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CHAPTER 21.03: REVIEW AND APPROVAL PROCEDURES¹

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 of Anchorage. Common procedures, which are applicable to all or most types of development applications, are set forth in ~~Section~~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~~section 21.03.020 shall apply to all applications for development activity under this ~~Title~~title unless otherwise stated.

B. Pre-Application Conferences

1. Purpose

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

2. Applicability

a. *Required for New Applications*

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

- i. Rezoning (Map Amendments) (~~see Section~~section 21.03.050);
- ~~ii. Conditional Uses (see Section 21.03.070);~~
- ii. Subdivisions and Plats (~~see Section, except for Abbreviated Plats (section~~section 21.03.060);
- iii. ~~Conditional Uses (section 21.03.070);~~
- iv. Major Site Plan Review (~~see Section~~section 21.03.080C);
- v. Public Facility Site Selection (~~including schools~~) (~~see Section~~section 21.03.090); ~~and~~
- ~~vi. Projects involving Class A or B wetlands (see Section);~~
~~and~~
- vi. ~~Variances (see Section 21.03.200).~~

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~~shall 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.

b. *Exception for Some Changes to Already-Approved Applications*²

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

i. For non-residential development, the proposed increase in building square footage is less than 5025 percent of the existing building square footage.³

ii. For residential development, the proposed increase in the number of units or lots is not more than 5025 percent of the existing number of units or lots.

c. *Optional for All Other Applications*

A pre-application conference is optional prior to submission of any other application under this Title not listed in paragraph subsection a. above.

d. *Waiver*⁴

The Director may waive the pre-application requirement if the Director finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver. The waiver shall be made in writing and shall become a part of the case record for the application.

3. *Initiation of Pre-Application Conference*

The potential applicant shall request a pre-application conference, in the manner prescribed in the Title 21-User's Guide, with the Director.^{4, 5} Prior to the pre-application conference, the applicant shall provide to the Director a description of the character, location, and magnitude of the proposed development and any other supporting documents such as maps, drawings, models, and the type of development permit sought. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal to enable staff to make the informal recommendations discussed below.

4. *Pre-Application Conference Content*⁶

The Director shall schedule a pre-application conference after receipt of a proper request. At the conference, the applicant, the Director ~~or designee~~, and any other persons the Director deems appropriate and available to attend shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this Title, the parties should discuss in general the proposed development and the applicable requirements and standards of this Title.

⁴ ~~NOTE: The term "Director" is used throughout this draft to denote the Planning Director or designee. This will be clearly defined in the code. We recommend keeping this term generic to prevent any future changes (in delegation) from requiring a text amendment to this Title.~~

5. **Report of Checklist Of Pre-Application Conference²⁷**

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

- a. Applicability of Municipality policies, plans, and requirements as they apply to the proposed development.
- b. Appropriateness of the development with respect to the policies set forth in the comprehensive plan and the regulations in this ~~Title~~title.
- c. Need, if any, to prepare a subdivision plat.
- d. Any site plan considerations or requirements.
- e. Any concerns or requirements related to the anticipated impact upon public rights-of-way and public improvements, and appropriate requirements to mitigate those impacts, including but not limited to traffic impact assessments.
- f. Any concerns related to neighborhood impacts, land use, landscaping concepts, and overall project design.
- g. Possible alternatives or modifications related to the proposed application.
- h. Procedures that will need to be completed to review and approveact on the proposed change.

6. **Informal Recommendations Not Binding**

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

7. **Application Required Within Six Months**

After a pre-application conference has been completed, an application must be completedsubmitted within six months. If, unless one extension is granted by the Director not to exceed an additional six months. If a complete application is not ~~filed~~submitted within six months, or an extension has not been granted, a new pre-application conference shall be required prior to ~~filings~~submitting an application.

² ~~NOTE: Drafting a written summary of the recommendations that come out of the pre-application conference would be the best way to establish a paper trail for the application, and would provide a good tool for staff to later use to track compliance with staff recommendations. However, staff resources in Anchorage may not be sufficient to fully implement the text as written. An alternative approach would be to redraft the list of topics in this section as "items to be discussed," rather than as items that must be reported on, and not require a formal written report. The disadvantage of this approach would be increased difficulty in tracking the impacts of the meeting on later stages of the project, especially if there is staff turnover.~~

1 **C. Authority to File Applications**

- 2 1. Unless otherwise specified in this ~~Title~~title, applications for review and
3 approval may be initiated by:
- 4 a. The owner of the property that is the subject of the application;
- 5 b. The owner’s authorized agent; or
- 6 c. Any review or decision-making body.
- 7 2. When an authorized agent files an application under this ~~Title~~title on behalf of
8 a property owner, the agent shall provide the Municipality with written
9 documentation that the owner of the property has authorized the filing of the
10 application.
- 11 3. When a review or decision-making body initiates action under this ~~Title~~title, it
12 does so without prejudice toward the outcome.

13 **D. Application Contents, Submission Schedule, and Fees**

14 ~~1. **Form of Application**~~
15 ~~Applications required under this Chapter shall be submitted in a form and in~~
16 ~~such number as required by the Director.~~

17 ~~2. **Processing Fees**~~
18 ~~Applications shall be accompanied by the fee amount that is listed in the~~
19 ~~User’s Guide.~~

20 1. **Title 21 User’s Guide**
21 The Mayor shall compile the requirements for application contents, forms,
22 fees, and the submission and review schedule (including recommended time
23 frames for review) in a User’s Guide, which shall be made available to the
24 public. The Mayor may amend and update the User’s Guide from time to
25 time, upon recommendation of the Director.

26 2. **Form of Application**
27 Applications required under this chapter shall be submitted in a form and in
28 such number as required in the User’s Guide.

29 3. **Processing Fees**
30 Applications shall be accompanied by the fee amount that is listed in the
31 User’s Guide.

32 4. **Waivers**
33 The Director may waive certain submittal requirements in order to reduce the
34 burden on the applicant and to tailor the requirements to the information
35 necessary to review a particular application. The Director may waive such
36 ~~requirement~~requirements where he or she finds that the projected size,
37 complexity, anticipated impacts, or other factors associated with the proposed
38 development clearly, in his or her opinion, support such waiver.

E. Verification of Application Completeness³⁸

1. The Director shall only initiate the review and processing of an application if such application is complete. The Director shall make a determination of application completeness within 15 days of application filing^{4, 9}. If the application is determined to be complete, the application shall then be processed according to this Titletitle. If an application is determined to be incomplete, the Director shall provide notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a future re-submittal. If the applicant receives no notice within 4520 days, the application shall be considered complete and processed according to this Titletitle.
2. An application ~~will~~ shall be considered complete if it is submitted in the required form, includes all mandatory information, including all supporting materials specified in the Title 21 User's Guide, and is accompanied by the applicable fee. A pre-application conference shall have been held, if required, pursuant to Sectionsection 21.03.020.B, *Pre-Application Conferences*.
3. Any supplemental technical reports ~~and~~, special studies~~, and/or revised application materials~~ that are submitted following the original application must be received at least thirty days prior to a public hearing. The Municipality may postpone and reschedule a public hearing or approval deadline if such reports and studies are submitted ~~in~~ less than thirty days prior to a public hearing. ~~Written notice of receipt of such additional materials shall be provided to all parties that received written notice of, unless the original application applicable board or commission waives this time limit in a specific case for cause.~~ Copies of such additional materials shall be delivered to all reviewers who received the original application packet~~.¹⁰~~
4. As a consequence for any false or misleading information submitted or supplied by an applicant on an application, that application will be deemed incomplete.

F. Community Meetings⁵¹¹

1. **Purpose**
The purpose of a community meeting shall be to provide an informal opportunity to inform the affected ~~community-neighborhood(s)~~ and community council(s) of the details of a proposed development and application, how the developer intends to meet the standards contained in this Titletitle, and to receive public comment and encourage dialogue at an early time in the review process.

³ ~~NOTE: The Diagnosis and Outline talked about the need to establish clear threshold criteria for Traffic Impact Assessments in the code. These criteria will be relevant in this section, since projects that require TIAs will not be considered complete unless such assessments are submitted. However, we recommend that the criteria themselves be included in 21.07, Development and Design Standards. We will work with staff to develop a clear set of the threshold criteria that are being applied.~~

⁴ ~~NOTE: We strongly urge the inclusion of a time limit on application completeness decisions, to ensure that applications don't get bogged down too early in the process.~~

⁵ ~~NOTE: As discussed in the Diagnosis and Outline, this is a suggested new mechanism to encourage or require developers to meet with affected property owners prior to developing large new projects. The draft is intended to take advantage of the existing set of community councils.~~

2. **Applicability**⁶¹²

a. **Types of Applications**

A community meeting shall be required ~~in conjunction with following~~ the submittal of any of the following types of applications, unless a waiver is granted by the Director ~~determines that a neighborhood meeting is not necessary because of the nature of the proposal and its potential impacts pursuant to subsection b. below.~~

i. Rezoning;

~~b. **Subdivisions (not including abbreviated plats);**~~

~~c. **Conditional Uses (over certain size threshold, and/or adjacent to existing residential development?);**~~

~~d. **Public Facility Site Selection (including schools); and**~~

~~e. **Major Site Plan Review.**~~

~~3. **Determination**~~

~~The Director shall make a determination of the applicability of this Section to a development proposal at the pre-application conference, and a tentative schedule for completion of the community meeting shall be negotiated with the applicant at the pre-application conference. For applications for which pre-application conferences are not mandatory, the Director shall make a determination of applicability of this Section at the same time that the application is reviewed for completeness pursuant to Section 21.03.020E. above.~~

~~4. **Criteria**~~

~~A community meeting shall be required if the Director determines that a proposed development or subdivision may have significant community impacts, including without limitation impacts related to traffic; provision of public services such as safety, schools, or parks; compatibility of building design or scale; or operational compatibility such as hours of operation, noise, litter, or glare.~~

ii. Subdivisions and Plats, except for Abbreviated Plats (section 21.03.060);

iii. Conditional Uses;

iv. Major Site Plan Review; and

v. Public Facility Site Selection (including schools).

b. **Waiver**

~~⁶ NOTE: If this provision is considered too strict, an alternative would be to make all community meetings optional. Also, as discussed, the choice to go through an optional community meeting could be used to provide some type of incentive to a developer. We recommend continuing consideration of this throughout the drafting process—it will not be clear whether this might be an appropriate incentive for higher development standards, for example, until after there is a draft of the development standards chapter.~~

1 The Director may waive the community meeting requirement if he or
2 she determines that the proposed development or subdivision will not
3 have significant community impacts in any of the areas listed below.
4 The waiver shall be in writing and shall be included as part of the
5 case record.

- 6 i. Traffic;
- 7 ii. Impacts upon natural resources protected under chapter
8 21.07 of this code;
- 9 iii. Provision of public services such as safety, schools, or parks;
- 10 iv. Compatibility of building design or scale; or
- 11 v. Operational compatibility, such as lighting, hours of operation,
12 odors, noise, litter, or glare.

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

14 a. When required, there shall be at least one community meeting ~~that~~
15 ~~shall be held after held prior to preparation of the pre-application~~
16 ~~conference but before submittal of staff report and/or~~
17 ~~recommendation, if required; and at least 14 days prior to any public~~
18 ~~hearing.~~

19 ~~a.~~**If more than one community council has boundaries within**
20 ~~or adjacent to a formal application to proposed~~
21 ~~development subject to this section, the Director, unless~~
22 ~~the latter requirement is waived by the Director.~~

23 b. ~~When an application already has been submitted at the time that the~~
24 ~~Director determines that a community meeting is required, there shall~~
25 ~~be at least one community meeting held prior to any administrative~~
26 ~~action on the application, a minimum of [14?] days prior to the first~~
27 ~~public hearing on the application shall require that representatives~~
28 ~~from all affected councils be notified.~~

29 c. The Director may also require that additional ~~pre-application or post-~~
30 ~~application~~ community meetings ~~take place~~occur based on
31 consideration of the proposed development's mix of uses, density,
32 complexity, potential for impacts, or the need for off-site public
33 improvements created by the development.

34 **4. Notice of Community Meeting**

35 The applicant shall give written notice of the community meeting to the
36 affected community council(s) at least ~~—[21?] days~~ prior to the community
37 meeting, pursuant to the general notice provisions of ~~Section~~section
38 21.03.020.G ~~below.~~

39 **5. Attendance at Community Meeting**

40 a. If a community meeting is required, the applicant or applicant's
41 representative shall attend the community meeting. The applicant
42 shall be responsible for scheduling the community meeting,

1 coordinating the community meeting, and for retaining an
2 independent facilitator if needed.

3 b. The Director may choose to have a staff member attend the meeting;
4 ~~if in order to provide guidance on applicable municipal requirements.~~
5 ~~If so, that the Director shall be indicated at the pre-advise the~~
6 ~~applicant of such decision in writing within seven days of making a~~
7 ~~determination of application meeting completeness.~~ If a staff member
8 is directed to attend, the applicant shall be responsible for scheduling
9 the meeting at a time when the staff member can attend ~~and for~~
10 ~~submitting the additional fee required for staff attendance at the~~
11 ~~meeting.~~^{7, 13}

12 c. All community meetings shall be convened at a place in the vicinity of
13 the proposed development.

14 **6. Summary of Community Meeting**

15 The applicant shall prepare a written summary of the community meeting(s),
16 which shall be submitted to the Director no later than seven days after the
17 date of the meeting. ~~As applicable, the~~The written summary shall be included
18 in the Director/staff report provided to the decision-making body at the time of
19 the first public hearing to consider the application. At a minimum, the written
20 summary shall include the following information:

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

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

25 c. The number of people that participated in the meetings;

26 d. A summary of concerns, issues, and problems expressed during the
27 meetings, including:

28 i. The substance of the concerns, issues, and problems;

29 ii. How the applicant has addressed or intends to address
30 concerns, issues, and problems expressed at the meetings;
31 and

32 iii. Concerns, issues, and problems the applicant is unwilling or
33 unable to address and why.

~~⁷ NOTE: We heard many comments suggesting that a staff member should be present at the community meeting, not only to provide a neutral third party account of the meeting, but also to provide information as the exact legal requirements to which the proposed development will be subject.~~

1 **G. Notice**⁸¹⁴

2 **1. Content of Notices**

3 Notice of all public hearings required under this ~~Chapter~~chapter shall, unless
4 otherwise specified in this ~~Title: (1) identify title:~~

- 5 a. Identify the date, time, and place of the public hearing, ~~(2) if:~~
- 6 b. If applicable, describe the property involved in the application by
7 street address or by legal description and nearest cross street; ~~(3)~~
8 describe
- 9 c. Describe the nature, scope, and purpose of the proposed action; ~~(4)~~
10 indicate
- 11 d. Indicate that interested parties may appear at the hearing and speak
12 on the matter; and ~~(5) indicate~~
- 13 e. Indicate where additional information on the matter may be obtained.

14 **2. Summary of Notice Requirements**⁹¹⁵

15 The following Table 21.03-1 summarizes the notice requirements of the
16 procedures set forth in this ~~Chapter~~chapter.

⁸ ~~NOTE: This section essentially reorganizes the current Section 21.15.005, Notice, into new categories. "Constructive notice" is a recommended new section.~~

⁹ ~~NOTE: We will need to continually update this table throughout the drafting process.~~

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TABLE 21.03-1: <u>SUMMARY OF</u> NOTICE REQUIREMENTS				
Type of Application or Procedure	Section	Notice Required		
		Mailed	Published	Posted
Amendments to the Comprehensive Plan, Substantive	21.03.030.B	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Amendments to the Comprehensive Plan, Cosmetic	21.03.030.C	-	-	-
Amendments to Text of Title 21	21.03.040	-	<input checked="" type="checkbox"/>	-
Rezoning (Map Amendments)	21.03.050	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Subdivisions (with existing physical access)	21.03.060	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subdivisions (without existing physical access)	21.03.060	<input type="checkbox"/>	<input type="checkbox"/>	-
Abbreviated Plats	21.03.060.D	-	<input type="checkbox"/>	-
Conditional Uses	21.03.070	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Administrative</u> Site Plan Review	21.03.080. <u>B</u>	-	-	-
<u>Public Facility</u> <u>Major</u> Site <u>Selection and</u> <u>Site Plan</u> Review	21.03. 09008 <u>0.C</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special Flood Hazard Permits <u>Public Facility</u> Site Selection	21.03.10009 0	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special Flood Hazard Permits	21.03.100	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Land Use Permits	21.03.110	-	-	-
Certificates of Zoning Compliance	21.03.120	-	-	-
Sign Permits	21.03.130	-	-	-
Temporary Uses	21.03.140	-	-	-
Record of Survey Maps	21.03.150	-	-	-
Vacation of Plats and Rights-of-Way	21.03.160	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Name Alterations	21.03.170	<input type="checkbox"/>	<input checked="" type="checkbox"/>	-
<u>Certification</u> <u>Verification</u> of Nonconforming <u>Use</u> <u>Status</u>	21.03.180	-	-	-
Minor Modifications	21.03.190	-	-	-
Variances	21.03.200	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Appeals to Board of Adjustment	21.03.210.A	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	-
Appeals to <u>Zoning</u> <u>BOE</u> <u>ZBEA</u>	21.03.210.B	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	-

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3. Published Notice

When ~~subsection 2. above~~ Table 21.03-1 requires that notice be published, the Director shall cause a notice to be published in a newspaper having general circulation ~~of at least (20,000 persons?) in the area.~~⁴⁰ The notice shall be published at least 21 days before the scheduled hearing date. In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.

4. Written (Mailed) Notice

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

a. Property Owners of Subject Property

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

b. Adjacent Property Owners

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

c. Community Councils

Any officially recognized community council whose ~~boundaries~~ boundary includes land described in paragraph a. of this subsection, and any additional such council whose boundaries lie within 1,000 feet of any part of the subject property.^{44 16} Furthermore, the ~~Planning~~ Department shall provide notice to additional community councils in the following instances:⁴²

- i. Each recognized community council within the Municipality shall receive written notice where the subject parcel is one of the following regional public lands or facilities: a public airport; a designated regional or urban park; or a public school or public university with areawide attendance.

⁴⁰ ~~NOTE: We heard comments that the requirement for "general circulation" needs to be tightened, since the current publications are being done in a publication with little visibility.~~

⁴⁴ ~~NOTE: This is a suggested expansion of the current provision, which keeps the community council notification boundary the same as for individual landowners. The Assembly is expected to take action in July on proposed community council redistricting ordinance AO 2003-75, which includes a similar measure.~~

⁴² ~~The Assembly is anticipated to take action on the proposed community council redistricting ordinance AO 2003-75 in July 2003. The ordinance includes provisions for notifying additional community councils in the following three instances.~~

1 that notice of a public hearing was given as required by this
2 Sectionsubsection.

3 **H. Concurrent Processing**

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

- 11 1. Examples of concurrent filing and processing of applications include, but are
12 not limited to:
- 13 a. A site plan along with a conditional use;
 - 14 b. A subdivision plan along with a site plan or variance or vacation;
 - 15 c. A variance along with a conditional use or site plan.
- 16 2. Some forms of approval depend on the applicant having previously received
17 another form of approval, or require the applicant to take particular action
18 within some time period following the approval in order to avoid having the
19 approval lapse. Therefore, even though this Titletitle intends to accommodate
20 simultaneous processing, applicants should note that each of the permits and
21 approvals set forth in this Titletitle has its own timing and review sequence.
- 22 3. The expected time frame and approval process for a consolidated application
23 shall follow the longest time frame and approval process required from among
24 the joined application types.

25 **I. ~~Public Hearings~~**

26 ~~[RESERVED]¹⁴~~

27 **I. Findings of Fact¹⁵¹⁸**

28 Unless otherwise specified, every decision made under this Chapterchapter shall be
29 based upon written findings of fact, and every finding of fact shall be supported in the
30 record of the proceedings. The approval criteria required to exist on any matter upon
31 which a board or commission is required to act under this Chapterchapter are
32 limitations on the power of the Boardboard or commission to act. A mere finding or

~~¹⁴ NOTE: We have removed all the public hearing procedures from the Resolutions into a separate new file. There are many inconsistencies among the hearing procedures used by the different bodies. We will be submitting to staff shortly a summary table outlining these inconsistencies. Once we do so, we'll need to work with staff to determine (1) whether a consolidated set of procedures should be developed for all bodies, and (2) whether the procedures (in current form or consolidated) should be put into Title 21 here, or rather there should just be a cross-reference here to an external document, like the User's Guide.~~

~~¹⁵ NOTE: This is a strong new provision. If the Municipality is uncomfortable applying it across the Board to all types of provisions, then an alternative approach could be to apply it just to rezonings. One of the benefits of this provision, if it is strictly followed and enforced, should be more written documentation for rezonings, or perhaps fewer rezonings.~~

1 recitation of the approval criteria unaccompanied by findings of specific facts shall not
2 be deemed findings of fact and shall not be deemed compliance with this Title.title.

3 **J. Conditions of Approval¹⁶**

4 Some procedures set forth in this Title.title authorize the decision-making body to
5 impose such conditions upon the premises benefited by the approval as may be
6 necessary to reduce or minimize any potential adverse impact upon other property in
7 the area, or to carry out the general purpose and intent of the comprehensive plan
8 and this Title.title. In such cases, any conditions attached to approvals shall be
9 directly related to the impacts of the proposed use or development and shall be
10 roughly proportional in both extent and amount to the anticipated impacts of the
11 proposed use or development. No conditions of approval, except for those attached
12 to variance approvals, shall be less restrictive than the requirements of this Title.title or
13 applicable Special Limitations zoning.

14 ~~**L. Effect of Inaction on Applications¹⁷**~~

15 ~~When a review or decision-making body fails to take action on an application within~~
16 ~~the time required (which varies by type of application), such inaction shall be deemed~~
17 ~~a denial of the application, unless the decision-making body agrees to an extension of~~
18 ~~the time framespecial limitations.~~

19 **K. Lapse of Approval**

20 The lapse of approval time frames established by the procedures of this Title.title may
21 be extended only when all of the following conditions exist:

- 22 1. The provisions of this Title.title must expressly allow the extension;
- 23 2. An extension request must be filed prior to the applicable lapse-of-approval
24 deadline;
- 25 3. The extension request must be in writing and include justification; and
- 26 4. Unless otherwise noted, authority to grant extensions of time shall rest with
27 the decision-making body that granted the original approval (the one being
28 extended).

29 **21.03.030 COMPREHENSIVE PLAN AMENDMENTS¹⁸¹⁹**

30 **A. Levels of Plan Review**

31 The ~~comprehensive plan~~Comprehensive Plan should be reviewed and reassessed
32 regularly in order to evaluate its effectiveness and adequacy in guiding the growth of

¹⁶ ~~NOTE: Additional research necessary to determine if there is are any Alaska statutes or case law to be reflected in this section.~~

¹⁷ ~~NOTE: Our strong recommendation is that inaction on a decision means denial. However, we understand that this would reverse a longstanding policy in Anchorage that inaction means approval. Further discussion needed with the Municipal Attorney's office and elected officials.~~

¹⁸ ~~NOTE: The current Title 21 contains only limited references to how the Comprehensive Plan should be updated or modified— primarily in 21.05.040, "Procedure for modification." This recommended new section contains more complete procedures for both substantive and non-substantive, "cosmetic" amendments. Many jurisdictions in which we have worked have found it useful to distinguish between the two.~~

1 the Municipality and to determine whether or not the Plan-plan continues to meet the
2 long-term planning needs of the Municipality. Because this review need not
3 necessarily result in the complete revision of the plan, several levels of review are
4 contemplated in this Section-section.

5 **1. ~~Comprehensive~~Complete Plan Revision (20-year Intervals)**

6 The ~~plan~~Director shall ~~be reviewed~~initiate a full review and ~~comprehensively~~
7 ~~revised~~complete revision of the Comprehensive Plan at least once every 20
8 years, preferably following the decennial census.

9 ~~The Director shall initiate this review, assisted as necessary by the directors~~
10 ~~of other departments.~~ As part of this review, the Director shall provide the
11 Planning and Zoning Commission with an overall assessment of the
12 adequacy and effectiveness of the existing Planplan, including identification of
13 new issues not adequately addressed ~~by the Plan~~, issues which require
14 further study and investigation, and suggested improvements. The Planning
15 and Zoning Commission shall consider the staff assessment and shall
16 recommend amendments or issues that the Commission feels should be
17 pursued or investigated. ~~The Commission shall then forward their~~
18 ~~recommendations, along with the staff report, to the Assembly for~~
19 ~~consideration.~~Any amendments shall follow the procedures of subsections B.
20 and C. below.

21 **2. ~~The Assembly shall consider the recommendations of the Planning and~~**
22 **~~Zoning Commission and the staff report and shall determine whether~~**
23 **~~issues exist that merit further investigation or an amendment to the~~**
24 **~~plan. The Director shall then initiate the investigation of any issues or~~**
25 **~~amendments as requested by the Assembly.~~Targeted Plan Review (5-**
26 **year Intervals)**

27 **a.** ~~The Director shall initiate a targeted review of the plan at least once~~
28 ~~every five years, or at the time of an area-wide rezoning, in order to~~
29 ~~make it consistent with economic and demographic trends, recent~~
30 ~~and proposed land use decisions, and adopted studies and plans.~~
31 Any amendments shall ~~be initiated in accordance with the provisions~~
32 ~~of subsections B. and C. below.~~

33 **2. ~~Plan~~Reevaluation**

34 A ~~reevaluation~~follow the procedures of the major trends and policies of the
35 comprehensive plan shall occur ten years from the time of its initial adoption.
36 If major deviations from those trends anticipated in the initial plan are not
37 identified, a complete revision of the plan is not required. If major deviations
38 are noted in this reevaluation, a revision of the plan is warranted and shall
39 follow the process identified in paragraph 1. above.

40 **3. ~~Plan~~Review**

41 The plan should be reviewed once every five years, or at the time of an area-
42 wide rezoning, in order to make it consistent with economic and demographic
43 trends, recent and proposed land use decisions, and adopted studies and
44 plans. ~~Necessary revisions shall follow the processes identified in~~
45 ~~paragraphs~~subsections B. and C. below.

3. **Other Plan Amendments**
 In addition to the regularly scheduled ~~amendments reviews~~ described ~~in paragraphs 1, through 3.~~ above, ~~any review or decision-making body, or the comprehensive plan director of any municipal department, or any citizen~~ may be amended propose a plan amendment at any time to reflect changing circumstances. ~~All such proposals shall be processed~~ in accordance with the procedures ~~set forth in subsection~~ in subsections B. and C. below.

B. **Procedure for Substantive Amendments**

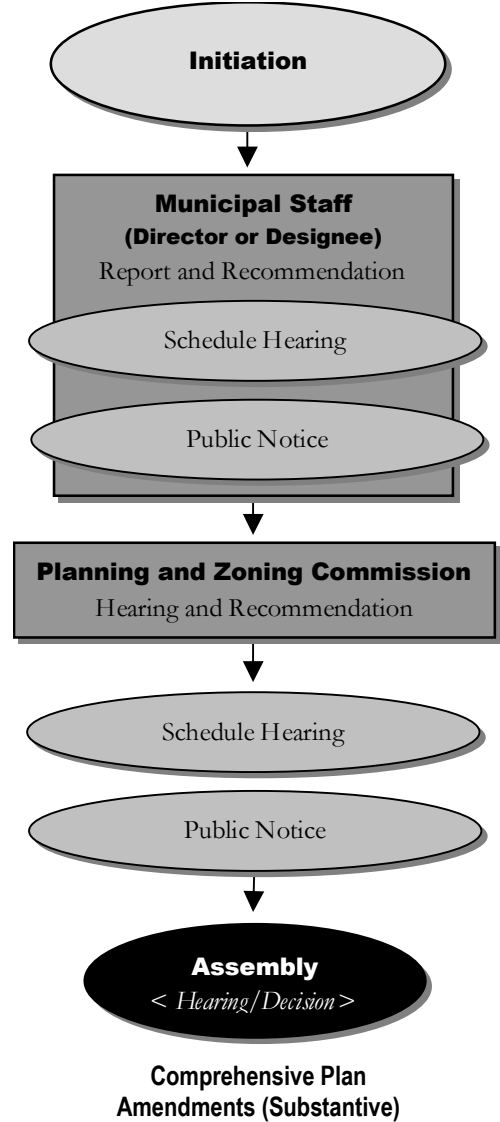
1. **Procedure**

a. ***Initiation; Determination by Commission***

i. ~~The Director of any municipal department may propose a substantive amendment at any time.~~

i. ~~Any review or decision-making body may request that the Planning Director investigate and evaluate a specific substantive amendment proposal. The Director shall submit proposals for substantive amendments to the Comprehensive Plan shall be submitted to the Director. The Director shall, within a reasonable time, submit a report and recommendation to the Assembly Planning and Zoning Commission regarding whether or not the proposed substantive amendment should be reviewed by the Assembly and the Planning and Zoning Commission. Upon receiving the report and recommendation of the Director, the Assembly will Commission shall, by majority vote, determine whether or not to proceed and review the proposed amendment.~~

ii. A proposal for a substantive amendment may be submitted concurrently with a rezoning request that conflicts with the



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~~comprehensive plan~~
 Comprehensive Plan,
 under subsection 3. below.

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 the hearings shall be provided ~~and the hearings shall be conducted~~ in accordance with ~~the general provisions of Sections~~ sections 21.03.020.G and 21.03.020.I.

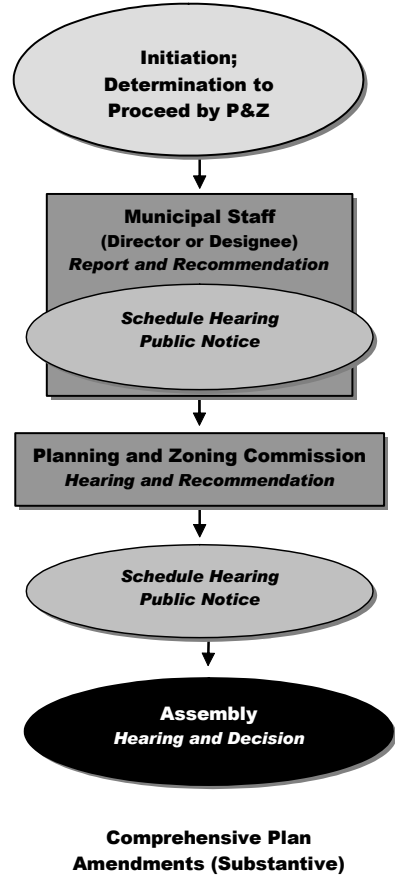
c. **~~First Public Hearing: Staff Report to and Recommendation by Planning and Zoning Commission~~**

The Director shall review each proposed substantive amendment in light of the ~~standards of review considerations~~ set forth in ~~paragraph~~ subsection 2. below and distribute the application, as deemed necessary, to other reviewers. Based on the results of those reviews, the Director shall provide a report and recommendation to the Planning and Zoning Commission at the first public hearing on the proposed substantive amendment. Based on testimony received, the staff report, and the review considerations in subsection 2. below, the Commission shall recommend that the Assembly approve, approve with modifications, or deny the proposed amendment.

d. **~~Second Public Hearing: Staff Recommendation to and Action by Assembly~~**

~~i. Within 90 days following the Commission's action, the Assembly shall hold a second public hearing on the proposed amendment. The Director shall provide the staff's recommendation regarding whether to approve or deny the rezoning at this second public hearing.~~

~~Within 90 days of the second (or last) public hearing, the Assembly shall, based on the standards of review set forth in paragraph 2. The Assembly shall, within 90 days of the hearing, based on the Commission's recommendation, testimony received, and the review considerations in subsection 2. below:~~



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- i. Approve the amendment by ordinance, either as submitted or with modifications suggested by staff, the Planning and Zoning Commission, or the Assembly;
- ii. Reject the proposed amendment; or
- iii. Refer the proposed amendment back to the Planning and Zoning Commission or to a committee of the Assembly for further consideration.

