

Municipality of Anchorage

MEMORANDUM

DATE: August 11, 2008

TO: Planning and Zoning Commission

FROM: Tom Nelson, Planning Director

SUBJECT: Case No. 2007-153; Issue Response for Chapter 21.07, sections 010, 020, 030, 040, 050, and 140, of Title 21 Rewrite

1. **Issue:** 21.07.010A., *Purpose*

Add to general purposes: “Protect open spaces and natural spaces and the resources they support by preventing the introduction of, and reducing the spread of non-native invasive species, including non-native invasive plants (noxious weeds).”

Staff Response: The Planning Department supports attempts to reduce the introduction and spread of invasive plant species within the Municipality and the state. The core mission of Title 21, the land use planning title of municipal code, is to regulate land use and development. Prohibitions on using invasive plant species as landscaping are certainly appropriate within the landscaping regulations (see 21.07.080G.1.a.), but Title 21 is not the appropriate title through which to “protect open spaces and natural spaces” from invasive species in the holistic way suggested by many comments on this chapter. Title 15, environmental protection, seems a more logical location for such controls.

Staff Recommendation: No changes recommended.

2. **Issue:** 21.07.010A., *Purpose*

In the purposes of Chapter 7, although TSAIA understands the emphasis on “quality of life” issues, it is also important to consider economic concerns that make quality of life possible. TSAIA recommends that the purposes of the chapter be expanded to include such issues as the following:

To establish a reasonable balance between public aesthetic interest and land-owner preferences and financial considerations.

To promote and protect sustainable economic development, ensuring that existing and new commercial, transportation, and industrial investment is not burdened by standards not

justified by substantial public concern or that require compliance efforts that are more costly than are reasonable justified by any resulting public benefit.

To preserve and protect the economic viability of permissible land uses.

Staff Response: The department agrees with TSAIA that economic concerns must be weighed with development requirements and quality of life issues. The purpose of title 21, however, is to state the minimum requirements for development. The policy discussions and the final Assembly debate should consider the reasonable balance between public and private interests, added costs, and should preserve and protect the economic viability of various land uses. The code will not and should not include those discussions and debates, but rather be the result of them.

Staff Recommendation: No changes recommended.

3. **Issue:** 21.07.010A., *Purpose*

#1. Add word: “To encourage the proper and sustainable use of the land...”

Reason: As our population grows and consumes more resources, sustainability is the overarching challenge of development. Anchorage needs development that is designed to wear well over time without retrofits, and without collapsing the infrastructure or environment. Can’t remember if “sustainable” was added to the earlier revisions to other chapters of Title 2, but it is a concept that should be repeated.

Staff Response: Planning Department supports encouraging sustainable development, but does not consider the first purpose statement to be the appropriate place for the concept. Sustainability is about reducing our energy consumption, finding ways to produce our own renewable energy, conserving natural resources, designing our built environment to accommodate more efficient modes of transportation, and the like.

Staff Recommendation: Page 3, line 19, add as a new #4 and renumber remaining:

“To encourage design and development that reduces energy use and costs, minimizes pollution, provides healthy living and working environments, and uses land and other resources efficiently and sustainably;”

4. **Issue:** 21.07.010A., *Purpose*

#2.Change to read: “...protection of natural resources including [EXISTING] native trees and shrubs...”

Staff Response: Anchorage 2020 policy #50 directs us to preserve existing trees as much as possible, and that intent is carried forward in this purpose statement. The statement is about trees that exist and are growing now. Changing the word “existing” to “native” changes the meaning of the statement to say that if the tree on the site is not a native tree, then it has less value. While the department supports using native plants for planting new material, it does not consider existing non-native plants to have less value (unless they are invasive).

Staff Recommendation: No changes recommended.

5. **Issue:** 21.07.010A., *Purpose*

#3. Insert language in italics: “To promote sound management of water quality and quantity through preservation of natural areas and their *natural hydrological* functions and by encouraging soil management...”

Natural areas are kept for lots of reasons, but this subsection is for water quality.

Also, explain “soil management” or add it to the definitions section.

Staff Response: The department has no objection to adding “hydrological.”

Staff Recommendation: Page 3, lines 16-18, amend to read, “To promote sound management of water quality and quantity through preservation of natural areas and their hydrological functions and by encouraging soil management and the use of native plant materials.”

In chapter 21.14, add “Soil Management means maintenance of the soil to preserve and enhance soil quality, which is defined as “the capacity of a soil to function within ecosystem boundaries to sustain biological productivity, maintain environmental health, and promote plant and animal health” (Doran and Parkin, 1994).”

6. **Issue:** 21.07.010A., *Purpose*

#9. Edit sentence: To provide (delete “road”) multimodal connectivity for the safe and efficient movement of people, goods, and services, by providing easements, roads, transit, and pedestrian infrastructure integrated into new and existing development.

The Comp Plan and national policy are increasingly directed toward multi-modal transportation. Mentioning road connectivity as the primary and only transportation goal is outdated and irresponsible.

#9. Change to read: “To provide road, trail and sidewalk connectivity for the safe movement of people, goods and services.”

Staff Response: The Planning Department has no objection to changing “road” to “multimodal.”

With that amendment, the sentence gives the stated purpose. The proposed addition to the end of the sentence suggests how the purpose should be achieved, which is handled within the regulations themselves and is not appropriate for the purpose statement.

Staff Recommendation: Page 3, lines 32-33, amend to read, “To provide multimodal [ROAD] connectivity for the safe and efficient movement of people, goods, and services.”

7. **Issue:** 21.07.010B., *Buildings to Have Access*

Most Hillside area roads are public roads, but not “MOA” owned roads. It is likely there are many that would not meet the requirements placed on “private” roads in this section. If there is a standard expected in the phrase “constructed public street,” the implications for the Hillside should be considered.

Staff Response: The requirement of this section is not “placed” on roads, but rather on lots. If a building is to be built, it must have access from a constructed road, either public or private, constructed to the standards that apply in the area. The residents/users of the building and emergency service providers must be able to get to the building.

