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## INTRODUCTION

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The Clarion Associates team has prepared this Annotated Outline as part of the update of Title 21 of the Anchorage, Alaska, Municipal Code. It is based on the team's Diagnosis prepared in November 2002 and on comments on that Diagnosis received from the Advisory Committee, the planning staff, and Anchorage officials. Our earlier analyses and discussions have highlighted numerous ways in which the current Title 21 could be improved to streamline development applications, improve development quality, and better ensure the type of development desired by the community.

This Annotated Outline provides an overview of what the proposed structure and general substance of the new Title 21 will be if modifications agreed to during review of the Diagnosis are implemented. As part of the review and discussion of the Annotated Outline, the community will be able to provide more detailed direction about the nature and scope of the new Title 21 document and specific provisions. After this Outline is presented and discussed in Anchorage, the consultant team will undertake the actual drafting of the new Title 21.

The following pages present a general outline for the new Title 21. Also included is general commentary to explain the purpose or rationale behind certain sections and, in some cases, different options for the Municipality to consider. We view this Annotated Outline and the previous Diagnosis as vehicles for helping to define expectations about what is to be accomplished in the revised Title 21 before we begin the detailed drafting work. In addition to providing a road map for drafting the new ordinance, the outline provides an organizing framework for continued discussions of key zoning and development regulation issues.

The proposed outline divides the new Title 21 into 11 major chapters (as opposed to the current 20) in an attempt to simplify and organize it more logically based on functions, roles, procedures, and substance:

1. General Provisions
  2. Boards, Commissions, and Municipal Administration
  3. Review and Approval Procedures
  4. Zoning Districts
  5. Use Regulations
  6. Dimensional Standards and Measurements
  7. Development and Design Standards
  8. Subdivision Standards
  9. Nonconformities
  10. Enforcement
  11. Definitions
- Index  
Appendices

There are, of course, many organizational schemes that could be used, and the one presented here may undergo changes as the work proceeds. It reflects the team's experience with other codes across the United States. Its function at this point of the project is to focus attention on the types of structural and policy issues that will need to be confronted in drafting the new ordinance.

The outline also provides a partial glimpse of the types of page formatting techniques to be used in the ordinance. Our intention is to make the ordinance easier to use and understand through the use of section/subsection headings, page footers and headers, tables, and graphics. We will fine-tune such techniques as we proceed with the drafting effort.

This outline will be reviewed by elected and appointed officials, the Advisory Committee, Municipality staff, and others as appropriate, and then discussed at meetings in late April 2003. Following this review and comment period, the Clarion team will begin drafting the new Title 21 based on direction from the Municipality.

## 21-1. GENERAL PROVISIONS

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### *SUMMARY OF CONTENTS:*

- A. *Title*
- B. *Statutory Authority*
- C. *Purpose of this Title*
- D. *Applicability and Jurisdiction*
- E. *Relationship to Other Regulations*
- F. *Zoning and Planning Maps*
- G. *Comprehensive Plan*
- H. *Transitional Regulations*
- I. *Conflicting Provisions*
- J. *Severability*

**General Commentary:** The overall scope and authority of a development code is typically set forth in a preliminary chapter. The current Chapter 21.35 sets forth some “General Provisions,” yet that chapter is buried within the middle of the code and does not provide a complete introduction to Title 21. The introductory chapter of the new Title 21 should include several new sections, outlined below.

#### **A. Title**

This section will provide the official title of the document and list any other terms that may be used to refer to the development code as a whole, such as “Title 21” or the “Anchorage Land Use Planning Code.”

#### **B. Statutory Authority**

This section will recite the legal authority by which the Municipality is adopting the Title 21 regulations, such as home rule authority and land use enabling statutes in the laws of the State of Alaska. Specific references may be made in some cases, such as to state statutes relating to subdivision controls, environmental protection, or regulation of state-owned lands within municipal planning limits.

#### **C. Purpose of this Title**

This new section will incorporate and build upon the language of the existing Section 21.35.010. The existing purpose language sets forth general police power objectives of land use regulation that should be carried forward. The new purpose section should also incorporate purposes behind recent planning efforts, particularly components of the comprehensive plan, such as the *Girdwood Area Plan* and *Anchorage 2020*. The *Anchorage 2020* plan, for example, cites housing balance and protection of habitat as goals, and these should be cited in the new purpose section.

#### **D. Applicability and Jurisdiction**

This section will clarify who is subject to the Title 21 regulations. In general, all land in the Municipality of Anchorage (MOA) will be subject to Title 21, including public land owned by the MOA and any other public entity subject to municipal regulations. MOA jurisdiction extends to state lands, but federal lands are exempt (however, private leaseholders on federal land will be subject to Title 21). If special exemptions are desired for certain types of public land or certain types of public facilities, these may be set forth in other provisions and referenced in this section; however, a rule of general applicability (to public land) helps to strengthen the Municipality’s position in requiring the compliance of all other land owners.

**E. Relationship to Other Regulations**

This section will state that Title 21 is generally intended to complement other regulations associated with affected properties and land uses. Regulations such as federal wetlands permitting, state highway authority, and other programs are intended to be compatible. Moreover, the Anchorage Municipal Code as a whole contains numerous provisions that are intended to function harmoniously with Title 21, including, as examples, liquor provisions (Title 10), nuisance and environmental regulations in the Health Code (Title 15), and hearing officer procedures (Titles 2 and 14).

**F. Zoning and Planning Maps**

This plan will incorporate by reference relevant maps from general planning documents, including comprehensive plans, functional plans, and other special studies that may contain maps and plans useful for review purposes.

**G. Comprehensive Plan**

To the extent they are not incorporated into other procedural and substantive sections of the new code, the provisions on the Comprehensive Plan in the current Chapter 21.05 will be carried forward. The Diagnosis noted that this current section is written with the specific intent of satisfying the legal requirements of a comprehensive plan within Title 21, and preserving this intent will be a primary goal in the revision of this section. We will carry forward edited language regarding the scope, purpose, elements, and implementation of the Comprehensive Plan. Another fundamental goal of the revision will be to streamline the implementation strategy, both before and after various neighborhood plans are produced. Some “transitional strategies” in the current code may not be necessary to continue, since the goals and recommendations of certain comprehensive plans will be codified within other provisions of the Title 21 revision.

**H. Transitional Regulations**

Transitional regulations are generally necessary with any code revision in order to resolve the status of properties with pending applications or recent approvals and properties with outstanding violations. We recommend that this new section allow for applications with final approval to rely, in general, on the prior (i.e., current) version of the code, so long as the application does not violate critical health and safety provisions of the new code (e.g., potential standards for earthquake safety, compatibility with hazardous land uses). For applications pending, the revised code will provide a period during which the application and approval process could still be completed under the old code, again subject to health and safety provisions in the new code. Finally, the transitional regulations section will include language providing that violations prior to the enactment of the revision remain violations after the adoption of the new code.

**I. Conflicting Provisions**

This section will address situations in which two ordinances of the Municipality come into conflict. We will discuss the rules that should be included with the Municipal Attorney.

**J. Severability**

The final section will state that any part of the Title 21 held invalid will not affect the operation and the force of law in other portions of Title 21.



## 21-2. BOARDS, COMMISSIONS, AND MUNICIPAL ADMINISTRATION

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### *SUMMARY OF CONTENTS:*

- A. *Purpose*
- B. *Boards and Commissions Generally*
- C. *Summary Table of Decision-Making and Review Roles*
- D. *Assembly*
- E. *Planning and Zoning Commission*
- F. *Platting Board*
- G. *Zoning Board of Examiners and Appeals*
- H. *Board of Adjustment*
- I. *Administrative Hearing Officer*
- J. *Urban Design Commission*
- K. *Geotechnical Advisory Commission*
- L. *Municipal Staff*
- M. *Community Councils*

**General Commentary:** This chapter will identify the various roles of appointed and elected boards, as well as the municipality staff, in the administration of Title 21. This chapter will not duplicate the extensive board rules (including, for example, the appointment and qualifications of members, number of members on a particular board, staggering of terms, quorum and voting requirements) found in the existing set of stand-alone resolutions and ordinances collected as a supplement to the existing Title 21. But, in order to provide appropriate guidance to the staff, board members, the Assembly, and the regulated community, general references to external documents will be provided in this new chapter where appropriate.

This chapter will borrow heavily from the existing Chapter 21.10 on “Boards, Commissions, and Administrative Officers.” However, because the revision of Title 21 calls for reassessment and realignment of board and administrative duties, the exact provisions of each section will be reviewed in detail prior to redrafting. Also prior to drafting of the new ordinance, the Municipality should consider whether it is desirable to include in this chapter provisions for advisory boards and other commissions that are either currently authorized by resolution (not in the Municipality’s ordinances) or not currently in existence but contemplated in the future, such as a potential historic resources committee. All review and approval procedures will be located in Chapter 21-3, entitled “Review and Approval Procedures.”

### **A. Purpose**

The chapter will begin with a brief section that explains the purpose and organization of the chapter, and its relationship to other chapters, especially Chapter 21-3, “Review and Approval Procedures.”

### **B. Boards And Commissions Generally**

To the extent that any provisions are applicable to all the boards and commissions called out in this chapter, those provisions should be collectively stated in a section such as current AMC 21.10.010 (“Composition and public comment on board and commission appointees”). This new general section will therefore carry forward current language regarding public comment, the code of ethics, and conflicts of interest. Other common provisions not contained within the current code could include a clarification of appointment and confirmation powers, general qualifications for appointive office, and any provisions about length or limits on terms in office. However, this section should not

unnecessarily duplicate any material found in the operating resolutions of the various bodies (which are now reproduced at the back of the Planning Department's printout of Title 21.)

**C. Summary Table Of Decision-Making And Review Roles**

The new Title 21 will contain a summary table that allows applicants and officials to quickly determine the review process for each type of case. Below is a simple example of such a table from another jurisdiction. *(Please note that this is only a preliminary example and does not reflect actual decision-making responsibilities in Anchorage.)* In order to simplify and reduce the bulk the code we will put as much information as possible in tables like this, rather than text.

<b>EXAMPLE TABLE: SUMMARY OF REVIEW AND DECISION-MAKING AUTHORITY</b>					
<b>R = Review/Recommending Body   D = Decision-Making Body (standard notification)   D/EN = Decision-Making Body (early notification)   A = Hears Appeals</b>					
<b>Procedure</b>	<b>Municipal Staff</b>	<b>Planning and Zoning Commission</b>	<b>Assembly</b>	<b>Board of Zoning Examiners and Appeals</b>	<b>Board of Adjustment</b>
Title 21 text amendments	R	R	D		
Zoning Map Amendments	R	R	D		
Administrative Variances	D			A	
Conditional Use Variances	R – D/EN	D			
Development Plan (for Land Clearing)	D				A
Temporary Uses	D			A	

**D. Assembly**

The existing code currently provides no information regarding Assembly authority in land use reviews. This section will describe Assembly functions in the same format used for all other review bodies. In general, the Assembly is the final decision-maker on land use actions of a legislative nature. It also currently serves as the Board of Adjustment in some cases, but whether that should be continued is a matter of debate and should be discussed further.

**E. Planning and Zoning Commission**

This section will list the duties and responsibilities of the Planning and Zoning Commission, based on the current AMC 21.10.015, with adjustments made to

accomplish the goals outlined in the Diagnosis. The primary changes will include granting the Commission final review authority in some cases that currently go to the Assembly. These changes will be explicitly set forth in the applicable procedures in Chapter 21-3, "Review and Approval Procedures." The Planning and Zoning Commission section will be revised to better define the situations in which decision-making authority will be delegated to either an Administrative Hearing Officer or the Urban Design Commission. One change will be to transfer authority for public facility site review (but not public facility site selection) from the Planning and Zoning Commission to the Urban Design Commission; staff has already initiated an amendment process to make this change.

**F. Platting Board**

The duties of the Platting Board are defined in current section 21.10.020 of the Anchorage Municipal Code. Most of this language will be carried forward, though revisions may be made to eliminate Board review on routine matters that can be more efficiently addressed through an administrative process. Minor plat and vacation of plat applications are both procedures that may be effectively addressed through administrative review. Similar to the Planning and Zoning Commission, the Platting Board has authority to refer cases to the Urban Design Commission, which authority should be better defined.

**G. Zoning Board of Examiners and Appeals**

This Board serves as the primary review body for variances, appeals from enforcement orders, and appeals from permit denials. In general, this Board is adequately defined in current AMC 21.10.025, and these provisions should be carried forward.

The Title 21 update will clarify that the Board does not have authority to grant use variances and, in terms of authority to determine uses, is limited to determining the applicability of existing use categories in borderline cases (under the specific provision at AMC 21.10.025(C)).

**H. Board of Adjustment**

Under Anchorage's land use review scheme, the Zoning Board of Examiners and Appeals fills many of the roles that are traditionally filled by a Board of Adjustment in other communities. Thus, in Anchorage, the role of the Board of Adjustment is limited to serving as an appellate board for denials of subdivision and conditional use-related approvals, under the current regulations at AMC 21.10.030.

The Assembly serves as the Board of Adjustment. We heard several comments suggesting that the Assembly should no longer play a role in the appeals process in this manner, given the potential for politicization of appeals. Some revision of this section probably is necessary. To keep the current situation intact but clarify the Assembly's role, one option is simply to list the appellate authority of the Assembly directly, and eliminate the nominal provisions creating the Board of Adjustment. Other options include transferring the BOA powers to the Zoning Board of Examiners and Appeals or the Administrative Hearing Officer, seating an independent Board of Adjustment, or retaining the existing system of split BOA powers between the Assembly and the Planning and Zoning Commission. Yet another option that some interviewees supported

is eliminating the BOA and sending appeals of all regulatory decisions to Superior Court. We seek feedback from the Municipality on this matter.

**I. Administrative Hearing Officer**

Under current AMC 21.10.035, the Administrative Hearing Officer (AHO) has a role in some conditional use cases delegated by the Planning and Zoning Commission. In practice, the AHO hears evidence and makes decisions in enforcement actions but has not been used for conditional use review in a significant amount of time. The AHO will be carried forward within the Title 21 revision, with the authority of the AHO comprehensively defined in this section to include enforcement authority, the authority to hear and decide beneficial use determinations (discussed in more detail in the following chapter), and possibly the authority to hear cases currently under the jurisdiction of the Board of Adjustment. The revision of this section will also incorporate relevant provisions regarding the AHO that are currently located in Title 14.

