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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. **The word "director" means the director of the planning department or his or her designee.**

### B. Pre-Application Conferences

#### 1. Purpose

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

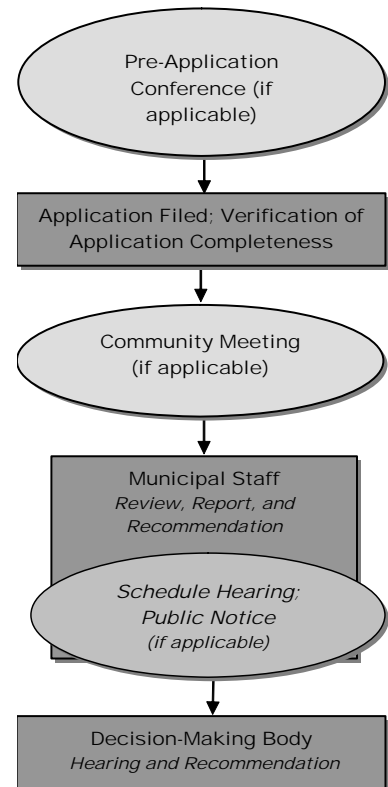
#### 2. Applicability

##### 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 21.03.160);
- ii. Subdivisions ~~and Plats~~, except for Abbreviated Plats (section 21.03.200);
- iii. Conditional Uses (section 21.03.080);
- iv. Major Site Plan Review (section 21.03.180C);
- v. Public Facility Site Selection (section 21.03.140); 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 proposed development, site and engineering design, or the preparation of other data.~~



Common Procedures

1           **b.       Exception for Some Changes to Already-Approved Applications**

2           Pre-application conferences are not required for changes to already-approved  
3           conditional use permits, ~~variances~~, major site plans, and subdivision plans if the  
4           following conditions are met:

5                   i.       For non-residential development, the proposed increase in building  
6                   square footage is less than ~~25~~ ~~45~~ percent of the ~~approved~~ ~~existing~~  
7                   building square footage.

8                   ii.      For residential development, the proposed increase in the number of  
9                   units or lots is not more than ~~25~~ ~~45~~ percent of the ~~approved~~ ~~existing~~  
10                  number of units or lots.

11           **c.       Optional for All Other Applications**

12           A pre-application conference is optional prior to submittal of any other application  
13           under this title not listed in subsection 2.a. above.

14           **d.       Waiver**

15           The director may waive the pre-application requirement if the director finds that  
16           the projected size, complexity, anticipated impacts, or other factors associated  
17           with the proposed development clearly, in his or her ~~judgment opinion~~, ~~make a~~  
18           ~~pre-application conference unnecessary~~ ~~support such waiver~~. The waiver shall  
19           be made in writing and shall become a part of the case record for the application.

20           **3.       Initiation of Pre-Application Conference**

21           The potential applicant shall request a pre-application conference, in the manner  
22           prescribed in the user's guide, with the director. Prior to the pre-application conference,  
23           the applicant shall provide to the director a description of the character, location, and  
24           magnitude of the proposed development and any other supporting documents such as  
25           maps, drawings, models, and the type of ~~entitlement~~ ~~development permit~~ sought. It is the  
26           applicant's responsibility to provide sufficiently detailed plans and descriptions of the  
27           proposal to enable staff to make the informal recommendations discussed below.

28           **4.       Pre-Application Conference Content**

29           **a.**       The director shall schedule a pre-application conference after receipt of a proper  
30           request. At the conference, the applicant, the director, and any other persons the  
31           director deems appropriate and available to attend shall discuss the proposed  
32           development. Based upon the information provided by the applicant and the  
33           provisions of this title, the parties should discuss in general the proposed  
34           development and the applicable requirements and standards of this title.

35           **b.**       The conference attendees shall discuss the desired development activities with  
36           respect to the following items:

37           ~~Checklist Of Pre-Application Conference~~

38           ~~Within ten days after the date of the pre-application review, the director shall notify the~~  
39           ~~applicant in writing of the staff's informal recommendation regarding the desired~~  
40           ~~development activity with respect to the following items:~~

41                   i.       Applicability of municipality policies, plans, and requirements as they  
42                   apply to the proposed development.

43                   ii.      Appropriateness of the development with respect to the policies set forth  
44                   in the comprehensive plan and the regulations in this title.

- 1                   iii.     Need, if any, to prepare a subdivision plat.
- 2                   iv.     Any site plan considerations or requirements.
- 3                   v.     Any concerns or requirements related to the anticipated impact upon  
4                   public rights-of-way and public improvements, and appropriate  
5                   requirements to mitigate those impacts, including but not limited to traffic  
6                   impact analyses.
- 7                   vi.     Any concerns related to neighborhood impacts, land use, landscaping  
8                   concepts, and overall project design.
- 9                   vii.    Possible alternatives or modifications related to the proposed application.
- 10                  viii.  Procedures that will need to be completed to review and act on the  
11                  proposed change.
- 12                  c.     A checklist of discussion items indicating topics discussed at the pre-application  
13                  conference shall be mailed to the applicant within ten days of the conference.  
14                  The checklist shall be considered proprietary information until an application has  
15                  been submitted.

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

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

30                  C.     **Authority to File Applications**

31                  ~~Unless otherwise specified in this title, applications for review and approval may be initiated by:~~

- 32                   a.     ~~The owner of the property that is the subject of the application;~~
- 33                   b.     ~~The owner's authorized agent; or~~
- 34                   c.     ~~Any review or decision-making body.~~

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

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



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

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

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

8 **2. Form of Application**

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

11 **3. Processing Fees**

12 Applications shall be accompanied by the fee amount established by the assembly and  
13 ~~that is~~ listed in the user's guide. Fees are not subject to waivers and are non-refundable.

14 **4. Waivers**

15 The director may waive certain submittal requirements in order to reduce the burden on  
16 the applicant and to tailor the requirements to the information necessary to review a  
17 particular application. The director may waive such requirements where he or she finds  
18 that the projected size, complexity, anticipated impacts, or other factors associated with  
19 the proposed development clearly, in his or her opinion, support such waiver. The waiver  
20 shall be made in writing and shall become a part of the case record for the application.

21 **E. Verification of Application Completeness**

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

31 **2.** An application shall be considered complete if it is submitted in the required form,  
32 includes all mandatory information, including all supporting materials specified in the title  
33 21 user's guide, and is accompanied by the applicable fee. A pre-application conference  
34 shall have been held, if required, pursuant to section 21.03.020B, *Pre-Application*  
35 *Conferences*.

36 **3.** As a consequence for any false or misleading information submitted or supplied by an  
37 applicant on an application, that application ~~shall~~ ~~will~~ be deemed incomplete.

38 **F. Additional Information**

39 **1. Requested Information**

40 Nothing in this subsection prohibits the department or the decision-making body on the  
41 application from requesting additional information deemed necessary for review, after the  
42 application is complete. Any supplemental technical reports, special studies, and/or  
43 revised application materials that are requested ~~by the department and submitted~~  
44 following the original application must be received at least thirty days prior to a public  
45 hearing. The municipality may postpone and reschedule a public hearing or approval



1 deadline if such reports and studies are submitted less than thirty days prior to a public  
2 hearing, unless the applicable board or commission waives this time limit in a specific  
3 case for cause. Copies of such additional materials shall be delivered to all reviewers  
4 who received the original application packet.

5 **2. Voluntary Information**

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

13 **G. Community Meetings**

14 **1. Purpose**

15 The purpose of a community meeting is shall be to provide an informal opportunity for the  
16 developer to inform the surrounding area residents and property owners affected  
17 neighborhood(s) and community council(s) of the details of a proposed development and  
18 application, how the developer intends to meet the standards contained in this title, and  
19 to receive public comment and encourage dialogue at an early time in the review  
20 process.

21 **2. Applicability**

22 **a. Types of Applications**

23 The applicant shall hold a community meeting for shall be required following the  
24 submittal of any of the following types of applications, unless a waiver is granted  
25 by the director pursuant to subsection 2.b. below.

- 26 i. Rezoning (Zoning Map Amendments);
- 27 ii. Subdivisions and Plats, except for Abbreviated Plats;
- 28 iii. Conditional Uses;
- 29 iv. Major Site Plan Review; and
- 30 v. Public Facility Site Selection (including schools).

31 **b. Waiver**

32 An applicant may request, with justification, a waiver of the community meeting  
33 along with his or her application. The director may waive the community meeting  
34 requirement if he or she determines that the proposed development or  
35 subdivision will not have significant community impacts in any of the areas listed  
36 below. The waiver shall be in writing, provided along with the verification of  
37 application completeness, and shall be included as part of the case record.

- 38 i. Traffic;
- 39 ii. Impacts upon natural resources protected under chapter 21.07 of this  
40 code;

- 1                   iii.     Provision of public services such as police and/or fire service, schools, or
- 2                             parks;
- 3                   iv.     Compatibility of building design or scale; or
- 4                   v.     Operational compatibility, such as lighting, hours of operation, odors,
- 5                             noise, litter, or glare.

6           **3.     Timing and Number of Community Meetings**

7           When required, there shall be at least one community meeting held **after the pre-**  
8           **application conference (if applicable), but** prior to **the submittal of an application.**  
9           ~~preparation of the staff report and/or recommendation, if required; and at least 21 days~~  
10           ~~prior to any public hearing.~~

11           ~~a.     The director may also require that additional community meetings occur based~~  
12           ~~on consideration of the proposed development's mix of uses, density, complexity,~~  
13           ~~potential for impacts, or the need for off-site public improvements created by the~~  
14           ~~development.~~

15           **4.     Notice of Community Meeting**

16           **The applicant shall provide written (mailed) notice of the community meeting in**  
17           **accordance with subsection H.4. below, at least 21 days prior to the community meeting.**

18           ~~a.     In addition to notification to residents and property owners in the neighborhood~~  
19           ~~surrounding the proposed development, the applicant shall give written notice of~~  
20           ~~the community meeting to the affected community council(s) at least 21 days~~  
21           ~~prior to the community meeting, pursuant to the general notice provisions of~~  
22           ~~section 21.03.020H.~~

23           ~~b.     If more than one community council has boundaries within or adjacent to a~~  
24           ~~proposed development subject to this section, the director shall require that~~  
25           ~~representatives from all affected councils be notified.~~

26           **5.     Attendance at Community Meeting**

27           a.     If a community meeting is required, the applicant or applicant's representative  
28                     shall attend the community meeting. The applicant shall be responsible for  
29                     scheduling the community meeting, coordinating the community meeting, and for  
30                     retaining an independent facilitator if **the applicant determines one is** needed.

31           b.     All community meetings shall be convened at a place in the vicinity of the  
32                     proposed development.

33           **6.     Summary of Community Meeting**

34           The applicant shall prepare a written summary of the community meeting(s), which shall  
35           be submitted to the director no later than seven days after the date of the meeting. The  
36           written summary shall be included in the **departmental** director/staff report ~~provided to the~~  
37           ~~decision-making body at the time of the first public hearing to consider the application.~~ At  
38           a minimum, the written summary shall include the following information:

39           a.     Dates and locations of all meetings where citizens were invited to discuss the  
40                     applicant's proposals;

41           b.     Content, dates mailed, and number of mailings, including letters, meeting  
42                     notices, and any other written material;

- 1           c.     The number of people that participated in the meetings;
- 2           d.     A summary of concerns, issues, and problems expressed during the meetings,
- 3                 including:
- 4                 i.     The substance of the concerns, issues, and problems;
- 5                 ii.    How the applicant has addressed or intends to address concerns,
- 6                 issues, and problems expressed at the meetings; and
- 7                 iii.   Concerns, issues, and problems the applicant is unwilling or unable to
- 8                 address and why.

9     **H.     Notice**

10    **1.     Content of Notices**

11    Public notice of all public hearings required under this chapter shall, unless otherwise  
 12    specified in this title:

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

20    **2.     Summary of Notice Requirements**

21    The following table 21.03-1 summarizes the notice requirements of the procedures set  
 22    forth in this chapter. Unless otherwise specified in this title, procedures not listed in this  
 23    table have no public notice requirements.

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS				
Type of Application or Procedure	Section	Notice Required		
		Written (Mailed)	Published	Posted
Assembly Alcohol <del>Special Land Use</del> Permit Approval	21.03.040	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-
Appeal of an Enforcement Order	21.13	-	-	✓
Appeals to ZBEA	21.03.050B.	✓	✓	-
<del>Certificates of Zoning Compliance</del>	<del>21.03.060</del>	⋮	⋮	⋮
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-
<del>Comprehensive Plan Amendments, Cosmetic</del>	<del>21.03.070D.</del>	⋮	⋮	⋮

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS				
Type of Application or Procedure	Section	Notice Required		
		Written (Mailed)	Published	Posted
Conditional Uses	21.03.080	✓	✓	✓
<del>Special Flood Hazard Permits</del>	<del>21.03.090</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>
<del>Land Use Permits</del>	<del>21.03.100</del>	⋮	⋮	⋮
Master Plan, Institutional	21.03.110	✓	✓	✓
<del>Minor Modifications</del>	<del>21.03.120</del>	⋮	⋮	⋮
Neighborhood or District Plans	21.03.130	-	✓	-
Public Facility Site Selection (except schools)	21.03.140	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓
<del>Sign Permits</del>	<del>21.03.180</del>	⋮	⋮	⋮
<del>Site Plan Review, Administrative</del>	<del>21.03.190B</del>	⋮	⋮	⋮
Site Plan Review, Major	21.03.180C	✓	✓	✓
<del>Street Road and Trail Review</del>	21.03.190	-	✓	-
<del>Subdivisions (Preliminary Plat) (with existing physical access)</del>	21.03.200	✓	✓	✓
<del>Subdivisions (Preliminary Plat) (without existing physical access)</del>	21.03.200	✓	✓	-
<del>Final Plat</del>	<del>21.03.210</del>	⋮	⋮	⋮
Abbreviated Plats	21.03.200D.	-	✓	-
<b>Modification or Removal of Plat Notes</b>	<b>21.03.200G.</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>
<del>Right of Way Acquisition Plat</del>	<del>21.03.210F.</del>	⋮	⋮	⋮
<del>Record of Survey Maps</del>	<del>21.03.160</del>	⋮	⋮	⋮
Title 21, Text Amendments	21.03.210	-	✓	-
Vacation of <b>Public and Private Interest in Land Plats and Rights of Way</b>	21.03.230	✓	✓	✓
Variances	21.03.240	✓	✓	✓
<del>Verification of Nonconforming Status</del>	<del>21.03.260</del>	⋮	⋮	⋮
<del>Area Master Planning</del>	<del>21.03.250A.</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>
<del>Development Master Planning</del>	<del>21.03.250B.</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>

1           **3.     Written (Mailed) Notice**

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

7           **a.     Owners of Subject Property**

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

11          **b.     Adjacent Property Owners**

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

17          **c.     Community Councils**

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

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

29          **ii.**       If the subject parcel is a branch public facility that serves a specific  
30          delineated area, such as a public school or fire station, then any  
31          community council whose boundaries lie within the delineated district of  
32          service of a branch public facility shall receive written notice. This  
33          requirement shall only take effect after the municipality has established  
34          maps delineating areas of service for the type of branch facility, and has  
35          adopted procedures and responsibilities for updating service area  
36          boundaries.

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

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

44          **d.     Additional Persons**

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

1           **4.     Published Notice**

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

6           **5.     Posted Notice**

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

19          **6.     Constructive Notice**

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

30          **7.     Presumption of Notice**

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

34          **I.     Departmental Report**

35          For every decision that requires a public hearing or where otherwise required by this title, the  
36          department shall prepare a report to be given to the decision-making body approximately one  
37          week before the initial public hearing on the application. The report shall include project  
38          background, public comments received, the summary of community meeting (if applicable), and  
39          the department's recommendation for action.

40          **J.     Referrals**

41          The applicant, boards, commissions, or the municipal administration may request that  
42          government agencies, non-governmental agencies, and other boards and commissions besides  
43          the decision-making body review an application, but the final decision-making authority shall  
44          remain with the body identified in this chapter.

1 **K. Concurrent Processing**

- 2 1. 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 ~~Examples of concurrent filing and processing of applications include, but are not limited to:~~

10 ~~a. A rezoning along with a comprehensive plan map amendment;~~

11 ~~b. A subdivision plan along with a site plan or variance or vacation;~~

12 ~~c. A variance along with a conditional use or site plan.~~

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

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

22 **L. Postponements**

- 23 1. ~~The applicant may request a postponement of his or her case without a fee, when there~~  
24 ~~are if only five or fewer board or commission members are in attendance at the hearing,~~  
25 ~~the applicant may request a postponement of his or her case, and the fee for the first~~  
26 ~~postponement request shall be waived.~~

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

31 a. If public notice pursuant to subsection H. above has not been given, the director  
32 is the decision-making body for the purpose of granting a postponement.

33 b. If public notice pursuant to subsection H. above has been given, the decision-  
34 making body is the board or commission identified in ~~this chapter table 21.02-4~~  
35 for the entitlement requested.

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



1 **M. Conditions of Approval**

- 2 1. The decision-making body is authorized to impose such conditions upon the entitlement  
3 premises benefited by the approval as may be necessary to conform to the standards of  
4 this title, reduce or minimize any potential adverse impact upon other property in the  
5 area, or to carry out the general purpose and intent of the comprehensive plan and this  
6 title. In such cases, any conditions attached to approvals shall be directly related to the  
7 impacts of the proposed use or development and shall be roughly proportional in both  
8 extent and amount to the anticipated impacts of the proposed use or development.
- 9 2. No conditions of approval, except for those attached to variance approvals, shall be less  
10 restrictive than the requirements of this title or applicable special limitations.
- 11 3. Unless there is a time schedule stated as part of the condition, all conditions of approval  
12 shall be met within one year of the date of approval (unless the condition is ongoing, such  
13 as a specification of hours of operation).

14 **N. Decision**

15 Recommendations and decisions shall be made in accordance with title 4.

16 **1. Findings of Fact**

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

23 **2. Appeals**

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

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

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

30 **O. Lapse of Approval**

- 31 1. The lapse of approval time frames established by the procedures of this title may be  
32 extended only when all of the following conditions exist:
- 33 a. The provisions of this title must expressly allow the extension;
- 34 b. An extension request must be filed prior to the applicable lapse-of-approval  
35 deadline; and
- 36 c. The extension request must be in writing and include justification; and
- 37 2. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-  
38 making body that granted the original approval (the one being extended).

1 **P. New Application Required**

2 If an application is inactive for one year awaiting action by the petitioner, a decision is not made  
3 on an application within one year of the submittal of that application, the application shall be  
4 discarded and a new application shall be required.

5 **21.03.030 ADMINISTRATIVE PERMITS**

6 **A. Applicability**

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

9 **B. Administrative Permits**

10 A permit issued by the director and pursuant to this section shall be valid between January 1 or  
11 the date of issuance and December 31 of the year in which it is issued, except that permits for  
12 bed and breakfasts shall be valid between the date of issuance and December 31 of the year  
13 after the permit was issued. An application for renewal of a permit shall be submitted in the same  
14 manner as the original application and no later than December 1 immediately preceding the  
15 expiration date of that permit.

16 **C. Regulations**

17 The director may promulgate regulations to implement this section, as provided in AMC chapter  
18 3.40. Permits shall be issued and renewed as outlined in the title 21 user's guide.

19 **D. Appeals**

20 Denial of an administrative permit may be appealed to the zoning board of examiners and  
21 appeals in accordance with subsection 21.03.050B.

22 **21.03.040 ASSEMBLY ALCOHOL—SPECIAL LAND USE PERMIT APPROVAL—RETAIL**  
23 **SALES**

24 **A. Applicability**

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

31 2. Notwithstanding A.1. above, catering and special event permits issued by the state  
32 Alcoholic Beverage Control Board, and held no more than 12 times in a calendar year at  
33 the same physical location, are exempt from these approval requirements, but shall meet  
34 AMC title 10 requirements.

35 3. No modification of an existing special land use permit for alcohol shall be required for the  
36 first duplicate liquor license provided:

37 a. There is no increase in the square footage of the premise licensed for the retail  
38 sale or dispensing of alcoholic beverages; or

1           **b.**    If there is an increase in the square footage of the licensed premise, such  
2           increase is five hundred square feet or less, whether or not the area of increase  
3           is used year-round. In such case the licensed business shall request a minor  
4           modification to their approval by submitting a site plan for department review,  
5           along with the fee specified in the user's guide. The department shall review the  
6           site plan for potential impacts including, but not limited to, parking, lighting, noise,  
7           and traffic.

8    **B.    General Standards**

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

- 12          1.       Any use, whether principal or accessory, involving the retail sale or dispensing of  
13          alcoholic beverages is permitted only by approval of the assembly under this section.  
14          This requirement applies only to the retail sale or dispensing of alcoholic beverages and  
15          not to related principal or accessory uses.
- 16          2.       Notwithstanding any other provision of this title to the contrary, an approval for uses  
17          involving the retail sale of alcoholic beverages shall only require the approval of the  
18          assembly.

19    **C.    Application and Review Procedure**

20          1.       **Application Submittal**

21               Applications for assembly alcohol approval shall be submitted to the ~~director~~ ~~department~~  
22               within seven days after application is made to the state alcoholic beverage control board  
23               for issue or transfer of location of a liquor license. Applications shall contain a zoning  
24               map showing the proposed location. The assembly may promulgate regulations  
25               concerning the mandatory information to be submitted with the application for ~~a special~~  
26               ~~land use permit for alcohol conditional use.~~

27          2.       **Departmental Review** ~~Department Report~~

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

33          3.       **Public Notice**

34               Notice of ~~all public~~ hearings ~~required under this section~~ shall be ~~provided~~ ~~mailed,~~  
35               ~~published, and posted~~ in accordance with section 21.03.020H., *Notice*.

36          4.       **Assembly Action**

37               ~~After holding a public hearing,~~ The assembly shall approve, approve conditionally, or  
38               deny the application. In considering action, the assembly shall apply the criteria set forth  
39               in this title for conditional uses in section 21.03.080C., *Approval Criteria*. The assembly  
40               shall not take into consideration the sum paid by any person to acquire the license for  
41               which a permit is requested.

42          5.       **Conditions ~~of~~ ~~an~~ Approval**

43               a.       The assembly may, in connection with an approval under this section, impose  
44               such special terms and conditions or modify existing conditions governing

1 operation of that license as are in the public interest, and are consistent with the  
2 purposes of this title.

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

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

10 **6. Effect of Denial**

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

19 **7. Expiration**

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

22 An approval granted under this section shall expire:

23 a. One hundred twenty days after the transfer of the license to sell alcoholic  
24 beverages from the premises has been approved by the state Alcoholic  
25 Beverage Control Board, unless there is an application filed with the Control  
26 Board prior to the expiration of the 120 day period; or

27 b. If the operation of the business becomes substantially different from the business  
28 and operation reviewed by the assembly when the alcohol approval was granted  
29 under this section, unless the licensee applies for and receives assembly  
30 approval for a modification of the existing alcohol approval to reflect the change.