Staff Recommendation: No changes recommended.

8. **Issue:** 21.07.010D., *Alternative Equivalent Compliance*

This is an important procedure to allow creativity in designs. It also has opens the possibility of bypassing many of the design requirements in the rest of the chapter. It would be reassuring to add a level of Community Council notification and involvement when Alternative Equivalent Compliance is used.

Alternative equivalent compliance should be extended to AMC 21.07.020C Steep Slope Development. An owner should not be required to obtain a variance to exceed the cut and fill, or retaining walls given steep terrain on a given lot, if a licensed civil engineer has provided suitable plans to ensure safe development of the property. This should be left to the engineer’s discretion subject to approval of the Municipal Engineer.

Staff Response: Projects that require public notice and/or public hearing will provide the same comment opportunities when Alternative Equivalent Compliance is used. As is stated in this section, Alternative Equivalent Compliance is not “bypassing” the design requirements, but rather an opportunity to offer an equal or better method of meeting the intent of the requirements. Every engineering solution may not meet the intents and purposes of the standards.

Staff Recommendation: No changes recommended.

9. **Issue:** 21.07.010D.5.c., *Criteria*

Define or explain to what segment of “the community” must the benefits of alternative design accrue? Subdivision, neighborhood, district, citywide, particular demographic group?

Staff Response: It would be the same segment of “the community” that would benefit by compliance with the code requirements without the use of alternative compliance. Depending on the standard, it could be the subdivision or the neighborhood or the whole city.

Staff Recommendation: No changes recommended.

10. **Issue:** 21.07.020, *Natural Resource Protection*

The deletion of the phrase “significant viewsheds” from the list of important features is noticeable. While that is not dealt with in this section, the protection of views, particularly of the Hillside is likely to be considered in District plans. Other cities restrict development on ridgelines. Anchorage may benefit from that, too.

Staff Response: Without a planning process to determine which views are significant and from where, it becomes difficult to apply this concept. If the concept is included in other planning documents, such as district plans, it can be implemented through those plans.

Staff Recommendation: No changes recommended.

11. **Issue:** 21.07.020, *Natural Resource Protection*

(A) ...significant natural features are incorporated into open spaces, and that negative impacts to these natural amenities are reduced/ minimized through development and landscaping practices which do not contribute to the introduction and spread of non-native invasive plants.

(B) Stream, Water Body, and Wetland Protection

(1) Purpose: ...and the contamination of streams, wetlands, and water bodies by pollutants or non-native invasive plants.

(7) Preservation and Restoration of Vegetation: ...the removal of species identified as non-native and invasive by the Alaska Department of Natural Resources and/or the State of Alaska.

(C) (3) (g) Ground Cover and Revegetation: Ground cover and vegetation shall be maintained to control erosion, sedimentation, and the establishment of non-native invasive plants.

Staff Response: The planning department supports the use of native plant material and the suppression and elimination of non-native invasive plants. However, staff does not support the addition of most of the suggested language. The department does not object to the proposed language for B.1.

See also Issue #1 above.

Staff Recommendation: Page 5, lines 20-24, amend to read, “The following requirements are intended to promote, preserve, and enhance...and the contamination of streams, wetlands, and water bodies by pollutants or non-native invasive plants.”

12. **Issue:** 21.07.020, *Natural Resource Protection*

Insert italics: “all of which contribute to the municipality’s character, quality of life, *individuals’ physical and mental health*, and property values.”

There are repeated health and social research articles about the value of access to natural and recreation areas. (E.g. a national (or California?) health program called “Leave No Child Inside”.)

Staff Response: Individual’s physical and mental health are part of quality of life.

Staff Recommendation: No changes recommended.

13. **Issue:** 21.07.020B.3., *Relationship to Other Regulations*

If the Municipality is suggesting the implementation of more stringent restrictions than those imposed in Federal or State law, those instances should be identified and a case should be made for each exception. In addition it should be acknowledged that these restrictions increase the cost of compliance. In all cases where the MOA wishes to incorporate restrictions

in excess of those established by the Federal or State statutes, a separate cost benefit analysis should be required. Absent that, the MOA should defer to Federal or State statutes.

Staff Response: There are many issues that are handled at a local level and many local laws that are more restrictive than federal or state laws. The Alaska Constitution is based on the premise of local control. As a community, the residents of the municipality, through the actions of its locally-elected representatives, get to set policies on the disturbance of its natural resources.

Staff Recommendation: No changes recommended.

14. **Issue:** 21.07.020B.3.b., *Relationship to Other Regulations*

Why is the MOA trying to enforce the Federal Wetland Regulations, which apply to all development, whether stated here or not? Suffice it to say, the development needs to comply with all federal, state, and local laws and regulations. In a document this extensive the MOA should eliminate extraneous information.

Staff Response: This section is necessary to clarify that there are other jurisdictions other than municipal jurisdiction, and a municipal permit does not grant all permissions.

Staff Recommendation: No changes recommended.

15. **Issue:** 21.07.020B.3.c., *Relationship to Other Regulations*

ANC does not believe that a public or private developer should always be required to spend the funds necessary to obtain a required federal permit before determining whether municipal permission would be granted. That is why “preliminary” approvals are appropriate. Issues completely unrelated to the wetland issues may pose a municipal issue, and until it is known whether those can be satisfied, it would be imprudent for a public or private developer to seek a federal permit. The federal permit may be withheld anyway pending receipt of MOA approval. In addition, simultaneous permitting processes are necessary to limit the cost of, and time required for, public and private development permitting. Preliminary and contingent approvals should be allowed conditioned upon receipt of all necessary federal approvals and permits.

