation sections, we recommend, if possible, that this material be simplified so that a single implementation strategy be developed that can apply to all the plan elements.

## **B. CHAPTER 21.10: BOARDS AND COMMISSIONS; ADMINISTRATIVE OFFICERS**

### ***General Comments on Chapter***

Chapter 21.10 sets forth the various responsibilities of the review and decision-making bodies. All “powers and duties” discussions will be reviewed to ensure consistency with any changes made in review processes in other sections of Title 21. Also, the functions of the various bodies will be reviewed to ensure that the text reflects the actual duties and operation of the bodies. The powers and duties will be summarized in an easy-to-read table in the new code. Discussions may be necessary to determine if these bodies are being used as effectively as possible.

### ***Comments on Specific Sections***

#### **21.10.005 Administrative Officials and Planning Staff**

This important section assigns staff the responsibility for supporting the other decision-making bodies and for administering and enforcing Title 21. We will carry forward a similar provision, working with staff to determine how much detail should be included regarding specific administrative responsibilities. For example, should we just list the “Planning Director” as the staff position responsibility for administration and enforcement of Title 21, or should we also list the various departments that serve under the Planning Director? Most communities tend to be somewhat general in their description of staff powers and duties in the code, since such responsibilities can change often.

An important provision is buried in subsection (B), which allows staff to “reject from consideration those applications which do not meet the minimum submission requirements established by ordinance or regulations....” As part of the new section of common procedures, we will carry forward a similar provision that allows the Planning Director to specify what constitutes a “complete” application, and states that incomplete applications will not be processed.

#### **21.10.010 Composition and Public Comment on Board and Commission Appointees**

This section contains membership information for the Planning and Zoning Commission, Platting Board, UDC, and Zoning Board of Examiners and Appeals. Some communities choose to keep such provisions in their zoning code, while others relocate such material to a separate administrative handbook in order to reduce the bulk of the document. Much of this material already is outside of Title 21 and located in the Code of Procedures (some of which is reprinted at the back of Title 21). The Anchorage staff has indicated that they would prefer to have such information kept in the Code of Procedures, rather than Title 21.

There are no qualifications specified for any board members. This is somewhat unusual; most communities at least require some general qualifications or interest on the part of some members. Staff has indicated that they support minimum qualifications for at least a certain number of board members. For example, the UDC could require at least 4 or 5 design professionals (architects or landscape architects), a civil engineer, and the remaining seats could be at-large. This subject should be discussed with all boards and commissions.

In addition, some members of the ZBEA requested that the membership requirements for that body be modified to include at least one attorney, in order to help ensure that ZBEA decisions are legally sound and can withstand court challenge.

- 21.10.015 Planning and Zoning Commission**
- 21.10.020 Platting Board**
- 21.10.025 Zoning Board of Examiners and Appeals**
- 21.10.035 Hearing Officer and Rules of Procedure**

These sections list the powers and duties of the listed bodies. Again, we will review all such sections to ensure consistency with any changes made in review processes in other sections of Title 21.

Some interviewees expressed confusion about what types of issues go before the hearing officer. We agree that the current text of Section 21.10.035 is vague as to what types of applications go to the hearing officer; it just says that the Planning and Zoning Commission should delegate “one or more types of conditional uses” to go the hearing officer. We will need to work with staff to develop a list of applications that go to the hearings officer as part of this Title 21 rewrite. Included on this list should be adjudication of fines/penalties on code and permit violations.

For all these bodies, there are specific rules of procedure (e.g., quorum requirements) bound into the back of Title 21. These are excerpts from the Code of Regulations, a separate part of the Code of Regulations. Portions of the Code of Regulations are included with the printed version of Title 21 that is distributed by the Planning Department. As part of this revision project, we recommend that such materials be kept separate from Title 21, as is done now, and attached to Title 21 only as printed excerpts. The argument for keeping them separate is that doing so reduces the bulk of the code, and allows such material to be amended without going through a formal code amendment procedure.

We only heard one substantive comment on the content of the procedural rules: A ZBEA member requested additional flexibility in the quorum requirements for that body, so that the body could reduce the quorum requirement if necessary based on meeting attendance.

#### **21.10.028 Urban Design Commission**

As discussed above, we heard numerous concerns about the Urban Design Commission in its current form. There is a proposed ordinance being drafted to clarify the UDC’s current authority and to expand that authority to include review of public facility site plans (which currently are being reviewed by the Planning and Zoning Commission). We will work with staff and the Municipal Attorney to reflect the new policies in the new Title 21.

#### **21.10.030 Board of Adjustment**

The Assembly sits as the Board of Adjustment in order to hear certain appeals. This fact should be clarified in the new Title 21. The current text leaves the issue vague, and many interviewees did not realize that the Assembly serves in this capacity.

Also, we should discuss further whether the Assembly wishes to continue serving in this capacity. As an alternative to the current procedures, Title 21 could be rewritten to send appeals either to the Zoning Board of Examiners and Appeals or to Superior Court. Some interviewees indicated that they believe it would be wise to try and remove the Assembly from the appeals process.

#### **21.10.040 Fees**

This fee provision should be carried forward into the new set of common procedures in the new Title 21. However, we recommend removing reference to all specific procedures, and simply saying that a fee schedule will be adopted by the Assembly.

### **C. CHAPTER 21.15: VARIANCES, CONDITIONAL USES, SUBDIVISION APPROVAL AND OTHER SPECIAL LAND USE PERMITS**

#### ***General Comments on Chapter***

Chapter 21.15 sets forth the majority of the procedures for obtaining development approval. There is much material here and the treatment of each of the existing sections will be different, as indicated below. For each specific type of approval, we will ensure that each procedure is presented consistently in the new code (e.g., application, review procedure, criteria for decision, effect of approval, lapse of approval, etc.).

We recommend that the procedures chapter begin with a section of “common procedures” that apply to multiple types of procedures (such as notice requirements, and provisions authorizing the Planning Director to specify what constitutes a complete application).

Earlier contact with applicants may be necessary for some procedures. The MOA should consider instituting a recommended (or mandatory) pre-application meeting for subdivisions, rezonings, planned developments, and site plans over a certain size. However, such a change would make sense only if the overall staff workload is not increased.

It may be possible to develop a “core review procedure” that is followed for multiple review procedures. The introductory section could set forth this procedure, and the individual process discussions that follow would only need to contain elements that deviate from the general process. If necessary, both a “major” and a “minor” core review process could be developed. Our experience shows that utilizing such core processes can be an excellent tool for streamlining code administration.

The chapter needs flowcharts illustrating each review procedure. Also, a summary chart at the start of the chapter should be added to allow the Title 21 user to quickly compare key issues (e.g., who is the appeal body) for different types of procedures.

#### ***Comments on Specific Sections***

#### **21.15.005 Notice of Public Hearings**

Substantive requirements regarding when notice is required, what type of notice is required (e.g., mail, posting), and how to properly give notice under Title 21 will be placed in the common procedures section of the new Title 21. We will summarize notice requirements in a table. Also, we will confirm that the Title 21 notice requirements comply with applicable state law (though the Municipality’s home rule status may exempt it from these state rules; we will consult with the Municipal Attorney on this issue).