We have heard some complaints about the willingness of the AHO to grant continuances too frequently; we will discuss this further with the Municipal Attorney to determine if it is a problem that should be addressed in the new Title 21.

**J. Urban Design Commission**

No other existing board has generated as much attention in terms of a need for redefinition during this process as the Urban Design Commission. Under the current ordinance, the UDC receives reviews from other commissions, but typically only at the discretion of those other bodies. This has resulted in an unclear mission and highly variable application of the UDC review authority.

We recommend that the Title 21 revision focus the UDC's role on the central business district and possibly mixed-use districts and town centers, where detailed design is generally agreed upon as important to the success of development projects. However, we will need to work with staff and other consultant teams that are developing the commercial design standards and other related efforts to determine the exact role that the UDC should play in such areas. We anticipate that staff will also play a major role in architectural design review, which is typical in other communities.

While we recommend that the UDC be given clear authority to focus and comment on these important issues, we recommend reevaluation of many of the UDC's current other roles, as listed in AMC 21.10.028, in order to determine whether they are still necessary. It will be important to not burden the new UDC so much that it drifts away from its core mission.

**K. Geotechnical Advisory Commission**

The Geotechnical Advisory Commission is an appointed board that receives administrative support from Planning Department staff. The duties of this board are outlined in the current AMC 4.50.050. The GAC, in its advisory capacity to the Platting Board and Planning and Zoning Commission, reviews proposed subdivision plats that are located in high or moderate snow avalanche hazard zones and proposed development located in areas mapped as having high or very high seismically induced ground failure susceptibility. We propose carrying forward the current provisions with no

major changes (though the development standards that the Commission applies may change as part of this Title 21 revision – see Chapter 21-8, “Development and Design Standards.”)

**L. Municipal Staff**

The revision of this chapter will involve extensive revision of the current discussion of administrative roles at AMC 21.10.005. Current provisions do not clarify that the Director of the Planning Department is the responsible authority for issuance of administrative permits under Title 21, and this should be clarified. The section on administrative authority should also elaborate the specific planning processes in which the Planning Department has a role. The section will also clarify any review or decision-making authority that is vested in other municipal department. For example, administrative variances from parking requirements may be delegated to the Traffic Department. In addition, other municipal departments will have referral roles, as generally noted in this section.

**M. Community Councils**

This section of Title 21 should explain the role of community councils in the land-use review process. As we discussed concerns regarding neighborhood protection during the Diagnosis feedback process, it was suggested that community councils throughout the Municipality should be encouraged to be more active in the review process, filling the role of a neighborhood review group in cases of particular concern.

This section of the chapter will list and explain the role of the councils, but additional discussion will be necessary before that exact role can be defined. For example, it may be appropriate in some situations for referral to community councils to be mandatory (e.g., where a developer seeks expedited review), and in other cases a referral could be recommended; exactly where that line should be drawn, however, will require discussion. Also, at least some general rules for how community council reviews must be conducted should be included in this section (however, specifics on the operation of the councils probably should be included in the Code of Regulations, not in Title 21).

## 21-3. REVIEW AND APPROVAL PROCEDURES

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### *SUMMARY OF CONTENTS:*

- A. *Common Procedures*
  - 1) *Purpose and Applicability*
  - 2) *Pre-application Conferences*
  - 3) *Authority to File Applications*
  - 4) *Application Contents, Submission Schedule, and Fees*
  - 5) *Verification of Application Completeness*
  - 6) *Community Meetings*
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- B. *Specific Application and Review Procedures and Requirements*
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    - ix) *Certification of Nonconforming Use*

**General Commentary:** This chapter will consolidate and describe all of Title 21's application, review, and approval procedures. It will be based primarily on the existing Chapter 21.15, though several processes from elsewhere in the code (e.g., amendments to the Comprehensive Plan) will also be relocated to this revised chapter. The code update will restructure all procedures so that they follow a consistent format, to the maximum extent practicable. Key features of each procedure will be summarized in a separate flowchart that will be prepared for each individual process.

Emphasis in drafting this chapter will be placed upon streamlining the review process to eliminate unnecessary hearings and avoid delays in review, and to encourage concurrent reviews where possible. Close cooperation with staff will be necessary when drafting this entire chapter, since all procedures should be consistent with actual practice (at least until a clear

decision to change from current practice has been made). The results of the current American Planning Association audit of Anchorage case processing will be a useful tool in the drafting of clear, efficient new provisions for this chapter.

It is not the intent of this section to duplicate or supplant any specific procedure established within the Anchorage Municipal Code of Regulations (the supplement of stand-alone documents codified at the end of the Title 21 publication). Assembly resolutions have established procedural rules for meetings and actions by the Planning and Zoning Commission, the Platting Board, and the Zoning Board of Examiners and Appeals, and to the extent that review and action procedures are established for any board in these independent regulations, this section will simply reference those regulations. However, the Code of Regulations does not comprehensively cover all review procedures. For example, procedures are not established for the Assembly, except for conditional uses involving liquor licenses.

#### **A. Common Procedures**

This section establishes a set of common procedures for all applications. These common procedures take the potential applicant from the rules governing application form, contents, and fees; through the actual application submittal and review stage; to the rules governing the form of the final decisions made. Many such provisions currently are scattered or repeated throughout the current Title 21, in addition to locations outside the code itself. Existing provisions in Title 21 will be consolidated in this section of the revised code in order to eliminate duplication and to provide greater certainty to staff and applicants about how land-use applications are generally processed. By placing such general provisions here, they will not need to be repeated throughout other sections.

A new provision in this section will uniformly require that all recommendations and final decisions in an adjudicative land-use matter be supported by written findings of the reasons for the decisions. The requirement of a written decision, with or without findings, will also apply to non-adjudicative reviews and administrative decisions.

Timelines and policies for consideration of referrals sent to other affected agencies, particularly other municipal departments, will be found in this section. Language regarding staff reports will be added to state that the report will incorporate the comments received through the referral process. The section will also contain language regarding distribution of the staff report to interested parties.

##### **1) Purpose and Applicability**

This first section will explain the purpose and applicability of the Common Procedures section.

##### **2) Pre-application Conferences**

This section will describe a general procedure for pre-application conferences. Pre-application conferences ensure early contact between the Municipality and developers for certain major land-use applications, and are a mechanism to help accelerate the approval process by addressing major substantive issues prior to initiation of the public review and hearing process.

We propose that this section require pre-application conferences for subdivisions, rezonings, and development plans over a certain size. The size thresholds will be clearly defined in the code. It may also be appropriate to require a conference for any size project in certain areas, such as the town centers or the downtown, or certain sensitive project types, such as new commercial adjacent to residential neighborhoods. Pre-application conferences will be encouraged, but optional, for all other development applications if they are not required.

This section will identify generally the topics to be covered at the conference, including existing site conditions, an overview of the proposed project, submittal requirements, and review procedures. The conference will include a discussion of whether a Traffic Impact Analysis will be required. Preparation of such analyses can cause delays if they are not considered early in the process. We recommend setting clear thresholds in the code for when TIA's are required. The Planning Director will be given the discretion to determine appropriate attendance at the pre-application conference, to include representatives from other potentially affected departments and agencies (e.g., Fire Department, Traffic Department) if appropriate.

This section will include a provision that sets a specific time deadline (e.g., six months) for the submittal of an application after a mandatory pre-application conference has been held. In this way, the Municipality can be assured that applicants have the most current information available regarding applicable rules, regulations, and procedures as an application is prepared.

Early consultation is especially important for projects subject to a design review process. We will consult with Mark Hinshaw and staff regarding the new retail design standards, to determine whether any special early consultation process should be required for projects subject to that process, and if so whether such consultation should be mentioned in this section.

**3) Authority to File Applications**

This new section will contain a clear explanation of who, generally, may file applications for development approval, including the owner of the subject property, the owner's authorized agent, or any review or decision-making body. This provision, like all of the common procedures, may be modified by specific requirements contained within subsequent sections dealing with individual procedures.

**4) Application Contents, Submission Schedule, and Fees**

We recommend that the Title 21 text not include detailed requirements for the format of applications nor the actual checklists of submittal information required for each type of application. Instead, the Code should state that applications for development review and approval should be submitted on forms provided by and in such numbers as required by the Planning Director or adopted in external regulations. Checklists of required information and supplementary information should be available as handout forms. These requirements could be included in



an appendix to the Code (as in current practice) or bound together in a separate "Administrative Manual," which in Anchorage's case would also likely include the regulations (currently found at the back of the Title 21 publication) that establish much of the procedure for each individual board and commission.

A practical benefit to this approach is that application content requirements can be changed administratively – meaning it is not necessary to amend Title 21 every time staff decides modifications need to be made to application content requirements.

This section will also contain language regarding the authority of persons to file applications, limiting review to property owners or authorized agents. In order to protect the land use system from unnecessary inefficiencies, this provision will contain an express limitation on an applicant's ability to resubmit substantially the same application after the Municipality has denied it.

**5) *Verification of Application Completeness***

The provisions included in this new section will describe the general concept of a "complete" application. Applications should be reviewed for completeness within a certain amount of time after filing. The code text will state that no action will be taken on incomplete applications. This will reduce the number of delays in Anchorage's land-use review process by avoiding the inefficient use of resources on applications that do not provide adequate information for effective review. In this section, the person authorized to determine completeness shall be specified (e.g., Planning Director), and that person's authority to waive any submittal requirements upon review of the application will be included.

This section will make specific reference to the satisfaction of any requirement relating to pre-application meetings, community meetings, and forms and fees, and this section will generally reference any submittal requirements of specific application and review procedures identified in those sections later in this chapter. Finally, as with the forms and fees section immediately preceding this section, reference will be made to any external handouts or Administrative Manual that defines basic application requirements.

This section will provide that, as a consequence for false or misleading information submitted or supplied by an applicant on an application, that application will be deemed incomplete.

Finally, this section will make clear that any technical reports and special studies submitted as part of the application (e.g., Traffic Impact Analysis) must be in the possession of the Municipality in time for the planning staff to review such reports and include their analysis in the staff report. The Municipality will reserve the right to postpone and reschedule a public hearing or approval deadline if such reports and studies are not submitted in a timely fashion.

Staff has commented that, while this new provision is a good idea, they are concerned about the impact on staff resources, particularly in light of the fact that

several areas in the new Title 21 may add to staff responsibilities (e.g., new design review). This topic will need to be discussed further.

**6) Community Meetings**

There is no process in the current Title 21 to encourage or require developers to meet with owners and residents of the surrounding area prior to developing new projects. In other jurisdictions comparable to Anchorage, meetings with neighbors (for example, owners and residents within the distance required for mailed notifications) often are required for projects that are likely to be controversial.

We recommend creating a flexible scheme of this nature in Anchorage, based on the existing set of Community Councils. The intent is not to create an entirely new process, but rather to add a bit more formality in the code to the existing use of Community Councils. We will work with staff to examine the existing requirements governing the councils, and to determine how best to encourage more frequent neighborhood involvement by the councils in major development proposals.

We recommend drafting general guidelines that explain the types of projects that would be subject to required community meetings, and how such meetings are to be conducted. We recommend that such meetings be relatively informal, and that staff take notes during the meetings for use in the staff report. We also suggest requiring that the meetings be held within a specified time period after a pre-application conference, or within a short time period before or after application submittal but before receipt of referral agencies' comments. Meetings should be held at locations that are conveniently located for the prospective attendees (i.e., the Community Council). Beyond these issues, we typically recommend placing few restrictions in the code to ensure maximum flexibility.

In addition to mandatory meetings for some applications, optional meetings could be a way to "incentivize" the development process. During discussion of the Diagnosis, community representatives expressed that an informational meeting during which neighbors could provide feedback to a developer would resolve the majority of concerns on a typical project. Because a community meeting would provide a similar forum to a public hearing, and as inducement to undertake such a meeting where none would otherwise be required, a project with a voluntary community meeting might be tracked into a special approval process that would not require a public hearing.

The use of mandatory community meetings would be new in Anchorage and further discussion of many issues will be required before adoption of a new Title 21. Staff has raised several examples of issues that will need to be addressed. For example, are recommendations from the meeting binding on the petitioner or advisory only? Also, what happens if the developer comes to agreement with the community at the meeting and then the Municipality subsequently raises issues that were overlooked or missed in the community meeting? We will work with staff to identify and address such issues during the drafting process.

**7) Notice**

Currently, general notice provisions in Title 21 are found at 21.15.005. Notice provisions should include the content, timing, and material specifications for different types of notices, and should conform to any relevant state statutes. With some minor modifications, the existing provisions appear to serve this function and should be carried forward.

As discussed in the Diagnosis, this section should be revised to clarify acceptable requirements for a publication of general circulation. Another revision will be to clarify the authorization for the Planning Director to expand, on a case-by-case basis, the 500-foot notification area for public notice of proposed development. A proposed project's adverse impacts along the entire length of such road, for example, may extend more than 500 feet from the project's boundary. Criteria and examples of situations for expanded notification requirements will be useful given the reduced reliance in the revised Title 21 on public hearings and the increased reliance on review at the community and staff level.

Notice provisions for different types of applications should also be summarized and depicted graphically in a table in this section. We have found it beneficial in consolidating and simplifying notice requirements to use a table that spells out the general public notification requirements, along with text, which we propose to use in the revised Title 21. An example of the general format for this table is reproduced below.

<b>SAMPLE TABLE: NOTICE REQUIREMENTS</b>			
<b>Application for Land Use Permit, Development, or Other Action</b>	<b>Notice Required (days before hearing/action)</b>		
	<b>Written</b>	<b>Published</b>	<b>Posted</b>
Text Amendments			
Subdivisions (Plats)			
Variances			
Appeals of Administrative Decisions			

We often recommend that notice of large development proposals automatically be sent to registered neighborhood and community organizations. Along these lines, the Planning Department already has recommended to the Assembly an expansion of the notification area of proposed actions, in order to benefit the Community Councils. While property owners within 500 feet or less still would receive notice under this proposal, community councils that have boundaries

within 1000 feet of certain kinds of proposed projects also would receive notice. In addition, notification for land use proposals affecting a public branch facility is recommended to be sent to any Community Council within the designated service area of that facility. The recommendation affects rezones, conditional uses, and several other public hearing reviews.