Staff Response: There is no perfect solution to this problem—requiring one of the approvals before the other has the potential for a problem, no matter which is first. In a situation where a COE permit was first, the applicant desired to fill a wetland and rezone the property from residential to commercial. They received the COE permit, filled the wetland, but were denied the rezone. Today the property sits undeveloped, but the wetland is gone. In another situation, a plat was approved before the COE was contacted. The COE denied a permit to fill a certain wetland over which a road had been placed. So the plat had to be redone. Certainly many more people’s review time is wasted when a development application is approved but then the COE does not grant their approval. The department, through trial and error, has determined that the best possible situation is for preliminary meetings to begin with the COE, to identify the main issues, before the development application is made to the municipality.

Staff Recommendation: Page 6, lines 10-13, amend “[THE DECISION-MAKING BODY SHALL NOT GRANT PRELIMINARY OR FINAL APPROVAL TO ANY DEVELOPMENT OR ACTIVITY, INCLUDING SUBDIVISIONS, IN A WETLAND THAT FALLS WITHIN THE FEDERAL GOVERNMENT’S JURISDICTION UNTIL ALL NECESSARY FEDERAL APPROVALS AND PERMITS HAVE BEEN OBTAINED.] For any development that requires a U.S. Corps of Engineers permit, the applicant shall have completed the U.S. Corps of Engineers public notice period before submitting a development application to the department.”

16. **Issue:** 21.07.020B.4.a.i., *Streams Corridors*

Buffer/Setback Stream Corridors: 50 ft each side setbacks should be maintained even though in some districts there may already be buildings within that setback. In such cases, the buildings can be grandfathered, but when a property is sold, minor structures that can be moved without a great deal of hardship, such as saunas, chicken coops, etc, should be required to be moved and the area revegetated.

In their review of Anchorage’s existing Title 21 in 2002, Clarion said “Nationally, setbacks of 100’ on both sides of rivers and streams in more rural areas are generally recognized as a minimum to protect water quality.”

We feel that Anchorage’s proposed 50 foot setback in already developed areas is a reasonable compromise for protecting water quality.

With setbacks, only the property owner has the legal right to do maintenance. We also need to address the need for easements along each creek to allow maintenance. An easement width that mirrors the setback width would be appropriate.

Staff Response: Per maintenance easements, subsection 6.a.i. states, “i. With the appropriate permits, maintenance, including placement of riprap, debris removal, glaciation control, sediment removal, protection of adjacent or downstream property from flooding, soil stabilization, and erosion control, may be performed within the setbacks described in B.4. above.”

Staff Recommendation: No changes recommended.

17. **Issue:** 21.07.020B.4.a.ii., *Streams Corridors*

This statement is confusing in that it seems to be allowing structures within 10 ft of the edge of water bodies. Please clarify.

10 feet doesn’t seem like a one-size-fits-all filtration zone. What about 10-acre parking lots next to a seasonal stream? Add language to end of first sentence, “with additional setbacks if required by WMS staff for management of surface run-off or other water body protection.”

Staff Response: The 10 ft setback is not from all water bodies—only from drainageways and ephemeral streams/channels, as defined in chapter 21.14. The intent of the 10 foot setback is to make sure the drainageway is undisturbed—not to provide a filtration zone.

Staff Recommendation: No changes recommended.

18. **Issue:** 21.07.020B.4.a.iii., *Streams Corridors*

“Segments of streams or tributaries that are contained underground in pipes or culverts have no setback.” How will this impact attempts to uncover streams that have been diverted into culverts and pipes? Fish Creek is an example. Segments of streams that are in culverts need an easement for maintenance purposes

Staff Response: After a stream is daylighted, setbacks will be applied. But it is impractical to apply setbacks to streams in pipes underground, on the chance they may one day be daylighted.

Often culverted streams run under public roads, so a maintenance easement is not necessary. If such segments run under private land, the municipality requests an easement.

Staff Recommendation: No changes recommended.

19. **Issue:** 21.07.020B.4.b.ii., *Wetlands*

Wetlands: a 15 ft setback for wetlands is insufficient. Increase the setback.

Staff Response: In current code there is no wetland setback (except in very limited situations as described in the Anchorage Wetlands Management Plan). A 15’ setback is an appropriate balance between wetland protection and allowing appropriate property development.

Staff Recommendation: No change recommended.

20. **Issue:** 21.07.020B.4.c., *Water Bodies*

Water bodies: a 15 ft setback for water bodies is insufficient and inconsistent with those proposed for stream setbacks. Increase the setback.

Staff Response: In current code there is no setback required from water bodies. A 15’ setback is an appropriate balance between water body protection and allowing appropriate property development.

Staff Recommendation: No changes recommended.

21. **Issue:** 21.07.020B.5.c.ii, *Wetland Boundaries*

The MOA should also address how mis-mapped wet lands will be addressed. The Corp of Engineers determines wetlands and since they are part of the review process for developments is this section needed? Whether the wetlands are unmapped or miss-mapped is an issue between the developer and the Corp and must be addressed prior to the Corp approving a project. Therefore this section seems unnecessary since it refers back to section 21.07.020.B.5.a.ii which includes everything in this section.

Staff Response: This comment seems to suggest that the code needs to state how mis-mapped wetlands will be addressed and that the code should not state anything about mis-mapped or unmapped wetlands. The department is satisfied with this section as written. It explains how the municipality will address these situations.

Staff Recommendation: No changes recommended.

22. **Issue:** 21.07.020B.6.a.ii., *Permitted Activities*

The wording here is confusing. How does that 35' factor in? Why isn't it 50'? Maybe an illustration would help.

Staff Response: The section is based on the concept that some activities are appropriate in the setback closer to the stream, and some activities may be appropriate in the setback, but not in the section closest to the stream. An illustration would be helpful and the department will pursue that. Also a clarifying amendment is proposed.