2. ~~Standards of Review~~

2. Review Considerations

Proposals for amendments to amend the ~~comprehensive plan~~Comprehensive Plan shall be evaluated based upon whether the amendment is necessary in order to address ~~conditions including, but not limited to,~~ the following:

- a. A change in projections or assumptions from those on which the ~~comprehensive plan~~Comprehensive Plan is based;
- b. Identification of new issues, needs, or opportunities that are not adequately addressed in the ~~comprehensive plan~~Comprehensive Plan;
- c. A change in the policies, objectives, principles, or standards governing the physical development of the Municipality or any other geographic areas addressed by the ~~comprehensive plan~~Comprehensive Plan; or
- d. Identification of errors or omissions in the ~~comprehensive plan~~Comprehensive Plan.

3. Simultaneous Review of a Rezoning and a Related Substantive Amendment

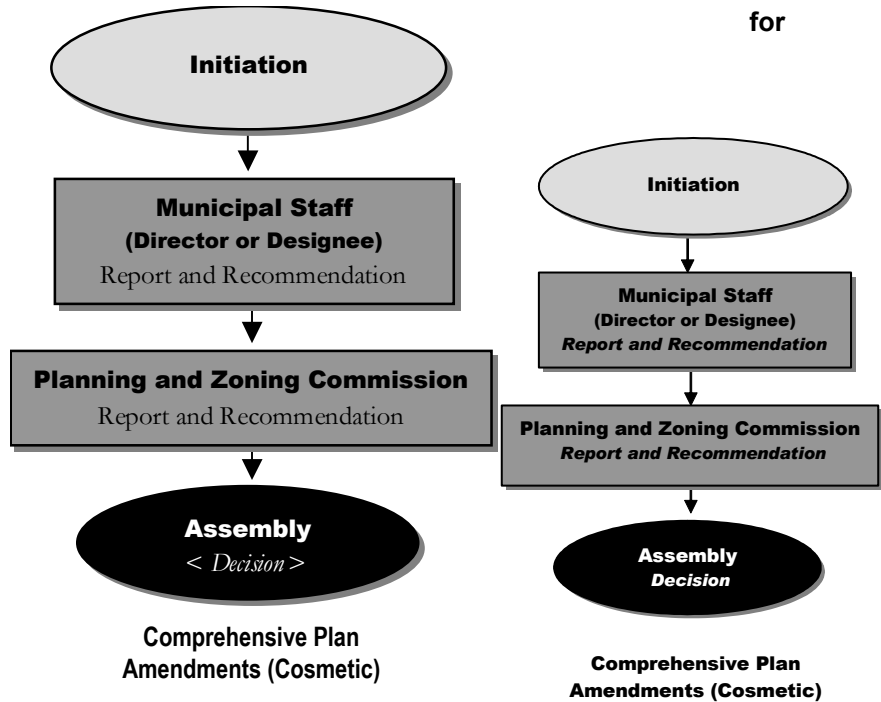
The Assembly may direct, on their own motion, that a specific substantive amendment proposal be considered by the Planning and Zoning Commission according to the same schedule as a related request for the rezoning of a particular tract or parcel affected by the substantive amendment. In such a case, the Planning and Zoning Commission shall submit its report and recommendation regarding the substantive plan amendment to the Assembly at the same time ~~they submit their~~it submits the report and recommendation ~~regarding on~~ the rezoning case. The schedule for the review of the rezoning, as set forth in ~~Section~~section 21.03.050, *Rezonings*, shall prevail over the schedule in this ~~Section~~section. The Assembly and Planning and Zoning Commission shall consider the plan amendment proposal and the rezoning request separately, and shall act separately on the two items.

C. Procedure
 Cosmetic

for

Amendments⁴⁹

1. **Initiation**
 Any review or decision-making body, or Director director



director of any municipal department, may, at any time on their own motion, request that the Director ~~of the Planning, Community Development, and Public Works Department~~ investigate and evaluate a specific cosmetic amendment proposal.

2. **Review by Planning and Zoning Commission and Assembly**
 Upon receiving a request for a cosmetic amendment, the Director shall ~~then prepare a report and recommendation, which will be forwarded with 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.

3. **Action by Assembly**
 The Assembly ~~will then~~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: (1) approve or deny the amendment, (2) approve the amendment with modifications, or (3) refer the matter back to the Planning and Zoning Commission for further consideration. No public hearing or public notification is required.

⁴⁹ ~~NOTE: This definition of "cosmetic amendment" will be included in the Definitions chapter: "A cosmetic amendment to the Comprehensive Plan is an amendment that affects the appearance, style, wording, or presentation of the Plan, but that does not alter its meaning, interpretation, or recommendations. Examples of cosmetic amendments include, but are not limited to: revising map or document style, format, or layout to enhance clarity; revising map or text content to accurately reflect additions to Town facilities or revisions to adjoining jurisdictions' adopted plans; adding explanatory text or labels; and correcting spelling or grammar."~~

1 **21.03.040 AMENDMENTS TO TEXT OF TITLE 21²⁰²⁰**

2 **A. Purpose and Scope**

3 The Assembly may amend the text of this ~~Title~~title in accordance with the procedures
4 set forth in this ~~Section~~section. The purpose of text amendments is not to relieve
5 particular hardships, nor to confer special privileges or rights on any person, but
6 ~~only~~rather to make adjustments to text that are necessary in light of changed
7 conditions or changes in public policy, or that are necessary to advance the general
8 welfare of the Municipality.

9 **B. Procedure**

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

11 A petition for amendment to the text of this ~~Title~~title may be initiated by any
12 review or decision-making body, any owner of a legal or equitable interest in
13 land located in the Municipality, or any resident of the Municipality. Petitions
14 for text amendment shall be filed with the Director in a form established by the
15 Director in the ~~Title 21~~User's Guide.

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

17 The Director shall review each proposed text amendment in light of the
18 approval criteria of subsection C. below and distribute the application to other
19 reviewers as deemed necessary. Based on the results of those reviews, the
20 Director shall provide a report and recommendation to the Planning and
21 Zoning Commission.

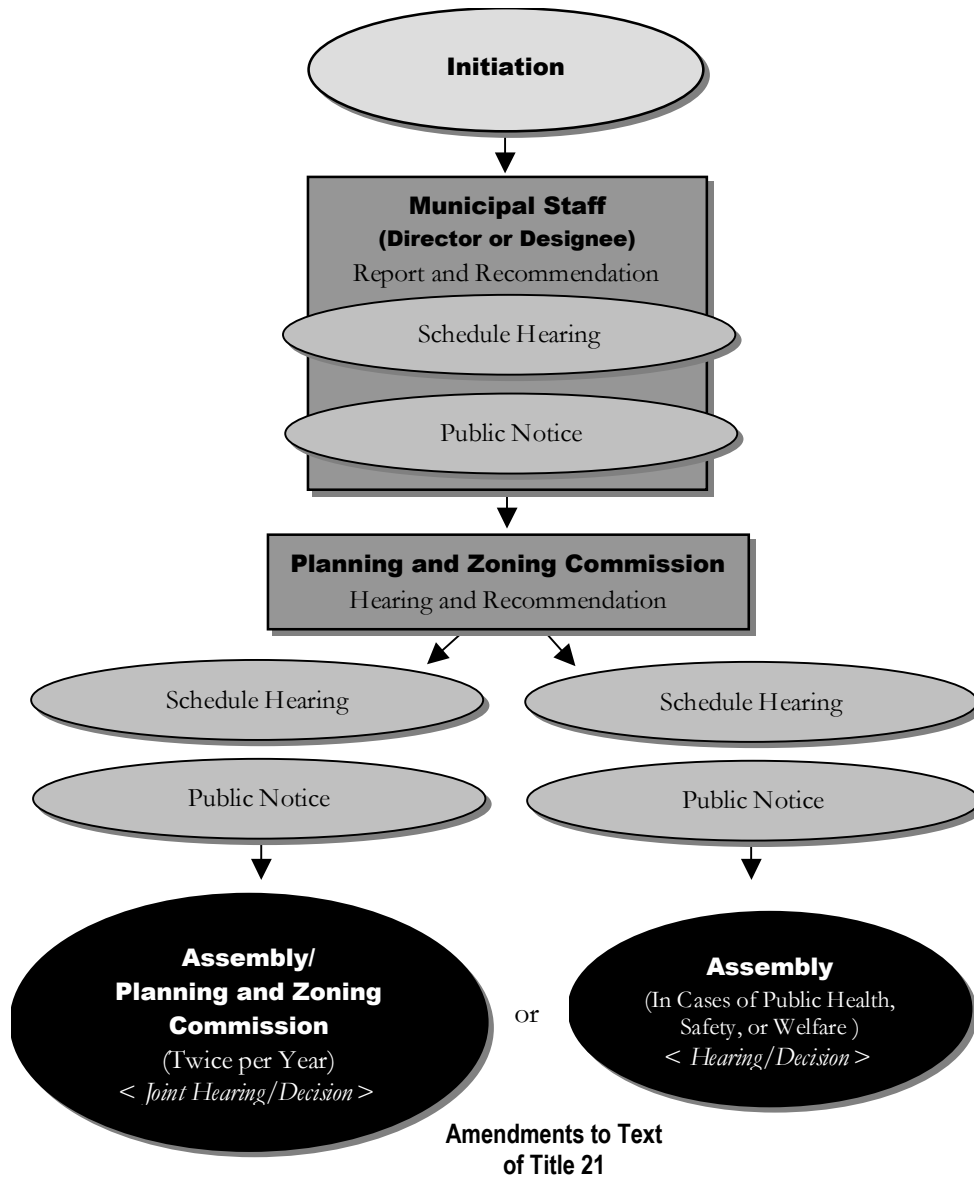
22 **3. ~~Joint~~ Public Hearing²⁴²¹**

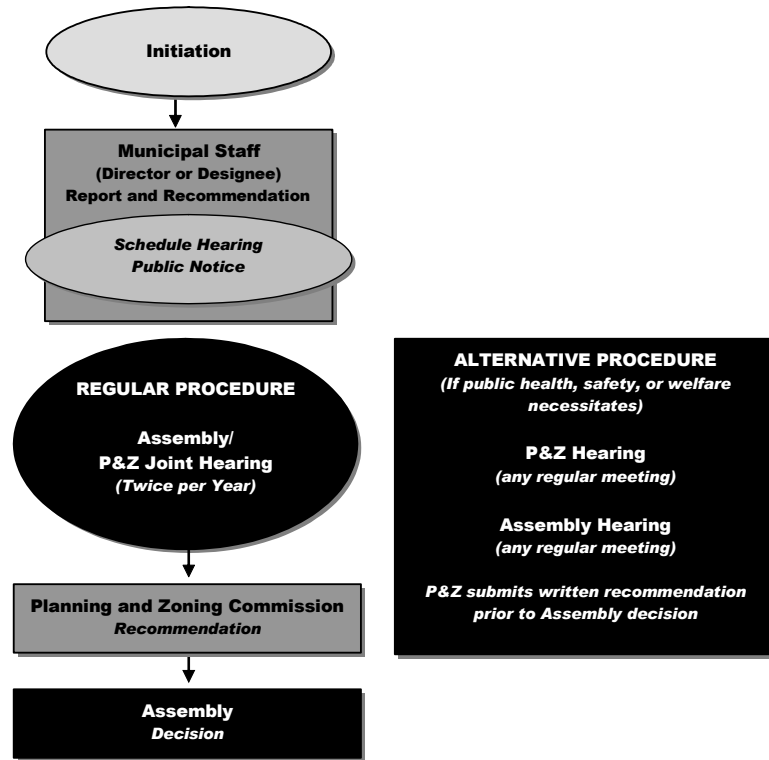
23 ~~a. The Assembly shall hold at least one public hearing on each Title 21~~
24 ~~text amendment application.~~—Written and published notice of public
25 hearings on text amendments shall be provided pursuant to the
26 general notice provisions of ~~Section~~section 21.03.020.G.

27 ~~b. Text amendments shall be considered two times per year at a joint~~
28 ~~public hearing of the Planning and Zoning Commission and the~~
29 ~~Assembly. However, where the Assembly determines by a majority~~
30 ~~vote that the public health, safety, or welfare necessitates, text~~
31 ~~amendments may be considered at any regularly scheduled meeting~~
32 ~~of the Assembly, provided that the Assembly holds a public hearing~~
33 ~~on the proposed amendment and the Planning and Zoning~~
34 ~~Commission holds a public hearing and provides a written report and~~
35 ~~recommendation on the proposed amendment prior to the Assembly's~~
36 ~~decision.~~

²⁰ ~~NOTE: This is a new procedure. The current Title 21 contains little information on how to amend the text of the ordinance.~~

²⁴ ~~NOTE: In the interest of streamlining code administration and reducing the overall number of public hearings, this section proposes that all text amendments be consolidated and heard twice per year, at a joint hearing of the P&Z and the Assembly. Alternatives would include allowing the bodies to hear text amendment proposals at any time, and/or to have separate hearings by each body (or perhaps just one hearing with the Assembly only).~~





Amendments to Text
of Title 21

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4. Planning and Zoning Commission Review and Recommendation

- a. As soon as possible after the public hearing, but no later than 60 days, the Planning and Zoning Commission shall make a recommendation to the Assembly to approve or ~~disapprovedeny~~ the text amendment based on the approval criteria of subsection C. below.
- b. If the Commission recommends approval of the amendment, the Director shall draft an ordinance effectuating the recommendation and shall submit the ordinance to the Assembly.
- c. If no recommendation is made within 60 days, then the Planning and Zoning Commission may request an extension of time from the Assembly. If no recommendation is made and no extension is granted, then the Assembly may act on the proposed amendment without a recommendation from the Planning and Zoning Commission.

5. Assembly Action

After reviewing the reports and recommendations of the Director and the Planning and Zoning Commission, the Assembly shall vote to approve,

1 approve with amendments, or deny the proposed amendment, based on the
2 approval criteria of subsection C. below. The Assembly also may refer the
3 proposed amendment back to the Planning and Zoning Commission or to a
4 committee of the Assembly for further consideration. ~~Title 21 text~~ Text
5 amendments shall be approved in the form ~~or of~~ ordinances.

6 **C. Approval Criteria²²**

7 ~~Recommendations and decisions on text amendments shall be based on~~
8 ~~consideration of all the following criteria:~~

9 ~~1. Whether the proposed amendment corrects an error or meets the challenge~~
10 ~~of some changing condition, trend, or fact;~~

11 ~~Whether the~~ Text amendments may be approved if the Assembly finds that all of the
12 following approval criteria have been met:

13 1. The proposed amendment will promote the public health, safety, and general
14 welfare;

15 2. The proposed amendment is consistent with the comprehensive
16 plan Comprehensive Plan and the stated purposes of this Title; title; and

17 ~~3. Whether the proposed amendment will protect the health, safety, and general~~
18 ~~welfare of the public, and~~

19 ~~4. Whether the proposed amendment will result in significant adverse impacts~~
20 ~~on the natural environment, including air, water, noise, stormwater~~
21 ~~management, wildlife, and vegetation.~~

22 3. The proposed amendment is necessary or desirable because of changing
23 conditions, new planning concepts, or other social or economic conditions.

24 **D. Successive Applications**

25 Following denial of a text amendment request, no new application for the same or
26 substantially the same amendment shall be accepted within one year of the date of
27 denial. ~~The waiting period required by this Section~~ This provision may be waived in an
28 individual case, for good cause shown, by the affirmative vote of three-fourths of the
29 members of the Assembly.

30 **21.03.050 REZONINGS (ZONING MAP AMENDMENTS)^{22, 23}**

31 **A. Purpose and Scope**

32 The boundaries of any zone district in the Municipality may be changed, or the zone
33 classification of any parcel of land may be changed, pursuant to this Section.
34 The purpose is not to relieve particular hardships, nor to confer special privileges or
35 rights on any person, but ~~only~~ to make adjustments to the official zoning map that are

²² ~~NOTE: This section heavily revises the current rezoning procedure (found in the current Chapter 21.20. Key revisions include: a new purpose statement, clarification of the process, requirement for written findings in Commission recommendations, suggested new approval criteria, and an overall streamlining of the language. Other specific changes are noted below.~~

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. ~~Rezoning shall precede Corps of Engineers permit applications.~~

B. Minimum Area Requirements²³²⁴

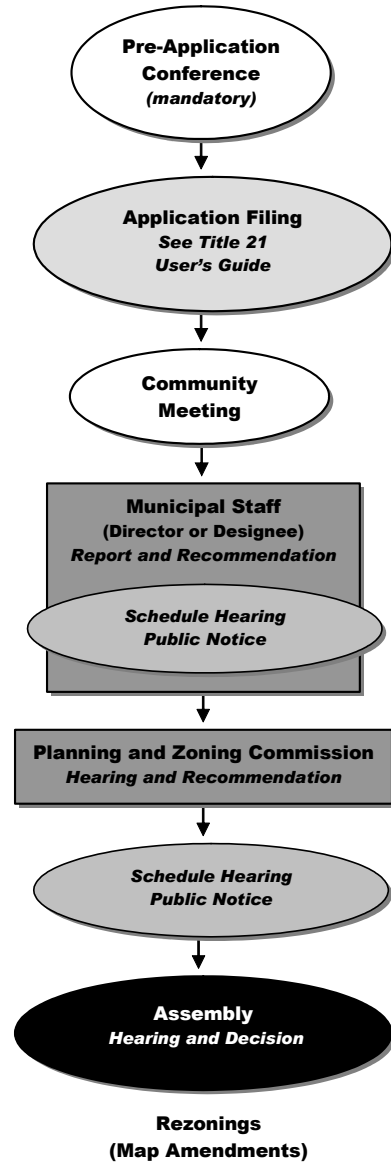
A ~~zoning map amendment~~ rezoning shall only be considered for properties of 1.75 acres (76,230 square feet) or more, except for:

1. ~~An amendment~~ rezoning extending the boundaries of an existing use district; or
2. ~~An amendment~~ rezoning initiated by the municipal administration to place municipally owned land in a PLI, PR, or OL use district.^{24 25}

C. General Procedure

1. Initiation

- a. ~~A zoning map amendment~~ rezoning may be initiated by the Assembly, the Planning and Zoning Commission, or by the ~~Director~~ director of any municipal department.
- b. In addition, any person may initiate a ~~zoning map amendment~~ rezoning by submitting a petition favoring the ~~amendment~~ rezoning signed by the owners of at least 51 percent of the property within the area to be rezoned. For the purposes of this subsection, an owner of property subject to the Horizontal Property Regimes Act (A.S. 34.07) owns a percentage of the appurtenant common areas equal



²³ NOTE: The Outline talks about a new section of "eligibility criteria" to discourage the high number of rezonings. However, this draft proposes tightening the rezoning process in a slightly different way, through better approval criteria (see subsection (F)) and also through a new requirement of written findings for Commission recommendations.

²⁴ NOTE: The existing Title 21 also contains an exception here for properties that are going to be rezoned to neighborhood commercial businesses—they can be rezoned if they are less than 1.75 acres, so long as a site plan is submitted. We have removed that provision in this first draft since the neighborhood business district is not being carried forward. However, it might be appropriate to waive the minimum area requirement for rezonings to some other new districts being considered, such as the neighborhood activity centers, so long as a site plan is prepared. This issue should be discussed once the new districts chapter is drafted.

1 to the percentage for that property stated in the recorded declaration
2 committing the property to the Horizontal Property Regimes Act.²⁵

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

8 d. Rezonings shall precede Corps of Engineers wetland permit
9 applications.

10 **2. Pre-Application Conference**

11 Before filing an application, a private-party applicant shall request a pre-
12 application conference with the Director. See Sectionsection 21.03.020.B.

13 **3. Submission Requirements**

14 a. Applicants for a zoning map amendment rezoning shall submit the
15 materials specified in the Title 21 User's Guide. Additional materials
16 may be required for certain types of amendmentsrezoning, such as
17 amendmentsrezoning with special limitations or amendments to the
18 planned community district.

19 b. The Planning and Zoning Commission or the Director may require the
20 submission of such other information as may be necessary to permit
21 the informed exercise of judgment under the standards for the review
22 of a rezoning application, as approval criteria set outforth in
23 subsection E.D. below. Such information shall be related to the scale
24 and location of the rezoning application and may include, without
25 limitation, traffic, soil, hydraulic, visual, aesthetic, water, air quality,
26 noise, and sewage analyses.

27 **4. Public Hearings**

28 Published, written, and posted notice of public hearings on map
29 amendmentsrezonings shall be provided in accordance with Sectionsection
30 21.03.020.G. In addition, the notice shall list the protest provisions set forth in
31 subsection 7. below. Where the amendmentrezoning has been initiated by
32 someone other than the property owner or his or her designated agent, the
33 Director also shall mail a notice to all owners of the property to be reclassified,
34 as shown in the current municipal assessor's records.

35 **5. Review and Recommendation by Planning and Zoning Commission**

36 a. ~~The Planning and Zoning Commission shall hold a public hearing on~~
37 ~~the proposed amendmentrezoning and, at the close of the hearing,~~
38 ~~recommend that the Assembly approve the amendment as submitted,~~
39 ~~approve the amendmentapproval, approval with special limitations or~~
40 ~~other modifications, or disapprove the amendment, baseddenial. The~~
41 ~~Commission shall base its recommendation on the approval criteria~~
42 ~~ofin subsection E.D. below.~~

²⁵ NOTE: Staff: Is this statutory reference (A.S. 34.07) still current?

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- a. ~~In its review, the Commission's recommendations, and~~ shall include ~~its~~ written findings based on each of the ~~following points:~~ approval criteria.
 - i. ~~The application is~~ if the Commission recommends approval or ~~is not in conformance~~ approval with the ~~comprehensive plan and this Title;~~ and
 - ii. ~~The application is~~ special limitations or ~~is not consistent with adopted and generally accepted standards of development in the Municipality;~~ and
 - iii. ~~The application is or is not substantially consistent with the goals, objectives, design guidelines, policies, and any other ordinance, law, or requirement of the Municipality.~~
- b. ~~If the Planning and Zoning Commission recommends that the Assembly approve an amendment as submitted or with modifications,~~ within ~~90~~ 60 days of the Commission's ~~action~~ written resolution, the Director shall forward the recommendation to the Assembly with an ordinance to amend the official zoning map in accordance with the recommendation.
- c. If the ~~Planning and Zoning~~ Commission recommends ~~that the Assembly disapprove a zoning map amendment~~ denial, that action is final unless, within 2015 days of the Commission's ~~action~~ written resolution recommending denial, the applicant files a written statement with the municipal clerk requesting that an ordinance amending the zoning map in accordance with the application be submitted to the Assembly. The draft ordinance shall be appended to an Assembly Informational Memorandum (AIM) for consideration by the Assembly.²⁶

6. Action by Assembly

- The Assembly shall hold a public hearing on the proposed amendment and rezoning and shall, at the close of the hearing, based upon the taking into account the recommendations of the Director ~~and~~, Planning and Zoning Commission, and public input, and based upon the ~~Assembly shall, within 90 days~~ approval criteria of subsection D. below:
- a. Approve the zoning map amendment by ordinance;
 - b. Approve the zoning map amendment by ordinance with special conditions ~~limitations~~ (see subsection DE.);
 - c. Deny the amendment; or
 - d. Refer the proposed rezoning amendment back to the Planning and Zoning Commission or to a committee of the Assembly for further consideration.

1 7. **Protests**

2 Any owner of property subject to a proposed rezoning may protest the
3 rezoning by filing a written protest with the ~~Director~~Clerk pursuant to this
4 ~~Section~~subsection.

5 a. The protest shall object to the ~~zoning map amendment~~rezoning and
6 ~~shall state the factual and/or legal basis for the protest~~, contain a
7 legal description of the property on behalf of which the protest is
8 made, and be signed by the owners of at least one-third of the
9 property, excluding rights-of-way, of:

10 i. The land to which the amendment applies; or

11 ii. The land within 300 feet of the outer boundary of the land to
12 which the amendment applies;

13 Excluding land owned by the Municipality, except where the
14 Municipality joins in the protest.

15 b. To be valid, the protest must be received by the municipal clerk after
16 notice of a public hearing before the Assembly on a zoning map
17 amendment and at least one business day before the time set for the
18 Assembly public hearing on the amendment.

19 c. Assembly approval of a ~~zoning map amendment~~rezoning subject to a
20 valid protest under this ~~Section~~subsection shall require an affirmative
21 vote of eight Assembly members.

22 8. **Waiting Period for Reconsideration**

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

27 9. **Form of Amending Ordinance**

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

29 a. The name of each ~~use zoning~~ district ~~which being applied or changed~~
30 in the ordinance~~applies;~~

31 b. The legal description of the ~~land within each use district applied by~~
32 ~~the ordinance; and~~subject property;

33 c. ~~All~~Any special limitations being applied to ~~each use district applied by~~
34 the ~~ordinance~~subject property; and

35 d. An effective clause.

36 D. **Approval Criteria**²⁷

37 The Assembly may approve a rezoning, and the Planning and Zoning Commission
38 may recommend approval, if the rezoning meets all of the following criteria:

- 1 1. The rezoning will promote the public health, safety, and general welfare;
- 2 2. The rezoning is consistent with the Comprehensive Plan and the purposes of
3 this title;
- 4 3. The rezoning is consistent with the stated purpose of the proposed zoning
5 district;
- 6 4. Facilities and services (including roads and transportation, water, gas,
7 electricity, police and fire protection, and sewage and waste disposal, as
8 applicable) will be available to serve the subject property while maintaining
9 adequate levels of service to existing development;
- 10 5. The rezoning is not likely to result in significant adverse impacts upon the
11 natural environment, including air, water, noise, stormwater management,
12 wildlife, and vegetation, or such impacts will be substantially mitigated; and
- 13 6. The rezoning is not likely to result in significant adverse impacts upon other
14 property in the vicinity of the subject tract.

15 E. **Rezonings with Special Limitations**²⁶²⁸

16 ~~Subject~~Pursuant to this subsection ~~D.~~, a ~~zoning map amendment~~rezoning may
17 include special limitations that restrict structures, or the use of land or structures, to a
18 greater degree than otherwise provided for a use district applied by the
19 ~~amendment~~rezoning.

20 1. **Purposes**

21 A ~~zoning map amendment~~rezoning may include special limitations for one or
22 more of the following purposes:

- 23 a. To prohibit structures, or uses of land or structures, that would
24 adversely affect the surrounding neighborhood or conflict with the
25 comprehensive plan; or
- 26 b. To conform the zoning map amendment to the comprehensive plan,
27 or to further the goals and policies of the comprehensive plan; or
- 28 c. To conform development under the zoning map amendment to
29 existing patterns of development in the surrounding neighborhood; or
- 30 d. To mitigate the adverse effects of development under the zoning map
31 amendment on the surrounding neighborhood and on public facilities
32 and services.

33 2. **Types of Limitations**

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

²⁶ ~~NOTE: As discussed in the Diagnosis and Outline, the special limitations are the source of some administrative headaches in Anchorage, since a proliferation of special conditions on individual properties makes enforcement quite difficult. Nevertheless, special limitations clearly are part of the administrative culture in the city, and the feedback we got suggests that it may not yet be time to abolish them. We carry them forward in this draft for discussion purposes. We hope, however, that once the new districts and standards are drafted, special limitations will become less necessary and they perhaps can be eliminated in a future draft (or in a year or so following adoption of the new code).~~

- 1 a. Limit residential density; or prohibit structures, or uses of land or
2 structures, otherwise permitted in a use district;
 - 3 b. Require compliance with design standards for structures and other
4 site features;
 - 5 c. Require compliance with a site plan approved under this ~~Title~~title;
 - 6 d. Require the construction and installation of improvements, including
7 public improvements; or
 - 8 e. Impose time limits for taking subsequent development actions.
- 9 **3. Effect of Approval**
- 10 a. A use district subject to special limitations shall be identified on the
11 zoning map by the suffix "SL," and the number of the ordinance
12 applying the special limitations shall be printed on the zoning map.
 - 13 b. Where a special limitation in a zoning map amendment conflicts with
14 any less restrictive provision of this ~~Title~~title, the special limitation
15 governs.

16 ~~E. Approval Criteria~~

17 ~~Recommendations and decisions on zoning map amendments shall be based on~~
18 ~~consideration of all of the following criteria:~~

- 19 ~~1. Whether the proposed amendment corrects an error or meets the challenge~~
20 ~~of some changing condition, trend, or fact;~~
- 21 ~~2. Whether the proposed amendment is consistent with the comprehensive plan~~
22 ~~and the purposes of this Title stated in Section 21.01.030;~~
- 23 ~~3. Whether the proposed amendment will protect the health, safety, or general~~
24 ~~welfare of the public;~~
- 25 ~~4. Whether the Municipality and other service providers will be able to provide~~
26 ~~sufficient public safety, educational, recreational, transportation, and utility~~
27 ~~facilities and services to the subject property, while maintaining sufficient~~
28 ~~levels of service to existing development;~~
- 29 ~~5. Whether the proposed amendment is likely to have significant adverse~~
30 ~~impacts on the natural environment, including air, water, noise, stormwater~~
31 ~~management, wildlife, and vegetation;~~
- 32 ~~6. Whether the proposed amendment will have significant adverse impacts on~~
33 ~~other property in the vicinity of the subject tract;~~
- 34 ~~7. The suitability of the subject property for the existing zoning classification and~~
35 ~~proposed zoning classification;~~
- 36 ~~8. The need for the proposed use at the proposed location;~~

1 ~~9. Whether the proposed amendment will ensure that future uses on the subject~~
2 ~~tract will be compatible in scale with uses on other properties in the vicinity of~~
3 ~~the subject tract; and~~

4 ~~10. The supply of land in the economically relevant area that is in the use district~~
5 ~~to be applied by the amendment or in similar use districts, in relation to the~~
6 ~~demand for that land;~~

7 **F. Rezonings to Create, Alter, or Eliminate Overlay Districts²⁹**

8 **1. Purpose and Applicability**

9 The Assembly may, through the rezoning process, establish overlay districts
10 that supplement the regulations of the underlying base zoning districts, in
11 order to address special land use needs, to meet an objective of the
12 Comprehensive Plan or neighborhood plan, or other specific planning
13 objective. A rezoning for an overlay district may be applied to the zoning map
14 in order to:

15 **a.** Permit, require, prohibit or restrict structures or the use of land or
16 structures;

17 **b.** Alter the provisions of the use-specific regulations as applied to
18 property within the overlay district;

19 **c.** Require new development or attributes of new development to
20 conform to a specific architectural or design theme;

21 **d.** Require a design review approval process; and/or

22 **e.** Alter the development standards of the underlying district by
23 decreasing or increasing the requirements with regard to building
24 height, yards, lot area, lot width, lot coverage, and lot densities of the
25 underlying district.