31 For the purposes of this section, "substantially different" means any material change in  
32 the operation of the business which could result in significant impact on the use and  
33 enjoyment of adjacent properties by property owners or occupants. A material change  
34 includes, without limitation, an increase in the late night or early morning hours of  
35 operation; a change involving the type of entertainment presented which results in an  
36 increase in noise level at the property line; or a change from a business which meets the  
37 requirements of the state Alcoholic Beverage Control board statutes and regulations for a  
38 restaurant designation permit to a business which would not meet such requirements.

39 **21.03.050 APPEALS**

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

41 **1. Jurisdiction of Board**

42 The board of adjustment shall decide appeals:

- a. From decisions regarding the approval or denial of a preliminary plat (subsection 21.03.200C.); or a variance from the provisions of chapters 21.08, *Subdivision Standards*; and
- b. From decisions regarding the approval or denial of a variance from the provisions of subsection 21.05.040K, *Telecommunication Facilities*; section 21.07.050, *Utility Distribution Facilities*; chapter 21.08, *Subdivision Standards*; and chapter 21.11, *Signs*;
- c. From decisions regarding the approval or denial of vacations of public and private interest in land where the platting board is the platting authority (section 21.03.230);
- d. From decisions regarding the approval or denial of a development master plan (subsection 21.09.030F.);
- e. From decisions regarding the approval or denial of applications for approval of conditional uses (section 21.03.080); and
- f. From decisions regarding the approval or denial of applications for approval of major site plan reviews (subsection 21.03.180C).

## 2. Initiation of Appeal

Decisions may be appealed to the board of adjustment by:

- a. Any governmental agency or unit; or
- b. 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 that presented oral or written testimony at a public hearing on the application.

## 3. Appellees Before Board

- a. If a decision is appealed to the board of adjustment as provided in subsection A.2., an appellee brief may be filed as provided in section subsection A.7. by:
  - i. The party in whose favor the lower administrative body's decision was rendered.
  - ii. Any municipal agency.
  - iii. Any party of interest for the application, as defined in chapter 21.14 subsection A.2. above.
- b. Appellees who wish to be notified by the municipal clerk's office of the date the record is available and of the date the appellant's brief is filed must file a notice of intent to file a brief with the municipal clerk's office on a form prescribed by the municipal clerk within 20 days after the decision of the lower administrative body from which the appeal is taken. An applicant for a site plan, conditional use, or subdivision, who is not the appellant, must file a notice of intent to file a brief with the municipal clerk's office within seven days of receipt of the appellant's notice of appeal to become an appellee.

1           **4. Perfection of Appeal; Notice of Appeal; Appeal Fee**

2           **a.** An appeal to the board of adjustment must be perfected by a party of interest for  
3 the application no later than 20 days from the date the written findings of fact and  
4 decision of the administrative body from which the appeal is taken is approved,  
5 on the record, and becomes a final, appealable decision, is mailed or otherwise  
6 distributed or delivered to the applicant. The appeal is perfected by the filing of a  
7 notice of appeal, appeal fee, and cost bond in accordance with this section.

8           **b.** The notice of appeal must be filed with the municipal clerk on a form prescribed  
9 by the municipality and must contain detailed and specific allegations of error. If  
10 the appellant is not the applicant, the appellant shall, within three days after filing  
11 the notice of appeal, serve a copy of the notice of appeal on the applicant by  
12 certified mail to the applicant's last known address. Proof the notice was served  
13 shall be provided to the municipal clerk.

14           **c.** The appellant shall pay an appeal fee as provided in the user's guide ~~a fee~~  
15 ~~schedule to be approved by the assembly~~. In addition, the appellant shall file a  
16 cost bond equal to the estimated cost of preparation of the record. Following  
17 completion of the record, the actual cost thereof shall be paid by the appellant.  
18 All costs and fees shall be returned to the appellant if the decision of the lower  
19 body is reversed in whole or in part.

20           **5. New Evidence or Changed Circumstances**

21           **a.** Allegations of new evidence or changed circumstances shall not be considered  
22 or decided by the board of adjustment. Allegations of new evidence or changed  
23 circumstances shall be raised by written motion for rehearing, filed with the  
24 municipal clerk no later than 20 days after the lower administrative body's initial  
25 decision becomes final.

26                   **i.** The municipal clerk shall automatically reject any motion filed more than  
27 20 days after the lower administrative body's initial decision becomes  
28 final, without hearing or reconsideration by the lower administrative body.

29                   **ii.** A decision of the lower administrative body on any issues remanded  
30 from the board of adjustment is not an initial decision as described in  
31 subsection 5.a. above. The municipal clerk shall automatically reject,  
32 without hearing or reconsideration, any motion alleging new evidence or  
33 changed circumstances filed in response to a lower administrative body's  
34 decision on any issue(s) presented on remand.

35           **b.** If the written motion is filed in a timely manner, the administrative body from  
36 which the appeal is taken shall decide whether to reopen and rehear the matter.  
37 A rehearing shall be held if the lower administrative body determines:

38                   **i.** If true, that the alleged new evidence or changed circumstances would  
39 substantially change the decision of the body, and

40                   **ii.** The party alleging new evidence or changed circumstances acted  
41 promptly and with diligence in bringing the information to the body's  
42 attention.

43           **6. Appeal Record**

44           **a.** Upon timely perfection of an appeal to the board of adjustment, the municipal  
45 clerk shall prepare an appeal record. The record shall contain:

- 1 i. A verbatim transcript of the proceedings before the administrative body  
2 from which the appeal has been taken.
- 3 ii. Copies of all documentary evidence, memoranda, exhibits,  
4 correspondence, and other written material submitted to the  
5 administrative body prior to the decision from which the appeal is taken.
- 6 iii. A copy of the written decision of the administrative body, including its  
7 findings and conclusions.
- 8 b. The appellant shall arrange for the preparation of the transcript of the board  
9 hearing by a court reporter or the current board and commission recording  
10 secretary and shall pay the cost of such preparation. The appellant shall file the  
11 transcript with the municipal clerk. If the appellant fails to file the transcript within  
12 30 days of the filing of the notice of appeal, the appeal shall be automatically  
13 denied.
- 14 c. Upon completion of the record, the municipal clerk shall notify the appellant by  
15 certified mail of the cost of its preparation. If the appellant fails to pay the costs  
16 within seven days of receiving the notice, the appeal shall be automatically  
17 denied. Upon timely payment of costs, the municipal clerk shall, by certified mail,  
18 serve a copy of the record on the appellant. The municipal clerk shall also notify  
19 by certified mail the appellees who have filed a notice of intent to file a brief that  
20 the record is available for pickup. Upon request, the municipal clerk shall provide  
21 a copy of the record to an appellee or the public. A copying cost for the record  
22 will be charged as set out in AMCR 3.90.002. The appellee shall also be  
23 charged any mailing costs, including the cost of mailing the notice of record  
24 availability.

25 **7. Written Arguments**

26 **a. *Brief of Appellant***

27 The appellant to the board of adjustment may file a written brief of points and  
28 authorities in support of those allegations of error specified in the notice of appeal  
29 with the municipal clerk's office not later than 15 days after service of the appeal  
30 record. The municipal clerk shall deliver a copy of the appellant's brief to the  
31 municipal staff assigned responsibility for the appeal. The municipal clerk shall  
32 also notify by certified mail those appellees who have filed a notice of intent to file  
33 a brief that the appellant's brief is available for pickup. Upon request, the  
34 municipal clerk shall provide a copy of the appellant's brief to appellees, who  
35 shall be charged copying costs as provided in AMCR 3.90.002 and any mailing  
36 costs applicable.

37 **b. *Brief of Appellee***

38 An appellee who has filed a notice of intent to file a brief may also file with the  
39 municipal clerk's office a written reply to the notice of points on appeal and any  
40 brief in support thereof no later than 30 days after the service of the appeal  
41 record. The municipal clerk shall notify the appellant by certified mail that  
42 appellee briefs have been filed. The municipal staff may, with the approval of the  
43 director **may** of the office of economic and community development, prepare and  
44 submit to the municipal clerk a written reply to the notice of appeal and any brief  
45 in support thereof no later than 30 days after service of the appeal record.



- 1                   c.     **Reply Brief**  
2                   An appellant may file a written reply brief to appellee briefs submitted pursuant to  
3                   subsection 7.b. The appellant's reply brief is due no later than 10 days after  
4                   service of notice that the appellee briefs have been filed.
- 5                   d.     **Timing of Briefs**  
6                   If a brief is not filed within the time prescribed **above** by the user's guide, the  
7                   municipal clerk shall notify the board of adjustment that the brief was filed late.  
8                   The board shall determine whether to accept a late brief and whether to allow  
9                   additional time for any qualified opposing party to file reply or rebuttal briefs if  
10                  allowed.
- 11                  e.     **Form of Briefs**  
12                  All briefs shall be prepared to specifications set forth in the title 21 user's guide.  
13                  The municipal clerk shall not accept a brief unless it is in the form prescribed by  
14                  the user's guide.
- 15                  8.     **Appeal Packet; Notice of Hearing**  
16                  Following the time set for the receipt of written argument from the appellant, the appellee,  
17                  and the municipal staff under this subsection, the municipal clerk shall prepare and  
18                  distribute to the members of the board of adjustment an appeal packet containing only  
19                  the notice of appeal, the appeal record and any briefs filed in accordance with subsection  
20                  A.7. above. Following distribution of the packets, a date shall be set for consideration of  
21                  the appeal. Notice of consideration on the appeal shall be published in a newspaper of  
22                  general circulation and shall be served by mail on the appellant and those appellees who  
23                  have submitted briefs. Appeal packets shall be made available to the public upon  
24                  demand with costs payable by the public as provided in AMCR 3.90.002.
- 25                  9.     **Conduct of Hearing**  
26                  a.     The meeting at which the board of adjustment deliberates and decides an appeal  
27                  shall be open to the public and a record of the hearing shall be made.
- 28                  b.     The board of adjustment may hear oral argument from the appellant and any  
29                  other party who has submitted a brief. The board of adjustment shall not take  
30                  testimony or consider new evidence that was not introduced in the original  
31                  proceeding.
- 32                  10.    **Scope of Review**  
33                  a.     The board of adjustment shall hear an appeal solely on the basis of the record  
34                  established before the lower administrative body, the notice of appeal, the  
35                  appellant's argument, and the reply to that argument.
- 36                  b.     The board of adjustment may exercise its independent judgment on legal issues  
37                  raised by the appellant. The term "legal issues," as used in this section, means  
38                  those matters that relate to the interpretation or construction of ordinances or  
39                  other provisions of law.
- 40                  c.     The board of adjustment shall, unless it substitutes its independent judgment  
41                  pursuant to subsection d. below, defer to the judgment of the lower administrative  
42                  body regarding disputed issues or findings of fact. Findings of fact adopted  
43                  expressly or by necessary implication by the lower administrative body may be  
44                  considered as true if they are supported in the record by substantial evidence.  
45                  The term "substantial evidence," for the purpose of this section, means such  
46                  relevant evidence as a reasonable mind might accept as adequate to support a

1 conclusion. If the record affords a substantial basis of fact from which the fact in  
2 issue may be reasonably inferred, it shall be considered that the fact is supported  
3 by substantial evidence.

- 4 **d.** Notwithstanding the provisions of subsection 10.c. above, the board of  
5 adjustment may, by an affirmative vote of two-thirds of the fully constituted board,  
6 substitute its independent judgment for that of the lower administrative body on  
7 any disputed issues or findings of fact. Such judgment must be supported on the  
8 record by substantial evidence. For the purpose of this subsection, the fully  
9 constituted board of adjustment shall not include those members who do not  
10 participate in the appeal.

11 **11. Decision**

- 12 **a.** The board of adjustment may affirm or reverse the decision of the lower  
13 administrative body in whole or in part. It shall decide an appeal on the basis of  
14 the record on appeal and the briefs of the parties to the appeal. A majority vote  
15 of the fully constituted board is required to reverse or modify the decision  
16 appealed from. For the purpose of this section, the fully constituted board shall  
17 not include those members who do not participate in the proceedings. A decision  
18 reversing or modifying the decision appealed from shall be in a form which finally  
19 disposes of the case on appeal except where the case is remanded in  
20 accordance with subsection 12.a. below.

- 21 **b.** Every decision of the board of adjustment to affirm or reverse the decision of the  
22 lower administrative body pursuant to subsection 11.a. **above** of this section shall  
23 be based upon and include written findings and conclusions adopted by the  
24 board. Such findings must be reasonably specific so as to provide the  
25 community, and, where appropriate, reviewing authorities, a clear and precise  
26 understanding of the reason for the board's decision. The board may seek the  
27 assistance of the municipal staff in the preparation of findings.

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

32 **12. Remand**

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

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

39 **ii.** There has been a substantial procedural error that requires further public  
40 hearing.

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

- 44 **b.** The lower administrative body shall act on the case upon remand in accordance  
45 with the decision of the board of adjustment in the minimum time allowed by the

1 circumstances. Cases on remand following a decision of the board shall take  
2 precedence over all other matters on the agenda of the lower administrative  
3 body.

4 c. A board of adjustment decision remanding a case on one or more issues is not a  
5 final decision with respect to any issues involved in the appeal. The board of  
6 adjustment's decision remanding the case shall be the final decision with respect  
7 to all matters affirmed by the board of adjustment's decision, when, following the  
8 lower administrative body's decision on remand, no appeal is perfected within the  
9 period specified in subsection 21.03.050A.4.

10 d. A board of adjustment decision remanding a case on one or more issues shall  
11 state that the decision is the final decision with respect to all matters affirmed  
12 therein when, following the lower administrative body's decision on remand, no  
13 appeal is perfected within the time period specified in section 21.03.050A.4., and  
14 shall also state the parties have 30 days from the expiration of said period to  
15 appeal to the superior court.

## 16 B. Appeals to Zoning Board of Examiners and Appeals

### 17 1. Jurisdiction of Board

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

20 a. Enforcement orders issued under chapter 21.13, *Enforcement*.

21 b. Denial of an application for a flood hazard permit under section 21.03.090.

22 c. Denial of an application for a building or land use permit when such denial is  
23 based on the requirements of ~~this~~ title 21.

24 d. Denial of an application for a sign permit when such denial is based on the  
25 requirements of ~~this~~ title 21.

26 e. Denial of a minor modification under section 21.03.120.

27 f. Denial of a verification of legal nonconforming status under section 21.03.250.

28 g. Denial of or imposition of conditions on a certificate for legalization of  
29 nonconforming dimensional setback encroachment under section 21.12.030, or a  
30 certificate for legalization of lots created prior to September 16, 1975 under  
31 subsection 21.12.050C.

32 h. Interpretation of zoning district boundaries under subsection 21.01.050C.

33 i. Denial of a certificate of zoning compliance under section 21.03.060.

34 j. Denial of an administrative permit under section 21.03.030.

35 k. Denial of administrative approval to reinstate a damaged nonconforming use  
36 under subsection 21.12.030C., or to rebuild a damaged nonconforming structure  
37 under subsection 21.12.040D.1.a.

38 l. Overcoming presumption of abandonment under subsection 21.12.030E.

1 **m.** **Compliance with an institutional master plan under subsection 21.03.110F.**

2 **n.** Interpretation of general definitions and use definitions.

3 ~~**o.** Other appeals as provided by law.~~

4 **2. Initiation of Appeal**

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

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

11 **a.** An appeal of an administrative decision to the zoning board of examiners and  
12 appeals, as set out in subsection B.1. above, must be filed no later than 20 days  
13 after written notification of the decision.

14 **b.** Notice of appeal must be filed with the municipal clerk on a form prescribed by  
15 the municipality and must contain detailed and specific allegations of error.

16 **c.** The appellant shall pay an appeal fee as set by the assembly, which shall  
17 accompany the filing of the notice of appeal. **The appeal fee** ~~All fees~~ shall be  
18 returned to the appellant if the decision of the lower administrative body is  
19 reversed in whole, and one-half of the fee shall be returned if the decision is  
20 reversed in part.

21 **4. Scope of Review**

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

25 **5. Notice and Public Hearing**

26 **a.** ~~An appeal~~ **public** hearing shall be held within 60 days of the filing of a proper  
27 notice of appeal. ~~The hearing is open to the public, but the public may not~~  
28 ~~comment.~~

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

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

35 **6. Decision**

36 **a.** The zoning board of examiners and appeals may affirm or reverse the decision of  
37 the **decision-making body** ~~administrative official~~ in whole or in part. It shall  
38 require a majority of the full membership, minus those members who disqualify  
39 themselves with conflicts of interest in accordance with **AMC title 4 subsection**  
40 **21.02.020B.6.**

41 **b.** Every decision of the zoning board of examiners and appeals to affirm or reverse  
42 an administrative action shall be in writing and based on and include written

1 findings and conclusions adopted by the board. Such findings must be  
2 reasonably specific so as to provide the community and, where appropriate,  
3 reviewing authorities, with a clear and precise understanding of the reasons for  
4 the board's decision.

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

8 **C. Judicial Appeals**

9 **1. Judicial Review Authorized**

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

13 a. A final decision of the board of adjustment on an appeal from a decision  
14 regarding the approval or denial of an application for ~~concept or final approval of~~  
15 a conditional use.

16 b. A final decision of the board of adjustment on an appeal from the platting board  
17 regarding an application for a subdivision.

18 c. A final decision of the zoning board of examiners and appeals.

19 d. Any final action or decision under this title that is appealable to the superior court  
20 under the *Alaska Rules of Court* and/or laws of the state of Alaska.

21 **21.03.060 CERTIFICATE OF ZONING COMPLIANCE**

22 **A. Purpose**

23 A certificate of zoning compliance shall be required at the completion of any development in the  
24 municipality for which a permit is required, to ensure that the development complies with all  
25 applicable standards of this title.

26 **B. Applicability**

27 A certificate of zoning compliance shall be required prior to the occupancy of any building,  
28 structure, or land, except that temporary uses and structures in accordance with section  
29 21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of zoning  
30 compliance requirements. ~~Inside the building safety service area,~~ Where issued, a certificate of  
31 occupancy shall be considered the certificate of zoning compliance.

32 **C. Issuance**

33 **1. Certificate**

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

37 **2. Conditional Certificate**

38 Upon approval by the director, the building official may issue a conditional certificate of  
39 zoning compliance, which shall be valid only for the period of time stated in the certificate,  
40 for a specified portion or portions of a building that may safely be occupied prior to final

1 completion of the entire building and/or site. Conditions that are attached to the  
2 conditional certificate of zoning compliance must be completed prior to the expiration of  
3 the certificate. When such conditions have not been completed prior to the expiration  
4 date of the conditional certificate, the certificate of zoning compliance ~~occupancy~~ shall  
5 immediately expire. Upon receipt of a written application to the building official stating  
6 satisfactory reasons for the failure to complete work within the given time period, the  
7 building official may renew the certificate for a specified period of time, not to exceed 180  
8 days.

9 **3. Appeals**

10 Denial of a ~~Appeals of decisions on~~ certificates of zoning compliance may ~~shall~~ be  
11 appealed to the zoning board of examiners and appeals in accordance with subsection  
12 21.03.050B.

13 **D. Standards**

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

20 **21.03.070 COMPREHENSIVE PLAN AMENDMENTS**

21 **A. Purpose and Scope**

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

25 **B. Levels of Plan Review**

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

31 **1. Complete Plan Revision (20-year Intervals)**

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

41 **2. Targeted Plan Review (10-year Intervals)**

42 The director shall initiate a targeted review of the plan at least once every 10 years, or in  
43 conjunction with ~~at the time of~~ an area-wide rezoning, in order to make it consistent with  
44 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**

**a. Initiation**

A petition for amendment to the comprehensive plan may be initiated by any review or decision-making body, or, if accompanied by a rezone application, by a property owner.

**b. Public Hearings and Public Notice**

Two public hearings shall be held on each proposed substantive amendment, the first before the planning and zoning commission and the second before the assembly. Notice of all public the hearings shall be provided in accordance with sections 21.03.020H.

**c. Departmental Review**

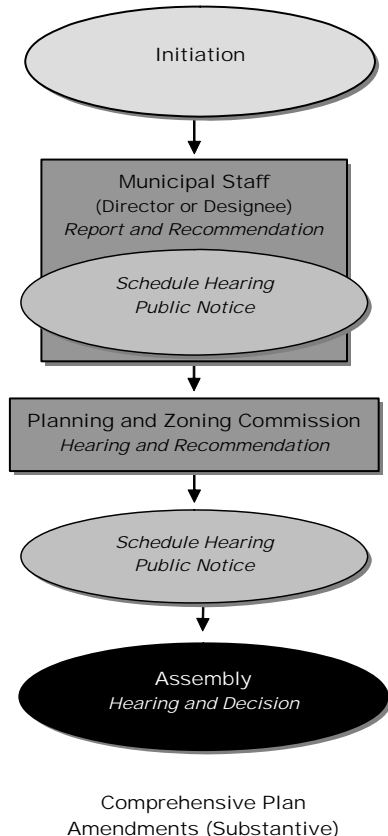
The department director shall review each proposed substantive amendment in light of the approval criteria review considerations set forth in subsection C.2. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department director shall provide a report and recommendation to the planning and zoning commission at the first public hearing on the proposed substantive amendment. This report shall include a discussion of all plans and policies that have been adopted by the municipality and are relevant to the proposed amendment.

**d. Hearing and Recommendation by Planning and Zoning Commission Action**

The planning and zoning commission shall hold a public hearing on the proposed amendment. Based on testimony received, the department's staff report, and the approval criteria review considerations in subsection C.2. below, the commission shall recommend that the assembly approve, approve with modifications, or deny the proposed amendment.

**e. Hearing and Action by Assembly Action**

Within 90 days following the commission's action, the assembly shall hold a public hearing on the proposed amendment. The assembly shall, within 90 days





1 ~~of the hearing, b~~Based on the commission's recommendation, testimony  
2 received, and the **approval criteria** ~~review considerations~~ in subsection C.2.  
3 below, **the assembly shall:**

- 4 i. Approve the amendment by ordinance, either as submitted or with  
5 modifications suggested by staff, the planning and zoning commission,  
6 or the assembly;
- 7 ii. Reject the proposed amendment; or
- 8 iii. Refer the proposed amendment, and/or any substantial modifications  
9 proposed by the assembly, back to the planning and zoning commission  
10 or to a committee of the assembly for further consideration.