Staff Recommendation: Illustrate. Page 8, lines 8-12, amend to read, "The following structures and uses of land or structures are permitted generally perpendicular to the setback or stream edge [WITHIN THE CLOSEST 35 FEET OF THE STREAM, AND] within the drainageway, ephemeral stream, wetland, and water body setback, where it is necessary in order to cross or enter the feature:"

23. **Issue:** 21.07.020B.6.a.ii.(A)., *Permitted Activities*

Change to "Roads, driveways, trails, sidewalks and other transportation facilities." And delete "trails and other" from (D). Transportation is about getting you, me and all of our stuff from point A to point B. It's not about the mode we use. This recommended change is in line with the new Pedestrian Plan which recognizes that walking is the most basic form of transportation. This change also put this more in line with phrasing in 21.07.060 TRANSPORTATION AND CONNECTIVITY.

Staff Response: This is ok in section a.ii., but the separation is necessary in section a.iii. because trails are allowed in this portion of the setback to run parallel to the stream, and roads are definitely not. The separation was for consistency between the two sections.

Staff Recommendation: Page 8, lines 13-17, amend to read, "(A) Roads, driveways, trails, and other transportation and public recreation facilities; ...[;AND (D) TRAILS AND OTHER PUBLIC RECREATION FACILITIES]."

24. **Issue:** 21.07.020B.6.a.ii.(D)., *Permitted Activities*

What "public recreation facilities" would be considered here?

Staff Response: Fishing or viewing platforms is one example.

Staff Recommendation: No changes recommended.

25. **Issue:** 21.07.020B.6.a.iii.(D)., *Permitted Activities*

Permitted Activities, Development Standards:

Allowing structures and uses within the outer 15 ft of the stream setback such as sheds, play equipment, etc is counter productive to the above requirement for a 50 ft setback. Usage at the

edges of any boundary result in vegetation die back, thus reducing the protective setback even further. Do not allow use in the 50 ft setback.

Insert “pervious” to modify decks. Some decks are designed to be Astroturf covered or otherwise impervious.

Staff Response: Increasing the setback from 25’ to 50’ will impact many property owners along streams. Many of these property owners will already have these types of things in the “new” part of the setback (outer 25 feet). This provision allows them to use this portion of their property for things that are generally (but not always) pervious, so that some of the functions of the setback area are able to continue (i.e., water filtration).

Staff Recommendation: Page 8, lines 24-26, amend to read, “Lawns, landscpaing, play equipment, storage sheds on temporary foundations, fences, pervious decks, unpaved patios, and other similar features that are based on a pervious surface.”

26. **Issue:** 21.07.020B.6.a.iv., *Permitted Activities*

Redevelopment of existing structures within setbacks puts private benefit over an important public benefit of naturally-functioning water bodies.

Insert word to limit to redevelopment to “ primary structures or uses existing on date of passage”. That strikes a balance between private benefit and public benefit.

Staff Response: The proposed increase in stream setbacks must accommodate individuals who lawfully developed their lots under earlier rules.

Staff Recommendation: No changes recommended.

27. **Issue:** 21.07.020B.6.a.iv.(B)., *Permitted Activities*

If the intent is to protect the natural resource, why should the director allow redevelopment of structures? This is a potential loophole that does not lead to eventual setback compliance. Delete this.

Staff Response: Because the existing setback of 25’ has been in place for a long time, some existing lots are created (platted) in such a way that a 25’ increase in the setback would make them undevelopable. That is not the intent of this provision. Thus some relief for that type of situation needs to be included in the code. Without it, the setbacks would not be increased.

Staff Recommendation: No changes recommended.

28. **Issue:** 21.07.020B.6.b.ii., *Prohibited Activities*

How permissive is the variance procedure relative to other jurisdictions? Add language: For any non-emergency variance related to a water body, the action must be shown to retain the natural hydrologic function of the water body.

Staff Response: Department staff has not had the time or resources to research other jurisdictions’ variance procedures. Staff will consider additional approval criteria for variances as part of chapter 3.

Staff Recommendation: No changes recommended.

29. **Issue:** 21.07.020B.6.c., *Utilities*

Strengthen last sentence. Change “should” to shall regarding point-by-point access for utilities in setback areas. Sentence already says “whenever possible”.

Staff Response: The department tries to limit the use of guideline-type language.

Staff Recommendation: Page 9, lines 32-34, amend to read, “Access for maintenance of utilities in setback areas shall [SHOULD] be at specific points rather than parallel to the utility corridor whenever possible.”

30. **Issue:** 21.07.020B.6.d., *Recreation, Education, or Scientific Activities*

What assurance is there for oversight to prevent recreation impacts on a private recreation facility. Would there even be government access for monitoring? If this has been a problem, consider requiring access.

Staff Response: This has not been a problem, but there is a maintenance easement along streams to allow for access to maintain and fix problems.

Staff Recommendation: No changes recommended.

31. **Issue:** 21.07.020B.7., *Preservation and Restoration of Vegetation*

Is it necessary to reference the Federal Cooperative Extension Service...I believe they are often better funded and ahead of ADNR in identifying invasive species.

The previous draft referred to the Selected Invasive Plants of Alaska booklet from USDA. That was deleted and replaced with “identified by ... the Alaska department of natural resources.” Is this consistent with the reference to the ASDA booklet added to section 21.07.080.G.1.a (p.57)? It’s good to see acknowledgment of the problem with invasive plants.

Staff Response: We were told by a state forestry employee that “DNR is the state agency that determines noxious species.”

Staff Recommendation: No changes recommended.

32. **Issue:** 21.07.020B.8.a.ii., “B” *Wetlands*

Require a condition of approval:

Areas where open space is to be preserved in its natural state shall be indicated on the plat or approved site plan *as a condition of approval.*”

Staff Response: The suggested language is unnecessary.

Staff Recommendation: No changes recommended.

33. **Issue:** 21.07.020B.8.a.iii., “C” Wetlands

“C” wetlands mitigation

Delete “whenever practicable” if the meaning is “whenever practical”. This means “almost never”—experienced staff can tell you that mitigations that cost any money or time are frequently “not practical”. However, if the meaning is “whenever it could be practiced”, substitute “whenever applicable”.

Staff Response: Current code language, but the change makes sense.