Public notice of planning issues is mailed to surrounding property owners within 500 feet of the subject property. Specific notice also is sent to the community council, notice is placed on the city’s website (though this is not called for in the code), and a newspaper ad is placed. The newspaper used for these ads has a low, specialized circulation, and some interviewees

suggested that the newspaper notice could be eliminated with no ill effect. This should be discussed further with the MOA Attorney.

As discussed earlier, the issue of earlier notification of proposed developments to neighborhoods and community councils will be discussed further at meetings to present this diagnosis. Depending on the outcome of those discussions, it may be appropriate to add a provision here directing that certain notices automatically be sent to community councils and neighborhood organizations that have registered with the MOA.

#### **21.15.010 Procedure for Obtaining Variances**

The criteria for approving a variance are standard. One current ZBEA member noted that the current criteria do not allow the ZBEA to consider personal hardship, and noted that there is some debate over whether the code should apply to personal hardship, versus just land-related hardship. In our experience, variances typically do not consider personal factors, only land use considerations.

#### **21.15.012 Procedure for Obtaining an Administrative Variance for Minor Dimensional Errors**

This section was recently amended by Ordinance 2002-109, which creates a sliding scale for the allowable tolerances from lot coverage requirements.

This section appears intended to allow staff to approve “minor variances.” We believe that even more authority should be granted to staff in this regard. We recommend that this section be replaced by a new “minor modification” procedure that would help streamline the overall administration of land use in Anchorage. Such a provision would allow the staff, in reviewing applications, to deal flexibly with unusual site plan issues that may be addressed simply with minor modifications to existing standards. Experience has shown that such a procedure can make the development review process more efficient and less time-consuming. Jurisdictions typically allow minor modifications if the deviation from code requirements advances the goals and purposes of the code, is more or equally as effective in achieving the relevant standards from which the modification is granted, or relieves practical difficulties in developing a site for reasonable economic use. In order to place bounds on the staff’s discretion to approve such modifications, objective standards are included that specify the standards that may or may not be modified and the degree to which modifications may be granted (e.g., the number of required off-street parking spaces may be decreased by no more than 10 percent).

Further discussion is necessary regarding what standards might be adjustable through such a process, and whether modifications to some standards (e.g., stream setbacks) should perhaps be prohibited altogether.

#### **21.15.015 Public Facility Site Review**

This section currently requires review by the Planning and Zoning Commission for both acquisition of public facility sites and plans for the development of public facility sites. As mentioned earlier, the review of public facility site plans is being proposed to be delegated to the Urban Design Commission. Staff is recommending that public facility site selection remain with the Planning & Zoning Commission (unless schools are involved, in which case the Assembly reviews the site, per state law).

Most public facilities do not require a conditional use; where they do, the conditional use process replaces this public facility site plan review process.

It may be advisable to revise this section to provide for an expedited administrative review of “minor” public facilities, which would be clearly defined. However, all major public facilities should continue to go through the full review process.

Also, this section should be revised to include substantive provisions that implement Anchorage 2020 policies for public facility design, including: pedestrian access to nearby parks, trails, and streets; compatibility with surrounding neighborhoods; and design for long-term use. See “Public Facilities Design Standards” and “Public Facilities Site Selection Criteria” in Anchorage 2020.

**21.15.020 Procedure for Obtaining Special Flood Hazard Permit**

Flood Hazard Permits may be issued for any activity that does not present a danger to occupants of the floodplain. In fact, this purpose is somewhat obscured by the provision for floodproofing certification of non-residential, but not residential development. Broadening the application to cover residential cases is recommended at a minimum. As a general proposition, the Municipality should consider adding new review criteria that could be used to discourage development in floodplain areas. The current code is based exclusively on the safety of structures and flood conveyance.

**21.15.025 Public Facility Project Landscaping Review**

Depending on the continuation of the Urban Design Commission, this process may be refined for future inclusion with more specific standards for cost and feasibility consideration, or the process may be eliminated and superceded by the site plan review process (21.15.030). The UDC or its successor must have clear direction as to how far its authority extends and to whom appeals are to be taken.

**21.15.030 Approval of Site Plans and Conditional Uses**

It may make sense to separate out site plans and conditional uses into distinct sections, for clarity. Also, we recommend removing the lengthy lists of submittal requirements, as discussed earlier. The Municipality may wish to specifically exempt its own projects from this article, using the Public Facility Site Review as an expedited process.

**21.15.040 Procedure for Obtaining Sign Permit**

This is a reference to where the sign permit procedure is located, in Title 23. During the drafting process, we will consider whether it makes more sense to have such a cross-reference in the new procedures article, or in the sign regulations, or in both locations.

**21.15.050 Land Use Permit**

This appears to be the only type of approval currently required in Girdwood and Eagle River. A purpose statement should be drafted, and submittal requirements removed.

**21.15.055 Annual Administrative Permit**

This is not a procedure; the sections should be relocated elsewhere -- the first to enforcement, the second and third to common procedures, and the fourth to use-specific standards for bed and breakfasts.

**21.15.100 Approval of Subdivision Plats – Review Required; Public Hearing; Pre-Application**

**21.15.110 Approval of Subdivision Plats – Submission of Preliminary Plat**

**21.15.115 Approval of Subdivision Plats – Action on Preliminary Plat**

- 21.15.120 Approval of Subdivision Plats – Final Plat**
- 21.15.123 Approval of Subdivision Plats – Right-of-Way Acquisition Plat**
- 21.15.125 Approval of Subdivision Plats – Abbreviated Plat Procedure**

We heard few comments on the subdivision procedures. Staff did note that they do not currently do pre-application requirements every time they are required in Title 21; we should try and be more specific in the code as to when such meetings are not necessary.

The “minor subdivision” process contained in the last of these sections applies an abbreviated process, which is typical for smaller subdivisions. The Assembly passed an ordinance (A.O. 2002-95) that expands the number of lots that may use this process from the current three lots to eight. Staff does not support any further expansion in the number of lots at this time.

- 21.15.127 Approval of Record of Survey Maps**
- 21.15.130 Approval of Vacations**
- 21.15.133 Approval of Street Name Alterations**
- 21.15.134 Approval of Plans for Commercial Tracts**

We heard no comments on these sections and propose no substantive revisions.

## **D. CHAPTER 21.20: ZONING MAP AMENDMENTS**

### ***General Comments on Chapter***

This chapter contains the procedure for rezonings. The procedure will be carried forward into the new procedures chapter, with modifications as noted below.

### ***Comments on Specific Sections***

#### **21.20.010 Generally**

This section should be replaced with a purpose statement.

#### **21.20.020 Amendments with Special Limitations**

As discussed above, the special limitation rezoning procedure is used often in Anchorage and is the source of much frustration, both for the staff and for neighborhoods. Special limitations are used to tailor rezonings by eliminating certain listed land uses and calling for other special conditions (e.g., site plan review) in order to make a rezoning palatable to a neighborhood. Yet, the special limitation rezonings clutter the zoning map (over 100 have been approved), and create unique zoning classifications that place additional enforcement and record-keeping burdens on staff. We recommend eliminating the special limitation rezoning process in the new Title 21. A combination of other changes to Title 21 should help address compatibility concerns, including new regulations on troublesome uses, new neighborhood protection standards, and a comprehensive reevaluation of uses allowed in all districts. Eliminating this tool would be a major policy change, however, and should be discussed further with the advisory committee, officials, and staff.

