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CHAPTER 21.03: REVIEW AND APPROVAL PROCEDURES

21.03.010 PURPOSE AND STRUCTURE OF THIS CHAPTER

This chapter describes the procedures for review and approval of all applications for development activity in the municipality. Common procedures, which are applicable to all or most types of development applications, are set forth in section 21.03.020. Subsequent sections set forth additional provisions that are unique to each type of application, including timetables, staff and review board assignments, review standards, and other information.

21.03.020 COMMON PROCEDURES

A. Applicability

The common procedures of this section 21.03.020 shall apply to all applications for development activity under this title unless otherwise stated.

B. Pre-Application Conferences

1. Purpose

The purpose of a pre-application conference is to familiarize the applicant and the municipal staff with the applicable provisions of this title that are required to permit the proposed development.

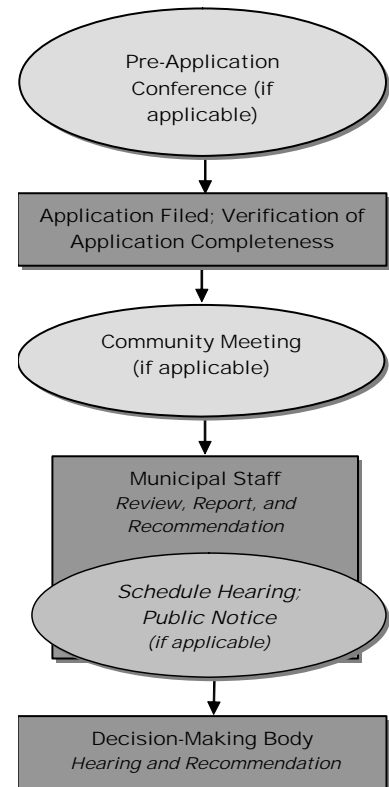
2. Applicability

a. **Required for New Applications**

A pre-application conference is required prior to submittal of the following types of applications:

- i. Rezoning (Map Amendments) (section 21.03.050);
- ii. Subdivisions and Plats, except for Abbreviated Plats (section 21.03.060);
- iii. Conditional Uses (section 21.03.070);
- iv. Major Site Plan Review (section 21.03.080C);
- v. Public Facility Site Selection (section 21.03.090); and
- vi. Projects involving Class A or B wetlands.

No application for these types of approvals shall be accepted until after the pre-application conference is completed and the applicant receives written notification of the conclusions. This review should take place prior to any substantial investment, such as land acquisition for a



Common Procedures

- 1 proposed development, site and engineering design, or the preparation
2 of other data.
- 3 **b. *Exception for Some Changes to Already-Approved Applications***
4 Pre-application conferences are not required for changes to already-
5 approved conditional use permits, variances, major site plans, and
6 subdivision plans if the following conditions are met:
- 7 **i.** For non-residential development, the proposed increase in
8 building square footage is less than 15 percent of the existing
9 building square footage.
- 10 **ii.** For residential development, the proposed increase in the
11 number of units or lots is not more than 15 percent of the existing
12 number of units or lots.
- 13 **c. *Optional for All Other Applications***
14 A pre-application conference is optional prior to submittal of any other
15 application under this title not listed in subsection a. above.
- 16 **d. *Waiver***
17 The director may waive the pre-application requirement if the director
18 finds that the projected size, complexity, anticipated impacts, or other
19 factors associated with the proposed development clearly, in his or her
20 opinion, support such waiver. The waiver shall be made in writing and
21 shall become a part of the case record for the application.
- 22 **3. *Initiation of Pre-Application Conference***
23 The potential applicant shall request a pre-application conference, in the manner
24 prescribed in the user's guide, with the director. Prior to the pre-application
25 conference, the applicant shall provide to the director a description of the
26 character, location, and magnitude of the proposed development and any other
27 supporting documents such as maps, drawings, models, and the type of
28 development permit sought. It is the applicant's responsibility to provide
29 sufficiently detailed plans and descriptions of the proposal to enable staff to make
30 the informal recommendations discussed below.
- 31 **4. *Pre-Application Conference Content***
32 The director shall schedule a pre-application conference after receipt of a proper
33 request. At the conference, the applicant, the director, and any other persons the
34 director deems appropriate and available to attend shall discuss the proposed
35 development. Based upon the information provided by the applicant and the
36 provisions of this title, the parties should discuss in general the proposed
37 development and the applicable requirements and standards of this title.
- 38 **5. *Checklist Of Pre-Application Conference***
39 Within ten days after the date of the pre-application review, the director shall
40 notify the applicant in writing of the staff's informal recommendation regarding the
41 desired development activity with respect to the following items:
- 42 **a.** Applicability of municipality policies, plans, and requirements as they
43 apply to the proposed development.

- 1 **b.** Appropriateness of the development with respect to the policies set forth
- 2 in the comprehensive plan and the regulations in this title.

- 3 **c.** Need, if any, to prepare a subdivision plat.

- 4 **d.** Any site plan considerations or requirements.

- 5 **e.** Any concerns or requirements related to the anticipated impact upon
- 6 public rights-of-way and public improvements, and appropriate
- 7 requirements to mitigate those impacts, including but not limited to traffic
- 8 impact analyses.

- 9 **f.** Any concerns related to neighborhood impacts, land use, landscaping
- 10 concepts, and overall project design.

- 11 **g.** Possible alternatives or modifications related to the proposed application.

- 12 **h.** Procedures that will need to be completed to review and act on the
- 13 proposed change.

14 The checklist shall be considered proprietary information until an application has
15 been submitted.

16 **6. Informal Recommendations Not Binding**

17 The informal recommendations of the director are not binding upon the applicant
18 or the municipality, but are intended to serve as a guide to the applicant in
19 making the application and advising the applicant in advance of the formal
20 application of any issues which will or may subsequently be presented to the
21 appropriate decision-making body. Because a pre-application conference
22 precedes the actual application, some key issues relating to a specific proposal
23 may not be apparent at the pre-application conference.

24 **7. Application Required Within Six Months**

25 After a pre-application conference has been completed, an application must be
26 submitted within six months, unless one extension is granted by the director not
27 to exceed an additional six months. If a complete application is not submitted
28 within six months or an extension has not been granted, a new pre-application
29 conference shall be required prior to submitting an application.

30 **C. Authority to File Applications**

- 31 **1.** Unless otherwise specified in this title, applications for review and approval may
32 be initiated by:
 - 33 **a.** The owner of the property that is the subject of the application;
 - 34 **b.** The owner's authorized agent; or
 - 35 **c.** Any review or decision-making body.

- 36 **2.** When an authorized agent files an application under this title on behalf of a
37 property owner, the agent shall provide the municipality with written
38 documentation that the owner of the property has authorized the filing of the
39 application.

1 3. When a review or decision-making body initiates action under this title, it does so
2 without prejudice toward the outcome.

3 **D. Application Contents, Submittal Schedule, and Fees**

4 1. **Title 21 User's Guide**

5 The mayor shall compile the requirements for application contents, forms, fees,
6 and the submittal and review schedule (including recommended time frames for
7 review) in a user's guide, which shall be made available to the public. The mayor
8 may amend and update the user's guide from time to time, upon
9 recommendation of the director.

10 2. **Form of Application**

11 Applications required under this chapter shall be submitted in a form and in such
12 number as required in the user's guide.

13 3. **Processing Fees**

14 Applications shall be accompanied by the fee amount that is listed in the user's
15 guide.

16 4. **Waivers**

17 The director may waive certain submittal requirements in order to reduce the
18 burden on the applicant and to tailor the requirements to the information
19 necessary to review a particular application. The director may waive such
20 requirements where he or she finds that the projected size, complexity,
21 anticipated impacts, or other factors associated with the proposed development
22 clearly, in his or her opinion, support such waiver.

23 **E. Verification of Application Completeness**

24 1. The director shall only initiate the review and processing of an application if such
25 application is complete. The director shall make a determination of application
26 completeness within 15 days of application filing. If the application is determined
27 to be complete, the application shall then be processed according to this title. If
28 an application is determined to be incomplete, the director shall provide notice to
29 the applicant along with an explanation of the application's deficiencies. No
30 further processing of an incomplete application shall occur until the deficiencies
31 are corrected. If the applicant receives no notice within 20 days, the application
32 shall be considered complete and processed according to this title.

33 2. An application shall be considered complete if it is submitted in the required form,
34 includes all mandatory information, including all supporting materials specified in
35 the title 21 user's guide, and is accompanied by the applicable fee. Nothing in
36 this subsection prohibits the department from requesting additional information
37 deemed necessary for review, after the application is complete. A pre-
38 application conference shall have been held, if required, pursuant to section
39 21.03.020B, *Pre-Application Conferences*.

40 3. As a consequence for any false or misleading information submitted or supplied
41 by an applicant on an application, that application will be deemed incomplete.

1 **F. Additional Information**

2 **1. Requested Information**

3 Any supplemental technical reports, special studies, and/or revised application
4 materials that are requested by the department and submitted following the
5 original application must be received at least thirty days prior to a public hearing.
6 The municipality may postpone and reschedule a public hearing or approval
7 deadline if such reports and studies are submitted less than thirty days prior to a
8 public hearing, unless the applicable board or commission waives this time limit
9 in a specific case for cause. Copies of such additional materials shall be
10 delivered to all reviewers who received the original application packet.

11 **2. Voluntary Information**

12 Any supplemental information, such as revised application materials, that is
13 voluntarily submitted by the applicant, should be submitted before the director's
14 report (staff packet) is finalized. Any such information submitted after the
15 director's report is finalized shall cause the application to be automatically
16 postponed to the next regular meeting in order for the department to have time to
17 review the new information, unless the board or commission determines that the
18 new information does not significantly alter the application.

19 **G. Community Meetings**

20 **1. Purpose**

21 The purpose of a community meeting shall be to provide an informal opportunity
22 to inform the affected neighborhood(s) and community council(s) of the details of
23 a proposed development and application, how the developer intends to meet the
24 standards contained in this title, and to receive public comment and encourage
25 dialogue at an early time in the review process.

26 **2. Applicability**

27 **a. Types of Applications**

28 A community meeting shall be required following the submittal of any of
29 the following types of applications, unless a waiver is granted by the
30 director pursuant to subsection b. below.

- 31 i. Rezoning (Zoning Map Amendments);
- 32 ii. Subdivisions and Plats, except for Abbreviated Plats;
- 33 iii. Conditional Uses;
- 34 iv. Major Site Plan Review; and
- 35 v. Public Facility Site Selection (including schools).

36 **b. Waiver**

37 The director may waive the community meeting requirement if he or she
38 determines that the proposed development or subdivision will not have
39 significant community impacts in any of the areas listed below. The
40 waiver shall be in writing and shall be included as part of the case
41 record.

- 42 i. Traffic;

- 1 **b.** Content, dates mailed, and number of mailings, including letters, meeting
- 2 notices, and any other written material;
- 3 **c.** The number of people that participated in the meetings;
- 4 **d.** A summary of concerns, issues, and problems expressed during the
- 5 meetings, including:
 - 6 **i.** The substance of the concerns, issues, and problems;
 - 7 **ii.** How the applicant has addressed or intends to address
 - 8 concerns, issues, and problems expressed at the meetings; and
 - 9 **iii.** Concerns, issues, and problems the applicant is unwilling or
 - 10 unable to address and why.

11 **H. Notice**

12 **1. Content of Notices**

13 Notice of all public hearings required under this chapter shall, unless otherwise

14 specified in this title:

- 15 **a.** Identify the date, time, and place of the public hearing;
- 16 **b.** If applicable, describe the property involved in the application by street
- 17 address or by legal description and nearest cross street;
- 18 **c.** Describe the nature, scope, and purpose of the proposed action;
- 19 **d.** Indicate that interested parties may appear at the hearing and speak on
- 20 the matter; and
- 21 **e.** Indicate where additional information on the matter may be obtained.

22 **2. Summary of Notice Requirements**

23 The following table 21.03-1 summarizes the notice requirements of the

24 procedures set forth in this chapter.

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS				
Type of Application or Procedure	Section	Notice Required		
		Mailed	Published	Posted
Amendments to the Comprehensive Plan, Substantive	21.03.030C.	-	✓	-
Amendments to the Comprehensive Plan, Cosmetic	21.03.030D.	-	-	-
Amendments to Text of Title 21	21.03.040	-	✓	-
Rezoning (Map Amendments)	21.03.050	✓	✓	✓
Subdivisions (Preliminary Plat) (with existing physical access)	21.03.060	✓	✓	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS

Type of Application or Procedure	Section	Notice Required		
		Mailed	Published	Posted
Subdivisions (Preliminary Plat) (without existing physical access)	21.03.060	✓	✓	-
Final Plat	21.03.060	-	-	-
Abbreviated Plats	21.03.060D.	-	(-
Right-of-Way Acquisition Plat	21.03.060F.	-	-	-
Conditional Uses	21.03.070	((✓
Administrative Site Plan Review	21.03.080B	-	-	-
Major Site Plan Review	21.03.080C	✓	✓	✓
Public Facility Site Selection (except schools)	21.03.090	✓	✓	✓
Road and Trail Review	21.03.100	-	✓	-
Special Flood Hazard Permits	21.03.110	✓	✓	✓
Land Use Permits	21.03.120	-	-	-
Certificates of Zoning Compliance	21.03.130	-	-	-
Sign Permits	21.03.140	-	-	-
Record of Survey Maps	21.03.150	-	-	-
Vacation of Plats and Rights-of-Way	21.03.160	✓	✓	✓
Verification of Nonconforming Status	21.03.170	-	-	-
Minor Modifications	21.03.180	-	-	-
Variances	21.03.190	✓	✓	✓
Appeals to Board of Adjustment	21.03.200A.	✓	✓	-
Appeals to ZBEA	21.03.200B.	✓	✓	-
Assembly Alcohol Approval	21.03.220	✓	✓	✓
Neighborhood or District Plans	21.03.240	-	✓	-
Area Master Planning	21.03.250A.	✓	✓	✓
Development Master Planning	21.03.250B.	✓	✓	✓
Institutional Master Planning	21.03.250C.	✓	✓	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS

Type of Application or Procedure	Section	Notice Required		
		Mailed	Published	Posted
Appeal of an Enforcement Order	21.12	-	-	✓

3. Published Notice

When table 21.03-1 requires that notice be published, the director shall cause a notice to be published in a newspaper having general circulation. The notice shall be published at least 21 days before the scheduled hearing date. In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.

4. Written (Mailed) Notice

When table 21.03-1 requires that written notice be provided, the director shall deposit such notice into first class mail at least 21 days prior to the scheduled date of the hearing. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted. Written notice shall be provided to the following persons or groups:

a. Owners of Subject Property

All persons listed on the records of the municipal assessor as owners of land subject to the application, at the mailing addresses of such persons in the records of the municipal assessor.

b. Adjacent Property Owners

All persons listed on the records of the municipal assessor as owners of any land within 500 feet of the outer boundary of the land subject to the application, or owners of the 50 parcels nearest to the outer boundary of the land subject to the application, whichever is the greater number of parcels, at the mailing addresses of such persons in the records of the municipal assessor.

c. Community Councils

Any officially recognized community council whose boundary includes land described in paragraph a. of this subsection, and any additional such council whose boundary lies within 1,000 feet of any part of the subject property. Furthermore, the department shall provide notice to additional community councils in the following instances:

i. Each recognized community council within the municipality shall receive written notice where the subject parcel is one of the following regional public lands or facilities: Ted Stevens Anchorage International Airport; Merrill Field Airport; Far North/Bicentennial Park; Kincaid Park; Chugach State Park; Anchorage Coastal Wildlife Refuge; BLM tract(s) near Far North/Bicentennial Park.¹

ii. If the subject parcel is a branch public facility that serves a specific delineated area, such as a public school or fire station, then any community council whose boundaries lie within the

delineated district of service of a branch public facility shall receive written notice. This requirement shall only take effect after the municipality has established maps delineating areas of service for the type of branch facility, and has adopted procedures and responsibilities for updating service area boundaries.

iii. Any community council whose boundaries lie beyond the minimum notification distance shall receive notice regarding proposals of potentially major scope or controversy that, in the opinion of the director, are likely to have a significant impact on the residents of the community council beyond the minimum notification distance.

iv. All community councils shall receive notice of substantive amendments to the comprehensive plan and amendments to the text of title 21.

d. Additional Persons

Such additional persons or geographic areas as the director may designate.

5. Posted Notice

When table 21.03-1 requires that notice be posted, the applicant shall cause a notice, on a form provided by the department, to be posted on the property for at least 21 days before the scheduled public hearing date. In computing such period, the day of posting shall not be counted, but the day of the public hearing shall be counted. If no part of the subject property is visible from the public right-of-way, the notice shall be posted along the nearest street in the public right-of-way. Posted notices shall include all the content specified in subsection H.1. above except for the legal description. Before the public hearing, the applicant shall submit to the department an affidavit, signed by the person who did the posting or the person who caused the posting to be done, that notice was posted as required by this subsection. Posted notices shall be removed by the applicant within 30 days of the public hearing on the application.

6. Constructive Notice

Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to, errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this title.

7. Presumption of Notice

When the records of the municipality document the publication, mailing, and posting of notices as required by this subsection, it shall be presumed that notice of a public hearing was given as required by this subsection.

1 **I. Concurrent Processing**

2 Where possible without creating an undue administrative burden on the municipality's
3 decision-making bodies and staff, this title intends to accommodate the simultaneous
4 processing of applications for different permits and approvals that may be required for the
5 same development project in order to expedite the overall review process. Review and
6 decision-making bodies considering applications submitted simultaneously shall render
7 separate reports, recommendations, and decisions on each application based on the
8 specific standards applicable to each approval.

9 **1.** Examples of concurrent filing and processing of applications include, but are not
10 limited to:

- 11 **a.** A rezoning along with a comprehensive plan map amendment;
12 **b.** A subdivision plan along with a site plan or variance or vacation;
13 **c.** A variance along with a conditional use or site plan.

14 **2.** Some forms of approval depend on the applicant having previously received
15 another form of approval, or require the applicant to take particular action within
16 some time period following the approval in order to avoid having the approval
17 lapse. Therefore, even though this title intends to accommodate simultaneous
18 processing, applicants should note that each of the permits and approvals set
19 forth in this title has its own timing and review sequence.

20 **3.** The expected time frame and approval process for a consolidated application
21 shall follow the longest time frame and approval process required from among
22 the joined application types.

23 **J. Postponements**

24 **1.** The applicant may request a postponement of his or her case without a fee,
25 when there are only five or fewer board or commission members in attendance at
26 the hearing.

27 **2.** The applicant may request a postponement of his or her case for any other
28 reason. If the decision-making body grants the postponement request, the
29 applicant shall pay the postponement fee listed in the user's guide, and a new
30 hearing date shall be determined by the department.

- 31 **a.** If public notice pursuant to subsection H. above has not been given, the
32 director is the decision-making body for the purpose of granting a
33 postponement.
34 **b.** If public notice pursuant to subsection H. above has been given, the
35 decision-making body is the board or commission identified in table
36 21.02-1 for the entitlement requested.
37

38 **3.** Re-notice of the new time for hearing is only necessary if the postponement is for
39 more than 30 days, or if no date certain is set for the hearing at the time of
40 postponement.
41

1 **K. Conditions of Approval**

2 The decision-making body is authorized to impose such conditions upon the premises
3 benefited by the approval as may be necessary to conform to the standards of this title,
4 reduce or minimize any potential adverse impact upon other property in the area, or to
5 carry out the general purpose and intent of the comprehensive plan and this title. In such
6 cases, any conditions attached to approvals shall be directly related to the impacts of the
7 proposed use or development and shall be roughly proportional in both extent and
8 amount to the anticipated impacts of the proposed use or development. No conditions of
9 approval, except for those attached to variance approvals, shall be less restrictive than
10 the requirements of this title or applicable special limitations.

11 **L. Decision**

12 **1. Findings of Fact**

13 Every recommendation and decision made under this title shall be based on and
14 include precise findings of fact and conclusions. Every finding of fact shall be
15 supported in the record of the proceedings. The findings shall be sufficient to
16 provide a reasonable basis for understanding the reasons for the decision. In
17 considering and applying any applicable approval criteria, the decision-making
18 body shall make specific findings as to why the criteria have or have not been
19 met.

20 **2. Appeals**

21 The findings of fact and decision of the decision-making body at the scheduled
22 hearing shall become final seven (7) calendar days after the date the decision is
23 made on the record, unless prior to the expiration of the seventh day, a written
24 request is received by the secretary to:

25 a. Prepare a written decision based upon the record made at the hearing;
26 and

27 b. The request is accompanied by a written notice of intent to appeal.

28 **M. Lapse of Approval**

29 The lapse of approval time frames established by the procedures of this title may be
30 extended only when all of the following conditions exist:

31 1. The provisions of this title must expressly allow the extension;

32 2. An extension request must be filed prior to the applicable lapse-of-approval
33 deadline;

34 3. The extension request must be in writing and include justification; and

35 4. Unless otherwise noted, authority to grant extensions of time shall rest with the
36 decision-making body that granted the original approval (the one being
37 extended).

38 **N. New Application Required**

39 If a decision is not made on an application within one year of the submittal of that
40 application, the application shall be discarded and a new application shall be required.

21.03.030 COMPREHENSIVE PLAN AMENDMENTS

A. Purpose and Scope

This section provides uniform procedures, schedules, and review criteria necessary for amendments to the comprehensive plan. It includes allowances for concurrent comprehensive plan map and zoning map amendments.

B. Levels of Plan Review

The comprehensive plan should be reviewed and reassessed regularly in order to evaluate its effectiveness and adequacy in guiding the growth of the municipality and to determine whether or not the plan continues to meet the long-term planning needs of the municipality. Because this review need not necessarily result in the complete revision of the plan, several levels of review are contemplated in this section.

1. Complete Plan Revision (20-year Intervals)

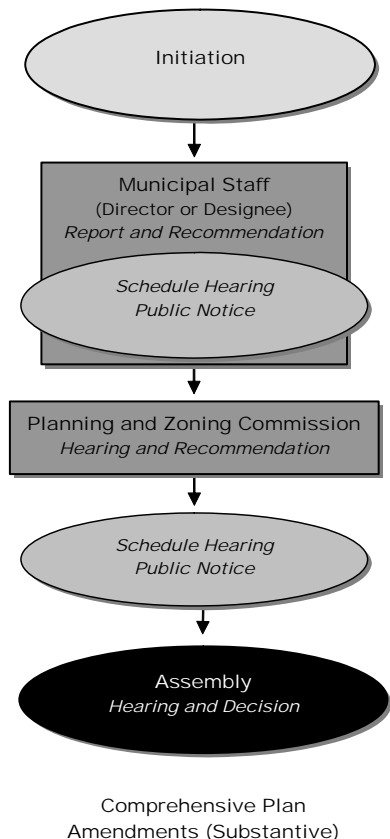
The director shall initiate a full review and complete revision of the comprehensive plan at least once every 20 years, preferably following the decennial census. As part of this review, the director shall provide the planning and zoning commission with an overall assessment of the adequacy and effectiveness of the existing plan, including identification of new issues not adequately addressed, issues which require further study and investigation, and suggested improvements. The planning and zoning commission shall consider the staff assessment and shall recommend amendments or issues that the commission feels should be pursued or investigated. Any amendments shall follow the procedures of subsections C. and D. below.

2. Targeted Plan Review (10-year Intervals)

The director shall initiate a targeted review of the plan at least once every ten years, or at the time of an area-wide rezoning, in order to make it consistent with economic and demographic trends, recent and proposed land use decisions, and adopted studies and plans. Any amendments shall follow the procedures of subsections C. and D. below.

3. Other Plan Amendments

In addition to the regularly scheduled reviews described above, any review or decision-making body, or the director of any municipal department, may propose a plan amendment at any time. All such proposals shall be processed in accordance with the procedures in subsections C. and D. below.