Staff Recommendation: Page 10, lines 39-43, amend to read, “When approving plats or conditional use permits in wetlands designated “C” under the plan, the platting authority or the planning and zoning commission shall, whenever applicable [PRACTICABLE], include the recommended construction mitigation techniques and conditions and enforceable policies in table 2 of the *Anchorage Wetlands Management Plan*.”

34. **Issue:** 21.07.020B.8.b., *Application of Plan to Approved Projects*

Under the 1996 cut-off date, what significant undeveloped preliminary plats and conditional uses get a waiver? Is the possible public impact worth this amnesty?

Staff Response: The department does not have the time or resources to research all the plats and conditional uses prior to 1996 to see which ones are undeveloped and “significant.” Presumably this has been agreed-upon policy for 12 years.

Staff Recommendation: No changes recommended.

35. **Issue:** 21.07.020C., *Steep Slope Development*

Personally, I believe that the current draft of the steep slope portion of Chapter 7 goes beyond general recommendations for land use and appearance and into engineering and site design. Some of the restrictions and requirements may not be appropriate for grading a specific site. They may not accomplish the goals of the plan and may, in fact, be unsafe. Furthermore, they may be in conflict with other codes in force in the Municipality, e.g., IBC.

As current Chair of the GAC, I suggest the Commission review this draft formally.

Staff Response: The department welcomes a GAC review of the section. The section has been reviewed by engineers, both in the Project Management and Engineering Department and the Development Services Department. A few of the provisions are stricter than the building code. The Planning Department has some suggested amendments based on those reviews.

Staff Recommendation: Page 13, lines 21-23, amend to read, “All [FINAL] grading and drainage shall comply with section 21.07.040, title 23, the *Design Criteria Manual* (current approved edition), and the municipality’s *Storm Water Treatment Plan Review Guidance Manual* [*EROSION-SEDIMENT CONTROL HANDBOOK*].”

Page 14, lines 32-38, amend to read, “A geotechnical [AND] engineering report to include the following:

(A) Nature, distribution, strength, and stability[, AND PH] of soils; conclusions and recommendations for grading procedures; recommendations for frequency of soil compaction testing, design criteria for corrective measures; and opinions and recommendations covering the adequacy of the site[S] to be developed.”

Page 14, lines 39-42, amend to read, “Slope stability analysis: conclusions and recommendations concerning the effects of slope stability of excavation and fill [MATERIAL REMOVAL], introduction of water (both on and offside), seismic activity, and erosion.”

Page 15, lines 1-4, amend to read, “Foundation investigation: conclusions and recommendations concerning the effects of soil conditions on foundation and structural stability, including permeability, bearing capacity, and shear strength[, AND SHRINK/SWELL POTENTIAL] of soils.”

Page 15, lines 9-13, amend to read, “Complete description of the geology of the site, [INCLUDING SITE GEOLOGIC MAPS,] a complete description of bedrock and subsurface conditions and materials, including artificial fill, soil depth, avalanche and mass wasting hazard areas, fractures, or other significant features.”

Page 15, lines 32-37, amend to read, “Drainage plans showing approximate locations for all surface and subsurface drainage devices, retaining walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed work, together with a map showing drainage area, how roof and other impervious surface drainage will be disposed, the complete drainage network...”

Page 16, lines 34-36, amend to read, “Areas not well suited for development due to soil stability characteristics [(SOLIFLUCTION, MASS MOVEMENT)], geology, hydrology limitations, or wastewater disposal, have been avoided.”

36. **Issue:** 21.07.020C., *Steep Slope Development*

It’s disappointing to see the deletion of “preserve the most visually significant slope banks and ridgelines in their natural state.” And “preserve visually significant rock outcroppings, native plant materials, natural hydrology and other areas of visual significance.” Other cities protect their views. I doubt Phoenix ever regretted limiting development on its hills? The ability to develop using a conservation subdivision and the alternative compliance rules allow a developer to use their land and protect the look of the land.

Staff Response: The department proposes a modified amendment to address this issue.

Staff Recommendation: Page 11, line 22, add new “f.” and re-letter remaining:

“Encourage the protection of visually significant and/or prominent natural features, such as ridgelines and rock outcroppings.”

37. **Issue:** 21.07.020C.1.d., *Purpose*

“appropriate building types” is vague unless further intent is added. Add the language: “...developments that integrate into the natural terrain of sloped areas with minimal re-contouring, in accordance with Comp 2020”.

Staff Response: The department has no objection to this amendment.

Staff Recommendation: Page 11, lines 19-20, amend to read, “Encourage [APPROPRIATE] building types, grading design, lot sizes, site design, density, arrangement, and spacing of buildings in developments in sloped areas that integrate into the natural terrain with minimal re-contouring, in accordance with adopted goals and policies.”

38. **Issue:** 21.07.020C.1.f., *Purpose*

Add words to clarify intent. “Incorporate drainage design that does not adversely impact receiving water bodies or neighboring or nearby properties...”

Staff Response: Staff does not object to this addition, but proposes a slightly different wording.

Staff Recommendation: Page 11, lines 22-23, amend to read, “Incorporate drainage design that does not adversely impact neighboring or nearby properties, downstream properties, receiving waters, and public infrastructure; and”

39. **Issue:** 21.07.020C.1.g., *Purpose*

Add retention of runoff as one of the benefits of natural vegetation.

Staff Response: Staff does not object to this suggestion.

Staff Recommendation: Page 11, lines 24-25, amend to read, “Encourage the retention of natural, indigenous vegetation that provides wildlife habitat, helps retain runoff, and maintains the area’s visual character.”

40. **Issue:** 21.07.020C.1.h., *Purpose*

Add purpose: h. Preserve prominent natural landscape features and native vegetation. This derives from several Comp 2020 goals and policies, including integrating/ connecting into the natural setting.

Staff Response: See Issue #36.

Staff Recommendation: See Issue #36.