**8) Concurrent Processing**

This section will clarify that whenever a land use and development application requires two or more types of approval (for instance, a rezoning and a conditional use), the applications for those development approvals can be processed simultaneously with the Planning Director's pre-approval, so long as all applicable state and local requirements are satisfied. Any new simultaneous procedures that are developed during the drafting process will be set forth here. This section will clearly define the order to be followed when multiple layers of review are required, and how and when appeals can be taken during multiple reviews.

**9) Public Hearings**

Some codes contain public hearing procedures that spell out the rules governing the conduct of public hearings, including what persons have the right to speak, the order of the proceedings at public hearings (how the application is to be presented, in what order the applicant and public can speak, and the process for responding to comments), how and under what circumstances testimony and evidence can be excluded, what findings must be made to support the decision, and how the applicant is to be notified about the decision on the application. Though many of these issues are addressed in the Assembly's procedural resolutions for individual boards, some Assembly and Board of Adjustment hearings are not currently subject to any regulation.

We will obtain the Municipality's input on whether general hearing procedures, applicable if no other specific regulations apply, should be placed within the text of Title 21. Our general recommendation is that public hearing procedures not be included in Title 21, but rather be kept in external documents like the procedural resolutions or a separate user's guide to the code. We recommend that this section simply be used to cross-reference such procedures.

Regardless of the location of the hearing procedures, the existence of a section referencing them may be necessary in Title 21 to specifically authorize joint hearings on cases heard by both the Planning and Zoning Commission and the Platting Board. Any procedural issues on how such cases will be conducted will be drafted in this section, such as whether the hearings will be conducted sequentially on the same agenda or with both boards empowered to ask questions and converse with each other during a common proceeding.

This section also provide guidance on a review- or decision-making body's ability to continue a hearing or remand deliberations to a subordinate body for additional investigation and review.

**10) Conditions of Approval**

This new section will describe generally the types of conditions that may be attached to certain forms of approvals granted under this chapter. By reference, the provisions will only apply in those instances where the procedure expressly allows applications to be "approved with conditions." This section will be written to reflect Alaska statutes and case law regarding conditional approvals. Pursuant to recent developments in federal constitutional law, it will also specify that conditions for land dedications or public access must be limited to those that are related in both type and proportion to the impacts that the proposed development will have on the public and surrounding development (unless subject to other agreements).

**11) Appeals**

This section will consolidate the appeal provisions currently scattered throughout Title 21. This section will first generally clarify the rights of property owners, public agencies, and other citizens to appeal decisions made pursuant to Title 21. This section will clarify that only a "party in interest" may appeal a final decision. Definition of the term "party in interest" typically includes property owners, public entities, and other persons with a direct stake in the outcome of the decision—such as the applicant or an adjacent landowner, and persons and entities that directly participated in the review/approval process, such as persons providing verbal or written testimony at a public hearing or a member of the Assembly.

Appeal timetables will be summarized in this section, and this section will specifically reference the administrative procedures for resolution of takings and vested rights claims (see *Beneficial Use Determination* and *Lapse of Approval* below), two common litigation issues in the land-use arena. Finally, the appeals provisions will state the situations in which a final decision may be appealed to a court of competent jurisdiction. In the case of appeals to a court, the appeals provisions will state that if a court finds any part of a land-use approval is invalid under the law, then the entire approval or permit is deemed invalid and the applicant must resubmit a new application for the Municipality's review and action.

The alignment of review bodies for different types of appeals in Anchorage is generally functioning well, except in some cases where an elected body must render a judgment and the process becomes highly politicized. Currently, the Assembly, the Planning and Zoning Commission, the Zoning Board of Examiners and Appeals, and staff all have authority to hear different types of appeals. We recommend that the Assembly consider relieving itself of some or all of its appellate duties from adjudicative decisions, with these cases possibly to be directed instead to an independently seated Board of Adjustment, an Administrative Hearing Officer, or Superior Court. Further discussion of these options is found above in Chapter 21-2.

This section will provide for an appeal process from decisions of administrative permits. The Administrative Hearing Officer may be the most effective forum to hear appeals of final administrative decisions.

**12) *Effect of Inaction on Applications***

If the provisions of this chapter require that reviewers or decision-makers take action on an application within a specified period of time and such action is not taken within that timeframe, we recommend that such inaction be deemed a denial of the application unless the applicant agrees to an extension of the time period. However, we understand that such a provision would reverse a longstanding policy in Anchorage that inaction means approval. This is likely to be a controversial issue and requires further discussion.

This section also should include provisions related to dormant or inactive applications, including applications submitted by an applicant where the applicant has not responded to requests for more information. Such inactive applications should, after Planning Director notice to the applicant and the passage of a reasonable time frame to allow corrective action, be considered automatically withdrawn, with fees returned as applicable (staff suggests that a fee schedule could be established whereby processing fees are refundable if applications are withdrawn in a short period of time). Applications resubmitted after such withdrawal will be treated as new applications, subject to all applicable rules and procedures in place at the time of re-submittal.

**13) *Beneficial Use Determination***

In order to reduce potential litigation between private landowners and the Municipality and to provide a method to resolve potential property rights claims, this section will set forth an administrative process by which the Municipality may review, before lawsuits are filed, the assertion that its regulations have in a particular case "taken" or legally impaired property rights. In other jurisdictions, such a process has been called a "Beneficial Use Determination."

The process offers landowners a forum for review of claims without the need to hire a lawyer. Landowners will be required to present any evidence as to why they believe a Municipal regulation or decision violates their constitutional property rights by physically taking part of their property or by denying them all economic and beneficial use of the property. An independent hearing officer will review the landowner's information against applicable constitutional standards, and will produce a written finding for the Municipality as to whether the regulation in question does or does not constitute a compensable "taking," and if so, what type of relief might be offered. The appropriate review body would be authorized to decide whether or not to approve additional relief, which could include minor (administrative) modifications, variances, or exemption from specific standards imposed by Title 21.

Typically, we recommend that this type of administrative relief provision be exhausted before a landowner is allowed to appeal a final decision by the

Municipality to the courts based on constitutional takings grounds. Further discussion will be necessary on this proposed new provision.

**14) Lapse of Approval**

Lapse of approval provisions should be included for all forms of entitlement. These provisions are recommended because it is not uncommon for a property to undergo review and be approved for an entitlement, which entitlement is not subsequently developed or acted upon. Such provisions will typically state that development approval lapses if development is not commenced or a subsequent permit is not obtained within specified periods of time. Extensions will be allowed with Municipal approval and in situations where delays are beyond the control of the applicant. Such exemptions will be limited to a one-time grant of an extension for a limited time by which the applicant must complete the required activity.

We further recommend that this new section authorize an administrative process to provide guidance and findings regarding the existence and perfection of vested rights. This section will codify any Alaska law regarding property rights obtained through land use approvals, including the scope and duration of such vested rights.

**B. Application and Review Procedures and Requirements**

This part of the chapter will include specific timetables, staff and review board assignments, review criteria, and other requirements for specific types of land-use applications. This section is intended to collect all applications and reviews under one heading in the code, and to make the code easier to use by presenting all types of procedures in a uniform format.

**1) Purpose**

This brief section will explain the purpose of this section and its relationship to the Common Procedures, above.

**2) Code Amendments**

This section will provide a process for modification and amendment of the written provisions of Title 21, including comprehensive plan elements. Currently, Title 21 has a provision for comprehensive plan amendments (AMC 21.05.040) but lacks a specific authorization or procedure for text amendments to the code as a whole. This section will provide the appropriate authorization and procedure, in general adapting the current provision to be applicable to all textual code amendments and to ultimately receive approval by the Assembly as an ordinance.

Drafting issues to be addressed may include the number of public hearings required and the frequency with which the Assembly may approve text amendments (some communities consider text amendments only a limited number of times per year for administrative convenience). We recommend that the Planning and Zoning Commission review text amendment requests and make a recommendation for approval or denial to the Assembly. We also

recommend that new provisions be drafted granting staff the authority to make non-substantive housekeeping changes to Title 21 administratively, without going through the formal amendment process.

**3) Map Amendments**

Also known as rezoning, the map amendment process is the subject of the current Chapter 21.20. This section will maintain the basic structure of the current rezoning provisions, but will strengthen the Municipality's ability to discourage rezonings where they do not accomplish the objectives of the comprehensive plan or other established planning goals.

During discussions of rezonings in Anchorage, officials agreed that eligibility criteria could be refined and strengthened. Current section 21.20.070 provides for some minimum area limitations on rezoning proposals, a requirement not always observed to the letter of the law. The rezoning code will be revised to include these minimum area provisions in a general section on eligibility criteria for rezonings. This section will also include other considerations, such as changed conditions, development patterns, and availability of adequate public services. To help ensure that the eligibility provisions will be observed, the section will require findings that the eligibility criteria have been satisfied. A corollary to eligibility standards is a provision that would prevent rezonings from occurring in situations held to be spot zoning. We suggest codifying Alaska case law regarding spot zonings within the provision regarding eligibility for rezoning.

The rezoning section will also revise approval standards, simplifying and strengthening the requirement for compatibility with the comprehensive plan and adding other considerations that should be part of the deliberative process for rezoning. The most important new approval standard will be a requirement that proposals be compatible with surrounding development.

*Anchorage 2020* calls for a new strategy of "regulatory rezonings," in which authority over some small rezonings is treated not as a legislative matter approved by the Assembly, but as a regulatory matter approved by the Planning and Zoning Commission. We will talk with staff and the Municipal Attorney to develop a better understanding of this proposal and to determine if it should be implemented in the new Title 21.

The map amendment process in Anchorage frequently adds special limitations (current AMC 21.20.020), which have been problematic from both the standpoint of enforcement and from the standpoint of preserving the integrity of the zoning districts provided for in the code and on the Municipality's zoning map. Part of the solution to unchecked use of special limitations is to provide for new and revised zone districts better tailored to the needs of the community, as described in the "Zoning Districts" chapter below. Other suggestions would involve modifying the special limitations provision itself; for example, to require a finding that no other zone district will adequately accommodate and regulate the proposed use of an area.



**4) Subdivisions and Plats**

Current subdivision and plat requirements and procedures are found at AMC 21.15.100 through 21.15.125. We heard few comments or complaints on these sections and so these provisions will generally be carried forward. Currently, the plat provisions are extensively cross-referenced, making requirements at times difficult to follow. We will attempt to streamline these provisions to facilitate ease of use.

Regarding the subdivision provisions, staff has noted that the current Title 21 requires the platting authority to take action on plats within 90 days, and that state statutes (Title 29) also have a time requirement. Staff has asked if Municipality requirements can override the State requirements (for example, municipal requirements allowing for more time for the platting authority to take action on plats than the state statutes would allow). We will research this issue and discuss with staff and the Municipal Attorney.

In order to protect the integrity of the Anchorage Bowl's zoning districts and comprehensive plan, we recommend expressly stating that site condominiums are subject to the Municipality's subdivision standards.

**5) Conditional Uses**

Currently, conditional uses are discussed within the same Title 21 provisions as site plan approvals (AMC 21.15.030). In Anchorage land-use practice, site plans are most frequently used in the conditional use process, but are included in this section primarily as a submittal requirement. We recommend updating Title 21 to treat site plans and conditional use approval as two distinct processes, to allow the Municipality to use site plans as a review tool in situations where the suitability of a land use is not in question but its impact is highly dependent on physical layout and appearance.

This new conditional use section will set forth a procedure for approving uses that may be appropriate in a certain area, yet the specific aspects of the use's location, layout, and operation require review by the Municipality to ensure compatibility with the surrounding area. Applications to establish a conditional use will require submission of a site plan, consistent with the requirements of the following section. In some situations the requirement of a site plan may be waived by the Planning Director (i.e., when the specific textual conditions are the critical zoning control, as opposed to physical design review).

Since the conditional use process currently covers such a wide range of land-use review in Anchorage, it will be important for the Municipality to provide feedback as to what types of land uses will be properly continued as conditional uses and which land uses should be permitted subject to only site plan review after these two processes are separated in the updated Title 21. Making some uses that are currently conditional uses into site plan approvals (or uses allowed by-right) will potentially eliminate a substantial number of hearings, allowing the Planning and Zoning Commission to focus on projects of greater consequence and helping to reduce the backlog of projects causing permitting delays.

The Traffic Department has commented that the nature of traffic impacts should be a factor in whether or not a land use development is treated as a site plan review or a conditional use. If the development generates external traffic impacts, then it should be treated as a conditional use. If it is simply a matter of designing a proper internal circulation system, then it could be a site plan review.

**6) Site Plan Review**

Site plan review will be a new independent section in the Title 21 update (whereas currently it is considered only as part of conditional use review, as discussed above). Site plans are independently appropriate as a review and approval process in cases where a land use is generally appropriate given proper layout and design control. For most development requiring site plan review, application and approval will take place in accordance with the current AMC 21.15.030, to be incorporated into the updated code separately from the provisions for conditional uses.

To streamline the development approval process in Anchorage, we may propose that only site plan review be required for some uses that currently are required to go through a conditional use process. Feedback from the Diagnosis process indicated that some land uses (such as mini-storage facilities) currently occupy disproportionate amounts of board time and could be competently reviewed and approved by Municipal staff alone, provided that there are sufficient standards in the code to govern the administrative review.

We recommend that hearings not be required for uses that require only site plan review. Site plan review will be either a purely administrative process, or a process reviewed and approved by the Planning and Zoning Commission without the formal requirement of a noticed hearing. Most site plans should be reviewed by staff; Planning and Zoning Commission review of site plans should be limited to situations in which “major modifications” or “significant impacts” are associated with the proposal; both of these terms will require clear definitions in the new code.

**(a) Site Plans**

This section will contain general procedures and standards for site plan review approval. We recommend that specific submission requirements, which are found in the current Section 21.15.030, not be carried forward in the code and instead be located in a separate Administrative Manual and/or the Anchorage Municipal Code of Regulations (i.e., supplement to Title 21). New standards for site plan review will include criteria pertaining to slope protection, compatibility with surrounding uses, adequacy of improvements, and other applicable development standards.