C. Procedure for Substantive Amendments

1. Procedure

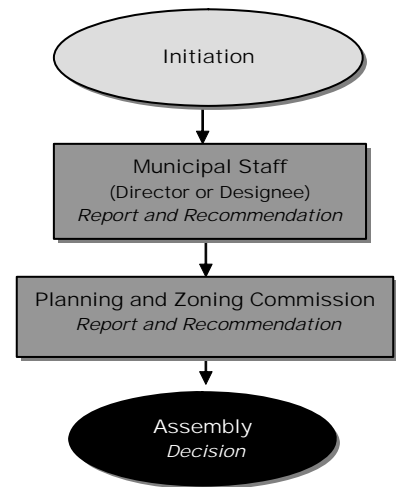
- 1 **a. *Initiation***
2 A petition for amendment to the comprehensive plan may be initiated by
3 any review or decision-making body, or, if accompanied by a rezone
4 application, by a property owner.
- 5 **b. *Public Hearings and Public Notice***
6 Two public hearings shall be held on each proposed substantive
7 amendment, the first before the planning and zoning commission and the
8 second before the assembly. Notice of the hearings shall be provided in
9 accordance with sections 21.03.020H.
- 10 **c. *Hearing and Recommendation by Planning and Zoning Commission***
11 The director shall review each proposed substantive amendment in light
12 of the review considerations set forth in subsection C.2. below and
13 distribute the application, as deemed necessary, to other reviewers.
14 Based on the results of those reviews, the director shall provide a report
15 and recommendation to the planning and zoning commission at the first
16 public hearing on the proposed substantive amendment. This report
17 shall include a discussion of all plans and policies that have been
18 adopted by the municipality and are relevant to the proposed
19 amendment. Based on testimony received, the staff report, and the
20 review considerations in subsection C.2. below, the commission shall
21 recommend that the assembly approve, approve with modifications, or
22 deny the proposed amendment.
- 23 **d. *Hearing and Action by Assembly***
24 Within 90 days following the commission's action, the assembly shall
25 hold a public hearing on the proposed amendment. The assembly shall,
26 within 90 days of the hearing, based on the commission's
27 recommendation, testimony received, and the review considerations in
28 subsection C.2. below:
- 29 **i. Approve the amendment by ordinance, either as submitted or**
30 with modifications suggested by staff, the planning and zoning
31 commission, or the assembly;
- 32 **ii. Reject the proposed amendment; or**
- 33 **iii. Refer the proposed amendment, and/or any substantial**
34 modifications proposed by the assembly, back to the planning
35 and zoning commission or to a committee of the assembly for
36 further consideration.
- 37 **2. *Approval Criteria***
38 The planning and zoning commission may submit a recommendation for
39 approval, and the assembly may approve an amendment only if the amendment
40 meets the following approval criteria:
- 41 **a. The proposed amendment is necessary in order to address one or more**
42 of the following:
- 43 **i. A change in projections or assumptions from those on which the**
44 comprehensive plan is based;
- 45

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- ii. Identification of new issues, needs, or opportunities that are not adequately addressed in the comprehensive plan;
 - iii. A change in the policies, objectives, principles, or standards governing the physical development of the municipality or any other geographic areas addressed by the comprehensive plan; or
 - iv. Identification of errors or omissions in the comprehensive plan.
- b. The proposed amendment maintains the internal consistency of the comprehensive plan, and is consistent with the other elements of the comprehensive plan without the need to change other components of the plan to maintain internal consistency.
 - c. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.
 - d. If the propose amendment is to the comprehensive plan map, the requested land use designation is found to be equally or more supportive of the comprehensive plan goals, objectives, policies, and guidelines, than the old land use designation.
 - e. If the proposed amendment is to the comprehensive plan map, the subject site is consistent with the adopted description and locational criteria for the requested land use designation, and is physically suitable to accommodate the proposed designation, including but not limited to access, physical constraints, provision of utilities, and compatibility with surrounding designations and development patterns.

3. Concurrent Zoning Changes Allowed

- a. Requests for rezonings (zoning map amendments) may be considered concurrently with a comprehensive plan map amendment. The zoning map amendment shall be to a zone corresponding to the requested comprehensive plan map designation. Concurrent zoning map amendments shall meet all of the approval criteria of subsection 21.03.050E.
- b. The planning and zoning commission shall submit its report and recommendation regarding the comprehensive plan map amendment to the assembly at the same time it submits the report and recommendation on the rezoning case. The assembly and planning and zoning commission shall consider the plan amendment proposal and rezoning request separately, and shall act separately on the two items.



D. Procedure for Cosmetic Amendments

1. Initiation

Comprehensive Plan
 Amendments (Cosmetic)

1 Any review or decision-making body, or director of any municipal department,
2 may, at any time on their own motion, request that the director investigate and
3 evaluate a specific cosmetic amendment proposal.

4 **2. Review by Planning and Zoning Commission**

5 Upon receiving a request for a cosmetic amendment, the director shall forward
6 the proposed amendment to the planning and zoning commission for
7 consideration, along with a staff report and recommendation. The planning and
8 zoning commission shall submit, within a reasonable time, a report and
9 recommendation to the assembly regarding whether or not the proposed
10 amendment should be adopted as submitted, adopted with modifications, or
11 rejected.

12 **3. Action by Assembly**

13 The assembly shall consider the reports and recommendations of the planning
14 and zoning commission and the director at a regularly scheduled assembly
15 meeting, and will take action to either: (1) approve or deny the amendment, (2)
16 approve the amendment with modifications, or (3) refer the matter back to the
17 planning and zoning commission for further consideration. No public hearing or
18 public notification is required.

19 **21.03.040 AMENDMENTS TO TEXT OF TITLE 21**

20 **A. Purpose and Scope**

21 The assembly may amend the text of this title in accordance with the procedures set forth
22 in this section. The purpose of text amendments is not to relieve particular hardships, nor
23 to confer special privileges or rights on any person, but rather to make adjustments to
24 text that are necessary in light of changed conditions or changes in public policy, or that
25 are necessary to advance the general welfare of the municipality.

26 **B. Procedure**

27 **1. Initiation of Amendments and Filing of Applications**

28 A petition for amendment to the text of this title may be initiated by any review or
29 decision-making body. Petitions for text amendment shall be filed with the
30 director in a form established by the director in the user's guide.

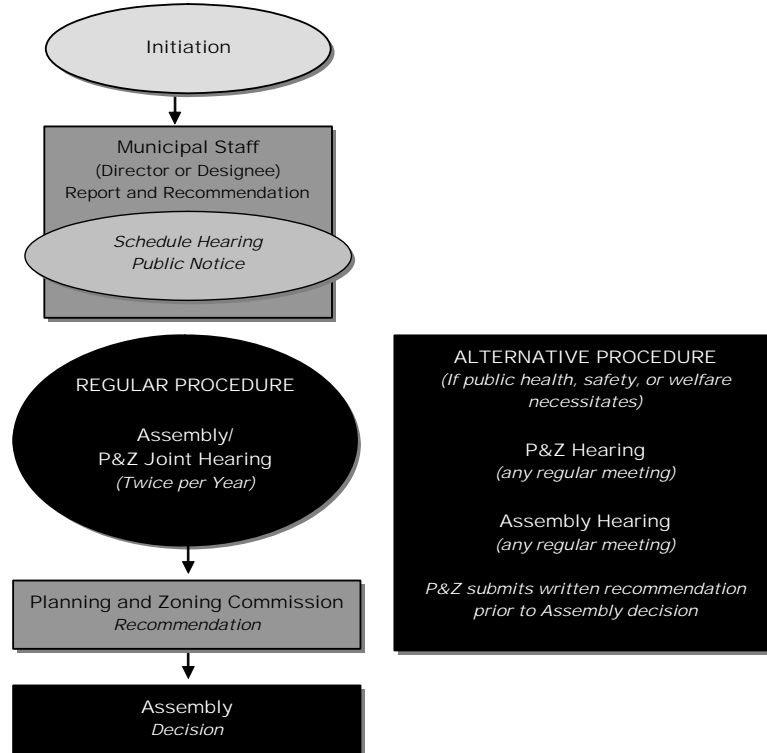
31 **2. Director Review, Report, and Recommendation**

32 The director shall review each proposed text amendment in light of the approval
33 criteria of subsection C. below and distribute the application to other reviewers as
34 deemed necessary. Based on the results of those reviews, the director shall
35 provide a report and recommendation to the planning and zoning commission. A
36 positive recommendation shall be accompanied by a draft ordinance reflecting
37 the recommendation.

38 **3. Joint Public Hearing**

39 **a.** Written and published notice of public hearings on text amendments
40 shall be provided pursuant to the general notice provisions of section
41 21.03.020H.

42 **b.** Text amendments shall be considered two times per year at a joint public
43 hearing of the planning and zoning commission and the assembly.
44 However, where the assembly determines by a majority vote that the
45 public health, safety, or welfare necessitates, text amendments may be



Amendments to Text of Title 21

1 considered at any regularly scheduled meeting of the assembly, provided
 2 that the assembly holds a public hearing on the proposed amendment
 3 and the planning and zoning commission holds a public hearing and
 4 provides a written report and recommendation on the proposed
 5 amendment prior to the assembly's decision.

- 6 **4. Planning and Zoning Commission Review and Recommendation**
 7 **a.** As soon as possible after the public hearing, but no later than 60 days,
 8 the planning and zoning commission shall make a recommendation to
 9 the assembly to approve or deny the text amendment based on the
 10 approval criteria of subsection C. below.
- 11 **b.** If the commission recommends approval of the amendment, the director
 12 shall submit the draft ordinance to the assembly.
- 13 **c.** If no recommendation is made within 60 days, then the planning and
 14 zoning commission may request an extension of time from the assembly.
 15 If no recommendation is made and no extension is granted, then the
 16 assembly may act on the proposed amendment without a
 17 recommendation from the planning and zoning commission.

- 18 **5. Assembly Action**
 19 After reviewing the reports and recommendations of the director and the planning
 20 and zoning commission, the assembly shall vote to approve, approve with
 21 amendments, or deny the proposed amendment, based on the approval criteria

1 of subsection C. below. The assembly also may refer the proposed amendment
2 back to the planning and zoning commission or to a committee of the assembly
3 for further consideration. Text amendments shall be approved in the form of
4 ordinances.

5 **C. Approval Criteria**

6 Text amendments may be approved if the assembly finds that all of the following
7 approval criteria have been met:

- 8 1. The proposed amendment will promote the public health, safety, and general
9 welfare;
- 10 2. The proposed amendment is consistent with the comprehensive plan and the
11 stated purposes of this title; and
- 12 3. The proposed amendment is necessary or desirable because of changing
13 conditions, new planning concepts, or other social or economic conditions.

14 **D. Successive Applications**

15 Following denial of a text amendment request, no new application for the same or
16 substantially the same amendment shall be accepted within one year of the date of
17 denial. This provision may be waived in an individual case, for good cause shown, by the
18 affirmative vote of three-fourths of the members of the assembly.

19 **21.03.050 REZONINGS (ZONING MAP AMENDMENTS)**

20 **A. Purpose and Scope**

21 The boundaries of any zone district in the municipality may be changed or the zone
22 classification of any parcel of land may be changed pursuant to this section. This section
23 states the procedures and approval criteria necessary to process an amendment to the
24 official zoning map. The purpose is not to relieve particular hardships, nor to confer
25 special privileges or rights on any person, but to make adjustments to the official zoning
26 map that are necessary in light of changed conditions or changes in public policy, or that
27 are necessary to advance the general welfare of the municipality. Rezoning shall not be
28 used as a way to legitimize nonconforming uses or structures, and should not be used
29 when a conditional use, variance, or minor modification could be used to achieve the
30 same result.

31 **B. Minimum Area Requirements**

32 A rezoning shall only be considered for properties of 1.75 acres (76,230 square feet) or
33 more, except for:

- 34 1. A rezoning extending the boundaries of an existing use district; or
- 35 2. A rezoning initiated by the municipal administration to place municipally owned
36 land in a PLI, PR, or DR use district.
- 37 3. A rezoning into the NC district.

C. When a Comprehensive Plan Map Amendment is Required

Zoning map amendments may also require an amendment to the comprehensive plan map. Determination of whether the comprehensive plan map must also be amended is based upon whether the proposed zoning map amendment is to a zone consistent with the comprehensive plan map. If an amendment to the comprehensive plan map is required, the zoning map amendment can only be made if the amendment to the comprehensive plan map is approved first. Both amendments may be processed concurrently, as provided in subsection 21.03.030C.3.

D. General Procedure

1. Initiation

a. A rezoning may be initiated by the assembly, the planning and zoning commission, or by the director of any municipal department.

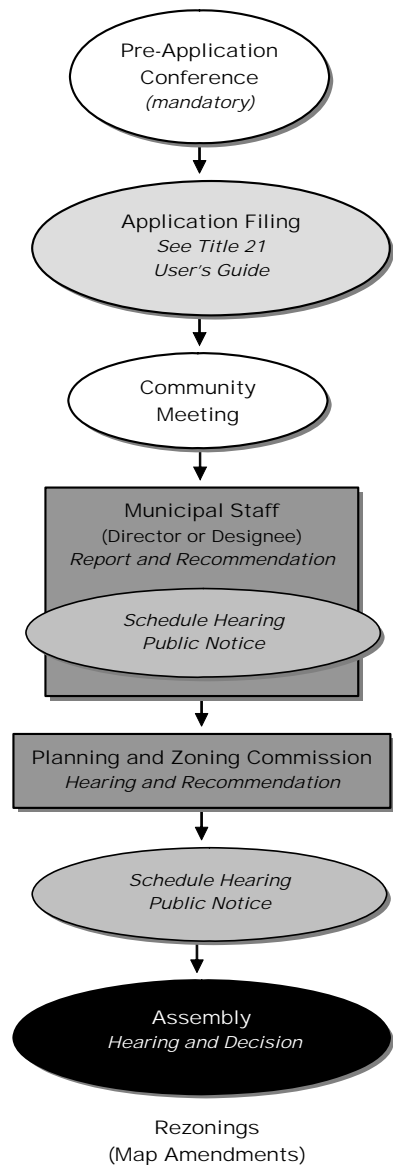
b. In addition, any person may initiate a rezoning by submitting a petition favoring the rezoning signed by the owners of at least 51 percent of the property within the area to be rezoned. For the purposes of this subsection, an owner of property subject to the Horizontal Property Regimes Act (A.S. 34.07) owns a percentage of the appurtenant common areas equal to the percentage for that property stated in the recorded declaration committing the property to the Horizontal Property Regimes Act.

c. A rezoning application shall expire one year after submittal unless a public hearing on the application has been held by the assembly on or before that date; provided, however, that the director or designee may extend the application for six months if the reason for the delay was due to circumstances beyond the control of the applicant.

d. Rezoning shall precede corps of engineers wetland permit applications.

2. Pre-Application Conference

Before filing an application, a private-party applicant shall request a pre-application conference with the director. See section 21.03.020B.



- 1 **3. Submittal Requirements**
2 **a.** Applicants for a rezoning shall submit the materials specified in the
3 user's guide. Additional materials may be required for certain types of
4 rezoning, such as rezoning with special limitations.
- 5 **b.** The planning and zoning commission or the director may require the
6 submittal of such other information as may be necessary to permit the
7 informed exercise of judgment under the approval criteria set forth in
8 subsection E. below. Such information shall be related to the scale and
9 location of the rezoning application and may include, without limitation,
10 traffic, soil, hydraulic, water, air quality, noise, and sewage analyses.
- 11 **4. Community Meeting**
12 A community is required per subsection 21.03.020G.
- 13 **5. Public Hearings**
14 Published, written, and posted notice of public hearings on rezonings shall be
15 provided in accordance with section 21.03.020H. In addition, the published and
16 written notice shall list the protest provisions set forth in subsection D.8. below.
17 Where the rezoning has been initiated by someone other than the property owner
18 or his or her designated agent, the director also shall mail a notice to all owners
19 of the property to be reclassified, as shown in the current municipal assessor's
20 records.
- 21 **6. Review and Recommendation by Planning and Zoning Commission**
22 **a.** The planning and zoning commission shall hold a public hearing on the
23 proposed rezoning and, at the close of the hearing, recommend
24 approval, approval with special limitations or other modifications, or
25 denial. The commission shall base its recommendation on the approval
26 criteria in subsection E. below, and shall include written findings based
27 on each of the approval criteria.
- 28 **b.** If the commission recommends approval or approval with special
29 limitations or other modifications, within 60 days of the commission's
30 written resolution, the director shall forward the recommendation to the
31 assembly with an ordinance to amend the official zoning map in
32 accordance with the recommendation.
- 33 **c.** If the commission recommends denial, that action is final unless, within
34 15 days of the commission's written resolution recommending denial, the
35 applicant files a written statement with the municipal clerk requesting that
36 an ordinance amending the zoning map in accordance with the
37 application be submitted to the assembly. The draft ordinance shall be
38 appended to an Assembly Informational Memorandum (AIM) for
39 consideration by the assembly.
- 40 **7. Action by Assembly**
41 The assembly shall hold a public hearing on the proposed rezoning and shall, at
42 the close of the hearing, taking into account the recommendations of the director,
43 planning and zoning commission, and public input, and based upon the approval
44 criteria of subsection E. below:
- 45 **a.** Approve the zoning map amendment by ordinance;

- 1 **b.** Approve the zoning map amendment by ordinance with special
- 2 limitations (see subsection G.);
- 3 **c.** Deny the amendment; or
- 4 **d.** Refer the proposed amendment back to the planning and zoning
- 5 commission or to a committee of the assembly for further consideration.

6 **8. Protests**

7 Any owner of property subject to a proposed rezoning may protest the rezoning
8 by filing a written protest with the clerk pursuant to this subsection.

9 **a.** The protest shall object to the rezoning and shall state the factual and/or
10 legal basis for the protest, contain a legal description of the property on
11 behalf of which the protest is made, and be signed by the owners of at
12 least one-third of the property, excluding rights-of-way, of:

13 **i.** The land to which the amendment applies; or

14 **ii.** The land within 300 feet of the outer boundary of the land to
15 which the amendment applies;

16 Excluding land owned by the municipality, except where the municipality
17 joins in the protest.

18 **b.** To be valid, the protest must be received by the municipal clerk after
19 notice of a public hearing before the assembly on a zoning map
20 amendment and at least three business days before the time set for the
21 assembly public hearing on the amendment.

22 **c.** Assembly approval of a rezoning subject to a valid protest under this
23 subsection shall require an affirmative vote of eight assembly members.

24 **9. Waiting Period for Reconsideration**

25 Following denial of a rezoning request, no new application for the same or
26 substantially the same rezoning shall be accepted within one year of the date of
27 denial, unless denial is made without prejudice.

28 **10. Form of Amending Ordinance**

29 An ordinance amending the zoning map shall contain the following:

30 **a.** The names of the current and the requested zoning districts;

31 **b.** The legal description of the subject property;

32 **c.** Any special limitations being applied to the subject property; and

33 **d.** An effective clause.

34 **E. Approval Criteria**

35 The planning and zoning commission may recommend approval, and the assembly may
36 approve a rezoning, if the rezoning meets all of the following criteria:

- 1 1. The rezoning promotes the public health, safety, and general welfare;
- 2 2. The rezoning complies with and conforms to the comprehensive plan and the
3 purposes of this title;
- 4 3. The proposed rezoning conforms to the comprehensive plan map, as follows:
 - 5 a. The rezoning shall be to a zone corresponding to the comprehensive
6 plan map, including the land use designations summary table.
 - 7 b. When the comprehensive plan map designation has more than one
8 corresponding zone, it shall be shown that the proposed zone is the most
9 appropriate, taking into consideration the purposes of each zone and the
10 zoning pattern of surrounding land.
- 11 4. The rezoning is consistent with the stated purpose of the proposed zoning
12 district;
- 13 5. Facilities and services (including roads and transportation, water, gas, electricity,
14 police and fire protection, and sewage and waste disposal, as applicable) are
15 capable of supporting the uses allowed by the zone or will be capable by the time
16 development is complete, while maintaining adequate levels of service to existing
17 development;
- 18 6. The rezoning is not likely to result in significant adverse impacts upon the natural
19 environment, including air, water, noise, stormwater management, wildlife, and
20 vegetation, or such impacts will be substantially mitigated; and
- 21 7. The rezoning is not likely to result in significant adverse impacts upon other
22 property in the vicinity of the subject tract.
- 23 8. The proposed rezoning maintains and preserves the compatibility of surrounding
24 zoning and development, and protects areas designated for specific uses on the
25 zoning map from incompatible land uses or development intensities.

26 **F. Flexibility of Interpretation**

27 The comprehensive plan map and the approval criteria of subsection E. above may be
28 interpreted with flexibility within the following parameters:

- 29 1. A proposed rezoning that is to a district that does not correspond to the
30 comprehensive plan map may be considered if processed concurrently with a
31 related amendment to the comprehensive plan map following the procedures of
32 subsection 21.03.030, *Comprehensive Plan Amendments*.
- 33 2. Where the location of comprehensive plan map designation boundaries appear
34 generalized or uncertain, proposed zoning amendments on or near the
35 boundaries shall be treated as follows
 - 36 a. Areas clearly within a particular comprehensive plan map designation
37 shall follow the standards of that designation.
 - 38 b. The designation of areas at or near boundaries on the comprehensive
39 plan map shall be interpreted in accordance with the goals, objectives,

1 policies, and guidelines of the comprehensive plan, including locational
2 criteria for designations on the comprehensive plan map.

3 Interpretation shall not be a basis for cumulative encroachment by incompatible
4 land uses.

5 **G. Rezoning with Special Limitations²**

6 Pursuant to this subsection, a rezoning may include special limitations that restrict
7 structures, or the use of land or structures, to a greater degree than otherwise provided
8 for a use district applied by the rezoning.

9 **1. Purposes**

10 A rezoning may include special limitations for one or more of the following
11 purposes:

- 12 **a.** To prohibit structures, or uses of land or structures, that would adversely
13 affect the surrounding neighborhood or conflict with the comprehensive
14 plan; or
- 15 **b.** To conform the zoning map amendment to the comprehensive plan, or to
16 further the goals and policies of the comprehensive plan; or
- 17 **c.** To conform development under the zoning map amendment to existing
18 patterns of development in the surrounding neighborhood; or
- 19 **d.** To mitigate the adverse effects of development under the zoning map
20 amendment on the natural environment, the surrounding neighborhood,
21 and on public facilities and services.

22 **2. Types of Limitations**

23 A special limitation shall do one or more of the following:

- 24 **a.** Limit residential density; or prohibit structures, or uses of land or
25 structures, otherwise permitted in a use district;
- 26 **b.** Require compliance with design standards for structures and other site
27 features;
- 28 **c.** Require compliance with a site plan approved under this title;
- 29 **d.** Require the construction and installation of improvements, including
30 public improvements; or
- 31 **e.** Impose time limits for taking subsequent development actions.

32 **3. Effect of Approval**

- 33 **a.** A use district subject to special limitations shall be identified on the
34 zoning map by the suffix "SL," and the number of the ordinance applying
35 the special limitations shall be printed on the zoning map.
- 36 **b.** Where a special limitation in a zoning map amendment conflicts with any
37 less restrictive provision of this title, the special limitation governs.

1 **H. Rezoning to Create, Alter, or Eliminate Overlay Districts**

2 **1. Purpose and Applicability**

3 The assembly may, through the rezoning process, establish overlay districts that
4 supplement the regulations of the underlying base zoning districts, in order to
5 address special land use needs, to meet an objective of the comprehensive plan
6 or neighborhood plan, or other specific planning objective. A rezoning for an
7 overlay district may be applied to the zoning map in order to:

- 8 **a.** Permit, require, prohibit or restrict structures or the use of land or
9 structures;
- 10 **b.** Alter the provisions of the use-specific regulations as applied to property
11 within the overlay district;
- 12 **c.** Require new development or attributes of new development to conform
13 to a specific architectural or design theme;
- 14 **d.** Require a design review approval process; and/or
- 15 **e.** Alter the development standards of the underlying district by decreasing
16 or increasing the requirements with regard to building height, yards, lot
17 area, lot width, lot coverage, and lot densities of the underlying district.

18 **2. Minimum Area Requirements**

19 No overlay district zoning map amendment shall be considered or approved that
20 applies an overlay district to an area less than 1.75 acres, excluding rights-of-
21 way, except for an amendment extending the boundaries of an existing overlay
22 district.

23 **3. General Procedure for Creating, Altering, or Eliminating Overlay Districts**

24 Overlay districts shall be established, altered, or eliminated using the general
25 rezoning procedure set forth in subsection D. above, *General Procedure*, except
26 as modified by the following provisions:

27 **a. Contents of Adopting Ordinance**

28 An ordinance amending the zoning map for an overlay district shall
29 contain the following:

- 30 **i.** The name of the overlay district that the ordinance applies;
- 31 **ii.** The legal description of the land within the overlay district
32 applied by the ordinance; and
- 33 **iii.** All standards of development to be governed by the overlay
34 district.