If the special limitation system is kept, a system is necessary for tracking approved special limitations. Keeping records of special limitations in a central location, with quick references to specific use regulations, should make enforcement of violations on these sites easier to accomplish. (The Planning Department already has a system to track special limitations, using CityView software. However, not all offices have access to CityView.)

**21.20.040 Submission Requirements Generally**  
**21.20.060 Submission Requirements for Amendments Applying Planning Community District**

These sections contain lists of submittal requirements. Generally, we recommend that communities remove submittal requirements from the code, and instead place them in a separate administrative manual or handbook that can be easily referenced in the code, but that is not part of the code and therefore can be more easily updated. Communities typically put submittal requirements for all applications, not just rezonings, in such a handbook. The materials in the handbook are adopted and have the same force of law as if the requirements were in the code itself.

**21.20.090 Standards for Approval**

We will suggest new approval criteria for rezonings. The existing section on conformance with the comprehensive plan is important but it can be greatly simplified.

**21.20.030 Form of Amending Ordinance**  
**21.20.040 Initiation**  
**21.20.070 Minimum Area Requirements**  
**21.20.080 Waiting Period for Reconsideration**  
**21.20.100 Review and Recommendation by Planning and Zoning Commission**  
**21.20.110 Protests**  
**21.20.120 Action by Assembly**  
**21.20.130 Effective Date of Amendments**

We heard few comments on these sections. They generally will be carried forward into the new code with no substantive changes proposed.

We will confirm that the protest petition provisions conform to state law. Also, we will try to clarify how the protest standard is met, perhaps through an illustration. Per staff request, we will consider if there are ways to simplify this material yet still comply with state law.

Regarding the “Action by Assembly” section, if the special limitation procedure remains, then the Assembly’s authority to modify special limitations should be clarified, especially if the Assembly decides to ignore the Planning & Zoning Commission’s recommendation.

**E. CHAPTER 21.25: ENFORCEMENT; VIOLATIONS AND PENALTIES**

***General Comments on Chapter***

This chapter includes the enforcement provisions of Title 21. As discussed above in the “Major Themes for Improvement” section, lack of enforcement is perhaps the greatest area of concern regarding land use issues in Anchorage. There currently are just five enforcement officers for the entire Municipality. Yet, as discussed, there is only so much that can be done as part of this drafting project to improve code enforcement. The primary steps that can be taken include strengthening the enforcement provisions of this chapter to more specifically identify violations, adding a broad range of civil and criminal penalties as allowed by state law (possibly including property liens), and clarifying enforcement procedures for both public and private enforcement actions. To the extent possible, we recommend that flexibility be incorporated into the enforcement process, including providing sufficient incentives to encourage code compliance.



## **F. CHAPTER 21.30: APPEALS**

### ***General Comments on Chapter***

This chapter contains procedures for appealing decisions made under Title 21, whether to the Board of Adjustment, the Zoning Board of Examiners and Appeals, or through the courts. Structurally, it may not be necessary for these provisions to stand on their own in a separate chapter. We typically recommend folding the appeals provisions into the procedures chapter, since they are simply another type of procedure that must be followed.

As discussed above in the “Major Themes” section, the issue of whether the Assembly should be removed from the appeals process should be discussed. Appeals from a regulatory board would go to Superior Court.

### ***Comments on Specific Sections***

<b>21.30.010</b>	<b>Jurisdiction of Board</b>
<b>21.30.020</b>	<b>Initiation of Appeal</b>
<b>21.30.025</b>	<b>Appellees Before Board</b>
<b>21.30.030</b>	<b>Perfection of Appeal; Notice of Appeal; Appeal Fee</b>
<b>21.30.040</b>	<b>New Evidence or Changed Circumstances</b>
<b>21.30.050</b>	<b>Appeal Record</b>
<b>21.30.060</b>	<b>Written Arguments</b>
<b>21.30.070</b>	<b>Appeal Packet; Notice of Hearing</b>
<b>21.30.080</b>	<b>Conduct of Hearing</b>
<b>21.30.090</b>	<b>Scope of Review</b>
<b>21.30.095</b>	<b>Decision</b>
<b>21.30.100</b>	<b>Remedies</b>

This set of provisions deals with appeals to the Board of Adjustment. The Assembly acts as the Board of Adjustment in Anchorage. The Board hears appeals of decisions regarding subdivision plats and variances from subdivision standards, concept or final approval of conditional uses, and site plans.

The right to appeal a decision to the Board is very broad; anyone who is “adversely affected” can appeal a decision under Section 21.30.020. We heard from several interviewees that this broad provision often is used by opponents of a project to slow the project down. Also, the provision is used to extend proceedings over several years, and in so doing wear down neighborhood opponents. Whether or not the right to appeal some decisions should be narrowed or abbreviated in some fashion is a major policy decision that should be discussed further with the Advisory Committee and MOA officials and staff. We also will discuss state law requirements regarding appeals with the MOA Attorney.

The approval criteria for appeals by the Board are not clearly identified. Typically, the approval criteria are the same as those required for the original action that is being appealed. This should be spelled out in the code.

The process for hearing appeals by the Board is laid out clearly in these sections, but the level of detail seems excessive. We propose that these sections be edited down so that the level of detail matches the detail found in the sections on appeals to the ZBEA. Also, staff should provide direction if this written procedure does not accurately reflect current practice.

- 21.30.110**      **Jurisdiction of Board**
- 21.30.120**      **Initiation of Appeal**
- 21.30.130**      **Time Limit for Filing; Notice of Appeal; Appeal Fee**
- 21.30.140**      **Scope of review**
- 21.30.150**      **Hearing**
- 21.30.160**      **Decision**

This set of provisions deals with appeals to the Zoning Board of Examiners and Appeals (ZBEA). The ZBEA hears appeals of administrative decisions (e.g., sign permit applications) and enforcement orders. As with appeals to the Board of Adjustment, staff should provide direction if this written procedure does not accurately reflect current practice.

Importantly, there are no required approval criteria to guide decisions on these appeals, and so appeals could be acted upon in an inconsistent fashion. Section 21.30.140 merely requires that the ZBEA “conduct a full evidentiary hearing on an appeal and make its decision on the basis of this title, the evidence, and the argument presented.” As with appeals to the Board of Adjustment, we will clarify that the approval criteria are the same as those required for the original action that is being appealed. (In the current document, that might be a problem, since some administrative decisions do not have clear criteria listed in the code; however, all procedures will have clear, objective criteria in the new Title 21.)

**21.30.170**      **Special Rules of Procedure Applicable to Appeal Hearings**

These standard provisions apply to all types of appeals and are designed to uphold the integrity of the appeals process – for example, making sure that members of an appellate body do not have inappropriate contacts with the applicant outside the public hearing. These provisions should be relocated to a general section that precedes all appeals procedures.