26 **2. Minimum Area Requirements**

27 No overlay district zoning map amendment shall be considered or approved
28 that applies an overlay district to an area less than 2.00 acres, excluding
29 rights-of-way, except for an amendment extending the boundaries of an
30 existing overlay district.

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

33 Overlay districts shall be established, altered, or eliminated using the general
34 rezoning procedure set forth in subsection C. above, *General Procedure*,
35 except as modified by the following provisions:

36 **a. Contents of Adopting Ordinance**

37 An ordinance amending the zoning map for an overlay district shall
38 contain the following:

39 **i.** The name of the overlay district that the ordinance applies;

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- ii. The legal description of the land within the overlay district applied by the ordinance; and
- iii. All standards of development to be governed by the overlay district.
- b. **Effect of Approval**
 - i. Where a specification in an overlay zoning map amendment conflicts with any provision of this title, the overlay zoning map amendment shall govern.
 - ii. An overlay district adopted in the same manner as the original ordinance remains effective until repealed or amended. The Assembly may set a time for the overlay district to expire if it finds the planning objectives will be met or completed within a specific time period.
- c. **Map of Overlay Districts**
 - i. Each overlay district shall be annotated on the zoning map with a symbol unique to the overlay district and shall be identified on the zoning map by the suffix "OV" and the number of the ordinance applying the overlay district shall be printed on the zoning map within the boundaries of the overlay district.
 - ii. The Department shall maintain, for inspection by the public, maps showing the location of the overlay districts and records of the Assembly's purpose and intent in establishing each district.
- 4. **Establishment or Modification of Airport Height Overlay Districts**
In addition to the standard submittals required to initiate an overlay map amendment, establishment of an Airport Height Overlay District also shall require preparation of an airport height map as set forth in section 21.04.070.C.
- 5. **Establishment or Modification of Neighborhood Conservation Overlay Districts³⁰**
The Assembly may designate one or more areas as Neighborhood Conservation Overlay (NCO) districts upon receipt of a recommendation from the Urban Design Commission (UDC) and the Planning and Zoning Commission. The procedure for establishing and modifying NCO districts is set forth in section 21.04.070.D.

1 **21.03.060 SUBDIVISIONS AND PLATS^{27,31}**

2 **A. Purpose**

3 The purpose of the subdivision review process is to ensure compliance with the
4 subdivision standards and requirements set forth in ~~Chapter~~chapter 21.08,
5 *Subdivision Standards*, ~~while encouraging~~which are designed to ensure quality
6 development in Anchorage consistent with the ~~goals, policies, and objectives found in~~
7 the comprehensive planComprehensive Plan.

8 **B. Applicability**

9 **1. General**

10 The procedures of this ~~Section~~section, and the standards and requirements
11 set forth in ~~Chapter~~chapter 21.08, *Subdivision Standards*, shall apply to all
12 subdivisions or resubdivisions that result in the portioning, dividing,
13 combining, or altering of any lot, parcel, or tract of land, including subdivisions
14 or resubdivisions created by an exercise of the power of eminent domain by
15 an agency of the state or Municipality.

16 **2. Applicable Review Procedure³²**

17 **a. General Procedure**

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

22 **b. Abbreviated Plat Procedure**

23 Certain subdivisions may follow the streamlined procedure set forth in
24 subsection D. below, *Abbreviated Plat Procedure*. Eligible preliminary
25 plats are:

26 **i. A movement or elimination of lot lines that does not:**

27 **(A) Result in an increase in the permitted density of**
28 **residential units within the area being subdivided or**
29 **resubdivided.**

30 **(B) Allow a change in the permitted use to which the lot**
31 **or tract may be devoted under existing zoning.**

32 **(C) Deny adequate access to and from all lots or tracts**
33 **created by the subdivision or those adjacent to it.**

34 **ii. The subdivision of a single tract, parcel, or lot into no more**
35 **than three tracts or eight lots, provided that the subdivision**
36 **does not:**

²⁷ NOTE: This section generally is carried forward from the existing Title 21. We heard few comments about problems with these provisions. Minor changes include: a new purpose statement; incorporation of the applicability provisions from 21.75.020; incorporation of the approval criteria from 21.75.010; and removal of submittal requirements for placement in the User's Guide.

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- (A) Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
- (B) Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
- (C) Divide a tract, parcel or lot:³³

 - (1) Created within the previous four years pursuant to the approval of a preliminary plat under this section 21.03.060; or
 - (2) Contiguous to or having an owner either in an individual capacity or as an owner of a corporation, partnership, or other legal entity of a preliminary plat approved within the previous 48 months.
 - (3) That is ten acres or more in the R-5, R-6, R-7, and R-10 zoning districts or that is governed by AO 84-21.

- iii. Vacations and relocations under section 21.03.160.
- iv. Subdivision of a cemetery into burial plots.
- v. A plat required by section 21.03.070.G. for final approval of a conditional use, or section 21.03.080.F. for final approval of a site plan.
- vi. A plat depicting the creation of two attached single-family lots.

3. Subdivision Approval is Prerequisite to Other Approvals

- a. No building permit, land use permit, zoning certificate of 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 a plan for the subdivision has been approved, 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.³⁴
- 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.

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

Any person who transfers or sells any land located within the Municipality by reference to a plat that has not been approved by the Municipality and

1 recorded by the State of Alaska shall be guilty of a violation of this ~~Title~~title.
2 The description by metes and bounds in the instrument of transfer or other
3 document used in the process of selling or transferring shall not exempt the
4 transaction from such penalties. The Municipality also may enjoin such
5 transfer or sale by filing an action for an injunction.

6 **5. Existing Lots of Record**

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

10 ~~5. Discretionary Exemptions~~

11 ~~a. The Platting Authority may exempt from a land survey and from the~~
12 ~~requirements of Chapter 21.08, Subdivision Standards, those~~
13 ~~subdivisions that result in parcels of at least 40 acres in area, neither~~
14 ~~requiring the dedication of streets and easements nor creating areas~~
15 ~~without physical or legal access. There shall be no exemption from~~
16 ~~the requirement to submit and record a plat.~~

17 ~~b. The Platting Authority may exempt a subdivision from the~~
18 ~~requirements of Chapter 21.08, Subdivision Standards, when it finds,~~
19 ~~after a public hearing, that:~~

20 ~~i. Each parcel in the subdivision will have adequate physical~~
21 ~~and legal public access to a public highway or street;~~

22 ~~ii. Each parcel in the subdivision is five acres in size or larger~~
23 ~~and that the land is divided into four or fewer parcels;~~

24 ~~iii. The subdivision is not made for the purpose of, or in~~
25 ~~connection with, a present or projected subdivision~~
26 ~~development; and~~

27 ~~iv. No dedication of a street, alley, thoroughfare, or other public~~
28 ~~area is involved or required.²⁸~~

29 ~~The waiver shall be in the form of a resolution of the Platting Board~~
30 ~~and shall be filed with the district recorder.~~

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

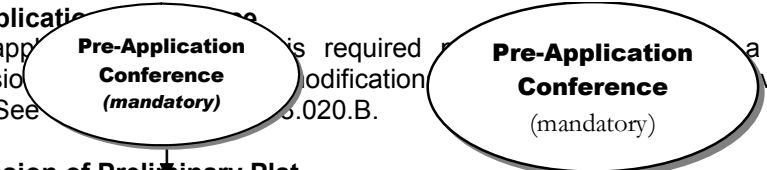
32 **1. Applicability**

33 ~~This section shall apply to all subdivisions not meeting the eligibility criteria for~~
34 ~~the abbreviated plat procedure.~~

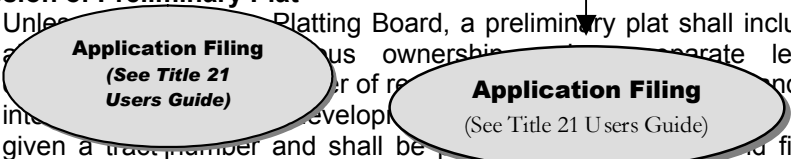
²⁸ NOTE: Clarion and the staff recommend deleting the existing shaded text, or amending it following further discussions. Staff notes the following problems raised by this type of discretionary exemption from the subdivision standards: "Exempting plats from subdivision regulations precludes the ability to gain trail easements required under adopted plans, and does not provide for submitting required soil and water tests for on-site well and septic. Lots of this size may not necessarily be further subdivided in the low density zoning districts such as R-9 and R-10. These zoning districts generally abut Chugach State Park and trail access to the Park is becoming a significant issue recently and will continue to be one. The Municipality may never have the opportunity to gain right-of-way dedication in the future. In dealing with parcels this size, it is sometimes difficult to assess if a subdivision that fronts onto a public street will land lock adjacent property. This is particularly true in Eagle River and on the Anchorage Hillside where traffic circulation systems are incomplete and discontinuous."

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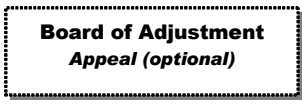
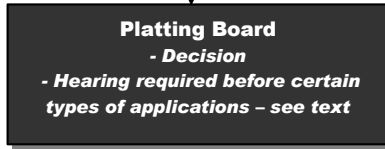
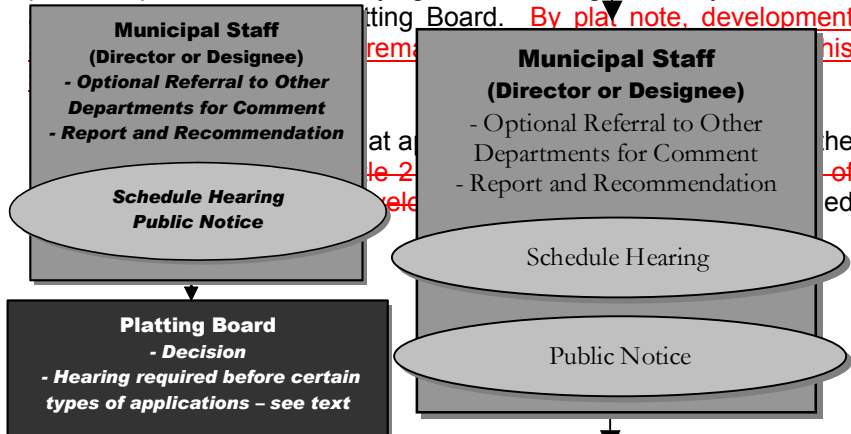
2. **Pre-Application Conference**
 A pre-application conference is required for a new subdivision, modification of a subdivision, or a new plat. See 21.020.B.



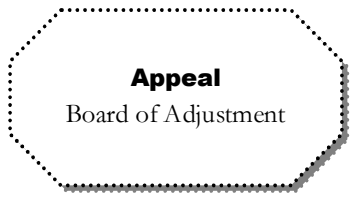
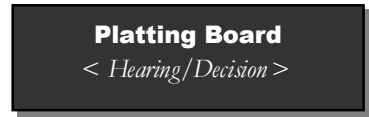
3. **Submission of Preliminary Plat**
 a. Unless otherwise specified by the Platting Board, a preliminary plat shall include the following information: (1) owner's name and address, (2) owner's ownership interest, (3) plat number, (4) plat name, (5) plat description, (6) plat map, (7) plat schedule, (8) plat public notice, (9) plat hearing, (10) plat decision, (11) plat appeal, (12) plat final plat. Requirements for surveying this remaining tract may be waived by the Platting Board. **By plat note, development remaining on this tract shall be surveyed and platted at a public hearing.**



b. **Municipal Staff (Director or Designee)**
 - Optional Referral to Other Departments for Comment
 - Report and Recommendation
Schedule Hearing
Public Notice



Preliminary Plat



Preliminary Plat

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- c. For subdivision plats that have A or B wetlands, the applicant shall have initiated Corps of Engineers wetland permitting prior to submitting the preliminary plat.
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4. **Action on Preliminary Plat**
- a. **Approval or ~~Disapproval~~Denial by Platting Board**
Subject to paragraph b. ~~of this Section~~below, the Platting Board shall, based on the approval criteria of subsection C.5-6. below, take action on the preliminary plat within 90 days³⁰ after the submission date, or shall return the plat to the applicant for modification or correction.³⁶ The reasons for ~~disapproval~~denial of a plat shall be stated upon the records of the Platting Board.
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- b. **Referral to Other Agency**
If the Platting Board finds that:
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- i. It cannot determine whether a preliminary plat conforms to the approval criteria of subsection C.5-6. below, because a specific controlling land use, public facility, or other public policy issue has not been resolved; and
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- ii. An official board, commission or legislative body of the Municipality or another government has been identified as being responsible for resolving that issue;
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- ~~Upon then, upon~~ an affirmative vote of six members, the Platting Board may refer the issue to the responsible official, board, commission or legislative body and postpone action on the plat for a period not exceeding 90 days or to its next regular meeting after the responsible official, board, commission or legislative body responds to the referral, whichever occurs first.
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- c. **Public Hearing**
The Platting Board shall hold a public hearing before action on the following types of subdivision applications:
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- i. Approval of a preliminary plat, except ~~an application under Section 21.03.060.D. (applications allowed to use the abbreviated plat procedure);~~
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- ii. Approval of a final plat that differs from the preliminary plat (see ~~Section~~section 21.03.060.C.4.b.);
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- iii. Modification or deletion of a condition of plat approval;
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- ~~iv. Granting of an exemption under subsection B.5., Discretionary Exemptions, above;~~
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- iv. Granting of a variance from the provisions of ~~Chapter~~chapter 21.08, *Subdivision Standards*;
- 40
- v. Removal of or modification(s) to plat notes; and

1 vi. Vacation of dedicated right-of-way; BLM and section line
2 easements; or platted landscape, drainage, slope, or
3 protective well radii easements.

4 d. **Approval Period; Time Extensions**

5 i. Notwithstanding any subsequent change in the subdivision
6 regulations, zoning regulations, and zoning districts, the
7 approval of the preliminary plat shall be effective:

8 (A) For at least ~~1824~~³⁷ months and up to 60 months from
9 the date of approval when it pertains to a
10 development of no less than ten acres and includes a
11 phasing plan and based upon the Platting Board's
12 evaluation of the size, complexity, and phasing
13 elements of the development.

14 (B) For ~~1824~~ months from the date of approval when it
15 pertains to a development of less than ten acres.

16 ii. The preliminary plat shall become null and void after the ~~18-~~
17 ~~month~~ approval period unless an extension of time is granted
18 by the Platting Board. A request for a time extension must be
19 made in writing by the subdivider. The extension request
20 must be received by the Director prior to the expiration of the
21 preliminary plat to be eligible for consideration by the Platting
22 Board.

23 iii. Such a time extension shall be granted only if the Board finds
24 that current conditions are substantially the same as those
25 that existed when the preliminary plat was originally
26 approved. The Director shall conduct the reevaluation for
27 every extension request that does not raise the total time of
28 extension for a particular plat beyond ~~1824~~³⁸ months and
29 present his ~~or her~~ findings to the Board. Every extension
30 request that raises the total time of extension for a particular
31 plat beyond ~~1824~~ months shall be evaluated in the same
32 manner as an original plat application, including payment of
33 the applicable fee.

34 iv. Only two time extensions may be approved for a preliminary
35 plat approved by the Platting Board. ~~The Approval of the~~
36 second extension shall require a noticed public hearing-^{34 39} .

37 v. Preliminary plats being finalized in portions or phases shall
38 not be construed to automatically extend the original approval
39 period. Such an extension may only be granted by the
40 Platting Board in accordance with the procedures set out in
41 this subsection-^{32 40} .

42 e. **Appeals**

43 All decisions as to approval or ~~disapproval~~~~denial~~ of a preliminary plat
44 by the Platting Board shall be final unless appealed to the Board of
45 Adjustment.

1 f. **Resubmittal Following Denial**

2 No new application for the same or substantially the same preliminary
3 plat shall be accepted by the Platting Board within one year of denial
4 of the original application. The waiting period required by this
5 ~~Section~~ may be waived in an individual case, based upon new
6 evidence or changed circumstances, by the affirmative vote of a
7 majority of the Platting Board.

8 5. **Final Plat**

9 a. **Procedure When Final Plat Corresponds to Preliminary Plat as
10 Approved**

11 i. A hearing on the final plat shall not be required when such
12 plat essentially conforms to the preliminary plat approved by
13 the Platting Board. The final plat shall, in addition, meet all
14 conditions imposed by the Board in approving the preliminary
15 plat.

16 ii. The final plat map shall constitute only that portion of the
17 approved preliminary plat that is proposed to be recorded and
18 developed at the time. If only a portion of the approved
19 preliminary plat is proposed for final plat approval, such
20 portions shall conform to all requirements of this
21 ~~Section~~ and ~~Chapter~~ 21.08, *Subdivision*
22 *Standards*.

23 iii. The following procedure shall be followed for the final
24 plat:^{33,41}

25 (A) The final plat shall be submitted to the ~~Planning~~
26 Department for examination as to compliance with all
27 terms of the preliminary plat as approved by the
28 Platting Authority. If all conditions have been met, a
29 statement to that effect, appearing on the final plat,
30 shall be signed by the ~~Platting Authority or his~~
31 ~~representative-Director~~. The final plat shall not be
32 signed until the documents described in paragraph iv.
33 ~~and v.~~ below have been received.

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

1 Department shall be indicated by a statement
2 appearing on the plat.

3 iv. Final approval by the Platting Board shall be dependent upon
4 receipt of the following material:

5 (A) A statement from the Department of Development
6 Services stating that all conditions imposed by the
7 Department on the preliminary plat and approved by
8 the Platting Board have been met. This approval by
9 the Department of Development Services shall not
10 affect any subsequent requirements relating to
11 sewage disposal and water supply as they apply to
12 any lots within the plat.

13 (B) A certificate from the tax collecting official or a note
14 on the face of the plat stating that all municipal real
15 property taxes levied against the property are paid in
16 full, or, if approval is sought between January 1 and
17 the tax due date, that there is on deposit with the
18 chief fiscal officer an amount sufficient to pay
19 estimated real property tax for the current year.

20 (C) A certificate to plat showing the legal and equitable
21 owners, including mortgagees, contract purchasers
22 and fee owners, of the land to be platted, plus all
23 grants, reservations, covenants, deed restrictions and
24 easements of record which may condition the use of
25 the property.

26 v. If the subdivision is to be served by a community water or
27 sewer system, the Department of Development Services may
28 require the subdivider to provide the following before the
29 Platting Board finally approves the plat:

30 (A) Any approvals or certificates required by the state
31 Departments of Environmental Conservation and
32 Natural Resources.

33 (B) An agreement under the standards and procedures
34 set out in ~~Section~~ ~~fx-ref subdivision agreements~~
35 section 21.08.060, Subdivision Agreements, to
36 ensure that the system installed will be compatible
37 with existing public water and sewer systems.

38 (C) Approval of the plans, specifications, and installation
39 and operating procedures for the system by the
40 municipal water and wastewater utility pursuant to
41 ~~Chapter~~ chapter 21.08, *Subdivision Standards*, and
42 regulations promulgated thereunder.

43 (D) Final plats affecting land neither supplied, nor under
44 subdivision agreement to be supplied, both with

1 public water and public sewer, shall be submitted to
2 the Department of Development Services for a
3 determination that all lots and proposed water and
4 wastewater facilities conform to ~~Chapter~~chapter
5 15.65 at the time of determination.

6 **b. Procedure When Final Plat Differs from Preliminary Plat**

7 i. The subdivider shall submit to the Director all information
8 required under the Title 21 User's Guide for the preliminary
9 plat. Such application shall be submitted at least 60 days⁴²
10 prior to the regular Platting Board meeting at which he or she
11 desires to have his or her plat placed on the agenda.

12 ii. The Platting Board shall take action on the final plat within 90
13 days after all required materials have been submitted to be
14 heard, or shall return the plat to the applicant for modification
15 or correction. The reasons for ~~disapproval~~denial of a plat
16 shall be stated upon the records of the Platting Board.

17 iii. If approved by the Platting Board, subsections a., c., and d. of
18 this ~~Section~~section shall then be followed in their entirety.

19 iv. All decisions as to approval or ~~disapproval~~denial of a final plat
20 by the Platting Board as submitted under this ~~Section~~section
21 shall be final unless appealed to ~~the Board of~~
22 ~~Adjustments~~superior court.

23 **c. Requirements for Final Plat**

24 The final plat shall be prepared to the technical specifications, and
25 shall be accompanied by appropriate supporting materials, as
26 specified in the Title 21 User's Guide.

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

28 All final plats requiring public improvements, except those requiring
29 monumentation only, shall be accompanied by a subdivision
30 agreement between the subdivider and the Municipality and an
31 engineer's estimate of the cost of all required public improvements.
32 Requirements for such an agreement are further described in ~~Section~~
33 ~~section 21.08.060, Subdivision Agreements~~.

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

35 The Platting Board may place such conditions upon granting of final
36 plat approval as are necessary to preserve the public welfare in
37 accordance with the subdivision regulations. See ~~Section~~section
38 21.03.020.K. When such a condition of approval entails a restriction
39 upon the use of all or part of the property being subdivided, a note
40 specifying such restrictions shall be placed on the face of the plat.
41 Such note shall constitute a restrictive covenant in favor of the
42 Municipality and the public and shall run with the land, enforceable
43 against all subsequent owners. Any such restrictive covenant may be
44 enforced against the subdivider or any subsequent owner by the
45 Municipality or by any specifically affected member of the public.

6. **Approval Criteria**

The Platting Board may approve a preliminary or final plat only if it finds that the plat:

- a. Conforms to ~~Chapter~~chapter 21.08, *Subdivision Standards*, chapter 21.07, *Development and Design Standards*, and any regulations adopted pursuant to ~~that Chapter~~those chapters;
- b. Promotes the public health, safety and welfare;
- c. Mitigates the effects of incompatibilities between the land uses or residential densities in the subdivision and the land uses and residential densities in the surrounding neighborhood, including but not limited to visual, noise, traffic and environmental effects;
- d. Provides for the proper arrangement of streets in relation to existing or proposed streets;
- e. Provides for adequate and convenient open space;
- f. Provides for the efficient movement of vehicular and pedestrian traffic;
- g. Ensures adequate and properly placed utilities;
- h. Provides access for firefighting apparatus;
- i. Provides opportunities for recreation, light, and air and avoids congestion;
- j. Facilitates the orderly and efficient layout and use of the land; and
- k. Furthers the goals and policies of the comprehensive plan and conforms to the comprehensive plan in the manner required by Sectionsection 21.01.090, *Comprehensive Plan*.

D. **Abbreviated Plat Procedure**

1. **Authorization**

The preliminary plats described in ~~paragraph 2. of this Section~~subsection B.2.b. above are subject to approval under the abbreviated ~~plat~~ procedure in this Section~~subsection~~ instead of the procedure in subsection C. above; provided that preliminary plats described in ~~paragraphs B.2.a and 2.b of this Section~~ are not subject to approval under this Section~~subsection~~ where the applicant ~~for preliminary plat approval~~ is an agency of the municipal, state, or federal governments.

~~2. Eligible Preliminary Plats~~

~~Eligible preliminary plats are as follows:~~

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

- ~~i. Result in an increase in the permitted density of residential units within the area being subdivided or resubdivided.~~

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- ~~ii. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.~~
- ~~iii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.~~
- ~~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:
 - ~~i. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.~~
 - ~~ii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.~~
 - ~~iii. Divide a tract, parcel or lot:
 - ~~(A) Created within the previous 12 months pursuant to the approval of a preliminary plat under this Section; or~~
 - ~~(B) Contiguous to and having any of the same owners as a preliminary plat approved within the previous 48 months.~~~~~~
- ~~c. Vacations and relocations under Section 21.15.130. [x-ref not updated]~~
- ~~d. Subdivision of a cemetery into burial plots.~~
- ~~e. A plat required by Section 21.15.030 for the final approval of a conditional use or site plan. [x-ref not updated]~~
- ~~A plat depicting the creation of two townhouse lots.~~

2. Submission Requirements

All of the submission 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 submission requirements by regulation under Chapterchapter 3.40 for plats depicting the vacation and any associated relocation of a public utility easement.

3. Public Notice

Before acting on a preliminary plat application under this Sectionsection, the Director shall publish notice pursuant to Sectionsection 21.03.020.G.

4. Action on Plat⁴³

a. **Platting Board Authority**

~~Except~~The Director is the platting authority for abbreviated plats, ~~except~~ as provided in ~~Section~~section 21.15.030.03.070.G. for conditional uses ~~and~~, section 21.03.080.F. for site plans, and ~~subsection~~ 21.15.130.C.03.160 for vacation or relocation of certain dedicated public areas, ~~the Platting Board under this Section is the Platting Authority.~~ The Director may refer any application to the Platting Board that ~~the officer~~he or she deems may need further or more extensive analysis and public comment concerning access into adjacent property.

b. **Review and Decision**

The platting authority shall review each proposed subdivision in light of the approval criteria of subsection C.6. above and shall consult other municipal offices or agencies as necessary. Based on the results of that review, the platting authority shall act to approve, approve with conditions, or deny the plat.

c. **Variations**

i. When acting as the ~~Platting Authority~~platting authority under this ~~Section~~section, the Director may not grant variances from the provisions of ~~Chapter~~chapter 21.08, *Subdivision Standards*.

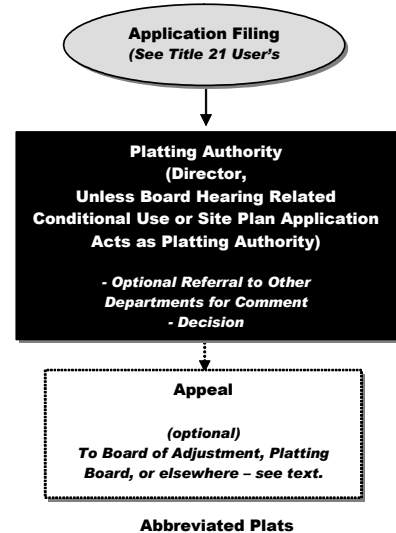
ii. When acting as the ~~Platting Board~~platting authority under ~~Section~~section 21.15.030.03.070.G., *Platting for Conditional Uses, or 21.03.080.F., Platting for Site Plans*, the ~~Board~~board or ~~commission~~ hearing an application for conditional use or site plan approval may grant variances to the provisions of ~~Chapter~~chapter 21.08, *Subdivision Standards*, in accordance with ~~Section~~21.15.010section 21.03.190, *Variations*.

d. **Duration of Preliminary Approval**

Preliminary plat approval expires after 18 months; provided that the Board hearing an application for conditional use or site plan approval may extend the expiration of preliminary plat approval ~~under Section~~ 21.15.030.1 in conjunction with extending the time for implementing the conditional use or site plan.

e. **Appeals**

Decisions of the ~~Platting Board~~Director under this ~~Section~~section are final unless appealed within 15 days:



1 ~~i. To the Board hearing the application for conditional use or~~
2 ~~site plan approval.~~To the Board of Adjustment under section
3 21.03.200.A., where the ~~Director is the Platting Authority~~
4 under ~~Section 21.15.030.I. [x-ref not updated]~~

5 i. ~~To the Board of Adjustment under Section ---, where the~~
6 ~~Board authority~~ hearing an application for conditional use or
7 site plan approval is the ~~Platting Board under Section~~ platting
8 authority under section 21.15.030.I. [x-ref not
9 updated] ~~03.070.G. for conditional uses, or section~~
10 21.03.080.F. for site plans.

11 ii. To the Platting Board in all other cases.

12 An appeal under ~~subsection b. or c. of~~ this subsection shall be treated
13 as an original application for preliminary plat approval under this
14 Section ~~section~~.

15 f. **Approval of Final Plat**

16 A final plat submitted pursuant to the approval of a preliminary plat
17 under this ~~Section~~ section is subject to approval in accordance with
18 subsection C.45. above, provided that the municipal surveyor may
19 waive a field survey for a final plat that merely eliminates interior lot
20 lines.

21 E. **Right-of-Way Acquisition Plat**

22 1. **Generally**

23 A plat for a subdivision created by a government agency's acquisition of a
24 street or trail right-of-way is subject to approval under this ~~Section~~ section and
25 is not subject to any other approval procedure for plats under this ~~Title~~ title.

26 2. **Submission Requirements**

27 A right-of-way acquisition plat shall contain the information specified in the
28 ~~Title 21~~ User's Guide and shall be submitted to the Director.

29 3. **Applicability of Requirements**

30 ~~A right-of-way acquisition plat shall conform to the submission requirements~~
31 ~~of subsection 2. of this Section and to the other provisions of this Title,~~
32 ~~provided that:~~

33 a. A right-of-way acquisition plat is not subject to any of the other
34 submission requirements for plats under this ~~Title~~ title.

35 b. A right-of-way acquisition plat is not subject to ~~Section --- [x-ref to~~
36 ~~subdivision improvement standards in Chapter~~ section 21.087.050,
37 Improvements.

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

1 4. **Action**

2 a. **Platting Board**

3 The Director shall act as the ~~Platting Authority~~ platting authority unless
4 the government agency applying for plat approval requests a public
5 hearing before the Platting Board.

6 b. **Duration of Approval**

7 The preliminary approval of the right-of-way acquisition plat shall be
8 for a period of 18 months; provided, however, that the Director may
9 grant an extension of time for filing the final plat upon a finding that it
10 is in the public interest to do so.

11 c. **Appeals**

12 All decisions of the Director under this ~~Section~~ section shall be final
13 unless appealed to the Platting Board within 15 days. An appeal
14 under this subsection shall be treated as an ~~original~~ subdivision
15 ~~application~~ plat pursuant to section 21.03.060C.

16 5. **Requirements for Final Plat**

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

20 **21.03.070 CONDITIONAL USES** ³⁴⁴³

21 A. **Purpose**

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

28 B. **Relationship to Site Plan Requirements**

29 1. **Coordination with Review of Site Plans**

30 If a site plan is necessary for the proposed conditional use pursuant to
31 ~~Section~~ section 21.03.070080, then the review and approval of both the site
32 plan and the conditional use shall be coordinated. The two applications shall
33 be filed together and review of each application shall proceed simultaneously.
34 However, the Planning and Zoning Commission shall render separate
35 decisions on each application, recognizing that the applications are distinct
36 and are subject to different standards for approval. ^{35 45}

37 2. **Lapse and Expiration of Conditional Use Approval**

38 If a site plan is necessary for the proposed conditional use pursuant to
39 ~~Section~~ section 21.03.070080, the approval of the conditional use shall be
40 conditioned on the subsequent approval of the site plan. Accordingly, the
41 approval of any conditional use shall lapse, and become null and void, upon
42 the expiration of the approved site plan ~~(see Section 21.03.080D.)~~, unless
43 otherwise restricted by the Municipality. If a conditional use does not require
44 a site plan, or is not tied to a site plan, then the conditional use does not lapse
45 unless it is subject to a specified time limit as a condition of approval.