35 **b. Effect of Approval**

- 36 **i.** Where a specification in an overlay zoning map amendment
37 conflicts with any provision of this title, the overlay zoning map
38 amendment shall govern.
- 39 **ii.** An overlay district adopted in the same manner as the original
40 ordinance remains effective until repealed or amended. The

1 assembly may set a time for the overlay district to expire if it
2 finds the planning objectives will be met or completed within a
3 specific time period.

4 **c. Map of Overlay Districts**

5 i. Each overlay district shall be annotated on the zoning map with a
6 symbol unique to the overlay district and shall be identified on
7 the zoning map by the suffix "OV" and the number of the
8 ordinance applying the overlay district shall be printed on the
9 zoning map within the boundaries of the overlay district.

10 ii. The department shall maintain, for inspection by the public,
11 maps showing the location of the overlay districts and records of
12 the assembly's purpose and intent in establishing each district.

13 **4. Establishment or Modification of Airport Height Overlay Districts**

14 In addition to the standard submittals required to initiate an overlay map
15 amendment, establishment of an Airport Height Overlay District also shall require
16 preparation of an airport height map as set forth in section 21.04.080C.

17 **5. Establishment or Modification of Neighborhood Conservation Overlay**
18 **Districts**

19 The assembly may designate one or more areas as Neighborhood Conservation
20 Overlay (NCO) districts upon receipt of a recommendation from the urban design
21 commission and the planning and zoning commission. The procedure for
22 establishing and modifying NCO districts is set forth in section 21.04.080D.

23 **21.03.060 SUBDIVISIONS AND PLATS**

24 **A. Purpose**

25 The purpose of the subdivision review process is to ensure compliance with the
26 subdivision standards and requirements set forth in chapter 21.08, *Subdivision*
27 *Standards*, which are designed to ensure quality development in the municipality
28 consistent with the comprehensive plan.

29 **B. Applicability**

30 **1. General**

31 The procedures of this section, and the standards and requirements set forth in
32 chapter 21.08, *Subdivision Standards*, shall apply to all subdivisions or
33 resubdivisions that result in the portioning, dividing, combining, or altering of any
34 lot, parcel, or tract of land, including subdivisions or resubdivisions created by an
35 exercise of the power of eminent domain by an agency of the state or
36 municipality.

37 **2. Applicable Review Procedure**

38 **a. General Procedure**

39 All subdivisions applications shall be reviewed according to the process
40 set forth in subsection C. below, *Review and Approval of Subdivision*
41 *Plans*, unless they qualify for the abbreviated plat procedure.

42 **b. Abbreviated Plat**

- 1 Certain subdivisions may follow the streamlined procedure set forth in
2 subsection D. below, *Abbreviated Plat Procedure*. Eligible preliminary
3 plats are:
- 4 i. A movement or elimination of lot lines that does not:
 - 5 (A) Result in an increase in the permitted density of
6 residential units within the area being subdivided or
7 resubdivided.
 - 8 (B) Allow a change in the permitted use to which the lot or
9 tract may be devoted under existing zoning.
 - 10 (C) Deny adequate access to and from all lots or tracts
11 created by the subdivision or those adjacent to it.
 - 12 ii. The subdivision of a single tract, parcel, or lot into no more than
13 three tracts or eight lots, provided that the subdivision does not:
 - 14 (A) Allow a change in the permitted use to which the lot or
15 tract may be devoted under existing zoning.
 - 16 (B) Deny adequate access to and from all lots or tracts
17 created by the subdivision or those adjacent to it.
 - 18 (C) Divide a tract, parcel or lot:
 - 19 (1) Created within the previous 48 months pursuant
20 to the approval of a preliminary plat under this
21 section;
 - 22 (2) Contiguous to or having an owner either in an
23 individual capacity or as an owner of a
24 corporation, partnership, or other legal entity of a
25 preliminary plat approved within the previous 48
26 months; or
 - 27 (3) That is ten acres or more in the RS-2, RL-1, RL-
28 2, and RL-4 zoning districts or that is governed
29 by AO 84-21.³
 - 30 iii. Vacations and relocations under section 21.03.160.
 - 31 iv. Subdivision of a cemetery into burial plots.
 - 32 v. A plat required by section 21.03.070F. for final approval of a
33 conditional use, or section 21.03.080F. for final approval of a site
34 plan.
 - 35 vi. A plat depicting the creation of two attached single-family lots.
- 36 **3. Subdivision Approval is Prerequisite to Other Approvals**
37 a. No building permit, land use permit, zoning certificate of compliance, or
38 certificate of occupancy may be issued for any building, structure, or

1 improvement located within a subdivision, and no plat for a subdivision
2 may be recorded with the state of Alaska, until all required dedications of
3 land have been made, and all required improvements have been
4 installed in accordance with the procedures and requirements of this
5 section, or an approved subdivision agreement is in place pursuant to
6 section 21.08.060, *Subdivision Agreements*.

- 7 **b.** The municipality shall not accept or maintain any street, and shall not
8 extend or connect any street lighting, water service, or sanitary sewer
9 service to any subdivision of land, until and unless a plat for the
10 subdivision has been approved and recorded in accordance with the
11 requirements set forth in this section.

12 **4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat**

13 Any person who transfers or sells any land located within the municipality by
14 reference to a plat that has not been approved by the municipality and recorded
15 by the state of Alaska shall be guilty of a violation of this title. The description by
16 metes and bounds in the instrument of transfer or other document used in the
17 process of selling or transferring shall not exempt the transaction from such
18 penalties. The municipality also may enjoin such transfer or sale by filing an
19 action for an injunction.

20 **5. Existing Lots of Record**

21 No provision of chapter 21.08, *Subdivision Standards*, applies to any lot of record
22 in a subdivision legally created and filed before the effective date of this title,
23 unless the lot is further subdivided or resubdivided.

24 **C. Review and Approval of Subdivision Plans**

25 **1. Applicability**

26 This section shall apply to all subdivisions not meeting the eligibility criteria for
27 the abbreviated plat procedure.

28 **2. Pre-Application Conference**

29 A pre-application conference is required prior to submittal of a new subdivision
30 application or most modifications to already-approved subdivision plans. See
31 section 21.03.020B.

32 **3. Submittal of Preliminary Plat**

33 **a.** Unless waived by the platting board, a preliminary plat shall include all
34 land under contiguous ownership, unless separate legal descriptions
35 exist as a matter of record. If only a portion of the land is intended for
36 immediate development, the remaining portion shall be given a tract
37 number and shall be part of the preliminary and final plat. Requirements
38 for surveying this remaining tract may be waived at the discretion of the
39 platting board. By plat note, development shall not be allowed on the
40 remaining tract until approved under this section.

41 **b.** In submitting a preliminary plat application, applicants shall submit the
42 materials specified in the user's guide to the department, by the
43 deadlines established in the user's guide.

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c. For subdivision plats that have A or B wetlands, the applicant shall have initiated corps of engineers wetland permitting prior to submitting the preliminary plat.

4. **Community Meeting**

A community meeting is required per subsection 21.03.020G.

5. **Action on Preliminary Plat**

a. **Action by Platting Board**

Subject to paragraph b. below, the platting board shall, based on the approval criteria of subsection C.7. below, take action on the preliminary plat within 90 days after the submittal date, or shall return the plat to the applicant for modification or correction. The reasons for denial of a plat shall be stated upon the records of the platting board.

b. **Referral to Other Agency**

If the platting board finds that:

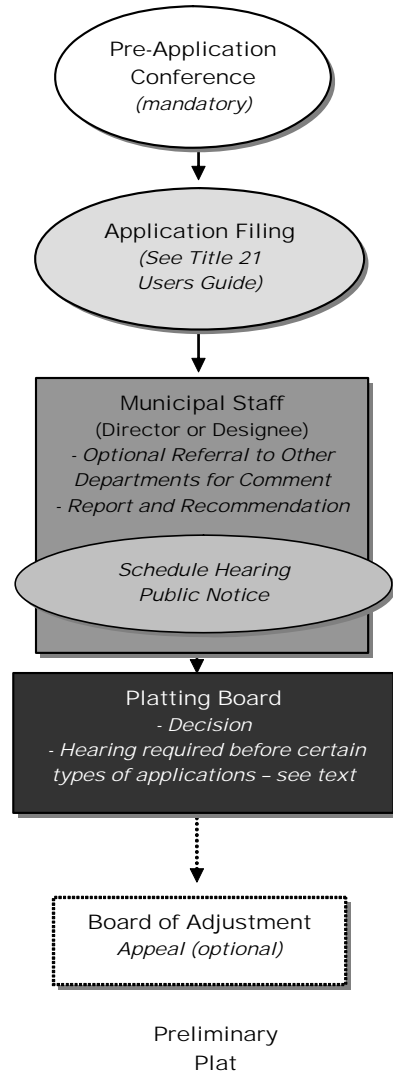
- i. It cannot determine whether a preliminary plat conforms to the approval criteria of subsection C.7. below, because a specific controlling land use, public facility, or other public policy issue has not been resolved; and
- ii. An official board, commission or legislative body of the municipality or another government has been identified as being responsible for resolving that issue;

then, upon a majority vote, the platting board may refer the issue to the responsible official, board, commission or legislative body and postpone action on the plat for a period not exceeding 90 days or to its next regular meeting after the responsible official, board, commission or legislative body responds to the referral, whichever occurs first.

c. **Public Hearing**

The platting board shall hold a public hearing before action on the following types of subdivision applications:

- i. Approval of a preliminary plat, except applications allowed to use the abbreviated plat procedure;



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- ii. Approval of a final plat that differs from the preliminary plat (see section 21.03.060C.6.b.);
 - iii. Modification or deletion of a condition of plat approval;
 - iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision Standards*;
 - v. Removal of or modification(s) to plat notes; and
 - vi. Vacation of dedicated right-of-way; BLM and section line easements; or platted landscape, drainage, slope, or protective well radii easements.
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- d. **Approval Period; Time Extensions**
- i. Notwithstanding any subsequent change in the subdivision regulations, zoning regulations, and zoning districts, the approval of the preliminary plat shall be effective:
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(A) For at least 24 months and up to 60 months from the date of approval, when it pertains to a development of no less than ten acres and includes a phasing plan. The length of the approval period shall be based upon the platting board's evaluation of the size, complexity, and phasing elements of the development.
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(B) For 24 months from the date of approval when it pertains to a development of less than ten acres or does not include a phasing plan.
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ii. The preliminary plat shall become null and void after the approval period unless an extension of time is granted by the platting board. A request for a time extension must be made in writing by the subdivider. The extension request must be received by the director prior to the expiration of the preliminary plat to be eligible for consideration by the platting board.
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iii. Such a time extension shall be granted only if the board finds that current conditions are substantially the same as those that existed when the preliminary plat was originally approved. The director shall conduct the reevaluation for every extension request that does not raise the total time of extension for a particular plat beyond 24 months and present his or her findings to the board. Every extension request that raises the total time of extension for a particular plat beyond 24 months shall be evaluated in the same manner as an original plat application, including payment of the applicable fee.
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iv. Only two time extensions may be approved for a preliminary plat approved by the platting board. Approval of the second extension shall require a noticed public hearing.
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v. Preliminary plats being finalized in portions or phases shall not be construed to automatically extend the original approval

1 period. Such an extension may only be granted by the platting
2 board in accordance with the procedures set out in this
3 subsection.

4 **e. Appeals**

5 All decisions as to approval or denial of a preliminary plat by the platting
6 board shall be final unless appealed to the board of adjustment.

7 **f. Resubmittal Following Denial**

8 No new application for the same or substantially the same preliminary
9 plat shall be accepted by the platting board within one year of denial of
10 the original application. The waiting period required by this section may
11 be waived in an individual case, based upon new evidence or changed
12 circumstances, by the affirmative vote of a majority of the platting board.

13 **6. Final Plat**

14 **a. Procedure When Final Plat Corresponds to Preliminary Plat as**
15 **Approved**

16 **i.** A hearing on the final plat shall not be required when such plat
17 essentially conforms to the preliminary plat approved by the
18 platting board. The final plat shall, in addition, meet all
19 conditions imposed by the board in approving the preliminary
20 plat.

21 **ii.** The final plat map shall constitute only that portion of the
22 approved preliminary plat that is proposed to be recorded and
23 developed at the time. If only a portion of the approved
24 preliminary plat is proposed for final plat approval, such portions
25 shall conform to all requirements of this section and chapter
26 21.08, *Subdivision Standards*.

27 **iii.** The following procedure shall be followed for the final plat:

28 **(A)** The final plat shall be submitted to the department for
29 examination as to compliance with all terms of the
30 preliminary plat as approved by the platting authority. If
31 all conditions have been met, a statement to that effect,
32 appearing on the final plat, shall be signed by the
33 director. The final plat shall not be signed until the
34 documents described in paragraph iv. and v. below have
35 been received.

36 **(B)** Upon acceptance of the final plat, the department shall
37 forward the final plat to the project management and
38 engineering department for final checking and inspection
39 before final approval is given. If requested, a subdivision
40 survey shall be submitted to the project management
41 and engineering department with a complete set of field
42 and computation notes showing the original or
43 reestablished corners of the plat and of lots within the
44 plat. Traverse sheets and work sheets showing the
45 closure within the allowable limits of error of the exterior
46 boundaries of each irregular block and lot of the
47 subdivision may also be required. Final approval by the

- 1 project management and engineering department shall
2 be indicated by a statement appearing on the plat.
- 3 **iv.** Final approval by the platting board shall be dependent upon
4 receipt of the following material:
- 5 **(A)** A statement from the department of development
6 services stating that all conditions imposed by the
7 department on the preliminary plat and approved by the
8 platting board have been met. This approval by the
9 department of development services shall not affect any
10 subsequent requirements relating to sewage disposal
11 and water supply as they apply to any lots within the
12 plat.
- 13 **(B)** A certificate from the tax collecting official or a note on
14 the face of the plat stating that all municipal real property
15 taxes levied against the property are paid in full, or, if
16 approval is sought between January 1 and the tax due
17 date, that there is on deposit with the chief fiscal officer
18 an amount sufficient to pay estimated real property tax
19 for the current year.
- 20 **(C)** A certificate to plat showing the legal and equitable
21 owners, including mortgagees, contract purchasers and
22 fee owners, of the land to be platted, plus all grants,
23 reservations, covenants, deed restrictions and
24 easements of record which may condition the use of the
25 property.
- 26 **v.** If the subdivision is to be served by a community water or sewer
27 system, the department of development services may require the
28 subdivider to provide the following before the platting board
29 finally approves the plat:
- 30 **(A)** Any approvals or certificates required by the state
31 departments of environmental conservation and natural
32 resources.
- 33 **(B)** An agreement under the standards and procedures set
34 out in section 21.08.060, *Subdivision Agreements*, to
35 ensure that the system installed will be compatible with
36 existing public water and sewer systems.
- 37 **(C)** Approval of the plans, specifications, and installation and
38 operating procedures for the system by the municipal
39 water and wastewater utility pursuant to chapter 21.08,
40 *Subdivision Standards*, and regulations promulgated
41 thereunder.
- 42 **vi.** Final plats affecting land neither supplied, nor under subdivision
43 agreement to be supplied, both with public water and public
44 sewer, shall be submitted to the department of development
45 services for a determination that all lots and proposed water and

wastewater facilities conform to AMC chapter 15.65 at the time of determination.

b. Procedure When Final Plat Differs from Preliminary Plat

i. The subdivider shall submit to the director all information required under the title 21 user's guide for the preliminary plat. Such application shall be submitted at least 60 days prior to the regular platting board meeting at which he or she desires to have his or her plat placed on the agenda for public hearing.

ii. The platting board shall take action on the final plat within 90 days after all required materials have been submitted to be heard, or shall return the plat to the applicant for modification or correction. The reasons for denial of a plat shall be stated upon the records of the platting board.

iii. If approved by the platting board, subsections a., c., and d. of this section shall then be followed in their entirety.

iv. All decisions as to approval or denial of a final plat by the platting board as submitted under this section shall be final unless appealed to superior court.

c. Requirements for Final Plat

The final plat shall be prepared to the technical specifications, and shall be accompanied by appropriate supporting materials, as specified in the title 21 user's guide.

d. Subdivision Agreements and Cost Estimates

All final plats requiring public improvements, except those requiring monumentation only, shall be accompanied by a subdivision agreement between the subdivider and the municipality and an engineer's estimate of the cost of all required public improvements. Requirements for such an agreement are further described in section 21.08.060, *Subdivision Agreements*.

e. Notes, Restrictions, and Covenants

The platting board may place such conditions upon granting of final plat approval as are necessary to preserve the public welfare in accordance with the subdivision regulations. See section 21.03.020K. When such a condition of approval entails a restriction upon the use of all or part of the property being subdivided, a note specifying such restrictions shall be placed on the face of the plat. Such note shall constitute a restrictive covenant in favor of the municipality and the public and shall run with the land, enforceable against all subsequent owners. Any such restrictive covenant may be enforced against the subdivider or any subsequent owner by the municipality or by any specifically affected member of the public.

7. Approval Criteria

The platting board may approve a preliminary or final plat only if it finds that the plat conforms to chapters 21.06, *Dimensional Standards and Measurements*, 21.07, *Development and Design Standards*, and 21.08, *Subdivision Standards*, and, to the maximum extent feasible:

- 1 a. Promotes the public health, safety and welfare;
- 2 b. Mitigates the effects of incompatibilities between the land uses or
3 residential densities in the subdivision and the land uses and residential
4 densities in the surrounding neighborhood, including but not limited to
5 visual, noise, traffic and environmental effects;
- 6 c. Provides for the proper arrangement of streets in relation to existing or
7 proposed streets;
- 8 d. Provides for adequate and convenient open space;
- 9 e. Provides for the efficient movement of vehicular and pedestrian traffic;
- 10 f. Ensures adequate and properly placed utilities;
- 11 g. Provides access for firefighting apparatus;
- 12 h. Provides opportunities for recreation, light, and air and avoids
13 congestion;
- 14 i. Facilitates the orderly and efficient layout and use of the land; and
- 15 j. Furthers the goals and policies of the comprehensive plan and conforms
16 to the comprehensive plan in the manner required by section 21.01.080,
17 *Comprehensive Plan*.

18 **D. Abbreviated Plat Procedure**

- 19 1. **Authorization**
20 Except for preliminary plats where the applicant is an agency of the municipal,
21 state, or federal governments, the preliminary plats described in subsection
22 B.2.b. above are subject to approval under the abbreviated procedure in this
23 subsection instead of the procedure in subsection C. above. Preliminary plats
24 described in B.2.b., where the applicant is an agency of the municipal, state, or
25 federal governments, are subject to approval under the procedure in subsection
26 C. above.
- 27 2. **Submittal Requirements**
28 All of the submittal requirements for preliminary plats that are listed in the title 21
29 user's guide shall be required for abbreviated plats, except that the director shall
30 establish submittal requirements by regulation under AMC chapter 3.40 for plats
31 depicting the vacation and any associated relocation of a public utility easement.
- 32 3. **Public Notice**
33 Before acting on a preliminary plat application under this section, the director
34 shall publish notice pursuant to section 21.03.020H.

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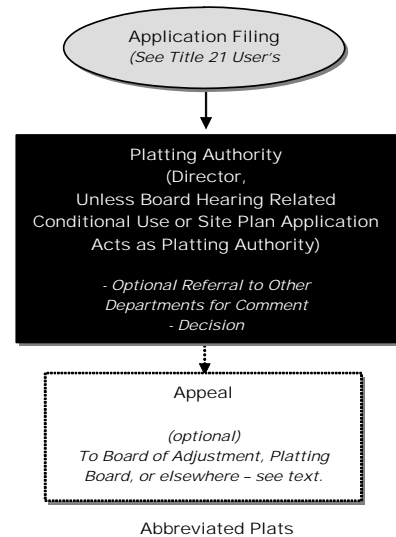
4. **Action on Plat**

a. **Platting Authority**

The director is the platting authority for abbreviated plats, except as provided in section 21.03.070F. for conditional uses, section 21.03.080F. for site plans, and section 21.03.160 for vacation or relocation of certain dedicated public areas. The director may refer any application to the platting board that he or she deems may need further or more extensive analysis and public comment concerning access into adjacent property.

b. **Review and Decision**

The platting authority shall review each proposed subdivision in light of the approval criteria of subsection C.7. above and shall consult other municipal offices or agencies as necessary. Based on the results of that review, the platting authority shall act to approve, approve with conditions, or deny the plat.



c. **VariANCES**

i. When acting as the platting authority under this section, the director may not grant variances from the provisions of chapter 21.08, *Subdivision Standards*.

ii. When acting as the platting authority under section 21.03.070F., *Platting for Conditional Uses*, or 21.03.080F., *Platting for Site Plans*, the board or commission hearing an application for conditional use or site plan approval may grant variances to the provisions of chapter 21.08, *Subdivision Standards*, in accordance with section 21.03.190, *VariANCES*.

d. **Duration of Preliminary Approval**

Preliminary plat approval expires after 24 months; provided that the board hearing an application for conditional use or site plan approval may extend the expiration of preliminary plat approval in conjunction with extending the time for implementing the conditional use or site plan.

e. **Time Extensions**

The preliminary plat shall become null and void after the preliminary approval period unless an extension of time is granted by the director. A request for a time extension must be made in writing by the subdivider. Such a time extension shall be granted only if the director finds that current conditions are substantially the same as those that existed when the preliminary plat was approved. Only one extension of no more than 24 months may be approved.

f. **Appeals**

Decisions of the director under this section are final unless appealed within 15 days:

1 i. To the board of adjustment under section 21.03.200A., where
2 the authority hearing an application for conditional use or site
3 plan approval is the platting authority under section 21.03.070F.
4 for conditional uses, or section 21.03.080F. for site plans.

5 ii. To the platting board in all other cases.

6 An appeal under this subsection shall be treated as an original
7 application for preliminary plat approval under this section.

8 **g. Approval of Final Plat**

9 A final plat submitted pursuant to the approval of a preliminary plat under
10 this section is subject to approval in accordance with subsection C.6.
11 above, provided that the municipal surveyor may waive a field survey for
12 a final plat that merely eliminates interior lot lines.

13 **E. Commercial Tract Plats**

14 **1. Applicability**

15 A commercial tract may be created and divided into fragment lots in order to
16 facilitate construction of commercial developments requiring multiple phases of
17 construction. Designation of commercial tracts shall be allowed only in the AC,
18 NMU, CMU, RMU, IC, I-1, I-2, or M zoning districts.

19 **2. Platting Authority**

20 The urban design commission shall be the platting authority for a commercial
21 tract whose site plan includes a large commercial establishment. The platting
22 board shall be the platting authority for all other commercial tracts.

23 **3. Review, Approval, and Modification of Commercial Tract Plats**

24 **a. Filing of Application**

25 An application for approval of a commercial tract shall be signed by the
26 owners of the property involved.

27 **b. Submittal Requirements**

28 The applicant shall submit the materials specified in the user's guide.

29 **c. Action by Platting Authority**

30 i. The platting authority shall act upon the application for approval
31 of a commercial tract whose site plan includes a large
32 commercial establishment as part of the major site plan review
33 for the large commercial establishment under subsection
34 21.03.080C.

35 ii. Except as provided in E.3.c.i. above, the platting authority shall
36 act upon the application for commercial tract approval following
37 the review and approval procedures of a preliminary plat in
38 accordance with subsection 21.03.060C.5.

39 **d. Recording of Site Plan**

40 Upon approval of a commercial tract under subsection E.3.c. above, the
41 platting officer shall, after notice to the petitioner, record the commercial
42 tract site plan as approved, together with any declarations, covenants,
43 and restrictions, with the district recorder's office.

1 e. **Conformance with Site Plan**
2 It shall be unlawful for any person to construct, erect, or maintain any
3 structure, building, fence, or improvement, including landscaping,
4 parking, and other facilities, on property designated as a commercial
5 tract, unless such improvements are constructed or reconstructed in a
6 manner consistent with the approved commercial tract site plan.

7 f. **Alteration of Boundaries**
8 The process for amending or altering the boundaries of an approved
9 commercial tract shall be the same process as that of the original
10 approval of the commercial tract plat.

11 g. **Amendment of Site Plan**
12 Any amendment or alteration of an approved commercial tract site plan
13 shall be made only upon approval of the platting authority as provided in
14 this section.

15 4. **Division of Tract**
16 The owner of a commercial tract may divide the tract into fragment lots provided
17 that such division is not inconsistent with the approved commercial tract site plan
18 and recorded declarations, covenants, and restrictions applicable to the
19 commercial tract. Any property description used to divide an area of the
20 commercial tract into a fragment lot shall not be considered a lot or tract under
21 the terms of this title or title 23, but shall be otherwise a lawful lot or tract. Any
22 fragment lot created under this section shall contain the minimum area, width,
23 and depth otherwise required for lots in the zoning district in which the fragment
24 lot is located.