**(b) Public Facility Site Plan Review**

This section will carry forward AMC 21.15.15 and 21.15.25 with adjustments to expand the scope of review to that of a full land-use

approval, in addition to the current site planning and landscaping standards.

The Department has drafted an ordinance that proposes revisions to AMC 21.15.15 and AMC 21.15.25, including giving this authority to the Urban Design Commission. This draft ordinance will be heard by the Planning & Zoning Commission in April. Further changes to AMC 21.15.15 and AMC 21.15.25 (beyond revisions in the draft to be heard by P&Z in April) will be considered in the Title 21 rewrite.

(c) ***Public Facility Site Selection***

This section will carry forward the current AMC provisions relating to site selection for public facilities. Staff has emphasized that the applicability of this section should be clarified. For example, is the leasing of private office space by a government agency subject to this process? The primary focus of public facility site selections should be on new facilities, although major relocations of government offices to privately-leased space should also be considered.

It currently is unclear exactly how the design review components of the new code will interact with the site plan review process. In many communities, design issues are simply considered during site plan review. However, we understand that the new Anchorage retail design ordinance may propose design review as an entirely new process. We will work with staff and its retail design standards consultant to gain a better understanding of this issue, and will report back to the Municipality and the Citizens' Advisory Committee with recommendations as soon as possible.

Site plan review will be identified as an acceptable means to produce an approved development plan for the purposes of land clearing (though a less stringent method of obtaining an approved development plan for land clearing purposes may also be provided, as described below under Land Use Permits).

**7) *Special Flood Hazard Permits***

This section will carry forward the language of the current Section 21.15.020. These provisions will be fine-tuned to clarify that they are generally applicable to any zoning district or land-use. We also recommend including review criteria to provide additional control of filling or other modifications of the floodplain. Additional criteria for issuance could include impacts on significant habitat, potential for sediment loss, or availability of mitigation.

In general, because of the strong association between floodplain and wetlands, it may be useful to reference in this section the Municipality's wetland procedures under its General Permit from the U.S. Army Corps of Engineers.

**8) *Building Permits and Certificates of Occupancy***

The Building Code in Anchorage is not part of Title 21. It may, however, be useful to incorporate references to Building Permits and Certificates of

Occupancy as a mechanism for improving enforcement. A significant number of violations could be prevented if Building Permits were more often linked to site plan review or some other submittal under Title 21, and if issuance of a Certificate of Occupancy was expressly dependent on compliance with all applicable procedures and standards of Title 21. Since property owners with conex boxes are required to submit a foundation plan if used as a shed or living area, this type of linkage between Title 21 and the Building Code would, for example, tend to discourage the proliferation of these large freight containers into residential yards.

**9) Variances**

This section will carry forward the standard variance language of existing AMC 21.15.010. Some revision may be useful to clarify the situations under which a hardship may be found under the ordinance. This section will also contain new text regarding applicability, especially to clarify the availability of the administrative Minor Modification process for certain types of variances.

**10) Administrative Permits**

One of the overall goals of the Title 21 update is to improve the predictability and speed with which land-use case processing occurs. The consensus of commentators through the Diagnosis phase of this project was that keeping approvals as close to the applicant as possible would simplify and ease administration of the land-use process. Accordingly, several application and procedure types will be purely administrative in nature.

**(a) Land Use Permits**

The current provisions for a Land Use Permit at Section 21.15.050 apply only to certain areas of the Municipality to which the Uniform Building Code does not apply, generally areas outside the Anchorage Bowl. For discussion purposes, we propose to broaden the geographic and substantive scope of this process, to perform a number of functions currently absent from Title 21.

First, the Land Use Permit process could be used to provide an expedited review of site plans for special purposes. In this case, the Land Use Permit submittal would incorporate the submittal requirements of a site plan, but approval of the Land Use Permit would be based on special limited considerations tailored to, for example, utility work or (if not subjected to full site plan review) land clearing proposals.

Second, the current Land Use Permit provision already acts as a form of grading permit (with the Land Use Permit triggered, as in current 21.15.050, by relatively small amounts of excavation and earth-moving). This section would be even better justified as a grading regulation if proposed topography were included on the submittal requirements, such that permit issuance or denial could be evaluated based on drainage and erosion potential, land subsidence risks, aesthetics, and other off-site impacts.

Finally, Land Use Permits will in most cases be limited in duration but renewable. We suggest that the current section regarding Annual Administrative Permits (AMC 21.15.55) be consolidated into the section regarding Land Use Permits. In this manner, a bed and breakfast would be required to make an initial presentation relative to its land use impacts, but renewals of the Land Use Permit thereafter would serve essentially the same function as the current Annual Administrative Permit.

Staff has noted generally that there is a need to strengthen the land use permit process, and has suggested that one possible option could be a new requirement for a certificate of completion for a land use permit. Further discussion is needed on the specifics of this proposal.

(b) *Change in Use*

Changes in use are currently regulated under the Land Use Permit provisions of AMC 21.15.050. The only apparent reason for this inclusion in the Land Use Permit process is that the need for a check on changes in use was perceived to be necessary in areas not covered by the Uniform Building Code, the geographic area currently covered by Land Use Permit provisions.

In fact, a dedicated, specific process for changes in use might be a useful tool for planning and zoning compliance in all areas within the Municipality of Anchorage. As noted by officials during discussions of the Diagnosis, under current Title 21 governance, redevelopment plans in Anchorage often require bringing a building, but not the site on which it sits, up to code. An administrative process applicable to all areas of the Municipality triggered by changes in use would allow for the Municipality to review a property for compliance with all land use regulations. A change in use would be approved administratively if the property will be in compliance with Title 21 subsequent to the change in use. In other jurisdictions with similar provisions for a change in use evaluation, the administrative permit obtained through this process is called a Certificate of Zoning Compliance. In cases where an existing violation is discovered or a violation of land use regulations would be triggered by the change in use, the Municipality may require remedial action before issuing the administrative approval (Certificate of Zoning Compliance) or the proposal may be referred into another process.

This section will require a clear purpose statement and a definition will need to be provided regarding the point at which these requirements will apply.

(c) *Minor Modifications*

To improve the efficiency of Title 21 administration, this new section will set forth a procedure by which the Planning Director, or a designee, may approve Minor Modifications, including deviations of up to a certain

percentage from the dimensional or development standards of the Code, such as setbacks or required landscaping. This will provide an administrative relief valve for relatively simple technical reviews that otherwise place an unnecessary burden on boards and commissions. Further discussions with staff and officials are necessary to determine the maximum percentage adjustment available; other communities typically use figures of 10 or 15 or 20 percent.

In some communities, such modifications can be granted so frequently that they become expected and, in effect, the applicable standard is lowered. We have heard that this problem has been particularly acute in Anchorage in the past. Therefore, there will be specific criteria in the new Title 21 limiting when Minor Modifications may be approved, and a clear purpose statement will make clear that they are not to be approved on a routine basis.

This section will incorporate the applicable provisions of the current section on Administrative Variances, AMC 21.15.012, and the amending ordinance, 2002-109. Other very specific provisions related to modifications are located in the Conditional Use code at 21.15.030(G).

(d) *Sign Permits*

Revisions of the sign code are underway and may result in a new procedure for sign permits. Sign permits are essentially a distinct type of building permit, with their own submittal requirements and approval criteria. Currently, the Municipality has adopted by reference chapter 3 of the Uniform Sign Code as its procedure for administering permits under the sign code. Unless substantive changes to the sign code dictate a customized procedure or detailed explanation of the sign permit procedure in Title 21, the code update will simply carry forward the language of existing AMC 21.15.040. Should the future sign code be envisioned as an ordinance outside of Title 21 (i.e., incorporated within the building code), this section may be purged from Title 21.

(e) *Temporary Uses*

This new section should clarify what procedures are used to approve temporary uses (such as seasonal sales lots or construction-related uses) that will be removed after a period of time. In Anchorage there are several land uses of a temporary nature that are either not currently regulated or difficult to enforce. By making a Temporary Use Permit applicable to land use activities such as outdoor vehicle storage or storage of building materials, the Municipality will have an extra means to induce code compliance for land uses that currently consume a large portion of the resources of Municipal code enforcement officials. We will work with staff to determine exactly what types of temporary uses would be subject to regulation.

To prevent Temporary Use Permits from being employed to legalize a land use, such as automobile repair, in inappropriate locations, this section will provide criteria for issuance of a permit, including specific criteria regarding lot size and adequacy of screening for vehicle storage and vehicle repair Temporary Use Permits. To discourage Temporary Use Permits from legalizing salvage operations, this section will further prohibit the issuance or renewal of a permit for any property owner with an outstanding violation of Title 21.

Unlike a land use permit, a temporary use permit will not be renewable for more than a total period of one year, or two years in very limited cases like a major construction project.

- (f) *Record of Survey Maps*  
This section will carry forward existing AMC 21.15.127. A cross-reference to any Municipal regulations governing platting procedures may also be appropriate, as some related provisions are found in the resolution codified as Anchorage Municipal Code of Regulations 21.15.
- (g) *Vacation of Plats and Rights-of-Way*  
This section will carry forward existing Section 21.15.130.
- (h) *Street Name Alterations*  
Street name alterations are adequately discussed in Anchorage Municipal Code section 21.15.133, which will be carried forward. Some related provisions are found at Anchorage Municipal Code of Regulations, in the supplement, at 21.80.
- (i) *Certification of Nonconformity*  
In some areas of Anchorage, nonconformities (of uses, lots, and/or structures) are common. Effective land use regulation through the current and next iteration of Title 21 depends to some extent on the Municipality's ability to efficiently track and recognize the existence of legal nonconformities. While the legal burden to establish a nonconformity may already be on the land owner, an administrative process to officially establish nonconformities is recommended as an additional mechanism to efficiently deal with the presence of nonconformities as the transition is made to a new zoning code. This section will require a property owner to apply for and provide sufficient evidence of nonconforming rights before these rights can be asserted as a defense against any Municipal land use regulation.

## 21-4. ZONING DISTRICTS

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**General Commentary:** Zoning district and use regulations are a central feature of any zoning ordinance. They define what may be built on a landowner's property or on the property next door. Anchorage's existing Title 21 includes all district and use regulations in a cumbersome text format that extends for over 100 pages (see Chapter 21.40). As discussed in the Diagnosis, we propose a significant restructuring and simplification of this material, with this new Chapter 21-4 containing basic information pertaining to zoning districts (primarily purpose statements) and the following Chapter 21-5 containing the information regarding uses allowed within those districts. In this chapter, we will review the purpose statements for all districts to



ensure consistency with permitted uses and development standards, and also with *Anchorage 2020* and other adopted plans.

Anchorage's current Title 21 contains 35 zoning districts and some modification to these districts is necessary pursuant to the recommendations of the staff, Advisory Committee, officials, and the consulting team. In summary, we recommend the following changes.

**District Consolidations and Renaming**

- § Consolidating the existing R-1 and R-1A districts into a new "R-1 Single-Family Residential District"
- § Consolidating the existing R2-A and R2-D districts into a new "R-2 Low-Density Residential District"
- § Renaming the existing R-2M Residential District to "R-3 Mixed Residential District"
- § Consolidating the existing R-3 and R-4 districts into a new "R-4 Medium- to High-Density Multi-Family Residential District"
- § Renaming the existing R-5A Rural Residential District (Large Lot) to "R-5 Rural Residential District (Large Lot)"

**Elimination of Some Districts:**

- R-5: Rural Residential District
- R-7: Intermediate Rural Residential District
- R-8: Rural Residential District, Large Lot
- R-O: Residential-Office District
- D-2 and D-3 Residential Development Districts
- B-4: Rural Business District
- I-3: Rural Industrial District
- T: Transition District

**New Districts:**

- § NMU: Neighborhood Mixed Use District
- § CMU: Community Mixed Use District
- § RMU: Regional Mixed Use District
- § AR: Regional Airport District
- § Airport Height Overlay District
- § Neighborhood Conservation Overlay District
- § Transit Corridor Overlay District
- § Girdwood Area Districts (may be contained in new Title 22)

Each of these changes is discussed in more detail in the outline below. **Please note** that, throughout this chapter, we recommend zoning district names that, in some cases, are very similar or are identical to names of existing districts. If this is likely to cause confusion, it may be necessary to develop an entirely new set of district names for the new Title 21.

**A. General Provisions**

**1) *Districts Established; Zoning Map***

This is a standard section that enumerates and officially establishes the various districts that are set forth in the chapter. The new provision will be based on the

current Section 21.40.010(B), with appropriate modifications to reflect changes to the lineup of zoning districts.

2) ***Compliance with District Regulations***

This section will require that applicants for development approval comply with the district standards set forth in this chapter. It will be based on the existing Section 21.40.015.

3) ***Relationship to Overlay Districts***

This new section will explain the relationship of base zoning districts to overlay districts.

**B. Residential Districts**

1) ***General Purpose/Intent***

This section will provide a brief statement of the general purpose and intent behind all residential zoning districts, including: to provide appropriately located areas for residential development that are consistent with public health and safety, *Anchorage 2020*, and other adopted plans; to ensure adequate light, air, privacy, and open space for each dwelling; and to protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects. Other purposes will be enumerated in the new Title 21.

2) ***R-1: Single-Family Residential District***

3) ***R-2: Low-Density Residential District***

4) ***R-3: Mixed Residential District***

5) ***R-4: Medium- to High-Density Multi-Family Residential District***

6) ***R-5: Rural Residential District (Large Lot)***

7) ***R-6: Suburban Residential District (Large Lot)***

8) ***R-9: Rural Residential District***

9) ***R-10: Residential Alpine/Slope District***

These sections will list the individual residential zoning districts and provide brief descriptions and purpose statements for each district, and also any district-specific regulations. The lineup of districts will be based generally on the districts found in the current code, with specific modifications as noted below.

First, we recommend name changes for several districts to more clearly describe the nature of the districts. Currently, many names do not adequately convey the various types of development that can occur within the district. For example, we propose renaming the R-1 District the “R-1 Single-Family Residential District” to clearly indicate the single-family nature of those areas.