**21.30.180**      **Judicial Review Authorized**

**21.30.190**      **Scope of Judicial Review**

These sections authorize appeal of the BOA or the ZBEA to the courts. These standard provisions are straightforward and will be carried forward with no significant revisions.

**G.      CHAPTER 21.35: GENERAL PROVISIONS**

***General Comments on Chapter***

This important chapter is buried in the middle of Title 21, yet its provisions apply uniformly to the entire document. We recommend that both existing sections be comprehensively rewritten and relocated to more prominent locations in the new Title 21.

There are several additional general provisions that appear to be missing in the current Title 21, yet must be drafted for the new code. These include, at a minimum: Title, Statutory Authority, Applicability and Jurisdiction, Purpose, Relationship to Other Regulations, Conflicting Provisions, and Severability.

***Comments on Specific Sections***

**21.35.010**      **Purpose of Title**

The general purpose statements of Title 21, located here in the current regulations, will be referred to numerous times throughout the new Title 21, since approval criteria for most development procedures should require compliance with the general purposes of Title 21. Because this is such an important section, and because the existing purpose language is

relatively weak and generic and does not reflect the many new planning goals and objectives adopted in Anchorage in recent years, this section should be completely rewritten. In addition to tightening the language, appropriate statutory references should be added, and the purpose statements of the various comprehensive plans (Anchorage Bowl, Eagle River-Chugiak, Turnagain Arm, and Girdwood) perhaps should be referenced, depending on how the Comprehensive Plan (current Chapter 21.05) is rewritten. In the revised Title 21, this material should be located at the front of the document, along with other provisions of general applicability.

#### **21.35.020 Definitions and Rules of Construction**

A number of changes are necessary to the definitions section of Title 21 in order to make it more user-friendly and a more detailed, helpful reference tool. Some of these changes are structural. For instance, as noted above, we recommend relocating the definitions chapter to the back of the document, since it is reference material that most readers are accustomed to finding after the main text. Also, we recommend removing all definitions related to dimensional requirements from this chapter (e.g., “setback”) and relocating them to another section that deals just with dimensional standards. Further, we recommend removing descriptions of use types (e.g., “bed and breakfast”) and separating them out in a new subsection of the definitions chapter that will describe all the use types (not just the select few that are currently defined).

Other changes are necessary to improve the user-friendliness of the definitions. Numerous illustrations, for instance, could be used to help explain complex concepts (e.g., impervious surface). Also, related definitions should be identified and cross-referenced, and distinctions should be made explicit. We will fold in definitions from other sections (e.g., subdivision).

Finally, each definition should be reviewed to ensure it does not contain regulatory requirements (which should be in the main body of Title 21) and to ensure that it adequately explains the term. We will work with staff to develop a list of new definitions that should be added to Title 21. The current list is relatively short for a code of this size, and it appears that many new definitions will be necessary.

## **H. CHAPTER 21.40: ZONING DISTRICTS**

### ***General Comments on Chapter***

Chapter 21.40 is the heart of Title 21 and contains descriptions of the base zoning districts and the uses allowed within those districts. At 101 pages, it is the largest chapter in Title 21. This is not surprising, since the current document groups together a huge amount of information in a lengthy, cumbersome format. For each district, the chapter lists intent; permitted principal and accessory uses and structures; conditional uses; minimum lot and yard requirements; maximum height; and regulations for signs, landscaping, parking, and more.

As discussed earlier in the “Major Themes” section of this diagnosis, our strategy in rewriting Title 21 will be to break apart all of this information so that similar information is grouped together, and so that a large amount of text can be presented in easy-to-use summary tables, which allow quick comparison across zoning districts. We will have one chapter whose primary purpose will be to list the purpose statements for each zoning district. Another chapter will list the uses allowed in those districts, and will be anchored by a new summary use table. A third chapter will contain the dimensional standards (e.g., height, setbacks) for structures built in the districts, as well as other development standards (e.g., parking, landscaping) that apply to all

districts. In our experience, this type of structure is much easier for staff and the public to use and understand than the current Title 21 format.

Also as discussed in “Major Themes,” adjustments may be necessary to the current lineup of zoning districts. One or more new districts will be necessary to implement the concepts emphasized in Anchorage 2020, including transit-oriented development, mixed-use, and infill; most existing districts are single-purpose districts that can’t accommodate mixed use. Also, some consolidation of existing districts appears necessary, especially given the large number of current residential districts.

Some criticisms of the existing districts relate not to the districts themselves, but how they have been applied on the zoning map. In particular, the B-3 district has been applied too broadly, such as to neighborhood centers that would be more appropriately zoned B-1. Also, in the past there have been too many rezonings of residentially zoned land to commercial districts, resulting in an imbalance in residential versus nonresidential land. While we will work with staff to develop a new set of zoning districts as part of Title 21, many of the existing criticisms regarding mapping will have to be addressed once the new Title 21 is in place and a comprehensive remapping of the city is undertaken.

### ***Comments on Specific Sections***

#### **21.40.010 Zoning Map; Districts Designated**

#### **21.40.015 Effect of Use District Regulations**

These introductory sections explain the zoning map and provide other information that applies to all zoning districts. They will be carried forward to the start of the new zoning district chapter, and updated as necessary to reflect changes made to the lineup of zoning districts.

#### **21.40.020 PLI Public Lands and Institutions District**

The conditional uses list needs to be evaluated to possibly make some uses permitted.

#### **21.40.030 R-1 and R-1A Single-Family Residential Districts**

#### **21.40.040 R-2A Two-Family Residential District (large lot); R-2D Two-Family Residential District**

#### **21.40.045 R-2M Multiple-Family Residential District**

#### **21.40.050 R-3 Multiple-Family Residential District**

#### **21.40.060 R-4 Multiple-Family Residential District**

#### **21.40.070 R-5 Rural Residential District; R-5A Rural Residential District (large lot)**

#### **21.40.080 R-6 Suburban Residential District (large lot)**

#### **21.40.090 R-7 Intermediate Rural Residential District**

#### **21.40.100 R-8 Rural Residential District (large lot)**

#### **21.40.110 R-9 Rural Residential District**

#### **21.40.115 R-10 Residential Alpine/Slope District**

There are many residential districts, and many of the districts are quite similar, suggesting that some district consolidation or elimination is possible. R-1 and R-1A, for example, are identical except for different minimum lot requirements, as are R-2A and R-2D. R-3 and R-4 also are very similar and perhaps could be consolidated, as could the rural residential districts. In addition, staff has noted that a new small-lot residential district may be necessary. As a general rule, proposed changes to large lot zones can be difficult politically, however.

We will evaluate all the residential districts based on the concepts and land use classifications in the comprehensive plans and suggest changes as necessary, such as changes to support

inclusive zoning and mixed-density residential neighborhoods. In particular, we will need to work with staff to determine which districts should have minimum densities, per *Anchorage 2020*.

Staff has indicated that equestrian facilities should be considered as a possible conditional use in the R-6, R-8, R-9, and R-10 districts, provided certain conditions are met. Also, the list of uses in R-9 should be evaluated; the district allows commercial uses beyond home occupations.