25 F. **Right-of-Way Acquisition Plat**

26 1. **Generally**
27 A plat for a subdivision created by a government agency's acquisition of a street
28 or trail right-of-way is subject to approval under this section and is not subject to
29 any other approval procedure for plats under this title.

30 2. **Submittal Requirements**
31 A right-of-way acquisition plat shall contain the information specified in the user's
32 guide and shall be submitted to the director.

33 3. **Applicability of Requirements**
34 a. A right-of-way acquisition plat is not subject to any of the other submittal
35 requirements for plats under this title.

36 b. A right-of-way acquisition plat is not subject to section 21.08.050,
37 *Improvements*.

38 c. Survey requirements for a right-of-way acquisition plat shall be
39 established by agreement between the municipal surveyor and the
40 government agency applying for plat approval, or, if there is no such
41 agreement, by the provisions of this title.

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1 **4. Action**

2 **a. *Platting Board***

3 The director shall act as the platting authority unless the government
4 agency applying for plat approval requests a public hearing before the
5 platting board.

6 **b. *Duration of Approval***

7 The preliminary approval of the right-of-way acquisition plat shall be for a
8 period of 60 months; provided, however, that the director may grant an
9 extension of time for filing the final plat upon a finding that it is in the
10 public interest to do so.

11 **c. *Appeals***

12 All decisions of the director under this section shall be final unless
13 appealed to the platting board within 15 days. An appeal under this
14 subsection shall be treated as a subdivision plat pursuant to section
15 21.03.060C.

16 **5. Requirements for Final Plat**

17 Requirements for final right-of-way acquisition plats shall be established by
18 agreement between the director and the government agency applying for plat
19 approval, or, if there is no such agreement, by the provisions of this title.

20 **21.03.070 CONDITIONAL USES**

21 **A. Purpose**

22 The conditional use permit procedure provides a discretionary review process for uses
23 with unique or widely varying operating characteristics or unusual site development
24 features. The procedure encourages public review and evaluation of a use's operating
25 characteristics and site development features and is intended to ensure that proposed
26 conditional uses will not have a significant adverse impact on surrounding uses or on the
27 community-at-large.

28 **B. Conditional Uses in Nonconforming Structures or Lots**

29 If a proposed conditional use involves one or more structures or lots that do not conform
30 to the regulations of the district in which the conditional use is to be located, then, unless
31 the applicant has previously obtained the necessary variances from the appropriate
32 decision-making body, the application for conditional use approval shall be accompanied
33 by an application for alteration of a nonconforming structure or lot. This application shall
34 be processed concurrently with the conditional use application by the planning and
35 zoning commission. However, approval of alteration of a nonconforming structure and/or
36 lot request shall be a prerequisite to approval of the conditional use. The public notices
37 required for the nonconformity alteration application shall be combined with the public
38 notices required for the conditional use application.

39 **C. Procedure**

40 **1. Pre-Application Conference**

41 Before filing an application, the applicant shall request a pre-application
42 conference with the director. See section 21.03.020B.

43 **2. Application**

1 A conditional use permit application shall contain the information specified in the
 2 title 21 user's guide and shall be submitted to the director.

3 **3. Community Meeting**
 4 A community meeting is required per subsection 21.03.020G.

5 **4. Public Hearing Notice**
 6 Notice of public hearings shall be published, mailed, and posted in accordance
 7 with section 21.03.020H.

8 **5. Director's Review and Report**
 9 The director shall review each proposed conditional use permit application in light
 10 of the approval criteria of subsection E. below and, as deemed necessary,
 11 distribute the application to other reviewers. Based on the results of those
 12 reviews, the director shall provide a report to the planning and zoning
 13 commission.

14 **6. Planning and Zoning Commission's Review, Hearing, and Decision**
 15 The planning and zoning commission shall hold a public hearing on the proposed
 16 application and act to approve, approve with
 17 conditions, or deny the proposed conditional
 18 use permit, based on the approval criteria of
 19 subsection E. below.

20 **D. Approval Criteria**

21 The planning and zoning commission may approve a
 22 conditional use permit application only upon finding
 23 that all of the following criteria have been met:

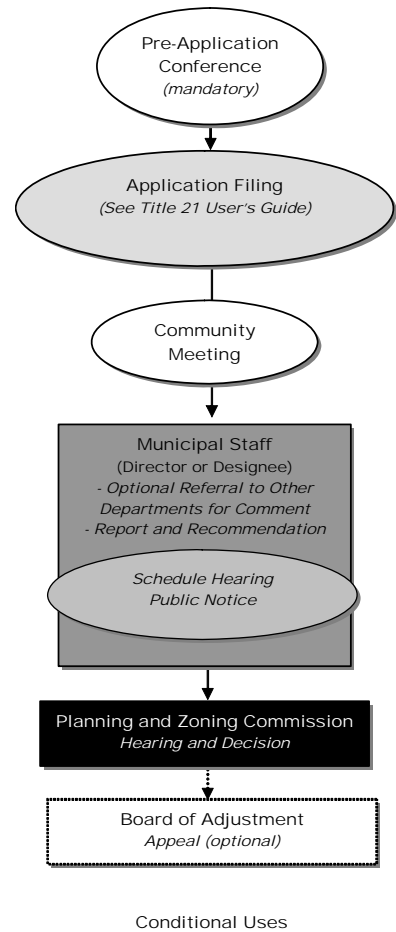
24 **1.** The proposed use is consistent with the
 25 comprehensive plan and all applicable
 26 provisions of this title and applicable state and
 27 federal regulations;

28 **2.** The proposed use is consistent with the
 29 purpose and intent of the zoning district in
 30 which it is located, including any district-
 31 specific standards set forth in chapter 21.04;

32 **3.** The proposed use is consistent with any
 33 applicable use-specific standards set forth in
 34 chapter 21.05;

35 **4.** The site size and dimensions provide
 36 adequate area for the needs of the proposed
 37 use;

38 **5.** The proposed use will not alter the character of
 39 the surrounding area in a manner which
 40 substantially limits, impairs, or prevents the
 41 use of surrounding properties of the permitted
 42 uses listed in the underlying zoning district;



- 1 6. The proposed use is compatible with uses allowed on adjacent properties, in
2 terms of scale, site design, operating characteristics (hours of operation, traffic
3 generation, lighting, noise, odor, dust, and other external impacts);
- 4 7. The potential impacts of the proposed use of the site can be accommodated
5 considering size, shape, location, topography, and natural features;
- 6 8. Any significant adverse impacts anticipated to result from the use will be
7 mitigated or offset to the maximum extent feasible; and
- 8 9. The proposed use is timely and appropriately located with respect to
9 transportation facilities, water supply, fire and police protection, waste disposal,
10 and similar facilities and services.

11 **E. Changes to Terms and Conditions of Approval**

12 Any changes to the terms and conditions of approval of the conditional use that cannot
13 be made using the minor modification process (see section 21.03.180) shall require
14 separate review and approval by the planning and zoning commission. Any application
15 for approval of such changes shall be filed, processed, reviewed, and approved or denied
16 in the manner set forth in this section for the original application. This section shall not
17 apply, however, to modifications to the approved site plan for the conditional use, which
18 are governed by section 21.03.080G., *Amendments to Approved Site Plans*.

19 **F. Platting for Conditional Uses**

- 20 1. If development under a final approval under this section creates a subdivision or
21 requires the vacation of a dedicated public area, the final approval is not effective
22 until a final plat for the subdivision or vacation is approved and recorded in
23 accordance with this title. A preliminary plat required under this section is subject
24 to approval as required by section 21.03.060, *Subdivisions and Plats*.
- 25 2. Unless the authority granting final approval directs in the final approval that it
26 shall act as the platting authority, the platting board is the platting authority for
27 site plans under this subsection.
- 28 3. The platting authority under this subsection may require that any street right-of-
29 way, walkway, utility easement, or other public area designated under the final
30 approval be dedicated to the public.

31 **G. Abandonment of Conditional Use**

32 An otherwise lawful conditional use permit shall expire if:

- 33 1. For any reason the conditional use is abandoned in its entirety for a period of one
34 year or longer; or
- 35 2. The property owner notifies the planning and zoning commission of the
36 abandonment of the conditional use permit. A conditional use shall not be
37 abandoned under this subsection if the result of the abandonment is the creation
38 of a nonconforming land use.

1 **21.03.080 SITE PLAN REVIEW**

2 **A. Purpose**

3 The purpose of the site plan review process is to ensure compliance with the
4 development and design standards and provisions of this title, and to encourage quality
5 development in the municipality reflective of the goals, policies, and objectives of the
6 comprehensive plan. For land uses requiring a site plan review, such uses may be
7 established in the municipality, and building or land use permits may be issued, only after
8 a site plan showing the proposed development has been approved in accordance with
9 the procedures and requirements of this section.

10 **B. Administrative Site Plan Review**

11 **1. Applicability**

12 Land uses requiring administrative site plan review are identified in section
13 21.05.010, *Tables of Allowed Uses*.

14 **2. Procedure**

15 **a. Submittal and Review of Application**

16 An administrative site plan review application shall contain the
17 information specified in the user's guide and shall be submitted to the
18 director.

19 **b. Action by director**

20 The director shall review each proposed site plan application in light of
21 the approval criteria of section E. below, and as deemed necessary,
22 distribute the application to other reviewers. Based on the results of
23 those reviews, the director shall take final action on the site plan
24 application and approve, approve with conditions, or deny the
25 application. The director's review and decision, including referral to other
26 agencies and bodies, shall be completed within 30 days of receipt of a
27 complete application.

28 **c. Appeals**

29 Denial of an administrative site plan may be appealed to the urban
30 design commission, in which case they shall be treated as a major site
31 plan review application under C. below.

32 **C. Major Site Plan Review**

33 **1. Applicability**

34 Land uses requiring major site plan review are identified in section 21.05.010,
35 *Tables of Allowed Uses*.

36 **2. Procedure**

37 **a. Pre-Application Conference**

38 Before filing an application, the applicant shall request a pre-application
39 conference with the director. See section 21.03.020B.

40 **b. Application**

41 A major site plan review application shall contain the information
42 specified in the title 21 user's guide and shall be submitted to the
43 director.

- 1 **c. *Community Meeting***
2 A community meeting is required per subsection 21.03.020G.
- 3 **d. *Public Hearing Notice***
4 Notice of public hearings shall be published, mailed, and posted in
5 accordance with section 21.03.020H.
- 6 **e. *Director's Review and Report***
7 The director shall review each proposed major site plan application in
8 light of the approval criteria of subsection E. below and, as deemed
9 necessary, distribute the application to other reviewers. Based on the
10 results of those reviews, the director shall provide a report to the urban
11 design commission.
- 12 **f. *Urban Design Commission's Review, Hearing, and Decision***
13 The urban design commission shall hold a public hearing on the
14 proposed application and act to approve, approve with conditions, or
15 deny the proposed major site plan, based on the approval criteria of
16 subsection E. below. The commission may delay taking action on a
17 public facility site plan only if the commission finds the submittal is
18 incomplete or the commission is advised by the director that a matter
19 before the planning and zoning commission or the assembly will have a
20 material impact on the public facility site plan or exterior building
21 improvements.
- 22 **g. *Appeals***
23 Denial of a major site plan may be appealed to the planning and zoning
24 commission.
- 25 **h. *Conformance with Commission Decision Required for Public***
26 ***Projects***
27 No agency may proceed with implementation of a public facility site plan,
28 implementation of exterior building improvements, or implementation of
29 revisions to approved site or landscaping plans and exterior building
30 elevations that do not conform to the commission's actions under this
31 section.

32 **D. Expiration**

- 33 **1. *General***
34 A site plan approval shall automatically expire at the end of 12 months after the
35 date of its issuance if a building or land use permit for at least one building in the
36 development proposed in the site plan is not approved. A change in ownership
37 of the property does not affect this time frame.
- 38 **2. *Extension***
39 Upon written application submitted at least 30 days prior to the expiration of the
40 permit period by the applicant and upon a showing of good cause, the director
41 may grant one extension not to exceed 12 months. The approval shall be
42 deemed extended until the director has acted upon the request for extension.
43 Failure to submit an application for an extension within the time limits established
44 by this section shall render the site plan approval void.

1 **E. Approval Criteria**

2 An application for administrative or major site plan review shall be approved upon a
3 finding that the site plan meets all of the following criteria:

- 4 1. The site plan is consistent with any previously approved subdivision plat, planned
5 development master plan, or any other precedent plan or land use approval;
- 6 2. The site plan complies with all applicable development and design standards set
7 forth in this title, including but not limited to the provisions in chapter 21.04,
8 *Zoning Districts*, chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional*
9 *Standards and Measurements*, and chapter 21.07, *Development and Design*
10 *Standards*;
- 11 3. The site plan addresses any significant adverse impacts that can reasonably be
12 anticipated to result from the use, by mitigating or offsetting those impacts to the
13 maximum extent feasible; and
- 14 4. The development proposed in the site plan and its general location is compatible
15 with the character of allowed uses on adjacent lots.

16 **F. Platting for Site Plans**

- 17 1. If development under a final approval under this section will create a subdivision
18 or requires the vacation of a dedicated public area, the final approval is not
19 effective until a final plat for the subdivision or vacation is approved and recorded
20 in accordance with this title. A preliminary plat required under this section is
21 subject to approval as required by section 21.03.060, *Subdivisions and Plats*.
- 22 2. Unless the authority granting final approval directs in the final approval that it
23 shall act as the platting authority, the director is the platting authority for site
24 plans under this subsection.
- 25 3. The platting authority under this subsection may require that any street right-of-
26 way, walkway, utility easement, or other public area designated under the final
27 approval be dedicated to the public.

28 **G. Amendments to Approved Site Plans**

- 29 1. **Original Procedure Applies for Most Amendments**
30 Amendment of a site plan shall follow the same process required for the original
31 approval of a site plan, unless the amendment is determined to be a minor
32 amendment as described in subsection 2. below.
- 33 2. **Administrative Approval of Minor Amendments**
34 The director may approve administratively minor amendments to any approved
35 site plan upon written application and documentation by the applicant, and upon
36 the director's determination that the amendment is a minor amendment.
- 37 a. **Procedure**
38 i. Upon receiving a written request from the applicant for a site
39 plan amendment, the director shall determine if the proposed
40 amendment will be processed as a minor amendment or major
41 amendment. The applicant may appeal the director's decision,

- 1 in writing to the zoning board of examiners and appeals within 10
2 days of the decision.
- 3 ii. Immediately following the director's determination that a
4 proposed amendment is minor, the director shall:
- 5 (A) Issue a minor amendment affidavit, which shall be
6 transmitted to the urban design commission for their
7 information; and
- 8 (B) Attach a form stating the nature of the modification, date
9 of approval, and bearing the signature of the director to
10 the site plan mylar on file in the department.
- 11 iii. If the original approval had been recorded, the amended plan
12 shall be recorded by the municipality at the applicant's expense.
- 13 b. ***Types of Minor Amendments***
14 The following are amendments which the director may reasonably
15 determine to be "minor":
- 16 i. Insubstantial changes to the text to add clarity or correct
17 conflicting provisions.
- 18 ii. Changes in street alignment if such changes further the intent of
19 the plan and this code, and are acceptable to the municipal
20 engineer.
- 21 iii. Changes in building envelope, setback, and similar provisions of
22 ten percent or less.
- 23 iv. Changes in landscaping, sign placement, lighting fixtures, etc. to
24 further the intent of the plan and this code.

25 **21.03.090 PUBLIC FACILITY SITE SELECTION**

26 **A. Purpose**

27 This section sets forth a process by which the planning and zoning commission shall
28 review and decide upon acquisition of sites, including acquisition by lease, before certain
29 public facilities may be authorized, or publicly owned land is designated as the site for
30 certain public facilities.

31 **B. Applicability**

- 32 1. Unless exempted by subsection B.2. below, the planning and zoning commission
33 shall review and decide the selection of sites for any of the following facilities that
34 are to be owned, or leased by a government agency not exempt by law from
35 municipal land use regulation:
- 36 a. Any newly constructed building or buildings and any existing building
37 acquired by purchase or lease, in which government operations or
38 activities occupy more than a total of 100,000 square feet on the site;

- 1 **b.** Any use of land over twenty acres in area;
- 2 **c.** Any sports, entertainment, or civic center designed for more than 1500
- 3 spectators; and
- 4 **d.** Any public snow disposal or landfill site.
- 5 **2.** This section shall not apply to the following:
- 6 **a.** Any site that is
- 7 **i.** Designated for the subject use on a municipal plan adopted by
- 8 the assembly;
- 9 **ii.** Part of an area, development, or institutional master plan;
- 10 **iii.** Determined by a dedication to the municipality on a final plat
- 11 approved and recorded in accordance with this title; or
- 12 **iv.** Subject to approval of a conditional use under this title.
- 13 **b.** The selection of sites for public schools, which shall instead be
- 14 undertaken pursuant to AMC chapter 25.25.
- 15 **c.** Any facility site selection reviewed by the commission or approved by the
- 16 assembly before [the effective date of this title.];
- 17 **d.** Any facility site selection under which over \$500,000 has been expended
- 18 for design or construction before [the effective date of this title.]

19 **C. Required Information**

20 The agency proposing a site selection shall submit to the commission all information

21 identified in the user's guide. This information shall include, but need not be limited to, an

22 evaluation of alternative sites, or an explanation why no alternative sites were

23 considered.

24 **D. Community Meeting**

25 A community meeting is required per subsection 21.03.020G.

26 **E. Public Hearing**

27 The commission shall hold a public hearing on any site selection that is subject to review

28 under this section. Notice of the public hearing shall be given in the manner prescribed

29 for a public hearing on a conditional use application.

30 **F. Approval Criteria**

31 The commission shall review the proposed site for consistency with the goals, policies,

32 and land use designations of the comprehensive plan and other municipal plans adopted

33 by the assembly, conformity to the requirements of this title, and the effects of the

34 proposal on the area surrounding the site. The following specific criteria shall be

35 considered:

- 1 1. Whether the site will allow development that is compatible with current and
2 projected land uses;
- 3 2. Whether the site is large enough to accommodate the proposed use and future
4 additions or another planned public facility;
- 5 3. Whether the site is located near a transit route, if applicable;
- 6 4. Whether there are existing or planned walkways connecting the site to transit
7 stops and surrounding residential areas, where applicable;
- 8 5. The environmental suitability of the site;
- 9 6. The financial feasibility of the site, including maintenance and operations;
- 10 7. Whether adequate utility infrastructure is available to the site; and
- 11 8. Major municipal, state, and federal administrative offices shall locate in the
12 Central Business District. Satellite government offices and other functions are
13 encouraged to locate in regional or town centers if practicable.

14 **21.03.100 ROAD AND TRAIL REVIEW**

15 **A. Purpose**

16 Roads are a significant investment in the municipality's infrastructure and establish long-
17 term land use impacts on nearby properties and the community at large. Roads and
18 trails are not only utilitarian, but also convey the image of the municipality to all users.
19 These important parts of the municipality's fabric benefit by oversight and concurrence in
20 the design decisions by citizen bodies that are represented by the planning and zoning
21 commission and the urban design commission.

22 **B. Planning and Zoning Commission Review and Recommendation**

23 **1. Applicability**

24 The planning and zoning commission shall review new construction and
25 reconstruction road and intersection projects involving roads of collector
26 classification or greater in the *Official Streets and Highways Plan*, and public trail
27 projects involving all trails for which any portion utilizes publicly-owned land,
28 easements, or right-of-way that are over one-half mile in length.

29 **2. Review**

30 **a.** The planning and zoning commission shall review the design-study
31 report or equivalent document, for all applicable road and trail projects,
32 and shall issue a recommendation to the appropriate agency. A public
33 hearing is not required but may be held at the commission's discretion.

34 **b.** As applicable the commission's review of the project shall include but not
35 be limited to:

36 **i.** Compliance with the comprehensive plan and its elements;

37 **ii.** Compliance with this title;

- 1 iii. Long-term impact on existing and projected adjacent land uses;
- 2 iv. Preferred route selection;
- 3 v. Short-term and long-term impact of property acquisition for right-
4 of-way; and
- 5 vi. Impacts on utilities including undergrounding of overhead
6 utilities.
- 7 c. The commission may request that subsequent design documents be
8 returned to the commission for review. Any such requested design
9 documents shall be presented to the commission at the earliest
10 opportunity that permits any additional commission recommendations to
11 be implemented in design revisions.

12 **C. Urban Design Commission Review and Approval**

13 **1. Applicability**

14 The urban design commission shall review and approve all landscaping and
15 streetscape amenities for roads of collector classification or greater in the *Official*
16 *Streets and Highways Plan*, and for trail projects involving all trails for which any
17 portion utilizes publicly-owned land, easements, or right-of-way that is over one-
18 half mile in length. Where projects include pedestrian facilities, the urban design
19 commission shall review and approval all related pedestrian amenities.

20 **2. Review**

- 21 a. The urban design commission shall review the landscaping, streetscape,
22 and pedestrian design plans, for all applicable road and trail projects. A
23 public hearing is not required but may be held at the commission's
24 discretion.
- 25 b. As applicable the commission's review of the project shall include but not
26 be limited to:
 - 27 i. Compliance with this title;
 - 28 ii. Long-term impact on existing and projected adjacent land uses;
 - 29 iii. Initial cost of materials including installation;
 - 30 iv. Long term costs associated with operation and maintenance;
 - 31 v. Adherence to a design theme established through local area
32 plans or prior public improvements;
 - 33 vi. Effectiveness in meeting community design goals; and
 - 34 vii. Where applicable, accommodation of pedestrians.
- 35 c. The commission may request that subsequent design documents be
36 returned to the commission for review. Any such requested design
37 documents shall be presented to the commission at the earliest

opportunity that permits any additional commission recommendations to be implemented in design revisions.

21.03.110 SPECIAL FLOOD HAZARD PERMITS

A. Applicability

Any use, structure, or activity listed in the floodplain regulations (section 21.04.080F., *Flood Hazard Overlay District*) as requiring a special flood hazard permit is prohibited until the issuance of such permit. Applications for special flood hazard permits may be made to the municipal engineer.

B. Application Contents

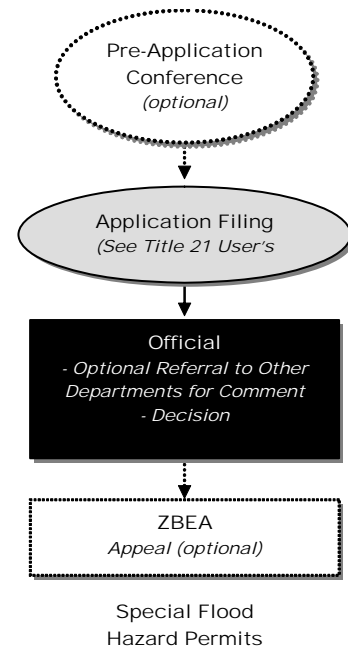
Any application for a special flood hazard permit shall contain the following material:

1. The elevation in relation to mean sea level of the lowest floor, including basement or crawl space, of all structures;
2. The elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 21.04.080F.7., *Construction Requirements (in Flood Hazard Overlay District)*; and
4. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

C. Evaluation; Additional Information

Upon receipt of an application for a special flood hazard permit, the municipal engineer shall transmit copies of the application, together with pertinent information, to interested and affected departments and agencies within the municipality, requesting technical assistance in evaluating the proposed application. The municipal engineer may require more detailed information from the applicant where special circumstances necessitate. Such additional information may include:

1. A valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
2. Specification of proposed construction and materials, floodproofing, filling, dredging, grading, channel improvement, water supply, and sanitary facilities.
3. A profile showing the slope of the bottom of the channel or flow line of the stream.



- 1 4. A report of soil types and conditions.
- 2 5. Analysis of proximity to a dam break area.

3 **D. Criteria for Issuance**

4 Permits shall be issued if the application and supporting material demonstrate that:

- 5 1. The proposed use or structure poses a minimal increase in probable flood height
6 or velocities caused by encroachment.
- 7 2. The proposed water supply and sanitation systems and the ability of these
8 systems to prevent disease, contamination, and unsanitary conditions will not be
9 impaired by flooding.
- 10 3. The susceptibility of the proposed facility and its contents to flood damage is
11 minimal.
- 12 4. There will be adequate access to the property in times of flood for ordinary and
13 emergency vehicles.
- 14 5. The proposed use, structure, or activity is in conformance with all applicable land
15 use regulations.
- 16 6. All necessary floodproofing will be provided.