Also, there is substantial overlap among several districts and we propose some consolidation. Specifically, we propose merging the R-1 and R-1A Districts into one new R-1 District; merging the R-2A and R-2D Districts into one new R-2 District; and merging the R-3 and R-4 districts into a new “R-4 Medium to High Density Multi-Family Residential District.”

We also recommend renaming the existing R-2M the “R-3 Mixed Residential District.” Based on *Anchorage 2020*, this district is intended to provide some neighborhoods with a greater diversity of housing (mixed density). Such areas are intended as relatively low-density neighborhood environments that also provide opportunity for a mix of dwelling types—single, two, three and higher density structures. It is hoped that these mixed-density neighborhoods will provide greater long-term neighborhood stability, and housing opportunities for a variety of incomes and ages.

We recommend establishing minimum densities for multi-family properties in both the new R-3 and R-4 districts, based on the recommendations in *Anchorage 2020*. These new densities will be noted in this chapter and also in the tables of dimensional standards in Chapter 21-6. The intent of minimum densities is to prevent the loss of increasingly scarce residential land to lower-density uses (or too few units per acre). Some simple design standards for multi-family development will be necessary to accompany this change.

There are a number of rural residential districts in the existing code that appear to have substantial overlap in purpose and standards. Some consolidation may be possible in this code update. Based upon discussions with staff, we recommend that the R-5, R-7, and R-8 districts be eliminated, since little land is classified under these designations and/or there are other districts that serve essentially the same or very similar purposes. We recommend keeping the existing R-5A district, but renaming it “R-5” for simplicity. We recommend keeping the R-6 and R-9 districts in their current form.

## C. Commercial Districts

### 1) **General Purpose/Intent**

We recommend the term “commercial” districts, as opposed to the current “business” districts. This section will provide a brief statement of the purpose and intent behind commercial zoning districts, including: to provide appropriately located areas consistent with *Anchorage 2020* and other adopted plans for a full range of office and commercial uses needed by Anchorage’s residents, businesses, and workers; to strengthen Anchorage’s economic base, and provide employment opportunities close to home for residents of the Municipality and surrounding communities; and to minimize the impact of commercial uses on adjacent residential districts. Other purposes will be enumerated in the full Title 21.

### 2) **C-1A: Local and Neighborhood Commercial District**

### 3) **C-1B: Community Commercial District**

These districts in theory could be used to support designated neighborhood commercial centers, as shown on the Land Use Policy Map in *Anchorage 2020*. For now, we propose keeping these districts in the new Title 21. However, they may prove unnecessary if the new mixed-use districts are adopted, as discussed below.

- 4) **C-2A: Central Commercial District, Core**
- 5) **C-2B: Central Commercial District, Intermediate**
- 6) **C-2C: Central Commercial District, Periphery**

As discussed in the Diagnosis, the downtown zoning requires some modification to address numerous concerns. In particular, we recommend that the districts be revised as part of this Title 21 update to explicitly allow for and encourage residential development in the downtown. Also, the bonus point system needs to be revised to eliminate some items that are being rewarded yet are not actually providing benefits. In these districts, staff has recommended considering new development standards for the following issues: wind mitigation, setbacks for upper stories of buildings, seismic risk mitigation, and solar access. These issues are discussed in more detail below in Chapter 21-7, "Development and Design Standards."

The downtown zoning appears unnecessarily complex and Anchorage may not need three districts for its central core. We will work with staff to determine whether all three continue to be necessary, especially if the proposed new mixed-use districts are adopted, some of which may be appropriate substitutes for the existing downtown periphery district.

Over the long run, we recommend formation of a separate advisory committee made up of downtown residents and property owners, and perhaps also representatives from the residential neighborhoods immediately surrounding the downtown, to consider whether more substantial modifications to these districts are necessary.

- 7) **GC: General Commercial District**

As noted in the Diagnosis, we heard many complaints that the current B-3 district is overbroad and allows too many uses, and the district should be "reined in" by restricting the range of uses allowed in the district and adding new criteria to discourage frequent rezonings to the B-3 District. To reinforce the idea that this district is being fundamentally recrafted, we propose changing the name to the "General Commercial" District. This section will contain a new purpose statement that reflects the more limited nature of the district; the more restricted set of uses will be displayed in the master use table in the following chapter.

Another tool to rein in the GC district might be to restrict building height, which would prohibit multi-story office buildings in the district. As staff notes, this provision alone could result in future major office buildings being constructed primarily where they are intended in *Anchorage 2020*: downtown and midtown.

## D. Industrial Districts

- 1) **General Purpose/Intent**

This section will provide a brief statement of the purpose and intent behind industrial zoning districts. These purposes include: to create suitable environments for various types of industrial uses, and protect them from the

adverse effects of disharmonious uses; to minimize the impact of industrial uses on adjacent residential districts; and other purposes that shall be enumerated in the full code.

- 2) ***I-1: Light Industrial District***
- 3) ***I-2: Heavy Industrial District***

These sections will list the individual industrial zoning districts and provide brief descriptions and purpose statements for each. As noted in the Diagnosis, we heard many complaints about these districts, especially the I-1, with most complaints centered on the fact that there is too much flexibility and too many commercial uses are allowed. We will redraft the purpose statements to emphasize the industrial nature of these districts, and will make recommendations for eliminating some commercial uses in the district in the use table in Chapter 21-4.

As with the GC district, discussed above, a building height limitation could be used to stop multi-story office buildings from locating in the industrial districts.

As noted earlier, we propose eliminating the current I-3 district. The only difference between the current I-2 and I-3 districts is that tanners are allowed in the I-3 district, and staff has indicated that there are no tanners in Anchorage.

## **E. Mixed Use and Planned Development Districts**

- 1) ***NMU: Neighborhood Mixed Use District***
- 2) ***CMU: Community Mixed Use District***
- 3) ***RMU: Regional Mixed Use District***

The *Anchorage 2020* Plan calls for mixed use to be implemented in the new Title 21. The plan defines mixed use as “a development concept that can include the development of a tract of land, building(s), or structure(s) with a variety of different, complimentary and integrated uses in a compact urban form.” Beyond this general guidance, there are few specifics on how to implement mixed use in the new Title 21.

The plan also calls for a series of seven town centers to be developed throughout the Bowl, as indicated on the plan’s Land Use Policy Map. The centers are intended to “function as the focus of community activity for smaller subareas of Anchorage. They are intended to include a mix of retail shopping and services, public facilities and medium- to high-density residential uses.”

Both mixed use and town centers are critical components of *Anchorage 2020*, yet there are no mechanisms in the current Title 21 to implement these concepts. In the new Title 21, we recommend that three new base zoning districts be established to implement both the mixed use and town center concepts at three geographic scales:

- **Neighborhood mixed-use district (NMU).** The smallest of the three districts, this would provide a mix of neighborhood-serving commercial

and other uses. Such areas typically serve approximately 1,000 to 2,000 dwellings, or approximately 2,500 to 5,000 people.

- **Community mixed-use district (CMU).** This district would provide a focus of activity for a collection of surrounding neighborhoods by providing a mix of community- and neighborhood-serving commercial and other uses. Such areas typically are intended to serve approximately 8,000 to 16,000 dwellings, or 20,000 to 40,000 people. This might be an appropriate district for some of the town centers designated on the Land Use Policy Map.
- **Regional mixed-use district (RMU).** The largest of the three districts, this district typically is intended to serve a collection of between 50,000 to 75,000 people, or more. It would provide a mix of commercial, employment, institutional, and recreational uses as a focus of activity for an entire region. This also might be an appropriate district for some of the town centers designated on the Land Use Policy Map.

Many issues will require further discussion before the exact characteristics of these districts can be agreed upon. In particular, some of the key issues for discussion will include:

*Applicability.* Definitions of each district will need to be developed. Criteria for rezoning property to MU districts shall include location within an area designated on the Land Use Policy Map.

It may also be appropriate to allow creation of NMU districts even if they are not shown on the Land Use Policy Map, subject to compliance with specific locational criteria, since *Anchorage 2020* is flexible about their location. Such locational criteria might include population served, service radius, minimum separation from other NMU districts, minimum separation from and location with respect to arterial/secondary roadways. Whether locational criteria could be used to allow CMU districts or RMU districts in areas that are not designated on the Land Use Policy Map requires further discussion. (Staff has indicated that one candidate for such a designation might be the Dimond Center, which already has a transit stop near the railroad line, a hotel, offices, indoor recreation facilities, and shopping.)

*Approval Process.* Approval of proposed MU developments will be subject to the procedures for rezonings set forth in Chapter 21-3. Procedural and other incentives should be considered to encourage full implementation of the mixed-use concept.

*Mandatory versus Voluntary Use Mix.* All MU districts should contain a mix of commercial, institutional, and office uses, possibly mixed with residential uses. Vertical as well as horizontal mixing of uses should be encouraged to create a more compact and pedestrian-oriented environment. But how prescriptive should the Municipality be in requiring a mix of uses in the MU districts? There are several options to consider:

- Prescribe a minimum mix of uses at set percentages (e.g., at least 40 percent residential, at least 30 percent retail, at least 20 percent office, etc.)
- Require a mix of uses but not mandate a set percentage.
- Encourage, but not require, a mix of uses through incentives. Appropriate incentives might include allowing a greater variety of uses in the MU districts than in other districts, or allowing preferred types of housing to not count against total floor area/units approved in the rezoning.
- Some combination of the above approaches.

*Site Area and Development Size.* Acceptable size ranges, including the floor area of retail, office, institutional uses, may need to be developed. Prospective applicants whose properties are smaller than the specified minimums may be required to prepare joint development plans with adjacent property owners, unless existing development exists in the area which, in combination with the proposed new development, will meet the characteristics of a mixed-use center. Developing a unified development plan for the area by multiple property owners will be encouraged in all circumstances. Some communities have enforced the preparation of joint development plans by making the completion of such plans prerequisites for development approval. Partial development plans can be allowed in cases where some owners are unwilling to participate in the planning process.

*Mandatory versus voluntary density/intensity.* Another major issue to be discussed is whether there should be minimum density and intensity standards in the new MU zoning districts. For residential development, minimum residential densities could be required for larger mixed-use centers, in order to ensure that such areas do not become exclusive office and retail developments. In the NMU and CMU districts, not only the amount but the type of housing could be mandated (e.g., multi-family and live-work only).

For commercial development, options for regulating commercial intensities include setting minimum floor area ratio (FAR) standards, especially in the larger districts, and also setting building height and placement standards in order to target intensity at key locations in the MU districts (e.g., along arterial streets).

*Parking.* *Anchorage 2020* stresses that town centers and mixed-use development should be pedestrian-friendly. The Title 21 parking regulations are being addressed as part of a separate project, but they are an important part of mixed-use development and so should be at least considered in this context. To ensure a more pedestrian-friendly environment, should the amount of on-site parking in the MU districts be limited? Techniques to reduce the amount of parking might include:

- Requiring or encouraging shared parking.
- Establishing maximum amounts of off-street parking for certain uses (e.g., big-box retail).

- Allowing or requiring on-street parking to count towards parking requirements.
- Giving credit reductions for mix of uses, close-by on-street parking or public parking, or proximity to transit.
- Dividing large surface parking lots into smaller parking “blocks” separated from each other by landscaping.

*Compatibility.* Neighborhood acceptance of new mixed-use development will depend in large part upon whether there are standards in the new code to ensure that new development is of high quality and will be compatible with surrounding architecture and streetscapes. New zoning tools and design standards should be considered to smooth transitions between different land uses, and ensure respect for older and established built context. Techniques to ensure greater compatibility might include allowing developers to choose from a menu of appropriate transition tools, such as using similar uses as transitions; building step-downs; using open space/greens as dividers; or fences/walls.

*Transportation Circulation.* The access network within the MU districts should be considered. Will sidewalks be required, and if so on one or both sides of the street? Should pedestrian connections be required within developments (e.g., between a grocery store and nearby residential)? Should block lengths be limited to encourage a grid pattern of street development?

*Attractive Pedestrian Environment.* The success of MU districts as opposed to standard commercial strip areas depends on large part in the special quality of buildings and the public spaces between the buildings. The new code will stress walkability, comfortable outdoor environments, and attractive pedestrian spaces in order to set the mixed-use districts apart from other areas. Standards (and incentives) relating to design, frontage, building scale and height, and other issues should be considered.

*Leveling the Playing Field.* For the MU districts to succeed and actually be a cost-effective and probable choice for local developers, it will be important to level the playing field by making sure that the MU districts are not more onerous than development options in other, non-MU parts of the community. The best way to do this will be to apply some of the standards that are applicable in the MU districts to similar types of development city-wide. For example, new development standards requiring pedestrian connections could be made applicable to all non-residential city-wide, not just in the MU districts. At least some of the design standards applicable in the MU districts also could be applied to other new commercial development outside the MU districts – such as standards requiring ground floors of new commercial development to be pedestrian-friendly.

Another way to level the playing field might be to offer incentives to encourage MU development. For example, the Municipality could lower the amount of required parking in MU districts, or extend the expiration dates for approved



development plans. Or, the city could allow a greater variety and extent of administrative relief.

*Major Employment Centers.* *Anchorage 2020* also calls for a new set of major employment centers. Such areas are intended to provide for the Bowl's "highest concentrations of office employment (greater than 50 employees/acre) and the attendant infrastructure to support a mix of high-intensity land uses in order to support a more balanced transportation system. Medium- to high-density residential developments are intended to surround these core employment centers." We propose that the Regional Mixed-Use District be used for these major employment centers. It may be necessary to have a smaller residential component in some of the RMU areas in order to fulfill the 2020 concept. (The other option for implementing the major employment centers would be to create a separate district. Yet, based upon discussions with staff, we recommend folding the MEC concept into the RMU district as a simpler solution.)

**4) *PC: Planned Community District***

There are two mechanisms in the existing Title 21 for planned development, including this district and PUD. The current ordinance establishes a special process for adopting a PC district ordinance to guide development for large tracts under common ownership, and to allow flexibility from the strict requirements of the ordinance. A concept plan is required.

We heard little about planned development in Anchorage, though such a tool often is used in other communities to implement the mixed-use and town center concepts called for in *Anchorage 2020*. As we explore the need for new base districts to implement those concepts, we will discuss with staff whether some sort of planned development mechanism (based on this district or on some new proposal) would be appropriate. If this district is retained, the language must be tightened to clarify its purpose. The 40-acre size threshold also should be reexamined to determine if modifications are necessary.