41. **Issue:** 21.07.020C.2. , *Applicability*

This draft added that these requirements only apply to lots 40,000 square feet or greater. What requirements are there for smaller lots?

Throughout the chapter, there are cut-offs for various requirements at 40,000sf or 1 acre. Which is used appears to be arbitrary. Since 1 acre defines the lot size for R-6 in this rewrite, that is a focal size. Things would be clearer if “1 acre” were used in all cases where 40,000sf or 1 acre is now used.

Staff Response: There are no Title 21 requirements for smaller lots.

The minimum lot size for an R-6 lot is one acre, and the minimum lot size for on-site systems is 40,000 square feet. In this situation, the department considers it appropriate to tie the steep slope development regulations to the size of lots that are likely to have on-site systems.

Staff Recommendation: No changes recommended.

42. **Issue:** 21.07.020C.3. and 21.07.020C.4., *Standards and Slopes Greater Than 30 Percent*

Add, after the first sentence:

These standards do not supersede or otherwise set precedence over the requirements for site grading, retaining walls, drainage, slope stability, and/or other improvements defined under Title 23.

Commentary - It seems the items pertaining to steep slopes, grading, and retaining walls may conflict with, or at least could be construed to replace the requirements for engineering and design addressed in Title 23. However, rather than try to rewrite those items, maybe adding the following sentence would suffice.

Staff Response: This language is unnecessary. Both codes apply, which is clarified in chapter 21.01. This section has been reviewed by the Development Services Department and revisions to prevent conflicts are proposed through Issue #35 above. It is possible that this section may have a stricter standard than Title 23.

Staff Recommendation: No changes recommended.

43. **Issue:** 21.07.020C.3.a., *Slopes Greater than 30 Percent*

Remove the word “contiguous” – this is what got us in trouble in Eagle River above Tips bar where Baker clear cut.

Staff Response: The intent is that steep areas smaller than 5,000 square feet may be disturbed—thus the word “contiguous” is vital.

Staff Recommendation: No changes recommended.

44. **Issue:** 21.07.020C.3.b., *Site Disturbances Envelope*

How does this whole section compare to current site clearing ordinance?

What does “modify fuels” mean?

Staff Response: The site clearing ordinance is intended to address situations involving clearing of land before there is any development proposal or plan. This section is intended to limit the amount of the site that can be cleared on a steeply-sloped large lot.

“Modify fuels” is a Fire Department term that refers to vegetation trimming or removal in order to reduce fire risk.

Staff Recommendation: No changes recommended.

45. **Issue:** 21.07.020C.3.b.ii.(A), *Site Disturbance Envelope*

Allowing 20,000 sq. foot site disturbance is too high-impact if the steep lot is only 20,000 to 40,000 sf as is common in the R-7 and R-6. Witness Prominence Pointe.

Insert “20,000 sq. feet maximum, or 33 percent of lot area, whichever is less”.

Staff Response: This section only applies to lots that are 40,000 square feet or greater.

Staff Recommendation: No changes recommended.

46. **Issue:** 21.07.020C.3.c.ii., *Cutting, Grading, and Filling*

Why allow a driveway to include cut and fill within 15 feet of property line...the chance of impact to the abutting property is high on sloped lots. Delete exemption for driveway, and add: Require an engineering certification for any cut or fill within 15 feet of property line on steep slopes.

Staff Response: The intent behind exempting a driveway was to allow it to reach street. A clarifying amendment is proposed.

Staff Recommendation: Page 12, lines 22-25, amend to read, “Cut and fill slopes shall be entirely contained within the site disturbance envelope. The toe of any fill slope not utilizing an engineered retaining structure, and any engineered retaining structure shall be a minimum of 15 feet from any property line, except for the property line abutting the street from which driveway access is taken [AS ASSOCIATED WITH A DRIVEWAY].”

47. **Issue:** 21.07.020C.3.f., *Natural Drainage Patterns*

This section needs measurable standards.

In addition, delete language “to the maximum extent feasible” from subsection f iii and replace with: Access and structures and landscaped areas shall be located within the development in a lay-out that preserves the natural surface drainage pattern...” “to the maximum extent” is a subjective standard whereas layout gives a method to achieve the intent of preserving natural surface drainage.

Staff Response: The department does not object to the proposed deletion.

Staff Recommendation: Page 13, lines 24-26, amend to read, “[TO THE MAXIMUM EXTENT FEASIBLE, D]Development shall preserve the natural surface drainage pattern unique to each site as a result of topography and vegetation.”

48. **Issue:** 21.07.020C.3.f.iii., *Natural Drainage Patterns*

What standards/criteria must be met in order for the developer to demonstrate that there will be no significant adverse impacts on-site or nearby? How will this be proved or substantiated? Definitive criteria must be available and applied before drainage patterns are allowed to be changed.

This says “preserve the natural surface drainage.” The word “surface” should be deleted to require consideration of subsurface drainage as well. See sections 21.07.040D.3.b (p.21) and D.6 (p.22) with requirements regarding subsurface water.

Much of the Hillside’s drainage problems are related to disturbance of subsurface water.

Staff Response: Standards and criteria as requested in the comment are appropriate for the *Design Criteria Manual* and other regulatory documents, not the land use code.

In most instances, the subsurface drainage is not known. There is a provision in subsection 21.07.040D.6. that requires work to stop and a new drainage plan to be approved if unexpected subsurface flows are exposed during site work.

Staff Recommendation: No changes recommended.

49. **Issue:** 21.07.020C.3.g., *Ground Cover and Revegetation*

The November 1 date misses the heavy rains that often fall in August-September, and run-off and gets worse as vegetation dies back. Consider a more effective re-vegetation date, or an “as-you-go” revegetation for any disturbance that is initiated after August 1.

Also, insert wording on Best Management Practices for construction mitigation on steep slopes. Plastic sheet barriers are often ripped out by mudflows where disturbed slopes are steep: for example, at Potter Creek and Romania in 2006-2007.