**21.40.117 R-11 Turnagain Arm District**

As part of the effort to fold the Girdwood Title 22 draft regulations into Title 21, many new districts will be created for the Girdwood area that are now zoned R-11. In addition, the R-11 district itself should be reexamined to determine how well it implements the Turnagain Arm plan.

**21.40.120 D-2 and D-3 Residential Development Districts**

Some interviewees suggested eliminating these districts. Our impression is that they do appear unnecessary. Staff has indicated that only one property in Anchorage is zoned in this class, and that these zones could be eliminated with no foreseeable adverse impact.

**21.40.130 R-O Residential-Office District**

**21.40.140 B-1A Local and Neighborhood Business District**

**21.40.145 B-1B Community Business District**

The purpose and focus of these zones could possibly be revised to support designated neighborhood commercial centers as shown on the Land Use Policy Map in Anchorage 2020 (page 50) and subsequent neighborhood centers that are designated within adopted neighborhood plans.

Also, these are examples of districts where better standards could be especially important, to ensure that businesses are compatible with surrounding neighborhoods, both from an architectural standpoint, and also from an operational standpoint (e.g., hours of operation).

R-O in practice typically means commercial, although some residential projects have occurred in this zone. This district should be revised if it is to be used to encourage more residential mixed use. Design standards also will be key.

**21.40.150 B-2A Central Business District Core**

**21.40.160 B-2B Central Business District, Intermediate**

**21.40.170 B-2C Central Business District, Periphery**

These sections contain the downtown zoning provisions. The bonus system in the downtown zoning (see, e.g., Table 1 in Section 21.40.150) is heavily criticized by the development community. One reason is that the system doesn't encourage features that are needed to make a winter city work well (e.g., heated sidewalks). Recent major projects built in the downtown are criticized for "working" the system in order to provide low-cost amenities that technically meet the point requirements but fail to actually improve the quality of life downtown (e.g., benches that get covered with snow, display boxes instead of windows installed at the ground floor level). In particular, critics say that the points do not do enough to encourage pedestrian connections downtown. The developers we spoke with are in favor of point systems generally, which can act as incentives and which offer flexibility. This system, however, they argue is flawed. If the point system is kept, then new amenities should be adopted (such as heated sidewalks, or buried utility boxes) that would help encourage pedestrian activity and be appropriate for winter conditions.

Other criticisms of the downtown zoning include the fact that residential development is not encouraged. Also, the New York City-style “wedding cake” approach to zoning, which requires height to be stepped back from the street, is criticized by some as too complex and inappropriate for Anchorage. However, on the other hand, staff notes that stepped-back buildings can provide solar access to public spaces, protect viewsheds, and minimize the wind-tunnel effect that can occur with large buildings. Overall, Anchorage’s harsh climate conditions warrant some design controls over large projects in the downtown. More discussion is needed on this topic.

As mentioned earlier, we propose that only targeted modifications be made to Anchorage’s downtown zoning at this time. For example, perhaps some of the amenities could be removed from the point lists. In the long term, we recommend that a separate advisory committee/working group be formed to oversee a comprehensive review and revisions to the downtown zoning. It is not uncommon for such processes in other communities to take one to two years. The time typically is worth it, however, since it can help ensure buy-in from all interested parties, both public and private.

Revisions to the downtown zoning should consider the Downtown Development Framework, which was prepared in the late 1990s. The Framework is a short document that was prepared as the result of a three-day intensive workshop/meeting facilitated by a planning consultant. The Framework focuses on opportunities for public/private cooperation. The Framework is not an adopted document or a formal part of the comprehensive plan. Nevertheless, it is a useful source of ideas for revamping downtown zoning, especially ideas for injecting flexibility into downtown zoning. It contains recommendations that can be a foundation for additional work. Importantly, it recognizes South Addition as part of the downtown.

#### **21.40.180 B-3 General Business District**

The B-3 zone is a catch-all commercial district that appears to have been applied too widely across Anchorage. Many revisions are necessary. For example, the district needs to be revised to implement the employment center provisions of Anchorage 2020. While the plan recommends higher employment densities (50 to 75 employees per acre) in the employment centers of midtown, downtown, and the university areas, it will be difficult to achieve this due to the widespread current use of the B-3 district. High-density office developments should be limited to areas zoned Major Employment Center, which may require a new district in the new Title 21. Also, as part of the comprehensive remapping that will take place following the rewrite of Title 21, the B-3 zoning should be restricted in its application.

This is another district where better design standards could be especially important to ensure that businesses are compatible with surrounding neighborhoods.

#### **21.40.190 B-4 Rural Business District**

Staff has indicated that this district should either be deleted or revised to indicate its true purpose. If the zone is kept, design standards would be necessary to ensure compatibility. More discussion is necessary regarding the purpose of this district and if it should be retained.

#### **21.40.200 I-1 Light Industrial District**

#### **21.40.210 I-2 Heavy Industrial District**

#### **21.40.220 I-3 Rural Industrial District**

We heard many complaints about these districts, especially the I-1, with most interviewees generally agreeing that they provide too much flexibility and allow too many commercial uses. Currently, the range of uses allowed is very broad, ranging from retail, to high-rise office

buildings, to light industrial manufacturing. The broad range of land use types and densities allowed in the districts makes it difficult for staff to plan for infrastructure for these areas (e.g., transportation demand modeling).

**21.40.230 W Watershed District**

Almost all the property under this designation is owned by the Municipality. Watershed areas are protected by overlay districts in many communities, but Anchorage protects its watersheds through this base district. The district simply limits the types of uses allowed in watershed areas, though there is fairly broad authorization for the Planning and Zoning Commission to approve any other conditional uses not listed. This open-ended authority should perhaps be limited. Also, most watershed districts have strict development standards, including impervious surface cover limits and setbacks from streams and riparian areas. This district probably will need to be strengthened in these ways to implement Anchorage 2020.

**21.40.240 T Transition District**

The purpose of this district is not clear to us and further discussion is needed. It is written as a general “holding zone” for lands “that are not expected be developed in the immediate future.” Rather than applying this unusual district, such areas should be zoned consistent with their land use classifications in the comprehensive plan. If this is done, this district could be eliminated.

**21.40.250 PC Planned Community District**

This is one of two mechanisms in Title 21 for planned development (the other is PUD). It establishes a special process for adopting a PC district ordinance to guide development for large tracts under common ownership, and to allow flexibility from the strict requirements of the ordinance. A concept plan is required.

We heard little about planned development in Anchorage, though such a tool often is used in other communities to implement the mixed-use and town center concepts called for in Anchorage 2020. As we explore the need for new base districts to implement those concepts, we will discuss with staff whether some sort of planned development mechanism (based on this district or on some new proposal) would be appropriate. If this district is retained, the language must be tightened to eliminate some current ambiguities. For example, the district is intended for “large tracts,” but no specific size threshold is listed in this section (instead, the 40-acre threshold is listed in the rezoning provisions Section 21.20.060). Also, it is unclear which existing Title 21 development standards may be modified in this district and which cannot be modified.