17 **E. Time for Acting on Application**

18 The municipal engineer shall act on an application in the manner described in this section
19 within 30 days from receiving the application, except that, where additional information is
20 required, the official shall act within 30 days of the receipt of such additional requested
21 information.

22 **F. Notice on Subdivision Plats**

23 Where any portion of a subdivision is situated within a flood hazard district, a note shall
24 be placed on the plat that reads as follows: "Portions of this subdivision are situated
25 within the flood hazard district as it exists on the date hereof. The boundaries of the flood
26 hazard district may be altered from time to time in accordance with the provisions of
27 section 21.04.080F.3., *Creation of Flood Hazard Overlay District; Official Flood Hazard*
28 *Reports and Maps*. All construction activities and any land use within the flood hazard
29 district shall conform to the requirements of section 21.04.080F., *Flood Hazard Overlay*
30 *District*."

31 **G. Appeals**

32 An appeal from a decision of the municipal engineer regarding a flood hazard permit shall
33 be brought in accordance with section 21.03.200B.

34 **21.03.120 LAND USE PERMITS**

35 **A. Purpose**

36 The land use permit process assures current and future property owners that the
37 structures and land uses conform to the zoning code. Within the building safety service

1 area, the land use permit also involves plan review and on-site inspections to insure that
2 buildings meet the structural, plumbing, mechanical, electrical, and fire safety codes.

3 **B. Applicability**

4 **1. Inside Building Safety Service Area**

5 Inside the building safety service area, a building permit shall be considered the
6 land use permit and shall be required pursuant to title 23. The issuance of a
7 building permit may also be subject to the improvement requirements referenced
8 in subsection E. below.

9 **2. Outside Building Safety Service Area**

10 Outside the building safety service area, a land use permit shall be required prior
11 to:

12 **a.** Construction or placement of a building or addition to an existing building
13 whose floor area is 120 square feet or greater;

14 **b.** Excavation of more than 50 cubic yards on any lot or tract;

15 **c.** Filling or grading more than 50 cubic yards on any lot or tract;

16 **d.** Changing the principal use of a building; or

17 **e.** Clearing and grubbing more than 2 acres. (There is assembly action
18 pending on this issue.)

19 **C. Procedures**

20 **1. Application Filing**

21 Applications for land use permits shall be submitted to the building official on the
22 form provided.

23 **2. Approval Procedure**

24 **a.** The building official shall review each application for a land use permit.

25 **b.** The building official shall determine whether the application complies
26 with all requirements of title 23. The director shall determine whether the
27 application complies with all requirements of title 21, and shall inform the
28 building official of his or her determination.

29 **c.** The building official shall issue a land use permit upon finding that the
30 application and the proposed work complies with the approval criteria of
31 subsection D. below.

32 **d.** A land use permit shall become null and void unless the work approved
33 by the permit is commenced within 12 months after the date of issuance.
34 No work shall be considered to have commenced for the purposes of this
35 paragraph until an inspection has been made and recorded. If after
36 commencement the work is discontinued for a period of 12 months, the
37 permit therefore shall immediately expire. No work authorized by any
38 permit that has expired shall thereafter be performed until a permit has
39 been reinstated, or until a new permit has been secured.

- 1 **3. Changes to Approved Permits**
- 2 **a.** After a land use permit has been issued, no substantial changes or
- 3 deviations from the terms of the permit or the application and
- 4 accompanying plans and specifications shall be made without the
- 5 specific written approval of such changes or deviations by the building
- 6 official.
- 7 **b.** An amendment to a land use permit that requires payment of an
- 8 additional fee, either because of an increase in the size of the buildings,
- 9 a change in the scope of work, or an increase in the estimated cost of
- 10 the proposed work, shall not be approved until the applicant has paid the
- 11 additional fees and the amendment has been properly reviewed and
- 12 approved for conformance with applicable codes.
- 13 **4. Revocation of Land Use Permit**
- 14 The department may revoke and require the return of any land use permit by
- 15 notifying the permit holder in writing, stating the reason for such revocation. The
- 16 department shall revoke land use permits for any of the following reasons:
- 17 **a.** Any material departure from the approved application, plans, or
- 18 specifications;
- 19 **b.** Refusal or failure to comply with the requirements of this title or any other
- 20 applicable state or local laws;
- 21 **c.** False statements or misrepresentations made in securing such permit.
- 22 **5. Appeals**
- 23 **a.** Appeals of land use permit decisions or revocations relating to title 21
- 24 compliance, with the exception of those relating to subsection
- 25 21.03.120E, shall be made to the zoning board of examiners and
- 26 appeals.
- 27 **b.** Appeals of land use permit decisions or revocations relating to title 23
- 28 compliance shall be made to the building board of examiners and
- 29 appeals.
- 30 **D. Approval Criteria**
- 31 No land use permit shall be issued unless the building official determines that all required
- 32 approvals have been granted and the plans comply with all applicable provisions of title
- 33 23, and the director determines the plans comply with all applicable provisions of this title.
- 34 **E. Improvements Associated with Land Use Permits**
- 35 **1. Improvements Required**
- 36 The issuance of a land use permit under this section for the construction of a
- 37 residential, commercial, or industrial structure on a lot, shall be subject to the
- 38 permit applicant providing the easements, dedications, and improvements
- 39 required for a subdivision in the same improvement area under chapter 21.08,
- 40 *Subdivision Standards*. In applying the provisions of chapter 21.08, *Subdivision*
- 41 *Standards*, under this section, the term “lot” shall be substituted for the term
- 42 “subdivision,” the term “permit applicant” shall be substituted for the term

1 "subdivider," and the term "municipal engineer" shall be substituted for the term
2 "platting authority."

3 **2. Exceptions**

4 The requirements in subsection E.1. above shall not apply to a land use permit to
5 the extent that:

6 **a.** All construction associated with a single dwelling unit is located on a
7 single lot, tract, or parcel, regardless of zoning district.;

8 **b.** The traffic engineer determines that a street dedication or improvement
9 is not required for traffic circulation;

10 **c.** A dedication or improvement has been provided to the applicable
11 standard in chapter 21.08, *Subdivision Standards*;

12 **d.** A dedication or improvement will be provided under a subdivision
13 agreement that has been entered into under section 21.08.060,
14 *Subdivision Agreements*, or under an established assessment district;

15 **e.** The municipality has already appropriated funds to construct an
16 improvement; or

17 **f.** The permit is for repairs, maintenance, emergencies, electrical,
18 mechanical, or plumbing.

19 **3. Standards for Requiring Dedications and Improvements**

20 Where chapter 21.08, *Subdivision Standards*, grants discretion to determine
21 whether a dedication or improvement will be required, or to determine the design
22 standards for a dedication or improvement, the municipal engineer shall
23 determine the requirement or standard that applies to a land use permit under
24 this section by applying the following standards:

25 **a.** The dedication or improvement shall be reasonably related to the
26 anticipated impact on public facilities and adjacent areas that will result
27 from the use and occupancy of the structure that is the subject of the
28 building or land use permit. Any required public use easement shall be
29 removed when calculating density or lot coverage per the applicable
30 zoning district. The municipal engineer may require the permit applicant
31 to provide information or analyses to determine impacts as set out in the
32 *Anchorage 2020* plan's policies for transportation, transportation design
33 and maintenance, and water resources on public facilities and adjacent
34 areas, including without limitation the following:

35 **i.** A traffic impact analysis, or similar information. The traffic
36 engineer may require a traffic impact analysis if the same would
37 be required for approval of a subdivision, conditional use, or site
38 plan for similar development under this title.

39 **ii.** A drainage study, or similar information. A drainage study may
40 be required if the same would be required for approval of a
41 subdivision, conditional use, or site plan for similar development
42 under this title.

- 1 iii. An estimate of the financial costs of impacts on public facilities
2 and adjacent areas without the required improvements, including
3 without limitation continuity of improvements, maintenance costs
4 of public facilities, parking, drainage, noise and dust control,
5 pedestrian and vehicle safety and access, and emergency
6 vehicle access and response time.
- 7 iv. Information concerning the consistency of the impacts of the
8 proposed development with the comprehensive plan.
- 9 v. A design of internal streets and location of fire hydrants
10 satisfactory to the fire marshal for purposes of fire protection
11 within the development.
- 12 b. The estimated cost of constructing the improvement shall be reasonable
13 when compared to the estimated cost of the proposed development
14 under the land use permit. The determination of reasonableness shall
15 be based on cost estimates for the improvement and the proposed
16 development that the permit applicant or applicant’s agent submits under
17 penalty of perjury. If the municipal engineer determines that the
18 estimated cost to the applicant to complete all the improvements
19 required by this section is unreasonable in relation to the estimated cost
20 of the proposed development, the municipal engineer may reduce or
21 eliminate required improvements as necessary to make the relationship
22 between such costs reasonable.
- 23 c. The municipal engineer shall consider the potential development of all
24 adjacent parcels, lots, or tracts under common ownership, in addition to
25 the lot, parcel, or tract that is the subject of the permit application, and
26 the impacts associated therewith, in applying the standards in this
27 subsection.
- 28 d. The municipal engineer may approve adjustments to the improvement
29 requirements under this section to the extent that compliance with the
30 standards would result in an adverse impact on natural features such as
31 wetlands, steep slopes, or existing mature vegetation; existing
32 development; or public safety.
- 33 4. **Phasing of Installation**
34 Except as provided in this section, all required improvements shall be
35 constructed and accepted by the municipality before any certificate of zoning
36 compliance is issued for the permitted construction. If the municipal engineer
37 determines that it is not reasonable to require compliance with the preceding
38 sentence, no permit may be issued until the applicant enters into an agreement
39 for construction of the required improvements, with performance guarantees, in
40 the form required for subdivision improvements under section 21.08.050,
41 *Improvements*.
- 42 5. **Warranty**
43 All improvements required under this section shall be subject to the warranty and
44 guarantee of warranty requirements provided for subdivision improvements in
45 section 21.08.050, *Improvements*.

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6. Oversizing

If an improvement exceeding the requirements of this section is requested by the municipality and is necessary for the adequate and efficient development of surrounding areas, the municipality may require the applicant to install or accommodate oversizing. In such event the municipality shall reimburse the applicant for the cost of the oversizing at least as soon as budgeted funds are available after completion and acceptance of the improvements. This subsection shall not be a limitation on the municipality's ability to require a utility to oversize its facilities or a limitation on the manner in which the municipality may pay its proportionate share of the costs of oversizing.

7. Fee in Lieu

A fee in lieu of the required improvements may be accepted if the municipal engineer determines:

- a. That the improvements or construction activities associated therewith would create a potential undue safety hazard to motorists or pedestrians; or
- b. Due to the nature of existing development on adjacent properties it is unlikely that improvements would be extended in the foreseeable future and the improvements associated with the development under review do not, by themselves, provide a sufficient improvement to safety or capacity or a sufficient benefit to the property to be developed under the building or land use permit to warrant construction.
- c. Any fee paid pursuant to this section shall be accounted for separately, and the fee paid shall be dedicated and used only for the purpose of constructing the public facilities which were identified by the municipal engineer and for which the fee was paid.

8. Fee Amount

The amount of the fee in lieu shall be the lesser of seventy-five percent of the cost of the improvements as estimated by an engineer registered as a professional engineer in Alaska or as provided in a fee schedule adopted by regulation by the municipal engineer, which fee schedule may be adjusted by regulation annually to account for increases in construction costs in the Anchorage area. In the event the applicant or successor in interest later elects or is required to install improvements for which the fee was paid, the fee shall be refunded (without interest), so long as the claim for refund is filed within two years from the date of initial payment.

9. Appeals of Improvement Standards

A permit applicant may appeal a decision of the municipal engineer concerning required improvements under this section to the platting board by filing a written notice of appeal with the secretary of the platting board not later than 10 days after receipt of written notice of the decision. The appeal shall be placed on the agenda of the next regularly scheduled platting board meeting that occurs not less than 60 days after the filing of the appeal. The platting board shall hear the appeal.

1 **21.03.130 CERTIFICATE OF ZONING COMPLIANCE**

2 **A. Purpose**

3 A certificate of zoning compliance shall be required at the completion of any development
4 in the municipality, to ensure that the development complies with all applicable standards
5 of this title.

6 **B. Applicability**

7 A certificate of zoning compliance shall be required prior to the occupancy of any
8 building, structure, or land, except that temporary uses and structures in accordance with
9 section 21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of
10 zoning compliance requirements. Inside the building safety service area, a certificate of
11 occupancy shall be considered the certificate of zoning compliance.

12 **C. Issuance**

13 **1. Certificate**

14 Upon approval by the director, the building official may issue a certificate of
15 zoning compliance, which is valid as long as the conditions of the building or land
16 use permit remain in effect.

17 **2. Conditional Certificate**

18 Upon approval by the director, the building official may issue a conditional
19 certificate of zoning compliance, which shall be valid only for the period of time
20 stated in the certificate, for a specified portion or portions of a building that may
21 safely be occupied prior to final completion of the entire building and/or site.
22 Conditions that are attached to the conditional certificate of zoning compliance
23 must be completed prior to the expiration of the certificate. When such
24 conditions have not been completed prior to the expiration date of the conditional
25 certificate, the certificate of occupancy shall immediately expire. Upon receipt of
26 a written application to the building official stating satisfactory reasons for the
27 failure to complete work within the given time period, the building official may
28 renew the certificate for a specified period of time, not to exceed 180 days.

29 **3. Appeals**

30 Appeals of decisions on certificates of zoning compliance shall be to the zoning
31 board of examiners and appeals.

32 **D. Standards**

33 The building official shall issue a certificate of zoning compliance when, after examination
34 of the building, structure, landscaping and/or other improvements or changes to the
35 property, the department finds that the building complies with the applicable provisions of
36 this title and other applicable ordinances and construction codes of the municipality. This
37 review shall include, but is not limited to: off-street parking, landscaping, and other
38 development standards listed in chapter 21.07, *Development and Design Standards*.

21.03.140 SIGN PERMITS

A. Applicability

No person shall erect, locate, move, alter, or replace any sign or cause a sign to be located or maintained, unless all applicable provisions of this section and chapter 21.10, *Signs*, have been met.

B. Approval Requirements for Signs

Proposed signs shall be required to receive a permit from the building official as set forth in the table below.

TABLE 21.03-3: SIGN PERMIT REQUIREMENTS		
	Permit	No Permit [1]
Sign Plate		X
Permanent Building Sign	X	
Permanent Freestanding Sign	X	
Entrance/Exit		X
Instructional		X
Temporary – on a parcel		X
Temporary – for a business		X
Construction signs		X
Temporary for any Residential Unit		X

[1] Unless otherwise required by title 23.

C. Application

An application for a sign permit shall be made to the building official on the form provided. When any person other than the owner of the property submits a sign application, the owner of the property or a designated agent for the owner shall also sign such application.

D. Review and Approval

Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in 21.03.120C.2, *Approval Procedure (for Land Use Permits)*.

E. Appeals

Appeals of decisions on sign permit applications shall be to the zoning board of examiners and appeals, per section 21.03.200B.

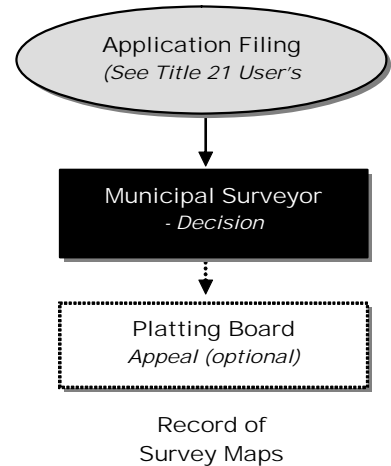
21.03.150 RECORD OF SURVEY MAPS

A. Purpose and Authorization

The purpose of this section is to provide for the approval of record of survey maps to be filed with the district recorder for the state. Record of survey maps shall be reviewed and approved in accordance with this section.

B. Use of Record of Survey Maps

1. A record of survey map is a map depicting the exterior boundaries of a legally created lot, parcel, or tract, and includes a correction to a record of survey map.
2. A record of survey map shall not be used to depict the boundaries of a lot, parcel, or tract, which lot, parcel, or tract was created or subdivided contrary to law. A record of survey map shall not subdivide property or recombine lots into acreage, and any record of survey map purporting to do so shall be null and void.



C. Required Submittals

An applicant for approval of a record of survey map shall submit the materials specified in the title 21 user's guide.

D. Monuments

Monuments set for the survey shall conform to the standards of the department of project management and engineering.

E. Approval

A record of survey map is subject to approval by the municipal surveyor, who shall approve a record of survey map if it conforms to this section.

F. Appeals

All decisions of the municipal surveyor under this section shall be final unless appealed to the platting board within 15 days.

21.03.160 VACATION OF PLATS AND RIGHTS-OF-WAY

A. Authority

The platting board shall consider the merits of each vacation request, and in all cases the platting board shall deem the area being vacated to be of value to the municipality unless proven otherwise. The burden of proof shall lie entirely with the petitioner. The presumption contained herein does not apply to vacations of private easements where the beneficiaries have provided written concurrence.

B. Required Submittals

Applicants for vacation requests shall submit the materials specified in the title 21 user's guide.

C. Decision-Making Responsibilities for Vacations

1. The director is the platting authority for applications to vacate the following platted interests:
 - a. Drainage easements granted under section 21.08.050M.

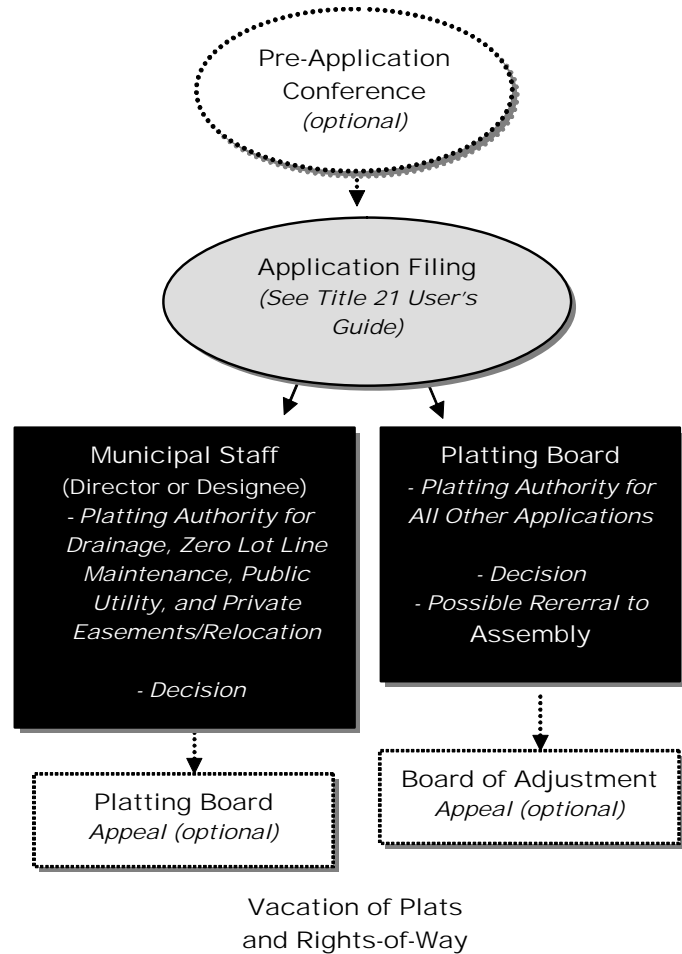
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- b. Zero lot line maintenance easements.
- c. Public utility easements.
- d. Private easements, but only upon the written concurrence of the beneficiaries.
- e. Relocation of any of the above-described interests.

2. The platting board is the platting authority for all other applications to vacate a dedicated public area.

D. Action

- 1. The director or platting board shall take action on the vacation application within 60 days after the submittal date. The reasons for the approval of the vacation shall be stated upon the case record.
- 2. The action of the platting board on an application to vacate a public area is final, unless referred to the assembly under subsection D.3. below.
- 3. The department shall refer to the assembly the action of the platting board on an application to vacate a public area, with an ordinance authorizing the conveyance of the area proposed to be vacated, when:
 - a. Within 15 days of the platting board 's action a government agency or a person aggrieved by the action files with the department a written request that the matter be forwarded to the assembly; or
 - b. The area proposed to be vacated is not a street right-of-way or an easement.
- 4. The approval of a vacation expires 24 months after the date of approval. A vacation is not effective unless, before its approval expires, a conveyance of the vacated interest is approved in accordance with law and a final plat depicting the



1 vacation is approved and filed in accordance with this title. A street right-of-way
2 or easement whose vacation is finally approved under this section is a right-of-
3 way or easement without substantial value to the municipality and is conveyed
4 upon the filing of a final plat depicting the vacation.

- 5 5. Appeals of the director's decision on a vacation under his or her jurisdiction shall
6 be to the platting board. Appeals of the platting board's decision on a vacation
7 under its jurisdiction shall be to the board of adjustment.

8 **E. Title to Vacated Area**

9 1. The title to the street or other public right-of-way vacated on a plat attaches to the
10 lot or lands bordering on the area in equal proportions, except that, if the area
11 was originally dedicated by different persons, original boundary lines shall be
12 adhered to so that the street area which lies on one side of the boundary line
13 shall attach to the abutting property on that side, and the street area which lies
14 on the other side of the boundary line shall attach to the property on that side.
15 The portion of a vacated street that lies within the limits of a platted addition
16 attaches to the lots of the platted addition bordering on the area. If a public
17 square⁴ is vacated, the title to it vests in the municipality.

18 2. If the municipality acquired the street or other public area vacated for legal
19 consideration before the final act of vacation, the fair market value of the street or
20 public area shall be deposited with the municipality. Title transferred under this
21 subsection shall be warranted by the municipality in the same manner as it was
22 received.

23 3. The provisions of paragraph E.1 of this section notwithstanding, the platting
24 board may determine that all or a portion of the area vacated should be devoted
25 to another public purpose and, if so, title to the area vacated and held for another
26 public purpose does not vest as provided in paragraph E.1 but remains in the
27 municipality.

28 **21.03.170 VERIFICATION OF NONCONFORMING STATUS**

29 **A. Process**

30 Owners of lots, uses, structures, or characteristics of use that may not conform to the
31 requirements of this title may request a verification of nonconforming status by filing an
32 application with the director in accordance with this section. Owners of signs that do not
33 conform to the requirements of this title shall comply with section 21.11.060,
34 *Nonconforming Signs*.

35 1. The application shall be accompanied by documentation that establishes the
36 approximate date that the lot, use, structure, or characteristic of use was
37 established; proof that the lot, use, structure, or characteristic of use was lawfully
38 established at the time it became nonconforming; and proof that the use has not
39 been discontinued or abandoned, except as provided in subsection B. below.
40 The director shall be authorized to require additional information if deemed
41 necessary to permit an accurate determination.

42 2. If any nonconformities are verified, a verification of nonconforming status shall be
43 recorded with the district recorder's office clearly identifying the land by parcel
44 number and/or a legal description of the property. Such verifications shall run

1 with the land, and their status shall not be affected by changes of tenancy,
2 ownership, or management.

3 3. A verification of nonconforming status shall not be required for continued daily
4 operation or maintenance of a nonconforming lot, use, structure, or characteristic
5 of use.

6 **B. Exceptions**

7 Notwithstanding subsection A. above:

8 1. Where the contention for nonconforming use is raised in a court in any action
9 brought to enforce this title before an application for determination has been filed
10 under this section, this section shall not be applicable and the court shall have
11 jurisdiction to determine the issue.

12 2. Nothing in this section shall be construed to deprive the director the right to make
13 a decision regarding a claimed nonconforming use or status as incident to a valid
14 pending application for a land use permit, or to reject an application for decision
15 as provided for by section 21.03.120., *Land Use Permits*.

16 **21.03.180 MINOR MODIFICATIONS**

17 **A. Purpose and Scope**

18 This section sets out the required review and approval procedures for “minor
19 modifications,” which are minor deviations from otherwise applicable standards that may
20 be approved by the director, the assembly, the planning and zoning commission, the
21 platting board or the urban design commission. Minor modifications are to be used when
22 the small size of the modification requested, and the unlikelihood of any adverse effects
23 on nearby properties or the neighborhood, make it unnecessary to complete a formal
24 variance process.

25 **B. Applicability**

26 1. **Minor Modifications to General Development and Zoning District Standards**
27 As part of the review and approval of any procedure set forth in this chapter, the
28 director, the assembly, the planning and zoning commission, the platting board,
29 and the urban design commission may approve minor modifications of up to a
30 maximum of ten percent from the following general development and zoning
31 district standards provided that the approval criteria of subsection D. below are
32 met.