11 **2. Approval Criteria**

12 The planning and zoning commission may submit a recommendation for approval, and  
13 the assembly may approve an amendment only if the amendment meets the following  
14 approval criteria:

- 15 a. The proposed amendment is necessary in order to address one or more of the  
16 following:
- 17 i. A change in projections or assumptions from those on which the  
18 comprehensive plan is based;
- 19 ii. Identification of new issues, needs, or opportunities that are not  
20 adequately addressed in the comprehensive plan;
- 21 iii. A change in the policies, objectives, principles, or standards governing  
22 the physical development of the municipality or any other geographic  
23 areas addressed by the comprehensive plan; or
- 24 iv. Identification of errors or omissions in the comprehensive plan.
- 25 b. The proposed amendment maintains the internal consistency of the  
26 comprehensive plan, and is consistent with the other elements of the  
27 comprehensive plan without the need to change other components of the plan to  
28 maintain internal consistency.
- 29 c. The proposed amendment would not be detrimental to the public interest, health,  
30 safety, convenience, or welfare of the community.
- 31 d. If the proposed amendment is to the comprehensive plan map, the requested  
32 land use designation is found to be equally or more supportive of the  
33 comprehensive plan goals, objectives, policies, and guidelines, than the old land  
34 use designation.
- 35 e. If the proposed amendment is to the comprehensive plan map, the subject site is  
36 consistent with the adopted description and locational criteria for the requested  
37 land use designation, and is physically suitable to accommodate the proposed  
38 designation, including but not limited to access, physical constraints, provision of  
39 utilities, and compatibility with surrounding designations and development  
40 patterns.  
41  
42  
43  
44

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 21.03.170E.

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**

Any review or decision-making body, or director of any municipal department, may, at any time on their own motion, request that the director investigate and evaluate a specific cosmetic amendment proposal. No public hearing or public notification is required.

2. **Departmental Review**

The department shall review each proposed cosmetic amendment and shall provide a report to the planning and zoning commission.

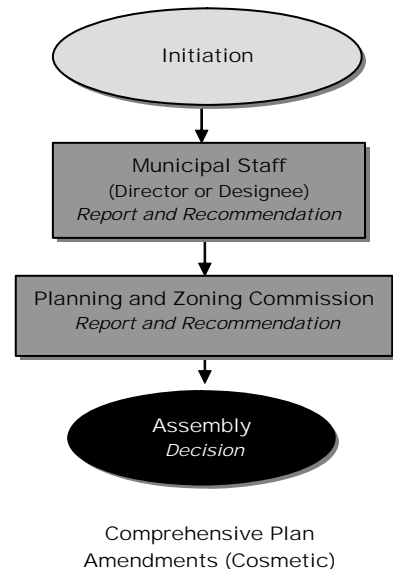
3. **Review by Planning and Zoning Commission Action**

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

4. **by-Assembly Action**

The assembly shall consider the reports and recommendations of the planning and zoning commission and the director at a regularly scheduled assembly meeting, and will take action to either:

- a. Approve or deny the amendment;
- b. Approve the amendment with modifications; or
- c. Refer the matter back to the planning and zoning commission for further consideration.



**21.03.080 CONDITIONAL USES**

**A. Purpose**

The conditional use approval permit procedure is intended for situations where a use may or may not be appropriate in a district, depending on the specific location, the use characteristics, and potential conditions to decrease the adverse impacts of the use on surrounding properties and/or the community-at-large. It also provides a discretionary review process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure provides encourages public review and evaluation of a use's operating characteristics and site development features through a public hearing process and is intended to ensure that proposed conditional uses will not have a significant adverse impact on surrounding uses or on the community at large.

**Conditional Uses in Nonconforming Structures or Lots**

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

**B. Procedure**

**1. Initiation**

An application for a conditional use permit shall be initiated by the owner(s) of the subject property.

**2. Pre-Application Conference**

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

**3. Application Submittal**

Applications for a A conditional use approval permit application shall contain the information specified in the title 21 user's guide, and shall be submitted to the director on a form provided by the department.

**4. Community Meeting**

A community meeting is required in accordance with per subsection 21.03.020G.

**5. Public Hearing Notice**

Notice of all public hearings shall be provided published, mailed, and posted in accordance with section 21.03.020H.

**6. Departmental Director's Review and Report**

The department director shall review each proposed conditional use permit application in light of the approval criteria of subsection C. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department director shall provide a report to the planning and zoning commission.

**7. Planning and Zoning Commission Action's Review, Hearing, and Decision**

The planning and zoning commission shall hold a public hearing on the proposed application and act to approve, approve with conditions, or deny the proposed conditional use permit, based on the approval criteria of subsection C. below.

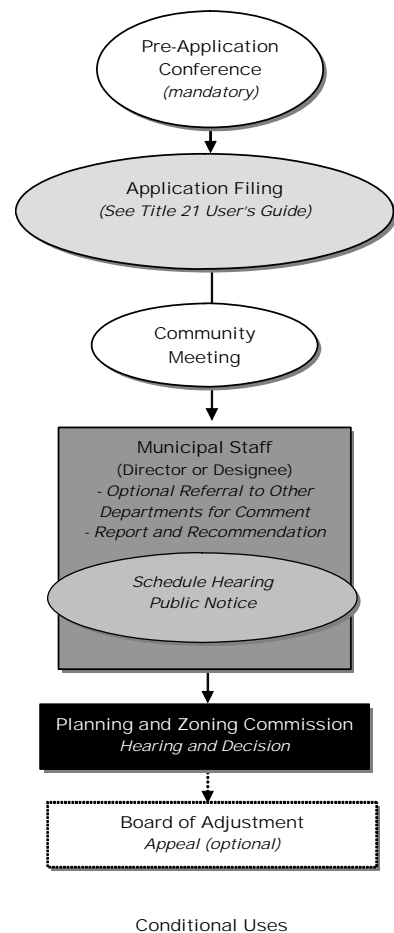
**8. Appeal**

Decisions on conditional use permits may be appealed to the board of adjustment in accordance with subsection 21.03.050A.

**C. Approval Criteria**

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

1. The proposed use is consistent with the comprehensive plan and all applicable provisions of this title and applicable state and federal regulations;
2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04;
3. The proposed use is consistent with any applicable use-specific standards set forth in chapter 21.05;
4. The site size and dimensions provide adequate area for the needs of the proposed use;
5. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties of the permitted uses listed in the underlying zoning district;
6. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
7. The potential impacts of the proposed use of the site can be accommodated considering size, shape, location, topography, and natural features;
8. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent feasible; ~~and~~
9. The proposed use is appropriately located with respect to the transportation system, including but not limited to existing and/or planned street designations and improvements, street capacity, access to collectors or arterials, connectivity, off-site parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation, and safety for all modes; and



10. The proposed use is ~~timely and~~ appropriately located with respect to existing and/or planned transportation facilities, water supply, fire and police protection, wastewater disposal, stormwater disposal, and similar facilities and services.

**D. Changes to Terms and Conditions of Approval**

Any changes to the terms and conditions of approval of the conditional use that cannot be made using the minor modification process (see section 21.03.120) shall require separate review and approval by the planning and zoning commission. Any application for approval of such changes shall be filed, processed, reviewed, and approved or denied in the manner set forth in this section for the original application. This section shall not apply, however, to modifications to the approved site plan for the conditional use, which are governed by section 21.03.180G., *Amendments to Approved Site Plans*.

**E. Platting for Conditional Uses**

1. If development under an final approval under this section creates a subdivision or requires the vacation of a dedicated public area, the final approval is not effective until a final plat for the subdivision or vacation is approved and recorded in accordance with this title. A preliminary plat required under this section is subject to approval as required by section 21.03.200, *Subdivisions and Plats*.

2. Unless the planning and zoning commission ~~authority granting final approval~~ directs in the final approval that it shall act as the platting authority, the platting board is the platting authority for subdivisions ~~site plans~~ under this subsection.

~~3. The platting authority under this subsection may require that any street right-of-way, walkway, utility easement, or other public area designated under the final approval be dedicated to the public.~~

**F. Conditional Use for a Residential Planned Unit Development**

**1. Intent and Approval**

A residential planned unit development (PUD) is intended to allow flexibility for residential development in the zoning ordinance and to achieve the creation of a more desirable environment that would be possible through a strict application of the zoning ordinance. The planning and zoning commission shall evaluate the proposed planned unit development in accordance with the conditional use approval criteria at C. above, and the following additional criteria:

a. Creative use of the land, imaginative architectural design, a consolidation of usable open space and recreation areas, and the preservation of natural features.

b. The mixing of compatible land uses, residential densities, and housing types within the neighborhood.

c. The efficiency of the configuration of utilities, vehicular circulation, and parking facilities.

d. Enhancing the surrounding environment.

e. Maintaining population densities and lot coverage that are consistent with available public services and the comprehensive plan.

1       **2. Minimum Standards**

2       All planned unit developments shall meet the following minimum standards. In addition,  
3       the planning and zoning commission may require compliance with such other design  
4       standards relating to the construction, design, and placement of buildings, landscaping,  
5       streets, roadways, walkways, drainageways, and other site design features as it may  
6       deem necessary. The user's guide may include guidelines to assist developers in  
7       meeting such standards.

8       **a. Minimum Site Area**

9       The minimum site area for a PUD shall be 2.0 acres for PUDs located entirely in  
10       the R-2F, R-2M, R-3, R-4, and R-4A zoning districts. If any portion of a proposed  
11       PUD is located within the R-1, R-1A, R-2A, R-2D, R-5, R-6, R-7, R-8, or R-9  
12       zoning districts, the minimum site area shall be 5.0 acres.

13       **b. Open Space**

14       A minimum of 30% of the site shall be reserved as usable open space which  
15       shall meet the following standards:

16       i.       At least one-half of such usable open space shall be contiguous;

17       ii.       No portion of the required open space shall be less than 2,000 square  
18       feet in area or less than 30 feet in its smallest dimension;

19       iii.       A minimum of 12% and a maximum of 50% of required open space shall  
20       consist of yards which shall be reserved for the residents of individual  
21       dwelling units; and

22       iv.       In multistory buildings, balconies or decks may be used in lieu of  
23       individual yards provided that the total area of all balconies or decks is  
24       not less than the total yard area otherwise required.

25       **c. Design**

26       i.       Any nonresidential use permitted in a PUD shall be compatible with the  
27       residential nature of the development. Parking areas which are intended  
28       to serve nonresidential uses shall be separated from those designed to  
29       serve residential areas. Unless nonresidential and residential uses are  
30       combined within a single structure, nonresidential uses shall be  
31       separated from dwelling units by L4 screening landscaping.

32       ii.       Pedestrian walkways shall connect residential and nonresidential uses  
33       within a PUD.

34       iii.       Level 3 buffer landscaping shall be planted along each boundary of the  
35       PUD adjacent to a nonresidential district or a right-of-way designated for  
36       collector or greater capacity on the *Official Streets And Highways Plan*.

37       iv.       Any two adjacent buildings within a PUD shall be separated from each  
38       other by a distance equal to one-half the height of the taller building.

39       v.       Each unit shall be provided with either heated parking, or at least one  
40       electrical outlet that is convenient to the required parking space(s).

41       **d. Traffic Access**

Major internal streets which are intended to serve a PUD shall be functionally connected to existing or proposed streets to provide adequate ingress and egress.

**e. Utility Installation**

All new utilities shall be installed underground.

**f. Homeowners' Agreements**

Any PUD which will involve the formation of a horizontal property regime under the terms of AS 34.07.030 et seq. or any mandatory homeowners' or similar association shall submit for review by the commission the articles of incorporation and bylaws of any such association prior to the sale of any property subject to the association. The commission may require any provisions necessary to ensure that the provisions and intent of this title are met.

**3. Development Options**

The following provisions allow the developer of the PUD to propose changes from the provisions of the underlying zoning district with regard to density, allowed uses, and dimensional standards. The extent of the changes to the standards shall be determined by the planning and zoning commission in accordance with the approval criteria of subsection F.1. above.

**a. Density**

The number of dwelling units per acre allowable on the gross are of a PUD shall be determined by the planning and zoning commission. However, in no event shall the number of dwelling units per acre exceed the maximums established by the following schedule:

TABLE 21.03-2	
Zoning District	Dwelling Units per Acre (gross area)
R-1 and R-5	8
R-1A	6
R-2A	12
R-2D	15
R-2F and R-2M	22
R-3	55
R-4 and R-4A	110
R-6	2
R-7	4.5
R-8	0.5
R-9	1.0

**b. Uses**

The applicant may propose any residential use and any commercial use that is allowed in the R-4 district in table 21.05-1. A PUD may not include the storage or use of mobile homes or quonset huts. Any nonresidential use must be specifically authorized as to its exact location, type, and size. In no even shall the total gross floor area of all nonresidential uses exceed 10% of the total gross floor area of the PUD.

**c. Dimensional Standards**

i. Height limitations in the R-1, R-1A, R-2A, R-2D, R-2F, R-2M, R-6, R-7, R-8, or R-9 zoning districts may be exceeded by an additional five feet.



1 Height limitations in the R-3, R-4, and R-4A districts may be exceeded by  
2 an additional 10 feet.

3 ii. The applicant may propose changes to minimum lot area, maximum lot  
4 coverage, and minimum setbacks for the PUD.

5 **4. Planned Unit Developments in the Turnagain Arm District**  
6 PUDs in the TA district shall conform, with regard to uses and residential density, to the  
7 land use plans of the Turnagain Arm Area Plan and the standards of this section.

8 **G. Abandonment of Conditional Use**

9 An otherwise lawful conditional use permit shall expire if:

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

15 **21.03.090 SPECIAL FLOOD HAZARD PERMITS**

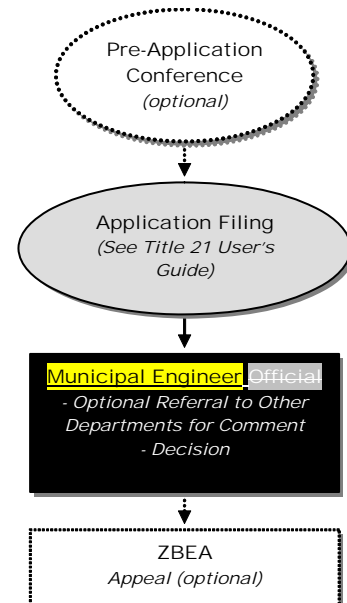
16 **A. Applicability**

17 Any use, structure, or activity listed in the floodplain regulations (section 21.04.060D., *Flood*  
18 *Hazard Overlay District*) as requiring a special flood hazard permit is prohibited until the issuance  
19 of such permit. Applications for special flood hazard permits shall may be made to the municipal  
20 engineer.

21 **B. Application Contents**

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

- 24 1. The elevation in relation to mean sea level of the  
25 lowest floor, including basement or crawl space, of all  
26 structures;
- 27 2. The elevation in relation to mean sea level to which  
28 any structure has been floodproofed;
- 29 3. Certification by a registered professional engineer or  
30 architect that the floodproofing methods for any  
31 nonresidential structure meet the floodproofing criteria  
32 in section 21.04.060D.7., *Construction Requirements*  
33 *(in Flood Hazard Overlay District)*; and
- 34 4. A description of the extent to which any watercourse  
35 will be altered or relocated as a result of proposed  
36 development.



Flood  
Hazard Permits

1 **C. Evaluation; Additional Information**

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

- 7 1. A valley cross section showing the channel of the stream, elevation of land areas  
8 adjoining each side of the channel, cross sectional areas to be occupied by the proposed  
9 development, and high water information.
- 10 2. Specification of proposed construction and materials, floodproofing, filling, dredging,  
11 grading, channel improvement, water supply, and sanitary facilities.
- 12 3. A profile showing the slope of the bottom of the channel or flow line of the stream.
- 13 4. A report of soil types and conditions.
- 14 5. Analysis of proximity to a dam break area.

15 **D. Criteria for Issuance**

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

- 17 1. The proposed use or structure poses a minimal increase in probable flood height or  
18 velocities caused by encroachment;
- 19 2. The proposed water supply and sanitation systems and the ability of these systems to  
20 prevent disease, contamination, and unsanitary conditions will not be impaired by  
21 flooding;
- 22 3. The susceptibility of the proposed facility and its contents to flood damage is minimal;
- 23 4. There will be adequate access to the property in times of flood for ordinary and  
24 emergency vehicles;
- 25 5. The proposed use, structure, or activity is in conformance with all applicable land use  
26 regulations; and
- 27 6. All necessary floodproofing will be provided.

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

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

32 **F. Notice on Subdivision Plats**

33 Where any portion of a subdivision is situated within a flood hazard district, a note shall be placed  
34 on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard  
35 district as it exists on the date hereof. The boundaries of the flood hazard district may be altered  
36 from time to time in accordance with the provisions of section 21.04.060D.3., *Creation of Flood*

1 *Hazard Overlay District; Official Flood Hazard Reports and Maps.* All construction activities and  
2 any land use within the flood hazard district shall conform to the requirements of section  
3 21.04.060D., *Flood Hazard Overlay District.*”

4 **G. Appeals**

5 **Denial of a** ~~An appeal from a decision of the municipal engineer regarding a flood hazard permit~~  
6 **may be appealed** shall be brought **to the zoning board of examiners and appeals** in accordance  
7 with section 21.03.050B.

8 **21.03.100 LAND USE PERMITS**

9 **A. Purpose**

10 The land use permit process assures current and future property owners that the structures and  
11 land uses conform to the zoning code. Within the building safety service area, the land use  
12 permit also involves plan review and on-site inspections to insure that buildings meet the  
13 structural, plumbing, mechanical, electrical, and fire safety codes.

14 **B. Applicability**

15 1. **In the Municipality Outside Building Safety Service Area**  
16 **In the municipality** ~~Outside the building safety service area~~, a land use permit shall be  
17 required prior to:

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

20 **b. Installation of telecommunication towers;**

21 **c. Construction of a fence over eight feet in height;**

22 d. Excavation of more than 50 cubic yards on any lot or tract;

23 e. Filling or grading more than 50 cubic yards on any lot or tract;

24 f. Changing the principal use of a building, **as defined by “change of use” in chapter**  
25 **21.14;** or

26 g. Clearing ~~and grubbing~~ more than two **contiguous** acres.

27 2. **Inside Building Safety Service Area**

28 Inside the building safety service area, a building permit shall be considered the land use  
29 permit and shall be required ~~pursuant to~~ **in accordance with B.1. above and** title 23. The  
30 issuance of a building permit may also be subject to the improvement requirements  
31 referenced in subsection E. below.

32 **C. Procedures**

33 1. **Application Submittal Filing**

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

36 2. **Approval Procedure**

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

- 1           **b.**     The building official shall determine whether the application complies with all  
2 requirements of title 23. The director shall determine whether the application  
3 complies with all requirements of title 21, and shall inform the building official of  
4 his or her determination.
- 5           **c.**     The building official shall issue a land use permit upon finding that the application  
6 and the proposed work complies with the approval criteria of subsection D.  
7 below.
- 8           **d.**     A land use permit shall become null and void unless the work approved by the  
9 permit is commenced within 12 months after the date of issuance. No work shall  
10 be considered to have commenced for the purposes of this paragraph until an  
11 inspection has been made and recorded. If after commencement the work is  
12 discontinued for a period of 12 months, the permit therefore shall immediately  
13 expire. No work authorized by any permit that has expired shall thereafter be  
14 performed until a permit has been reinstated, or until a new permit has been  
15 secured.

16           **3.     Changes to Approved Permits**

- 17           **a.**     After a land use permit has been issued, no substantial changes or deviations  
18 from the terms of the permit or the application and accompanying plans and  
19 specifications shall be made without the specific written approval of such  
20 changes or deviations by the building official.
- 21           **b.**     An amendment to a land use permit that requires payment of an additional fee,  
22 either because of an increase in the size of the buildings, a change in the scope  
23 of work, or an increase in the estimated cost of the proposed work, shall not be  
24 approved until the applicant has paid the additional fees and the amendment has  
25 been properly reviewed and approved for conformance with applicable codes.

26           **4.     Revocation of Land Use Permit**

27           The **issuing** department may revoke and require the return of any land use permit by  
28 notifying the permit holder in writing, stating the reason for such revocation. The **issuing**  
29 department shall revoke land use permits for any of the following reasons:

- 30           **a.**     Any material departure from the approved application, plans, or specifications;
- 31           **b.**     Refusal or failure to comply with the requirements of this title or any other  
32 applicable state or local laws;
- 33           **c.**     False statements or misrepresentations made in securing such permit.

34           **5.     Appeals**

- 35           **a.**     **Denials or revocations of a** ~~Appeals of land use permit decisions or revocations~~  
36 relating to title 21 compliance, with the exception of those relating to subsection  
37 21.03.100E, **may be appealed** ~~shall be made~~ to the zoning board of examiners  
38 and appeals **in accordance with subsection 21.03.050B**.
- 39           **b.**     **Denials or revocations of a** ~~Appeals of land use permit decisions or revocations~~  
40 relating to title 23 compliance **may be appealed** ~~shall be made~~ to the building  
41 board of examiners and appeals.

1 **D. Approval Criteria**

2 No land use permit shall be issued unless the building official determines that all required  
3 approvals have been granted and the plans comply with all applicable provisions of title 23, and  
4 the director determines the plans comply with all applicable provisions of this title.

5 **E. Improvements Associated with Land Use Permits**

6 **1. Improvements Required**

7 The issuance of a land use permit under this section for the construction of a residential,  
8 commercial, or industrial structure on a lot, shall be subject to the permit applicant  
9 providing the easements, dedications, and improvements required for a subdivision in the  
10 same improvement area under chapter 21.08, *Subdivision Standards*. In applying the  
11 provisions of chapter 21.08, *Subdivision Standards*, under this section, the term "lot" shall  
12 be substituted for the term "subdivision," the term "permit applicant" shall be substituted  
13 for the term "subdivider," and the term "municipal engineer" shall be substituted for the  
14 term "platting authority."

15 **2. Exceptions**

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

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

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

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

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

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

28 **f.** The permit is for repairs, maintenance, emergencies, electrical, mechanical, or  
29 plumbing.

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

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

36 **a.** The dedication or improvement shall be reasonably related to the anticipated  
37 impact on public facilities and adjacent areas that will result from the use and  
38 occupancy of the structure that is the subject of the building or land use permit.  
39 Any required public use easement shall be removed when calculating density or  
40 lot coverage per the applicable zoning district. The municipal engineer may  
41 require the permit applicant to provide information or analyses to determine  
42 impacts as set out in the comprehensive ~~Anchorage 2020~~ plan's policies for

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

- 1           **5.     Warranty**  
2           All improvements required under this section shall be subject to the warranty and  
3           guarantee of warranty requirements provided for subdivision improvements in section  
4           21.08.050, *Improvements*.
- 5           **6.     Oversizing**  
6           If an improvement exceeding the requirements of this section is requested by the  
7           municipality and is necessary for the adequate and efficient development of surrounding  
8           areas, the municipality may require the applicant to install or accommodate oversizing. In  
9           such event the municipality shall reimburse the applicant for the cost of the oversizing at  
10          least as soon as budgeted funds are available after completion and acceptance of the  
11          improvements. This subsection shall not be a limitation on the municipality's ability to  
12          require a utility to oversize its facilities or a limitation on the manner in which the  
13          municipality may pay its proportionate share of the costs of oversizing.
- 14          **7.     Fee in Lieu**  
15          A fee in lieu of the required improvements may be accepted if the municipal engineer  
16          determines:
- 17               **a.**     That the improvements or construction activities associated therewith would  
18               create a potential undue safety hazard to motorists or pedestrians; or
- 19               **b.**     Due to the nature of existing development on adjacent properties it is unlikely  
20               that improvements would be extended in the foreseeable future and the  
21               improvements associated with the development under review do not, by  
22               themselves, provide a sufficient improvement to safety or capacity or a sufficient  
23               benefit to the property to be developed under the building or land use permit to  
24               warrant construction.
- 25               **c.**     Any fee paid pursuant to this section shall be accounted for separately, and the  
26               fee paid shall be dedicated and used only for the purpose of constructing the  
27               public facilities which were identified by the municipal engineer and for which the  
28               fee was paid.
- 29          **8.     Fee Amount**  
30          The amount of the fee in lieu shall be the lesser of 75% of the cost of the improvements  
31          as estimated by an engineer registered as a professional engineer in Alaska or as  
32          provided in a fee schedule adopted by regulation by the municipal engineer, which fee  
33          schedule may be adjusted by regulation annually to account for increases in construction  
34          costs in the Anchorage area. In the event the applicant or successor in interest later  
35          elects or is required to install improvements for which the fee was paid, the fee shall be  
36          refunded (without interest), so long as the claim for refund is filed within two years from  
37          the date of initial payment.
- 38          **9.     Appeals of Improvement Standards**  
39          A permit applicant may appeal a decision of the municipal engineer concerning required  
40          improvements under this section to the platting board by filing a written notice of appeal  
41          with the secretary of the platting board not later than 10 days after receipt of written  
42          notice of the decision. The appeal shall be placed on the agenda of the next regularly  
43          scheduled platting board meeting that occurs not less than 60 days after the filing of the  
44          appeal. The platting board shall hear the appeal.