1 **C. Conditional Uses in Nonconforming Structures or Lots**

2 If a proposed conditional use involves one or more structures or lots that do not
3 conform to the regulations of the district in which the conditional use is to be located,
4 then, unless the applicant has previously obtained the necessary variances from the
5 appropriate decision-making body, the application for conditional use approval shall
6 be accompanied by an application for alterations of a nonconforming structure or lot
7 ~~(See Chapter 21.10, Nonconformities).~~ This application shall be processed
8 concurrently with the conditional use application by the Planning and Zoning
9 Commission ~~and in accordance with Chapter 21.10.~~ However, approval of alteration
10 of a nonconforming structure and/or lot request shall be a prerequisite to approval of
11 the conditional use. The notices required for the nonconformity alteration application
12 shall be combined with the notices required for the conditional use application.

13 **D. Procedure**

14 **1. Pre-Application Conference**

15 Before filing an application, the applicant shall request a pre-application
16 conference with the Director. See ~~Section~~ section 21.03.020.B.

17 ~~2. Community Meeting~~

18 ~~A community meeting may be required according to the provisions of Section~~
19 ~~21.03.020.F.~~

20 **2. Application**

21 A conditional use permit application shall contain the information specified in
22 the Title 21 User's Guide and shall be submitted to the Director. If site plan
23 review is required under ~~Section~~ section 21.03.080, then the applicant shall file
24 a site plan review application for simultaneous review ~~with the conditional use~~
25 ~~permit application.~~

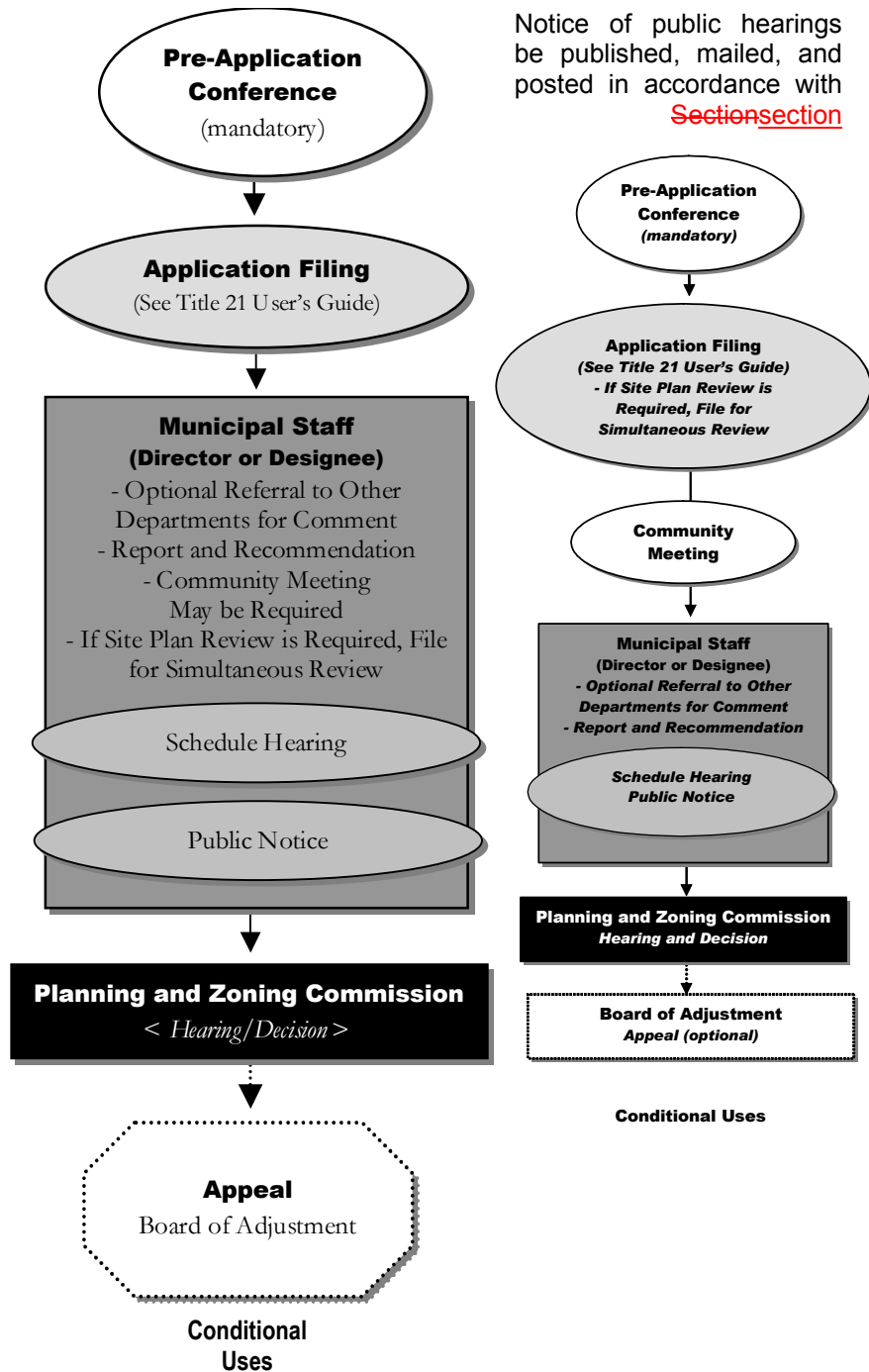
26 **3. Public Hearing Notice**

Notice of public hearings be published, mailed, and posted in accordance with [Section section](#)

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4. Director's Review and Report
 The Director shall review each proposed conditional use permit application in light of the approval criteria of subsection E. below and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Director shall provide a report to the Planning and Zoning Commission.



5. **Planning and Zoning Commission's Review, Hearing, and Decision⁴⁶**

The Planning and Zoning Commission shall hold a public hearing on the proposed application and, ~~within --- days from the date of receipt of the complete application,~~ act to approve, approve with conditions, or deny the proposed conditional use permit, based on the approval criteria of subsection E. below.

E. **Approval Criteria**

~~A~~The Planning and Zoning Commission may approve a conditional use permit application ~~may be approved only if the Planning and Zoning Commission finds upon finding~~ that all of the following criteria have been met:

1. The proposed use is consistent with the ~~comprehensive plan~~ Comprehensive Plan and all applicable provisions of this ~~Title~~ 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;
3. The proposed use is consistent with any applicable use-specific standards set forth in ~~Section ---; chapter 21.05;~~
4. The proposed use is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
5. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent ~~practicable~~ feasible; and
6. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

F. **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 section 21.03.490~~ section 21.03.180) shall require separate review and approval by the Planning and Zoning Commission. Any application for approval of such changes shall be filed, ~~processes~~ processed, reviewed, and approved or denied in the manner set forth in this ~~Section section~~ section for the original application. This ~~Section section~~ section shall not apply, however, to modifications to the approved site plan for the conditional use, which are governed by ~~Section ---; section 21.03.080.G., Amendments to Approved Site Plans.~~

G. **Platting for ~~Site Plans and Conditional Uses~~³⁶⁴⁷**

1. If development under a final approval under this ~~Section section~~ section will create 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 title~~ title. A preliminary plat required under this ~~subsection~~ subsection is subject to approval as required by ~~this Title section 21.03.060, Subdivisions and Plats.~~

2. Unless the authority granting final approval directs in the final approval that it shall act as the platting authority, the ~~Director is the~~ Platting Authority Board is the platting authority for site plans under this subsection.
3. The ~~Platting Authority~~ 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.

H. **Abandonment of Conditional Use**³⁷⁴⁸

~~Except for conditional use permits granted by the Assembly under Section 21.50.160, pertaining to uses involving the sale of alcoholic beverages, an~~ An otherwise lawful conditional use permit shall expire if:

1. For any reason the conditional use is abandoned in its entirety for a period of one year or longer; or
2. The property owner notifies the Planning and Zoning Commission of the abandonment of the conditional use permit. A conditional use shall not be abandoned under this subsection if the result of the abandonment is the creation of a nonconforming land use.
- ~~3. A conditional use granted by the Assembly under Section 21.50.160, pertaining to uses involving the sale of alcoholic beverages, shall expire 60 days after the removal of the license to sell alcoholic beverages from the premises, unless there is an application on file with the alcoholic beverage control board to transfer or install a new license on the premises.~~

21.03.080 SITE PLAN REVIEW

A. **Purpose**

The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of this ~~Title~~ title, and to encourage quality development in the Municipality reflective of the goals, policies, and objectives of the Comprehensive Plan. For land uses requiring a site plan review, such uses may be established in the Municipality, and building or land use permits may be issued, only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this ~~Section~~ section.

B. **Administrative Site Plan Review**

1. **Applicability**³⁸⁴⁹
 - a. Land uses ~~in the Municipality~~ requiring administrative site plan review are ~~noted~~ identified in section 21.05.010, Table [cite use table in Chapter 21.05] of Allowed Uses.
 - b. In addition, site plans for public facilities costing up to \$500,000 shall require administrative site plan review. The Director has the discretion to refer such projects to the Urban Design Commission for review as part of the major site plan review process. For purposes of this subsection only, "public facility" projects are defined in section 21.03.090.C.

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2. Procedure

a. **Submission and Review of Application**

An administrative site plan review application shall contain the information specified in the ~~Title 21~~ User's Guide and shall be submitted to the Director.

b. **Action by Director**

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

c. **Appeals**

Denial of an administrative site plan may be appealed to the Planning and Zoning Commission.

C. Major Site Plan Review³⁹⁵⁰

1. Applicability⁴⁰⁵¹

a. Land uses ~~in the Municipality~~ requiring major site plan review are ~~noted~~ identified in section 21.05.010, Table [cite use table in Chapter 21.05] of Allowed Uses.

b. In addition, a public facility project costing more than \$500,000 shall require major site plan review. For purposes of this subsection only, "public facility" projects are defined in section 21.03.090.B.

2. Procedure

a. **Pre-Application Conference**

Before filing an application, the applicant shall request a pre-application conference with the Director. See ~~Section~~ section 21.03.020.B.

~~b. **Community Meeting**~~

~~A community meeting may be required according to the provisions of Section 21.03.020.F.~~

b. **Application**

A major site plan review application shall contain the information specified in the Title 21 User's Guide and shall be submitted to the Director.

c. **Public Hearing Notice**

Notice of public hearings shall be published, mailed, and posted in accordance with ~~Section~~ section 21.03.020.G.

d. **Director's Review and Report**

The Director shall review each proposed major site plan application in light of the approval criteria of subsection E. below and, as deemed

1 necessary, distribute the application to other reviewers. Based on the
2 results of those reviews, the Director shall provide a report to the
3 Urban Design Commission.

4 e. ***Urban Design Commission's Review, Hearing, and Decision***⁵²

5 The Urban Design Commission shall hold a public hearing on the
6 proposed application and, ~~within --- days from the date of receipt of~~
7 ~~the complete application,~~ act to approve, approve with conditions, or
8 deny the proposed major site plan, based on the approval criteria of
9 subsection E. below. The Commission may delay taking action on a
10 public facility site plan only if the Commission finds the submittal is
11 incomplete or the Commission is advised by the Director that a matter
12 before the Planning and Zoning Commission or the Assembly will
13 have a material impact on the public facility site plan or exterior
14 building improvements.

15 f. ***Appeals***

16 Denial of a major site plan may be appealed to the Planning and
17 Zoning Commission.

18 g. ***Conformance with Commission Decision Required for Public***
19 ***Projects***

20 No agency may proceed with implementation of a public facility site
21 plan, implementation of exterior building improvements, or
22 implementation of revisions to approved site or landscaping plans and
23 exterior building elevations that do not conform to the Commission's
24 actions under this section.

25 D. **Expiration**

26 1. **General**

27 A site plan approval shall automatically expire at the end of 12 months after
28 the date of its issuance if a building or land use permit for at least one building
29 in the development proposed in the site plan is not approved. A change in
30 ownership of the property does not affect this time frame.

31 2. **Extension**

32 Upon written application submitted at least 30 days prior to the expiration of
33 the permit period by the applicant and upon a showing of good cause, the
34 Director may grant one extension not to exceed ~~six~~12 months.⁵³ The
35 approval shall be deemed extended until the Director has acted upon the
36 request for extension. Failure to submit an application for an extension within
37 the time limits established by this ~~Section~~section shall render the site plan
38 approval void.

39 E. **Approval Criteria**

40 An administrative or major site plan review application shall be approved ~~only~~ upon a
41 finding that the site plan meets all of the following criteria:

- 42 1. The site plan is consistent with the Comprehensive Plan;

2. The site plan is consistent with any previously approved subdivision plat, planned development master plan, or any other precedent plan or land use approval;
3. The site plan complies with all applicable development and design standards set forth in this Title, including but not limited to the provisions in Chapter 21.04, Zoning Districts, Chapter 21.05, Use Regulations, Chapter 21.06, Dimensional Standards and Measurements, and Chapter 21.07, Development and Design Standards;
4. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent practicable; and
5. The development proposed in the site plan and its general location is compatible with the character of surrounding land uses.

21.03.090 PUBLIC FACILITY SITE SELECTION AND SITE REVIEW

~~A. Applicability~~⁴²

~~F. The procedures and standards of this section shall apply to any of the following facilities that are Platting for Site Plans~~⁵⁴

1. If development under a final approval under this section will create 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 21.03.060, Subdivisions and Plats.
2. Unless the authority granting final approval directs in the final approval that it shall act as the platting authority, the Director is the platting authority for 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.

~~G. Amendments to Approved Site Plans~~⁵⁵

1. **Original Procedure Applies for Most Amendments**
Amendment of a site plan shall follow the same process required for the original approval of a site plan, unless the amendment is determined to be a minor amendment as described in subsection 2. below.
2. **Administrative Approval of Minor Amendments**
The Director may approve administratively minor amendments to any approved site plan upon written application and documentation by the applicant, and upon the Director's determination that the amendment is a minor amendment.
 - a. **Procedure**

- 1 i. Upon receiving a written request from the applicant for a site
2 plan amendment, the Director shall determine if the proposed
3 amendment will be processed as a minor amendment or
4 major amendment. The applicant may appeal the Director's
5 decision, in writing to the Zoning Board of Examiners and
6 Appeals within 10 days of the decision.
- 7 ii. Immediately following the Director's determination that a
8 proposed amendment is minor, the Director shall:
- 9 (A) Issue a minor amendment affidavit, which shall be
10 transmitted to the Urban Design Commission for their
11 information; and
- 12 (B) Attach a form stating the nature of the modification,
13 date of approval, and bearing the signature of the
14 Director to the site plan mylar on file in the
15 Department.
- 16 iii. If the original approval had been recorded, the amended plan
17 shall be recorded by the Municipality at the applicant's
18 expense.
- 19 b. **Types of Minor Amendments**
20 The following are amendments which the Director may reasonably
21 determine to be "minor":
- 22 i. Insubstantial changes to the text to add clarity or correct
23 conflicting provisions.
- 24 ii. Changes in street alignment if such changes further the intent
25 of the Plan and this Code, and are acceptable to the
26 Municipal Engineer.
- 27 iii. Changes in building envelope, setback, and similar provisions
28 of ten percent or less.
- 29 iv. Changes in landscaping, sign placement, lighting fixtures, etc.
30 to further the intent of the Plan and this Code.

31 **21.03.090 PUBLIC FACILITY SITE SELECTION⁵⁶**

32 A. **Purpose**

33 This section sets forth a process by which the Planning and Zoning Commission shall
34 review and decide upon acquisition of sites, including acquisition by lease, before
35 certain public facilities may be authorized, or publicly owned land is designated as the
36 site for certain public facilities.

37 B. **Applicability⁵⁷**

- 38 1. Unless exempted by subsection 2. below, the Planning and Zoning
39 Commission shall review and decide the selection of sites for any of the

1 following facilities that are to be owned, or leased for no more~~less~~ than ten
2 years including all options to extend or renew, by a government agency not
3 exempt by law from municipal land use regulation:

- 4 a. Any newly constructed building or buildings in which government
5 operations or activities occupy more than a total of 4,000 square feet
6 on the site, and any existing building acquired by purchase or lease in
7 which government operations or activities occupy more than 15,000
8 square feet;
- 9 b. Any use of land over five acres in area;
- 10 c. Any trail alignment not part of a road construction project; and
- 11 d. Any public snow disposal or landfill site.⁵⁸

12 **~~B.~~ Public Facility Site Selection⁴³**

13 **~~1.~~ Authority of Planning and Zoning Commission**

14 ~~2. The Planning and Zoning Commission shall review and decide the selection~~
15 ~~of a~~This section shall not apply to the following:

16 a. Any site that is

17 Designated for a public facility the subject ~~to this section, except where the~~
18 ~~location of the site is:~~

- 19 i. ~~Designated~~use on a municipal plan adopted by the
20 Assembly;
- 21 ii. Determined by a dedication to the Municipality on a final plat
22 approved and recorded in accordance with this ~~Title~~title; or
- 23 iii. Subject to approval of a conditional use under this ~~Title~~title.

24 b. The selection of sites for public schools, which shall instead be
25 undertaken pursuant to AMC chapter 25.25.

26 c. Any facility site selection reviewed by the Commission or approved by
27 the Assembly before [the effective date of this title.];

28 d. Any facility site selection under which there have been substantial
29 expenditures for design or construction before [the effective date of
30 this title.]

31 **C. Required Information**

32 The agency proposing a site selection shall submit to the Commission all information
33 ~~necessary to its review under this Section identified in the User's Guide.~~ This
34 information shall include, but need not be limited to, an evaluation of alternative sites,
35 or an explanation why no alternative sites were considered.

1 **D. Public Hearing**

2 The Commission shall hold a public hearing on any site selection that is subject to
3 review under this ~~Section~~section. Notice of the public hearing shall be given in the
4 manner prescribed for a public hearing on a conditional use application.

5 ~~1. **Review Required**~~

6 ~~The Commission shall review and decide acquisition of a site, including~~
7 ~~acquisition by lease, before:~~

8 ~~a. A public facility may be authorized; or~~

9 ~~b. Publicly owned land is designated as the site for a public facility.~~

10 **E. Approval Criteria**⁴⁴⁵⁹

11 The Commission shall review the proposed site for consistency with the goals,
12 policies, and land use designations of the ~~comprehensive plan~~Comprehensive Plan
13 and other municipal plans adopted by the Assembly, conformity to the requirements of
14 this ~~Title~~title, and the effects of the proposal on the area surrounding the site. The
15 following specific criteria shall be considered:

16 1. Whether the site will allow development that is compatible with current and
17 projected land uses;

18 2. Whether the site is large enough to accommodate the proposed use and
19 future additions or another planned public facility;

20 3. Whether the site is located near a transit route, if applicable;

21 4. Whether there are existing or planned walkways connecting the site to transit
22 stops and surrounding residential areas, where applicable;

23 5. The environmental suitability of the site;

24 6. Whether adequate utility infrastructure is available to the site; and

25 ~~a. The financial feasibility of the site selection, including continual~~
26 ~~operations and maintenance impacts.~~

27 ~~7. **Exemptions**~~

28 ~~This Section shall not apply to any facility site selection:~~

29 ~~a. Reviewed by the Commission or approved by the Assembly before~~
30 ~~the effective date of Assembly adoption of this Title.~~

31 ~~b. Under which there have been substantial expenditures for design or~~
32 ~~construction before the effective date of Assembly adoption of this~~
33 ~~Title.~~

~~F. Public Facility Site Plan and Project Landscaping Review⁴⁶~~

~~1. Authority of Urban Design Commission~~

~~a. The Urban Design Commission shall decide upon the site design, exterior building improvements, and project landscaping for a public facility subject to this section, except where the site is subject to approval of a conditional use permit under this Title.~~

~~b. No building permit or land use permit shall be issued for a public facility project costing more than \$500,000 until the Commission has made its decision under this Section.~~

~~c. Public facility site plans and project landscaping costing up to \$500,000 shall be submitted to the Director for administrative review. The Director has the discretion to refer the proposed project to the Commission for review.~~

~~2. Required Information~~

~~The agency proposing a public facility site plan and project landscaping shall submit to the Commission all information in accordance with this Section C. necessary to its review under this Section. Submittals for conceptual review shall be submitted at 35% completion. Submittals for approval shall be submitted at 65% completion. The agency shall also demonstrate compliance and compatibility with the existing comprehensive plan and all other municipal plans adopted by the Assembly.~~

~~3. Public Hearing~~

~~The Commission may, in its discretion, hold a public hearing on any public facility site plan and project landscaping reviewed under this Section. Notice of the public hearing shall be given in the manner prescribed for a public hearing on a conditional use application.~~

~~4. Action Required~~

~~Before the final commitment to the design of a public facility may be made, the Commission shall have approved the site plan. The Commission is authorized to take the following actions upon site plan submittal:~~

~~a. Approving a site plan as submitted;~~

~~b. Approving a site plan with conditions; or~~

~~c. Denying a site plan.~~

~~The Commission may delay taking action on a public facility site plan or exterior building improvements only if the Commission finds the submittal is incomplete or the Commission is advised by the Director that a matter before the Planning and Zoning Commission or the Assembly will have a material impact on the public facility site plan or exterior building improvements.~~

~~5. Standards~~

~~a. Site Plan~~

~~The Commission shall review a proposed public facility site plan or exterior building improvements for consistency with the goals,~~

1 policies, and land use designations of the Comprehensive Plan and
2 all other municipal plans adopted by the Assembly, conformity to the
3 requirements of this Title, and the effects of the proposal on the area
4 surrounding the site.

5 **b. Landscaping**

6 The Commission shall consider the following criteria in reviewing
7 public facility landscaping under this Section:

8 i. The estimated cost of the landscape improvements is
9 equitable and proportional to project public visibility and
10 budget;

11 ii. The ability of the selected plant materials to thrive in the
12 hardiness zone of the site location;

13 iii. Planning and design criteria, including:

14 (A) The external impacts generated by the public facility
15 project on adjacent areas. The site plan and
16 landscape elements of the public facility project
17 should complement, maintain, or improve the
18 landscape quality of adjacent neighborhoods and
19 areas.

20 (B) The degree to which the building, site plan, and
21 landscape elements contribute to on-site use of the
22 public facility project, including elements of northern
23 city design. The design elements of the public facility
24 project should enhance safe, efficient, and
25 comfortable public use.

26 (C) The visual attractiveness of the landscaping and its
27 enhancement of the architecture of the public facility
28 project, including the integration of internal and
29 exterior architectural themes.

30 iv. Compliance and compatibility with the Comprehensive Plan
31 and all other municipal plans adopted by the Assembly.

32 v. Compliance with the 1% (one percent) for Art program.

33 **6. Conformance with Recommendations of Commission**

34 No agency may proceed with implementation of a public facility site plan,
35 implementation of exterior building improvements, or implementation of
36 revisions to approved site or landscaping plans and exterior building
37 elevations that do not conform to the Commission's actions under this
38 Section.

39 **7. Appeals**

40 Any action of the Commission on public facility site plans and project
41 landscaping may be appealed to the Planning and Zoning Commission. The

~~Planning and Zoning Commission shall conduct a *de novo* hearing following the procedures set forth in this Section.~~

~~8. **Delegation of Authority**~~

~~The Commission may promulgate regulations under Chapter 3.40 that delegate all or part of its authority under this Section to the Director.~~

7. Whether the site is located in a designated regional center or town center. Municipal, state, and federal administrative offices shall locate in the Central Business District. Satellite government offices and other functions are encouraged to locate in regional or town centers if practicable.⁶⁰

21.03.100 SPECIAL FLOOD HAZARD PERMITS

~~A. **Generally**~~

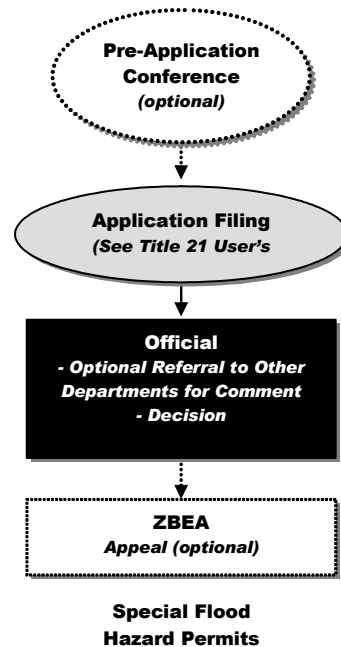
A. **Applicability**

Any use, structure, or activity listed in the floodplain regulations (section 21.04.070.E., Flood Hazard Overlay District) as requiring a special flood hazard permit is prohibited until the issuance of such permit. Applications for special flood hazard permits may be made to the ~~official administering the floodplain regulations on forms furnished by the Municipality~~ Municipal Engineer.

B. **Application Contents**

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

1. The elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
2. The elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential⁴⁶⁶¹ structure meet the floodproofing criteria in Sectionsection 21.60.065.A04.070.E.7., Construction Requirements (in Flood Hazard Overlay District); and
4. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.



C. **Evaluation; Additional Information**

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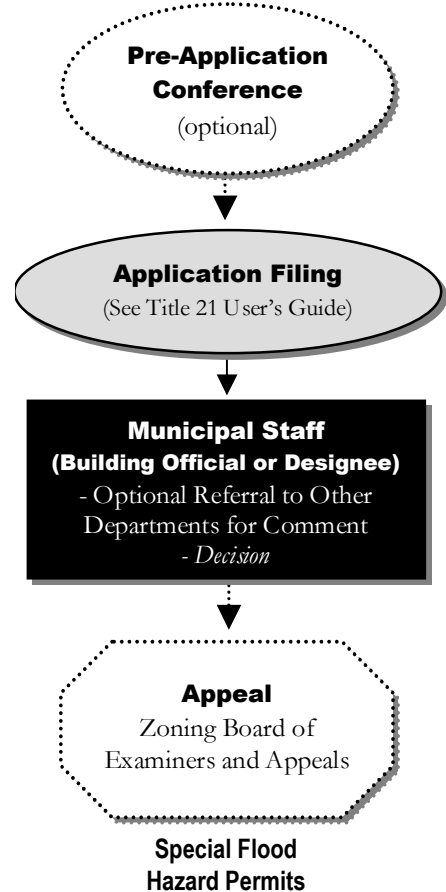
Upon receipt of an application for a special flood hazard permit, the ~~Building Official~~**Municipal Engineer** shall transmit copies of the application, together with pertinent information, to interested and affected departments and agencies within the Municipality, requesting technical assistance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

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

D. Criteria for Issuance

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

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



6. All necessary floodproofing will be provided.

E. Time for Acting on Application

The ~~official~~Municipal Engineer shall act on an application in the manner described in this ~~Section~~section within 30 days from receiving the application, except that, where additional information is required, the official shall act within 30 days of the receipt of such additional requested information.

F. Notice on Subdivision Plats

Where any portion of a subdivision is situated within a flood hazard district, a note shall be placed on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard district as it exists on the date hereof. The boundaries of the flood hazard district may be altered from time to time in accordance with the provisions of ~~Section~~section 21.60.020-04.070.E.3., *Creation of Flood Hazard Overlay District; Official Flood Hazard Reports and Maps*. All construction activities and any land use within the flood hazard district shall conform to the requirements of ~~Chapter~~section 21.60." ~~[x-refs not updated]~~04.070.E., Flood Hazard Overlay District."

G. Appeals

An appeal from a decision of ~~an administrative official~~the Municipal Engineer regarding a flood hazard permit shall be brought in accordance with ~~Section~~section 21.03.210B-200B.

21.03.110 LAND USE PERMITS^{47,62}

A. Purpose

~~[RESERVED]~~^{48,63}

B. Applicability

1. Inside Building Safety Service Area

Inside the Building Safety Service Area:

~~a. A land use, a building permit shall be required for considered the erection, construction, establishment, moving, alteration, enlargement, repair, placement, or conversion of any building or structure in any district established under this Title. A land use permit shall be issued only for work that conforms to the requirements and standards of Title shall be required pursuant to title 23 and this Title, and the terms and conditions of any other permits, approvals, or variances granted under Title 23 or this Title. A. The issuance of a building permit may only be obtained as part of the land use permit process.~~

~~The issuance of a land use permit may~~ also be subject to the improvement requirements referenced in subsection E. below.

2. Outside Building Safety Service Area

Outside the Building Safety Service Area, a land use permit shall be required prior to:

- a. Construction or placement of a building or addition to an existing building whose floor area is 100 square feet or greater;
- b. Excavation of more than 300 cubic feet on any lot or tract;
- c. Filling or grading more than 900 cubic feet on any lot or tract; ~~or~~
- d. Changing the principal use of a building; or
- e. Clearing and grubbing more than 2,000 square feet.

C. Procedures

1. Application Filing

Applications for land use permits shall be submitted to the Building Official ~~in the Development Services Department,~~ on the form ~~included in the Title 21 User's Guide.~~⁴⁹ provided.

2. Approval Procedure

a. The Building Official shall review each application for a land use permit ~~and shall forward those applications for projects within the Building Safety Services Area to the Planning Director.~~

b. The Building Official shall determine whether the application complies with all requirements of ~~Titletitle~~ 23. The ~~Planning~~ Director shall determine whether the application complies with all requirements of ~~Titletitle~~ 21, and shall inform the Building Official of his or her determination.

c. The Building Official shall issue a land use permit upon finding that the application and the proposed work complies with the approval criteria of subsection D. below.

d. A land use permit shall become null and void unless the work approved by the permit is commenced within ~~six~~¹² months⁶⁴ after the date of issuance. No work shall be considered to have commenced for the purposes of this paragraph until an inspection has been made and recorded. If after commencement the work is discontinued for a period of 12 months, the permit therefore shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a permit has been reinstated, or until a new permit has been secured.

~~e. Any permit issued in conflict with this Title or Title 23 shall be null and void.~~

3. Changes to Approved Permits

a. After a land use permit has been issued, no substantial changes or deviations from the terms of the permit or the application and accompanying plans and specifications shall be made without the specific written approval of such changes or deviations by the ~~Department~~building official.

- 1 b. An amendment to a land use permit that requires payment of an
2 additional fee, either because of an increase in the size of the
3 buildings, a change in the scope of work, or an increase in the
4 estimated cost of the proposed work, shall not be approved until the
5 applicant has paid the additional fees and the amendment has been
6 properly reviewed and approved for conformance with the building
7 code.

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

9 The Department may revoke and require the return of any land use permit by
10 notifying the permit holder in writing, stating the reason for such revocation.
11 The Department shall revoke land use permits for any of the following
12 reasons:

- 13 a. Any material departure from the approved application, plans, or
14 specifications;
- 15 b. Refusal or failure to comply with the requirements of this ~~Title~~title or
16 any other applicable state or local laws;
- 17 c. False statements or misrepresentations made in securing such
18 permit.