33 a. Minimum lot area or setback requirements set forth in chapter 21.06,
34 *Dimensional Standards and Measurements*;

35 b. General development standards set forth in chapter 21.07, *Development*
36 *and Design Standards*;

37 c. Subdivision design and improvement standards set forth in chapter
38 21.08, *Subdivision Standards*.

39 2. **Exceptions to Authority to Grant Minor Modifications**
40 In no circumstance shall any decision-making body approve a minor modification
41 that results in:

- 1 a. An increase in overall project density;
- 2 b. A change in permitted uses or mix of uses;
- 3 c. A deviation from the use-specific standards, set forth in chapter 21.05,
4 *Use Regulations*; or
- 5 d. A change in conditions attached to the approval of any subdivision plan
6 (section 21.03.060), site plan (section 21.03.080), or conditional use
7 permit (section 21.03.070).

8 **C. Procedure**

9 1. **Minor Modifications Approved by director**

10 The director may initiate or approve a minor modification allowed under this
11 section at any time prior to submittal of the staff report on an application to
12 another decision-making body, if a report is required, or prior to final decision, if
13 no report is required.

14 2. **Minor Modifications Approved by Assembly, Planning and Zoning
15 Commission, or Platting Board**

16 The assembly, planning and zoning commission, or platting board may initiate or
17 approve a minor modification allowed under this section at any time before taking
18 action on a development application.

19 3. **Written Findings Noted on Pending Application**

20 Staff shall specify any approved minor modifications and the finding supporting
21 such modifications on the pending development application for which the
22 modifications were sought.

23 4. **Limitation on Minor Modifications**

24 a. An applicant may request application of the minor modification process
25 to his or her development only once during the review process.

26 b. In no instance may an applicant use the minor modification process to
27 obtain approval for more than three standards applicable to the same
28 development.

29 **D. Approval Criteria**

30 The decision-making body may approve the minor modification only if it finds that the
31 modification meets all of the criteria below:

32 1. The requested modification is consistent with the comprehensive plan and the
33 stated purpose of this title;

34 2. The requested modification meets all other applicable building and safety codes;

35 3. The requested modification does not encroach into a recorded easement;

36 4. The requested modification will have no significant adverse impact on the health,
37 safety, or general welfare of surrounding property owners or the general public,
38 or such impacts will be substantially mitigated; and

- 1 5. The requested modification is necessary to either: (a) compensate for some
2 practical difficulty or some unusual aspect of the site of the proposed
3 development not shared by landowners in general; or (b) accommodate an
4 alternative or innovative design practice that achieves to the same or better
5 degree the objective of the existing design standard to be modified. In
6 determining if “practical difficulty” exists, the factors set forth in section
7 21.03.190E., *Approval Criteria (for Variances)* shall be considered.

8 **21.03.190 VARIANCES**

9 **A. Purpose and Scope**

10 The variance process is intended to provide limited relief from the requirements of this
11 title in those cases where strict application of a particular requirement will create a
12 practical difficulty or unnecessary hardship prohibiting the reasonable use of land in a
13 manner otherwise allowed under this title. It is not intended that variances be granted
14 merely to remove inconveniences or financial burdens that the requirements of this title
15 may impose on property owners in general. Rather, it is intended to provide relief where
16 the requirements of this title render the land difficult or impossible to use because of
17 some unique physical attribute of the property itself. State and/or federal laws or
18 requirements may not be varied by the municipality.

19 **B. Decision-Making Bodies Authorized to Consider Variance Requests**

- 20 1. The platting board shall be authorized to review and consider all requests for
21 variances to standards set forth in chapter 21.08, *Subdivision Standards*.
- 22 2. The planning and zoning commission shall be authorized to review and consider
23 all requests for variances of standards relating to utility distribution facilities,
24 which are set forth in section 21.07.050; and variances of standards relating to
25 telecommunication facilities, which are in section 21.05.040K.
- 26 3. Requests for variances from the airport height zoning regulations set forth in
27 section 21.04.080C. shall be referred to the Federal Aviation Administration.
- 28 4. The urban design commission shall be authorized to review and consider all
29 requests for variances to standards set forth in chapter 21.10, *Signs*.
- 30 5. The zoning board of examiners and appeals shall be authorized to review and
31 consider variance requests from all other provisions of this title. The zoning
32 board may only grant variances from dimensional standards. No variance may
33 be granted from the definitions set forth in chapter 21.13.

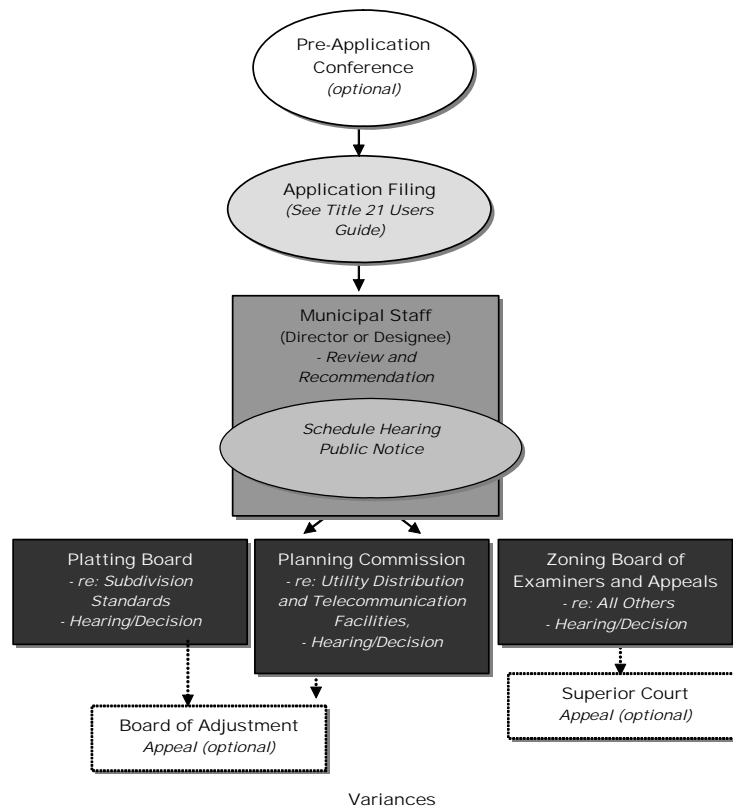
34 **C. Application**

35 An application for a variance shall be submitted to the secretary of the board on a form
36 contained in the user’s guide, containing the materials specified in the user’s guide.

37 **D. Action by the Review Body**

- 38 1. Once the application is complete, the director shall schedule the application for
39 consideration at a public hearing, and shall transmit to the appropriate review
40 body all applications and other records pertaining to the variance prior to the
41 hearing. Upon receiving the application materials from the director, the review
42 body shall hold a public hearing on the proposed variance. Written, published,

- 1 and posted notice of the hearing shall be provided pursuant to section
 2 21.03.020H.
- 3 2. In considering the application, the review body shall review the application
 4 materials, the approval criteria of subsection E., and all testimony and evidence
 5 received at the public hearing.
- 6 3. After conducting the public hearing, the review body may: deny the application;
 7 conduct an additional public hearing on the application; or grant the minimum
 8 required variance. Any approval or denial of the request shall be by resolution,
 9 accompanied by written findings of fact that the variance meets or does not meet
 10 each of the applicable criteria set forth in subsection E., stating the reasons for
 11 such findings. A concurring vote of a majority of the fully constituted membership
 12 of the entity, minus those excused by conflicts of interest, shall be required to
 13 grant a variance.
- 14 4. Under no circumstances shall the review body grant a variance to allow a use not
 15 permitted in the zone district containing the property for which the variance is
 16 sought.
- 17 5. Under no circumstances shall the review body grant a variance from any written
 18 conditions attached by another decision-making body to the approval of a
 19 conditional use permit, subdivision plat, or site plan.



1 **E. Approval Criteria**

2 The application must state with particularity the relief sought and must specify the facts or
3 circumstances that are alleged to show that the application meets the following
4 standards:

5 **1. Variances from this Title Other than the Subdivision Regulations or Airport**
6 **Height Zoning Regulations**

- 7 **a.** Special conditions exist that are peculiar to the land involved and that are
8 not applicable to other land in the same district;
- 9 **b.** Strict interpretation of the provisions of the zoning ordinance would
10 deprive the applicant of rights commonly enjoyed by other properties in
11 the same district under the terms of the zoning ordinance;
- 12 **c.** Special conditions and circumstances do not result from the actions of
13 the applicant and such conditions and circumstances do not merely
14 constitute pecuniary hardship or inconvenience;
- 15 **d.** Granting the variance would be in harmony with the objectives of the
16 zoning ordinance and not injurious to the neighborhood or otherwise
17 detrimental to the public welfare;
- 18 **e.** Granting the variance will not permit a use that is not otherwise permitted
19 in the district in which the property lies; and
- 20 **f.** The variance granted is the minimum variance that will make possible a
21 reasonable use of the land.

22 **2. Variances from Subdivision Regulations**

- 23 **a.** There are special circumstances or conditions affecting the property
24 such that the strict application of the provisions of the subdivision
25 regulations would clearly be impractical, unreasonable or undesirable to
26 the general public;
- 27 **b.** The granting of the specific variance will not be detrimental to the public
28 welfare or injurious to other property in the area in which such property is
29 situated;
- 30 **c.** Such variance will not have the effect of nullifying the intent and purpose
31 of the subdivision regulations or the comprehensive plan of the
32 municipality; and
- 33 **d.** Undue hardship would result from strict compliance with specific
34 provisions or requirements of the subdivision regulations. The applicant
35 may supplement the form with supporting documents.

36 **3. Variances from Airport Height Zoning Regulations**

37 The Federal Aviation Administration shall complete an airspace determination
38 that concludes that the proposed variance would not create a hazard.

1 **4. Variance for Number of Parking Spaces**

2 A variance for the number of parking spaces shall be granted on the basis of the
3 demonstrated need for parking and if the spillover of parking onto other
4 properties will be avoided.

5 **F. Lapse of Approval**

6 Any variance granted shall become null and void:

- 7 1. If the variance is not exercised within one year of the date it is granted, or
8 2. If any building, structure, or characteristic of use permitted by variance is moved
9 or altered so as to enlarge the variance or discontinue it.

10 **G. Appeals**

- 11 1. An appeal from a decision of the platting board shall be brought in accordance
12 with sections 21.03.200A.
13 2. An appeal from a decision of the zoning board of examiners and appeals shall be
14 brought in accordance with section 21.03.200C.

15 **21.03.200 APPEALS**

16 **A. Appeals to Board of Adjustment**

17 1. **Jurisdiction of Board**

18 The board of adjustment shall decide appeals:

- 19 a. From decisions regarding the approval or denial of a plat or a variance
20 from the provisions of chapters 21.08, *Subdivision Standards*; and
21 b. From decisions regarding the approval or denial of applications for
22 approval of conditional uses (section 21.03.070).
23 c. From decisions regarding the approval or denial of applications for
24 approval of major site plan reviews (section 21.03.080C).

25 2. **Initiation of Appeal**

26 Decisions may be appealed to the board of adjustment by:

- 27 a. Any governmental agency or unit; or
28 b. Any party of interest for the application. For purposes of this section,
29 “parties of interest” for a particular application shall include the applicant,
30 the owner of the subject property, the owner of property within the
31 notification area for the subject application, and anyone that presented
32 oral or written testimony at a public hearing on the application.

33 3. **Appellees Before Board**

- 34 a. If a decision is appealed to the board of adjustment as provided in
35 subsection A.2., an appellee brief may be filed as provided in section
36 subsection A.7. by:

- 1 i. The party in whose favor the lower administrative body's
2 decision was rendered.
- 3 ii. Any municipal agency.
- 4 iii. Any party of interest for the application, as defined in subsection
5 A.2. above.
- 6 b. Appellees who wish to be notified by the municipal clerk's office of the
7 date the record is available and of the date the appellant's brief is filed
8 must file a notice of intent to file a brief with the municipal clerk's office
9 on a form prescribed by the municipal clerk within 20 days after the
10 decision of the lower administrative body from which the appeal is taken.
11 An applicant for a site plan, conditional use, or subdivision, who is not
12 the appellant, must file a notice of intent to file a brief with the municipal
13 clerk's office within seven days of receipt of the appellant's notice of
14 appeal to become an appellee.
- 15 **4. Perfection of Appeal; Notice of Appeal; Appeal Fee**
- 16 a. An appeal to the board of adjustment must be perfected by a party of
17 interest for the application no later than 20 days from the date the written
18 findings of fact and decision of the administrative body from which the
19 appeal is taken is approved, on the record, and becomes a final,
20 appealable decision, is mailed or otherwise distributed or delivered to the
21 applicant. The appeal is perfected by the filing of a notice of appeal,
22 appeal fee, and cost bond in accordance with this section.
- 23 b. The notice of appeal must be filed with the municipal clerk on a form
24 prescribed by the municipality and must contain detailed and specific
25 allegations of error. If the appellant is not the applicant, the appellant
26 shall, within three days after filing the notice of appeal, serve a copy of
27 the notice of appeal on the applicant by certified mail to the applicant's
28 last known address. Proof the notice was served shall be provided to the
29 municipal clerk.
- 30 c. The appellant shall pay an appeal fee as provided in a fee schedule to
31 be approved by the assembly. In addition, the appellant shall file a cost
32 bond equal to the estimated cost of preparation of the record. Following
33 completion of the record, the actual cost thereof shall be paid by the
34 appellant. All costs and fees shall be returned to the appellant if the
35 decision of the lower body is reversed in whole or in part.
- 36 **5. New Evidence or Changed Circumstances**
- 37 a. Allegations of new evidence or changed circumstances shall not be
38 considered or decided by the board of adjustment. Allegations of new
39 evidence or changed circumstances shall be raised by written motion for
40 rehearing, filed with the municipal clerk no later than 20 days after the
41 lower administrative body's initial decision becomes final.
- 42 i. The municipal clerk shall automatically reject any motion filed
43 more than 20 days after the lower administrative body's initial
44 decision becomes final, without hearing or reconsideration by the
45 lower administrative body.

1 7. **Written Arguments**

2 a. ***Brief of Appellant***

3 The appellant to the board of adjustment may file a written brief of points
4 and authorities in support of those allegations of error specified in the
5 notice of appeal with the municipal clerk's office not later than 15 days
6 after service of the appeal record. The municipal clerk shall deliver a
7 copy of the appellant's brief to the municipal staff assigned responsibility
8 for the appeal. The municipal clerk shall also notify by certified mail
9 those appellees who have filed a notice of intent to file a brief that the
10 appellant's brief is available for pickup. Upon request, the municipal
11 clerk shall provide a copy of the appellant's brief to appellees, who shall
12 be charged copying costs as provided in AMCR 3.90.002 and any
13 mailing costs applicable.

14 b. ***Brief of Appellee***

15 An appellee who has filed a notice of intent to file a brief may also file
16 with the municipal clerk's office a written reply to the notice of points on
17 appeal and any brief in support thereof no later than 30 days after the
18 service of the appeal record. The municipal clerk shall notify the
19 appellant by certified mail that appellee briefs have been filed. The
20 municipal staff may, with the approval of the director of the office of
21 economic and community development, prepare and submit to the
22 municipal clerk a written reply to the notice of appeal and any brief in
23 support thereof no later than 30 days after service of the appeal record.

24 c. ***Reply Brief***

25 An appellant may file a written reply brief to appellee briefs submitted
26 pursuant to subsection 7.b. The appellant's reply brief is due no later
27 than ten days after service of notice that the appellee briefs have been
28 filed.

29 d. ***Timing of Briefs***

30 If a brief is not filed within the time prescribed by the user's guide, the
31 municipal clerk shall notify the board of adjustment that the brief was
32 filed late. The board shall determine whether to accept a late brief and
33 whether to allow additional time for any qualified opposing party to file
34 reply or rebuttal briefs if allowed.

35 e. ***Form of Briefs***

36 All briefs shall be prepared to specifications set forth in the title 21 user's
37 guide. The municipal clerk shall not accept a brief unless it is in the form
38 prescribed by the user's guide.

39 8. **Appeal Packet; Notice of Hearing**

40 Following the time set for the receipt of written argument from the appellant, the
41 appellee, and the municipal staff under this subsection, the municipal clerk shall
42 prepare and distribute to the members of the board of adjustment an appeal
43 packet containing only the notice of appeal, the appeal record and any briefs filed
44 in accordance with subsection A.7. above. Following distribution of the packets,
45 a date shall be set for consideration of the appeal. Notice of consideration on the
46 appeal shall be published in a newspaper of general circulation and shall be
47 served by mail on the appellant and those appellees who have submitted briefs.
48 Appeal packets shall be made available to the public upon demand with costs
49 payable by the public as provided in AMCR 3.90.002.

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- 9. Conduct of Hearing**
- a.** The meeting at which the board of adjustment deliberates and decides an appeal shall be open to the public and a record of the hearing shall be made.
- b.** The board of adjustment may hear oral argument from the appellant and any other party who has submitted a brief. The board of adjustment shall not take testimony or consider new evidence that was not introduced in the original proceeding.
- 10. Scope of Review**
- a.** The board of adjustment shall hear an appeal solely on the basis of the record established before the lower administrative body, the notice of appeal, the appellant's argument, and the reply to that argument.
- b.** The board of adjustment may exercise its independent judgment on legal issues raised by the appellant. The term "legal issues," as used in this section, means those matters that relate to the interpretation or construction of ordinances or other provisions of law.
- c.** The board of adjustment shall, unless it substitutes its independent judgment pursuant to subsection d. below, defer to the judgment of the lower administrative body regarding disputed issues or findings of fact. Findings of fact adopted expressly or by necessary implication by the lower administrative body may be considered as true if they are supported in the record by substantial evidence. The term "substantial evidence," for the purpose of this section, means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record affords a substantial basis of fact from which the fact in issue may be reasonably inferred, it shall be considered that the fact is supported by substantial evidence.
- d.** Notwithstanding the provisions of subsection 10.c. above, the board of adjustment may, by an affirmative vote of two-thirds of the fully constituted board, substitute its independent judgment for that of the lower administrative body on any disputed issues or findings of fact. Such judgment must be supported on the record by substantial evidence. For the purpose of this subsection, the fully constituted board of adjustment shall not include those members who do not participate in the appeal.
- 11. Decision**
- a.** The board of adjustment may affirm or reverse the decision of the lower administrative body in whole or in part. It shall decide an appeal on the basis of the record on appeal and the briefs of the parties to the appeal. A majority vote of the fully constituted board is required to reverse or modify the decision appealed from. For the purpose of this section, the fully constituted board shall not include those members who do not participate in the proceedings. A decision reversing or modifying the decision appealed from shall be in a form which finally disposes of the case on appeal except where the case is remanded in accordance with subsection 12.a. below.

1 **b.** Every decision of the board of adjustment to affirm or reverse the
2 decision of the lower administrative body pursuant to subsection a. of
3 this section shall be based upon and include written findings and
4 conclusions adopted by the board. Such findings must be reasonably
5 specific so as to provide the community, and, where appropriate,
6 reviewing authorities, a clear and precise understanding of the reason for
7 the board's decision. The board may seek the assistance of the
8 municipal staff in the preparation of findings.

9 **c.** Every final decision of the board of adjustment shall clearly state on its
10 face it is a final decision with respect to all issues involved in the case,
11 and that the parties have 30 days from the date of mailing, or other
12 distribution of the decision, to file an appeal to the superior court.

13 **12. Remand**

14 **a.** Where the board of adjustment reverses or modifies a decision of the
15 lower administrative body in whole or in part, its decision shall finally
16 dispose of the matter on appeal, except that the case shall be remanded
17 to the lower body where the board of adjustment determines either that:

18 **i.** There is insufficient evidence in the record on an issue material
19 to the decision of the case; or

20 **ii.** There has been a substantial procedural error that requires
21 further public hearing.

22 A decision remanding a case shall describe any issue upon which further
23 evidence should be taken, and shall set forth any further directions the
24 board deems appropriate for the guidance of the lower administrative
25 body.

26 **b.** The lower administrative body shall act on the case upon remand in
27 accordance with the decision of the board of adjustment in the minimum
28 time allowed by the circumstances. Cases on remand following a
29 decision of the board shall take precedence over all other matters on the
30 agenda of the lower administrative body.

31 **c.** A board of adjustment decision remanding a case on one or more issues
32 is not a final decision with respect to any issues involved in the appeal.
33 The board of adjustment's decision remanding the case shall be the final
34 decision with respect to all matters affirmed by the board of adjustment's
35 decision, when, following the lower administrative body's decision on
36 remand, no appeal is perfected within the period specified in subsection
37 21.03.200A.4.

38 **d.** A board of adjustment decision remanding a case on one or more issues
39 shall state that the decision is the final decision with respect to all
40 matters affirmed therein when, following the lower administrative body's
41 decision on remand, no appeal is perfected within the time period
42 specified in section 21.03.200A.4., and shall also state the parties have
43 30 days from the expiration of said period to appeal to the superior court.

B. Appeals to Zoning Board of Examiners and Appeals

1. Jurisdiction of Board

The zoning board of examiners and appeals shall hear appeals from decisions of the municipal staff regarding:

- a. Enforcement orders issued under chapter 21.12, *Enforcement*.
- b. Denial of an application for a flood hazard permit under section 21.03.110.
- c. Denial of an application for a building or land use permit when such denial is based on the requirements of this title.
- d. Denial of an application for a sign permit when such denial is based on the requirements of this title.
- e. Denial of a minor modification under section 21.03.180.
- f. Denial of a Verification of Legal Nonconforming Status under section 21.03.170.
- g. Denial of or imposition of conditions on a certificate under section 21.11.030.
- h. Interpretation of zoning district boundaries under section 21.01.050C.
- i. Denial of a certificate of zoning compliance under section 21.03.130.
- j. Interpretation of general definitions and use definitions.
- k. Other appeals as provided by law.

2. Initiation of Appeal

Appeals to the zoning board of examiners and appeals may be brought by any party of interest for the application. For purposes of this section, "parties of interest" for a particular application shall include the applicant, the owner of the subject property, the owner of property within the notification area for the subject application, and anyone who presented oral or written testimony at a public hearing on the application.

3. Time Limit for Filing; Notice of Appeal; Appeal Fee

- a. An appeal of an administrative decision to the zoning board of examiners and appeals, as set out in subsection B.1. above, must be filed no later than 20 days after written notification of the decision.
- b. Notice of appeal must be filed with the municipal clerk on a form prescribed by the municipality and must contain detailed and specific allegations of error.
- c. The appellant shall pay an appeal fee as set by the assembly, which shall accompany the filing of the notice of appeal. All fees shall be returned to the appellant if the decision of the lower administrative body

1 is reversed in whole, and one-half of the fee shall be returned if the
2 decision is reversed in part.

3 **4. Scope of Review**

4 The zoning board of examiners and appeals shall conduct a full evidentiary
5 hearing on an appeal and make its decision on the basis of this title, the
6 evidence, and the argument presented.

7 **5. Hearing**

8 **a.** An appeal hearing shall be held within 60 days of the filing of a proper
9 notice of appeal. The hearing is open to the public, but the public may
10 not comment.

11 **b.** Notice of the appeal hearing shall be published in a newspaper of
12 general circulation at least 14 days prior to the hearing, and, in addition,
13 the appellant shall be sent a notice by mail at least 14 days prior to the
14 hearing.

15 **c.** The zoning board of examiners and appeals may prescribe rules of
16 procedure for additional notification in cases where a decision of the
17 board would have a substantial effect on the surrounding neighborhood.

18 **6. Decision**

19 **a.** The zoning board of examiners and appeals may affirm or reverse the
20 decision of the administrative official in whole or in part. It shall require a
21 majority of the full membership, minus those members who disqualify
22 themselves with conflicts of interest in accordance with subsection
23 21.02.020C.6.

24 **b.** Every decision of the zoning board of examiners and appeals to affirm or
25 reverse an administrative action shall be in writing and based on and
26 include written findings and conclusions adopted by the board. Such
27 findings must be reasonably specific so as to provide the community
28 and, where appropriate, reviewing authorities, with a clear and precise
29 understanding of the reasons for the board's decision.

30 **c.** Every final decision of the zoning board of examiners and appeals shall
31 clearly state it is a final decision and that the parties have 30 days from
32 the date of mailing, or other distribution of the decision to file an appeal
33 to the superior court.