**F. Other Districts**

**1) *PLI: Public Lands and Institutions District***

This district will be carried forward. The only proposed change is to examine the use list to determine if any uses can be allowed by-right without going through the conditional use process.

**2) *TA: Turnagain Arm District***

This district covers all of the Turnagain Arm, including Girdwood. At the same time that this new Title 21 is being developed, a separate project is working on developing a new set of zoning districts and related regulations for Girdwood. Once those new districts are developed, then Girdwood will be rezoned out of the Turnagain Arm (currently the R-11) district. Beyond that major change in Girdwood's zoning, we see no need for additional changes to the Turnagain Arm district at this time.

Staff has noted that the current Section 21.40.117.D.16 allows any use anywhere as a conditional use -- regardless of its classification in the *Turnagain Arm Comprehensive Plan*. We will discuss this provision with staff and the Municipal Attorney to determine whether it should be carried forward or modified in the new code.

3) ***W: Watershed District***

Watershed areas are protected by overlay districts in many communities, but Anchorage protects its watersheds through this base district. All of the W-zoned lands are publicly owned. The district simply limits the types of uses allowed in watershed areas, though there is fairly broad authorization for the Planning and Zoning Commission to approve any other conditional uses not listed. We proposed limiting this open-ended authority in the Diagnosis, and also proposed some stricter development standards, including impervious surface cover limits and setbacks from streams and riparian areas. Thus far we have received no feedback on this issue, but we continue to believe that this district will need to be strengthened in these ways to implement *Anchorage 2020*.

4) ***AF: Antenna Farm District***

5) ***MC: Marine Commercial District***

6) ***MI: Marine Industrial District***

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

7) ***RA: Regional Airport District***

We propose creating a new district that will contain all lands in the airport that currently are zoned Transition. The Transition District is too undefined and so is not being carried forward in the new Title 21.

## G. Overlay Zoning Districts

The overlay zone districts will apply in combination with the underlying base zone districts to impose regulations and standards in addition to those required by the base districts. The requirements of an overlay district will apply whenever they are in conflict with or are more stringent than those in the base district. For now, three overlay districts are proposed. However, further discussions may suggest that additional districts are needed; for example, it may be possible to treat slope/alpine areas as an overlay zone, rather than as a base district (R-10), or to create an overlay zone for seismic hazard or avalanche areas.

1) ***General Purpose/Intent***

The overlay zoning districts each serve a special purpose, such as establishing special rules for development in certain neighborhoods. The special standards applicable in an overlay district are in addition to the use and dimensional standards applicable in the underlying, base zoning districts. This standard introductory provision will explain the general purposes of overlay districts and their relation to the base zone districts.

2) ***Airport Height Overlay District***

This section will carry forward the existing height controls that are set forth in the current Chapter 21.65, "Airport Height Zoning Regulations."

3) ***Neighborhood Conservation Overlay District***

Though this topic was not discussed in the Diagnosis, it was proposed in discussion with the Advisory Committee and received a favorable response.

New "conservation districts" might be an appropriate tool for protecting some of the neighborhoods in Anchorage that have special attributes that citizens want to protect, such as Government Hill. Conservation districts, geared to preserving the character of existing neighborhoods, are being considered or have been adopted in a growing number of jurisdictions across the country as one alternative to more stringent preservation district regulations. Many conservation districts have been implemented for areas that fall short of meeting the criteria for a local, state, or national historic designation, but which nevertheless have important cultural, visual, or other significance. Some are intended as step-down, buffer, or transition areas immediately surrounding a protected historic district. Others are directed at preserving the residential character of a neighborhood, maintaining a unique community center, or emphasizing an important cultural element of a community.

Design flexibility is an important attribute of conservation districts, as opposed to full-fledged historic preservation districts. Whereas the primary purpose of a preservation district is to protect the historic integrity of an area (usually by preventing demolition and requiring appropriate renovation or highly compatible new construction), conservation districts can, depending on how they are drafted, be much more flexible and can allow design elements that might accent or complement a particular neighborhood feature so long as the general character of the area remains intact. Design guidelines in conservation districts generally are not overly detailed and are developed on the basis of specific neighborhood concerns and features, such as building height, setbacks, and landscaping. In Anchorage, additional important features might be column size, roof pitch, and location of parking. A conservation district could be an appropriate tool to address concerns such as encroachment of commercial uses into residential areas, by imposing some limited design and development standards designed to preserve the existing character of the area. The conservation district could be a good tool for allowing infill development that is consistent with established neighborhood design (contextual setbacks, shape of building, pitch of roof, etc.).

This section of the new Title 21 will include a template for a neighborhood conservation overlay district that can then be applied to individual neighborhoods, once design and development standards are refined for the individual neighborhoods. Importantly, we propose that the process for creating neighborhood conservation districts be voluntary (e.g., creation of a district might require approval of 60 or 80 percent of the property owners in the neighborhood). The voluntary nature of the district means that it would be applied in areas where

residents care strongly about their neighborhoods, and thus much of the district's provisions would be self-enforced.

In Anchorage, the Government Hill neighborhood has been suggested as one area in which the local neighborhood association might be willing to adopt a conservation overlay district to protect that neighborhood's special features.

**4) Transit Corridor Overlay District**

Transit-supportive development corridors are identified in *Anchorage 2020*, and so staff has suggested the creation of a transit-supportive development corridor overlay district. The primary regulation in this district would be a minimum average density of eight dwelling units per acre for new residential development. The plan also calls for design standards for commercial developments fronting on the primary street at the core of the corridor (e.g., standards for a pedestrian-oriented environment, etc.).

This issue requires further discussion. Most other communities that have implemented transit-oriented development (TOD) regulations have focused on the transit stops themselves, and the mixed-use nodes immediately surrounding the stops. The new mixed-use districts proposed above could accommodate that type of development in Anchorage. However, *Anchorage 2020* goes further, and also suggests a density requirement for the corridors between the nodes. For this reason, we agree that a separate overlay district may be necessary to implement the plan. Further discussion is needed.

## 21-5. USE REGULATIONS

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### *SUMMARY OF CONTENTS:*

- A. *Table of Allowed Uses*
- B. *Use-Specific Standards*
- C. *Accessory Uses or Structures*
- D. *Temporary Uses or Structures*

**General Commentary:** While the zoning district regulations will be located in Chapter 21-4, the use regulations will be contained here in Chapter 21-5. As discussed in the Diagnosis, this chapter will reorganize Anchorage's use regulations into four main sections. First will be a summary table listing all permitted, conditional, and prohibited uses for all zone districts (which will replace the lengthy narrative lists of uses found in the current Chapter 21.40).

Second, a set of use-specific standards will set forth the regulations that always apply to certain uses, regardless of the underlying zoning district. For example, this section will include all those regulations applying to beekeeping, so that such regulations would not need to be reprinted more than once, as is done now. We also will work with staff to codify any additional regulations that are frequently applied to the same use in this section.

The third section will include all provisions relating to accessory uses and structures, and the fourth section will include all provisions relating to temporary uses and structures. Both sets of material currently are found, along with a variety of information regarding each district, in Chapter 21.40.

### **A. Table of Permitted Uses**

#### **1) General Provisions**

This new section will begin with introductory material explaining how to use the Use Table.

#### **2) Table of Permitted Uses**

The easy-to-read Table of Permitted Uses will summarize permitted uses, conditional uses, and prohibited uses in each zoning district. The Use Table will reflect new uses that do not appear in the current zoning ordinance, and will streamline the existing lineup of use classifications. In addition, a new final column of the Use Table will contain references to applicable use-specific standards, for those uses that are subject to specific regulations in addition to general development standards.

An excerpt from a use table we prepared for another jurisdiction is reproduced below:

USE TYPE	ZONE DISTRICTS																STANDARDS		
	Residential								Business				Planned Development			Other			
	R A	R R	L D	M D	H D	M H	M H	M P	O & I	B 1	B 2	P C	L I	M E C	T N D	P U D		N M	C B
<b>RESIDENTIAL USES</b>																			
Condominium				P	P			P						P	P	P			
Congregate living facility		P	C	C	P			P	P						P	P			4.4.1.A
Duplex				P	P			P							P	P	P		
<b>PUBLIC AND CIVIC USES</b>																			
Airport	C	C											C						
Assembly, nonprofit	C	C		P	C											P			

This is simply one example of a table from another jurisdiction, and we will need to work to develop a format that works for Anchorage. For example, the Municipality may decide to use an “X” or some other indicator in the table to indicate when uses are prohibited. Also, some designation in the table might be appropriate to indicate that a site plan is required. Further discussion will be necessary during the drafting of this chapter.

The table will cover all major categories of uses, including: residential, public and institutional, commercial, and industrial.

It will be important for the Municipality to provide feedback as to what types of land uses should be continued as conditional uses and which land uses should be permitted subject to specified standards (e.g., site plan review). A major goal of this code revision effort will be to reduce the number of uses that are subject to the conditional use process, making such uses by-right subject to new development and standards.

This section also will clarify the process for dealing with unlisted uses, and adding new uses to the table. We propose a system in which the Planning Director can examine new uses and can determine whether they are similar enough to an existing use category or type to be given the same treatment for zoning purposes, or whether they should be added to Title 21 as an entirely new use category or type. (There is a system in place to do this now through the Zoning Board of Examiners and Appeals, but this new system will allow such decisions to be made administratively.)

**B. Use-Specific Standards**

This section will contain all of the special standards and requirements that apply to individual (principal) use types listed in the use tables above. The standards apply to uses regardless of whether they are permitted as a matter of right or subject to the conditional use process.

Below is a list of uses for which use-specific standards already exist in Title 21:

- |  |  |
|--|--|
| § Beekeeping   | § Junkyards  |
| § Child care services  | § Townhouses, row houses, office buildings built to a common wall    |
| § Adult establishments                                       | § Mobile home parks  |
| § Nightclubs   | § Planned unit developments  |
| § Bed and breakfasts   | § Uses involving sale of alcoholic beverages                         |
| § Transient lodging facilities                               | § Computer aided learning, family learning, self sufficiency service |
| § Amateur radio stations /telecommunications                 | § Drive-in banks   |
| § Antennas, community interest and local interest towers     | § Roominghouses  |
| § Mini storage facilities                                    | § Snow disposal sites  |
| § Skywalks   | § Roof-mounted satellite dishes in residential districts             |
| § Hospitals, rehabilitation centers, correctional facilities | § Marine commercial and marine industrial facilities                 |
| § Convenience establishments                                 | § Motorized sports facilities  |
| § Gasoline service stations                                  | § Large retail establishments  |
| § Natural resource extraction                                |  |
| § Storage yards  |  |

All these standards will be evaluated for clarity, to eliminate redundancy with any new standards of general applicability, and for consistency with the plans. Additional standards for other uses may be necessary to supplement this list.

The Traffic Department has requested that the standards related to the location of a particular land use (e.g., churches, snow disposal sites, junkyards, etc.) on a higher classification of street (e.g., collector or arterial) be reviewed for consistency.

In particular, we have heard comments on two additional types of uses: alcohol uses; and outdoor storage of cars. Uses that serve alcohol are problematic because due to potential conflicts with state law and other sections of the Municipal Code. We heard conflicting opinions regarding whether such standards should even be in Title 21; the City Attorney's office recommends removing them and consolidating such standards with related regulations in Titles 2 and 10 of the Code, while some planners argued for keeping them in Title 21. The Anchorage Department of Health and Human Services has requested standards in Title 21. Additional discussion will be necessary.

The issue of outdoor storage of cars, recreational vehicles, and boats is sure to be controversial. Some property owners have suggested establishing a new permit or other program to allow for outdoor storage of cars, particularly for auto hobbyists. The code enforcement staff, however, has indicated that complaints about junk vehicles account for most of their calls, and so it is anticipated that many citizens would object to new program explicitly allowing such uses. This issue only arose during our meetings following presentation of the Diagnosis, and further discussion is now needed. Specific issues to be addressed include: if such a use is allowed, whether a permit is needed, and if so whether a temporary use permit would be adequate, or whether a new permit would need to be established; and the types of lots on which such storage would be allowed.

Possible ways to deal with this issue may include limiting the number of cars, etc. to one per lot, limiting the outdoor activity to large-lot residential districts only, and/or improving setback requirements if cars are allowed. A minimum setback would help ensure that lots are large enough to utilize vegetation to screen the outdoor activity from neighboring

properties. For smaller urban lots, these activities would not be allowed outside, but could be allowed inside a garage or accessory building.

**C. Accessory Uses or Structures**

Accessory uses or structures are uses or structures that are subordinate to the principal use of a building or land. They are located on the same lot as the principal use or structure and are customarily incidental to such use or structure. For example, a garage is typically considered an accessory structure in a single-family residential area.

All of the new Title 21's accessory use regulations and standards will be consolidated in this section. (Such standards currently are found throughout Chapter 21.40.) General modifications to this material will include drafting a purpose/intent statement to clarify the relationship of accessory uses and structures to other uses and structures, and also the addition of several illustrations to clarify where and how accessory structures may be located on a lot. We may suggest new general regulations for all accessory uses. For example, staff has suggested that we consider establishing a maximum size for an accessory structure in relation to the size of the principal structure.

This section also will carry forward the provisions from the current Section 21.45.150 for home occupations, which are a common type of accessory use. We generally recommend that codes provide a general set of performance standards for home occupations, rather than trying to list specifically allowed home occupations. These current regulations are fairly standard and conform to this recommendation, and so no major changes are anticipated.

New standards will be necessary to allow for accessory dwelling units, which are called for in *Anchorage 2020*. This important type of alternative, affordable housing can be an excellent tool for increasing residential densities in preferred growth areas with relatively minor land-use impacts.

**D. Temporary Uses or Structures**

Temporary uses are those uses that are established for a limited time, such as special events (e.g., fairs, circuses, or carnivals), seasonal sales, contractors' trailers, or temporary classrooms. Like accessory uses, temporary uses can be controversial if not carefully defined and limited. As noted in the Diagnosis, the current Title 21 has no comprehensive standards addressing temporary uses or structures, which has led to numerous abuses.