19 5. **Appeals**

- 20 a. Appeals of land use permit decisions or revocations relating to
21 ~~Title~~title 21 compliance shall be made to the Zoning Board of
22 Examiners and Appeals.
- 23 b. Appeals of land use permit decisions or revocations relating to
24 ~~Title~~title 23 compliance shall be made to the Building Board of
25 Examiners and Appeals.

26 D. **Approval Criteria**

27 ~~1. **Within the Building Safety Services Area**~~

28 ~~Within the Building Safety Services Area, no~~No land use permit shall be
29 issued unless the Building Official determines that all required approvals have
30 been granted, and the plans comply with all applicable provisions of ~~the~~
31 ~~Anchorage Municipal Code, including Title~~title 23, and ~~this Title~~.

32 ~~2. **Outside the Building Safety Services Area**~~

33 ~~Outside the Building Safety Services Area, no land use permit shall be issued unless~~
34 ~~the Building Official~~Director determines ~~that the proposed development complies~~plans
35 ~~comply~~ with all applicable provisions of this ~~Title~~title.

36 E. **Improvements Associated with Land Use Permits**⁵⁰⁶⁵

37 1. **Improvements Required**

38 The issuance of a land use permit under this ~~Section~~section for the
39 construction of a ~~residential~~, commercial, or industrial structure on a lot, ~~or for~~
40 ~~a residential structure on a lot~~, shall be subject to the permit applicant
41 providing the dedications and improvements required for a subdivision in the
42 same improvement area under ~~Chapter~~chapter 21.08, *Subdivision Standards*.

1 In applying the provisions of ~~Chapter~~chapter 21.08, *Subdivision Standards*,
2 under this ~~Section~~section, the term "lot" shall be substituted for the term
3 "subdivision," the term "permit applicant" shall be substituted for the term
4 "subdivider," and the term "Municipal Engineer" shall be substituted for the
5 term "platting authority."⁵⁴ ~~56~~

6 **2. Exceptions**

7 The requirements in ~~paragraph~~subsection 1. ~~above~~ shall not apply to a land
8 use permit to the extent that:

- 9 a. The permit has been approved by the Municipality prior to ~~[insert~~
10 ~~effective date]~~;
- 11 b. The Traffic Engineer determines that a street dedication or
12 improvement is not required for traffic circulation;
- 13 c. A dedication or improvement has been provided to the applicable
14 standard in ~~Chapter~~chapter 21.8008, *Subdivision Standards*;
- 15 d. A dedication or improvement will be provided under a subdivision
16 agreement that has been entered into under ~~[Section~~ ~~—~~section
17 ~~21.08.060, Subdivision Agreements~~, or under an established
18 assessment district;⁵² ~~or~~
- 19 e. The Municipality has already appropriated funds to construct an
20 improvement.

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

22 Where ~~Chapter~~chapter 21.8008 grants discretion to determine whether a
23 dedication or improvement will be required, or to determine the design
24 standards for a dedication or improvement, the Municipal Engineer shall
25 determine the requirement or standard that applies to a land use permit under
26 this ~~Section~~section by applying the following standards:

- 27 a. The dedication or improvement shall be reasonably related to the
28 anticipated impact on public facilities and adjacent areas that will
29 result from the use and occupancy of the structure that is the subject
30 of the building or land use permit. The Municipal Engineer may
31 require the permit applicant to provide information or analyses to
32 determine impacts on public facilities and adjacent areas, including
33 without limitation the following:
- 34 i. A traffic impact analysis, or similar information. The Traffic
35 Engineer⁵³~~67~~ may require a traffic impact analysis if the same
36 would be required⁵⁴~~68~~ for approval of a subdivision,
37 conditional use, or site plan for similar development under
38 this title.
- 39 ii. A drainage study, or similar information. A drainage study
40 may be required if the same would be required for approval of
41 a subdivision, conditional use, or site plan for similar
42 development under this title.

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

12 **7. Fee in Lieu**
13 A fee in lieu of the required improvements may be accepted if the Municipal
14 Engineer determines:

15 **a.** That the improvements or construction activities associated therewith
16 would create a potential undue safety hazard to motorists or
17 pedestrians; or

18 **b.** Due to the nature of existing development on adjacent properties it is
19 unlikely that improvements would be extended in the foreseeable
20 future and the improvements associated with the development under
21 review do not, by themselves, provide a sufficient improvement to
22 safety or capacity or a sufficient benefit to the property to be
23 developed under the building or land use permit to warrant
24 construction.

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

35 **9. Appeals**
36 A permit applicant may appeal a decision of the Municipal Engineer
37 concerning required improvements under this ~~Section~~section to the Platting
38 Board⁵⁷⁷¹ by filing a written notice of appeal with the secretary of the platting
39 board not later than 10 days after receipt of written notice of the decision.
40 The appeal shall be placed on the agenda of the next regularly scheduled
41 platting board meeting that occurs not less than 20 days after the filing of the
42 appeal. The platting board shall hear the appeal de novo.

21.03.120 CERTIFICATES OF ZONING COMPLIANCE⁵⁸⁷²

A. Purpose

A certificate of zoning compliance shall be required ~~prior to~~ the completion of any development in the Municipality, to ensure that the development complies with all applicable standards of this ~~Title-title.~~

B. Applicability

~~Within the Building Safety Services Area, a~~ certificate of zoning compliance shall be required prior to the occupancy of any building, structure, or land, except that temporary uses and structures approved in accordance with ~~Section~~section 21.03.040140 shall be exempt from certificate of zoning compliance requirements. ~~Inside the Building Safety Service Area, a certificate of occupancy shall be considered the certificate of zoning compliance.~~

C. ~~Outside~~Issuance

1. Certificate

~~1. Upon approval by the Director,~~ the Building ~~Safety Services Area, Official may issue~~ a certificate of zoning compliance ~~shall be required prior to~~.

~~C. Procedures~~

~~1. Application Filing and Review Procedure~~

~~An application for a certificate, which is valid as long as the conditions of zoning compliance shall be filed with the Planning Department. Within 10 days after the application is determined complete, the building or land use permit remain in effect.~~

2. Conditional Certificate

~~a. Upon approval by the Director shall review the application and determine whether to approve, approve with modifications, or deny the application based on compliance with, the standards set forth in subsection 2. below.~~

~~b. If the Director denies the application, the applicant shall have 30 days to submit a corrected application without paying a separate application fee. If a corrected application is not resubmitted within 30 days, the application shall be considered withdrawn and a new application shall be required for future re-submittals.~~

~~The Director~~Building Official may issue a conditional certificate of zoning compliance, which shall be valid only for the period of time stated in the certificate, for a specified portion or portions of a building that may safely be occupied prior to final completion of the entire building and/or site. Conditions that are attached to the conditional certificate of zoning compliance must be completed prior to the expiration of the certificate. When such conditions have not been completed prior to the expiration date of the conditional certificate, the certificate of occupancy shall immediately expire. Upon receipt of a written application to the ~~Director~~Building Official stating satisfactory reasons for the failure to complete work within the given time period, the

~~Director~~Building Official may renew the certificate for a specified period of time, not to exceed ~~90~~180 days.

3. **Appeals**

Appeals of decisions on certificates of zoning compliance shall be to the Zoning Board of Examiners and Appeals.

D. **Standards**

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

~~E.~~ **Effect of Certificate of Zoning Compliance**

~~Issuance of a certificate of zoning compliance shall mean that the use is in compliance with all applicable requirements of this Title.~~

21.03.130 SIGN PERMITS⁶⁹⁷³

[RESERVED]

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 21.01, *Signs*, have been met.

B. **Approval Requirements for Signs**

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

TABLE 21.03-3: SIGN PERMIT REQUIREMENTS

	<u>Permit</u>	<u>No Permit</u>
<u>Sign Plate</u>		<u>X</u>
<u>Permanent Building Sign</u>	<u>X</u>	
<u>Permanent Freestanding Sign</u>	<u>X</u>	
<u>Entrance/Exit</u>		<u>X</u>
<u>Instructional</u>		<u>X</u>
<u>Temporary – on a parcel</u>		<u>X</u>
<u>Temporary – for a business</u>		<u>X</u>
<u>Construction signs</u>		<u>X</u>
<u>Temporary for any Residential Unit</u>		<u>X</u>

C. Application

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

D. Review and Approval

Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in 21.03.110C.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 21.03.200.B.



21.03.140 TEMPORARY USES

A. ~~Temporary Use Permit Required~~⁶⁹

A. Applicability⁷⁴

No use that is classified as a temporary use in the zoning district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit.

B. Filing and Contents of Application

~~An application for a temporary use permit shall be filed with the Department of Planning, Development, and Public Works on a form prescribed by specified in the Director. Each application for a temporary use permit shall contain the information required on the application form, including written documentation that the applicant has notified adjoining property owners and the Police and Fire Departments of the proposed temporary use or structure. In addition, the application shall be accompanied by a sketch plan showing the boundaries of the property, the use of adjacent properties, the location of the temporary use or structure on the property, and other information sufficient to show that the temporary use or structure complies with the standards set forth in Section of this Title. User's Guide.~~

C. Filing Deadline

All applications for temporary use permits shall be filed at least two weeks prior to the date the temporary use will commence, or at least four weeks prior to the date the temporary use will commence if public safety support is requested from the Municipality. The Director may waive this filing deadline requirement in an individual case, for good cause shown.

D. Duration of Permit

~~A temporary use permit shall be valid only for the time period stated on the permit, unless otherwise authorized in this Title.~~

D. Approval Criteria

~~The Director shall issue a temporary use permit only upon finding that the temporary use satisfies the applicable requirements set forth in section 21.05.080, Temporary Uses and Structures.~~

E. Duration of Permit⁷⁵

~~The maximum duration of a temporary use permit shall be six months, with one six-month extension allowed at the discretion of the Director.~~

21.03.150 RECORD OF SURVEY MAPS⁶⁺⁷⁶

A. Purpose and Authorization

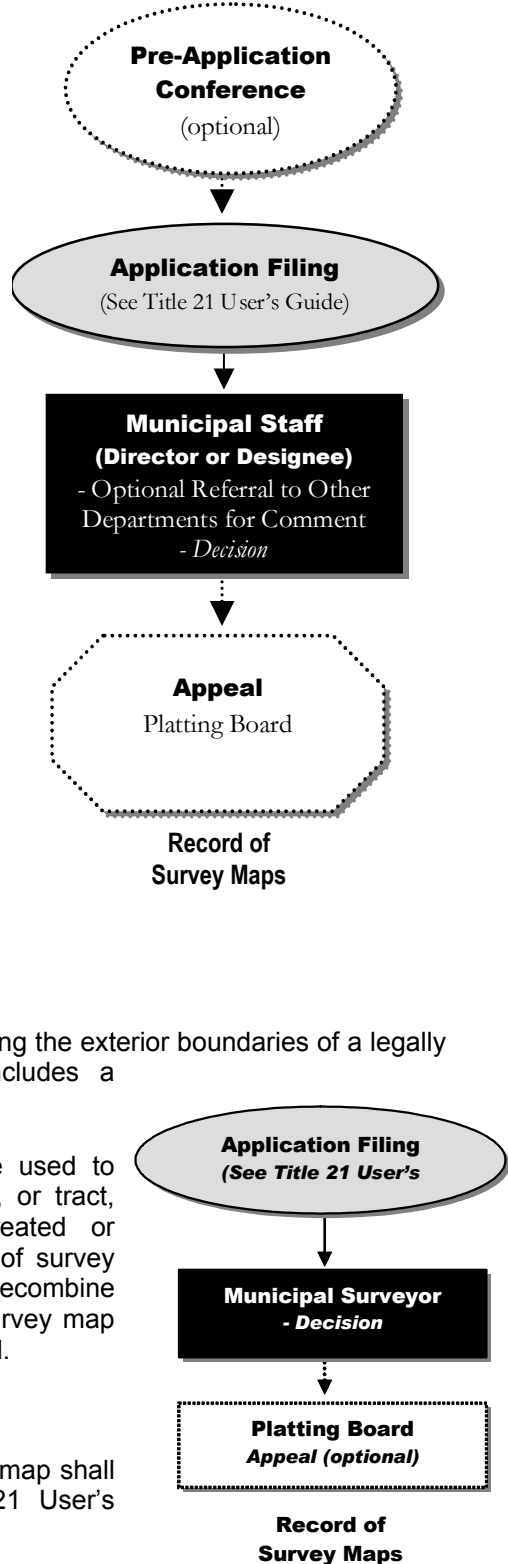
The purpose of this ~~Section~~section is to provide for the approval of record of survey maps to be filed with the district recorder for the state. Record of survey maps shall be reviewed and approved in accordance with this ~~Section~~section.

B. Use of Record of Survey Maps

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

C. Required Submittals

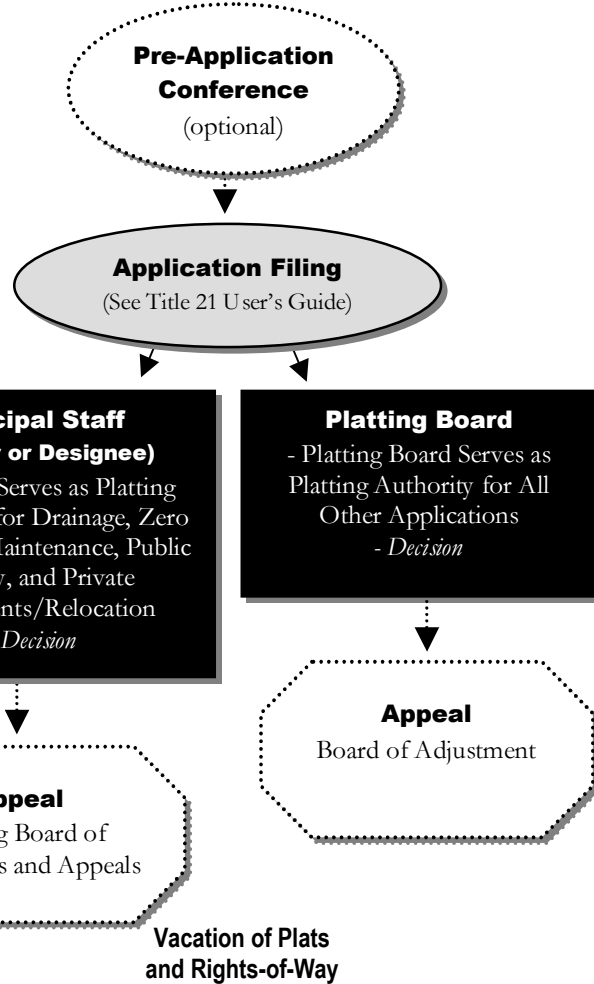
An applicant for approval of a record of survey map shall submit the materials specified in the Title 21 User's Guide.



D. Monuments
 Monuments set for the survey shall conform to the standards of the Public Works Department of Project Management and Engineering.

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

F. Appeals
 All decisions of the municipal surveyor under this Sectionsection shall be final unless appealed to the Platting Board within 15 days.



21.03.160 VACATION OF PLATS AND RIGHTS-OF-WAY

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

B. Required Submittals
 Applicants for vacation requests shall submit the materials specified in the Title 21 User's Guide.

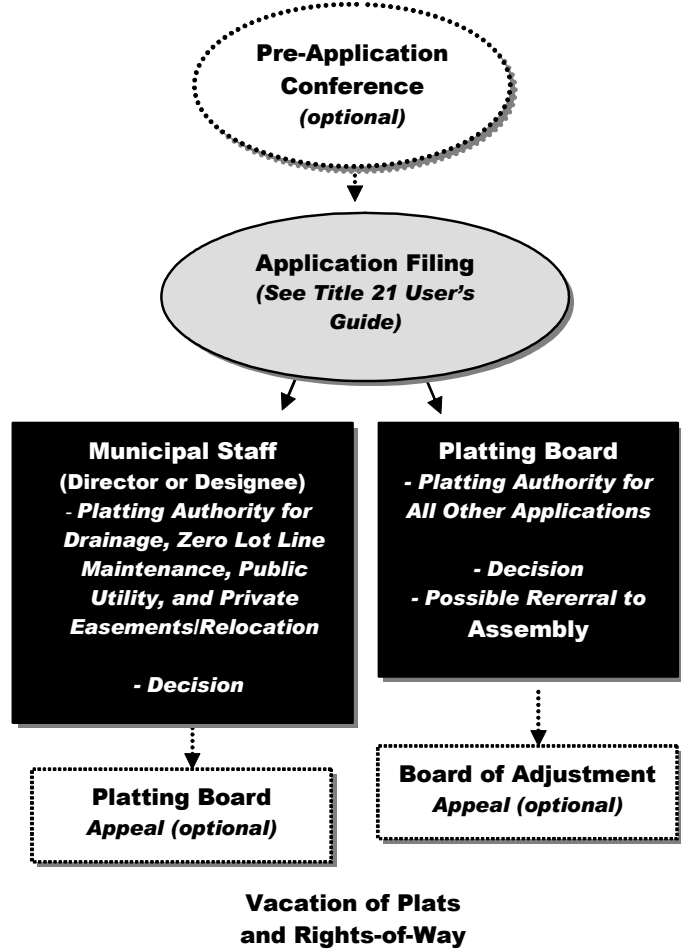
1 ~~C. Action by Platting Board~~

2 C. Decision-Making Responsibilities for Vacations

- 3 1. The Director is the platting authority for applications to vacate the following
4 platted interests:
- 5 a. Drainage easements granted under ~~Section 21.85.140~~section ~~---~~.
 - 6 b. Zero lot line maintenance easements.
 - 7 c. Public utility easements.
 - 8 d. Private easements, but only upon the written concurrence of the
9 beneficiaries.
 - 10 e. Relocation of any of the above-described interests.
- 11 2. The Platting Board is the platting authority for all other applications to vacate
12 a dedicated public area.

13 D. Action

- 14 1. The Director or Platting Board shall take action on the vacation application
15 within 60 days after the submission date. The reasons for the approval of the
16 vacation shall be stated upon the case record ~~of the Platting Board.~~.
- 17 2. The ~~Planning~~action of the Platting Board on an application to vacate a public
18 area is final, unless referred to the Assembly under subsection 3. below.



- 1 | 3. The Department shall refer to the Assembly the action of the Platting Board
 2 | on an application to vacate a public area, with an ordinance authorizing the
 3 | conveyance of the area proposed to be vacated, when:
- 4 | a. Within 15 days of the Platting Board 's action a government agency or
 5 | a person aggrieved by the action files with the Department ~~of~~
 6 | ~~Community Planning and Development~~ a written request that the
 7 | matter be forwarded to the Assembly; or
- 8 | b. The area proposed to be vacated is not a street right-of-way or an
 9 | easement.
- 10 | ~~c. The action of the Platting Board on an application to vacate a public~~
 11 | ~~area is final, unless referred to the Assembly under this subsection.~~
- 12 | 4. The approval of a vacation ~~by the Platting Board~~ expires ~~18~~24 months after
 13 | the date of approval. A vacation is not effective unless, before its approval
 14 | expires, a conveyance of the vacated interest is approved in accordance with
 15 | law and a final plat depicting the vacation is approved and filed in accordance
 16 | with this Title-title. A street right-of-way or easement whose vacation is finally
 17 | approved ~~by the Platting Board~~ under ~~subsection C.2 of this Section~~section is

1 a right-of-way or easement without substantial value to the Municipality and is
2 conveyed upon the filing of a final plat depicting the vacation.

- 3 5. Appeals of the Director's decision on a vacation under his or her jurisdiction
4 shall be to the Platting Board. Appeals of the Platting Board's decision on a
5 vacation under its jurisdiction shall be to the Board of Adjustment.

6 **E. Title to Vacated Area**

- 7 1. The title to the street or other public right-of-way vacated on a plat attaches to
8 the lot or lands bordering on the area in equal proportions, except that, if the
9 area was originally dedicated by different persons, original boundary lines
10 shall be adhered to so that the street area which lies on one side of the
11 boundary line shall attach to the abutting property on that side, and the street
12 area which lies on the other side of the boundary line shall attach to the
13 property on that side. The portion of a vacated street that lies within the limits
14 of a platted addition attaches to the lots of the platted addition bordering on
15 the area. If a public square is vacated, the title to it vests in the Municipality.⁷⁸
- 16 2. If the Municipality acquired the street or other public area vacated for legal
17 consideration before the final act of vacation, the fair market value of the
18 street or public area shall be deposited with the Municipality. Title transferred
19 under this subsection shall be warranted by the Municipality in the same
20 manner as it was received.
- 21 3. The provisions of paragraph ~~DE~~.1 of this ~~Section~~ notwithstanding, the
22 Platting Board may determine that all or a portion of the area vacated should
23 be devoted to another public purpose and, if so, title to the area vacated and
24 held for another public purpose does not vest as provided in paragraph ~~DE~~.1
25 but remains in the Municipality.

26 ~~21.03.170 STREET NAME ALTERATIONS⁶³~~

27 ~~A. Generally~~

28 ~~A street name alteration may be proposed by a government agency or by petition.~~
29 ~~The proposal or petition shall be submitted to the Office of Planning, Development,~~
30 ~~and Public Works. The Department of Public Works shall reject any street name~~
31 ~~alteration that does not conform to the standards of Section 21.80.260 and any~~
32 ~~regulations adopted pursuant to that Section.~~

33 ~~B. Petition for Alteration~~

34 ~~1. A petition for street name alteration shall include:~~

35 ~~a. The existing street name;~~

36 ~~b. The proposed street name;~~

37 ~~c. The signatures of 51 percent of the owners of property fronting the~~
38 ~~street, and the legal description of the property fronting on the street~~
39 ~~owned by each petitioner; and~~

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~~d. A map showing the location of the subject street.~~

~~2. The Department of Public Works shall determine whether a petition conforms to paragraph 1. of this subsection. For the purposes of this Section, the person listed on the current municipal property tax rolls as the owner of a lot or parcel shall be presumed to be the present owner of the lot or parcel.~~

C. Notice to Abutting Property Owners; Action by Mayor

~~1. The Department of Public Works shall mail to all owners of property fronting on a subject street notice of the proposed street name change not less than 14 days before it is submitted to the Mayor. The notice shall state the present and proposed street names and shall direct that any comments on the alteration be submitted in writing to the Director of Public Works.~~

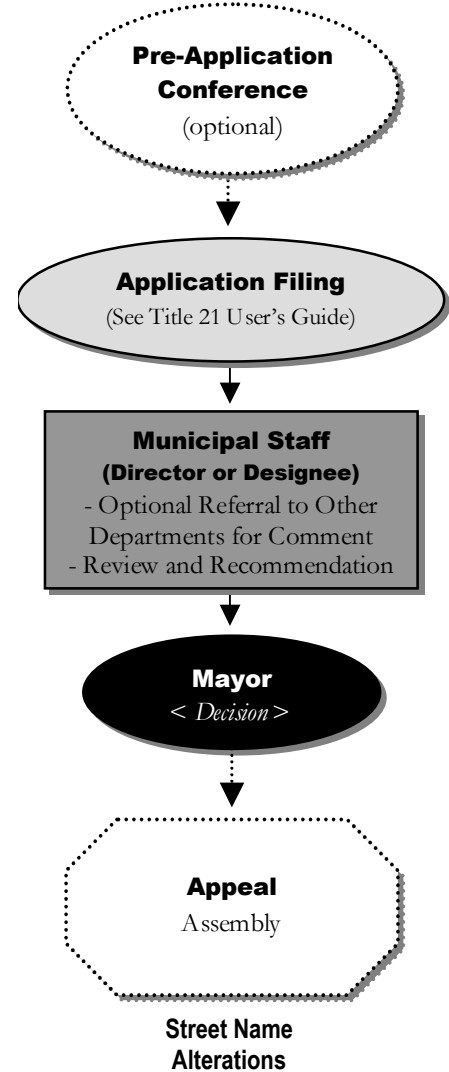
~~2. The Director of Public Works shall submit the street name alteration to the Mayor with a recommendation that the Mayor approve or disapprove the alteration and the reasons for the recommendation.~~

~~3. If the Mayor approves the alteration, he shall issue an executive order directing that the alteration be made. The executive order shall become effective 30 days after its issuance but shall be suspended by a protest filed with the municipal clerk within that 30-day period pursuant to subsection D. of this Section. The municipal clerk shall mail notice of the issuance of the executive order to all owners of property fronting on the subject street. The notice shall describe the procedure for protesting the executive order under subsection D. of this Section. The municipal clerk shall notify the person who submitted a petition or proposal for street name alteration of the Mayor's disapproval of the street name alteration.~~

~~4. The Mayor's disapproval of a street name alteration may be appealed to the Assembly within 30 days.~~

D. Protests

~~Upon the timely filing of a petition signed by 33 percent of the owners of property fronting on the subject street, protesting the issuance of an executive order under~~



1 subsection C. of this Section, the municipal clerk shall schedule a public hearing on
2 the matter before the Assembly. The question before the Assembly shall be whether
3 to ratify the executive order. The executive order shall become effective upon the
4 passage of a resolution of ratification. If a resolution of ratification fails to pass, the
5 executive order shall be void.

6 ~~21.03.180 CERTIFICATION OF NONCONFORMING USE⁶⁴~~

7 ~~[RESERVED]~~

8 **21.03.170 VERIFICATION OF NONCONFORMING STATUS⁷⁹**

9 **A. Process**

10 Owners of lots, uses, structures, or characteristics of use that may not conform to the
11 requirements of this title may request a Verification of Nonconforming Status by filing
12 an application with the Director in accordance with this section. Owners of signs that
13 do not conform to the requirements of this title shall comply with section 21.11.060,
14 Nonconforming Signs.

- 15 1. The application shall be accompanied by documentation that establishes the
16 approximate date that the lot, use, structure, or characteristic of use was
17 established; proof that the lot, use, structure, or characteristic of use was
18 lawfully established at the time it became nonconforming; and proof that the
19 use has not been discontinued or abandoned, except as provided in
20 subsection B. below. The Director shall be authorized to require additional
21 information if deemed necessary to permit an accurate determination.
- 22 2. If any nonconformities are verified, a Verification of Nonconforming Status
23 shall be recorded with the District Recorder's Office clearly identifying the land
24 by parcel number and/or a legal description of the property. Such
25 verifications shall run with the land, and their status shall not be affected by
26 changes of tenancy, ownership, or management.
- 27 3. A Verification of Legal Nonconforming Status shall not be required for
28 continued daily operation or maintenance of a nonconforming lot, use,
29 structure, or characteristic of use.

30 **B. Exceptions**

31 Notwithstanding subsection A. above:

- 32 1. Where the contention for nonconforming use is raised in a court in any action
33 brought to enforce this title before an application for determination has been
34 filed under this section, this section shall not be applicable and the court shall
35 have jurisdiction to determine the issue.
- 36 2. Nothing in this section shall be construed to deprive the Director the right to
37 make a decision regarding a claimed nonconforming use or status as incident
38 to a valid pending application for a land use permit, or to reject an application
39 for decision as provided for by section 21.03.110.

1 **21.03.180 MINOR MODIFICATIONS**⁶⁶⁸⁰

2 **A. Purpose and Scope**

3 This ~~Section~~section sets out the required review and approval procedures for “minor
4 modifications,” which are minor deviations from otherwise applicable standards that
5 may be approved by the Director, the Assembly, the Planning and Zoning
6 Commission, ~~or the Platting Board,~~ or the Urban Design Commission. Minor
7 modifications are to be used when the small size of the modification requested, and
8 the unlikelihood of any adverse effects on nearby properties or the neighborhood,
9 make it unnecessary to complete a formal variance process.

10 **B. Applicability**

11 **1. Minor Modifications to General Development and Zoning District**
12 **Standards**⁶⁶⁸¹

13 As part of the review and approval of any procedure set forth in this
14 ~~Chapter~~chapter, the Director, the Assembly, the Planning and Zoning
15 Commission, ~~or the Platting Board,~~ and the Urban Design Commission may
16 approve minor modifications of up to a maximum of ~~{10}~~ten percent from the
17 following general development and zoning district standards provided that the
18 approval criteria of subsection D. below are met.

19 a. Minimum lot area or setback requirements (~~Section~~chapter 21.06);

20 ~~b. Yard requirements (Section);~~

21 b. General development standards set forth in ~~Chapter~~chapter 21.07,
22 *Development and Design Standards*;

23 c. Subdivision design and improvement standards set forth in
24 ~~Chapter~~chapter 21.08, *Subdivision Standards*.

25 **2. Exceptions to Authority to Grant Minor Modifications**⁸²

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

28 a. An increase in overall project density;

29 b. A change in permitted uses or mix of uses;

30 ~~c. An increase in building height;~~

31 c. A deviation from the use-specific standards, set forth in ~~Section~~
32 chapter 21.05; or

33 d. A change in conditions attached to the approval of any subdivision
34 plan (~~Section~~section 21.03.060), site plan (~~Section~~section 21.03.080),
35 or conditional use permit (~~Section~~section 21.03.070).

1 **C. Procedure**

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

3 The Director may initiate or approve a minor modification allowed under this
4 ~~Section~~section at any time prior to submittal of the staff report on an
5 application to another decision-making body, if a report is required, or prior to
6 final decision, if no report is required.

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

9 The Assembly, Planning and Zoning Commission, or Platting Board may
10 initiate or approve a minor modification allowed under this ~~Section~~section at
11 any time before ~~it take~~taking action on a development application.

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

13 Staff shall specify any approved minor modifications and the ~~justifications~~
14 for finding supporting such modifications on the pending development
15 application for which the modifications were sought.