1 **21.03.110 MASTER PLANNING, INSTITUTIONAL**

2 **Area Master Planning**

3 **Development Master Planning**

4 **Institutional Master Planning**

5 **A. Purpose**

6 The institutional master plan review process provides a framework for development of large  
7 institutions, such as hospitals and universities, that control large land areas within the  
8 municipality, and are a source of substantial employment, and that may contain a greater density  
9 of development than surrounding areas. An institutional master plan is intended to permit  
10 flexibility for a large institution to have greater control over its own ~~lot-by-lot~~ land use decisions,  
11 while providing a level of understanding to the surrounding community about the potential growth  
12 of the institution and the resultant impacts, **and to the municipality about the public infrastructures**  
13 **and services that may be necessary to serve the planning area and adjacent neighborhoods.**

14 The process is specifically intended to:

- 15 1. Provide flexibility to institutions to carry out long-range building programs in accord with  
16 the institutional mission and objectives;
- 17 2. Provide a growing and continuing source of employment for the municipality that is easily  
18 accessible and well-integrated with surrounding neighborhoods and the local  
19 transportation system;
- 20 3. Create attractive and efficient urban areas that incorporate **quality** ~~a high level of~~ design  
21 and urban amenities;
- 22 4. Protect sensitive portions of the natural ~~and built~~ environment that are potentially affected  
23 by institutional development; and
- 24 5. Protect the integrity of adjacent neighborhoods by addressing the impacts of institutional  
25 development on adjacent areas.

26 **B. Applicability**

27 An institutional master plan may be submitted and approved, in accordance with the procedures  
28 of this section, for any multi-building development site of **25** ~~15~~ contiguous acres or more in  
29 common ownership in any zoning district or combination of districts. The process provides an  
30 alternative to the procedures and development and design standards of this title for institutions  
31 seeking to develop large, complex sites with multiple buildings and uses following a uniform and  
32 cohesive design theme.

33 **C. Institutional Master Plan Requirements**

34 **1. Planning Area**

35 The planning area for the institutional master plan shall include all the areas that are  
36 under the ownership and control of the institution, and for which the institution wishes to  
37 establish independent design and development standards under this section. ~~All maps~~  
38 ~~submitted under this section also shall depict properties within 1000 feet of the planning~~  
39 ~~area boundaries.~~

1           **2. Submittal Requirements**

2           An institutional master plan shall, at a minimum, include the following information unless  
3           the director determines that such information is not necessary to evaluate the proposed  
4           institutional master plan and the institution's future impacts on surrounding  
5           neighborhoods. Specific requirements for the full institutional master plan shall be  
6           determined by the director following the pre-application conference.

7           **a. Boundaries**

8           At least one aerial photograph taken during the three-year period preceding  
9           submittal of the institutional master plan shall be submitted under this section.  
10           The aerial photo or some other map shall depict existing zoning districts and  
11           surrounding properties within 1,000 feet of the planning area boundaries.

12           **b. Mission and Objectives**

13           The institutional master plan shall include a statement that defines the  
14           organizational mission and objectives of the institution and description of how ~~all~~  
15           development contemplated or defined by the institutional master plan advances  
16           the goals and objectives of the institution. The statement should describe the  
17           number of people being population to be served by the institution on the site, the  
18           number of people employed on the site, and the maximum number of people  
19           present on the site for any single event or activity. The statement should include  
20           and any projected changes in the size or composition of those that populations,  
21           and how such projections were calculated. It should also specify any services to  
22           be provided to residents in adjacent neighborhoods and in other areas of the  
23           municipality.

24           **c. Existing Property and Uses**

25           The institutional master plan shall include a description of land, buildings, and  
26           other structures owned or occupied by the institution within the planning area  
27           boundaries as of the date of submittal of the institutional master plan. The  
28           following information shall be required:

- 29           i. Illustrative site plans showing the footprints of each building and  
30           structure, together with roads, sidewalks, parking, landscape features,  
31           and other significant site improvements;
- 32           ii. Land and building uses;
- 33           iii. Gross floor area in square feet of each individual building;
- 34           iv. Building height in stories and feet of each individual building; and
- 35           v. A description of ~~off-street~~ parking and loading areas and facilities,  
36           including a statement of the approximate number of parking spaces in  
37           each area or facility.

38           **d. Needs of the Institution**

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

- 42           i. Academic;
- 43           ii. Support services;

- 1                   iii.     Research;
- 2                   iv.     Office;
- 3                   v.     Housing;
- 4                   vi.    Patient care;
- 5                   vii.   Assembly for public events, worship, cultural events, and the like;
- 6                   viii.  Recreation and athletics;
- 7                   ix.    Transit;
- 8                   x.     Parking; and
- 9                   xi.    ~~Commercial spaces and/or uses over 1,000 square feet.~~  
10                   ~~Concessionaires or other commercial operations.~~

11           e.     ***Ten-Year Development Envelope***  
12           The institutional master plan shall include a description of the development  
13           expected to occur within the planning area boundaries within a 10-year time  
14           frame. The 10-year development description shall be the maximum amount of  
15           development proposed by ~~the an institution~~ **based on anticipated changes in total**  
16           **population and programs.** ~~that can be supported through current impact studies.~~  
17           ~~The intent of this provision is to provide the institution with flexibility regarding the~~  
18           ~~future development potential of its campus, while providing the municipality with~~  
19           ~~an understanding of the public infrastructure and services that may be necessary~~  
20           ~~to serve the planning area and adjacent neighborhoods.~~ The 10-year  
21           development description shall include the following:

- 22           i.     ~~General Location of~~ **the institution's needs (as listed in 2.d. above) in**  
23           ~~potential development areas as depicted on a site functional use map;~~  
24           ~~and each potential new building or significant expansion of or addition to~~  
25           ~~existing buildings;~~
- 26           ii.    **Estimated total square footage of anticipated development in each**  
27           ~~development area.~~ ~~Maximum floor area and height of potential new~~  
28           ~~buildings and additions to and expansions of existing buildings;~~
- 29           ~~iii.    Required setbacks and buffering from the external planning area~~  
30           ~~boundaries;~~
- 31           ~~iv.    Other factors that may affect the size and form of development activity~~  
32           ~~within the planning area boundaries;~~
- 33           ~~v.     Total number and location of parking spaces that will be developed~~  
34           ~~within a ten-year period, based on the submitted transportation and~~  
35           ~~parking management element; and~~
- 36           ~~vi.    A detailed development schedule and phasing plan, including the~~  
37           ~~approximate dates when public improvements will be installed and the~~  
38           ~~anticipated rate of development.~~

f. ***Compliance with Development and Design Standards***

The institutional master plan shall include the elements listed below. These elements may set different standards than those found in chapter 21.05, *Use Regulations*; chapter 21.06, *Dimensional Standards and Measurements*; and chapter 21.07, *Development and Design Standards*. The plan shall provide rationale for any different standards proposed. Where different standards are approved in the institutional master plan, those standards shall be applied instead of the corresponding standards in title 21. 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.

***Mandatory Master Plan Elements***

At a minimum, the following plan elements shall be included.

i. ***Borders and Boundaries***

Treatment along public rights-of-way and boundaries with other landowners, with regard to building setbacks and landscape buffers.

ii. ***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 including how additional parking demand and transit will be accommodated within the planning area.

iii. ***Natural Resource Protection Element***

The institutional master plan shall identify all identification of sensitive natural resources, including but not limited to wetlands and flood plain delineation maps, within the planning area, and the institution's plans for maintaining or mitigating impacts on those sensitive areas. The institutional master plan shall identify areas of the planning area that are subject to the natural resource protection standards of section 21.07.020. The plan shall identify the measures that will be used to mitigate impacts for each of these conditions. Notwithstanding subsection vii. above, an The institutional master plan shall not reduce or otherwise weaken the natural resource protection standards of section 21.07.020.

iv. ***Open Space and Pedestrian Circulation Element***

The institutional master plan shall include open space and pedestrian circulation guidelines and objectives, including a description of the circulation system to be provided through the planning area, plans for ensuring the accessibility of pedestrian areas and open spaces, and links to surrounding community open space, where appropriate.

v. ***Site and Building Design Standards***

The institutional master plan shall include institutional design standards and objectives, identified through written and graphic materials, that address the following issues: for the siting and design of new and renovated buildings, parking lots, and other structures, to assure their compatibility with surrounding neighborhoods and districts, conformity

1 with applicable municipal plans, and to minimize potential adverse  
2 impacts on historic structures. Urban design standards shall include  
3 listings of height, bulk, and massing, that will apply to proposed and  
4 future development.

5 (A) Dimensional standards for building setbacks, height, and lot  
6 coverage;

7 (B) Site design and circulation;

8 (C) Landscaping and site amenities;

9 (D) Building orientation;

10 (E) Building massing and articulation;

11 (F) Building sustainability; and

12 (G) Northern climate design.

13 vi. ~~Wayfinding and Signage~~ *Neighborhood Protection Strategy*  
14 A wayfinding and signage plan including building, vehicular, and  
15 pedestrian signage. The institutional master plan shall identify standards  
16 and programs that will be put in place to ensure that surrounding  
17 neighborhoods are protected from adverse impacts.

18 vii. ~~Timing~~ *Public Comment*  
19 A conceptual development schedule and phasing plan. The institutional  
20 master plan shall identify how and when public comments, including  
21 those from the municipality and surrounding land owners, will be solicited  
22 and how the institution will respond to such comments.

23 g. **Twenty Year Development Areas**

24 The institutional master plan shall include written and graphic materials  
25 identifying future development areas beyond those noted in the 10-year  
26 development description. This information shall include, at a minimum, the  
27 general size and location and scale of anticipated development that may occur  
28 within a 20 year period.

29 D. **Procedures for Master Plan Approval**

30 1. **Pre-Application Conference**

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

33 2. **Community Meeting**

34 A community meeting is shall be required in accordance with subsection. See section  
35 21.03.020G.

36 3. **Initiation**

37 An application for approval of an institutional master plan shall be initiated by the owner  
38 or managing agent of the subject property.

1           **4.     Application Submittal Filing**

2           Applications for ~~approval of an~~ institutional master plan approval shall contain all  
3           information and supporting materials specified in the title 21 user's guide and in  
4           subsection C.2. above, and shall be submitted to the director on a form provided by the  
5           department. ~~The planning and zoning commission and/or the~~ director may require the  
6           submittal of such other information as may be necessary to permit the informed exercise  
7           of judgment under the criteria for the review of the plan, as set out in subsection E.  
8           below.

9           **5.     Departmental Director Review, Report, and Recommendation**

10          The department director shall review the proposed institutional master plan in light of the  
11          approval criteria set forth in ~~of~~ subsection E. below, and shall distribute the application to  
12          other reviewers as deemed necessary. Based on the results of those reviews, the  
13          department director shall provide a report ~~and recommendation~~ to the planning and  
14          zoning commission.

15          **6.     Public Notice Hearings**

16          Notice of all public hearings ~~Published, written, and posted notice of public hearings on~~  
17          ~~institutional master plans~~ shall be provided in accordance with section 21.03.020H.

18          **7.     Review and Recommendation by Planning and Zoning Commission Action**

19          a.       The planning and zoning commission shall hold a public hearing on the proposed  
20          institutional master plan and, at the close of the hearing, recommend that the  
21          assembly approve the plan as submitted, approve the plan subject to conditions  
22          or modifications, or deny the plan, based on the approval criteria of subsection E.  
23          below.

24          b.       If the planning and zoning commission recommends that the assembly approve a  
25          plan as submitted or with conditions or modifications, within 60 ~~90~~ days of the  
26          commission's action the director shall forward the recommendation to the  
27          assembly.

28          c.       If the planning and zoning commission recommends denial of a plan, ~~that the~~  
29          ~~assembly deny a plan,~~ that action is final unless, within 20 days of the  
30          commission's action, the applicant files a written statement with the municipal  
31          clerk requesting that the proposed institutional master plan be submitted to the  
32          assembly.

33          **8.     by Assembly Action**

34          The assembly shall hold a public hearing on the proposed institutional master plan. At  
35          the close of the hearing, taking into account the recommendations of the director and the  
36          planning and zoning commission, any public comment, and based on the approval  
37          criteria of subsection E. below, the assembly shall, within 90 days, approve the plan,  
38          approve the plan with modifications or conditions, deny the plan, or refer the plan back to  
39          the planning and zoning commission.

40      **E.     Approval Criteria**

41          An institutional master plan may be approved ~~only~~ if the assembly finds that it is consistent with  
42          the comprehensive plan, compatible with any adopted neighborhood plans for adjacent areas,  
43          and will achieve the following: ~~the all of the following criteria have been met:~~

44          1.       Provides flexibility to the institution to plan and implement long-range development  
45          programs to achieve its institutional mission and objectives; ~~The institutional master plan~~

1 ~~is consistent with the comprehensive plan and any adopted neighborhood and area~~  
2 ~~plans;~~

3 2. Facilitates the continuation of the institution as a major source of service and employment  
4 that is easily accessible and well integrated with surrounding neighborhoods and the  
5 public transportation system; ~~The institutional master plan sufficiently demonstrates~~  
6 ~~compliance with all applicable standards of this title, including the development and~~  
7 ~~design standards of chapter 21.07, or offers justification and alternative measures to~~  
8 ~~ensure that the intent and purposes of this title are met;~~

9 3. Ensures that institutional facilities, especially those that are publicly funded, are well  
10 designed and constructed, include urban amenities, and are efficient to operate over their  
11 life-cycles;

12 4. Protects and mitigates effects of development on sensitive portions of the natural  
13 environment; and ~~The institutional master plan mitigates any potential significant adverse~~  
14 ~~impacts to surrounding areas to the maximum extent feasible; and~~

15 5. Recognizes and addresses potential significant adverse impacts of institutional  
16 development on adjacent built environments, neighborhoods, and the community at  
17 large. ~~Sufficient public safety, transportation, and utility facilities and services are~~  
18 ~~available to serve the subject property at the proposed level of development, while~~  
19 ~~maintaining sufficient levels of service to existing and anticipated development in~~  
20 ~~surrounding areas.~~

21 **F. Compliance with Institutional Master Plan**

22 1. Projects developed under the auspices of an approved institutional master plan are  
23 exempt from the review and approval procedures required in table 21.05-2.

24 2. Before a ~~No~~ building permit or land use permit ~~is shall be~~ issued for any project within an  
25 area covered by an approved institutional master plan, ~~until~~ the director shall certify  
26 ~~certifies~~ that the proposed project is consistent with the approved institutional master  
27 plan. The applicant shall submit a request for certification of consistency on a form  
28 provided by the department.

29 3. Such a certification ~~shall~~ may be found if the proposed project is consistent or  
30 substantially consistent with ~~clearly identified in~~ the approved institutional master plan, or  
31 if the project is found to be not consistent with the approved institutional master plan, but  
32 the director finds the proposed project ~~creates~~ minimal impact according to the following  
33 criteria:

34 a. Not more than 25% of the proposed project is located outside the development  
35 areas depicted on the site functional use map;

36 b. The proposed project does not result in the addition of more than 10% additional  
37 square footage on a cumulative basis to the estimated total square footage of the  
38 affected site functional use category;

39 c. The project does not result in the creation of or the need for additional parking  
40 beyond that covered in the approved transportation and parking management  
41 element; and



1           d.     The project does not result in the coverage of more than 25,000 square feet of  
2           site area.

3     ~~The project does not result in the addition of more than 25,000 square feet of floor area; and~~

4           4.     A certification of consistency, ~~or~~ finding of inconsistency, or finding of consistency subject  
5           to conditions, shall be issued within 45 days of receipt of an application for **such**  
6           **certification.** ~~a building permit or land use permit for the proposed project.~~

7           5.     If ~~not in compliance,~~ the director **finds that a project is not consistent with the approved**  
8           **institutional master plan, the director** shall issue a detailed list of reasons and  
9           recommended actions to achieve compliance.

10          6.     **The director may issue a finding of inconsistency, or a finding of consistency subject to**  
11          **conditions, only where the director finds that the matters resulting in the inconsistency, or**  
12          **the conditions to which the certification is made subject, are required by specific terms of**  
13          **the approved institutional master plan or any applicable title 21 provisions.**

14          7.     **The director's decision may be appealed to the planning and zoning commission.**

15   **G.     Modifications to Approved Institutional Master Plans**

16          1.     **Minor Amendments**

17           The director may administratively approve ~~minor~~ amendments to **an** approved  
18           institutional master plans upon written application, **unless the assembly determines the**  
19           **amendment is a major amendment,** ~~and upon the director's determination that the~~  
20           ~~amendment is a minor amendment.~~ Minor amendments are defined generally as  
21           modifications to approved plans that do not affect land use or density in ways that would  
22           have significant adverse impacts on public facilities, utilities, traffic circulation, or other  
23           major infrastructure systems; or on surrounding neighborhoods or development.  
24           Examples of minor amendments include, but are not limited to:

25           a.     ~~Changes in location and species of landscaping and/or screening, as long as the~~  
26           ~~approved character and intent is maintained.~~

27           b.     ~~Changes in orientation of portions of parking areas, so long as the effectiveness~~  
28           ~~of the approved overall site circulation and parking is maintained.~~

29           c.     ~~Shifting no more than five percent of density or gross leasable area between~~  
30           ~~phases.~~

31           d.     ~~The reorientation, but not complete relocation, of major structures.~~

32           e.     ~~Changes resulting in a decrease of building separation or setbacks, provided~~  
33           ~~those changes will not adversely affect adjacent properties or uses.~~

34          2.     **Major Amendments**

35           **Major aAmendments** of an approved institutional master plan shall follow the same  
36           process required for the original approval of an institutional master plan, ~~unless the~~  
37           ~~director determines that the amendment may be processed as a minor amendment as~~  
38           ~~described in subsection G.2. below.~~

1 **21.03.120 MINOR MODIFICATIONS**

2 **A. Purpose and Scope**

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

9 **B. Applicability**

10 **1. Minor Modifications to General Development and Zoning District Standards**

11 As part of the review and approval of any procedure set forth in this chapter, the director,  
12 the assembly, the planning and zoning commission, the platting board, and the urban  
13 design commission may approve minor modifications of up to a maximum of five ten  
14 percent from the following general development and zoning district standards provided  
15 that the approval criteria of subsection D. below are met.

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

18 **b.** General development standards set forth in chapter 21.07, *Development and*  
19 *Design Standards*, except for the natural resource protection standards in  
20 subsection 21.07.020;

21 **c.** Subdivision ~~design and improvement~~ standards set forth in chapter 21.08,  
22 *Subdivision Standards*, except for the improvement standards in subsection  
23 21.08.050;

24 **d.** The dimensional standards, site development and design standards, and building  
25 design standards set forth in chapter 21.09, *Girdwood Land Use Regulations*  
26 (sections 21.09.060, 21.09.070, and 21.09.080).

27 **2. Exceptions to Authority to Grant Minor Modifications**

28 In no circumstance shall any decision-making body approve a minor modification that  
29 results in:

30 **a.** An increase in overall project density;

31 **b.** A change in permitted uses or mix of uses;

32 **c.** A deviation from the district-specific standards set forth in chapter 21.04, *Zoning*  
33 *Districts*, or the use-specific standards, set forth in chapter 21.05, *Use*  
34 *Regulations*; or

35 **d.** A change in conditions attached to the approval of any subdivision plan (section  
36 21.03.200), site plan (section 21.03.180), or conditional use permit (section  
37 21.03.080).

1 **C. Procedure**

2 **1. Limitation on Minor Modifications**

- 3 a. An applicant may request application of the minor modification process to his or  
4 her development only once during the review process.
- 5 b. In no instance may an applicant use the minor modification process to obtain  
6 approval for more than three standards applicable to the same development.

7 **2. Minor Modifications Approved by Director**

8 For uses allowed by-right or when he or she is the decision-maker, ~~If~~ the director may  
9 ~~initiate or~~ approve a minor modification allowed under this section at any time prior to  
10 ~~submittal of the staff report on an application to another decision-making body, if a report~~  
11 ~~is required, or prior to final decision, if no report is required.~~

12 **3. Minor Modifications Approved by Assembly, Planning and Zoning Commission,**  
13 **Platting Board or Urban Design Commission**

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

17 **4. Written Findings Noted on Pending Application**

18 Staff shall specify in writing any approved minor modifications and the finding supporting  
19 such modifications on the pending development application for which the modifications  
20 were sought, which shall be included as part of the case record.

21 **5. Appeals**

22 Denial of a minor modification application may be appealed to the zoning board of  
23 examiners and appeals in accordance with subsection 21.03.050B.

24 **D. Approval Criteria**

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

- 27 1. The requested modification is consistent with the comprehensive plan and the stated  
28 purpose of this title;
- 29 2. The requested modification meets all other applicable building and safety codes;
- 30 3. The requested modification does not encroach into a recorded easement;
- 31 4. The requested modification will have no significant adverse impact on the health, safety,  
32 or general welfare of surrounding property owners or the general public, or such impacts  
33 will be substantially mitigated; and
- 34 5. The requested modification is necessary to either: (a) compensate for some practical  
35 difficulty or some unusual aspect of the site of the proposed development not shared by  
36 landowners in general; or (b) accommodate an alternative or innovative design practice  
37 that achieves to the same or better degree the objective of the existing design standard  
38 to be modified. In determining if "practical difficulty" exists, the factors set forth in section  
39 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

**21.03.130 NEIGHBORHOOD OR DISTRICT PLANS**

**A. Purpose and Authority**

**1. Purpose**

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

**2. Authority**

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

b. In order to obtain the approval of the assembly as a sponsor, any community council, group of councils, or other groups or organizations shall request a resolution from the assembly authorizing them to proceed with the development of a neighborhood or district plan. The group shall demonstrate, to the reasonable satisfaction of a majority of the assembly, that

i. They represent the broad public interest necessary to successfully develop a plan; ~~that~~

ii. They have read and understand the requirements of this ordinance; that their proposed plan will comply with the standards set forth in this ordinance; and ~~that~~

iii. They have sufficient financial resources and a sufficient level of knowledge and expertise to warrant the expenditure of public resources as provided herein.