34 **C. Judicial Appeals**

35 **1. Judicial Review Authorized**

36 In accordance with Appellate Rule 601 et seq., of the *Alaska Rules of Court*, a
37 municipal officer, a taxpayer, or a person jointly or severally aggrieved may
38 appeal to the superior court:

39 **a.** A final decision of the board of adjustment on an appeal from a decision
40 regarding the approval or denial of an application for concept or final
41 approval of a conditional use.

42 **b.** A final decision of the board of adjustment on an appeal from the platting
43 board regarding an application for a subdivision.

- 1 c. A final decision of the zoning board of examiners and appeals.
- 2 d. Any final action or decision under this title that is appealable to the
- 3 superior court under the *Alaska Rules of Court* and/or laws of the state of
- 4 Alaska.

5 **21.03.210 USE CLASSIFICATION REQUESTS**

6 **A. Purpose and Applicability**

- 7 1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*,
- 8 describe one or more uses having similar characteristics, but do not list every
- 9 use or activity that may fall within the classification. This section shall be used to
- 10 determine all questions or disputes whether a specific use is deemed to be within
- 11 a use classification permitted in a zoning district.
- 12 2. The provisions of this section shall not apply to permit any specific use that is
- 13 expressly prohibited in a zoning district.

14 **B. Procedures for Use Classification Request**

15 The procedure for an application to determine a use classification shall be as follows:

16 1. **Application Submittal and Review**

17 An application for a use classification shall be submitted to the director. Within

18 30 days from the date a complete application is submitted, the director shall

19 review the application according to the standards set forth in this section; consult

20 with the municipal attorney and other staff, as necessary; and make a final

21 determination as to whether the subject use shall be deemed to be within a use

22 classification set forth in this title and whether such use shall be allowed in the

23 applicable zoning district.

24 2. **Appeals**

25 Appeals from the director's determination on a use classification request shall be

26 made to the zoning board of examiners and appeals, pursuant to section

27 21.03.200B.

28 3. **Form of Determination**

29 All final determinations by the director shall be provided to the applicant in writing

30 and shall be filed in the official record of use classification determinations.

31 **C. Standards for Review**

32 In evaluating a use classification request, the director shall consider whether the

33 proposed use has an impact that is similar in nature, function, and duration to the other

34 uses allowed in a specific zoning district. The director shall give due consideration to the

35 intent of this title concerning the district(s) involved, the character of the uses specifically

36 identified, and the character of the use(s) in question. The director shall assess all

37 relevant characteristics of the proposed use, including but not limited to the following:

- 38 1. The primary activity of the establishment and its relationship to existing use
- 39 categories and use types. The primary activity may be the principal product or
- 40 group of products produced or distributed, or services rendered. It may be the
- 41 share of production costs, capital investment, revenue, shipments, or
- 42 employment, if evaluating the relative significance of multiple activities;

- 1 2. The volume and type of sales (retail or wholesale) on the premises, and the size
2 and type of items sold and nature of inventory on the premises;
- 3 3. Any processing done on the premises, including assembly, manufacturing, final
4 production, warehousing, shipping, and distribution;
- 5 4. Any dangerous, hazardous, toxic, or explosive materials used in the processing
6 on the premises;
- 7 5. The nature and location of storage and outdoor display of merchandise
8 (enclosed, open, inside or outside the principal building); and predominant types
9 of items stored (such as business vehicles, work-in-process, inventory, and
10 merchandise, construction materials, scrap and junk, and raw materials including
11 liquids and powders);
- 12 6. The type, size, height, and nature of buildings and structures;
- 13 7. The number and density of employees and customers per unit area of site in
14 relation to business hours and employment shifts;
- 15 8. Transportation requirements, including the modal split for people and freight, by
16 volume type and characteristic of traffic generation to and from the site, trip
17 purposes and whether trip purposes can be shared by other uses on the site;
- 18 9. Parking requirements, turnover and generation, ratio of the number of spaces
19 required per unit area or activity, and the potential for shared parking with other
20 uses;
- 21 10. The amount and nature of any nuisances generated on the premises, including
22 but not limited to noise, smoke, odor, glare, vibration, radiation and fumes;
- 23 11. Any special public utility requirements for serving the proposed use, including but
24 not limited to water supply, waste water output, pre-treatment of wastes and
25 emissions required or recommended, and any significant power structures and
26 communications towers or facilities; and
- 27 12. The impact on adjacent properties created by the proposed use will not be
28 greater than that of other uses in the zoning district.

29 **D. Effects of Findings by the Director**

- 30 1. **Typical Uses: Amendment to this Title**
31 If the director finds that the particular use or category of use(s) that was the
32 subject of the use classification request is likely to be common or to recur
33 frequently, or that omission from this title is likely to lead to public uncertainty and
34 confusion, the director shall initiate an amendment to this title under section
35 21.03.040, *Amendments to Text of Title 21*. The determination of the director
36 shall be binding on all officers and departments of the municipality.
- 37 2. **Atypical Uses: Determination Binding**
38 If the director finds that the particular use or category of use(s) that was the
39 subject of the use classification request is of an unusual or transitory nature, or is
40 unlikely to recur frequently, the director may approve the use without initiating an

1 amendment to this title. However, the director's determination shall thereafter be
2 binding on all officers and departments of the municipality.

3 **E. Official Record of Use Classification Determinations**

4 An official record of use classification determinations and related zoning board actions
5 shall be kept on file in the department and shall be available for public inspection in the
6 department during normal business hours.

7 **21.03.220 ASSEMBLY ALCOHOL APPROVAL**

8 **A. Applicability**

9 Any use that includes the retail sale of alcoholic beverages is subject to the review
10 process set forth in this section. This process shall apply to such a use regardless of
11 whether it is listed in the use tables in section 21.05.010 as being permitted as a matter
12 of right or subject to site plan review or the conditional use process. The applicant shall
13 be required to obtain approval through both the process in this section and the separate
14 process referenced in the use table.

15 **B. General Standards**

16 The following provisions apply to all uses, in all districts, involving the retail sale,
17 dispensing, or service of alcoholic beverages including, but not limited to, liquor stores,
18 restaurants, bars or taverns, dinner theaters, movie theaters, brew pubs, tearooms, and
19 cafes.

20 1. Any use, whether principal or accessory, involving the retail sale or dispensing of
21 alcoholic beverages is permitted only by approval of the assembly under this
22 section. This requirement applies only to the retail sale or dispensing of alcoholic
23 beverages and not to related principal or accessory uses.

24 2. Notwithstanding any other provision of this title to the contrary, an approval for
25 uses involving the retail sale of alcoholic beverages shall only require the
26 approval of the assembly.

27 **C. Application and Review Procedure**

28 **1. Submittal**

29 Applications for assembly alcohol approval shall be submitted to the department
30 within seven days after application is made to the state alcoholic beverage
31 control board for issue or transfer of location of a liquor license. Applications
32 shall contain a zoning map showing the proposed location. The assembly may
33 promulgate regulations concerning the mandatory information to be submitted
34 with the application for conditional use.

35 **2. Department Report**

36 The department shall prepare and submit a report and a list of all licenses
37 located within a minimum of 1,000 feet of the proposed use to the assembly, and
38 shall address the conformity of the proposed application with this title and AMC
39 chapter 10.50. The department shall also submit a proposed resolution for
40 assembly consideration in connection with liquor license applications.

1 **3. Notice**

2 Notice of hearings required under this section shall be mailed, published, and
3 posted in accordance with section 21.03.020H, *Notice*.

4 **4. Assembly Action**

5 The assembly shall approve, approve conditionally, or deny the application. In
6 considering action, the assembly shall apply the criteria set forth in this title for
7 conditional uses in section 21.03.070D., *Approval Criteria*. The assembly shall
8 not take into consideration the sum paid by any person to acquire the license for
9 which a permit is requested.

10 **5. Conditions on Approval**

11 **a.** The assembly may, in connection with an approval under this section,
12 impose such special terms and conditions or modify existing conditions
13 governing operation of that license as are in the public interest, and are
14 consistent with the purposes of this title.

15 **b.** Conditions of approvals under this section are enforceable under the
16 provisions of this title. The assembly may revoke such an approval for
17 failure to comply with conditions of the permit, provided a public hearing
18 with notice to the owner affected is first held.

19 **c.** A copy of the conditions imposed by the assembly in connection with
20 approval under this section shall be maintained on the premises involved
21 at a location visible to the public.

22 **6. Effect of Denial**

23 An application for approval under this section that has been denied by the
24 assembly shall not be accepted for rehearing for a period of one year following
25 such denial if the director finds the proposed application is substantially the same
26 as that denied by the assembly and if no substantially new evidence or change in
27 circumstances has occurred. This paragraph shall not apply to applications on
28 file as of May 31, 1983. This paragraph shall not apply to an application filed
29 under assembly direction at a hearing at which a like application was considered.
30 This paragraph does not apply if the alcoholic beverage control board remands a
31 case that was previously denied by the assembly.

32 **7. Expiration**

33 When a permit granted by the assembly under this section has not been in
34 operation for a period of 60 days, the permit shall be deemed to have expired.

35 **21.03.230 ADMINISTRATIVE PERMITS**

36 **A. Applicability**

37 It shall be a violation of law for any person to engage in a land use for which an
38 administrative permit is required by this title without first obtaining such a permit.

39 **B. Administrative Permits**

40 A permit issued pursuant to this section shall be valid between January 1 or the date of
41 issuance and December 31 of the year in which it is issued, except that permits for bed
42 and breakfasts shall be valid between the date of issuance and December 31 of the year
43 after the permit was issued. An application for renewal of a permit shall be submitted in

1 the same manner as the original application and no later than December 1 immediately
2 preceding the expiration date of that permit.

3 **C. Regulations**

4 The director may promulgate regulations to implement this section, as provided in AMC
5 chapter 3.40. Permits shall be issued and renewed as outlined in the user's guide.

6 **21.03.240 NEIGHBORHOOD OR DISTRICT PLANS**

7 **A. Purpose and Authority**

8 **1. Purpose**

9 Neighborhood or district plans shall be guided by the elements of the
10 comprehensive plan, as defined in section 21.01.080. Neighborhood or district
11 plans should give specificity to the goals, objectives, policies, and strategies of
12 the comprehensive plan. These plans shall supplement and elaborate on the
13 comprehensive plan. The goal of a neighborhood or district plan is to promote
14 the orderly growth, improvement, and future development of the neighborhood,
15 community, or municipality.

16 **2. Authority**

17 These procedures and minimum standards are established for the creation and
18 review of plans for the development, growth, and improvement of the
19 municipality, and its neighborhoods and communities. The plans may be
20 sponsored by the mayor, the assembly, the planning and zoning commission, the
21 department, the community development division, or upon express approval of
22 the assembly by resolution, any community council, group of councils, or other
23 groups or organizations representing the broad public interest recognized by the
24 assembly to sponsor a neighborhood or district plan (hereafter called the
25 "sponsor").

26 In order to obtain the approval of the assembly as a sponsor, any community
27 council, group of councils, or other groups or organizations shall request a
28 resolution from the assembly authorizing them to proceed with the development
29 of a neighborhood or district plan. The group shall demonstrate, to the
30 reasonable satisfaction of a majority of the assembly, that they represent the
31 broad public interest necessary to successfully develop a plan; that they have
32 read and understand the requirements of this ordinance; that their proposed plan
33 will comply with the standards set forth in this ordinance; and that they have
34 sufficient financial resources and a sufficient level of knowledge and expertise to
35 warrant the expenditure of public resources as provided herein.

36 **3. Policy Guidance**

37 An adopted plan shall be an element of the comprehensive plan and shall serve
38 as a policy to guide subsequent actions by municipal agencies. The assembly
39 and the planning and zoning commission shall consider adopted plans in review
40 of land use, zoning actions, and capital improvement programs, where
41 consideration is consistent with the charger, the comprehensive plan, and
42 general law. Agencies shall consider adopted neighborhood or district plans as
43 guidance for actions, whether or not actions are subject to commission review.
44 The existence of an adopted neighborhood or district plan shall not preclude the
45 assembly, any municipal department or agency, or any board or commission of
46 the municipality from developing other plans or taking actions not contemplated

1 in the neighborhood or district plan affecting the same geographic area or subject
2 matter.

3 **B. Plan Submission**

4 **1. Initiation Meeting**

5 The sponsor of a plan shall meet with the department at the initiation of the
6 planning process to discuss and clarify content requirements, scheduling, and
7 other relevant issues. Periodically, the department shall report to the
8 commission, and to the assembly by an Assembly Information Memorandum
9 (AIM) requiring no further action, on the progress of neighborhood or district
10 plans underway.

11 **2. Work Program**

12 Following the initiation meeting, the sponsor shall prepare a work program which
13 shall be submitted to the department for approval. The work program shall
14 include a project schedule, a proposed table of contents, a proposed public
15 participation plan, and at least three milestones at which times the sponsor shall
16 meet with the department.

17 **3. Submission**

18 Twenty printed copies along with an electronic version of all proposed plans shall
19 be submitted to the department. The submission shall include the name(s) and
20 address(es) of the person(s) designated by the sponsor to be its
21 representative(s) in any discussions of the plan.

22 **C. Threshold Review and Determination**

23 **1. Department Review and Determination**

24 Within 90 days of the submission of a plan, the department shall review the plan
25 and determine whether the plan meets the standards for form, content, and for
26 consistency with sound planning, as set forth in subsection D. below.

27 **a.** If the department determines that the plan does meet the threshold
28 standards of subsection D., the department shall distribute the plan for
29 public review and commission public hearing as described in subsection
30 E.

31 **b.** If the department determines the plan does not meet the threshold
32 standards of subsection D., the staff shall provide written notification to
33 the sponsor of all deficiencies with respect to form, content, process, and
34 any changes, additions, or deletions which, in the opinion of staff, may
35 correct such deficiencies. The sponsor may indicate its willingness to
36 make such changes, additions, or deletions. Only in such even may the
37 sponsor be permitted to continue with the plan.

38 **2. Coordination of Plan Review**

39 The department may determine, despite a finding of appropriate form, content,
40 and sound planning policy, a proposed plan should not immediately proceed, due
41 to other municipal planning efforts underway which should be coordinated with
42 the plan. In such a case, the department shall develop an appropriate timetable
43 for distributing the plan for public review and commission public hearings.

D. Standards

1. Form and Content

The form and content of all proposed plans shall be consistent with the following:

a. The plan shall state is sponsoring entity or entities and the names of the individuals who participated in the development of the plan.

b. A plan shall enhance or implement goals, objectives, policies, and/or strategies of the comprehensive plan and provide further detail and specificity. A plan may take the form of a master plan or targeted plan.

i. A master plan for a neighborhood, district, or other geographic area of the municipality may combine elements related to housing, industrial and commercial uses, transportation, land use regulation, open space, recreation, cultural features, health, economic vitality, community facilities and other infrastructure.

ii. A targeted plan may consider one or a small number of elements of neighborhood, district, or municipal-wide problems or needs, and shall focus on issues related to the use, development, and improvement of land within the plan study area.

c. A plan shall not be limited to a single zoning district or a specific parcel in private ownership. A plan shall cover an identifiable, cohesive geographic area or neighborhood.

d. Plans shall be presented in clear language and coherent form with elements, chapters, or sections organized in logical sequence.

e. Plans shall state goals, objectives, or purposes clearly and succinctly. Policy statements or recommendations shall contain documentation and explanation of the data, analysis, or rationale underlying each. Plans shall analyze and propose policies to address identified problems.

f. A plan shall contain, as applicable:

i. Inventories or description and analysis of existing conditions, problems, or needs; projections of future conditions, problems, or needs; and recommended goals and strategies to address those conditions, problems, or needs.

ii. Alternatively, or concomitantly with the elements described above, a plan may also contain a vision for a future end state and a strategy(ies) for achieving it.

The level of detail and analysis shall be appropriate to the goals and recommendations presented in the plan. The information and analysis relied upon to support the recommendations shall be sufficiently identified to facilitate later plan review, including accuracy and validity of the information and analysis. Supporting information may be contained in the form of narrative, maps, charts, tables, technical appendices, or the like.

- 1 **g.** A plan shall contain a land use plan map for the geographic area
2 encompassed by the plan. The land use plan map shall propose
3 appropriate land use categories, which generally include: residential,
4 commercial, industrial, institutional, transportation, community facilities,
5 parks, and natural open space. The land use plan map may provide
6 more specificity than the general categories.
- 7 **h.** Plans shall be accompanied by documentation showing public
8 participation in the plan formulation and preparation. Public outreach,
9 such as surveys, workshops, hearings, or technical advisory committees,
10 is recommended as a tool for community support and consensus, in
11 addition to department, commission, and assembly approval.
- 12 **2. Sound Planning Policy**
- 13 **a.** All plans, regardless of form and content, shall include discussion of:
- 14 **i.** Its long-range consequences;
- 15 **ii.** Impact on economic and housing opportunity for all persons,
16 particularly low- and moderate-income, and persons with
17 disabilities;
- 18 **iii.** Provision of future growth and development opportunities;
- 19 **iv.** Ability to improve the physical environment; and
- 20 **v.** Effect on the geographic distribution of municipal facilities.
- 21 **b.** A plan shall set forth goals, objectives, purposes, policies, strategies,
22 and/or recommendations within the legal authority of the municipality.
- 23 **c.** A plan considering issues under the jurisdiction of specific municipal or
24 state agencies shall disclose all agency comments.
- 25 **d.** A plan shall analyze its relationship to applicable policy documents,
26 including all adopted elements of the comprehensive plan, as well as its
27 relationship to adjoining neighborhoods and other areas.
- 28 **e.** A plan shall solicit input from residents, local businesses, agencies, and
29 non-profit organizations local to the neighborhood, and demonstrate it
30 has considered these comments on their merits.

31 **E. Plan Distribution and Review**

- 32 **1. Plan Distribution**
- 33 When, pursuant to subsection C. above, a plan is ready for public review, the
34 department shall, within 30 days of its determination, provide copies of the plan
35 simultaneously to all municipal and state agencies with jurisdiction over elements
36 of the plan, and to all community councils. The department shall also make
37 copies available to the general public at city hall and the planning and
38 development center, and post the plan on the department website.

- 1 **2. Public, Agency, and Community Council Review**
2 Each community council may conduct its own review of the plan. Within a period
3 of 120 days following receipt of the plan, the community council may provide
4 written recommendation(s) to the department and the sponsor.
- 5 Members of the public and other municipal or state agencies may provide written
6 comments to the department during the 120 day review period.
- 7 **3. Department Review**
8 When the department is not the sponsor of a plan, it shall review the plan during
9 the 120 day review period, and prepare a staff report and recommendation for
10 the commission. The department shall consider the neighborhood, community,
11 and municipal-wide impacts and the long-term effects of the actions or policies
12 recommended by the plan. The department shall also consider the impact of the
13 plan on economic and housing opportunity, future growth and development, and
14 the physical environment, including consistency of the plan with other adopted
15 plans.
- 16 **F. Planning and Zoning Commission Review**
- 17 **1. Schedule for Review**
18 At the conclusion of the 120 day review period, the commission shall schedule a
19 public hearing within 60 days following the final day of the public review period.
- 20 **2. Public Hearing**
21 Notice of the public hearing shall be given in accordance with section
22 21.03.020H.
- 23 **3. Commission Recommendation**
24 The commission shall vote, within 60 days following the close of the public
25 hearing to recommend approval, approval with modifications, remand to the
26 sponsor, or disapproval of the plan. In reviewing the substance of the plan, the
27 commission shall consider the neighborhood, community, and municipal-wide
28 impacts and the potential long-term effects from the actions or policies
29 recommended by the plan. The commission shall consider the impact of the plan
30 on economic and housing opportunity, future growth and development, and the
31 physical environment, including consistency of the plan with other adopted plans,
32 and any other pertinent adopted neighborhood or district plans. Any
33 modifications recommended by the commission shall be consistent with the
34 standards for form, content, and sound planning policy, as set out in subsection
35 D. above.
- 36 **4. Commission Findings**
37 The commission's recommendation shall include findings describing its
38 considerations and providing explanation for its determination. The findings may
39 include recommendations for the implementation of plan elements. The
40 recommendation shall be transmitted to the assembly for final approval.
- 41 **G. Assembly Adoption**
- 42 **1. Transmission to Assembly**
43 The commission's recommendation shall be transmitted to the assembly for
44 introduction within 45 days of the commission recommendation. The assembly
45 shall schedule a public hearing not more than 45 days after introduction.

1 **2. Public Hearing**

2 Notice of the public hearing shall be provided in accordance with subsection
3 21.03.020H., and the hearing conducted in accordance with AMC chapter 2.30.

4 **3. Assembly Decision**

5 Within 45 days of the close of the public hearing, the assembly shall either:

- 6 a. Adopt the plan;
- 7 b. Adopt the plan with modifications;
- 8 c. Remand the plan to the commission; or
- 9 d. Not adopt the plan.

10 If the assembly adopts the plan with modifications, the modifications shall be
11 consistent with the standards for form, content, and sound planning policy, as set
12 out in subsection D. above. If the plan is adopted, either as proposed or with
13 modifications, it shall become an element of the comprehensive plan as
14 described in section 21.01.080.

15 **H. Review and Revision**

16 A plan shall be reviewed by the department concurrent with the review of the
17 comprehensive plans as otherwise provided in this title to determine if the plan is
18 consistent with the comprehensive plan. If the sponsor shows a major change of
19 circumstances in the neighborhood or district, the sponsor may request a review of the
20 plan before the end of any ten year period. Any revisions shall be presented for adoption
21 as an amendment to the plan, in accordance with the procedures set forth herein.

22 **21.03.250 MASTER PLANNING**

23 **A. Area Master Planning**

24 **1. Purpose**

25 An area master plan is intended to facilitate the planned development of large
26 tracts of land under unified ownership or control, prior to subdivision or
27 development of entire tracts or parcels within large tracts, in order to provide for
28 land use compatibility and development responding to site-specific environmental
29 constraints and opportunities. The area master plan shall establish the general
30 arrangement of land uses, circulation and infrastructure systems for the identified
31 development areas.

32 **2. Applicability**

33 a. **Mandatory: Girdwood**

34 An area master plan review is required prior to development in any of the
35 following Girdwood zoning districts: GR-3, GC-5, GRST-2, GCR-1,
36 GCR-2, GCR-3, GDR, GRR.

37 b. **Optional**

38 In addition to the criteria listed above, any other area in joint or single
39 ownership may opt to use the area master plan process on a voluntary
40 basis.

1 **3. Procedures**

2 **a. Pre-Application Conference**

3 Before filing an application, an applicant shall request a pre-application
4 conference with the director.

5 **b. Community Meeting**

6 A community meeting shall be required in accordance with 21.03.020G.

7 **c. Initiation**

8 An application for approval of an area master plan shall be initiated by
9 the owner of the property.

10 **d. Application Filing**

11 Applications for approval of an area master plan shall be submitted to the
12 director and shall contain all information and supporting materials
13 specified in subsection 3.e., below.

14 **e. Submittal Requirements**

15 Submittal requirements are set out below, and shall be in either narrative
16 or illustrative form. The director may waive submittal requirements not
17 relevant to the proposed area master plan. The planning and zoning
18 commission and/or the director may require the submittal of other
19 information as may be necessary for the informed exercise of judgment
20 under the criteria for the review of the plan, as set out in subsection A.4.,
21 below.