16 **4. Limitation on Minor Modifications⁸³**

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

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

23 **D. Approval Criteria⁶⁷⁸⁴**

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

26 1. The requested modification is consistent with the ~~comprehensive~~
27 ~~plan~~Comprehensive Plan and the stated purpose of this ~~Title~~title;

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

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

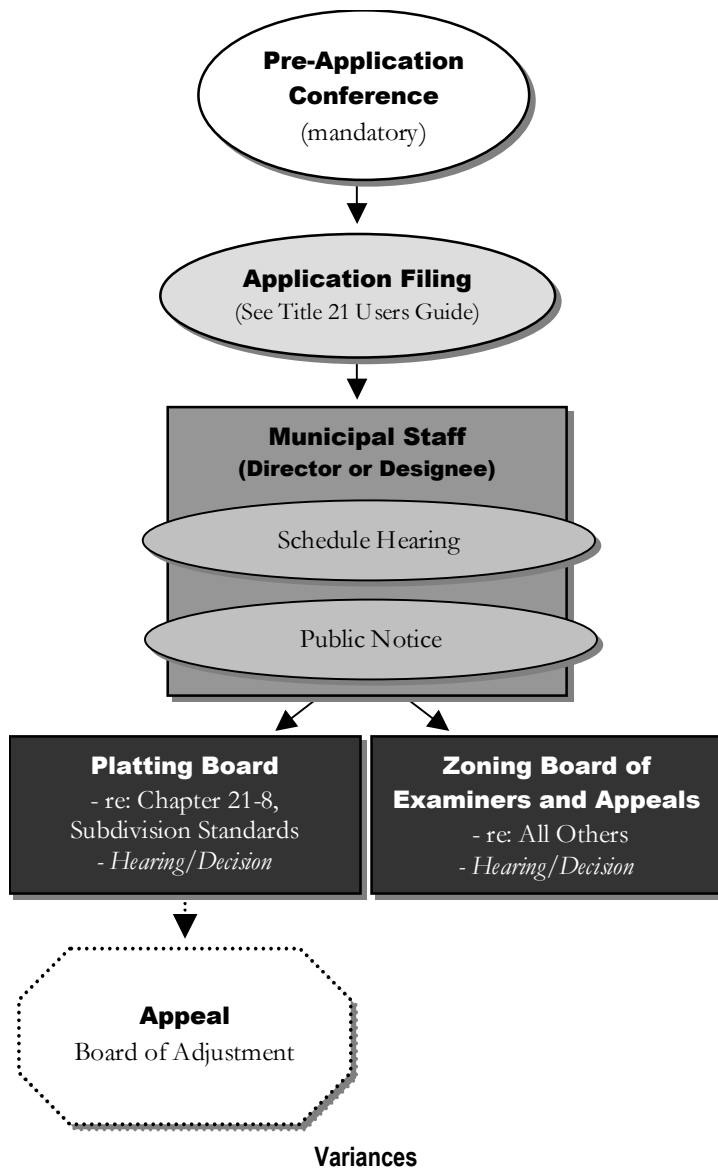
31 4. The requested modification will have no significant adverse impact on the
32 health, safety, or general welfare of surrounding property owners or the
33 general public, or such impacts will be substantially mitigated; and

34 5. The requested modification is necessary to either: (a) compensate for some
35 practical difficulty or some unusual aspect of the site of the proposed
36 development not shared by landowners in general; or (b) accommodate an
37 alternative or innovative design practice that achieves to the same or better
38 degree the objective of the existing design standard to be modified. In
39 determining if "practical difficulty" exists, the factors set forth in ~~Section~~section
40 21.03.200G., *Approval Criteria (for Variances)* shall be considered.

21.03.190 VARIANCES ⁶⁸⁸⁵

A. Purpose and Scope

The variance process is intended to provide limited relief from the requirements of this Title 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 title. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Title title may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this Title title render the land difficult or impossible to use because of some unique physical attribute of the property itself ~~or some other factor unique to the property for which the variance is requested.~~ State



and/or federal laws or requirements may not be varied by the Municipality.

~~**B. Provisions from Which Variances Are Allowed**⁶⁹~~

~~Only the following standards of this Title are eligible for a variance, and only if the minor modification procedures in Section 21.03.190 are unable to address the hardship:~~

~~1. The lot width, yard, height, building coverage, or structure spacing standards set forth in Chapter 21.06, *Dimensional Standards and Measurements*;~~

~~2. Any of the off-street parking and loading standards set forth in Section~~;

~~3. Any of the subdivision standards or requirements set forth in Chapter 21.08, *Subdivision Standards*; and~~

~~4. [OTHER?]~~

~~**C. Pre-Application Conference**⁷⁰~~

~~Before filing a variance application, the applicant shall request a pre-application conference with the Director. See Section 21.03.020B.~~

~~**D. Application**~~

~~An application for a variance shall be submitted to the Director on a form contained in the Title 21 User's Guide. A request for variance may be initiated only by the property owner or his authorized representative. The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application meets the approval criteria of subsection G. Once the application is complete, the Director shall schedule the application for consideration at a public hearing, and shall transmit to the appropriate review body all applications and other records pertaining to the variance prior to the hearing.~~

~~**E. Decision-Making Bodies Authorized to Consider Variance Requests**⁷⁴~~

~~1. The Platting Board shall be authorized to review and consider requests for variances under this Section to standards for requirements set forth in Chapter 21.08, *Subdivision Standards*.~~

~~2. The Zoning Board of Examiners and Appeals shall be authorized to review all other variance requests allowed under this Section.~~

~~**B. Decision-Making Bodies Authorized to Consider Variance Requests**⁸⁶~~

~~1. The Platting Board shall be authorized to review and consider all requests for variances to standards set forth in chapter 21.08, *Subdivision Standards*.~~

~~2. The Planning and Zoning Commission shall be authorized to review and consider all requests for variances of standards relating to utility distribution facilities, which are set forth in section 21.07.050; and variances of standards relating to telecommunication facilities, which are in section 21.05.040.K.~~

1 3. Requests for variances from the airport height zoning regulations set forth in
2 section 21.04.070.C. shall be referred to the Federal Aviation Administration.

3 4. The Zoning Board of Examiners and Appeals shall be authorized to review
4 and consider variance requests from all other provisions of this title. The
5 Zoning Board of Appeals may only grant variances from dimensional
6 standards. No variance may be granted from the definitions set forth in
7 chapter 21.13.

8 C. Application⁸⁷

9 An application for a variance shall be submitted to the secretary of the board on a
10 form contained in the User's Guide.

11 1. An application for a variance to the Zoning Board of Examiners and Appeals
12 shall include either:

13 a. An as-built survey with an original signature and seal by a registered
14 professional land surveyor in the State of Alaska; or

15 b. A plot plan survey with an original signature and seal by a registered
16 professional land surveyor, licensed in the State of Alaska.

17 The as-built or plot plan survey drawing shall clearly show current existing
18 conditions.

19 2. If the application involves new construction or demolition, the as-built survey
20 shall clearly show the extent of the proposed changes.

21 3. The as-built survey or plot plan shall be drawn to scale, be clear, legible,
22 show all structures existing on-site at the time of application, including eaves,
23 cantilevers or any structures 30 inches or more above ground, and show
24 detailed dimensions of the item for which relief is sought.

25 4. The basis for lot measurements shall be identified on the as-built survey or
26 plot plan.

27 5. The as-built or plot plan shall also include, at a minimum, the legal description
28 of the petition site, lot square footage, dedicated easements and abutting
29 rights-of-way, include a directional arrow to the north, scale of map, grid
30 number and date of survey.

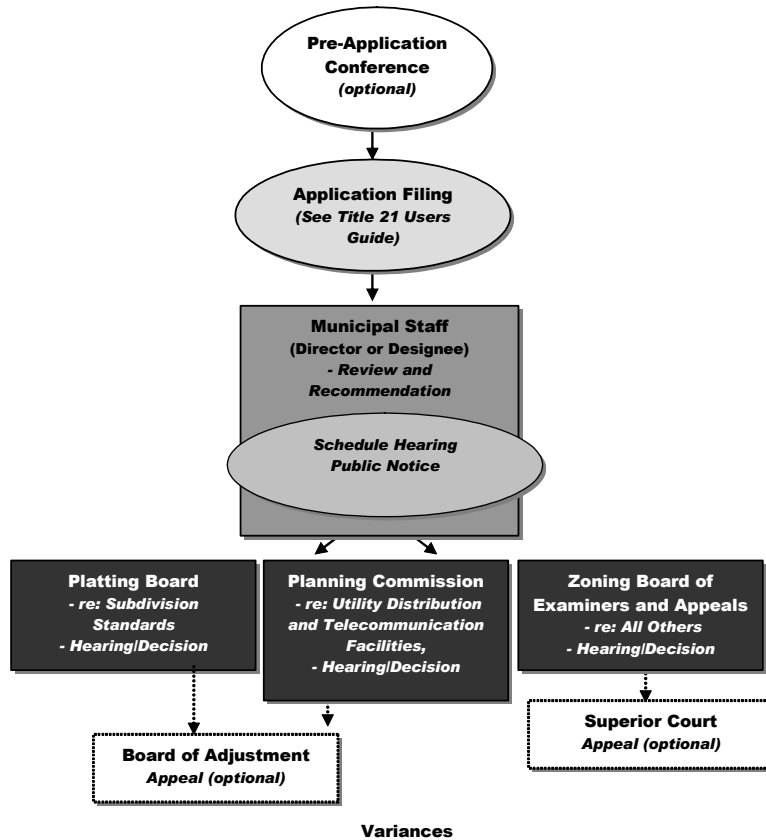
31 6. As-built surveys submitted shall be no more than two years old at the time of
32 application, and shall meet or exceed the most recently adopted "Alaska
33 Society of Professional Land Surveyors Minimum Standards for the Practice
34 of Land Surveying."

35 7. The Director may request other drawings or material essential to an
36 understanding of the application and its relationship to the surrounding
37 properties, including:

38 a. Site contours or a clear depiction of ground slope, if slope is a
39 consideration in the review;

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- b. Location of adjacent structures, if fire/safety issues are a consideration;
- c. Height of structures; and
- d. Any other data that will assist in the review.



D. Action by the 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 review body all applications and other records pertaining to the variance prior to the hearing. Upon receiving the application materials from the Director, the review body shall hold a public hearing on the proposed variance. Written, published, and posted notice of the hearing shall be provided pursuant to Section 21.03.020.G.
2. In considering the application, the review body shall review the application materials, the approval criteria of subsection GE., and all testimony and evidence received at the public hearing.
3. After conducting the public hearing, the review body may: deny the application; conduct an additional public hearing on the application; or grant the requested minimum required variance. Any approval or denial of the request shall be by resolution, accompanied by written findings of fact that the variance meets or does not meet each of the applicable criteria set forth in subsection GE., stating the reasons for such findings. A concurring vote of a majority of the fully constituted membership of the Board entity, minus those excused by conflicts of interest, shall be required to grant a variance.

- 1 4. Under no circumstances shall the review body grant a variance to allow a use
2 not permitted, ~~or a use expressly or by implication prohibited under the terms~~
3 ~~of this Title for in~~ the zone district containing the property for which the
4 variance is sought.
- 5 5. Under no circumstances shall the review body grant a variance from any
6 written conditions attached by another decision-making body to the approval
7 of a conditional use permit ~~(Section 21.03.070) or, subdivision plat (Section~~
8 ~~21.03.060, or site plan (Section 21.03.080).~~

9 **E. Approval Criteria**

10 ~~General Approval Criteria⁷²The application must state with particularity the relief~~
11 ~~sought and must specify the facts or circumstances that are alleged to show that the~~
12 ~~application meets the following standards:~~

13 ~~Except for variances to airport height regulations, which are governed by~~
14 ~~paragraph 2. below, the review body may approve a variance only if it finds~~
15 ~~that all of the criteria below have been met:~~

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

18 a. Special ~~circumstances or conditions~~ exist ~~(e.g., narrowness,~~
19 ~~exceptional topographic conditions, or the shape of the property)that~~
20 ~~are peculiar to the land involved and that are not common to other~~
21 ~~areas or buildings that are similarly situated and practical difficulty~~
22 ~~may result from strict compliance with this Title's standards, provided~~
23 ~~that the requested variance will not have the effect of nullifying or~~
24 ~~impairing the intent and purposes of either the specific standards, this~~
25 ~~Title, or the comprehensive plan. In determining "practical difficulty,"~~
26 ~~the Zoning Board of Examiners and Appeals shall consider the~~
27 ~~following factors:applicable to other land in the same district;~~

28 i. ~~Whether there can be any beneficial use~~ Strict interpretation
29 ~~of the property without the variance;~~

30 ii. ~~Whether the essential character~~ provisions of the
31 ~~neighborhood zoning ordinance would be substantially~~
32 ~~altered or whether adjoining deprive the applicant of rights~~
33 ~~commonly enjoyed by other properties would suffer a~~
34 ~~substantial detriment as a result of the variance;~~

35 b. ~~Whether in the same district under the terms of the variance would~~
36 ~~adversely affect the delivery of public services such as water and~~
37 ~~sewer;zoning ordinance;~~

38 i. ~~Whether the applicant purchased the property with~~
39 ~~knowledge of the requirement; and~~

40 ii. ~~Whether the applicant's predicament can be mitigated~~
41 ~~through some method other than a variance.~~

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- ~~e. No variance shall be granted if the conditions or circumstances affecting the applicant's property are of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.~~
- ~~d. If authorized, the variance shall represent the least deviation from the regulations that will afford relief.~~
- c. Special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience;
- d. Granting the variance would be in harmony with the objectives of the zoning ordinance and not injurious to the neighborhood or otherwise detrimental to the public welfare;
- e. Granting the variance will not permit a use that is not otherwise permitted in the district in which the property lies; and
- f. The variance granted is the minimum variance that will make possible a reasonable use of the land.

- ~~2. Variances to Airport Height Standards~~
- 2. **With respect to variances from the airport height zoning regulations set forth at Section ---, the standards of subsection G.1 shall not apply; instead, the Federal Aviation Administration shall have completed Subdivision Regulations**
 - a. There are special circumstances or conditions affecting the property such that the strict application of the provisions of the subdivision regulations would clearly be impractical, unreasonable or undesirable to the general public;
 - b. The granting of the specific variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated;
 - c. Such variance will not have the effect of nullifying the intent and purpose of the subdivision regulations or the comprehensive plan of the municipality; and
 - d. Undue hardship would result from strict compliance with specific provisions or requirements of the subdivision regulations. The applicant may supplement the form with supporting documents.
- 3. **Variances from Airport Height Zoning Regulations**
The Federal Aviation Administration shall complete an airspace determination that concludes that the proposed variance would not create a hazard.
- 4. **Variance for Number of Parking Spaces**
A variance for the number of parking spaces shall be granted on the basis of the demonstrated need for parking and if the spillover of parking onto other properties will be avoided.

1 **F. Lapse of Approval**

2 Any variance granted shall become null and void:

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

6 **G. Appeals**

- 7 1. An appeal from a decision of the Platting Board shall be brought in
8 accordance with ~~Sections~~sections 21.~~3003~~.210A.
9 2. An appeal from a decision of the Zoning Board of Examiners and Appeals
10 shall be brought in accordance with ~~Section~~section 21.~~30-010C~~.03.210C.

11 **21.03.200 APPEALS**⁷³⁸⁸

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

13 1. **Jurisdiction of Board**⁷⁴⁸⁹

14 The Board of Adjustment shall decide appeals:

- 15 a. From decisions regarding the approval or ~~disapproval~~denial of a plat
16 or a variance from the provisions of ~~Chapters~~chapters 21.08,
17 ~~Subdivision Standards~~; and
18 b. From decisions regarding the approval or ~~disapproval~~denial of
19 applications for approval of conditional uses (~~Section~~section
20 21.03.070).

21 2. **Initiation of Appeal**⁷⁵⁹⁰

22 Decisions may be appealed to the Board of Adjustment by:

23 ~~a. The applicant for a site plan, conditional use, or subdivision.~~

24 a. Any governmental agency or unit; or

25 ~~c. Any person adversely affected by the action.~~⁷⁶

26 b. Any party of interest for the application. For purposes of this section,
27 "parties of interest" for a particular application shall include the
28 applicant, the owner of the subject property, the owner of property
29 within the notification area for the subject application, and anyone that
30 presented oral or written testimony at a public hearing on the
31 application.⁹¹

32 3. **Appellees Before Board**

33 a. If a decision is appealed to the Board of Adjustment as provided in
34 subsection 2., an appellee brief may be filed as provided in
35 ~~Section~~section subsection 7. by:

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- i. The party in whose favor the lower administrative body's decision was rendered.
 - ii. Any municipal agency.
 - ~~iii. Any person who would be adversely affected if the decision of the lower administrative body were reversed by the Board.~~
 - iii. Any party of interest for the application, as defined in subsection 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.

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

- a. An appeal to the Board of Adjustment must be perfected by a party of interest for the application no later than ~~1520~~ 4520 days ~~after~~ from the date the written findings of fact and decision of the administrative body from which the appeal is taken, ~~unless a written request is made within seven days after the administrative body acts on an application for the body to adopt written findings and conclusions approved,~~ on the application. A written record, and becomes a final, appealable decision under this subsection, is the decision of the Board for purposes of computing the time for appealing the decision mailed or otherwise distributed or delivered to the applicant.⁹² The appeal is perfected by the filing of a notice of appeal, appeal fee, and cost bond in accordance with this ~~Section~~ section.
- b. The notice of appeal must be filed with the municipal clerk on a form prescribed by the Municipality and must contain detailed and specific allegations of error. If the appellant is not the applicant ~~for a site plan, conditional use or subdivision,~~ the appellant shall, within three days after filing the notice of appeal, serve a copy of the notice of appeal on the applicant by certified mail to the applicant's last known address. Proof the notice was served shall be provided to the municipal clerk.
- c. The appellant shall pay an appeal fee as provided in a fee schedule to be approved by the Assembly. In addition, the appellant shall file a cost bond equal to the estimated cost of preparation of the record. Following completion of the record, the actual cost thereof shall be paid by the appellant. All costs and fees shall be returned to the appellant if the decision of the lower body is reversed in whole or in part.

5. **New Evidence or Changed Circumstances**⁹³

a. ~~Appeals alleging new evidence or changed circumstances shall not be heard by the Board of Adjustment but shall be remanded by the municipal clerk to the lower administrative body, which shall determine whether to rehear the matter.~~ Allegations of new evidence or changed circumstances shall not be considered or decided by the Board of Adjustment. Allegations of new evidence or changed circumstances shall be raised by written motion for rehearing, filed with the municipal clerk no later than 20 days after the lower administrative body's initial decision becomes final.

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

ii. A decision of the lower administrative body on any issues remanded from the Board of Adjustment is not an initial decision as described in section a. above. The municipal clerk shall automatically reject, without hearing or reconsideration, any motion alleging new evidence or changed circumstances filed in response to a lower administrative body's decision on any issue(s) presented on remand.

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

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

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

6. **Appeal Record**⁷⁷⁹⁴

a. Upon timely perfection of an appeal to the Board of Adjustment, the municipal clerk shall prepare an appeal record. The record shall contain:

i. A verbatim transcript of the proceedings before the administrative body from which the appeal has been taken.

ii. Copies of all documentary evidence, memoranda ~~and~~, exhibits, correspondence, and other written material submitted to the administrative body prior to the decision from which the appeal is taken.

iii. A copy of the written decision of the administrative body, including its findings and conclusions.

- 1 b. The appellant shall arrange for the preparation of the transcript of the
2 Board hearing by a court reporter or the current board and
3 commission recording secretary and shall pay the cost of such
4 preparation. The appellant shall file the transcript with the municipal
5 clerk. If the appellant fails to file the transcript within 30 days of the
6 filing of the notice of appeal, the appeal shall be automatically denied.
- 7 c. Upon completion of the record, the municipal clerk shall notify the
8 appellant by certified mail of the cost of its preparation. If the
9 appellant fails to pay the costs within seven days of receiving the
10 notice, the appeal shall be automatically denied. Upon timely
11 payment of costs, the municipal clerk shall, by certified mail, serve a
12 copy of the record on the appellant. The municipal clerk shall also
13 notify by certified mail the appellees who have filed a notice of intent
14 to file a brief that the record is available for pickup. Upon request, the
15 municipal clerk shall provide a copy of the record to an appellee or
16 the public. A copying cost for the record will be charged as set out in
17 AMCR 3.90.002. The appellee shall also be charged any mailing
18 costs, including the cost of mailing the notice of record availability.

19 7. **Written Arguments**

20 a. ***Brief of Appellant***

21 The appellant to the Board of Adjustment may file a written brief of
22 points and authorities in support of those allegations of error specified
23 in the notice of appeal with the municipal clerk's office no later than
24 15 days after service of the appeal record. The municipal clerk shall
25 deliver a copy of the appellant's brief to the municipal staff assigned
26 responsibility for the appeal. The municipal clerk shall also notify by
27 certified mail those appellees who have filed a notice of intent to file a
28 brief that the appellant's brief is available for pickup. Upon request,
29 the municipal clerk shall provide a copy of the appellant's brief to
30 appellees, who shall be charged copying costs as provided in AMCR
31 3.90.002 and any mailing costs applicable.

32 b. ***Brief of Appellee***

33 ~~The municipal staff shall prepare and submit to the municipal clerk a~~
34 ~~written reply to the notice of appeal and any brief in support thereof~~
35 ~~no later than 30 days after service of the appeal record.~~ An appellee
36 who has filed a notice of intent to file a brief may also file with the
37 municipal clerk's office a written reply to the notice of points on appeal
38 and any brief in support thereof no later than 30 days after the service
39 of the appeal record. The municipal clerk shall notify the appellant by
40 certified mail that appellee briefs have been filed. The municipal staff
41 may, with the approval of the Director of the Office of Economic and
42 Community Development, prepare and submit to the municipal clerk a
43 written reply to the notice of appeal and any brief in support thereof
44 no later than 30 days after service of the appeal record.

45 c. ***Reply Brief***

46 An appellant may file a written reply brief to appellee briefs submitted
47 pursuant to subsection b. of this ~~Section-section.~~ The appellant's
48 reply brief is due no later than ten days after service of notice that the
49 appellee briefs have been filed.

1 d. **Timing of Briefs**
2 If a brief is not filed within the time prescribed by the User's Guide,
3 the municipal clerk shall notify the Board of Adjustment that the brief
4 was filed late. The Board shall determine whether to accept a late
5 brief and whether to allow additional time for any qualified opposing
6 party to file reply or rebuttal briefs if allowed.

7 e. **Form of Briefs**
8 All briefs shall be prepared to specifications set forth in the Title 21
9 User's Guide. The municipal clerk shall not accept a brief unless it is
10 in the form prescribed by the User's Guide. ~~If a brief is not filed within~~
11 ~~the time prescribed by the User's Guide, the municipal clerk shall~~
12 ~~notify the Board of Adjustment that the brief was filed late. The Board~~
13 ~~shall determine whether to accept a late brief and whether to allow~~
14 ~~additional time for any qualified opposing party to file reply or rebuttal~~
15 ~~briefs if allowed.~~

16 8. **Appeal Packet; Notice of Hearing**
17 Following the time set for the receipt of written argument from the appellant,
18 the appellee, and the municipal staff under this ~~part~~subsection, the municipal
19 clerk shall prepare and distribute to the members of the Board of Adjustment
20 an appeal packet containing only the notice of appeal, the appeal record and
21 any briefs filed in accordance with subsection 7. above. Following distribution
22 of the packets, a date shall be set for consideration of the appeal. Notice of
23 consideration on the appeal shall be published in a newspaper of general
24 circulation and shall be served by mail on the appellant and those appellees
25 who have submitted briefs. Appeal packets shall be made available to the
26 public upon demand with costs payable by the public as provided in AMCR
27 3.90.002.

28 9. **Conduct of Hearing**
29 a. The meeting at which the Board of Adjustment deliberates and
30 decides an appeal shall be open to the public and a record of the
31 hearing shall be made.

32 b. The Board of Adjustment shall not hear argument nor take additional
33 testimony or other evidence. The Board of Adjustment may consider
34 only the material contained in the appeal packet. ~~78 95~~

35 10. **Scope of Review**
36 a. The Board of Adjustment shall hear an appeal solely on the basis of
37 the record established before the lower administrative body, the
38 notice of appeal, the appellant's argument, and the reply to that
39 argument.

40 b. The Board of Adjustment may exercise its independent judgment on
41 legal issues raised by the appellant. The term "legal issues," as used
42 in this ~~Section~~section, means those matters that relate to the
43 interpretation or construction of ordinances or other provisions of law.

44 c. The Board of Adjustment shall, unless it substitutes its independent
45 judgment pursuant to subsection d. ~~of this Section~~below, defer to the
46 judgment of the lower administrative body regarding disputed issues

1 or findings of fact. Findings of fact adopted expressly or by
2 necessary implication by the lower administrative body may be
3 considered as true if they are supported in the record by substantial
4 evidence. The term "substantial evidence," for the purpose of this
5 ~~Section~~section, means such relevant evidence as a reasonable mind
6 might accept as adequate to support a conclusion. If the record
7 affords a substantial basis of fact from which the fact in issue may be
8 reasonably inferred, it shall be considered that the fact is supported
9 by substantial evidence.

10 d. Notwithstanding the provisions of subsection c. ~~of this Section~~above,
11 the Board of Adjustment may, by an affirmative vote of two-thirds of
12 the fully constituted board, substitute its independent judgment for
13 that of the lower administrative body on any disputed issues or
14 findings of fact. Such judgment must be supported on the record by
15 substantial evidence. For the purpose of this subsection, the fully
16 constituted Board of Adjustment shall not include those members who
17 do not participate in the appeal ~~in accordance with the provisions of~~
18 ~~subsection — of this Section.~~

19 **11. Decision**

20 a. The Board of Adjustment may affirm or reverse the decision of the
21 lower administrative body in whole or in part. It shall decide an
22 appeal on the basis of the record on appeal and the briefs of the
23 parties to the appeal, ~~in accordance with the standards of Section —.~~
24 A majority vote of the fully constituted board is required to reverse or
25 modify the decision appealed from. For the purpose of this
26 ~~Section~~section, the fully constituted board shall not include those
27 members who do not participate in the proceedings ~~in accordance~~
28 ~~with Section subsection — of this Section.~~ A decision reversing or
29 modifying the decision appealed from shall be in a form which finally
30 disposes of the case on appeal except where the case is remanded in
31 accordance with subsection 12.a. ~~of this Section.~~ below.

32 b. Every decision of the Board of Adjustment to affirm or reverse the
33 decision of the lower administrative body pursuant to subsection a. of
34 this ~~Section~~section shall be based upon and include written findings
35 and conclusions adopted by the Board. Such findings must be
36 reasonably specific so as to provide the community, and, where
37 appropriate, reviewing authorities, a clear and precise understanding
38 of the reason for the Board's decision. The Board may seek the
39 assistance of the municipal staff in the preparation of findings.

40 ~~12. Remedies~~

41 c. Every final decision of the Board of Adjustment shall clearly state on
42 its face it is a final decision with respect to all issues involved in the
43 case, and that the parties have 30 days from the date of mailing, or
44 other distribution of the decision, to file an appeal to the superior
45 court.

46 **12. Remand⁹⁶**

47 a. Where the Board of Adjustment reverses or modifies a decision of the
48 lower administrative body in whole or in part, its decision shall finally

1 dispose of the matter on appeal, except that the case shall be
2 remanded to the lower body where the Board of Adjustment
3 determines either that:

- 4 i. There is insufficient evidence in the record on an issue
5 material to the decision of the case; or
- 6 ii. There has been a substantial procedural error that requires
7 further public hearing.

8 A decision remanding a case shall describe any issue upon which
9 further evidence should be taken, and shall set forth any further
10 directions the Board deems appropriate for the guidance of the lower
11 administrative body.

12 b. The lower administrative body shall act on the case upon remand in
13 accordance with the decision of the Board of Adjustment in the
14 minimum time allowed by the circumstances. Cases on remand
15 following a decision of the Board shall take precedence over all other
16 matters on the agenda of the lower administrative body. ~~Cases~~
17 ~~remanded in accordance with subsection 5. of this Section are not~~
18 ~~entitled to such preference.~~

19 c. A Board of Adjustment decision remanding a case on one or more
20 issues is not a final decision with respect to any issues involved in the
21 appeal. The Board of Adjustment's decision remanding the case
22 shall be the final decision with respect to all matters affirmed by the
23 Board of Adjustment's decision, when, following the lower
24 administrative body's decision on remand, no appeal is perfected
25 within the period specified in subsection 21.03.200A.4.

26 d. A Board of Adjustment decision remanding a case on one or more
27 issues shall state that the decision is the final decision with respect to
28 all matters affirmed therein when, following the lower administrative
29 body's decision on remand, no appeal is perfected within the time
30 period specified in section 21.03.200A.4., and shall also state the
31 parties have 30 days from the expiration of said period to appeal to
32 the superior court.

33 **B. Appeals to Zoning Board of Examiners and Appeals**

34 **1. Jurisdiction of Board⁷⁹⁹⁷**

35 The Zoning Board of Examiners and Appeals shall hear appeals from
36 decisions of the municipal staff regarding:

- 37 i. Enforcement orders issued under ~~Chapter~~chapter 21.10,
38 *Enforcement.*
- 39 ii. Denial of an application for a flood hazard permit under
40 ~~Section~~section 21.03.100.
- 41 iii. Denial of an application for a building or land use permit when
42 such denial is based on the requirements of this ~~Title.~~⁸⁰ title.⁹⁸

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- iv. Denial of an application for a sign permit when such denial is based on the requirements of this Title.title.
- ~~v. Denial of an application for a mobile home park permit when such denial is based on the requirements of this Title.~~
- v. Denial of a minor modification under ~~Section~~section 21.03.190.
- vi. Denial of a Verification of Legal Nonconforming Status under section 21.03.170.
- vii. Denial of or imposition of conditions on a certificate under Section 21.55.040. [x-ref to existing section on certificate of nonconforming encroachment]section 21.11.030.
- viii. Interpretation of zoning district boundaries under 21.01.050.C, *Interpretation of District Boundaries*.
- ix. Denial of a certificate of zoning compliance.⁹⁹
- x. Denial of a temporary use permit.
- xi. Interpretation of general definitions and use definitions.
- xii. Other appeals as provided by law.

2. Initiation of Appeal¹⁰⁰

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

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

- a. An appeal of an administrative decision to the Zoning Board of Examiners and Appeals, as set out in subsection 1. above, must be filed no later than 3020 days after written notification of the decision being appealed.¹⁰¹
- b. Notice of appeal must be filed with the municipal clerk on a form prescribed by the Municipality and must contain detailed and specific allegations of error.
- c. The appellant shall pay an appeal fee as set by the Assembly, which shall accompany the filing of the notice of appeal. All fees shall be returned to the appellant if the decision of the lower administrative official/body is reversed in whole, and one-half of the fee shall be returned if the decision is reversed in part.

1 4. **Scope of Review**

2 The Zoning Board of Examiners and Appeals shall conduct a full evidentiary
3 hearing on an appeal and make its decision on the basis of this ~~Title~~title, the
4 evidence, and the argument presented.

5 5. **Hearing**

6 a. ~~A public~~An appeal hearing shall be held within 60 days of the filing of
7 a proper notice of appeal. The hearing is open to the public, but the
8 public may not comment.

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

13 c. The Zoning Board of Examiners and Appeals may prescribe rules of
14 procedure for additional notification in cases where a decision of the
15 Board would have a substantial effect on the surrounding
16 neighborhood.

17 6. **Decision**

18 a. The Zoning Board of Examiners and Appeals may affirm or reverse
19 the decision of the administrative official in whole or in part. It shall
20 require a majority of the fully constituted board, minus those members
21 with conflicts of interest, to disturb the decision appealed from. For
22 the purpose of this ~~Section~~section, the fully constituted board shall
23 not include those members who disqualify themselves in accordance
24 with subsection ~~—of this Section.~~21.02.020C.6.

25 b. Every decision of the Zoning Board of Examiners and Appeals to
26 affirm or reverse an ~~action of the~~ administrative official action shall be
27 in writing and based on and include written findings and conclusions
28 adopted by the Board. Such findings must be reasonably specific so
29 as to provide the community and, where appropriate, reviewing
30 authorities, with a clear and precise understanding of the reasons for
31 the Board's decision.

32 c. Every final decision of the Zoning Board of Examiners and Appeals
33 shall clearly state it is a final decision and that the parties have 30
34 days from the date of mailing, or other distribution of the decision to
35 file an appeal to the superior court.