This new section will include a host of new provisions designed to make the regulation of such uses more clear and efficient. These include, for instance, clarifying where on a development site a temporary building, such as a sales trailer, may be located. For all types of temporary uses, Title 21 will clearly enumerate performance standards (e.g., hours of operation, expiration times for temporary uses, use of signs, etc.).

There are some standards addressing temporary uses in other parts of the Municipal Code. For example, some temporary permits are issued through the Clerk's office under Title 10, and are called "special event permits." Research is necessary on those other



provisions to determine how best to coordinate this new section with those existing regulations.

We will need to work with staff and the Advisory Committee to determine exactly what uses are to be regulated in this code. For example, some citizens already have requested that garage sales and yard sales be regulated; other communities have split on the issue of whether they wish to regulate such events. Some in Anchorage also have requested that “cloth garages” be banned in the new Title 21.

## 21-6. DIMENSIONAL STANDARDS AND MEASUREMENTS

### SUMMARY OF CONTENTS:

- A. Dimensional Standards Table
- B. Measurements and Exceptions

**General Commentary:** Rules of measurement, while seemingly mundane, can be critical. For example, should height be measured from the original natural grade or from finished grade? Should river setbacks be measured from the middle of the river or the defined bank? How are spacing requirements measured, from lot line to lot line or from front door to front door?

Many zoning ordinances either fail to explain how various dimensional standards (such as height and setbacks) are to be measured, or else scatter them throughout the code in various regulations or definitions. Also, some ordinances present such standards in lengthy, narrative form that can be difficult to interpret, and which make it difficult to compare requirements between districts. A better approach is to consolidate all rules of measurement in the code where they can be easily located.

Anchorage's current Title 21 consolidates much of this material along with the various zoning districts in the current Chapter 21.40, and some of it is presented in tabular form. Yet, as discussed earlier, the current chapter 21.40 is confusing to use; we recommend restructuring the material so that all districts are described in the new Chapter 21.4, uses are presented in Chapter 21-5, and this new Chapter 21-6 presents all dimensional standards and rules for measurement. In this way, it will be easier to compare dimensional information across districts, and it will be easier to keep such information updated consistently in the future.

### A. Dimensional Standards Table

The first half of this chapter will feature an easy-to-read table summarizing dimensional standards applicable to all zone districts. All districts covered in Chapter 21-4 will be covered. There will be cross-references to the sections describing the variance and minor modification procedures, which may allow changes to these standard rules in some limited circumstances. A brief excerpt from a code we developed for another jurisdiction is reproduced below.

Use	Minimum Lot Dimensions		Minimum Setbacks (Ft)			Max. Ht. (Ft)	Max. Site Coverage (%)	Max FAR	Addl. Regs.
	Area (Sq Ft)	Width (Ft)	Front	Side	Rear				
<b>R1 DISTRICT</b>									
Accessory Buildings	---	---	20	5	30	15	35	---	
Single-family dwellings	5000	50	20	5	30	35	35	---	A
All other uses	5000	50	20	5	30	35	35	---	
<b>B1 DISTRICT</b>									
Libraries	10000	70	20	10	30	35	---	---	
Multiple-family dwellings	7000	70	20	10	30	35	---	1.5	

### B. Measurements and Exceptions

The second half of the chapter will include text and appropriate illustrations to establish rules of measurement and permitted exceptions. Rules of measurement will be provided

for each type of measurement listed in the dimensional standards table. These will include, at a minimum: lot area, lot width, lot depth, lot lines (front, side, and rear), building coverage, total lot coverage, setbacks, and height. Existing measurement provisions, which are scattered throughout the current Title 21 (primarily in Chapter 21.40), will be incorporated into this new section.

We will work with staff to determine where certain existing measurement rules may require modification or deletion. For example, in the existing code, lots within certain rural residential districts can now include one-half of the area of abutting dedicated right-of-way in the calculation of minimum lot area. Staff has questioned whether this provision should be removed, and this will require further discussion.

Illustrations will be provided showing how to make certain measurements, such as setbacks on flag lots and lots with no street frontage. We will work with staff throughout the drafting process to develop a list of measurements to be illustrated.

## 21-7. DEVELOPMENT AND DESIGN STANDARDS

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### *SUMMARY OF CONTENTS:*

- A. Purpose*
- B. Off-street Parking and Loading*
- C. Landscaping, Buffering, Screening, Fencing*
- D. Neighborhood Protection/Transitions*
- E. Natural Resource Conservation*
  - 1. Stream Protection*
  - 2. Hillside/Steep Slopes*
  - 3. Wildlife*
  - 4. Wildfire*
  - 5. Other Natural Hazards*
- F. Land Clearance/Vegetation Protection*
- G. Drainage, Stormwater Runoff, Erosion Control*
- H. Open Space*
- I. Retail Design*
- J. Transportation and Access*
- K. Underground Utilities*
- L. Lighting*
- M. Signs*

**General Commentary:** This chapter will consolidate all of the Title 21 provisions relating to physical layout and design of new development. It will include existing/revised provisions such as parking and loading and stormwater runoff. Some of these existing provisions will be carried forward with few significant substantive changes (e.g., loading). Others, such as parking, stream protection, and landscaping, will be substantially revised. All sections will be reviewed to improve clarity and include cross-references to other applicable sections.

New material incorporated in this chapter will address the following issues:

- Neighborhood protection (improved transitions, landscaping, etc.)
- Natural resource protection (hillsides/steep slopes, wildlife, wildfire)
- Open space (amount, configuration)
- Retail design
- Connectivity (pedestrian and streets)
- Lighting
- Northern climate design

The new section will make clear that the design and development standards apply to all new development in Anchorage, including subdivisions and site condominiums. Some revisions in the subdivision standards will be required to make sure they do not conflict with these standards and necessitate applicants securing variances.

### **A. Purpose**

The new zoning ordinance should have strong purpose statements for all chapters, but this will be particularly important for this chapter. There will be much community discussion about the standards proposed in this chapter, and a strong purpose statement explaining the need and purpose of proposed development and design standards can benefit the community discussion. It would define both the intent and

context of development standards in general. It would explain the rationale and benefits of standards.

**B. Off-Street Parking and Loading**

This section will carry forward the basic provisions of the current Sections 21.45.080 (off-street parking) and 21.45.090 (loading) of Title 21 with some significant revisions to the parking standards. These revisions are being drafted as part of a parallel effort for the Traffic Department (with Clarion as the lead consultant) and will be folded into the new Title 21 when finished.

Some of the major changes anticipated relate to interior and perimeter landscaping, snow storage, and lighting. Significant reformatting is also in order, particularly the use of summary tables and matrices. Revisions will be coordinated with the proposed retail design standards as well as changes to general landscaping and other development standards.

**C. Landscaping, Buffering, Screening, and Fences**

This new section will consolidate several existing subsections dealing with various aspects of landscaping and buffers that are now scattered throughout Title 21. These include Section 21.45.125 (landscaping), 21.45.130 (screening on major highways), 21.15.025 (public facility project landscaping review), 21.45.110 (fences), and 21.80.340 (subdivision design buffer and screening landscaping). We anticipate significant revisions to some of these sections. For example, the landscaping provisions will be consolidated (now they appear throughout Title 21), the applicability will be closely examined, and we will strengthen regulations and incentives for tree protection.

Also, cross-references will be included to new provisions on vegetation protection which will be covered in a section on land clearing regulations and also to transitional buffering standards which will be included in a new section on neighborhood protection.

The screening section will include new proposed regulations for screening dumpsters and mechanical equipment. As discussed in the Diagnosis, unscreened, unsightly dumpsters are common in Anchorage and are a major aesthetic concern to many residents.

**D. Natural Resource Conservation**

Currently, Title 21 contains only a handful of standards relating to resource protection (e.g., Section 21.45.210, *Stream Setbacks*). These existing provisions will be consolidated in a new section on natural resource protection and revised as discussed in the code diagnosis. Existing flood plain regulations (to be set forth in a new overlay district) will be cross-referenced here. Provision dealing with implementation of the Anchorage Wetlands Management Plan and the Coastal Zone Management Plan (Sections 21.05.115 and 21.05.130) that are relevant will either be included here or cross-referenced.

Based on the code diagnosis and recommendations of the *Anchorage 2020* and the plans for Chugiak-Eagle River, Turnagain Arm, and Girdwood, new resource conservation provisions will be drafted to address development on hillsides/steep slopes

(replacing the weak, vague standards in Sections 21.80.360 and 21.80.370) and protection of wildlife habitat. Also, new wildfire defensible space standards will be added. In all areas, a range of standards may be necessary, depending on whether they are being applied in a urban, suburban, or rural context. In this regard, the area approach in Section 21.85.030, which makes distinctions among these three areas for purposes of requiring improvements might be useful. Standards also may be necessary for seismic hazards, snow avalanche hazards, and wind hazards.

**E. Land Clearance/Vegetation Protection**

Anchorage recently adopted land clearance/vegetation protection regulations, and the new language will be included here. This section will also cross-reference the landscaping section noted above. Vegetation protected on a site should be credited towards any on-site landscaping requirements.

**F. Drainage, Stormwater Runoff, Erosion Control**

Provisions related to these topics is currently scattered in four sections of Title 21— Section 21.45.230 (Storm drainage), Section 21.67.010 (Stormwater runoff restrictions), Section 21.85.140 (Drainage systems) and Section 21.85.180 (erosion and sedimentation control). They will be consolidated in a single section, redundancies eliminated, and their provisions made generally applicable to all development. The new standards will reference the various manuals and reports of the Department of Project Management and Engineering (e.g., the Stormwater Treatment Plan Review Guidance Manual). Also, the new NPDES ordinance adopted by the Assembly in January 2003 will be cross-referenced here.

**G. Open Space**

This section will contain standards for public and private open space land set asides and dedication, and fees in-lieu of dedication. It will address issues such as amount, location, and configuration of open space and will be closely coordinated with the resource protection requirements. The open space requirements will be cross-referenced in the chapter on subdivision standards.

**H. Neighborhood Protection/Transitions**

This new section will build upon and strengthen existing provisions in Section 21.45.200 relating to transitional buffering between non-residential and residential uses. It will also make available a menu of additional tools to use in discretionary approvals to protect residential neighborhoods from potential adverse impacts of adjacent non-residential uses including limitations on hours of operation, noise, and lighting. Also, the section will include new simple site and building design review standards for higher density residential developments and single-family infill projects to address issues such as garage placement, scale, contextual height and setbacks, and similar features. These new standards would be subject to administrative review by staff, not by the Urban Design Commission.

**I. Retail Design**

The city has adopted a set of interim design regulations for big box retail developments (Section 21.50.320) and is currently working with a consultant to prepare a set of citywide retail design standards. These new standards will replace the interim standards

and be incorporated in this section on development and design standards. To the extent that the new retail standards do not address design of pad or out-lots in retail developments, new provisions will be added.

**J. Transportation and Access**

This section will incorporate subsections addressing various aspects of transportation, block design, and site access, including the existing sections on clear vision areas (Section 21.45.020), access streets (Section 21.85.070), block design (Sections 21-80.280 and 290) and sidewalks (Section 21.85.090). These standards will be cross-referenced in the subdivision design requirements.

New standards will be added to address issues discussed in the diagnosis, such as pedestrian and street connectivity between developments. In particular, the Traffic Department has noted that pedestrian connections should be required from the main entrance of commercial businesses to the street in a direct line, and that connections between separate businesses (e.g., between outlots and the main store) should be required. The Traffic Department has also suggested possible new requirements limiting cul-de-sacs.

**K. Underground Utilities**

The existing provisions requiring underground of utilities (Section 21.90.020) will be carried forward. While we have heard few comments on these provisions, some reviewers of the Diagnosis have suggested that new emphasis be placed on undergrounding utility lines and utility boxes.

**L. Lighting**

The parking standards project will add new requirements for parking lot lighting. In addition, this section will set forth simple general standards to require more effective shielding of lighting and avoidance of light spillover onto adjacent properties (especially residential). An example of such a standard is a requirement that most outdoor lighting have full-shield cut-offs to prevent light spillover and glare.

**M. Signs**

The MOA is currently working with another consultant to revise the existing sign regulations. When completed, those new provisions will be added here. If the new sign regulations are especially lengthy, then it may be appropriate to place them in their own chapter.

**N. Northern Climate Design**

A fundamental, recurring theme in *Anchorage 2020* is that new development should reflect the northern climate. The Title 21 rewrite process will include discussion and research into how the Municipality's land use regulations can begin to reflect the northern climate. Three specific issues to be considered include solar access, wind protection, and falling/accumulated precipitation.

In particular, sunlight access is an issue for most districts in Anchorage, not just downtown. Solar access is just as important for mixed use districts, and for residential neighborhoods impacted by infill residential. It is also an issue for residential properties

adjacent to commercial districts. In Anchorage, loss of sunlight is often of greater concern than landscaping on neighboring properties. The rewrite project will include research into how there might be standards and/or incentives for development to protect solar access throughout the community.



## 21-8. SUBDIVISION STANDARDS

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### *SUMMARY OF CONTENTS:*

- A. *General*
- B. *Dedication*
- C. *Design Standards*
- D. *Improvements*
- E. *Timing and Inspection of Improvements*
- F. *Acceptance of Improvements for Municipality Maintenance*

**General Commentary:** This chapter will carry forward the design, improvement, and dedication standards applicable to subdivisions, which are contained mostly in Chapters 21.80 and 21.85 of the current Title 21. Only a few major substantive changes are expected in this section, most notably the addition of new open space dedication standards and removal of the reserve tract provisions (subject to approval of the Municipal Attorney).

### **A. General Provisions**

This section will carry forward general provisions relating to the development of new subdivisions, most of which are currently located in the existing Chapter 21.75. However, we will fold the subdivision definitions into the general definitions chapter.

### **B. Dedication**

This section will consolidate the dedication provisions from Chapter 21.80. As discussed in the Diagnosis, we will propose new public open space dedication and private open space set-aside standards. Those will be located either in this section or in the previous Chapter 21-7, with appropriate cross-references to other sections.

### **C. Design Standards**

This section will group together all the various sections related to the design of new subdivisions. Most of these are located in the existing Chapter 21.80. Several of these existing sections (e.g., “hillside lots”) will be superceded by the Title 21 development and design standards discussed above, which will be cross-referenced in the subdivision standards chapter.