**3. Policy Guidance**

An adopted plan shall be an element of the comprehensive plan and shall serve as a policy to guide subsequent actions by municipal agencies. The assembly and the planning and zoning commission shall consider adopted plans in review of land use, zoning actions, and capital improvement programs, where consideration is consistent with the charter, the comprehensive plan, and general law. Agencies shall consider adopted neighborhood or district plans as guidance for actions, whether or not actions are subject to commission review. The existence of an adopted neighborhood or district plan shall not preclude the assembly, any municipal department or agency, or any board or commission of the municipality from developing other plans or taking actions not contemplated in the neighborhood or district plan affecting the same geographic area or subject matter.

- 
- 1 **B. Plan Submittal**
- 2 **1. Initiation Meeting**
- 3 The sponsor of a plan shall meet with the department at the initiation of the planning
- 4 process to discuss and clarify content requirements, scheduling, and other relevant
- 5 issues. Periodically, the department shall report to the commission, and to the assembly
- 6 by an Assembly Information Memorandum (AIM) requiring no further action, on the
- 7 progress of neighborhood or district plans underway.
- 8 **2. Work Program**
- 9 Following the initiation meeting, the sponsor shall prepare a work program which shall be
- 10 submitted to the department for approval. The work program shall include a project
- 11 schedule, a proposed table of contents, a proposed public participation plan, and at least
- 12 three milestones at which times the sponsor shall meet with the department.
- 13 **3. Submittal**
- 14 Twenty-two printed copies along with an electronic version of all proposed plans shall be
- 15 submitted to the department. The submittal shall include the name(s) and address(es) of
- 16 the person(s) designated by the sponsor to be its representative(s) in any discussions of
- 17 the plan.
- 18 **C. Threshold Review and Determination**
- 19 **1. Department Review and Determination**
- 20 Within 90 days of the submittal of a plan, the department shall review the plan and
- 21 determine whether the plan meets the standards for form, content, and for consistency
- 22 with sound planning, as set forth in subsection D. below.
- 23 **a.** If the department determines that the plan does meet the threshold standards of
- 24 subsection D., the department shall distribute the plan for public review and
- 25 commission public hearing as described in subsection E.
- 26 **b.** If the department determines the plan does not meet the threshold standards of
- 27 subsection D., the staff shall provide written notification to the sponsor of all
- 28 deficiencies with respect to form, content, process, and any changes, additions,
- 29 or deletions which, in the opinion of staff, may correct such deficiencies. The
- 30 sponsor may indicate its willingness to make such changes, additions, or
- 31 deletions. Only in such event may the sponsor be permitted to continue with the
- 32 plan.
- 33 **2. Coordination of Plan Review**
- 34 The department may determine, despite a finding of appropriate form, content, and sound
- 35 planning policy, a proposed plan should not immediately proceed, due to other municipal
- 36 planning efforts underway which should be coordinated with the plan. In such a case, the
- 37 department shall develop an appropriate timetable for distributing the plan for public
- 38 review and commission public hearings.
- 39 **D. Standards**
- 40 **1. Form and Content**
- 41 The form and content of all proposed plans shall be consistent with the following:
- 42 **a.** The plan shall state its sponsoring entity or entities and the names of the
- 43 individuals who participated in the development of the plan.

- 1                   **b.**     A plan shall enhance or implement goals, objectives, policies, and/or strategies  
2                   of the comprehensive plan and provide further detail and specificity. A plan may  
3                   take the form of a master plan or targeted plan.
- 4                   **i.**       A master plan for a neighborhood, district, or other geographic area of  
5                   the municipality may combine elements related to housing, industrial and  
6                   commercial uses, transportation, land use regulation, open space,  
7                   recreation, cultural features, health, economic vitality, community  
8                   facilities, and other infrastructure.
- 9                   **ii.**      A targeted plan may consider one or a small number of elements of  
10                  neighborhood, district, or municipal-wide problems or needs, and shall  
11                  focus on issues related to the use, development, and improvement of  
12                  land within the plan study area.
- 13                  **c.**       A plan shall not be limited to a single zoning district or a specific parcel in private  
14                  ownership. A plan shall cover an identifiable, cohesive geographic area or  
15                  neighborhood.
- 16                  **d.**       Plans shall be presented in clear language and coherent form with elements,  
17                  chapters, or sections organized in logical sequence.
- 18                  **e.**       Plans shall state goals, objectives, or purposes clearly and succinctly. Policy  
19                  statements or recommendations shall contain documentation and explanation of  
20                  the data, analysis, or rationale underlying each. Plans shall analyze and propose  
21                  policies to address identified problems.
- 22                  **f.**       A plan shall contain, as applicable:
- 23                   **i.**       Inventories or description and analysis of existing conditions, problems,  
24                   or needs; projections of future conditions, problems, or needs; and  
25                   recommended goals and strategies to address those conditions,  
26                   problems, or needs.
- 27                   **ii.**      Alternatively, or concomitantly with the elements described above, a plan  
28                   may also contain a vision for a future end state and a strategy(ies) for  
29                   achieving it.
- 30                   The level of detail and analysis shall be appropriate to the goals and  
31                   recommendations presented in the plan. The information and analysis relied  
32                   upon to support the recommendations shall be sufficiently identified to facilitate  
33                   later plan review, including accuracy and validity of the information and analysis.  
34                   Supporting information may be contained in the form of narrative, maps, charts,  
35                   tables, technical appendices, or the like.
- 36                  **g.**       A plan shall contain a land use plan map for the geographic area encompassed  
37                  by the plan. The land use plan map shall propose appropriate land use  
38                  categories, which generally include: residential, commercial, industrial,  
39                  institutional, transportation, community facilities, parks, and natural open space.  
40                  The land use plan map may provide more specificity than the general categories.
- 41                  **h.**       Plans shall be accompanied by documentation showing public participation in the  
42                  plan formulation and preparation. Public outreach, such as surveys, workshops,  
43                  hearings, or technical advisory committees, is recommended as a tool for

1 community support and consensus, in addition to department, commission, and  
2 assembly approval.

3 **2. Sound Planning Policy**

4 a. **Every** All plans, regardless of form and content, shall include discussion of:

5 i. Its long-range consequences;

6 ii. Impact on economic and housing opportunity for all persons, particularly  
7 low- and moderate-income, and persons with disabilities;

8 iii. Provision of future growth and development opportunities;

9 iv. Ability to improve the physical environment; and

10 v. Effect on the geographic distribution of municipal facilities.

11 b. A plan shall set forth goals, objectives, purposes, policies, strategies, and/or  
12 recommendations within the legal authority of the municipality.

13 c. A plan considering issues under the jurisdiction of specific municipal or state  
14 agencies shall disclose all agency comments.

15 d. A plan shall analyze its relationship to applicable policy documents, including all  
16 adopted elements of the comprehensive plan, as well as its relationship to  
17 adjoining neighborhoods and other areas.

18 e. A plan shall solicit input from residents, local businesses, agencies, and non-  
19 profit organizations local to the neighborhood, and demonstrate it has considered  
20 these comments on their merits.

21 **E. Plan Distribution and Review**

22 **1. Plan Distribution**

23 When, pursuant to subsection C. above, a plan is ready for public review, the department  
24 shall, within 30 days of its determination, provide copies of the plan simultaneously to all  
25 municipal and state agencies with jurisdiction over elements of the plan, and to all  
26 community councils. The department shall also make copies available to the general  
27 public at city hall and the planning and development center, and post the plan on the  
28 department website.

29 **2. Public, Agency, and Community Council Review**

30 a. Each community council may conduct its own review of the plan. Within a period  
31 of 120 days following receipt of the plan, the community council may provide  
32 written recommendation(s) to the department and the sponsor.

33 b. Members of the public and other municipal or state agencies may provide written  
34 comments to the department during the 120 day review period.

35 **3. Department Review**

36 When the department is not the sponsor of a plan, it shall review the plan during the 120  
37 day review period, and prepare a staff report and recommendation for the commission.  
38 The department shall consider the neighborhood, community, and municipal-wide  
39 impacts and the long-term effects of the actions or policies recommended by the plan.



1 The department shall also consider the impact of the plan on economic and housing  
2 opportunity, future growth and development, and the physical environment, including  
3 consistency of the plan with other adopted plans.

4 **F. Planning and Zoning Commission Review**

5 **1. Schedule for Review**

6 At the conclusion of the 120 day review period, the commission shall schedule a public  
7 hearing within 60 days following the final day of the public review period.

8 **2. Public Notice Hearing**

9 Notice of **all** the public hearings shall be **provided** ~~given~~ in accordance with section  
10 21.03.020H.

11 **3. Planning and Zoning Commission Action Recommendation**

12 The commission shall vote, within 60 days following the close of the public hearing to  
13 recommend approval, approval with modifications, remand to the sponsor, or disapproval  
14 of the plan. In reviewing the substance of the plan, the commission shall consider the  
15 neighborhood, community, and municipal-wide impacts and the potential long-term  
16 effects from the actions or policies recommended by the plan. The commission shall  
17 consider the impact of the plan on economic and housing opportunity, future growth and  
18 development, and the physical environment, including consistency of the plan with other  
19 adopted plans, and any other pertinent adopted neighborhood or district plans. Any  
20 modifications recommended by the commission shall be consistent with the standards for  
21 form, content, and sound planning policy, as set out in subsection D. above.

22 **4. Commission Findings**

23 The commission's recommendation shall include findings describing its considerations  
24 and providing explanation for its determination. The findings may include  
25 recommendations for the implementation of plan elements. The recommendation shall  
26 be transmitted to the assembly for final approval.

27 **G. Assembly Adoption**

28 **1. Transmission to Assembly**

29 The commission's recommendation shall be transmitted to the assembly for introduction  
30 within 45 days of the commission recommendation. The assembly shall schedule a  
31 public hearing not more than 45 days after introduction.

32 **2. Public Notice Hearing**

33 Notice of **all** the public hearings shall be provided in accordance with subsection  
34 21.03.020H., ~~and the hearing conducted in accordance with AMC chapter 2.30.~~

35 **3. Assembly Action Decision**

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

- 37 a. Adopt the plan;
- 38 b. Adopt the plan with modifications;
- 39 c. Remand the plan to the commission; or
- 40 d. Not adopt the plan.

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

5 **H. Review and Revision**

6 A plan shall be reviewed by the department concurrent with the review of the comprehensive  
7 plans as otherwise provided in this title to determine if the plan is consistent with the  
8 comprehensive plan. If the sponsor shows a major change of circumstances in the neighborhood  
9 or district, the sponsor may request a review of the plan before the end of any 10 year period.  
10 Any revisions shall be presented for adoption as an amendment to the plan, in accordance with  
11 the procedures set forth herein.

12 **21.03.140 PUBLIC FACILITY SITE SELECTION**

13 **A. Purpose**

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

17 **B. Applicability**

18 1. Unless exempted by subsection B.2. below, the planning and zoning commission shall  
19 review and decide the selection of sites for any of the following facilities that are to be  
20 owned, or leased by a government agency not exempt by law from municipal land use  
21 regulation:

22 a. Any newly constructed building or buildings and any existing building acquired by  
23 purchase or lease, in which government operations or activities occupy more  
24 than a total of 100,000 square feet on the site;

25 b. Any use of land over 20 acres in area (not including projects covered under  
26 section 21.03.200);

27 c. Any sports, entertainment, or civic center designed for more than 1,500  
28 spectators; and

29 d. Any public snow disposal or landfill site.

30 2. This section shall not apply to the following:

31 a. Any site that is

32 i. Designated for the subject use on a municipal plan adopted by the  
33 assembly;

34 ii. Part of an area, development, or institutional master plan;

35 iii. Determined by a dedication to the municipality on a final plat approved  
36 and recorded in accordance with this title; or

37 iv. Subject to approval of a conditional use under this title.

- 1           **b.**     The selection of sites for public schools, which shall instead be undertaken  
2           pursuant to AMC chapter 25.25.
- 3           **c.**     Any facility site selection reviewed by the commission or approved by the  
4           assembly before [the effective date of this title.];
- 5           **d.**     Any facility site selection under which over \$500,000 has been expended for  
6           design or construction before [the effective date of this title.]

7   **C.     Required Information**

8           The agency proposing a site selection shall submit to the commission all information identified in  
9           the user's guide. This information shall include, but need not be limited to, an evaluation of  
10          alternative sites, or an explanation why no alternative sites were considered.

11   **D.     Community Meeting**

12          A community meeting is required in accordance with ~~per~~ subsection 21.03.020G.

13   **E.     Public Notice Hearing**

14          Notice of ~~all the public hearings~~ shall be provided in accordance with subsection 21.03.020H.  
15          ~~given in the manner prescribed for a public hearing on a conditional use application.~~

16   **F.     Departmental Review**

17          The department shall review each proposed site selection application in light of the approval  
18          criteria set forth in subsection H. below, and distribute the application to other reviewers as  
19          deemed necessary. Based on the results of those reviews, the department shall provide a report  
20          to the planning and zoning commission.

21   **G.     Planning and Zoning Commission Action**

22          The commission shall hold a public hearing on any site selection that is subject to review under  
23          this section. At the close of the hearing, the commission shall decide on the proposed site based  
24          on the approval criteria of subsection H. below.

25   **H.     Approval Criteria**

26          The commission shall review the proposed site for consistency with the goals, policies, and land  
27          use designations of the comprehensive plan and other municipal plans adopted by the assembly,  
28          conformity to the requirements of this title, and the effects of the proposal on the area surrounding  
29          the site. The following specific criteria shall be considered:

- 30          1.     Whether the site will allow development that is compatible with current and projected land  
31          uses;
- 32          2.     Whether the site is large enough to accommodate the proposed use and future additions  
33          or another planned public facility;
- 34          3.     Whether adequate utility and transportation infrastructure is available to the site;
- 35          4.     Whether the site is located near a transit route, if applicable;

- 1 5. Whether there are existing or planned walkways connecting the site to transit stops and  
 2 surrounding residential areas, where applicable;
- 3 6. The environmental suitability of the site;
- 4 7. The financial feasibility of the site, including maintenance and operations; and
- 5 8. Major municipal, state, and federal administrative offices shall locate in the Central  
 6 Business District. Satellite government offices and other **civic** functions are encouraged  
 7 to locate in regional or town centers if practicable.

8 **I. Appeal**

9 Decisions on public facility site selections may be appealed to  
 10 the assembly.

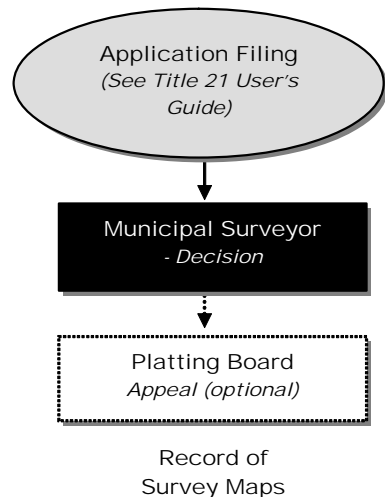
11 **21.03.150 RECORD OF SURVEY MAPS**

12 **A. Purpose and Authorization**

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

17 **B. Use of Record of Survey Maps**

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



26 **C. Application Required Submittals**

27 Applications An applicant for approval of a record of survey map shall contain submit the  
 28 information materials specified in the title 21 user's guide, and shall be submitted to the director  
 29 on a form provided by the department.

30 **D. Monuments**

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

33 **E. Approval**

34 A record of survey map is subject to approval by the municipal surveyor, who shall approve a  
 35 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 of the date of approval.

**21.03.160 REZONINGS (ZONING MAP AMENDMENTS)**

**A. Purpose and Scope**

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

**B. Minimum Area Requirements**

A rezoning shall only be considered for properties totaling of 1.75 acres (76,230 square feet) or more (excluding rights-of-way), except for:

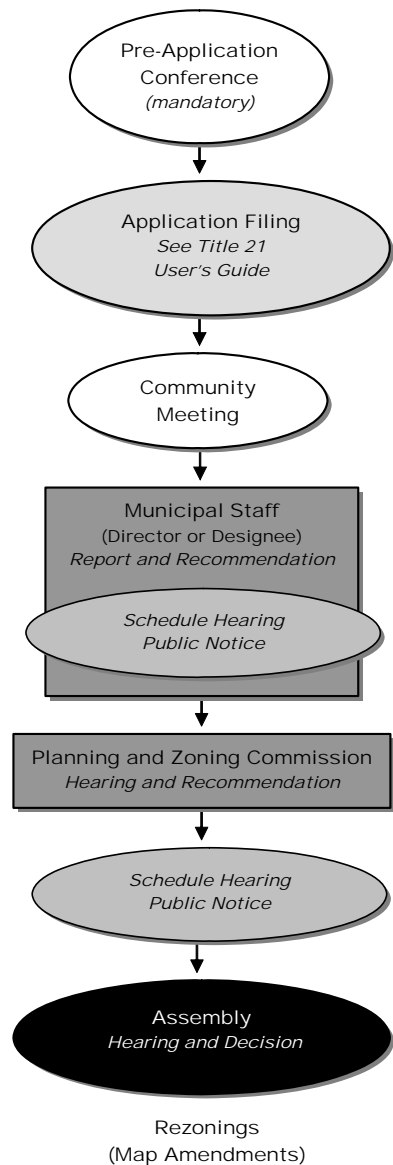
1. A rezoning extending the boundaries of an existing zoning use district; or
2. A rezoning initiated by the municipal administration to place municipally owned land in a PLI, PR, or DR zoning use district.
3. A rezoning into the NC district.

**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 21.03.070C.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.



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

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

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

14           **2. Pre-Application Conference**

15           Before filing an application, a private-party applicant shall request a pre-application  
16           conference with the director, ~~in accordance with sub.~~ See section 21.03.020B.

17           **3. Application Submittal Requirements**

18           ~~Applications~~ Applicants for a rezoning shall ~~contain~~ submit the ~~information materials~~  
19           specified in the title 21 user's guide, ~~and shall be submitted to the director on a form~~  
20           ~~provided by the department~~. Additional materials may be required for certain types of  
21           rezoning, such as rezoning with special limitations.

22           ~~a.     The planning and zoning commission or the director may require the submittal of~~  
23           ~~such other information as may be necessary to permit the informed exercise of~~  
24           ~~judgment under the approval criteria set forth in subsection E. below. Such~~  
25           ~~information shall be related to the scale and location of the rezoning application~~  
26           ~~and may include, without limitation, traffic, soil, hydraulic, water, air quality, noise,~~  
27           ~~and sewage analyses.~~

28           **4. Community Meeting**

29           A community meeting is required ~~in accordance with~~ ~~per~~ subsection 21.03.020G.

30           **5. Public Notice Hearings**

31           ~~Notice of all~~ Published, written, and posted notice of public hearings ~~on rezonings~~ shall  
32           be provided in accordance with section 21.03.020H. In addition, the published and  
33           written ~~(mailed)~~ notice ~~for the public hearing before the assembly~~ shall list the protest  
34           provisions set forth in subsection D.9. below. ~~Where the rezoning has been initiated by~~  
35           ~~someone other than the property owner or his or her designated agent, the director also~~  
36           ~~shall mail a notice to all owners of the property to be reclassified, as shown in the current~~  
37           ~~municipal assessor's records.~~

38           **6. Departmental Review**

39           ~~The department shall review each proposed rezoning in light of the approval criteria in~~  
40           ~~subsection E. below and distribute the application to other reviewers as deemed~~  
41           ~~necessary. Based on the results of those reviews, the department shall provide a report~~  
42           ~~to the planning and zoning commission.~~

43           **7. Review and Recommendation by Planning and Zoning Commission Action**

44           a.     The planning and zoning commission shall hold a public hearing on the proposed  
45           rezoning and, at the close of the hearing, recommend approval, approval with

1 special limitations or other modifications, or denial. The commission shall base  
2 its recommendation on the approval criteria in subsection E. below, and shall  
3 include written findings based on each of the approval criteria.

4 **b.** If the commission recommends approval or approval with special limitations or  
5 other modifications, within 60 days of the commission's written resolution, the  
6 director shall forward the recommendation to the assembly with an ordinance to  
7 amend the official zoning map in accordance with the recommendation.

8 **c.** If the commission recommends denial, that action is final unless, within 15 days  
9 of the commission's written resolution recommending denial, the applicant files a  
10 written statement with the municipal clerk requesting that an ordinance amending  
11 the zoning map in accordance with the application be submitted to the assembly.  
12 The draft ordinance shall be appended to an Assembly Informational  
13 Memorandum (AIM) for consideration by the assembly.

14 **8. by Assembly Action**

15 The assembly shall hold a public hearing on the proposed rezoning and shall, at the  
16 close of the hearing, taking into account the recommendations of the director, planning  
17 and zoning commission, and public input, and based upon the approval criteria of  
18 subsection E. below:

19 **a.** Approve the zoning map amendment **as submitted by ordinance;**

20 **b.** Approve the zoning map amendment by ordinance with special limitations (see  
21 subsection G.) **or other modifications at least as restrictive as those**  
22 **recommended by the planning and zoning commission;**

23 **c.** Deny the amendment; or

24 **d.** **Remand** ~~Refer~~ the proposed amendment ~~back~~ to the planning and zoning  
25 commission or to a committee of the assembly for further consideration.

26 **9. Protests**

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

29 **b.** **Any owner of property within 300 feet of the outer boundary of the land to which**  
30 **the amendment applies may protest the rezoning by filing a written protest with**  
31 **the clerk that is** ~~The protest shall object to the rezoning and shall state the factual~~  
32 ~~and/or legal basis for the protest, contain a legal description of the property on~~  
33 ~~behalf of which the protest is made, and be signed by the owners of at least one-~~  
34 ~~third of the property, excluding rights-of-way, of:~~

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

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

38 excluding land owned by the municipality, except where the municipality joins in  
39 the protest.

40 **c.** To be valid, the protest **shall state the factual and/or legal basis for the protest,**  
41 **contain a legal description of the property on behalf of which the protest is made,**



1                    **be signed by the owner of that property, and** must be received by the municipal  
2 clerk after notice of a public hearing before the assembly on a zoning map  
3 amendment and at least three business days before the time set for the  
4 assembly public hearing on the amendment.

5                    d.        Assembly approval of a rezoning subject to a valid protest under this subsection  
6 shall require an affirmative vote of eight assembly members.

7                    **10.        Waiting Period for Reconsideration**

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

11                   **11.        Form of Amending Ordinance**

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

- 13                   a.        The names of the current and the requested zoning districts;
- 14                   b.        The legal description of the subject property;
- 15                   c.        Any special limitations being applied to the subject property; and
- 16                   d.        An effective clause.