Shouldn't this be covered by the SWPPP (Soil Water Pollution Prevention Plan) required by the Design Criteria Manual?

As land for school sites in the Anchorage Bowl become more scarce, steeper average slopes of 20% or greater may become more common for School District's development. Using the above-normal temperatures for 2007 construction season as an example, excavation well into November or well before May 1 may become more the rule than exception. Rather than arbitrarily picking deadline dates, it might be clearer to define the concerns and intent. This would allow for seasonal adjustment by the Building and Planning departments.

Revisit establishing deadline dates. Look at setting performance parameters instead.

Staff Response: The requirement is for revegetation or soil stabilization by November 1. If the work continues too late in the year for revegetation to become established, then soil stabilization techniques are employed.

Best Management Practices are appropriate for the *Design Criteria Manual*, the *Municipality of Anchorage Standard Specifications* book (MASS), and other regulatory and guidance documents.

This basic standard is a code requirement—more project-specific requirements may be in the SWPPP.

Staff Recommendation: No changes recommended.

50. **Issue:** 21.07.020C.3.h.iii., *Building Design Standards*

Covered with what? Give specific list of what materials can/can not be used for fire code, aesthetics or they can staple blue plastic tarps and duct tape and call it good.

Question the value of covering piers and pilings since ground movement due to frost will potentially destroy most encasement materials. Likewise any wooden structure would be subject to rot over time. Painting the pilings would seem a better way to mitigate visual impact.

Staff Response: Considering other design standards, this requirement is probably not necessary.

Staff Recommendation: Page 14, line 10, amend to read, “[PIERS OR PILINGS USED TO SUPPORT ANY PART OF A STRUCTURE SHALL BE COVERED.]”

51. **Issue:** 21.07.020C.4., *Slopes Greater Than 30 Percent*

There is no language or criteria stating that there will be instances where the permitted zoning/density may be impossible to obtain. Too often landowners assume that a particular zoning will allow development at a specific density, when in fact zoning cannot guarantee that. Good design standards must be applied for the benefit of the community and environment and should be applied before zoning criteria are.

This new allowance for building on slopes over 30% creates a significant new benefit for owners of property on steep slopes. This increase in value should be remembered if there are complaints from landowners regarding new requirements to protect natural features.

Staff Response: The statement, “Nothing in this subsection guarantees approval to disturb slopes greater than 30%” implies that the proposed development may not be approved, and thus the maximum density of the underlying district may not be reached.

Staff Recommendation: No changes recommended.

52. **Issue:** 21.07.020C.4.a., *Purpose*

Rephrase “downstream impacts” to something more accurate. Perhaps “offsite” would be more accurate.

Staff Response: The department has no objection to this change.

Staff Recommendation: Amend to read, “In order to assure the safety and stability of such development and to reduce offsite [DOWNSTREAM] impacts, additional submittals are required as described in this subsection.”

53. **Issue:** 21.07.020C.4.e.i., *Additional Submittal Requirements*

Is the geotech.& engineering report implicitly required to be stamped by a registered professional?

Staff Response: No stamp is required, but the information is of the type that could only be provided by a professional. If the report was provided by someone who was not a professional engineer, the information would be suspect.

Staff Recommendation: No changes recommended.

54. **Issue:** 21.07.020C.4.e.i. through iii., *Additional Submittal Requirements*

Since 21.07.020.C.2 applies to any lot with 40,000 square feet and an average slope of 20% (30% in C.4) or greater. The cost of a geotechnical report, as outlined in this section, is cost prohibitive for single family development and small subdivisions. Request that staff substantiate the insistence of such a rigorous list when the scientists and engineers hired by the owner must be licensed through the state.

Staff Response: This report is only required for development on slopes over 30%, which is quite steep. Many communities prohibit development altogether on such steep slopes. Development in these steep areas is more difficult and has more potential to create impacts on other properties. The additional information is important to be sure that the proposed development is safe and will not negatively impact the surroundings.

Staff Recommendation: No changes recommended.

55. **Issue:** 21.07.020C.4.e.i.(A)., *Additional Submittal Requirements*

Clarify “the adequacy of the sites to be developed.” Shouldn’t this be a rating tied to specific proposed infrastructure and buildings?

Staff Response: The report is tied to a specific development application, and the report requires just an opinion and recommendation on the adequacy of the site. “Sites” is changed to “the site” in amendments in Issue #35.

Staff Recommendation: No changes recommended.

56. **Issue:** 21.07.020C.4.e.i.(C)., *Additional Submittal Requirements*

....Should the words seismic activity be added here?

Staff Response: Seismic issues are handled in (B) and also through the building code (title 23).

Staff Recommendation: No changes recommended.

57. **Issue:** 21.07.020C.4.e.i.(E)., *Additional Submittal Requirements*

Specify depth to groundwater in wettest seasonal conditions because this varies considerably in basins at the base of slopes.

Staff Response: The department agrees that this information can be important.

Staff Recommendation: Page 15, line 8, amend to read, “Depth to groundwater in the wettest seasonal conditions, and to bedrock.”

58. **Issue:** 21.07.020C.4.e.i.(G)., *Additional Submittal Requirements*

Specify testing protocols to ensure reliable field data rather than just asking for a summary of field exploration methods.

Reason: we’ve had P&Z reviews based on junk data like submittals of 40-year old well logs and admittedly non-standard hydro analysis.

Staff Response: The code is not the appropriate place for testing protocols, but the department agrees that the information provided should not be excessively old.

Staff Recommendation: Page 15, lines 14-16, amend to read, “A summary of filed exploration methods and tests on which the report is based, such as probings, core drillings, borehole photography, or test pits. Field data shall be from within the previous 10 years.”

59. **Issue:** 21.07.020C.4.e.iii.(C)., *Additional Submittal Requirements*

Give measurement of “area served” such as within 100’ ..concern about neighboring lots/streets, bodies of water that may be 2 lots away but not shown on the document under review that ultimately would be affected.