**21.40.260 AF Antenna Farm District**

**21.40.270 MC Marine Commercial District**

**21.40.280 MI Marine Industrial District**

We heard no comments on these districts and propose to carry them forward with no major substantive revisions.

**I. CHAPTER 21.45: SUPPLEMENTARY DISTRICT REGULATIONS**

***General Comments on Chapter***

This chapter is somewhat of a “grab bag,” containing a variety of regulations ranging from accessory building controls, to parking requirements, to dimensional controls. In our proposed new structure, we will recommend breaking apart this chapter and relocating all of these provisions to other chapters where they would make more sense. For instance, a variety of

use-specific standards are located in this chapter (e.g., churches, bed and breakfasts), which we would recommend moving to a new “Use Regulations” chapter. The dimensional standards (e.g., clear vision areas, yards) would go to a new chapter or section that consolidates such standards for all districts.

### ***Comments on Specific Sections***

#### **21.45.010 Applicability of Chapter; District Classes**

This section probably will not be necessary once the chapter is broken up and the various provisions relocated to other chapters.

#### **21.45.020 Clear Vision Areas**

#### **21.45.040 Buildings to Have Access**

#### **21.45.050 Height Regulations**

#### **21.45.070 Projections into Required Yards**

#### **21.45.120 Yards**

#### **21.45.140 Setbacks from Projected Rights-of-Way**

All these sections should be incorporated into a new chapter or section dealing with dimensional standards. Such a chapter or section would be anchored by a master table of dimensional requirements, followed by specific rules and exceptions for making all types of measurements (e.g., height, setbacks). It would be easier to present some of this material (e.g., the list of allowed protections into setbacks) in tables rather than in narrative form.

#### **21.45.030 Accessory Buildings**

This material should be located in a section dealing with accessory uses and structures.

#### **21.45.060 Fallout Shelters**

We suspect that these provisions are obsolete and can be eliminated.

#### **21.45.080 Off-Street Parking Requirements**

#### **21.45.090 Off-Street Loading Requirements**

These two sections are being updated as part of a separate project being overseen by the Traffic Department, and also being conducted by Clarion Associates. It will be important to coordinate the development of new parking requirements and design standards for parking lots with the Title 21 rewrite and other related projects, including the new retail design standards.

#### **21.45.110 Fences**

The fence regulations could be located either with the dimensional standards or as part of the landscaping, buffering, and screening requirements.

#### **21.45.125 Landscaping**

As noted in the “Major Themes” section, we heard numerous criticisms of the landscaping provisions. The current regulations are cumbersome and not user-friendly. One problem is that the provisions are scattered in numerous locations in the current code, including not only this section but also in places like Section 21.15.025 (“Public facility project landscaping review.”) The applicability of the requirements should be examined to determine if any projects should be exempt or, alternatively, subject to higher standards. Tree preservation regulations and incentives should be considered as part of the landscaping section.

#### **21.45.130 Screening Along Major Highways**

This material should be folded into a new landscaping section.



#### **21.45.150 Home Occupations**

We generally recommend that codes provide a general set of performance standards for home occupations, rather than trying to list specifically allowed home occupations. These current regulations are fairly standard and conform to this recommendation, and so few changes are necessary. Staff should advise if there are any problems with these requirements. The material should be folded into a new section dealing generally with accessory uses and structures.

#### **21.45.160 Signs**

The sign ordinance currently is being rewritten by another consultant. The new ordinance will be folded into the new Title 21 when it is available.

#### **21.45.180 Child Care Services**

This section contains use-specific standards, which we propose relocating to a new “Use Regulations” chapter. The names and regulations for all child care services should be confirmed with staff and cross-checked against state law, which sometimes mandates specific names for such uses. The summary table in this section may be a useful tool for some code users, but some lines on the table are not clear to us (e.g., “social program”) and we recommend that more explanation be provided to explain how to use the table.

#### **21.45.200 Transition and Buffering Standards**

These important standards are intended to provide buffer spaces between potentially incompatible uses. However, during our tours we saw numerous examples of places where either these buffer standards are not being met, or else buffers are provided that meet code requirements but are still inadequate. Often, for example, we saw industrial uses developed right up against neighborhoods, with no buffering provided except a chain link fence.



This entire section will be reviewed closely and probably completely rewritten. The new set of buffering standards will be a key tool used to protect neighborhoods and implement Anchorage 2020. It will need to be well-illustrated. Staff has requested clarification of which party is responsible for installing landscaping buffers.

#### **21.45.210 Stream Protection Setback**

The stream setback provisions probably should be located in the new development standards chapter. As mentioned in the “Major Themes” section, above, the 25-foot buffer required in these sections is very narrow compared to national standards. We typically see 100 feet or more as the norm, especially in rural areas.

Most areas where there are streams in Anchorage are already developed. Also, in some areas where the streams are associated with wetlands, the minimum setback requirements are increased to comply with the Anchorage Wetlands Management Plan or the Anchorage Coastal Zone Management Plan.

#### **21.45.220 Townhouse Development**

This section sets forth specific standards for townhouse development (e.g., driveway length) and requires submission and review of a site plan. Most communities do not require

townhouses to go through site plan approval, instead simply setting forth standards that townhouses must comply with but not requiring special review. We recommend removing the site plan requirement as a way to simplify infill development.

#### **21.45.230 Storm Drainage**

This short section simply requires submission of a site drainage plan prior to issuance of a building or land use permit. The requirement should be relocated to a new development standards chapter, and simple standards should be developed that all drainage plans must comply with.

#### **21.45.235 Churches**

Staff notes that some churches in Anchorage have grown into megaplexes that consist of churches, schools, nurseries, day care, television stations, and acres of parking lots. Such significant facilities can have major land-use impacts.

This section sets forth the current standards for development of churches, including site requirements (e.g., minimum lot area and width) and submission and approval of a site plan. These provisions may possibly conflict with a recently passed federal law called the Religious Land Use and Institutionalized Persons Act, which prohibits governments from imposing regulations that impose “significant burdens” on “religious exercise.” Exactly how this new law affects the ability of local governments to control churches through zoning is still being litigated in the courts, and we will continue to monitor this issue. However, it already is becoming clear that courts will look with suspicion at extra procedural requirements for churches, and are skeptical of standards that treat churches differently from other non-religious institutional uses (e.g., schools). Given this trend, we recommend reconsidering the site plan requirement, and either eliminating the special standards for churches or broadening them to apply to all institutions, not just churches.

Staff notes that they are facing a number of other issues with institutional uses. For instance, public schools are faced with a lengthy set of reviews and approvals, while private schools face none; more equity is desired.

#### **21.45.240 Location of Premises Where Children Are Not Allowed**

This section deals with adult establishments, including sexually oriented businesses and other adult-oriented businesses such as liquor stores. We propose relocating the provisions to the new section of use-specific standards. We will work with staff and the advisory committee to determine whether any substantive changes are necessary.

#### **21.45.245 Standards – Nightclub, Unlicensed**

The standards should be relocated to a new use-specific standards section. We will eliminate the amortization provisions from 1998.