17                   **E.        Approval Criteria**

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

- 20                   1.        The rezoning promotes the public health, safety, and general welfare;
- 21                   2.        The rezoning complies with and conforms to the comprehensive plan and the purposes of  
22 this title;
- 23                   3.        The proposed rezoning conforms to the comprehensive plan map, as follows:
- 24                   a.        The rezoning shall be to a zone corresponding to the comprehensive plan map,  
25 including the **zoning consistency table, except as provided in F. below.** ~~land use~~  
26 ~~designations summary table.~~
- 27                   b.        When the comprehensive plan map designation has more than one  
28 corresponding zone, it shall be shown that the proposed zone is the most  
29 appropriate, taking into consideration the purposes of each zone and the zoning  
30 pattern of surrounding land.
- 31                   4.        The rezoning is consistent with the stated purpose of the proposed zoning district;
- 32                   5.        Facilities and services (including roads and transportation, water, gas, electricity, police  
33 and fire protection, and sewage and waste disposal, as applicable) are capable of  
34 supporting the uses allowed by the zone or will be capable by the time development is  
35 complete, while maintaining adequate levels of service to existing development;

- 1       6.     The rezoning is not likely to result in significant adverse impacts upon the natural  
2       environment, including air, water, noise, storm water management, wildlife, and  
3       vegetation, or such impacts will be substantially mitigated;
- 4       7.     The rezoning is not likely to result in significant adverse impacts upon other property in  
5       the vicinity of the subject tract;
- 6       8.     The rezoning does not result in a split-zoned lot;
- 7       9.     The applicant has demonstrated, to the satisfaction of the commission and the assembly,  
8       that the supply of land in the desired zoning district in the general area is insufficient or  
9       inadequate for the intended purpose, and that sufficient land of the existing zoning district  
10      remains in the area to meet the needs of the community; and
- 11     10.    The proposed rezoning maintains and preserves the compatibility of surrounding zoning  
12      and development, and protects areas designated for specific uses on the zoning map  
13      from incompatible land uses or development intensities.

14   **F.     Flexibility of Interpretation**

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

- 17    1.     A proposed rezoning that is to a district that does not correspond to the comprehensive  
18      plan map may be considered if processed concurrently with a related amendment to the  
19      comprehensive plan map following the procedures of subsection 21.03.070,  
20      *Comprehensive Plan Amendments*.
- 21    2.     Where the location of comprehensive plan map designation boundaries appear  
22      generalized or uncertain, proposed zoning amendments on or near the boundaries shall  
23      be treated as follows:
  - 24      a.     Areas clearly within a particular comprehensive plan map designation shall follow  
25          the standards of that designation.
  - 26      b.     The designation of areas at or near boundaries on the comprehensive plan map  
27          shall be interpreted in accordance with the goals, objectives, policies, and  
28          guidelines of the comprehensive plan, including locational criteria for  
29          designations on the comprehensive plan map.
- 30    3.     Interpretation shall not be a basis for cumulative encroachment by incompatible land  
31      uses.

32   **G.     Rezoning with Special Limitations**

33    Pursuant to this subsection, a rezoning may include special limitations that restrict **some aspects**  
34    **of development** structures, or the use of land or structures, to a greater degree than otherwise  
35    provided for a **zoning use** district applied by the rezoning.

- 36    1.     **Purposes**  
37      A rezoning may include special limitations for one or more of the following purposes:
  - 38      a.     To prohibit structures, or uses of land or structures, that would adversely affect  
39          the surrounding neighborhood or conflict with the comprehensive plan; or

- 1           **b.**     To conform the zoning map amendment to the comprehensive plan, or to further  
2           the goals and policies of the comprehensive plan; or
- 3           **c.**     To conform development under the zoning map amendment to existing patterns  
4           of development in the surrounding neighborhood; or
- 5           **d.**     To mitigate the adverse effects of development under the zoning map  
6           amendment on the natural environment, the surrounding neighborhood, and on  
7           public facilities and services.

8           **2.     Types of Limitations**

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

- 10          **a.**     Limit residential density; or prohibit structures, or uses of land or structures,  
11          otherwise permitted in a zoning use district;
- 12          **b.**     Require compliance with design standards for structures and other site features;
- 13          **c.**     Require compliance with a site plan approved under this title;
- 14          **d.**     Require the construction and installation of improvements, including public  
15          improvements; or
- 16          **e.**     Impose time limits for taking subsequent development actions.

17          **3.     Effect of Approval**

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

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

24               **1.     Purpose and Applicability**

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

- 30              **a.**     Permit, require, prohibit, or restrict structures or the use of land or structures;
- 31              **b.**     Alter the provisions of the use-specific requirements regulations as applied to  
32              property within the overlay district;
- 33              **c.**     Require new development or attributes of new development to conform to a  
34              specific architectural or design theme;
- 35              **d.**     Require a design review approval process; and/or

- 1 e. Alter the development standards of the underlying district by decreasing or  
2 increasing the requirements with regard to building height, setbacks, lot area, lot  
3 width, lot coverage, and lot densities of the underlying district.

4 **2. Minimum Area Requirements**

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

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

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

12 **a. Contents of Adopting Ordinance**

13 An ordinance amending the zoning map for an overlay district shall contain the  
14 following:

- 15 i. The name of the overlay district that the ordinance applies;
- 16 ii. The legal description of the land within the overlay district applied by the  
17 ordinance; and
- 18 iii. All standards of development to be governed by the overlay district.

19 **b. Effect of Approval**

- 20 i. Where a specification in an overlay zoning map amendment conflicts  
21 with any provision of this title, the overlay zoning map amendment shall  
22 govern.
- 23 ii. An overlay district adopted in the same manner as the original ordinance  
24 remains effective until repealed or amended. The assembly may set a  
25 time for the overlay district to expire if it finds the planning objectives will  
26 be met or completed within a specific time period.

27 **c. Map of Overlay Districts**

- 28 i. Each overlay district shall be annotated on the zoning map with a symbol  
29 unique to the overlay district and shall be identified on the zoning map by  
30 the suffix "OV" and the number of the ordinance applying the overlay  
31 district shall be printed on the zoning map within the boundaries of the  
32 overlay district.
- 33 ii. The department shall maintain, for inspection by the public, maps  
34 showing the location of the overlay districts and records of the  
35 assembly's purpose and intent in establishing each district.

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

37 In addition to the standard submittals required to initiate an overlay map amendment,  
38 establishment of an Airport Height Overlay District also shall require preparation of an  
39 airport height map as set forth in section 21.04.060C.

40 ~~**5. Establishment or Modification of Neighborhood Conservation Overlay Districts**~~

41 ~~The assembly may designate one or more areas as Neighborhood Conservation Overlay~~  
42 ~~(NCO) districts upon receipt of a recommendation from the urban design commission and~~

1 ~~the planning and zoning commission. The procedure for establishing and modifying NGO~~  
2 ~~districts is set forth in section 21.04.080D.~~

3 **I. Rezoning to Planned Community Development District (PCD)**

4 **1. Purpose**

5 The assembly may, through the rezoning process, adopt a regulatory zoning strategy that  
6 is customized for a specific property or group of properties. The zoning strategy may  
7 substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07  
8 (see subsection I.4. below) in order to meet the unique needs of the development. The  
9 assembly must find that the proposed strategy will result in development that is  
10 compatible with that which would occur with conventional application of the requirements  
11 of chapters 21.05, 21.06, and 21.07.

12 **2. Procedure**

13 Rezoning to PCD districts shall follow the general rezoning procedure set forth in section  
14 D. above, except as modified by this section.

15 **3. Minimum Area Requirements**

16 No PCD district zoning map amendment shall be considered or approved that is equal to  
17 an area of less than 30 acres. These limits exclude rights-of-way and do not apply to  
18 amendments that extend the boundaries of an existing PCD district.

19 **4. In-Lieu Standards Allowed**

20 a. The use of standards that are different from standards stated in title 21 is  
21 intended to allow a developer some flexibility and creativity in meeting the intents  
22 and purposes of the code.

23 b. In-lieu standards for the following sections may be proposed for the PCD district:

24 i. Chapter 21.05, *Use Regulations*;

25 ii. Chapter 21.06, *Dimensional Standards*;

26 iii. Subsection 21.07.020C., *Steep Slope Development*;

27 iv. Section 21.07.030, *Open Space*;

28 v. Section 21.07.060, *Transportation and Connectivity*;

29 vi. Section 21.07.080, *Landscaping, Screening, and Fencing*;

30 vii. Section 21.07.090, *Off-Street Parking and Loading*;

31 viii. Section 21.07.100, *Residential Design Standards*;

32 ix. Section 21.07.110, *Public/Institutional and Commercial Design*  
33 *Standards*;

34 x. Section 21.07.120, *Large Commercial Establishments*;

35 xi. Section 21.07.130, *Exterior Lighting*; and

36 xii. Subsection 21.08.050D., *Interior Streets*.

- 1           c.     Along with the application and documentation information required in I.5. below,  
2           the applicant must also submit the following information with regard to any  
3           proposed in-lieu standards.
- 4           i.     Clear specification of the proposed in-lieu standards, and the title 21  
5           standards for which the proposed in-lieu standards are a substitute. Any  
6           title 21 standards that are not replaced with approved in-lieu standards  
7           shall apply in the PCD district.
- 8           ii.    A statement of why compliance with title 21 standards would interfere  
9           with the goals, purposes, or functions of development in the proposed  
10          PCD district.
- 11          iii.   A demonstration of how the proposed in-lieu standards would be at least  
12          as effective as the title 21 standards in fulfilling the intents and purposes  
13          of title 21, and furthering the goals and policies of the comprehensive  
14          plan, including any applicable neighborhood or district plans.
- 15          iv.    A statement of the expected benefits of the proposed in-lieu standards.
- 16          d.     The planning and zoning commission may recommend approval, and the  
17          assembly may approve a rezone to the PCD district with in-lieu standards if they  
18          find that the in-lieu standards will result in development that is compatible with  
19          the intents and purposes of title 21 and the goals and policies of the  
20          comprehensive plan, and do not compromise public health, safety, or welfare.

21       **5.     Application and Documentation**

22       Applications for rezoning to a PCD district shall contain the information specified in the  
23       title 21 user's guide, and the following:

- 24          a.     If proposing in-lieu standards for subsection 21.07.020C., *Steep Slope*  
25          *Development*, the information required in subsection 21.07.020C.:
- 26          b.     Development Areas: a PCD district that proposes to segregate differing land  
27          uses and/or different project phases shall provide and maintain a map that clearly  
28          distinguishes the boundaries of each development area. The development areas  
29          shall be identified with an alpha, numeric, or alphanumeric coding system to  
30          allow for easy identification of each area. Different in-lieu standards may be  
31          proposed for each development area.
- 32          c.     Table of allowed uses and use definitions:
- 33            i.     The PCD district shall establish a table of allowed uses and a table of  
34            accessory uses. The table shall be formatted in the same manner as the  
35            tables depicted in chapter 21.05 listing the land use, and if development  
36            areas are proposed, noting each with its designated land uses. The  
37            table abbreviations set forth at 21.05.010A. shall be used.
- 38            ii.    The land uses listed in the table of allowed uses or the table of  
39            accessory uses shall be defined in chapter 21.05, or the PCD district  
40            shall provide a use definition for those uses not listed in sections  
41            21.05.020 through 21.05.080.
- 42          d.     Dimensional standards and measurements:

- 1                   i.       The PCD district shall establish a table of dimensional standards. The  
2                   table shall be formatted in the same manner as the tables depicted in  
3                   chapter 21.06 listing the dimensional standards, and if development  
4                   areas are proposed, noting each with its designated dimensional  
5                   standards.
- 6                   ii.       Unless specifically provided otherwise (see subsection I.4. above), the  
7                   measurements and exceptions section 21.06.030 shall apply.

8       **6.       Relationship to Other Requirements**

9       When there is a conflict between the PCD district requirements and other requirements of  
10       this title, the PCD district requirements control. The specific requirements of this title  
11       apply unless the PCD district provides other requirements for the same specific topic.

12       **7.       Changes to an Approved PCD District**

13       **a.       Approval by Assembly**

14       Approval of a zoning map amendment in accordance with section 21.03.160 is  
15       required for the following amendments to the PCD district:

- 16                   i.       Any increase in the total number of authorized dwelling units;
- 17                   ii.       Any decrease in the total open space acreage;
- 18                   iii.       Any increase in the total gross building area of commercial or industrial  
19                   structures;
- 20                   iv.       Any addition or deletion of any permitted principal use, conditional use,  
21                   or accessory use;
- 22                   v.       Any changes in the development standards;
- 23                   vi.       Any density transfer between development areas that will result in a 25%  
24                   or greater cumulative increase or decrease in the number of dwelling  
25                   units in any development area; or
- 26                   vii.       Any change in the acreage of a development area equal to or more than  
27                   25% of the total acreage of the development area.

28       **b.       Approval by the Planning and Zoning Commission**

29       Approval by the planning and zoning commission is required for the following  
30       amendments to the PCD district:

- 31                   i.       Any density transfer between development areas that will result in a  
32                   cumulative increase or decrease of more than 10% but less than 25% in  
33                   the number of dwelling units in any development area; or
- 34                   ii.       Any change in the acreage of a development area of more than 10% but  
35                   less than 25% of the total acreage of the development area.

36       **c.       Approval by the Director**

37       Approval by the director is required for the following amendments to the PCD  
38       district:



- i. Any density transfer between development areas that will result in a cumulative increase or decrease of 10% or less in the number of dwelling units in any development area; or
- ii. Any change in the acreage of a development area of 10% or less of the total acreage of the development area.

**21.03.170 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 21.11, *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.

	Permit required by Title 21	No permit required by Title 21; permit may be required by Title 23
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
<del>[1] Unless otherwise required by title 23.</del>		

**C. Application Submittal**

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 21.03.100C.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 21.03.040B.~~

1 1. Denial of a sign permit relating to title 21 compliance may be appealed to the zoning  
2 board of examiners and appeals in accordance with subsection 21.03.050B.

3 2. Denial of a sign permit relating to title 23 compliance may be appealed to the building  
4 board of examiners and appeals.

5 **21.03.180 SITE PLAN REVIEW**

6 **A. Purpose**

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

13 **B. Administrative Site Plan Review**

14 1. **Applicability**

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

17 2. **Procedure**

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

19 Applications for an An administrative site plan review application shall contain the  
20 information specified in the title 21 user's guide, and shall be submitted to the  
21 director on a form provided by the department.

22 b. **Action by Director Departmental Review and Director's Action**

23 The department director shall review each proposed administrative site plan  
24 application in light of the approval criteria of subsection E. below and distribute  
25 the application to other reviewers as deemed necessary. Based on the results of  
26 those reviews, the director shall take final action on the site plan application and  
27 approve, approve with conditions, or deny the application. The department's  
28 director's review and the director's action decision, including referral to other  
29 agencies and bodies, shall be completed within 60 30 days of verification receipt  
30 of a complete application.

31 c. **Appeals**

32 Denial of an administrative site plan may be appealed to the urban design  
33 commission, in which case it they shall be treated as a major site plan review  
34 application under subsection C. below.

35 **C. Major Site Plan Review**

36 1. **Applicability**

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

39 2. **Procedure**

40 a. **Pre-Application Conference**

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

- 1           **b.     Application Submittal**  
2           Applications for a A major site plan review application shall contain the  
3           information specified in the title 21 user's guide, and shall be submitted to the  
4           director on a form provided by the department.
- 5           **c.     Community Meeting**  
6           A community meeting is required in accordance with per subsection 21.03.020G.
- 7           **d.     Public Hearing Notice**  
8           Notice of all public hearings shall be provided published, mailed, and posted in  
9           accordance with subsection 21.03.020H.
- 10          **e.     Departmental Director's Review and Report**  
11          The department director shall review each proposed major site plan application in  
12          light of the approval criteria of subsection E. below and distribute the application  
13          to other reviewers as deemed necessary. Based on the results of those reviews,  
14          the department director shall provide a report to the urban design commission.
- 15          **f.     Urban Design Commission's Action Review, Hearing, and Decision**  
16          The urban design commission shall hold a public hearing on the proposed  
17          application and act to approve, approve with conditions, or deny the proposed  
18          major site plan, based on the approval criteria of subsection E. below. The  
19          commission may delay taking action on a public facility site plan only if the  
20          commission finds the submittal is incomplete or the commission is advised by the  
21          director that a matter before the planning and zoning commission or the  
22          assembly will have a material impact on the public facility site plan or exterior  
23          building improvements.
- 24          **g.     Appeals**  
25          Denial of a major site plan may be appealed to the board of adjustment in  
26          accordance with subsection 21.03.050A planning and zoning commission.
- 27          **h.     Conformance with Commission Decision Required for Public Projects**  
28          No agency may proceed with implementation of a public facility site plan,  
29          implementation of exterior building improvements, or implementation of revisions  
30          to approved site or landscaping plans and exterior building elevations that do not  
31          conform to the commission's actions under this section.

32   **D.     Expiration**

- 33          **1.     General**  
34          A site plan approval shall automatically expire at the end of 24 12 months after the  
35          effective date of its issuance unless if a building or land use permit for at least one  
36          building in the development proposed in the site plan is not approved and construction  
37          has begun (see the definition of "start of construction" in chapter 21.14). A change in  
38          ownership of the property does not affect this time frame.
- 39          **2.     Extension**  
40                **a.     First Extension**  
41                Upon written application submitted by the applicant at least 30 days prior to the  
42                expiration of the permit period and upon a showing of good cause, the director  
43                may grant one extension not to exceed 12 months. The approval shall be  
44                deemed extended until the director has acted upon the request for extension.

1 Failure to submit an application for an extension within the time limits established  
2 by this section shall render the site plan approval void.

3 **b. Further Extensions**

4 Upon written application submitted at least 30 days prior to the expiration of the  
5 previous extensions and upon a showing of good cause, the urban design  
6 commission, without a public hearing, may grant additional extensions, each one  
7 not to exceed 12 months. The approval shall be deemed extended until the  
8 commission has acted upon the request for extension.

9 **E. Approval Criteria**

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

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

24 **F. Platting for Site Plans**

- 25 1. If development under an ~~final~~ final approval under this section will create a subdivision or  
26 requires the vacation of a dedicated public area, the ~~final~~ final approval is not effective until a  
27 final plat for the subdivision or vacation is approved and recorded in accordance with this  
28 title. A preliminary plat required under this section is subject to approval as required by  
29 section 21.03.200, *Subdivisions and Plats*.
- 30 2. Unless the authority granting ~~final~~ final approval directs in the ~~final~~ final approval that it shall act as  
31 the platting authority, the director is the platting authority for subdivisions site plans under  
32 this subsection.
- 33 ~~3. The platting authority under this subsection may require that any street right-of-way,~~  
34 ~~walkway, utility easement, or other public area designated under the final approval be~~  
35 ~~dedicated to the public.~~

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

- 37 1. **Original Procedure Applies for Most Amendments**  
38 Amendment of a site plan shall follow the same process required for the original approval  
39 of a site plan, unless the amendment is determined to be a minor amendment as  
40 described in subsection G.2. below.

1           **2.     Administrative Approval of Minor Amendments**

2           The director may approve administratively minor amendments to any approved site plan  
3           upon written application and documentation by the applicant, and upon the director's  
4           determination that the amendment is a minor amendment.

5           **a.     Procedure**

6           i.     Upon receiving a written request from the applicant for a site plan  
7           amendment, the director shall determine if the proposed amendment will  
8           be processed as a minor amendment or major amendment. The  
9           applicant may appeal the director's decision, in writing to the zoning  
10          board of examiners and appeals within 10 days of the decision.

11          ii.    Immediately following the director's determination that a proposed  
12          amendment is minor, the director shall:

13               **(A)**    Issue a minor amendment affidavit, which shall be transmitted to  
14               the urban design commission for their information; and

15               **(B)**    Attach a form stating the nature of the modification, date of  
16               approval, and bearing the signature of the director to the site  
17               plan mylar on file in the department.

18          iii.    If the original approval had been recorded, the amended plan shall be  
19          recorded by the municipality at the applicant's expense.

20          **b.     Types of Minor Amendments**

21          The following are amendments which the director may reasonably determine to  
22          be "minor":

23          i.     Insubstantial changes to the text to add clarity or correct conflicting  
24          provisions.

25          ii.    Changes in street alignment if such changes further the intent of the plan  
26          and this code, and are acceptable to the municipal engineer.

27          iii.    Changes in building envelope, setback, and similar provisions of 10% or  
28          less.

29          iv.    **Incidental c**Changes in landscaping, sign placement, lighting fixtures,  
30          etc. to further the intent of the plan and this code.

31    **21.03.190     STREET ROAD AND TRAIL REVIEW**

32    **A.     Purpose**

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

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

**1. Applicability**

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

**2. Review**

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

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

i. Compliance with the comprehensive plan and its elements;

ii. Compliance with this title;

iii. Long-term impact on existing and projected adjacent land uses;

iv. Preferred route selection;

v. Short-term and long-term impact of property acquisition for right-of-way; and

vi. Impacts on utilities including undergrounding of overhead utilities.

c. The commission may request that subsequent design documents be returned to the commission for review. Any such requested design documents shall be presented to the commission at the earliest opportunity that permits any additional commission recommendations to be implemented in design revisions.

**C. Urban Design Commission Review and ~~Action Approval~~**

**1. Applicability**

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

**2. Review ~~and Action~~**

a. The urban design commission shall ~~approve, approve with conditions, or reject review~~ the landscaping, streetscape, and pedestrian design plans ~~at a stage no greater than 65% designed~~, for all applicable ~~street road~~ and trail projects. A public hearing is not required but may be held at the commission's discretion.

b. As applicable, the commission's ~~action review~~ of the project shall ~~be based on, but is not limited to, the following considerations~~ ~~include but not be limited to:~~

- i. Compliance with this title;
  - ii. Context of the area and the long-term impact on existing and projected adjacent land uses;
  - iii. Initial cost of materials including installation;
  - iv. Long term costs associated with operation and maintenance;
  - v. Adherence to a design theme established through local area plans or prior public improvements;
  - vi. Effectiveness in meeting community design goals; and
  - vii. ~~Where applicable, a~~ Accommodation of pedestrians.
- c. The commission may request that subsequent design documents be returned to the commission for review. Any such requested design documents shall be presented to the commission at the earliest opportunity that permits any additional commission recommendations to be implemented in design revisions.

### 3. Appeal

Decisions may be appealed to the planning and zoning commission, which shall be required to hold a public hearing only if the urban design commission did not hold a public hearing.

## 21.03.200 SUBDIVISIONS AND PLATS

### A. Purpose

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

### B. Applicability

#### 1. General

The procedures of this section, and the standards and requirements set forth in chapter 21.08, *Subdivision Standards*, shall apply to all subdivisions or resubdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or resubdivisions created by an exercise of the power of eminent domain by an agency of the state or municipality. All subdivisions applications shall be reviewed according to the process set forth in subsection C. below, ~~Review and Approval of Subdivision Plans~~, unless they qualify for the abbreviated plat procedure.