22 i. The legal description, boundaries, and acreage of the petition
23 area;

24 ii. The present land use classification of the petition area and
25 abutting property;

26 iii. The current use, if any, of the petition area and abutting property,
27 including roads, utilities, drainage systems, trails, parks, parking
28 areas, and any structures;

29 iv. The general topography of the petition area (contours lines shall
30 be shown at intervals of ten (10) feet or less), including any
31 unique natural or historical features;

32 v. A general description of the existing vegetation and soils in the
33 petition area;

34 vi. The location of streams, waterbodies, wetlands, drainage
35 courses, and flood plains;

36 vii. The planning objectives and design considerations used to
37 determine the use and configuration of the proposed
38 development;

39 viii. A conceptual site plan showing the various existing and
40 proposed types of land uses, depicting the relationship to each
41 other and to surrounding uses, proposed acreage, character,
42 and densities/intensity of development for each type of use, and

- 1 proposed open spaces. The site plan shall be in the form of a
2 "bubble map" locating these "development areas" and other
3 required elements in an approximate fashion;
- 4 ix. A general description of the traffic and pedestrian circulation
5 system proposed for the petition area, showing connections
6 between land uses, neighborhoods, and proposed public
7 schools, parks, open space areas, and trails/bikeways;
- 8 x. A general description of the utility system layout;
- 9 xi. An explanation of any unique features of the proposed
10 development;
- 11 xii. A general development schedule and phasing plan, if any, and
12 approximate date for commencement of construction; and
- 13 xiii. If the petition area contains wetlands designated in the
14 *Anchorage Wetlands Management Plan*, the applicant shall
15 submit:
- 16 (A) If recommended in the management strategies of the
17 *Anchorage Wetlands Management Plan*, or required by
18 the director, a wetlands delineation based on the *Corp of*
19 *Engineers Wetlands Delineation Manual* (current
20 version);
- 21 (B) Hydrologic information specifying the quality, amount
22 and direction of flow of surface and subsurface water, as
23 well as information on the drainage impacts of the
24 development on adjacent property;
- 25 (C) Vegetation information indicating the distribution of
26 wetland, coniferous and deciduous species; and
- 27 (D) Habitat information on the type, number, and species of
28 animals, including birds.
- 29 f. ***Director Review, Report, and Recommendation***
30 The director shall review the proposed area master plan in light of the
31 approval criteria of subsection A.4., below, and shall distribute the
32 application to other reviewers as necessary. Based on the results of the
33 reviews, the director shall provide a report and recommendation to the
34 planning and zoning commission.
- 35 g. ***Public Hearing***
36 Published, written, and posted notice of public hearings on area master
37 plans shall be provided in accordance with section 21.03.020H.
- 38 h. ***Review and Recommendation by Planning and Zoning Commission***
39 The planning and zoning commission shall hold a public hearing on the
40 proposed area master plan and, at the close of the hearing, shall
41 recommend approval of the plan as submitted, approval of the plan

1 subject to conditions or modifications, or denial of the plan, based on the
2 approval criteria of subsection A.4., below.

3 **i. *Hearing and Action by Assembly***

4 The assembly shall consider the reports and recommendations of the
5 director and the planning and zoning commission and shall hold a public
6 hearing on the proposed area master plan. Based on the commission's
7 recommendation, testimony received, and the approval criteria in
8 subsection A.4. below, the assembly shall:

- 9 i. Approve or deny the master plan;
10
11 ii. Approve the master plan with conditions or modifications; or
12
13 iii. Refer the master plan back to the planning and zoning
14 commission or to a committee of the assembly for further
15 consideration.

16
17 **4. Approval Criteria**

18 An area master plan may be recommended for approval by the planning and
19 zoning commission and approved by the assembly if all of the following criteria
20 have been met:

- 21 **a.** The area master plan substantially conforms to the principles and
22 objectives of the comprehensive plan, any approved neighborhood,
23 district, or area plans, and the general purposes of this title as stated in
24 section 21.01.030;
- 25 **b.** The streets, roads, and other transportation elements are in
26 conformance with applicable transportation plans;
- 27 **c.** The development has no substantial adverse fiscal impact on the
28 municipality;
- 29 **d.** The development provides significant community benefits in terms of
30 design, community facilities, open space, and other community
31 amenities;
- 32 **e.** The development is compatible with the character of the surrounding
33 area and minimizes any potential adverse impacts to surrounding areas
34 to the maximum extent feasible; and
- 35 **f.** Sufficient public safety, transportation, and utility facilities and services
36 are available to serve the subject property at the proposed level of
37 development, while maintaining sufficient levels of service to existing and
38 anticipated development in surrounding areas.

39 **5. Effect of Area Master Plan Approval**

40 No development rights are granted by the approval of an area master plan. An
41 approved area master plan allows the applicant to file applications for
42 development within the plan area including, but not limited to, site plans,
43 conditional use permits, or preliminary subdivision plans. An approved area
44 master plan also creates a presumption that design density, uses, and site layout
45 set forth in the plan are acceptable to the municipality, subject to further review

1 and application of relevant regulations in the review of subsequent applications.
2 However, approval of the area master plan shall not guarantee such density and
3 uses are attainable.

4 **6. Modification of Area Master Plan Approval**

5 **a. Modification without Public Hearing**

6 By request of the applicant or subsequent landowner, an approved area
7 master plan may be modified by the assembly, without a public hearing,
8 if the modification proposes:

9 i. A change to the development schedule or phasing plan of not
10 more than seven (7) years (applicable only if a development
11 master plan is not also required);

12 ii. Changes of ten percent (10%) or less to the number of dwelling
13 units or the total combined floor area of commercial and
14 industrial uses;

15 iii. A shift between development areas of ten percent (10%) or less
16 of the number of dwelling units or the total combined floor area of
17 commercial and industrial uses;

18 iv. A change to the acreage of any development area of ten percent
19 (10%) or less; or

20 v. A change the assembly determines does not change the impacts
21 on the surrounding neighborhood and public infrastructure and
22 services.

23 **b. Modification with Public Hearing**

24 By request of the applicant or subsequent landowner, an approved area
25 master plan may be modified by the assembly, only after a public
26 hearing, if the modification proposes:

27 i. A change to the development schedule or phasing plan of more
28 than seven (7) years (applicable only if a development master
29 plan is not also required);

30 ii. A reduction of acreage of open space;

31 iii. Changes to the number of dwelling units or the total combined
32 floor area of commercial and industrial uses of more than ten
33 percent (10%) but less than twenty-five percent (25%);

34 iv. A shift between development areas of more than ten percent
35 (10%) but less than twenty-five percent (25%) of the number of
36 dwelling units or the total combined floor area of commercial and
37 industrial uses;

38 v. A change to the acreage of any development area of more than
39 ten percent (10%) but less than twenty-five percent (25%);

40 vi. A change to any conditions of approval imposed by the assembly
41 at the time of area master plan approval; or

- 1 **b. *Optional***
2 A development master plan may be developed through this process for
3 any multi-building development within the municipality.
- 4 **3. Concurrent Master Plans**
5 If a development master plan is submitted concurrently with an area master plan,
6 the approval of the development master plan is contingent on the approval of the
7 area master plan.
- 8 **4. Procedures**
- 9 **a. *Pre-Application Conference***
10 Before filing and application, an applicant shall request a pre-application
11 conference with the director.
- 12 **b. *Community Meeting***
13 A community meeting shall be required in accordance with 21.03.020G.
- 14 **c. *Initiation***
15 An application for approval of a development master plan shall be
16 initiated by the owner of the subject property.
- 17 **d. *Application***
18 Applications for approval of a development master plan shall be
19 submitted to the director and shall contain all information and supporting
20 materials specified in subsection 4.e., below.
- 21 **e. *Submittal Requirements***
22 The design standards proposed in the development master plan may
23 differ from the standards of chapter 21.07, but shall meet or exceed
24 those standards, as described in subsection 5.g., below.
- 25 Submittal requirements are listed below and shall be in either narrative or
26 illustrative form. The director may waive submittal requirements not
27 relevant to the proposed development. The planning and zoning
28 commission and/or the director may require the submittal of other
29 information as necessary for the informed exercise of judgment under
30 the criteria for the review of the plan, as set out in subsection B.5.,
31 below.
- 32 **i.**The legal description, acreage, and boundaries of the proposed
33 petition area and a depiction of the area surrounding the petition
34 area;
- 35 **ii.**A site plan of any existing development, including buildings,
36 roads, utilities, drainage systems, trails, and a general
37 description of existing vegetation;
- 38 **iii.**The topography of the petition area, with contours lines shown at
39 intervals of four (4) feet or less, including any unique natural or
40 historical features;
- 41 **iv.**The location of existing streams, waterbodies, wetlands,
42 drainage courses, and flood plains;

- 1 v. A grading plan;
- 2 vi. A proposed site plan, showing roads, trails, building locations
3 and uses, parking areas, open space, and any other proposed
4 development. The site plan shall include the total number and
5 type of dwelling units, and the total combined floor area of
6 commercial and industrial uses;
- 7 vii. A landscape plan, including vegetation retention areas;
- 8 viii. Floor plans, building elevations, and renderings for all buildings;
- 9 ix. Road cross-sections;
- 10 x. Details of any other development proposed; and
- 11 xi. An implementation schedule.
- 12 f. **Director Review, Report, and Recommendation**
13 The director shall review the proposed development master plan in light
14 of the approval criteria of subsection B.5., below, and shall distribute the
15 application to other reviewers as necessary. Based on the results of the
16 reviews, the director shall provide a report and recommendation to the
17 planning and zoning commission.
- 18 g. **Public Hearing**
19 Published, written, and posted notice of public hearings on development
20 master plans shall be provided in accordance with section 21.03.020H.
- 21 h. **Review and Action by Planning and Zoning Commission**
22 The planning and zoning commission shall hold a public hearing on the
23 proposed development master plan and, at the close of the hearing, act
24 to approve the plan as submitted, approve the plan subject to conditions
25 or modifications, remand the plan to the applicant for modifications, or
26 deny the plan, based on the approval criteria of subsection B.5., below.
- 27 5. **Approval Criteria**
28 A development master plan may be approved if the planning and zoning
29 commission finds all of the following criteria have been met:
- 30 a. The development master plan substantially conforms to the principles
31 and objectives of the comprehensive plan, any approved neighborhood,
32 district, or area plans, and the general purposes of this title, as stated in
33 section 21.01.030;
- 34 b. The streets, roads, and other transportation elements are in
35 conformance with applicable transportation plans;
- 36 c. The development has no substantial adverse fiscal impact on the
37 municipality.
- 38 d. The development provides significant community benefits in terms of
39 design, community facilities, open space, and other community
40 amenities.

- 1 e. The development minimizes any potential adverse impacts to
2 surrounding residential areas to the maximum extent feasible.
- 3 f. Sufficient public safety, transportation, and utility facilities and services
4 are available to serve the subject property at the proposed level of
5 development, while maintaining sufficient levels of service to existing and
6 anticipated development in the surrounding areas.
- 7 g. The design standards are equivalent to or exceed the generally
8 applicable development standards of chapter 21.07, and result in high-
9 quality development in keeping with the comprehensive plan and the
10 intent of this title.

11 **6. Modification of Development Master Plan**
12 The planning and zoning commission shall determine whether a proposed
13 modification to an approved development master plan may be approved without
14 a public hearing, may be approved with a public hearing, or is significant enough
15 to require a new development master plan.

16 **7. Abandonment of Development Master Plan**
17 A development master plan approval shall expire if:

- 18 a. Implementation of the development master plan schedule is delayed for
19 more than seven (7) years without a request for a schedule modification
20 as outlined in section 5.; or
- 21 b. The property owner notifies the planning and zoning commission of the
22 abandonment of the development master plan.

23 **C. Institutional Master Planning**

24 **1. Purpose**
25 The institutional master plan review process provides a framework for
26 development of large institutions, such as hospitals and universities, that control
27 large land areas within the municipality, and are a source of substantial
28 employment, and that may contain a greater density of development than
29 surrounding areas. An institutional master plan is intended to permit flexibility for
30 a large institution to have greater control over its own lot-by-lot land use
31 decisions, while providing a level of understanding to the surrounding community
32 about the potential growth of the institution and the resultant impacts. The
33 process is specifically intended to:

- 34 a. Protect the integrity of adjacent neighborhoods by addressing the
35 impacts of institutional development on adjacent areas;
- 36 b. Provide a growing and continuing source of employment for the
37 municipality that is easily accessible and well-integrated with surrounding
38 neighborhoods and the local transportation system;
- 39 c. Create attractive and efficient urban areas that incorporate a high level of
40 design and urban amenities;
- 41 d. Protect sensitive portions of the natural and built environment that are
42 potentially affected by institutional development; and

1 e. Provide flexibility to institutions to carry out long-range building programs
2 in accord with the institutional mission and objectives.

3 **2. Applicability**
4 An institutional master plan may be submitted and approved, in accordance with
5 the procedures of this section, for any multi-building development site of 15
6 contiguous acres or more in common ownership in any zoning district or
7 combination of districts. The process provides an alternative to the procedures
8 and development and design standards of this title for institutions seeking to
9 develop large, complex sites with multiple buildings and uses following a uniform
10 and cohesive design theme.

11 **3. Institutional Master Plan Requirements**
12 **a. Planning Area**
13 The planning area for the institutional master plan shall include all the
14 areas that are under the ownership and control of the institution, and for
15 which the institution wishes to establish independent design and
16 development standards under this section. All maps submitted under
17 this section also shall depict properties within 1000 feet of the planning
18 area boundaries.

19 **b. Submittal Requirements**
20 An institutional master plan shall, at a minimum, include the following
21 information unless the director determines that such information is not
22 necessary to evaluate the proposed institutional master plan and the
23 institution's future impacts on surrounding neighborhoods. Specific
24 requirements for the full institutional master plan shall be determined by
25 the director following the pre-application conference.

26 **i. Mission and Objectives**
27 The institutional master plan shall include a statement that
28 defines the organizational mission and objectives of the
29 institution and description of how all development contemplated
30 or defined by the institutional master plan advances the goals
31 and objectives of the institution. The statement should describe
32 the population to be served by the institution and any projected
33 changes in the size or composition of that population. It should
34 also specify any services to be provided to residents in adjacent
35 neighborhoods and in other areas of the municipality.

36 **ii. Existing Property and Uses**
37 The institutional master plan shall include a description of land,
38 buildings, and other structures owned or occupied by the
39 institution within the planning area boundaries as of the date of
40 submittal of the institutional master plan. The following
41 information shall be required:

42 **(A)** Illustrative site plans showing the footprints of each
43 building and structure, together with roads, sidewalks,
44 parking, landscape features and other significant site
45 improvements;

46 **(B)** Land and building uses;

- 1 (C) Gross floor area in square feet of each individual
2 building;
- 3 (D) Building height in stories and feet of each individual
4 building; and
- 5 (E) A description of off-street parking and loading areas and
6 facilities, including a statement of the approximate
7 number of parking spaces in each area or facility.

8 **iii.** *Needs of the Institution*

9 The institutional master plan shall include a summary and
10 projection of the institution's current and future land use needs
11 within the planning area boundaries, such as, but not limited to,
12 the following types of facilities:

- 13 (A) Academic;
- 14 (B) Support services;
- 15 (C) Research;
- 16 (D) Office;
- 17 (E) Housing;
- 18 (F) Patient care;
- 19 (G) Assembly for public events, worship, cultural events, and
20 the like;
- 21 (H) Recreation and athletics;
- 22 (I) Transit;
- 23 (J) Parking; and
- 24 (K) Concessionaires or other commercial operations.

25 **iv.** *Ten-Year Development Envelope*

26 The institutional master plan shall include a description of the
27 development expected to occur within the planning area
28 boundaries within a ten-year time frame. The ten-year
29 development description shall be the maximum amount of
30 development proposed by an institution that can be supported
31 through current impact studies. The intent of this provision is to
32 provide the institution with flexibility regarding the future
33 development potential of its campus, while providing the
34 municipality with an understanding of the public infrastructure
35 and services that may be necessary to serve the planning area
36 and adjacent neighborhoods. The ten-year development
37 description shall include the following:

- 1
2
- (A) Location of each potential new building or significant expansion of or addition to existing buildings;
- 3
4
5
- (B) Maximum floor area and height of potential new buildings and additions to and expansions of existing buildings;
- 6
7
- (C) Required setbacks and buffering from the external planning area boundaries;
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- (D) Other factors that may affect the size and form of development activity within the planning area boundaries;
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- (E) Total number and location of parking spaces that will be developed within a ten-year period, based on the submitted transportation and parking management element; and
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18
- (F) A detailed development schedule and phasing plan, including the approximate dates when public improvements will be installed and the anticipated rate of development.
- 19
- v. *Twenty Year Development Sites*
The institutional master plan shall include written and graphic materials identifying future development sites beyond those noted in the ten-year development description. This information shall include, at a minimum, the general size and location of anticipated development that may occur within a twenty year period.
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- vi. *Compliance with Development and Design Standards*
The institutional master plan shall demonstrate how all development on the site will achieve compliance with the development and design standards of this title. The plan shall fully discuss and justify any proposed modification from the requirements of this title. Land within the planning area boundaries shall be subject to all the dimensional, development, and design standards set forth in chapters 21.06 and 21.07 of this title, unless modified in the approved institutional master plan.
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- vii. *Mandatory Master Plan Elements*
At a minimum, the following plan elements shall be included.
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37
- (A) *Transportation and Parking Management Element*
The institutional master plan shall include a transportation and parking management plan, based on the results of a transportation study, that identifies any traffic mitigation measures to be employed and how parking and transit will be accommodated within the planning area.
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1 (B) *Natural Resource Protection Element*
2 The institutional master plan shall identify all sensitive
3 natural resources within the planning area. The
4 institutional master plan shall identify areas of the
5 planning area that are subject to the natural resource
6 protection standards of section 21.07.020. The plan
7 shall identify the measures that will be used to mitigate
8 impacts for each of these conditions. Notwithstanding
9 subsection vii. above, an institutional master plan shall
10 not reduce or otherwise weaken the natural resource
11 protection standards of section 21.07.020.

12 (C) *Open Space and Pedestrian Circulation Element*
13 The institutional master plan shall include open space
14 and pedestrian circulation guidelines and objectives,
15 including a description of the circulation system to be
16 provided through the planning area, plans for ensuring
17 the accessibility of pedestrian areas and open spaces,
18 and links to surrounding community open space, where
19 appropriate.

20 (D) *Design Standards*
21 The institutional master plan shall include design
22 standards and objectives for the siting and design of new
23 and renovated buildings, parking lots, and other
24 structures, to assure their compatibility with surrounding
25 neighborhoods and districts, conformity with applicable
26 municipal plans, and to minimize potential adverse
27 impacts on historic structures. Urban design standards
28 shall include listings of height, bulk, and massing, that
29 will apply to proposed and future development.

30 (E) *Neighborhood Protection Strategy*
31 The institutional master plan shall identify standards and
32 programs that will be put in place to ensure that
33 surrounding neighborhoods are protected from adverse
34 impacts.

35 (F) *Public Comment*
36 The institutional master plan shall identify how and when
37 public comments, including those from the municipality
38 and surrounding land owners, will be solicited and how
39 the institution will respond to such comments.

40 4. **Procedures**

41 a. ***Pre-Application Conference***

42 Before filing an application, an applicant shall request a pre-application
43 conference with the director. See section 21.03.020B.

44 b. ***Community Meeting***

45 A community meeting shall be required. See section 21.03.020G.

46

- 1 **c. *Initiation***
2 An application for approval of an institutional master plan shall be
3 initiated by the owner or managing agent of the subject property.
- 4 **d. *Application Filing***
5 Applications for approval of an institutional master plan shall be
6 submitted to the director and shall contain all information and supporting
7 materials specified in the user's guide and in subsection 3.b. above. The
8 planning and zoning commission and/or the director may require the
9 submittal of such other information as may be necessary to permit the
10 informed exercise of judgment under the criteria for the review of the
11 plan, as set out in subsection C.5. below.
- 12 **e. *Director Review, Report, and Recommendation***
13 The director shall review the proposed institutional master plan in light of
14 the approval criteria of subsection C.5. below and shall distribute the
15 application to other reviewers as deemed necessary. Based on the
16 results of those reviews, the director shall provide a report and
17 recommendation to the planning and zoning commission.
- 18 **f. *Public Hearings***
19 Published, written, and posted notice of public hearings on institutional
20 master plans shall be provided in accordance with section 21.03.020H.
- 21 **g. *Review and Recommendation by Planning and Zoning Commission***
22 **i.** The planning and zoning commission shall hold a public hearing
23 on the proposed institutional master plan and, at the close of the
24 hearing, recommend that the assembly approve the plan as
25 submitted, approve the plan subject to conditions or
26 modifications, or deny the plan, based on the approval criteria of
27 subsection C.5. below.
- 28 **ii.** If the planning and zoning commission recommends that the
29 assembly approve a plan as submitted or with conditions or
30 modifications, within 90 days of the commission's action the
31 director shall forward the recommendation to the assembly.
- 32 **iii.** If the planning and zoning commission recommends that the
33 assembly deny a plan, that action is final unless, within 20 days
34 of the commission's action, the applicant files a written statement
35 with the municipal clerk requesting that the proposed institutional
36 master plan be submitted to the assembly.
- 37 **h. *Action by Assembly***
38 The assembly shall hold a public hearing on the proposed institutional
39 master plan. At the close of the hearing, taking into account the
40 recommendations of the director and the planning and zoning
41 commission, any public comment, and based on the approval criteria of
42 subsection C.5. below, the assembly shall, within 90 days, approve the
43 plan, approve the plan with modifications or conditions, deny the plan, or
44 refer the plan back to the planning and zoning commission.

1 **5. Approval Criteria**

2 An institutional master plan may be approved only if the assembly finds that the
3 all of the following criteria have been met:

4 **a.** The institutional master plan is consistent with the comprehensive plan
5 and any adopted neighborhood and area plans;

6 **b.** The institutional master plan sufficiently demonstrates compliance with
7 all applicable standards of this title, including the development and
8 design standards of chapter 21.07, or offers justification and alternative
9 measures to ensure that the intent and purposes of this title are met;

10 **c.** The institutional master plan mitigates any potential significant adverse
11 impacts to surrounding areas to the maximum extent feasible; and

12 **d.** Sufficient public safety, transportation, and utility facilities and services
13 are available to serve the subject property at the proposed level of
14 development, while maintaining sufficient levels of service to existing and
15 anticipated development in surrounding areas.

16 **6. Compliance with Institutional Master Plan**

17 No building permit or land use permit shall be issued for any project within an
18 area covered by an approved institutional master plan until the director certifies
19 that the proposed project is consistent with the approved institutional master
20 plan. Such a certification may be found if the proposed project is clearly
21 identified in the approved institutional master plan or if the project is found to
22 create minimal impact according to the following criteria:

23 **a.** The project does not result in the creation of or the need for additional
24 parking beyond that covered in the approved transportation and parking
25 management element;

26 **b.** The project does not result in the addition of more than 25,000 square
27 feet of floor area; and

28 **c.** The project does not result in the coverage of more than 25,000 square
29 feet of site area.

30 A certification of consistency, or finding of inconsistency, or finding of consistency
31 subject to conditions, shall be issued within 45 days of receipt of an application
32 for a building permit or land use permit for the proposed project. If not in
33 compliance, the director shall issue a detailed list of reasons and recommended
34 actions to achieve compliance.

35 **7. Modifications to Approved Institutional Master Plans**

36 **a. Major Amendments**

37 Amendment of an approved institutional master plan shall follow the
38 same process required for the original approval of an institutional master
39 plan, unless the director determines that the amendment may be
40 processed as a minor amendment as described in subsection 7.b. below.

41 **b. Minor Amendments**

1 The director may administratively approve minor amendments to
2 approved institutional master plans upon written application, and upon
3 the director's determination that the amendment is a minor amendment.
4 Minor amendments are defined generally as modifications to approved
5 plans that do not affect land use or density in ways that would have
6 significant adverse impacts on public facilities, utilities, traffic circulation,
7 or other major infrastructure systems; or on surrounding neighborhoods
8 or development. Examples of minor amendments include, but are not
9 limited to:

10 i. Changes in location and species of landscaping and/or
11 screening, as long as the approved character and intent is
12 maintained.

13 ii. Changes in orientation of portions of parking areas, so long as
14 the effectiveness of the approved overall site circulation and
15 parking is maintained.

16 iii. Shifting no more than five percent of density or gross leasable
17 area between phases.

18 iv. The reorientation, but not complete relocation, of major
19 structures.

20 v. Changes resulting in a decrease of building separation or
21 setbacks, provided those changes will not adversely affect
22 adjacent properties or uses.

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¹ PDR#2 NOTE: The changes in this section are more restrictive than the community council notification requirements adopted in the 2003 Community Council Redistricting Ordinance.

² 2005 NOTE: In the 2005 draft, the Boards and Commissions advisory committee requested that this section continue to be carried forward pending further discussion. OLD NOTE: As discussed in the Diagnosis and Outline, the special limitations are the source of some administrative headaches in Anchorage, since a proliferation of special conditions on individual properties makes enforcement quite difficult. Nevertheless, special limitations clearly are part of the administrative culture in the city, and the feedback we got suggests that it may not yet be time to abolish them. We carry them forward in this draft for discussion purposes. We hope, however, that once the new districts and standards are drafted, special limitations will become less necessary and they perhaps can be eliminated in a future draft (or in a year or so following adoption of the new code).

³ PRD#2 NOTE: AO 84-21 rezoned the south Anchorage G-5 area from Unrestricted zoning to various residential and commercial, zones and PLI and W zones.

⁴ PRD#2 NOTE: This provision is in state law. There is no definition of "public square" in state law.