#### **21.45.250 Bed and Breakfast with Three or Less Guestrooms**

#### **21.45.255 Bed and Breakfast with Four Bedrooms**

The standards should be relocated to a new use-specific standards section. The distinctions between the two types of uses appear to be the site plan requirement and the districts where the uses are allowed. We propose keeping the district distinctions but eliminating the site plan requirement as a way of freeing up staff resources for other issues.

**21.45.260 Transient Lodging Facilities Zoning Matrix**

All the information in this table could simply be folded into the new summary use table. Alternatively, or in addition, staff has requested creating a new table that summarizes all regulations dealing with bed & breakfasts, hostels, rooms, boarding houses, and other transient lodging (including “inns” in Girdwood). Any distinctions between these facilities, if any, should be made more explicit.

Also, staff notes that the conflict between the table and the standards in the R-3 zone needs to be fixed.

**21.45.265 Community and Local Interest Towers**

**21.45.270 Setback from Planned Utility Transmission Facilities**

We heard no comments on the tower provisions. The standards should be relocated to a new use-specific standards section. We will review the standards for conformance with the federal Telecommunications Act of 1996.

**21.45.275 Zero Lot Line Subdivisions**

This section allows for continued development in subdivisions affected by the sunseting of the zero lot line ordinance in 1987. Staff and the city attorney should advise if this material is still necessary.

**21.45.280 Gasoline Service Stations**

**21.45.290 Mini-Storage Facilities**

The standards should be relocated to a new use-specific standards section. Additional neighborhood compatibility standards may be necessary for gas stations located adjacent to residential areas, such as controls of hours of operation, limits on lighting and speaker noise, etc.

**J. CHAPTER 21.50: STANDARDS FOR CONDITIONAL USES AND SITE PLANS**

***General Comments on Chapter***

This chapter contains regulations that apply to particular uses when approved as conditional uses. Most of these “conditional use” standards are simply use-specific standards, and we propose relocating them to the new “Use Regulations” chapter.

***Comments on Specific Sections***

There are numerous sections in this chapter; below are listed only those sections for which we have comments.

**21.50.020 General Standards for Conditional Use Approval**

The general standards should be rewritten and located along with the conditional use procedure in the new procedures chapter.

**21.50.120 Conditional Use Standards – Mobile Home Parks**

These standards overlap or supplement the provisions of Chapter 21.70, “Mobile Home Parks.” The topic does not require its own chapter, and all mobile home park regulations should be consolidated in the new use-specific standards.

### **21.50.130 Conditional Use Standards – Planned Unit Developments**

These are fairly standard PUD provisions, but we get the impression they are not used frequently. (Staff has indicated that this is probably because developers have learned that cluster housing is easier to develop in Anchorage than PUD. Also, the the density bonuses granted in PUDs have been relatively small due to public opposition.)

Further, the relationship of the PUD standards to the PC district is unclear. Planned development can be a strong and effective tool for implementing some of the mixed use and infill concepts of Anchorage 2020, so further discussion will be necessary to identify the flaws in these regulations, if any, and to determine if planned development should be given more emphasis in the new Title 21. The purpose statement for PUD provisions should make clear that PUDs should not be used as an attempt to make an end-run around generally applicable development or design standards. Also, we should discuss the merits of recharacterizing PUD as a base district, which is the more common approach, rather than as a type of use allowed in other districts, which is done in the current Title 21.

### **21.50.210 Cluster Housing Site Plan Review**

Staff has requested assistance in modifying this section. The MOA has not been successful in encouraging well-designed cluster housing, despite having made modifications to these provisions in the recent past.

As part of the update of this section, we will consult the Urban Land Institute's report that resulted from a review of these provisions, and which includes recommendations for creative cluster development and design standards. However, staff has indicated that they do not necessarily agree with all the recommendations in that report, so more discussion is necessary on this topic.

### **21.50.320 Public Hearing Site Plan Review – Large Retail Establishment**

These standards presumably are being updated and folded into the new citywide retail design standards.

## **K. CHAPTER 21.55: NONCONFORMING USES**

### ***General Comments on Chapter***

Unlike many zoning ordinances, Title 21 already separates out regulations applying to nonconforming uses, lots, structures, and signs, and clearly sets forth regulations governing the expansion or change of nonconforming uses and structures. Thus, this chapter likely will require little significant modification, though we will discuss this further with the Municipal Attorney.

## **L. CHAPTER 21.60: FLOOD PLAIN REGULATIONS**

### ***General Comments on Chapter***

This chapter contains the provisions governing development in floodplains. In general, the regulations are straightforward and we did not hear any specific complaints concerning procedural requirements or standards of review. This material typically is presented as an overlay district in most zoning codes, and we suggest that it be an overlay district in the new Title 21. Other changes to the chapter will include: consolidating definitions into the main definitions chapter, eliminating redundant provisions, and possibly relocating the flood hazard

permit to the new procedure chapter. Beyond these simple changes, many communities prefer that few modifications be made, since these provisions are strictly reviewed by the federal government.

#### **M. CHAPTER 21.65: AIRPORT HEIGHT ZONING REGULATIONS**

##### ***General Comments on Chapter***

Like the previous chapter, this is really an overlay district that does not require its own chapter. It simply limits height in airport areas. We will merge the definitions into the main definitions chapter, and also will discuss with staff whether or not consultations are necessary with the operators of the Ted Stevens Anchorage International Airport or other airports.

#### **N. CHAPTER 21.67: STORMWATER DISCHARGE**

##### ***General Comments on Chapter***

The topic of stormwater discharge does not require its own chapter. This material should be merged into the new development standards chapter. The current section simply requires compliance with specific standards contained in a separate Stormwater Treatment Plan Review Guidance Manual. A new NPDES ordinance is being considered by the Assembly in November 2002.

#### **O. CHAPTER 21.70: MOBILE HOME PARKS**

##### ***General Comments on Chapter***

The topic of mobile home parks does not require its own chapter. All mobile home park provisions, both from this section and in the current Section 21.50.120, should be consolidated in the new use-specific standards section. The definitions should be integrated into the new definitions chapter. Staff has requested that all standards for mobile home parks be reevaluated.

#### **P. CHAPTER 21.75: SUBDIVISION STANDARDS: GENERAL PROVISIONS**

##### ***General Comments on Chapter***

This chapter contains general provisions that apply to all subdivision. In the new Title 21, the subdivision procedures will be relocated to a new procedures chapter. All subdivision standards, including design standards and improvement requirements, probably will be located in their own chapter.

The first two provisions of this chapter will be merged into the new section describing subdivision review and approval procedures, in the new procedures chapter. The subdivision definitions will be merged into the new general definitions chapter.

**Q. CHAPTER 21.80: SUBDIVISION STANDARDS: DEDICATION, RESERVE TRACTS AND DESIGN**

***General Comments on Chapter***

This chapter contains many of the subdivision design and improvement standards, which will be carried forward into their own chapter in the new Title 21. We heard few concerns on the specific standards.