#### ~~Applicable Review Procedure~~

##### ~~a. General Procedure~~

#### 2. Abbreviated Plat

Certain subdivisions may follow the streamlined procedure set forth in subsection D. below, ~~Abbreviated Plat Procedure~~. Eligible preliminary plats are those plats where the applicant is not an agency of the municipal, state, or federal governments, and are:

- a. A movement or elimination of lot lines that does not:



- 1  
2
- i. Result in an increase in the permitted density of residential units within the area being subdivided or resubdivided.
  - 3  
4 ii. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
  - 5  
6 iii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
  - 7  
8 b. The subdivision of a single tract, parcel, or lot into no more than three tracts or eight lots, provided that the subdivision does not:
    - 9  
10 i. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
    - 11  
12 ii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
    - 13  
14 iii. Divide a tract, parcel or lot:
      - 15  
16 (A) Created within the previous 48 months pursuant to the approval  
17 of a preliminary plat under this section;
      - 18  
19 (B) Contiguous to or having an owner either in an individual capacity  
20 or as an owner of a corporation, partnership, or other legal entity  
21 of a preliminary plat approved within the previous 48 months; or
      - 22  
23 (C) That is 10 acres or more in the **R-6, R-7, R-8, R-9, and R-10 RS-2, RL-1, RL-2, and RL-4** zoning districts or that is governed by  
24 AO 84-21 **(G-5 areawide rezoning)**.
  - 25  
26 e. A plat required by section 21.03.080F. for **final** approval of a conditional use, or section 21.03.180F. for **final** approval of a site plan.
  - 27  
28 f. A plat depicting the creation of two attached single-family lots.
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3. **Subdivision Approval is Prerequisite to Other Approvals**
- a. No building permit, land use permit, certificate of zoning compliance, or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded with the state of Alaska, until all required dedications of land have been made, and all required improvements have been installed in accordance with the procedures and requirements of this section, or an approved subdivision agreement is in place pursuant to section 21.08.060, *Subdivision Agreements*.
  - b. The municipality shall not accept or maintain any street, and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a plat for the subdivision has been approved and recorded in accordance with the requirements set forth in this section.

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

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

8           **5.     Existing Lots of Record**

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

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

13           **1.     Applicability**

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

16           **2.     Pre-Application Conference**

17           ~~Before filing an application for a new subdivision or a modification of an already-approved~~  
18           ~~subdivision, the applicant shall request a pre-application conference with the director, in~~  
19           ~~accordance with subsection~~ A pre-application conference is required prior to submittal of  
20           ~~a new subdivision application or most modifications to already-approved subdivision~~  
21           ~~plans. See section 21.03.020B.~~

22           **3.     Application Submittal of Preliminary Plat**

23           **a.**     Unless waived by the ~~director~~ ~~plating board~~, a preliminary plat shall include all  
24           land under contiguous ownership, unless separate legal descriptions exist as a  
25           matter of record. If only a portion of the land is intended for immediate  
26           development, the remaining portion shall be given a tract number and shall be  
27           part of the preliminary and final plat. Requirements for surveying this remaining  
28           tract may be waived at the discretion of the ~~municipal surveyor~~ ~~plating board~~. By  
29           plat note, development shall not be allowed on the remaining tract until approved  
30           under this section.

31           **b.**     ~~Applications for~~ ~~In submitting~~ a preliminary plat ~~application~~, applicants shall  
32           ~~contain~~ ~~submit~~ the ~~information~~ ~~materials~~ specified in the title 21 user's guide, ~~and~~  
33           ~~shall be submitted to the director on a form provided by~~ to the department, ~~by the~~  
34           ~~deadlines established in the user's guide.~~

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

4. **Community Meeting**

A community meeting is required in accordance with per subsection 21.03.020G.

5. **Public Notice**

Notice of all public hearings shall be provided in accordance with subsection 21.03.020H.

6. **Departmental Review**

The department shall review each proposed preliminary plat in light of the approval criteria of subsection C.9. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the platting board.

7. **Action on Preliminary Plat**

a. **Platting Authority**

The platting board is the platting authority for preliminary plats, except as provided in subsection 21.03.080F. for conditional uses, and subsection 21.03.180F. for site plans.

b. **Action by Platting Authority Board**

Subject to paragraph 7.c. below, the platting authority board shall, based on the approval criteria of subsection C.9. 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 in upon the records of the platting authority board.

c. **Referral to Other Agency**

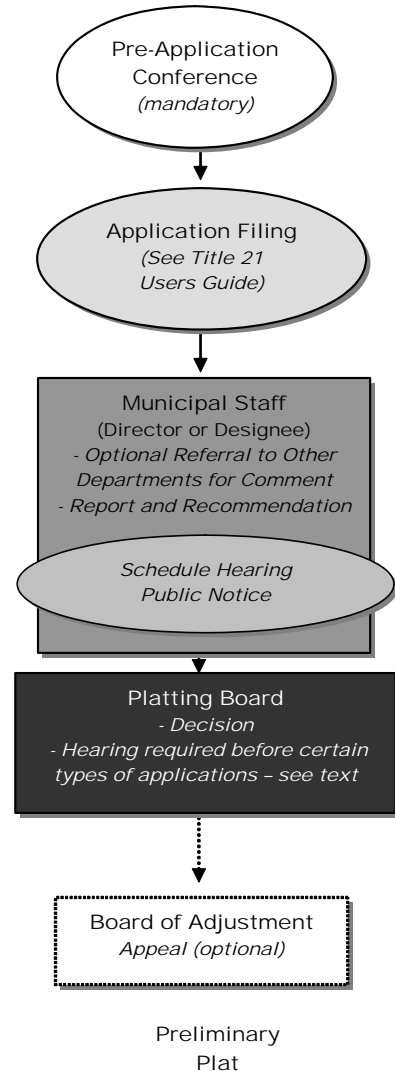
If the platting authority board finds that:

i. It cannot determine whether a preliminary plat conforms to the approval criteria of subsection C.9. 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 authority 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.

d. **Public Hearing**



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

- 3 i. Approval of a preliminary plat, except applications allowed to use the  
4 abbreviated plat procedure;
- 5 ii. Approval of a final plat that differs from the preliminary plat (see section  
6 21.03.200C.8.b.);
- 7 iii. Modification or deletion of a condition of plat approval;
- 8 iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision*  
9 *Standards*;

10 ~~Removal of or modification(s) to plat notes;~~ and

- 11 v. Vacation of dedicated right-of-way; BLM and section line easements; or  
12 platted landscape, drainage, slope, or protective well radii easements.

13 e. **Approval Period; Time Extensions**

- 14 i. Notwithstanding any subsequent change in the subdivision regulations,  
15 zoning regulations, and zoning districts, the approval of the preliminary  
16 plat shall be effective:

17 (A) For at least 24 months and up to 60 months from the date of  
18 approval, when it pertains to a development of no less than 10  
19 acres and includes a phasing plan. The length of the approval  
20 period shall be based upon the platting board's evaluation of the  
21 size, complexity, and phasing elements of the development.

22 (B) For 24 months from the date of approval when it pertains to a  
23 development of less than 10 acres or does not include a phasing  
24 plan.

- 25 ii. The preliminary plat shall become null and void after the approval period  
26 unless an extension of time is granted by the platting authority board. A  
27 request for a time extension must be made in writing by the subdivider.  
28 The extension request must be received by the director prior to the  
29 expiration of the preliminary plat to be eligible for consideration by the  
30 platting authority board.

- 31 iii. Such a time extension shall be granted only if the authority board finds  
32 that current conditions are substantially the same as those that existed  
33 when the preliminary plat was originally approved. The director shall  
34 conduct the reevaluation for every extension request that does not raise  
35 the total time of extension for a particular plat beyond 24 months and  
36 present his or her findings to the authority board. Every extension  
37 request that raises the total time of extension for a particular plat beyond  
38 24 months shall be evaluated in the same manner as an original plat  
39 application, including payment of the applicable fee.

- 40 iv. Only two time extensions may be approved for a preliminary plat  
41 approved by the platting authority board. Approval of the second  
42 extension shall require a noticed public hearing.

- 1 v. Preliminary plats being finalized in portions or phases shall not be  
2 construed to automatically extend the original approval period. Such an  
3 extension may only be granted by the platting ~~authority board~~ in  
4 accordance with the procedures set out in this subsection.
- 5 f. **Appeals**  
6 All decisions as to approval or denial of a preliminary plat by the platting ~~authority~~  
7 ~~board~~ shall be final unless appealed to the board of adjustment.
- 8 g. **Resubmittal Following Denial**  
9 No new application for the same or substantially the same preliminary plat shall  
10 be accepted by the platting ~~authority board~~ within one year of denial of the  
11 original application. The waiting period required by this section may be waived in  
12 an individual case, based upon new evidence or changed circumstances, by the  
13 affirmative vote of a majority of the platting ~~authority board~~.
- 14 8. **Final Plat**
- 15 a. **Procedure When Final Plat Corresponds to Preliminary Plat as 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 platting  
18 board. The final plat shall, in addition, meet all conditions imposed by  
19 the board in approving the preliminary plat.
- 20 ii. The final plat map shall constitute only that portion of the approved  
21 preliminary plat that is proposed to be recorded and developed at the  
22 time. If only a portion of the approved preliminary plat is proposed for  
23 final plat approval, such portions shall conform to all requirements of this  
24 section and chapter 21.08, *Subdivision Standards*.
- 25 iii. The following procedure shall be followed for the final plat:
- 26 (A) The final plat shall be submitted to the department for  
27 examination as to compliance with all terms of the preliminary  
28 plat as approved by the platting authority. If all conditions have  
29 been met, a statement to that effect, appearing on the final plat,  
30 shall be signed by the ~~platting authority director~~. The final plat  
31 shall not be signed until the documents described in paragraph  
32 a.iv. and a.v. below have been received.
- 33 (B) Upon acceptance of the final plat, the department shall forward  
34 the final plat to the project management and engineering  
35 department for final checking and inspection before final  
36 approval is given. If requested, a subdivision survey shall be  
37 submitted to the project management and engineering  
38 department with a complete set of field and computation notes  
39 showing the original or reestablished corners of the plat and of  
40 lots within the plat. Traverse sheets and work sheets showing  
41 the closure within the allowable limits of error of the exterior  
42 boundaries of each irregular block and lot of the subdivision may  
43 also be required. Final approval by the project management and  
44 engineering department shall be indicated by a statement  
45 appearing on the plat.

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- iv. Final approval by the platting board shall be dependent upon receipt of the following material:
    - (A) A statement from the development services department stating that all conditions imposed by the department on the preliminary plat and approved by the platting board have been met. This approval by the development services department shall not affect any subsequent requirements relating to sewage disposal and water supply as they apply to any lots within the plat.
    - (B) A certificate from the tax collecting official or a note on the face of the plat stating that all municipal real property taxes levied against the property are paid in full, or, if approval is sought between January 1 and the tax due date, that there is on deposit with the chief fiscal officer an amount sufficient to pay estimated real property tax for the current year.
    - (C) A certificate to plat showing the legal and equitable owners, including mortgagees, contract purchasers and fee owners, of the land to be platted, plus all grants, reservations, covenants, deed restrictions, and easements of record which may condition the use of the property.
  - v. If the subdivision is to be served by a community water or sewer system, the development services department may require the subdivider to provide the following before the platting board finally approves the plat:
    - (A) Any approvals or certificates required by the state departments of environmental conservation and natural resources.
    - (B) An agreement under the standards and procedures set out in section 21.08.060, *Subdivision Agreements*, to ensure that the system installed will be compatible with existing public water and sewer systems.
    - (C) Approval of the plans, specifications, and installation and operating procedures for the system by the municipal water and wastewater utility pursuant to chapter 21.08, *Subdivision Standards*, and regulations promulgated thereunder.
  - vi. Final plats affecting land neither supplied, nor under subdivision agreement to be supplied, both with public water and public sewer, shall be submitted to the development services department 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. ~~When the final plat differs from the preliminary plat, the plat shall be considered a new application for preliminary plat approval under this subsection C., except that all decisions as to approval or denial of this plat by the platting board as submitted under this section shall be final unless appealed to superior court. 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~~

1 ~~prior to the regular platting board meeting at which he or she desires to~~  
2 ~~have his or her plat placed on the agenda for public hearing.~~

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

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

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

12 **c. Requirements for Final Plat**

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

16 **d. Subdivision Agreements and Cost Estimates**

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

22 **e. Notes, Restrictions, and Covenants**

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

33 **9. Approval Criteria**

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

38 **a.** Promotes the public health, safety, and welfare;

39 **b.** Mitigates the effects of incompatibilities between the land uses or residential  
40 densities in the subdivision and the land uses and residential densities in the  
41 surrounding neighborhood, including but not limited to visual, noise, traffic, and  
42 environmental effects;

43 **c.** Provides for the proper arrangement of streets in relation to existing or proposed  
44 streets;



- d. Provides for adequate and convenient open space;
- e. Provides for the efficient movement of vehicular and pedestrian traffic;
- f. Ensures adequate and properly placed utilities;
- g. Provides access for firefighting apparatus;
- h. Provides opportunities for recreation, light, and air, and avoids congestion;
- i. Facilitates the orderly and efficient layout and use of the land; ~~and~~
- j. **Does not create a split-zoned lot; and**
- k. Furthers the goals and policies of the comprehensive plan and conforms to the comprehensive plan in the manner required by section 21.01.080, *Comprehensive Plan*.

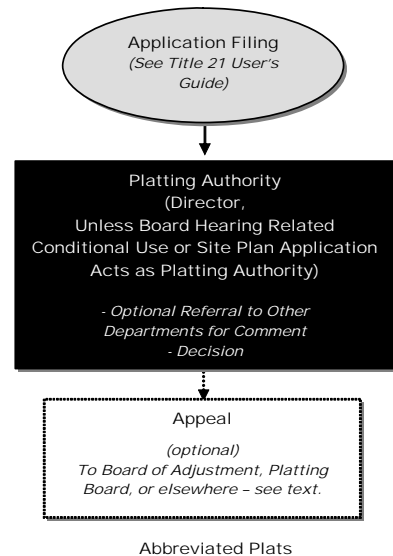
**D. Abbreviated Plat Procedure**

**1. Authorization**

Except for preliminary plats where the applicant is an agency of the municipal, state, or federal governments, the preliminary plats described in subsection B.2.b. above are subject to approval under the abbreviated procedure in this subsection instead of the procedure in subsection C. above. Preliminary plats described in B.2.b., where the applicant is an agency of the municipal, state, or federal governments, are subject to approval under the procedure in subsection C. above.

**2. Application Submittal Requirements**

**Applications for abbreviated plats shall contain all** All of the submittal requirements for preliminary plats that are listed in the title 21 user's guide shall be required for abbreviated plats, except that the director shall establish submittal requirements by regulation under AMC chapter 3.40 for plats depicting the vacation and any associated relocation of a public utility easement. **Applications shall be submitted to the director on a form provided by the department.**



**3. Public Notice**

Before acting on an **abbreviated preliminary** plat application under this section, the director shall **provide public notice in accordance with** pursuant to section 21.03.020H.

**4. Action on Plat**

**a. Platting Authority**

The director is the platting authority for abbreviated plats, except as provided in ~~section 21.03.080F. for conditional uses, section 21.03.190F. for site plans, and section 21.03.230 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.

1           **b.     Review and Decision**

2           The platting authority shall review each proposed subdivision in light of the  
3           approval criteria of subsection C.9. above and shall consult other municipal  
4           offices or agencies as necessary. Based on the results of that review, the  
5           platting authority shall act to approve, approve with conditions, or deny the plat.

6           **c.     Variances**

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

10          ii.       When acting as the platting authority under section 21.03.080F., *Platting*  
11          *for Conditional Uses*, or 21.03.180F., *Platting for Site Plans*, the board or  
12          commission hearing an application for conditional use or site plan  
13          approval may grant variances ~~from~~ to the provisions of chapter 21.08,  
14          *Subdivision Standards*, in accordance with section 21.03.240, *Variances*.

15          **d.     Duration of Preliminary Approval**

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

20          **e.     Time Extensions**

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

27          **f.     Appeals**

28          Decisions of the director under this section are final unless appealed within 15  
29          days;

30          ~~i.       To the board of adjustment under section 21.03.050A., where the~~  
31          ~~authority hearing an application for conditional use or site plan approval~~  
32          ~~is the platting authority under section 21.03.080F. for conditional uses, or~~  
33          ~~section 21.03.190F. for site plans.~~

34          To the platting board in all other cases, in which case the appeal shall be treated  
35          as an application for preliminary plat approval pursuant to subsection  
36          21.03.200C.

37          ~~An appeal under this subsection shall be treated as an original application for~~  
38          ~~preliminary plat approval under this section.~~

39          **g.     Approval of Final Plat**

40          A final plat submitted pursuant to the approval of an ~~abbreviated preliminary~~ plat  
41          under this section is subject to approval in accordance with subsection C.8.  
42          above, provided that the municipal surveyor may waive a field survey for a final  
43          plat that merely eliminates interior lot lines.

1 **E. Commercial Tract Plats**

2 **1. Applicability**

3 A commercial tract may be created and divided into fragment lots in order to facilitate  
4 construction of commercial developments requiring multiple phases of construction.  
5 Designation of commercial tracts shall be allowed only in the **B-3, RO, NMU, CMU, RMU,**  
6 **MT-1, MT-2, I-1, I-2, PCD, MC, and MI** ~~AG, NMU, CMU, RMU, IC, I-1, I-2, or M~~ zoning  
7 districts.

8 **2. Platting Authority**

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

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

13 ***Filing of Application***

14 **a. *Application Submittal Requirements***

15 **Applications for a commercial tract plat shall contain** ~~The applicant shall submit~~  
16 ~~the information materials~~ specified in the title 21 user's guide, **and shall be**  
17 **submitted to the director on a form provided by the department.** An application for  
18 approval of a commercial tract shall be signed by the owners of the property  
19 involved.

20 **b. *Action by Platting Authority***

21 **i.** The platting authority shall act upon the application for approval of a  
22 commercial tract whose site plan includes a large commercial  
23 establishment as part of the major site plan review for the large  
24 commercial establishment under subsection 21.03.180C.

25 **ii.** Except as provided in E.3.b.i. above, the platting authority shall act upon  
26 the application for commercial tract approval following the review and  
27 approval procedures of a preliminary plat in accordance with subsection  
28 21.03.200C.7.

29 **c. *Recording of Site Plan***

30 Upon approval of a commercial tract under subsection E.3.b. above, the **director**  
31 ~~platting officer~~ shall, after notice to the petitioner, record the commercial tract site  
32 plan as approved, together with any declarations, covenants, and restrictions,  
33 with the district recorder's office.

34 **d. *Conformance with Site Plan***

35 It shall be unlawful for any person to construct, erect, or maintain any structure,  
36 building, fence, or improvement, including landscaping, parking, and other  
37 facilities, on property designated as a commercial tract, unless such  
38 improvements are constructed or reconstructed in a manner consistent with the  
39 approved commercial tract site plan.

40 **e. *Alteration of Boundaries***

41 The process for amending or altering the boundaries of an approved commercial  
42 tract shall be the same process as that of the original approval of the commercial  
43 tract plat.

44 **f. *Amendment of Site Plan***

1 Any amendment or alteration of an approved commercial tract site plan shall be  
2 made only upon approval of the platting authority as provided in this section.

3 **4. Division of Tract**

4 The owner of a commercial tract may divide the tract into fragment lots provided that  
5 such division is ~~not inconsistent~~ with the approved commercial tract site plan and  
6 recorded declarations, covenants, and restrictions applicable to the commercial tract.  
7 Any property description used to divide an area of the commercial tract into a fragment lot  
8 shall not be considered a lot or tract under the terms of this title or title 23, but shall be  
9 otherwise a lawful lot or tract. Any fragment lot created under this section shall contain  
10 the minimum area, width, and depth otherwise required for lots in the zoning district in  
11 which the fragment lot is located.

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

13 **1. Generally**

14 A plat for a subdivision created by a government agency's acquisition of a street or trail  
15 right-of-way is subject to approval under this section and is not subject to any other  
16 approval procedure for plats under this title.

17 **2. Application Submittal Requirements**

18 ~~Applications for a~~ A right-of-way acquisition plat shall contain the information specified in  
19 the title 21 user's guide, and shall be submitted to the director on a form provided by the  
20 department.

21 **3. Applicability of Requirements**

22 ~~A right-of-way acquisition plat is not subject to any of the other submittal requirements for~~  
23 ~~plats under this title.~~

- 24 a. A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.
- 25 b. Survey requirements for a right-of-way acquisition plat shall be established by  
26 agreement between the municipal surveyor and the government agency applying  
27 for plat approval, or, if there is no such agreement, by the provisions of this title.

28 **4. Action**

29 **a. Platting Authority Board**

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

32 **b. Duration of Approval**

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

36 **c. Appeals**

37 All decisions of the director under this section shall be final unless appealed to  
38 the platting board within 15 days. An appeal under this subsection shall be  
39 treated as an n application for preliminary ~~subdivision~~ plat approval pursuant to  
40 section 21.03.200C.

1           **5. Requirements for Final Plat**

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

5           **G. Modification or Removal of Plat Notes**

6           **1. Purpose**

7           This section sets forth a process by which the platting board may modify or remove plat  
8           notes from recorded plats.

9           **2. Initiation**

10          Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of  
11          land encumbered by the plat note. If the applicable plat note encumbers more than one  
12          lot, the owners of all encumbered lots shall be a party to the application.

13          **3. Application**

14          Applications for modifying or removing a plat note(s) shall contain the information  
15          specified in the title 21 user's guide, and shall be submitted to the director on a form  
16          provided by the department.

17          **4. Public Notice**

18          Notice of all public hearings shall be provided in accordance with section 21.03.020H.

19          **5. Departmental Review**

20          The department shall review the proposed modification or removal of a plat note(s) in  
21          light of the approval criteria of subsection G.9. below and distribute to other reviewers as  
22          deemed necessary. Based on the results of those reviews, the department shall provide  
23          a report to the platting board.

24          **6. Action by the Platting Board**

25          The platting board shall hold a public hearing on the proposed application and act to  
26          approve, approve with alterations, or deny the proposed modification or removal of a plat  
27          note(s), based on the approval criteria of subsection G.9. below.

28          **7. Recordation**

29          Once approved by the platting board, a plat with modified or deleted plat notes shall be  
30          re-recorded in accordance with the procedures of the district recorder's office.

31          **8. Appeal**

32          Decisions on modifying or removing a plat note(s) may be appealed to the board of  
33          adjustment in accordance with subsection 21.03.050A.

34          **9. Approval Criteria**

35          Plat note modifications or deletions may be approved if the platting board finds that all of  
36          the following approval criteria have been met:

37           **a.**       Conditions that required the plat note(s) on the original plat have changed and  
38           the need for the plat note has been negated;

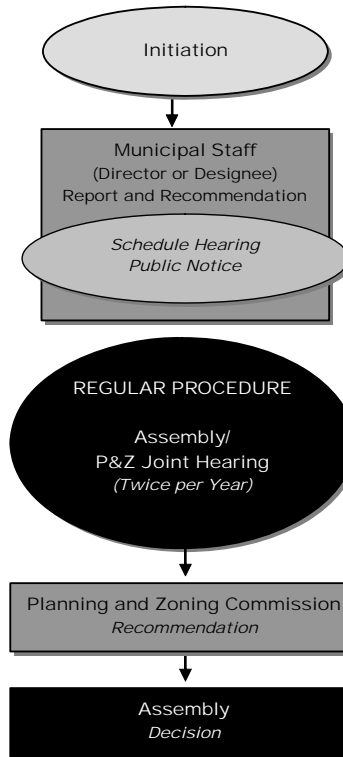
39           **b.**       Modification or removal of the plat note(s) will not have a negative impact on  
40           adjacent or nearby properties; and

c. Despite modification or removal of the plat note(s), the plat continues to meet the approval criteria of subsection 21.03.210C.9.