### **D. Improvements**

Existing subdivision improvements standards from Chapter 21.85 will be carried forward with few substantive changes. They will be reviewed to ensure that they are not in conflict with the new recommended development and design standards. As many of the existing technical requirements (e.g., street width requirements) as possible will be summarized in tables.

As discussed above, standards relating to connectivity, stormwater, erosion control, and access will be located in the generally applicable development and design standards chapter and cross-referenced here.

### **E. Subdivision Agreements**

This section will carry forward the existing Chapter 21.87. As noted, we heard no comments on this material and propose no major substantive changes.

**F. Conservation Subdivisions**

Many local governments across the country have adopted optional conservation subdivision provisions (also known as cluster subdivisions) that allow developers to build allowable density on smaller lots on a discrete portion of a parcel in return for preserving a large portion of the site (e.g., 40-70%) as open space and to protect natural resources. This new section would replace existing cluster housing site plan review regulations (Section 21.50.210) which have reportedly produced cluster developments that have been criticized as poorly designed and that have preserved only minimal amounts of open space.

The new conservation subdivision section will ensure that sufficient blocks of useable open space result from the process, that high-value resource areas are protected, and that the housing clusters are well-designed and located. Density bonuses will be available for open space protection above a minimum threshold.

In addition to natural resource protection, the conservation subdivision process can help address other needs in Anchorage. For example, staff has noted that there appears to be a large market for single-family houses on small lots in Anchorage, and one of the objectives of the conservation subdivision section will be to help address this need.

## 21-9. NONCONFORMITIES

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### *SUMMARY OF CONTENTS:*

- A. *General*
- B. *Nonconforming Uses*
- C. *Nonconforming Structures*
- D. *Nonconforming Signs*
- E. *Nonconforming Lots of Record*
- F. *Other Nonconformities*

**General Commentary:** As noted in the Diagnosis, the Anchorage Municipal Code already has a well-conceived chapter on nonconformities. Though the current AMC Chapter 21.55 is entitled “Nonconforming Uses,” the code is explicitly divided into provisions addressing each of the general issues of nonconformity: nonconforming lots, nonconforming uses, and nonconforming structures. All of these provisions will be carried forward. The current code also contains useful provisions regarding hardships and exceptions for necessary repair and maintenance.

As Anchorage implements its new plan and other code-driven standards and goals, such as limiting the use of the B-3 zone, it is likely that the nonconforming use code will absorb, for example, some of the more marginal current uses as the transition is made to a new code. This will increase the burden on the nonconformity provisions to resolve potential land use conflicts. In anticipation of the transition to the new code, and based on discussions with city staff and other stakeholders, we submit the following outline with some minor recommendations for revisions.

### **A. General**

This section will collect all generally applicable provisions regarding nonconforming uses, structures, uses of structures, lots, and other nonconformities. Regulations applicable to particular types of nonconformities are set forth in specific sections below.

#### **1) Purpose and Scope**

This section will carry forward provisions of the Intent section currently located at AMC 21.55.010, which states that this Chapter addresses lawfully established lots, structures, uses, and characteristics of uses that do not comply with the revised land use code.

#### **2) Authority to Continue**

All legal nonconformities will be allowed to continue in accordance with the regulations of this chapter, as is now the case under language to be taken from AMC 21.55.010, 21.55.070 (grandfathered Conditional Uses), and 21.55.110. This section may also include a new provision stating that change in a nonconforming use may be allowed as long as the new use will be less intensive than the existing nonconforming use. The current section discussing parking facilities “and other characteristics of use” at AMC 21.55.100 provides appropriate language to incorporate into provisions regarding continuation of a modified nonconformity.

- 3) ***Determination of Nonconformity Status***

This new section will include a standard clause stating that it is the burden of the owner or person asserting a nonconforming right to prove the existence of a legally nonconforming use, structure, or lot. This section will reference the Chapter of the revised code outlining a procedure for Establishment of Nonconforming Rights.
- 4) ***Nonconformities Created Through Government Action***

This section will carry forward the provisions of AMC 21.55.120, which permits the creation of new nonconformities when, for example, condemnation of a right-of-way creates two nonconforming lots as residual private land.
- 5) ***Minor Repairs and Maintenance***

Reasonable repair and maintenance of nonconformities will be allowed and encouraged to keep nonconforming structures in safe condition. The appropriate text for this purpose will be carried forward from current AMC 21.55.060. This section will provide a cross-reference to appropriate definitions and the section below regarding major repairs and alterations.
- 6) ***Change of Tenancy or Ownership***

This section will clarify that changes in tenancy and ownership status do not affect nonconforming rights.
- 7) ***Abandonment of Use***

We recommend a new provision to include standard language stating that discontinuation of a nonconforming use of land or use of a structure for a period of one year shall be deemed abandonment, extinguishing all rights to such nonconforming use. After abandonment of a nonconforming use, all future uses must be in conformity with the applicable provisions of Title 21.
- 8) ***Expansion, Alteration, or Major Repair of Nonconformities***

The current policy of Anchorage is that “nonconformities shall not be enlarged upon, expanded, or extended” (AMC 21.55.010). In some situations (for example, renovation and adaptive reuse of historic structures), some expansion of nonconforming structures or uses may be beneficial. We therefore recommend that the Municipality consider allowing substantive repairs or expansion of non-conforming structures where this would serve beneficial purposes (e.g., reinvestment in historic properties), so long as appropriate guidelines are followed that uphold the spirit of the code (e.g., expansion only along existing wall planes, with similar styles and materials).

Additional discussions with staff and officials are necessary regarding the degree of improvements and/or changes to nonconforming uses or structures that may be appropriate to trigger submittal of a site plan or development plan. Also, at what point do such expansions require site improvements (e.g., parking lot landscaping)? We will provide example approaches on this issue from other communities.

**B. Nonconforming Uses Of Land**

This section will carry forward current AMC 21.55.030. This section has broad applicability to land use in Anchorage and will be revised for consistency with the general nonconforming provisions above (e.g., the abandonment clause currently found within this section is no longer necessary due to its inclusion in the general provisions).

**C. Nonconforming Structures**

This section will carry forward current AMC 21.55.040, governing buildings and structures that, although legally established, no longer comply with property development standards, such as setback, height, and any otherwise relevant provision of Title 21. This section will reference the section below regarding expansion, alteration, or major repair of nonconformities.

**D. Nonconforming Lots Of Record**

This section will carry forward current AMC 21.55.020, which govern legally created lots that do not comply with the minimum lot size or width requirements of the underlying zoning district. No revisions are proposed.

**E. Nonconforming Signs**

This section will include specific strategies for bringing nonconforming signs into compliance with the code. No current provision defines policies for nonconforming signs in Title 21. However, the draft sign code does have new regulations for nonconforming signs, and these will be carried forward in this section.

**F. Other Nonconformities**

We propose the addition of express provisions dealing with “other” (minor) nonconformities, requiring that such situations be brought into conformity (in most instances) at the time of any construction or other activity on the site requiring the issuance of a Building Permit.

This section will also be used to carry over provisions from the existing sections regarding junkyards (21.55.080) and Mineral Extraction (21.55.090). It appears that these provisions were intended to amortize or bring these uses into conformity with the code by a date many years past. We will consult with the Municipality to determine which aspects, if any, of these provisions will need to be incorporated into the Title 21 revision.

## 21-10. ENFORCEMENT

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### *SUMMARY OF CONTENTS:*

- A. Purpose*
- B. Compliance Required*
- C. Violations*
- D. Inspections*
- E. Enforcement Actions, Remedies, and Penalties*

**General Commentary:** This chapter will contain all enforcement-related provisions of the new Title 21, incorporating or revising most of existing Section 21.25. The effectiveness of code provisions for enforcement will depend in part on the allocation of sufficient resources to act on violations, an issue encountered on multiple occasions during Phase 1 of the Title 21 revisions process. While enforcement staffing is a fundamental issue in Anchorage, some revisions to the language and format of enforcement provisions make the enforcement process easier to understand, easier to take action upon violators and stronger in its overall treatment of violators. Future phases of Title 21 drafting may focus on specific provisions that may be used to address outdoor storage of junk cars, the dominant code enforcement issue in Anchorage. Another problematic land use that could be subject to more specific enforcement language is snow storage in appropriate areas.

#### **A. Purpose**

We recommend adding a short purpose statement to the enforcement chapter. Since the current code does not contain a statement of enforcement purpose, a new section will be drafted, emphasizing the need for corrective action when the terms of the land use code have been violated.

#### **B. Compliance Required**

It is useful to affirmatively state the duty of property owners and developers to comply with the land use code. New language to this effect will be coupled with existing AMC 21.25.020 (invalid land use entitlements), which punctuates the requirement of compliance by holding invalid an entitlement issued in derogation of the code. Based on comments received during our interviews and discussion of the Diagnosis, it may be possible to prevent some code enforcement problems by including language that specifically authorizes the municipality to withhold a certificate of occupancy until a property owner or developer is in substantial compliance with Title 21.

#### **C. Violations**

This section would carry forward existing Section 21.25.010, defining violations and who may be held responsible for violations of the land use title. Current provisions are generally adequate to enable enforcement against offensive land uses, but the standards of particularly problematic land uses could be reiterated here by way of providing specific notice that enforcement is contemplated for illegal auto storage, illegal snow storage, or other uses that may be identified by the municipality prior to drafting of the revised code. It may also be advisable to include a subsection identifying as a violation the use of land other than as allowed under the conditions, notes, or other limitations of a discretionary entitlement (i.e., land uses must specifically conform to special limitations).

**D. Inspections; Right of Entry**

The inspection provisions of the current section of the same name (AMC 21.25.040) will be carried forward into the new Title 21.

**E. Enforcement Actions, Remedies, and Penalties**

This section will incorporate and consolidate the provisions of several sections within the current enforcement chapter of the Anchorage Municipal Code, consisting of AMC 21.25.030 (enforcement orders), 21.25.035 (private enforcement actions), 21.25.050 (penalties and remedies), and 21.25.070 (abatement of violations). As a general note, the current enforcement chapter does not identify enforcement procedures in one location or in a consistent format. We will specifically devote the first subsection of this section to enforcement procedures, as increased consistency and predictability were deemed very important to improving the effectiveness of the enforcement process. For example, the code should clearly identify when and by what process an Administrative Hearing Officer will be used to adjudicate enforcement matters.

Another procedural matter that should be addressed is the wide latitude of discretion that is allowed in the current enforcement code. The existence of purely discretionary provisions, such as the issuance of enforcement orders (e.g., “an administrative official...may order...”), has in many cases been used by violators to argue that they are being treated unequally if and when enforcement action is taken. Some enforcement actions may be selectively changed to include mandatory language as a stronger deterrent to violators.

Another set of provisions that will be adjusted during the Title 21 rewrite are those related to the private enforcement action. Private enforcement actions could be used to lighten the administrative burden of code enforcement and serve as a filter for the urgency and general merit of complaints. However, in their current state, these regulations have only rarely been used. At a minimum, the private enforcement action section should be simplified to make its use more accessible to the private citizens for which it was intended. We also support suggestions from commentators that it could be effective to add provisions that would allow community councils to take a more active role in the enforcement process, specifically to give community councils standing to initiate the private enforcement process and to potentially waive fees for enforcement cases referred to the enforcement authority in this manner.

Finally, we will ensure that this section includes provisions detailing a broad range of penalties and remedies available to the Municipality under Alaska law. In addition to the measures already set forth in Title 21, we will discuss with the Municipality Attorney and Code Enforcement Officers whether any other forms of relief should be added to the list of available remedies.

## 21-11. DEFINITIONS

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### *SUMMARY OF CONTENTS:*

- A. *General Rules of Construction*
- B. *Interpretations*
- C. *Definitions*

**General Commentary:** “Definitions” is proposed as the final article of the new Title 21. Historically, definitions have been found near the beginning of zoning and land development ordinances. In the current Title 21, they are found not only in the middle of the document (in Chapter 21.35) but there also are other sets of definitions scattered throughout Title 21 (e.g., the mobile home park regulations in Chapter 21.70).

Our experience suggests that readers are more likely to look for defined terms at the end of a document. Moreover, since most ordinance users refer to the “definitions” section only when they encounter a term whose precise meaning is unknown, it may make sense to move them to the final article where they will not deter those interested in getting to the substance of the regulations.

Clear definitions of important words and phrases not only make life easier for those who must interpret and administer the ordinance and for those who must hear appeals of decisions made by staff - they also make it much easier for the public to know what is required. The importance of good definitions as a key component of fairness to the public and consistency in decision-making has led to an increased interest in this seemingly mundane topic.

This section will be based substantially on the lists of definitions found throughout the current Title 21. Although we will use most of the existing ordinance’s definitions, we will revise them as necessary to ensure that the definitions do not contain substantive or procedural requirements, and we will verify that key definitions conform to federal and Alaska constitutional requirements. We will add definitions where necessary (e.g., “overlay district”) and develop illustrations for some defined terms.

### **A. General Rules of Construction**

- 1) ***Meanings and Intent***
- 2) ***Headings, Illustrations, and Text***
- 3) ***Lists and Examples***
- 4) ***Computation of Time***
- 5) ***References to Other Regulations/Publications***
- 6) ***Delegation of Authority***
- 7) ***Technical and Nontechnical Terms***
- 8) ***Public Officials and Agencies***
- 9) ***Mandatory and Discretionary Terms***
- 10) ***Conjunctions***
- 11) ***Tenses and Plurals***

This new section will provide guidance to Title 21 users in the specific topics listed above. Standard language for such a section would include a hierarchy of precedence (i.e., “text controls over illustrations”), the meaning of common regulatory words (i.e., “may,” “shall”), and computation of time under the code. The rules of construction will



also include methods to resolve other general issues that arise in the interpretation of development and planning regulations.

**B. Interpretations**

This new section will clarify that the Planning Director has final authority for the Municipality to determine interpretations/usage of terms used in Title 21. It also will set forth a procedure by which a code user may request a formal written interpretation of a term used in Title 21.

**C. Definitions**

This section will include definitions of terms used throughout Title 21. We will add numerous illustrations to clarify complex terms and concepts. Numerous new definitions will also be added as needed.

## **21-12. INDEX**

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The new Title 21 will include an index of key terms.