One new standard proposed is open space dedication. As mentioned above in the “Major Themes” section, the 2020 plan calls for a program of providing parks and open space throughout Anchorage, including making revisions to Title 21 that include new standards for open space protection and set-asides during the subdivision and platting process. Currently, Anchorage is unusual in that it does not require set aside of open space during the subdivision process. We will propose new standards and incentives for public open space dedication and private open space set asides as part of the new Title 21. Public land dedications are conveyances of land from a private owner to a local government, either voluntarily or to offset the anticipated impacts of a proposed development. Private open space set-asides, on the other hand, refer to the setting aside of land solely for use by residents of an individual subdivision. Standards for both dedicated (public) and private open space lands should be designed to preserve the most sensitive areas identified by the Municipality (e.g., along river corridors) and should ensure that such lands are configured to be—where desirable—accessible and usable.

We probably will suggest deleting the “reserve tract” provisions, but will need to discuss this with the Municipal Attorney. We also will propose provisions that give planners the ability to work with developers to design projects that preserve important resource lands while allowing development to proceed on a site.

All the subdivision design standards will need to be reviewed to determine to extent to which any are inconsistent with the new development standards and review criteria.

Staff notes that there are a number of conflicts between the subdivision design regulations and the zoning district regulations that necessitate variances. Two of these conflicts that need to be addressed are:

- Areas with steep slopes and areas zoned R-10. Due to the topography and the required lot size, it is not always possible to meet the subdivision design standards such as a 3:1 lot depth to width ratio. When platting a 1.25 acre – 7.5 acre lots, staff asks “why should this ratio even apply?” Greater flexibility is needed in order to create subdivisions that conform to the terrain in terms of the road layout, driveway configuration, and building location, especially in relation to on-site septic and well requirements.
- Small lot development such as cluster and zero lot line development often require variances from the subdivision regulations such as lot depth-to-width; minimum lot depth, and minimum 50-foot corner lot width contained in Section 21.85.300.

***Comments on Specific Sections***

There are numerous sections in this chapter; below are listed only those sections for which we have comments.

**21.80.360 Design Standards – Hillside Lots**

These weak standards should be replaced by new, comprehensive standards regulating development on hillsides and steep slopes, as discussed in the “Major Themes” section.

**21.80.370 Design Standards – R-10 District**

This standard should apply to all development in this district, not just subdivisions. Further, the standard probably should be strengthened and applied to other districts, as well. We will suggest carrying it forward in some fashion into the new general development standards chapter.

**R. CHAPTER 21.85: SUBDIVISION STANDARDS: IMPROVEMENTS**

***General Comments on Chapter***

Again, we heard few comments on the specific improvement standards for subdivision. All improvement requirements will need to be reviewed to determine to extent to which any are inconsistent with the new development standards and review criteria. As much of the technical data (e.g., street width requirements) as possible will be summarized in tables.

***Comments on Specific Sections***

There are numerous sections in this chapter; below are listed only those sections for which we have comments.

**21.85.020 Improvement Areas Defined**

**21.85.030 Improvement Requirements by Improvement Area**

This appears to be the only place in Title 21 where distinctions are made between urban, suburban, and rural areas. The distinction is useful and could have applicability outside the subdivision section; for example, it might make sense for new wildfire protection standards to be more stringent in rural areas than in urbanized areas. Further discussion needed.

**21.85.050 Interior Streets**

**21.85.060 Optional Residential Interior Streets**

**21.85.070 Access Streets, Peripheral Streets and Half Streets**

The street design standards should be considered in light of the 2020 plan policies that call for interconnected, grid-like streets. The current code does not establish a standard or preference for a connected gridded street pattern.

Connectivity is a central principle of Anchorage 2020. However, past subdivision activity in Anchorage has tended to mirror conventional development patterns (e.g., curvilinear streets, limited access points, and liberal use of cul-de-sacs). The benefits of the cul-de-sacs and curvilinear streets often include the perception of market acceptability and reduced traffic on local roads. Yet, such development has disadvantages:

- Response times for emergency services are increased.
- Homes that require emergency services can be difficult to find.
- Travel distances between residential and non-residential destinations are increased due to the lack of alternative travel routes.
- Public transportation is hampered as walking distances from the inside of subdivisions to transit stops increase.
- Some streets simply end, permitting no connection to abutting development.

To increase the level of connectivity in new subdivisions, many communities have adopted a “connectivity index,” which simply sets a minimum ratio between street links and nodes. Anchorage should consider adopting such an index in the new Title 21. In addition, the Municipality should consider adding new provisions to enhance the interconnection of sidewalks, trails, and bicycle paths. Connectivity principles that deal with all transportation modes should be more fully integrated into Title 21 to apply to all non-residential development.

**21.85.180 Erosion and Sedimentation Control**

This should be moved to the new development standards chapter, since it will have applicability beyond subdivisions.

**S. CHAPTER 21.87: SUBDIVISION AGREEMENTS**

***General Comments on Chapter***

We heard no comments on this chapter and propose no substantive changes. This material should be incorporated into the subdivision procedures. Staff and the Municipal Attorney should advise if the forms of performance guarantee listed in this chapter are still current.

**T. CHAPTER 21.90: UTILITY DISTRIBUTION FACILITIES**

***General Comments on Chapter***

The chapter sets forth requirements for undergrounding utility lines, and contains standards for existing lines that are considered nonconforming. A new purpose statement is needed for this material. It is unclear whether this material requires its own chapter.

***Comments on Specific Sections***

**21.90.010 Definitions**

These will be integrated into the new definitions chapter.

**21.90.020 Underground Placement Required for New or Relocated Lines; Exceptions**

This section sets forth the general requirement for undergrounding utilities. This material was proposed for updating in 2001; an ordinance would have extended the undergrounding requirement to rural areas. The ordinance did not pass. This issue is of concern to the utility companies in Anchorage, and discussions should be had with them, with staff, and with the advisory committee before any changes to the undergrounding policy are proposed as part of this project.

**21.90.030 Variances**

This section allows the Planning and Zoning Commission to grant a variance if the cost of undergrounding is three times the cost of placing the line overhead. Staff notes that the public has challenged the integrity of estimates provided by the utility companies, so perhaps an independent cost evaluation should be required.

The section also allows the Planning Director to approve a variance for a temporary placement of a line overhead for two years. If this section is carried forward, then it should be rewritten as a temporary use; it is not a variance.



**21.90.040 Enforcement of Chapter**

This section is unnecessary; it duplicates the general enforcement provisions.

**21.90.050 Nonconforming Overhead Lines – Generally**

**21.90.060 Nonconforming Overhead Lines – Designation of Target Areas**

**21.90.070 Nonconforming Overhead Lines – Conformance with Ten-Year Plan**

**21.90.080 Nonconforming Overhead Lines – Lines in Municipal Right-of-Way**

**21.90.090 Nonconforming Overhead Lines – Conversion of Service Connections**

Generally, we recommend relocating these nonconforming provisions to a new chapter that deals exclusively with nonconformities.

This section contains some time-sensitive provisions that require the planning director to prepare a ten-year program for placing nonconforming lines underground. Staff notes that this section is not being followed or enforced. The last updates to this material appear to have been made in 1986. We will have to do further research on this topic to determine the Municipality's authority to require undergrounding, and to determine options for placing existing nonconforming lines underground.