**21.03.210 TITLE 21 – TEXT AMENDMENTS**

**A. Purpose and Scope**

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



**ALTERNATIVE PROCEDURE**  
*(If public health, safety, or welfare necessitates)*

P&Z Hearing  
*(any regular meeting)*

Assembly Hearing  
*(any regular meeting)*

*P&Z submits written recommendation prior to Assembly decision*

**B. Procedure**

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

A petition for amendment to the text of this title may be initiated by any review or decision-making body.

**2. Application Submittal**

Petitions for text amendment shall be filed with the director in a form established by the director in the title 21 user's guide.

Amendments to Text of Title 21

**3. Departmental Director Review, Report, and Recommendation**

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

**4. Review by Other Boards or Commissions**

a. Any text amendments proposed that amend the powers and duties of any board or commission shall be reviewed by that board or commission, which shall forward a recommendation to the assembly.

b. In addition, if any text amendments are proposed in chapter 21.08, *Subdivision Standards*, the platting board shall review such proposed amendments and forward a recommendation to the planning and zoning commission and the assembly.

- 1           **5. Joint Public Hearing**  
2           **a.**       Written and published notice of public hearings on text amendments shall be  
3                   provided pursuant to the general notice provisions of section 21.03.020H.
- 4           **b.**       Text amendments shall be considered two times per year at a joint public hearing  
5                   of the planning and zoning commission and the assembly. However, where the  
6                   assembly determines by a majority vote that the public health, safety, or welfare  
7                   necessitates, text amendments may be considered at any regularly scheduled  
8                   meeting of the assembly, provided that the assembly holds a public hearing on  
9                   the proposed amendment and the planning and zoning commission holds a  
10                  public hearing and provides a written report and recommendation on the  
11                  proposed amendment prior to the assembly's decision.

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

- 24           **7. Assembly Action**  
25                   After reviewing the reports and recommendations of the director and the planning and  
26                   zoning commission, the assembly shall vote to approve, approve with amendments, or  
27                   deny the proposed amendment, based on the approval criteria of subsection C. below.  
28                   The assembly also may refer the proposed amendment back to the planning and zoning  
29                   commission or to a committee of the assembly for further consideration. Text  
30                   amendments shall be approved in the form of ordinances.

- 31           **C. Approval Criteria**  
32                   Text amendments may be approved if the assembly finds that all of the following approval criteria  
33                   have been met:
- 34           **1.**       The proposed amendment will promote the public health, safety, and general welfare;
- 35           **2.**       The proposed amendment is consistent with the comprehensive plan and the stated  
36                   purposes of this title; and
- 37           **3.**       The proposed amendment is necessary or desirable because of changing conditions,  
38                   new planning concepts, or other social or economic conditions.

- 39           **D. Successive Applications**  
40                   Following denial of a text amendment request, no new application for the same or substantially  
41                   the same amendment shall be accepted within one year of the date of denial. This provision may



1 be waived in an individual case, for good cause shown, by the affirmative vote of ~~two-thirds~~ ~~three-~~  
2 ~~fourths~~ of the members of the assembly.

### 3 **21.03.220 USE CLASSIFICATION REQUESTS**

#### 4 **A. Purpose and Applicability**

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

#### 12 **B. Procedures for Use Classification Request**

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

##### 14 1. **Application Submittal and Action Review**

15 An application for a use classification shall be submitted to the director on a form  
16 provided by the department. Within 30 days from the date a complete application is  
17 submitted, the director shall review the application according to the standards set forth in  
18 this section; consult with the municipal attorney and other staff, as necessary; and make  
19 a final determination as to whether the subject use shall be deemed to be within a use  
20 classification set forth in this title and whether such use shall be allowed in the applicable  
21 zoning district.

##### 22 2. **Appeals**

23 Appeals from the director's determination on a use classification request shall be made to  
24 the zoning board of examiners and appeals, pursuant to section 21.03.050B.

##### 25 3. **Form of Determination**

26 All final determinations by the director shall be provided to the applicant in writing and  
27 shall be filed in the official record of use classification determinations.

#### 28 **C. Standards for Review**

29 In evaluating a use classification request, the director shall consider whether the proposed use  
30 has an impact that is similar in nature, function, and duration to the other uses allowed in a  
31 specific zoning district. The director shall give due consideration to the intent of this title  
32 concerning the district(s) involved, the character of the uses specifically identified, and the  
33 character of the use(s) in question. The director shall assess all relevant characteristics of the  
34 proposed use, including but not limited to the following:

- 35 1. The primary activity of the establishment and its relationship to existing use categories  
36 and use types. The primary activity may be the principal product or group of products  
37 produced or distributed, or services rendered. It may be the share of production costs,  
38 capital investment, revenue, shipments, or employment, if evaluating the relative  
39 significance of multiple activities;
- 40 2. The volume and type of sales (retail or wholesale) on the premises, and the size and type  
41 of items sold and nature of inventory on the premises;

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

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

- 26          1.     **Typical Uses: Amendment to this Title**  
27                If the director finds that the particular use or category of use(s) that was the subject of the  
28                use classification request is likely to be common or to recur frequently, or that omission  
29                from this title is likely to lead to public uncertainty and confusion, the director shall initiate  
30                an amendment to this title under section 21.03.210, *Title 21-Text Amendments*. The  
31                determination of the director shall be binding on all officers and departments of the  
32                municipality.
- 33          2.     **Atypical Uses: Determination Binding**  
34                If the director finds that the particular use or category of use(s) that was the subject of the  
35                use classification request is of an unusual or transitory nature, or is unlikely to recur  
36                frequently, the director may approve the use without initiating an amendment to this title.  
37                However, the director's determination shall thereafter be binding on all officers and  
38                departments of the municipality.

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

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

5 **21.03.230 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS PLATS AND RIGHTS-**  
6 **OF-WAY**

7 **A. Authority**

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

13 **B. Application Required Submittals**

14 Applications Applicants for vacation requests shall contain submit the information materials  
15 specified in the title 21 user's guide, and shall be submitted to the director on a form provided by  
16 the department.

17 **C. Decision-Making Responsibilities for Vacations**

- 18 1. The director is the platting authority for applications to vacate the following platted  
19 interests:
- 20 a. Drainage easements granted under section 21.08.050M.
  - 21 b. Zero lot line maintenance easements.
  - 22 c. Public utility easements.
  - 23 d. Private easements, but only upon the written concurrence of the beneficiaries.
  - 24 e. Relocation of any of the above-described interests.
- 25 2. The platting board is the platting authority for all other applications to vacate a dedicated  
26 public area.

**D. Action**

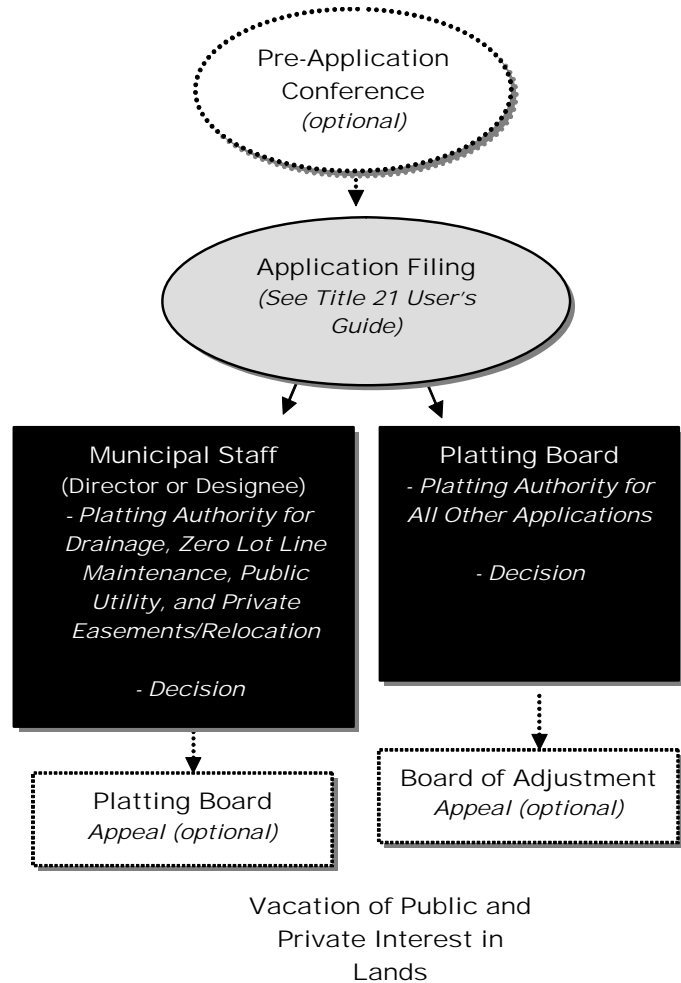
The director or platting board shall take action on the vacation application within 60 days after the submittal date. The reasons for the approval of the vacation shall be stated upon the case record.

~~1. 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.~~

~~2. 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.~~



**E. Approval Period**

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

**F. Appeals**

Appeals of the director's decision on a vacation under his or her jurisdiction shall be **treated as an application for preliminary plat approval pursuant to section 21.03.200C.** ~~to the platting board.~~ Appeals of the platting board's decision on a vacation under its jurisdiction shall be to the board of adjustment.

**G. Title to Vacated Area**

1. The title to the street or other public right-of-way vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that, if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street that lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square<sup>2</sup> is vacated, the title to it vests in the municipality.
2. If the municipality acquired the street or other public area vacated for legal consideration before the final act of vacation, the fair market value of the street or public area shall be deposited with the municipality. Title transferred under this subsection shall be warranted by the municipality in the same manner as it was received.
3. The provisions of paragraph G.1 of this section notwithstanding, the platting board may determine that all or a portion of the area vacated should be devoted to another public purpose and, if so, title to the area vacated and held for another public purpose does not vest as provided in paragraph G.1 but remains in the municipality.

**21.03.240 VARIANCES**

**A. Purpose and Scope**

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

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

1. The platting board shall be authorized to review and consider all requests for variances to standards of the following sections:
  - a. ~~set forth in c~~ Chapter 21.08, Subdivision Standards;
  - b. Subsection 21.07.020C., Steep Slope Development, and
  - c. Section 21.07.060, Transportation, Connectivity, and Pedestrian Facilities;
2. The planning and zoning commission shall be authorized to review and consider all requests for variances of standards of the following sections:
  - a. ~~relating to utility distribution facilities, which are set forth in s~~ Section 21.07.050, Utility Distribution Facilities; and
  - b. ~~variances of standards relating to telecommunication facilities, which are in s~~ Subsection 21.05.040K., Telecommunication Facilities.

3. Requests for variances from the airport height zoning regulations set forth in section 21.04.060C. shall be referred to the Federal Aviation Administration.

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

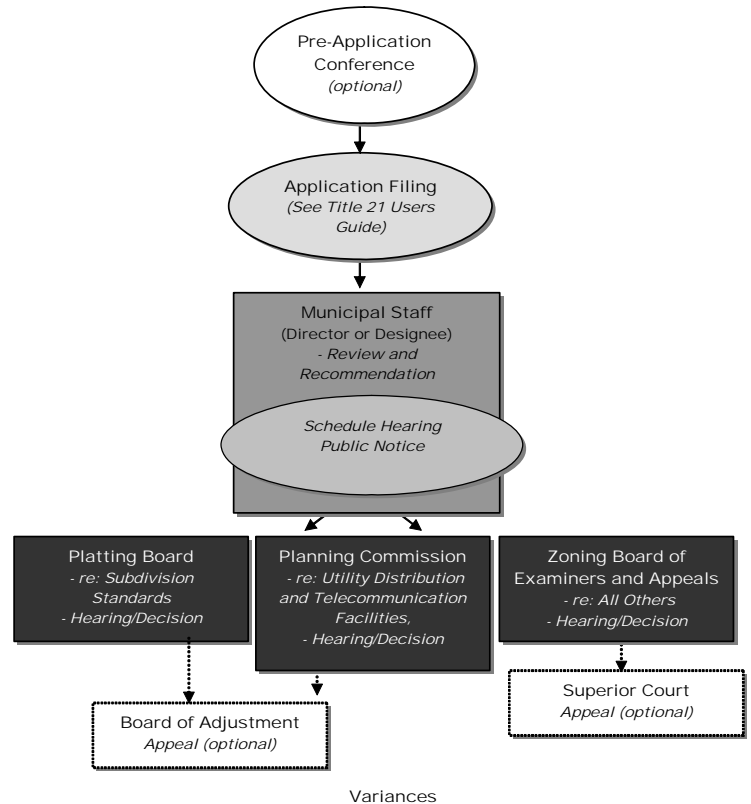
a. ~~set forth in Chapter 21.11, Signs; and~~

b. Section 21.07.080, Landscaping.

5. The zoning board of examiners and appeals shall be authorized to review and consider variance requests from all other provisions of this title. The zoning board may only grant variances from dimensional standards. No variance may be granted from the definitions set forth in chapter 21.14.

**C. Application Submittal**

Applications An application for a variance shall contain the information specified in the title 21 user's guide, and shall be submitted to the director secretary of the board on a form provided by the department contained in the user's guide, containing the materials specified in the user's guide.



**D. Public Notice**

Notice of all public hearings Written, published, and posted notice of the hearing shall be provided in accordance with pursuant to section 21.03.020H.

**E. Departmental Review**

The department shall review each proposed variance in light of the approval criteria of subsection G. below and distribute to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the decision-making body.

**F. Action by the Decision-Making Review Body**

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

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

17   **G.       Approval Criteria**

18           The application must state with particularity the relief sought and must specify the facts or  
19           circumstances that are alleged to show that the application **substantially** meets the following  
20           standards:

- 21          1.       **Variances from this Title Other than the Subdivision Regulations or Airport Height**  
22          **Zoning Regulations**
  - 23               a.       **There exist exceptional or extraordinary physical circumstances of the subject**  
24               **property including, but not limited to, streams, wetlands, or slope, and those**  
25               **circumstances** ~~Special conditions exist that are peculiar to the land involved and~~  
26               ~~that~~ are not applicable to other land in the same **zoning** district;
  
  - 27               b.       **Because of these physical circumstances, the strict application of the code**  
28               **creates an exceptional or undue hardship upon the property owner, and s**~~Strict~~  
29               interpretation of the provisions of the zoning ordinance ~~would~~ deprive the  
30               applicant of rights commonly enjoyed by other properties in the same district  
31               under the terms of the zoning ordinance;
  
  - 32               c.       **The hardship is not self-imposed, s**~~Special conditions and circumstances do not~~  
33               result from the actions of the applicant, and such conditions and circumstances  
34               do not merely constitute ~~pecuniary hardship or~~ inconvenience;
  
  - 35               d.       **The variance, if granted, has no adverse affect on the use of adjacent or nearby**  
36               **property;** ~~Granting the variance would be in harmony with the objectives of the~~  
37               zoning ordinance and not injurious to the neighborhood or otherwise detrimental  
38               to the public welfare;
  
  - 39               e.       **The variance, if granted, does not change the character of the zoning district**  
40               **where the property is located, is in keeping with the intent of the code, and**  
41               ~~G~~Granting the variance **does will** not permit a use ~~that is~~ not otherwise permitted  
42               in the district in which the property lies; ~~and~~



1 **f.** The variance, if granted, does not adversely affect the health, safety, and welfare  
2 of the people of the municipality; and

3 **g.** The variance granted is the minimum variance that will make possible a  
4 reasonable use of the land.

5 **2. Variances from Subdivision Regulations**

6 **a.** There are special circumstances or conditions affecting the property such that  
7 the strict application of the provisions of the subdivision regulations would clearly  
8 be impractical, unreasonable, or undesirable to the general public;

9 **b.** The granting of the specific variance will not be detrimental to the public welfare  
10 or injurious to other property in the area in which such property is situated;

11 **c.** Such variance will not have the effect of nullifying the intent and purpose of the  
12 subdivision regulations or the comprehensive plan of the municipality; and

13 **d.** Undue hardship would result from strict compliance with specific provisions or  
14 requirements of the subdivision regulations. The applicant may supplement the  
15 form with supporting documents.

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

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

19 ~~**4. Variance for Number of Parking Spaces**~~

20 ~~A variance for the number of parking spaces shall be granted on the basis of the~~  
21 ~~demonstrated need for parking and if the spillover of parking onto other properties will be~~  
22 ~~avoided.~~

23 **H. Lapse of Approval**

24 Any variance granted shall become null and void if:

25 **1.** The variance is not exercised within one year of the date it is granted, or

26 **2.** Any building, structure, or characteristic of use permitted by variance is moved or altered  
27 so as to enlarge the variance or discontinue it.

28 **I. Appeals**

29 **1.** An appeal from a decision of the platting board or the urban design commission shall be  
30 brought to the board of adjustment in accordance with sections 21.03.050A.

31 **2.** An appeal from a decision of the planning and zoning commission or the zoning board of  
32 examiners and appeals shall be brought in accordance with section 21.03.050C.

33 **J. Administrative Variances from Occupancy Limits For Assisted Living Facilities**

34 **1. Intent**

35 The intent of this section is to provide a procedure to allow persons with disabilities and  
36 assisted living providers to request reasonable accommodation from the department  
37 when access to decent safe, accessible and affordable housing with assisted living would  
38 not be available absent a reasonable accommodation. This administrative variance

1 procedure is available to address application for minor variance in dimensional and  
2 setback requirements to accommodate special needs of persons with disabilities and to  
3 address application for variance in occupancy limits of no more than three persons.

4 **2. Application**

5 Application for minor variance in dimensional and setback requirements to accommodate  
6 special needs of persons with disabilities and application for variance in occupancy limits  
7 of no more than three persons shall be made to the director on a form provided by the  
8 department, shall be executed by or on behalf of the person with disabilities seeking the  
9 reasonable accommodation, or the owner of the real property, or the lessee with proof of  
10 the owner's consent, and shall be complete in all respects prior to review under this  
11 section.

12 **3. Public Notice Of Application For Variance In Occupancy Limits**

13 Notice shall be provided in accordance with section 21.03.020H.

14 **4. Time for approval**

15 The department shall make a determination on an application within 60 days of submittal.  
16 Notification of approval or denial shall be posted electronically on the department's  
17 municipal web site and furnished in writing to the applicant by mail or delivered by  
18 electronic means.

19 **5. Standards.**

20 In deciding to approve or deny an application, the department shall review the application  
21 and written comments addressing factors relevant to the request for reasonable  
22 accommodation, including but not limited to, the extent to which the application  
23 demonstrates the following, as related to the particular request of the applicant:

24 **a.** For administrative variance applications to increase occupancy limits in R-1, R-  
25 1A, R-2A and R-2D districts, the extent to which the accommodation and the  
26 assisted living provider seek to protect and preserve the primarily residential  
27 character of the district. Factors may include traffic patterns, on-street parking  
28 patterns, the control exercised by the assisted living provider to mitigate  
29 environmental disturbance associated with ingress and egress of facility staff  
30 workers at shift change, and any other measures taken by the assisted living  
31 provider to ensure the commercial aspects of the facility do not detract from its  
32 residential purpose and the primarily residential character of the district. An  
33 example of a commercial aspect is if residential trash containers were standard  
34 in the neighborhood and the assisted living provider used one or more dumpsters  
35 due to volume. An example of a mitigation measure for this aspect the assisted  
36 living provider might take is to screen the dumpster.

37 **b.** For administrative variance applications to increase occupancy limits, economic  
38 hardship on the intended occupants if the variance is denied. Cost and  
39 availability of other housing alternatives may be addressed in preparation and  
40 review of the application.

41 **c.** Whether the requested accommodation and the assisted living provider are  
42 implementing accident prevention and safety measures specific to the needs of  
43 the residents, including but not limited to safety measures in state law and  
44 regulation, and in municipal fire code adopted under title 23.

1 d. Whether the accommodation requested is advancing housing opportunities for  
2 disabled individuals in a residential community without jeopardizing residential  
3 aspects of the neighborhood with commercial aspects of operation.

4 e. For administrative variance applications to increase occupancy limits, whether  
5 the proposed size of the facility is necessary for the facility's financial viability.

6 f. External characteristics and impacts of the proposed facility, including without  
7 limitation appearance, projected contribution to traffic volumes and on-street  
8 parking within the neighborhood, available street lighting and sidewalks.

9 g. Quantifiable risks to the health, safety, and quality of life of area residents and  
10 users.

11 h. Administrative and economic burden on the municipality, in either approval or  
12 denial of the variance.

13 i. Other factors deemed relevant to the applicant or the department in review of the  
14 application.

15 **6. Conditions**

16 In approving a variance, the department may impose reasonable conditions designed to  
17 address the standards in subsection J.5. or mitigate impacts created by the variance.

18 **7. Appeal**

19 All decisions of the department under this section shall be final unless an appeal is filed  
20 in a timely manner. Appeals of the decision to approve or deny a variance under this  
21 section shall be to the zoning board of examiners and appeals, pursuant to the provisions  
22 of subsection 21.03.050B., except an appeal may be brought by any person with  
23 standing to request reasonable accommodation under the Fair Housing Act, 42 U.S.C. §  
24 3604(f).

25 **21.03.250 VERIFICATION OF NONCONFORMING STATUS**

26 **A. Process**

27 Owners of lots, uses, or structures, or characteristics of use that may not conform to the  
28 requirements of this title may request a verification of nonconforming status by filing an  
29 application with the director in accordance with this section. Owners of signs that do not conform  
30 to the requirements of this title shall comply with section 21.12.070, *Nonconforming Signs*.

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

37 2. If any nonconformities are verified, a verification of nonconforming status shall be  
38 recorded with the district recorder's office clearly identifying the land by parcel number  
39 and/or a legal description of the property. Such verifications shall run with the land, and  
40 their status shall not be affected by changes of tenancy, ownership, or management.

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

3     **B.     Exceptions**

4           Notwithstanding subsection A. above:

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

9           2.     Nothing in this section shall be construed to deprive the director the right to make a  
10                    decision regarding a claimed nonconforming use or status as incident to a valid pending  
11                    application for a land use permit, ~~or to reject an application for decision as provided for by~~  
12                    ~~section 21.03.100., *Land Use Permits*.~~

13     **C.     Appeals**

14           Denial of the director's decision on nonconforming status may be appealed to the zoning board of  
15           examiners and appeals pursuant to subsection 21.03.050B.

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<sup>1</sup> 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.~~

<sup>2</sup> PRD#2 NOTE: This provision is in state law. There is no definition of "public square" in state law.