36 C. **Judicial Appeals**

37 1. **Judicial Review Authorized**

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

41 a. A final decision of the Board of Adjustment on an appeal from a
42 decision regarding the approval or ~~disapproval~~denial of an application
43 for concept or final approval of a conditional use.

- b. A final decision of the Board of Adjustment on an appeal from the Platting Board regarding an application for a subdivision.
- c. A final decision of the Zoning Board of Examiners and Appeals ~~on applications for a variance.~~
- d. ~~A decision of the Zoning Board of Examiners and Appeals denying any application for a permit on grounds of noncompliance with provisions of this Title.~~
- e. ~~A decision of the Zoning Board of Examiners and Appeals pertaining to an enforcement order issued under Chapter 21.10, *Enforcement*.~~

~~2. **Scope of Judicial Review**~~

~~An appeal to the superior court shall be heard solely on the record established before the municipal bodies. In the case of appeals from the Board of Adjustment, the record shall include the proceedings before the Planning and Zoning Commission, the Platting Board, or the hearing officer. The findings of the Planning and Zoning Commission, the Platting Board, the hearing officer, the Zoning Board of Examiners and Appeals, and the Board of Adjustment shall not be reversed if, in the light of the whole record, they are supported by substantial evidence.~~

~~21.03.220 **HARDSHIP RELIEF PETITIONS**⁸¹~~

~~A. **Economic Hardship/Takings Relief**~~

~~Any applicant for development, after a final decision on their development application is rendered through any process set forth in this Chapter, may file a Hardship Relief Petition with the Director seeking relief from any regulations in this Title on the basis that the denial of the application has created a substantial economic hardship, depriving the applicant of all reasonable use of their property.⁸²~~

~~1. **Affected Property Interest**~~

~~The Hardship Relief Petition shall provide information sufficient for the Director and the Municipal Attorney to determine that the petitioner possesses a protectable interest in property under the Alaska Constitution and the Fifth Amendment to the United States Constitution.~~

~~2. **Economic Hardship Taking Standard**~~

~~For purposes of this resolution, a substantial economic hardship shall be defined as a denial of all reasonable economic use of the property. Upon a finding that the denial of the application has resulted in a denial of all reasonable economic use of the property, the Municipality may provide the petitioner with relief from applicable regulations.~~

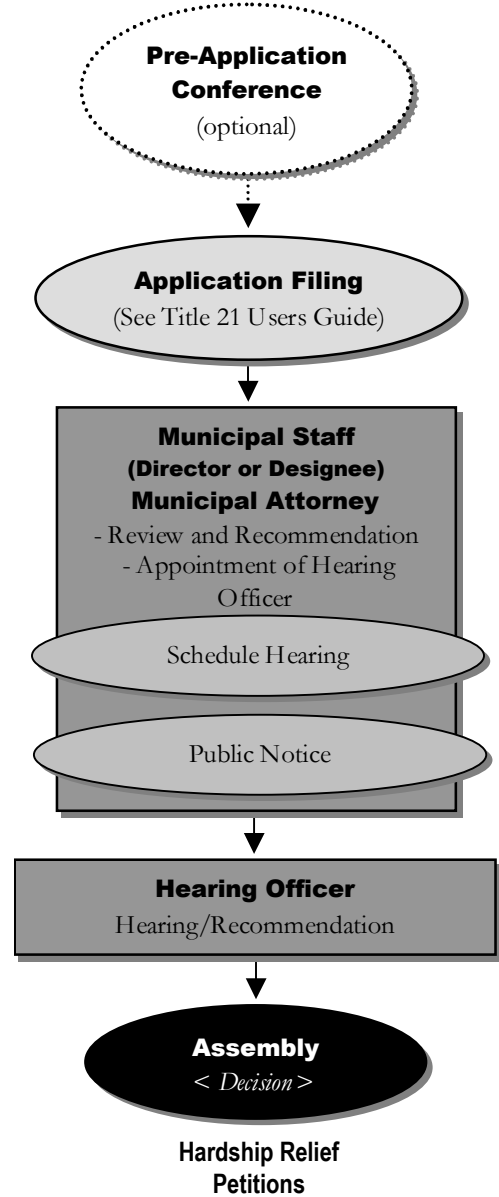
~~3. **Time for Filing Notice of Petition and Petition**~~

~~No later than 15 calendar days from final action by the decision-making body on any development application, the applicant shall file a notice of petition in writing with the Director. Within 25 days of filing of a notice of petition, the applicant shall file a Hardship Relief Petition with the Director.~~

4. Information to be Submitted with Hardship Relief Petition⁸³

~~The Hardship Relief Petition shall be submitted on a form prepared by the Department of Planning, Development, and Public Works, and shall be accompanied at a minimum by the following information:~~

- ~~a. Name of the petitioner;~~
- ~~b. Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership, or joint venture, name and address of all principal shareholders or partners;~~
- ~~c. Price paid and other terms of sale of the property, the date of purchase, and the name of the party from whom purchased, including the relationship, if any, between the petitioner and the party from whom the property was acquired;~~
- ~~d. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;~~
- ~~e. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the property by the current owner, applicant, or developer prior to the date of application;~~
- ~~f. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three years prior to the date of application;~~



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- ~~g. The assessed value of and ad valorem taxes on the property for the previous three years;~~
- ~~h. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including but not limited to, right of purchasers to assume the loan;~~
- ~~i. All listings of the property for sale or rent, price asked and offers received, if any, during the period of ownership or interest in the property;~~
- ~~j. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;~~
- ~~k. For income-producing property, itemized income and expense statements from the property for the previous three years;~~
- ~~l. Evidence and documentation of improvements, investments, or expenditures for professional and other services related to the property made during the past three years; and~~
- ~~m. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property.~~

~~The Director may request additional information reasonably necessary, in his opinion, to arrive at a conclusion concerning whether there has been a denial of all reasonable economic use constituting a substantial economic hardship.~~

~~**5. Failure to Submit Information**~~

~~In the event that any of the information required to be submitted by the petitioner is not reasonably available, the petitioner shall file with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.~~

~~**6. Preliminary Determination of Substantial Economic Hardship**~~

~~Prior to any review by a Hearing Officer appointed pursuant to subsection B, below, and based on an analysis of documents and information submitted by the applicant, the Director and Municipal Attorney shall make a determination whether the applicant has made a prima facie case that the subject property has been subject to a denial of all reasonable economic use that amounts to a substantial economic hardship.~~

- ~~a. If a determination is made that a prima facie case has not been established, then the Director and Municipal Attorney shall deny the petition. Such determination shall be made within 30 days of the filing of a Hardship Relief Petition and submission of all information required by the Director necessary to make such determination. Any appeal of such decision shall be made to [superior court].~~

1 ~~b. If a determination is made that the petitioner has established a prima~~
2 ~~facie case that the subject property has been subject to a denial of all~~
3 ~~reasonable economic use that amounts to a substantial economic~~
4 ~~hardship, the Director shall recommend to the Assembly that a~~
5 ~~Hearing Officer be appointed pursuant to Section B. below.~~

6 ~~**B. Appointment of Hearing Officer**⁸⁴~~

7 ~~Within 30 days following a preliminary determination of substantial economic hardship~~
8 ~~and upon a favorable resolution by the Assembly, the Director shall appoint a Hearing~~
9 ~~Officer to review information submitted by the petitioner, to hold a hearing to~~
10 ~~determine whether there is an affected property interest, and whether a substantial~~
11 ~~economic hardship has been created as a result of a final action on the application.~~

12 ~~**1. Qualifications of the Hearing Officer**~~

13 ~~Every appointed Hearing Officer shall have demonstrated experience in~~
14 ~~development, real estate finance, real estate analysis, real estate consulting,~~
15 ~~real estate appraisal, planning, real estate, or zoning law, or in other real~~
16 ~~estate related disciplines sufficient to allow an understanding, analysis, and~~
17 ~~application of the economic hardship standard contained in this resolution.~~
18 ~~Prior to appointment, the Hearing Officer shall submit a statement of no~~
19 ~~potential or actual conflict of interest.~~

20 ~~**2. Hearing Officer Compensation/Hearing Costs**~~

21 ~~The Hearing Officer shall be compensated at his normal rate for professional~~
22 ~~services of a similar nature plus all travel and incidental expenses including~~
23 ~~staff support as necessary. The petitioner shall be responsible for paying all~~
24 ~~costs associated with the Hearing Officer and conduct of the hearing. The~~
25 ~~petitioner shall deposit in advance with the Municipality a fee to cover the cost~~
26 ~~of the economic hardship hearing as estimated by the Director and shall make~~
27 ~~periodic payments at the direction of the Director to replenish the hearing fee~~
28 ~~fund if the initial fee is exhausted. If the Hearing Officer shall determine and~~
29 ~~render a final decision that the petitioner has presented evidence sufficient to~~
30 ~~demonstrate a substantial economic hardship, he may apportion up to one-~~
31 ~~half the cost of the hearing to the Municipality.~~

32 ~~**3. Notice and Scheduling of Hearings**~~

33 ~~Notice and scheduling of hearings shall be carried out in accord with Section~~
34 ~~21.03.020.G.~~

35 ~~**4. Testimony at Hearings**~~

36 ~~The Hearing Officer shall allow an opportunity during the hearing for the~~
37 ~~appellant and the public to offer either written or oral testimony regarding the~~
38 ~~proposal under consideration.~~

39 ~~**5. Application of the Economic Hardship Taking Standard**~~

40 ~~In applying the economic hardship standard in paragraph A.2 above, the~~
41 ~~Hearing Officer shall consider, among other items, the following information or~~
42 ~~evidence.~~

43 ~~a. Any estimates from contractors, appraisers, architects, real estate~~
44 ~~analysts, qualified developers, or other competent and qualified real~~
45 ~~estate professionals concerning the feasibility, or lack of feasibility, of~~

1 ~~construction or development on the property as of the date of the~~
2 ~~application, and in the reasonably near future;~~

3 ~~b. Any evidence or testimony of the market value of the property both~~
4 ~~under the uses allowed by the existing regulations and any proposed~~
5 ~~use; and~~

6 ~~c. Any evidence or testimony concerning the value or benefit to the~~
7 ~~petitioner from the availability of opportunities to transfer density or~~
8 ~~cluster development on other remaining contiguous property owned~~
9 ~~by the petitioner eligible for such transfer.~~

10 ~~6. Burden of Proof~~

11 ~~The petitioner shall have the burden of proving by a preponderance of the~~
12 ~~evidence that the denial of the application creates a substantial economic~~
13 ~~hardship under the standard provided in paragraph A.2.~~

14 ~~7. Findings of the Hearing Officer~~

15 ~~The Hearing Officer shall, on the basis of the evidence and testimony~~
16 ~~presented, make the following specific findings. Such findings shall be~~
17 ~~included as part of its report and recommendations to the Assembly, as set~~
18 ~~forth below:~~

19 ~~a. Whether the petitioner has complied with the requirements for~~
20 ~~presenting the information to be submitted with a hardship relief~~
21 ~~petition;~~

22 ~~b. Whether the petitioner has a protectable interest in property;~~

23 ~~c. The market value of the property considering the existing regulations;~~

24 ~~d. The market value of the property under the proposed use;~~

25 ~~e. Whether there exists a feasible alternative use that could provide a~~
26 ~~reasonable economic use of the property;~~

27 ~~f. The market value of, or benefit accruing from opportunities to transfer~~
28 ~~density or cluster development on other remaining contiguous~~
29 ~~property owned by the petitioner eligible for such transfer as provided~~
30 ~~herein;~~

31 ~~g. Whether it was feasible to undertake construction on or development~~
32 ~~of the property as of the date of the application, or in the reasonably~~
33 ~~near future thereafter;~~

34 ~~h. Whether, in the opinion of the Hearing Officer, the denial of the~~
35 ~~application would create a substantial economic hardship as defined~~
36 ~~in paragraph A.2.~~

37 ~~8. Decision and Recommendations of the Hearing Officer~~

38 ~~a. The Hearing Officer, based upon the evidence and testimony~~
39 ~~presented, shall render a decision as to the merits of the Hardship~~
40 ~~Relief Petition.~~

1 ~~b. If the Hearing Officer finds that the denial of the application would~~
2 ~~create a substantial economic hardship, he shall make~~
3 ~~recommendations to the Assembly regarding additional relief to~~
4 ~~provide an appropriate increase in market value or other benefit or~~
5 ~~return to the petitioner sufficient to offset the substantial economic~~
6 ~~hardship. The types of incentives that the Hearing Officer may~~
7 ~~consider include, but are not limited to, the following:~~

8 ~~i. A rezoning of the property to a more appropriate~~
9 ~~classification, issuance of a variance, approval of a site plan,~~
10 ~~or other appropriate land-use regulatory action that will~~
11 ~~enable the petitioner to realize a reasonable economic return~~
12 ~~on the property;~~

13 ~~ii. An opportunity to transfer density or cluster development on~~
14 ~~other property;~~

15 ~~iii. A waiver of permit fees;~~

16 ~~iv. Development finance assistance;~~

17 ~~v. Approval of development on some portion of the property;~~
18 ~~and~~

19 ~~vi. Acquisition of all or a portion of the property at market value.~~

20 ~~c. The report and recommendation shall be submitted to the Assembly~~
21 ~~and mailed to the petitioner within 30 days following conclusion of the~~
22 ~~hardship hearing.~~

23 ~~d. The decision of the Hearing Officer shall not become final until the~~
24 ~~Assembly shall have acted on the recommendations within 120 days~~
25 ~~of the close of the economic hardship hearing. Provided, however,~~
26 ~~that the Assembly may extend this period upon a finding that, due to~~
27 ~~the size and complexity of the development or proposal and similar~~
28 ~~factors, that additional review time is necessary.⁸⁵~~

29 ~~**C. Review and Consideration of the Recommended Relief by Assembly**~~

30 ~~The Assembly shall review the report and recommendations of the Hearing Officer~~
31 ~~and approve or disapprove the relief suggested therein or additional relief as deemed~~
32 ~~appropriate within 120 days following receipt of the Hearing Officer's report, unless a~~
33 ~~finding is made that more time is warranted under paragraph B.8.d above. The~~
34 ~~Assembly may hold a public hearing, but only new testimony and evidence shall be~~
35 ~~presented at any public hearing held pursuant to this Section. The Assembly may~~
36 ~~adopt any legally available incentive or measure reasonably necessary to offset any~~
37 ~~substantial economic hardship as defined in paragraph A.2 and may condition such~~
38 ~~incentives upon approval of specific development plans.~~

39 ~~**D. Time Limits/Transferral of Incentives**~~

40 ~~d. Any incentives adopted by the Assembly pursuant to this Section may~~
41 ~~run with the land and may be transferred and utilized by successive~~

1 ~~owners of the property or parties in interest, but in no case shall the~~
2 ~~incentives be valid after the expiration date of the development~~
3 ~~approval as provided in this Title. Any final action or decision under~~
4 ~~this title that is appealable to the superior court under the Alaska~~
5 ~~Rules of Court and/or laws of the State of Alaska.~~

6 **21.03.210 USE CLASSIFICATION REQUESTS**

7 **A. Purpose and Applicability**

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

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

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

- 17 1. **Application Submission and Review**
18 An application for a use classification shall be submitted to the Director.
19 Within 30 days from the date a complete application is submitted, the Director
20 shall review the application according to the standards set forth in this section;
21 consult with the Municipal Attorney and other staff, as necessary; and make a
22 final determination as to whether the subject use shall be deemed to be within
23 a use classification set forth in this title and whether such use shall be allowed
24 in the applicable zoning district.
- 25 2. **Appeals**
26 Appeals from the Director's determination on a use classification request shall
27 be made to the Zoning Board of Examiners and Appeals, pursuant to section
28 21.03.200.B.
- 29 3. **Form of Determination**
30 All final determinations by the Director shall be provided to the applicant in
31 writing and shall be filed in the official record of use classification
32 determinations.

33 **C. Standards for Review**

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

- 41 1. The primary activity of the establishment and its relationship to existing use
42 categories and use types. The primary activity may be the principal product

1 been taken on such a proposed amendment, the determination of the Director
2 shall be binding on all officers and departments of the Municipality.

3 **2. Atypical Uses: Determination Binding**

4 If the Director finds that the particular use or category of use(s) that was the
5 subject of the use classification request is of an unusual or transitory nature,
6 or is unlikely to recur frequently, the Director may approve the use without
7 initiating an amendment to this title. However, the Director's determination
8 shall thereafter be binding on all officers and departments of the Municipality.

9 **3. Zoning Board Review of Findings by the Director; Effectiveness of the**
10 **Director's Findings**

11 **a. The Director shall, on a monthly basis, forward his or her findings**
12 regarding unlisted uses to the Zoning Board of Examiners and
13 Appeals for review and ratification. Until the Zoning Board has
14 reviewed the Director's findings regarding an unlisted use, the
15 determination of the Director shall be binding on all officers and
16 departments of the Municipality.¹⁰²

17 **b. If the Zoning Board ratifies the Director's findings regarding an**
18 unlisted use, the determination of the Director shall continue to be
19 binding on all officers and departments of the Municipality.

20 **c. If the Zoning Board does not ratify the Director's findings regarding an**
21 unlisted use, such use shall be deemed to be prohibited in the
22 specified zoning district(s), and any use for which actual construction
23 (as defined in chapter 21.13) was lawfully begun under a finding by
24 the Director shall be considered a nonconforming use.

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

26 An official record of use classification determinations and related Zoning Board
27 actions shall be kept on file in the Department and shall be available for public
28 inspection in the Department during normal business hours.

29 **21.03.220 ASSEMBLY ALCOHOL APPROVAL**¹⁰³

30 **A. Applicability**

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

37 **B. General Standards**

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

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

C. **Application and Review Procedure**

1. **Submission**
Applications for Assembly alcohol approval shall be submitted to the Department within seven days after application is made to the state Alcoholic Beverage Control Board for issue or transfer of location of a liquor license. Applications shall contain a zoning map showing the proposed location. The Assembly may promulgate regulations concerning the mandatory information to be submitted with the application for conditional use.
2. **Department Report**
The Department shall prepare and submit a report and a list of all licenses located within a minimum of 1,000 feet of the proposed use to the Assembly, and shall address the conformity of the proposed application with this title and AMC chapter 10.50. The Department shall also submit a proposed resolution for Assembly consideration in connection with liquor license applications.
3. **Notice**¹⁰⁴
Notice of hearings required under this section shall mailed, published, and posted in accordance with section 21.03.020, *Notice*.
4. **Assembly Action**
The Assembly shall approve, approve conditionally, or deny the application. In considering action, the Assembly shall apply the criteria set forth in this title for conditional uses in section 21.03.070E., *Approval Criteria*. The Assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.
5. **Conditions on Approval**
 - a. The Assembly may, in connection with an approval under this section, impose such special terms and conditions or modify existing conditions governing operation of that license as are in the public interest, and are consistent with the purposes of this title.
 - b. Conditions of approvals under this section are enforceable under the provisions of this title. The Assembly may revoke such an approval for failure to comply with conditions of the permit, provided a public hearing with notice to the owner affected is first held.
 - c. A copy of the conditions imposed by the Assembly in connection with approval under this section shall be maintained on the premises involved at a location visible to the public.

6. **Effect of Denial**

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

7. **Expiration**¹⁰⁵

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

21.03.230 ADMINISTRATIVE PERMITS¹⁰⁶

A. **Applicability**

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

B. **Administrative Permits**

A permit issued pursuant to this section shall be valid between January 1 or the date of issuance and December 31 of the year in which it is issued. An application for renewal of a permit shall be submitted in the same manner as the original application and no later than December 1 immediately preceding the expiration date of that permit.

C. **Regulations**

The Director may promulgate regulations to implement this section, as provided in AMC chapter 3.40.

21.03.240 MASTER PLANNING¹⁰⁷

A. **Area Master Planning**

1. **Purpose**

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

2. **Applicability**

a. **Mandatory: Girdwood**

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

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- b. **Optional**
In addition to the criteria listed above, any other area in joint or single ownership may opt to use the area master plan process on a voluntary basis.

- 3. **Procedures**
 - a. **Pre-Application Conference**
Before filing an application, an applicant shall request a pre-application conference with the Director.

 - b. **Community Meeting**
A community meeting may be required.

 - c. **Initiation**
An application for approval of an area master plan shall be initiated by the owner of the property.

 - d. **Application Filing**
Applications for approval of an area master plan shall be submitted to the Director and shall contain all information and supporting materials specified in subsection e., below.

 - e. **Submittal Requirements**
Submittal requirements are set out below, and shall be in either narrative or illustrative form. The Director may waive submittal requirements not relevant to the proposed area master plan. The Planning and Zoning Commission and/or the Director may require the submission of other information as may be necessary for the informed exercise of judgment under the criteria for the review of the plan, as set out in subsection 4., below.
 - i. The legal description, boundaries, and acreage of the petition area;

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

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

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

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

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

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

- viii. A conceptual site plan showing the various existing and proposed types of land uses, depicting the relationship to each other and to surrounding uses, proposed acreage, character, and densities/intensity of development for each type of use, and proposed open spaces. The site plan shall be in the form of a “bubble map” locating these “development areas” and other required elements in an approximate fashion;

- ix. A general description of the traffic and pedestrian circulation system proposed for the petition area, showing connections between land uses, neighborhoods, and proposed public schools, parks, open space areas, and trails/bikeways;

- x. A general description of the utility system layout;

- xi. An explanation of any unique features of the proposed development;

- xii. A general development schedule and phasing plan, if any, and approximate date for commencement of construction; and

- xiii. If the petition area contains wetlands designated in the Anchorage Wetlands Management Plan, the applicant shall submit:
 - (A) A wetlands delineation study based on the evaluation techniques contained in the Corp of Engineers Wetlands Delineation Manual;

 - (B) Hydrologic information specifying the quality, amount and direction of flow of surface and subsurface water, as well as information on the drainage impacts of the development on adjacent property;

 - (C) Vegetation information indicating the distribution of wetland, coniferous and deciduous species; and

 - (D) Habitat information on the type, number, and species of animals, including birds.

f. **Director Review, Report, and Recommendation**
The Director shall review the proposed area master plan in light of the approval criteria of subsection 4., below, and shall distribute the application to other reviewers as necessary. Based on the results of the reviews, the Director shall provide a report and recommendation to the Planning and Zoning Commission.

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g. **Public Hearing**
Published, written, and posted notice of public hearings on area master plans shall be provided in accordance with section 21.15.005.

h. **Review and Action by Planning and Zoning Commission**
The Planning and Zoning Commission shall hold a public hearing on the proposed area master plan and, at the close of the hearing, act to approve the plan as submitted, approve the plan subject to conditions or modifications, remand the plan to the applicant for modifications, or deny the plan, based on the approval criteria of subsection 4., below.

4. **Approval Criteria**
An area master plan may be approved if the Planning and Zoning Commission finds all of the following criteria have been met:

a. The area master plan substantially conforms to the principles and objectives of the Comprehensive Plan, any approved neighborhood, district, or area plans, and the general purposes of this title as stated in section 21.01.030;

b. The streets, roads, and other transportation elements are in conformance with applicable transportation plans;

c. The development has no substantial adverse fiscal impact on the Municipality;

d. The development provides significant community benefits in terms of design, community facilities, open space, and other community amenities;

e. The development is compatible with the character of the surrounding area and minimizes any potential adverse impacts to surrounding areas to the maximum extent feasible; and

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

5. **Effect of Area Master Plan Approval**
No development rights are granted by the approval of an area master plan. An approved area master plan allows the applicant to file applications for development within the plan area including, but not limited to, site plans, conditional use permits, or preliminary subdivision plans. An approved area master plan also creates a presumption that design density, uses, and site layout set forth in the plan are acceptable to the municipality, subject to further review and application of relevant regulations in the review of subsequent applications. However, approval of the area master plan shall not guarantee such density and uses are attainable.

6. **Modification of Area Master Plan Approval**
a. **Modification without Public Hearing**

1 By request of the applicant or subsequent landowner, an approved
2 area master plan may be modified by the Planning and Zoning
3 Commission, without a public hearing, if the modification proposes:

- 4 i. A change to the development schedule or phasing plan of not
5 more than seven (7) years (applicable only if a development
6 master plan is not also required);
- 7 ii. Changes of ten percent (10%) or less to the number of
8 dwelling units or the total combined floor area of commercial
9 and industrial uses;
- 10 iii. A shift between development areas of ten percent (10%) or
11 less of the number of dwelling units or the total combined
12 floor area of commercial and industrial uses;
- 13 iv. A change to the acreage of any development area of ten
14 percent (10%) or less; or
- 15 v. A change the Planning and Zoning Commission determines
16 does not change the impacts on the surrounding
17 neighborhood and public infrastructure and services.

18 **b. Modification with Public Hearing**

19 By request of the applicant or subsequent landowner, an approved
20 area master plan may be modified by the Planning and Zoning
21 Commission, only after a public hearing, if the modification proposes:

- 22 i. A change to the development schedule or phasing plan of
23 more than seven (7) years (applicable only if a development
24 master plan is not also required);
- 25 ii. A reduction of acreage of open space;
- 26 iii. Changes to the number of dwelling units or the total
27 combined floor area of commercial and industrial uses of
28 more than ten percent (10%) but less than twenty-five percent
29 (25%);
- 30 iv. A shift between development areas of more than ten percent
31 (10%) but less than twenty-five percent (25%) of the number
32 of dwelling units or the total combined floor area of
33 commercial and industrial uses;
- 34 v. A change to the acreage of any development area of more
35 than ten percent (10%) but less than twenty-five percent
36 (25%);
- 37 vi. A change to any conditions of approval imposed by the
38 Planning and Zoning Commission at the time of area master
39 plan approval; or

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vii. A change the Planning and Zoning Commission determines changes the type and/or amount of impact on the surrounding neighborhood and public infrastructure and services.

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c. **New Application Required**

The Planning and Zoning Commission shall not consider an application for modification of an area master plan, and the applicant shall be directed to file a new application for area master plan approval, if the modification proposes:

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i. Changes to the number of dwelling units or the total combined floor area of commercial and industrial uses of twenty-five percent (25%) or more;

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ii. A shift between development areas of twenty-five percent (25%) or more of the number of dwelling units or the total combined floor area of commercial and industrial uses;

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iii. A change to the acreage of any development area of twenty-five percent (25%) or more; or

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iv. A change the Planning and Zoning Commission determines substantially changes the types of uses, the intensity of use, or the area of the area master plan.

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7. **Abandonment of Area Master Plan**

An area master plan approval shall expire if:

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a. Implementation of the area master plan schedule is delayed for more than seven (7) years without a request for a schedule modification as outlined in subsections 6.a. or 6.b. (applicable only if a development master plan is not also required); or

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b. The property owner notifies the Planning and Zoning Commission of the abandonment of the area master plan approval.

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B. **Development Master Planning**

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1. **Purpose**

A development master plan is intended to shape and manage future growth of a site and provide certainty to the community by stating a clearly articulated vision for the character, layout, and design of the development of the site. At a minimum, the development master plan shall establish specific circulation systems; specific land uses; site dimensional, design, and development standards; and building design standards for the identified development areas. The intent of this process is for master planned areas to result in development meeting or exceeding the standards of this chapter, reflecting the character of the community and the purposes title 21.

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2. **Applicability**

a. **Mandatory: Girdwood**

1 An approved development master plan is required prior to
2 development in any of the following Girdwood zoning districts: GC-1,
3 GRST-1, GRST-2; GCR-1, GCR-2, GCR-3.

4 b. **Optional**

5 A development master plan may be developed through this process
6 for any multi-building development within the Municipality.

7 3. **Procedures**

8 a. **Pre-Application Conference**

9 Before filing and application, an applicant shall request a pre-
10 application conference with the Director.

11 b. **Community Meeting**

12 A community meeting may be required.

13 c. **Initiation**

14 An application for approval of a development master plan shall be
15 initiated by the owner of the subject property.

16 d. **Application**

17 Applications for approval of a development master plan shall be
18 submitted to the Director and shall contain all information and
19 supporting materials specified in subsection e., below.

20 e. **Submittal Requirements**

21 The design standards proposed in the development master plan may
22 differ from the standards of sections 21.07, but shall meet or exceed
23 those standards, as described in subsection 4.g., below.

24 Submittal requirements are listed below and shall be in either
25 narrative or illustrative form. The Director may waive submittal
26 requirements not relevant to the proposed development. The
27 Planning and Zoning Commission and/or the Director may require the
28 submission of other information as necessary for the informed
29 exercise of judgment under the criteria for the review of the plan, as
30 set out in subsection 4., below.

31 i. The legal description, acreage, and boundaries of the
32 proposed petition area and a depiction of the area
33 surrounding the petition area;

34 ii. A site plan of any existing development, including buildings,
35 roads, utilities, drainage systems, trails, and a general
36 description of existing vegetation;

37 iii. The topography of the petition area, with contours lines
38 shown at intervals of four (4) feet or less, including any
39 unique natural or historical features;

40 iv. The location of existing streams, waterbodies, wetlands,
41 drainage courses, and flood plains;

- 1 v. A grading plan;
- 2 vi. A proposed site plan, showing roads, trails, building locations
3 and uses, parking areas, open space, and any other
4 proposed development. The site plan shall include the total
5 number and type of dwelling units, and the total combined
6 floor area of commercial and industrial uses;
- 7 vii. A landscape plan, including vegetation retention areas;
- 8 viii. Floor plans, building elevations, and renderings for all
9 buildings;
- 10 ix. Road cross-sections;
- 11 x. Details of any other development proposed; and
- 12 xi. An implementation schedule.
- 13 f. **Director Review, Report, and Recommendation**
14 The Director shall review the proposed development master plan in
15 light of the approval criteria of subsection 4., below, and shall
16 distribute the application to other reviewers as necessary. Based on
17 the results of the reviews, the Director shall provide a report and
18 recommendation to the Planning and Zoning Commission.
- 19 g. **Public Hearing**
20 Published, written, and posted notice of public hearings on
21 development master plans shall be provided in accordance with
22 section 21.15.005.
- 23 h. **Review and Action by Planning and Zoning Commission**
24 The Planning and Zoning Commission shall hold a public hearing on
25 the proposed development master plan and, at the close of the
26 hearing, act to approve the plan as submitted, approve the plan
27 subject to conditions or modifications, remand the plan to the
28 applicant for modifications, or deny the plan, based on the approval
29 criteria of subsection 4., below.
- 30 4. **Approval Criteria**
31 A development master plan may be approved if the Planning and Zoning
32 Commission finds all of the following criteria have been met:
- 33 a. The development master plan substantially conforms to the principles
34 and objectives of the Comprehensive Plan, any approved
35 neighborhood, district, or area plans, and the general purposes of this
36 title, as stated in section 21.01.030;
- 37 b. The streets, roads, and other transportation elements are in
38 conformance with applicable transportation plans;
- 39 c. The development has no substantial adverse fiscal impact on the
40 Municipality.

- 1 d. The development provides significant community benefits in terms of
2 design, community facilities, open space, and other community
3 amenities.
- 4 e. The development minimizes any potential adverse impacts to
5 surrounding residential areas to the maximum extent feasible.
- 6 f. Sufficient public safety, transportation, and utility facilities and
7 services are available to serve the subject property at the proposed
8 level of development, while maintaining sufficient levels of service to
9 existing and anticipated development in the surrounding areas.
- 10 g. The design standards are equivalent to or exceed the generally
11 applicable development standards of sections 21.07, and result in
12 high-quality development in keeping with the Comprehensive Plan
13 and the intent of this title.

14 5. **Modification of Development Master Plan**
15 The Planning and Zoning Commission shall determine whether a proposed
16 modification to an approved development master plan may be approved
17 without a public hearing, may be approved with a public hearing, or is
18 significant enough to require a new development master plan.

19 6. **Abandonment of Development Master Plan**
20 A development master plan approval shall expire if:

21 a. Implementation of the development master plan schedule is delayed
22 for more than seven (7) years without a request for a schedule
23 modification as outlined in section 5.; or

24 b. The property owner notifies the Planning and Zoning Commission of
25 the abandonment of the development master plan.

26 C. **Institutional Master Plan Review**

27 1. **Purpose**
28 The Institutional Master Plan review process provides a framework for
29 development of large institutions such as hospitals and universities, which
30 control large land areas within the Municipality, contain a much greater
31 density of development than surrounding areas, are a source of substantial
32 employment, and are usually located next to residential neighborhoods and
33 other densely developed areas. An Institutional Master Plan is intended to
34 permit flexibility for a large institution to have greater control over its own lot-
35 by-lot land use decisions, while providing a level of understanding to the
36 surrounding community about the potential growth of the institution and the
37 resultant impacts. The process is specifically intended to:

- 38 a. Protect the integrity of adjacent neighborhoods by addressing the
39 impacts of institutional development on adjacent areas;
- 40 b. Provide a growing and continuing source of employment for the
41 Municipality that is easily accessible and well-integrated with
42 surrounding neighborhoods and the local transportation system;

- c. Create attractive and efficient urban areas that incorporate a high level of design and urban amenities;
- d. Protect sensitive portions of the natural and built environment that are potentially affected by institutional development; and
- e. Provide flexibility to institutions to carry out long-range building programs in accord with the institutional mission and objectives.

2. **Applicability**

An Institutional Master Plan shall be submitted and approved, in accordance with the procedures of this section, prior to any development within the PLI district, except for the following:

- a. No Institutional Master Plan shall be required for interior alterations to an existing building, provided that such project does not involve the establishment or expansion of a commercial use.
- b. Prior to approval of an Institutional Master Plan, the Director may approve minor development projects, which, for purposes of this section, are defined as those that do not result in:
 - i. The creation of or the need for additional parking;
 - ii. An increase in the number of employees;
 - iii. The addition of a total of more than 25,000 square feet of floor area;
 - iv. The coverage of a total of more than 25,000 square feet of site area; or
 - v. An increase in the height of any structure by more than one story or 14 feet.

3. **Institutional Master Plan Requirements**

a. **Planning Area**

The Institutional Master Plan shall include all the areas within the PLI district, contiguous properties that are under control of the institution, and properties within [1000] feet of the PLI district.

b. **Submission Requirements**

An Institutional Master Plan shall, at a minimum, include the following information unless the Director determines that such information is not necessary to evaluate the proposed Institutional Master Plan and the institution's future impacts on surrounding neighborhoods. Specific requirements for the full Institutional Master Plan shall be determined by the Director following the pre-application conference.

i. **Planning Horizon**

The Institutional Master Plan shall cover a period of least 25 years, commencing from the date of submission.

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- ii. Mission and Objectives
The Institutional Master Plan shall include a statement that defines the organizational mission and objectives of the institution and description of how all development contemplated or defined by the Institutional Master Plan advances the goals and objectives of the institution. The statement should describe the population to be served by the institution and any projected changes in the size or composition of that population. It should also specify any services to be provided to Anchorage residents in adjacent neighborhoods and in other areas of the municipality.

- iii. Existing Property and Uses
The Institutional Master Plan shall include a description of land, buildings, and other structures owned or occupied by the institution as of the date of submission of the Institutional Master Plan. The following information shall be required:
 - (A) Illustrative site plans showing the footprints of each building and structure, together with roads, sidewalks, parking, landscape features and other significant site improvements;
 - (B) Land and building uses;
 - (C) Gross floor area in square feet;
 - (D) Building height in stories and feet; and
 - (E) A description of off-street parking and loading areas and facilities, including a statement of the approximate number of parking spaces in each area or facility.

- iv. Needs of the Institution
The Institutional Master Plan shall include a summary and projection of the institution's current and future needs for the following facilities:
 - (A) Academic;
 - (B) Service;
 - (C) Research;
 - (D) Office;
 - (E) Housing;
 - (F) Patient care;
 - (G) Public assembly;
 - (H) Parking; and

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(I) Other facilities related to the institutional use.

v. Ten-Year Development Envelope

The Institutional Master Plan shall include a description of the envelope within which development will occur in a ten-year time frame. The ten-year development envelope is the maximum amount of development proposed by an institution that can be supported through current impact studies. The intent of this provision is to provide the institution with flexibility regarding the future development potential of its campus, while addressing the potential impacts of that development on the surrounding neighborhoods. The development envelope shall include the following:

- (A) Location of each potential development site;
- (B) Maximum floor area of structures for each potential development site;
- (C) Height of possible structures;
- (D) Required setbacks on each parcel;
- (E) Other factors that may affect the size and form of buildings; and
- (F) Total number and location of parking spaces that will be developed within a ten-year period.

vi. Twenty-five Year Development Sites

The Institutional Master Plan shall include written and graphic materials identifying future development sites beyond those noted in the Ten-Year Development Envelope. This information shall include, at a minimum, the size and location of each parcel that may be developed within a twenty-five year period.

vii. Compliance with Development and Design Standards

The Institutional Master Plan shall demonstrate how all development on the site will achieve compliance with the development and design standards of this Code. The plan shall fully discuss and justify any proposed modification from the requirements of this Code. At a minimum, the following plan elements shall be included.

- (A) Transportation and Parking Management Plan
The Institutional Master Plan shall include transportation and parking management plan, based on the results of a transportation study, which identifies any traffic mitigation measures to be employed.
- (B) Natural Resource Protection Plan

1 of such other information as may be necessary to permit the informed
2 exercise of judgment under the criteria for the review of the plan, as
3 set out in subsection E. below.

4 e. **Director Review, Report, and Recommendation**

5 The Director shall review the proposed Institutional Master Plan in
6 light of the approval criteria of subsection E. below and shall distribute
7 the application to other reviewers as deemed necessary. Based on
8 the results of those reviews, the Director shall provide a report and
9 recommendation to the Planning and Zoning Commission.

10 f. **Public Hearings**

11 Published, written, and posted notice of public hearings on
12 Institutional Master Plans shall be provided in accordance with
13 section 21.03.020.G.

14 g. **Review and Recommendation by Planning and Zoning
15 Commission**

16 i. The Planning and Zoning Commission shall hold a public
17 hearing on the proposed Institutional Master Plan and, at the
18 close of the hearing, recommend that the Assembly approve
19 the plan as submitted, approve the plan subject to conditions
20 or modifications, or deny the plan, based on the approval
21 criteria of subsection E. below.

22 ii. If the Planning and Zoning Commission recommends that the
23 Assembly approve a plan as submitted or with conditions or
24 modifications, within 90 days of the Commission's action the
25 Director shall forward the recommendation to the Assembly.

26 iii. If the Planning and Zoning Commission recommends that the
27 Assembly deny a plan, that action is final unless, within 20
28 days of the Commission's action, the applicant files a written
29 statement with the municipal clerk requesting that the
30 proposed Institutional Master Plan be submitted to the
31 Assembly.

32 h. **Action by Assembly**

33 The Assembly shall hold a public hearing on the proposed
34 Institutional Master Plan. At the close of the hearing, taking into
35 account the recommendations of the Director and the Planning and
36 Zoning Commission, and based on the approval criteria of subsection
37 E. below, the Assembly shall, within 90 days, approve the plan,
38 approve the plan with modifications or conditions, deny the plan, or
39 refer the plan back to the Planning and Zoning Commission.

40 5. **Approval Criteria**

41 An Institutional Master Plan may be approved only if the Assembly finds that
42 the all of the following criteria have been met:

43 a. The Institutional Master Plan is consistent with the Comprehensive
44 Plan and any adopted neighborhood and area plans;

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- b. The Institutional Master Plan sufficiently demonstrates compliance with all applicable standards of this Code, including the development and design standards of chapter 21.07, or offers justification and alternative measures to ensure that the intent and purposes of this Code are met;
- c. The Institutional Master Plan mitigates any potential significant adverse impacts to surrounding areas to the maximum extent feasible; and
- d. Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property at the proposed level of development, while maintaining sufficient levels of service to existing and anticipated development in surrounding areas.

6. **Compliance with Institutional Master Plan**

- a. No [INSERT OPTIONAL LANGUAGE] shall be issued for any project within a PLI district until the Director certifies that the proposed project is consistent with an approved Institutional Master Plan. Such a certification may be found if the proposed project is clearly identified in the approved Institutional Master Plan or if the project may be approved as a minor project as defined in section --- above. A certification of consistency, or finding of inconsistency, or finding of consistency subject to conditions, shall be issued within 45 days of receipt of an application for a building permit, land use permit, or Certificate of Occupancy for the proposed project. All projects, regardless of size, shall meet all standards and guidelines found in the approved Institutional Master Plan before the Director can approve the application for a [INSERT OPTIONAL LANGUAGE]. If not in compliance, the Director shall issue a detailed list of reasons and recommended actions to achieve compliance.
 - i. OPTION 1: Use general language above and insert [preliminary subdivision plan, conditional use permit, or site plan]. This would be the toughest option and would require the most long-term public oversight of the campus development.
 - ii. OPTION 2: Use general language as above and insert [building permit, land use permit, or Certificate of Occupancy]. This would be an easier option, still requiring some municipal involvement but probably more by the building department than the planning department.
 - iii. OPTION 3: The institution could establish an internal design review committee to ensure compliance with the plan, and the Director or a designee could be a member to ensure at least municipal oversight of plan compliance.
 - iv. OPTION 4: There would no formal municipal involvement in development on the campus site after approval of the plan. The institution might be required to provide periodic reports

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(annual?) to the municipality on the status of the implementation of the plan.

- b. **Modifications to Approved Institutional Master Plans**
[to be drafted]

¹ 2005 NOTE: The procedure for street name alterations has been removed from this 2005 draft. Such a procedure is minor and typically is contained in an internal procedures manual, rather than codified in ordinance form. Also, the Anchorage addressing official recommended removing the procedure from the code.

² 2005 NOTE: Added variances and major site plan reviews to this section.

³ 2005 NOTE: Changed from 50 to 25 percent in the 2005 draft. Comment also applies to the immediate next provision.

⁴ 2005 NOTE: Waiver provision is new in this 2005 draft.

⁵ NOTE: The term "Director" is used throughout this draft to denote the Planning Director or designee. This will be clearly defined in the code. We recommend keeping this term generic to prevent any future changes (in delegation) from requiring a text amendment to this title.

⁶ 2005 NOTE: The ACC requests that a representative of the community council attend the pre-application meeting. We disagree; the community should become involved as part of the community meeting.

⁷ 2005 NOTE: Changed to "checklist" from "report" in this 2005 draft. OLD NOTE: Drafting a written summary of the recommendations that come out of the pre-application conference would be the best way to establish a paper trail for the application, and would provide a good tool for staff to later use to track compliance with staff recommendations. However, staff resources in Anchorage may not be sufficient to fully implement the text as written. An alternative approach would be to redraft the list of topics in this section as "items to be discussed," rather than as items that must be reported on, and not require a formal written report. The disadvantage of this approach would be increased difficulty in tracking the impacts of the meeting on later stages of the project, especially if there is staff turnover.

⁸ NOTE: The Diagnosis and Outline talked about the need to establish clear threshold criteria for Traffic Impact Assessments in the code. Those criteria will be relevant in this section, since projects that require TIAs will not be considered complete unless such assessments are submitted. However, we recommend that the criteria themselves be in the User's Guide and not included in the code, since such thresholds are based on industry standards which can change. The public has indicated a strong desire to have input into the development of specific TIA thresholds.

⁹ NOTE: We strongly urge the inclusion of a time limit on application completeness decisions, to ensure that applications don't get bogged down too early in the process.

¹⁰ 2005 NOTE: Modifications to this section in the 2005 draft.

¹¹ NOTE: As discussed in the Diagnosis and Outline, this is a suggested new mechanism to encourage or require developers to meet with affected property owners prior to developing large new projects. The draft is intended to take advantage of the existing set of community councils.

¹² 2005 NOTE: Further discussion is needed on the applicability of such meetings. Now that the development and design standards have gone through a first draft, there should be a better sense by the public of whether such meetings will be necessary. They add time to the process and thus could in some cases pose a barrier to economic development, and so the net for such meetings should not be cast unnecessarily wide. We recommend further restrictions on the applicability of this requirement, probably by adding size and/or location requirements to the conditional use and major site plans required to go through the process.

¹³ 2005 NOTE: There is strong disagreement about whether the MOA or the developer should be responsible for payment of the staff time, if staff is directed to attend the meeting. The current text removes the fee requirement.

¹⁴ NOTE: This section essentially reorganizes the current section 21.15.005, Notice, into new categories. "Constructive notice" is a recommended new section.

¹⁵ NOTE: We will need to continually update this table throughout the drafting process.

¹⁶ NOTE: This is a suggested expansion of the current provision, which keeps the community council notification boundary the same as for individual landowners. The Assembly is expected to take action in July on proposed community council redistricting ordinance AO 2003-75, which includes a similar measure.

¹⁷ NOTE: We heard suggestions that the Director should have the authority to broaden the notice area on a case-by-case basis. This provision, from the existing code, appears to allow just such case-by-case decisions. Is this not sufficient?

¹⁸ NOTE: This is a strong new provision. If the Municipality is uncomfortable applying it across the Board to all types of provisions, then an alternative approach could be to apply it just to rezonings. One of the benefits of this provision, if it is strictly followed and enforced, should be more written documentation for rezonings, or perhaps fewer rezonings.

¹⁹ 2005 NOTE: This section has been significantly streamlined and simplified in the 2005 draft. OLD NOTE: The current Title 21 contains only limited references to how the Comprehensive Plan should be updated or modified – primarily in 21.05.040, "Procedure for modification."

²⁰ NOTE: This is a new procedure. The current Title 21 contains little information on how to amend the text of the ordinance.

²¹ NOTE: In the interest of streamlining code administration and reducing the overall number of public hearings, this section proposes that all text amendments be consolidated and heard twice per year, at a joint hearing of the P&Z and the Assembly.

²² 2005 NOTE: This section rewritten in this draft to contain criteria better suited to text amendments.

²³ NOTE: This section heavily revises the current rezoning procedure (found in the current chapter 21.20). Key revisions include: a new purpose statement, clarification of the process, requirement for written findings in Commission recommendations, suggested new approval criteria, and an overall streamlining of the language. Other specific changes are noted in subsequent notes.

²⁴ NOTE: The Outline talks about a new section of "eligibility criteria" to discourage the high number of rezonings. However, this draft proposes tightening the rezoning process in a slightly different way, through better approval criteria and also through a new requirement of written findings for rezoning decisions.

²⁵ 2005 NOTE: This section revised to include PR and OL, in addition to PLI. An additional exception might be appropriate for the new neighborhood business zone.

²⁶ 2005 NOTE: In the 2005 draft, this language has been changed to clarify when the counting period starts, per a Law Department comment. The timing requirements also have been changed to implement AO 2004-126(s).

²⁷ 2005 NOTE: The criteria have been rewritten in the 2005 draft to focus more on rezoning issues and less on site planning issues.

²⁸ 2005 NOTE: In the 2005 draft, the Boards and Commissions advisory committee requested that this section continue to be carried forward pending further discussion. OLD NOTE: As discussed in the Diagnosis and Outline, the special limitations are the source of some administrative headaches in Anchorage, since a proliferation of special conditions on individual properties makes enforcement quite difficult. Nevertheless, special limitations clearly are part of the administrative culture in the city, and the feedback we got suggests that it may not yet be time to abolish them. We carry them forward in this draft for discussion purposes. We hope, however, that once the new districts and standards are drafted, special limitations will become less necessary and they perhaps can be eliminated in a future draft (or in a year or so following adoption of the new code).

²⁹ 2005 NOTE: This material originally was drafted as part of Module 2 and is new to this chapter in the 2005 draft.

³⁰ NOTE: The final approval for establishing the NCO has to be the Assembly, since it is a rezoning. However, an outstanding issue to be discussed is what body reviews the NCO proposals and makes a recommendation to the Assembly. Options include the Planning Commission (which makes recommendations on all other rezonings), or the Urban Design Commission (which would fulfill the desire to give that body a more substantive role), or perhaps both of these bodies. . If both bodies participate, then perhaps UDC could make a recommendation to P&Z, which then recommends to the Assembly (this would allow the P&Z to overrule the UDC in cases of disagreement).

³¹ NOTE: This section generally is carried forward from the existing Title 21. We heard few comments about problems with these provisions. Minor changes include: a new purpose statement; incorporation of the applicability provisions from 21.75.020; incorporation of the approval criteria from 21.75.010; and removal of submittal requirements for placement in the User's Guide.

³² 2005 NOTE: Eligibility for abbreviated plats moved to front of section to improve user-friendliness of section.

³³ 2005 NOTE: Subsection contains changes from AO 2004-130.

³⁴ 2005 NOTE: The subdivision agreement clause is new.

³⁵ NOTE: A lengthy list of submittal requirements has been removed here, for placement in the User's Guide. Regarding the submission deadline, staff notes that: deadlines are "established every year by the Planning Dept. We have cut-off dates for applications going before the Platting Board which involve public notification and advertising which is currently a minimum of 50 days according to the process we follow now. We have a weekly cut-off day for abbreviated plats which is a minimum of 35 days prior to the Platting Authority's decision date."

³⁶ NOTE: This is an existing provision. Under state law, Anchorage must provide a platting procedure, but it does not need to match the 60-day state requirement that applies to second class boroughs. We recommend that the Municipality continue to keep a definite time limit on the review of preliminary plats to ensure fairness and a relatively swift decision.

³⁷ 2005 NOTE: Changed from 18 to 24 months in the 2005 draft. This note also applies to the subsequent section.

³⁸ 2005 NOTE: "18" changed to "24" twice in this paragraph.

³⁹ NOTE: This is a new paragraph drafted at staff's request.

⁴⁰ NOTE: This existing text has been modified for clarity. The current text refers to "the original 18-month approval period," yet in practice phased approvals usually receive 60 month approvals.

⁴¹ NOTE: This section has been rewritten by staff to reflect current procedures.

⁴² 2005 NOTE: The general contractors believe this time period is too long and should be shortened to 14 days.

⁴³ 2005 NOTE: This section had several incorrect provisions in the prior draft that asserted that the Platting Board is the Platting Authority for abbreviated plats. In fact, the intent is that the Director act as the Platting Authority for such plats, not including certain exceptions, as indicated in the new flowchart.

⁴⁴ NOTE: This is a substantially new procedure for the Municipality's consideration. It is simpler than the current procedure, and we have not carried forward the somewhat confusing concept versus final plan provisions in the current Title 21. We also have separated out the site plan review provisions as a separate procedure.

⁴⁵ NOTE: For discussion purposes, this draft presupposes that the P&Z Commission will make decisions on site plans that are attached to conditional uses, as opposed to other site plans, that are either approved by the Director or the UDC.

⁴⁶ 2005 NOTE: Time limit removed on this decision.

⁴⁷ NOTE: This section carried forward from the existing 21.15.030. At staff's suggestion, and for discussion purposes, the Platting Authority has been changed to the Director (as opposed to the Platting Board) to improve the efficiency of the process.

⁴⁸ NOTE: This section carried forward from the existing 21.15.030.

⁴⁹ 2005 NOTE: The public facility provision is new.

⁵⁰ NOTE: This new section is intended to implement a recommendation from Anchorage 2020, which establishes the "Major Project Site Plan Review" strategy: "Title 21 will be revised to require public hearing site plan review, including exterior building design, approval for major commercial, institutional, and industrial developments, as those terms will be defined in the ordinance revision." The strategy is designated in the Plan as "essential" to implement Policy 43: "Plans for major commercial, institutional, and industrial developments, including large retail establishments, are subject to site plan review."

⁵¹ 2005 NOTE: The public facility provision is new.

⁵² 2005 NOTE: Required time frame provision removed in this draft.

⁵³ 2005 NOTE: Extended from six to 12 months.

⁵⁴ NOTE: This section carried forward from the existing 21.15.030. At staff's suggestion, and for discussion purposes, the Platting Authority has been changed to the Director (as opposed to the Platting Board) to improve the efficiency of the process. **SHOULD IT BE THE UDC INSTEAD?**

⁵⁵ 2005 NOTE: NEW SECTION. This did not appear in the earlier drafts.

⁵⁶ 2005 NOTE: Public facility site plan review has been removed from this section. The intent is to have public facilities be reviewed through the Major Site Plan Review process and be treated the same as private facilities. The generally applicable development

standards in 21.07, including landscaping, are intended to apply to both public and private facilities and will be reviewed as part of the site plan process. We heard numerous comments on the previous draft that, currently, public facilities are held to a higher and vaguer landscaping standard than private projects, and that such requirements ultimately make little sense because the schools lack the long-term funding to maintain the landscaping.

⁵⁷ NOTE: This section is based on the definition of “public facility” is taken from Planning Case 03-040, which redefines and delegates public facility site plan and public facility review to the UDC.

⁵⁸ 2005 NOTE: Landfill added. Some staff also suggest adding roads to this section, but that change seems major and unusual and has not been inserted into the text pending further discussion.

⁵⁹ NOTE: This new list of criteria is based on language from Anchorage 2020, including policy 79 and related language on page 104.

⁶⁰ 2005 NOTE: This last provision is new. Numerous comments suggested that existing site selection criteria for public facilities are too loose, yet it is very unusual to codify detailed site selection criteria in a land use code.

⁶¹ NOTE: We recommend that this list of submittal requirements be removed and placed in the User’s Guide. Before that is done, however, we again point out (as was indicated in the Diagnosis) that this provision requires certification of floodproofing for non-residential structures only, not residential. Is this intentional? We recommend that the provision be broadened to include residential structures, as well.

⁶² 2005 NOTE: Various changes made to clarify the relationship to the building permit requirement. NOTE: This suggested new procedure is broader than the land use permit authorized under the current Title 21. It responds to staff’s request that we draft a provision that codifies and broadens current practice, without adding a new permit or review. This suggested new process requires all uses in all areas of title 21 jurisdiction to go through a check to ensure code compliance, and projects in the Building Safety Services Area also have a full title 23 check.

⁶³ NOTE: To be drafted following further discussions.

⁶⁴ 2005 NOTE: Changed from six months to 12 in this draft based on comments from the PZC and general contractors.

⁶⁵ NOTE: This section incorporates language from draft ordinance PZ 2002-110: an ordinance to address the inadequacy of development standards for site condominiums, specifically roads. A better location for this material may be the introduction to the new subdivision chapter, 21-8. We’ve placed it here for now, for discussion purposes, since the draft ordinance places the material near the land use permit provisions in the current Title 21.

⁶⁶ NOTE: Terminology and section references should be checked and updated following drafting of 21-8.

⁶⁷ NOTE: The Traffic Engineer is actually in a different department (Traffic) than the Municipal Engineer (Project Management and Engineering). This provision therefore appears to conflict with the Municipal Engineer’s authority to some extent.

⁶⁸ NOTE: Do any of these processes require a TIA for particular types of development?

⁶⁹ NOTE: Could this be stated more clearly as a requirement to submit the information in the form of an affidavit?

⁷⁰ NOTE: Should “guarantees” be substituted for “guaranties”? The latter implies a formal legal instrument involving some sort of monetary interest.

⁷¹ NOTE: Leaving final appeal authority with the Platting Board, as opposed to the Assembly, was questioned by a community council representative during the Planning and Zoning Commission hearing on the ordinance setting forth the language in this section. Additional feedback is requested regarding the assignment of decision-making authority to the Municipal Engineer and the Platting Board.

⁷² 2005 NOTE: In the 2005 draft, the procedure has been extended to the area outside the BSSA. The appeals provision is new in this 2005 draft. OLD NOTE: This new procedure is intended as a final check on zoning compliance for all development in the Municipality. Within the Anchorage bowl, the procedure will be combined with the current certificate of occupancy process.

⁷³ 2005 NOTE: This proposed new content is based on section 21.10.110, the “Administrative Provisions” section of the signs chapter.

⁷⁴ NOTE: Staff: Is any temporary structure permit required under the Alaska State Building Code? If so, we might want to include a requirement that no tents, trailers, or other temporary structures until they obtain such a permit, if applicable.

⁷⁵ 2005 NOTE: The six-month limit is new; the previous draft simply had no specific time limit.

⁷⁶ NOTE: As noted in the Annotated Outline, this section carries forward the current section 21.15.127.

⁷⁷ 2005 NOTE: As noted in the Annotated Outline, this section carries forward the existing section 21.15.130. In this new draft, the text has been cleaned up and the graphic clarified to more closely match the text.

⁷⁸ 2005 NOTE: “Public square” must be defined. Need to check state law, where this provision comes from, for a definition.

⁷⁹ 2005 NOTE: Relocated here from the draft of 21.11 in the first draft.

⁸⁰ NOTE: This is a recommended replacement to the current “21.15.012: Procedure for obtaining administrative variance for minor dimensional errors.” The new section is intended to be more flexible and easier to administer – the complexity of the current approach makes it appear unlikely to be used often.

⁸¹ 2005 NOTE: Added UDC in 2005 draft, since they have authority for major site plans. OLD NOTE: Some communities also allow minor modifications to approved development plans (e.g., minor changes to building footprints on site plans). Is Anchorage interested in such provisions?

⁸² 2005 NOTE: Building height removed from this list, per comments.

⁸³ 2005 NOTE: Proposed new section in response to comments.

⁸⁴ NOTE: Note that the “Findings of Fact” requirement in section 21.03.020.I. requires the Director to adopt written findings for each of these criteria when approving a minor modification.

⁸⁵ 2005 NOTE: This section has been extensively revised to more closely mirror the current 21.15.010.

⁸⁶ NOTE: This is a new section intended to clarify who grants variances. Is it correct?

⁸⁷ 2005 NOTE: This is from the recently adopted revision to 21.15.010. Does this list of material apply only to ZBEA variances – not to Platting Board or PZC variances? That’s how it is written.

⁸⁸ 2005 NOTE: This section does not yet address appeals to PZC, the Platting Board, and the Assembly. Are separate procedures and standards necessary to cover those bodies, or is that covered sufficiently in procedural rules for those bodies? NOTE: This section carries forward material from the current chapter 21.30, so some appeals (subdivision, conditional uses) go to the Board of Adjustment, while appeals of staff decisions go to the Zoning Board of Examiners and Appeals. As noted below, the biggest issue with this section will be whether to retain the current broad language allowing anyone to appeal any decision. Also, we would like feedback on whether the amount of detail in the Board of Adjustment provisions is necessary.

⁸⁹ NOTE: This section will need to be monitored and updated as necessary, if new appellate authority is given to the Board of Adjustment as part of discussions on other sections of this chapter.

⁹⁰ NOTE: We have removed the provision authorizing the Planning and Zoning Commission to act as the Board of Adjustment on decisions of the hearing officer. We did this because the hearing officer provision contemplated in the current code does not actually exist – there is no title 21 hearing officer. The only hearing officer is authorized under title 14, and deals with enforcement – he does not function in the way described in the current Title 21.

⁹¹ 2005 NOTE: This draft changes this language to the new “party in interest.” The previous draft carried forward current policy, which is to allow anyone who is “adversely affected” to appeal a decision. We heard strong support in favor of changing the text to this new standard.

⁹² 2005 NOTE: Per a law department request, this section has been revised to eliminate the previous language about requesting a written decision for purposes of requesting an appeal. As correctly noted, this new Code requires the earlier decision to be in writing, so such a provision requesting a written decision is now obsolete. Further, this sentence clarifies that the appeal runs from the date of mailing or other delivery of the appeal, per request of the law department, to ensure consistency with ZBEA appeals. Also, changes from AO 2004-126(s) and 2005-14.

⁹³ 2005 NOTE: Changes from AO 2004-126(s).

⁹⁴ NOTE: The Board of Adjustment appeals procedures are much more detailed than those for the ZBEA in the next section. We have not made any changes yet, but we do see some merit in making the level of detail in the sections more equivalent. Please advise if this is desirable or if the text should stay as is.

⁹⁵ NOTE: The staff notes that, now that there is a new Board of Adjustment, this may be a good time to change the hearing procedure and allow persons that filed a brief to make an oral argument to the Board. As staff notes, “the Board of Adjustment will no longer be the Assembly. The new Board of Adjustment can devote more time to the hearing than the Assembly could.” Further discussion needed. Is there general support for this idea?

⁹⁶ 2005 NOTE: Changes from AO 2004-126(s).

⁹⁷ NOTE: This section will need to be monitored and updated as necessary, if new appellate authority is given to the ZBEA as part of discussions on other sections of this chapter.

⁹⁸ NOTE: Removed here the reference to existing 21.40.240, Transition District, which authorizes Assembly, not ZBEA, to hear appeals of permits in the Transition District.

⁹⁹ 2005 NOTE: The last four items in the list are new to the 2005 draft.

¹⁰⁰ 2005 NOTE: The same modification has been made here as was done with the Board of Adjustment: the appeal authority is proposed to be restricted to “parties of interest.”

¹⁰¹ 2005 NOTE: Same changes made here as in the Board of Adjustment section, per law department request. The decision is written and the time period starts upon mailing or other delivery of the decision.

¹⁰² NOTE: The intent behind this provision is to ensure that the Director’s finding binds employees in other departments (e.g., BS zoning plan reviewers, ROW enforcement officers, DHHS child care reviewers) who deal with title 21.

¹⁰³ 2005 NOTE: This process is carried forward from the existing section 21.50.160 “Conditional use standards—Uses involving sale of alcoholic beverages,” and on the respective district sections of the existing chapter 21.40 “Zoning Districts.” In the previous draft, this material was submitted as part of Module 2. We have rewritten some language, per staff request, to clarify that this is not a conditional use permit but rather a separate type of approval.

¹⁰⁴ 2005 NOTE: The specific type of notice isn’t clear in the current code – is this new language correct?

¹⁰⁵ 2005 NOTE: section simplified and rewritten per zoning staff request.

¹⁰⁶ 2005 NOTE: This is a new permit in the 2005 draft, carrying forward the existing 21.15.055. We originally thought this would be unnecessary, but further discussions suggest that it continues to be an important tool for uses such as B&Bs and roominghouses that require such permits.

¹⁰⁷ 2005 NOTE: These are three new procedures for the municipality’s review, in response to concerns that the previous draft did not contain sufficient procedures to authorize master planning of large sites. The first two subsections are from Girdwood regulations, redrafted to apply muni-wide. The third procedure is new and suggested for large institutions (e.g., universities).