Add to last sentence, *including volume, rate, sediment load, and contaminant load.*

Staff Response: The area served is the lot. The volume of runoff is required in the last sentence of the section. Considering that most development on large lots in steeply sloped areas will be single family homes, the department considers requiring sediment and contaminant loads to be unnecessary.

Staff Recommendation: No changes recommended.

60. **Issue:** 21.07.020C.4.g.iii., *Approval Criteria*

On slope affected properties of one acre and larger does it really matter that the houses blend in with the terrain? Are we so tied up with a homogenous society that we cannot express individuality? If a developer had approved plans for varying house styles and colors, who in five years is going to enforce them? These are just more rules to chase down and try to enforce. Request that items ‘iii and iv’ be deleted.

Staff Response: “Complementing the terrain” does not mean “homogenous”. These standards, for slopes between 30% and 50%, are proposed to enhance the appearance and character of steeply sloped, and thus highly visible, areas.

Staff Recommendation: No changes recommended.

61. **Issue:** 21.07.020C.4.g.v., *Approval Criteria*

This criterion is duplicative with other criteria and the site plan review approval criteria.

Staff Response: The department does not object to the deletion.

Staff Recommendation: Page 16, lines 29-31, amend to read, “[THE PROJECT PROTECTS THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF PERSONS RESIDING IN AND AROUND THE AREA, AS WELL AS THE COMMUNITY AT LARGE.]”

62. **Issue:** 21.07.020D., *Wildlife Conflict Prevention Areas*

Under D 1, list Little Survival and Potter Creek. Potter Creek is the only creek remaining largely undeveloped from alpine to tidelands and because part of it is in a greenbelt ravine, likely to remain a wildlife corridor.

Is a good idea but may not be enough; consistent with our earlier comments, minimizing the human impact on wildlife involves more than mere prevention of conflict. Some of the voluntary guidelines, such as “all outdoor trash receptacles should be bear-proof,” “pet runs and livestock should not be kept in this area,” should be mandatory. As stated in our March ‘06 comments, “as a result of development...many habitat areas have been significantly impaired, altered, fragmented, and in some cases destroyed.” Furthermore, the cases of wild animals negotiating space with humans in urban and suburban areas, because of sprawl, are well-documented here and in the lower 48. We do not want to exacerbate existing problems associated with encroaching on habitat. Maintaining habitats also minimizes wildlife and human conflicts.

This section was written for bears and neglects moose. Moose need different section of the streams that bears use, some additional streams, and some scattered parcels of habitat in or between neighborhoods. Moose can be every bit as dangerous as bears. If we remove all the natural areas with Anchorage that wildlife are currently using,...the animals will not go away...they will encounter more garbage cans, gardens, school children, and other problems.

Change title to “Wildlife Conflict Prevention and Temporary Shelter Areas”

Add a purpose statement as D.1., “Wildlife is a part of the unique environment in and surrounding Anchorage. The municipality’s parks provide most of Anchorage’s wildlife habitat. However, wildlife move between the parks in many areas. Large animals such as moose and bears can threaten property or human life unless they can find parcels of habitat in the city. Problems involving wildlife will be minimized if: (a) habitat corridors exist between and among Chugach State Park, large municipal parks, and the coast; and (b) small parcels of habitat are maintained in developed areas, providing temporary refuge for wildlife, thereby reducing threats to humans and property.”

Create new section 2: “Conflict Prevention Habitat Areas for Bears and Moose”

Make Applicability into D.2.a. and add Chester Creek, Little Survival Creek, Potter Creek, the coastal bluff and flats between Potter Marsh and Kincaid Park, wetlands in Klatt Bog, and wetlands in Far North Bicentennial Park to the list of applicable streams.

Add the following two standards:

-“Existing campgrounds shall have bear-proof trash cans, and bear-proof lockers where campers can store their food.”

-No fences are allowed within 10 feet of the stream.”

Add the following new section 3:”Conflict Prevention Shelter Areas for Moose

Intent and Purpose

Moose habitually seek temporary refuge in patches of natural vegetation (woodland) when moving through developed areas. They intrude into human spaces less often in neighborhoods with such shelter habitats.

Guidelines

Retention of patches of natural habitat in public or private open space is encouraged.

Natural vegetation provides temporary shelter for moose if the area is at least 100 feet in the smallest dimension and is vegetated with bushes and trees.

Retention of a naturally vegetated refuge is encourage if the following do not exist within one half mile in each direction:

Another patch as described above, or

A more extensive natural wooded space, such as a park or undeveloped area.

Fences and developed trails are discouraged within moose habitat patches.

Pet runs and livestock should not be kept in these areas.”

Add a new section 4: “Credit for Open Space

Natural open space retained under this section may be credited as described under 21.07.030B.4.a.”

This small section on wildlife habitat is inadequate to protect wildlife or habitats in Anchorage. This is surprising given Anchorage’s broadly expressed interest in wildlife among us. Moose, bears, and other species depend on many natural "refuge" areas between developed areas. Without these habitats, conflicts with wildlife will increase.

The elimination of public open space requirements further diminishes the protection of wildlife corridors.

Please explain how proposed language in 21.07.020 D. Wildlife Protection Areas meets Anchorage 2020 goals for “...preserving and enhancing Anchorage’s ...fish, wildlife and plant habitats and their ecological functions and values,” and “A wide variety of fish, wildlife and habitats throughout the Municipality that thrives and flourishes in harmony with the community.” The provisions in this draft are inadequate to provide wildlife corridors, prevent garbage from attracting wildlife, and prevent new construction and fences from disrupting habitat. Language should be stronger than: “discourage,” “encourage,” and “should.”

Restore the protections in Section E in Module III as Revised 9/05:

Staff Response: Although the department does not disagree with the observations expressed, the practical application of the recommendations is limited at best. Habitat protection through voluntary set asides is both unlikely and impermanent. Any program for the municipality to purchase land for habitat protection needs to be implemented through a separate planning and

acquisition program, not through Title 21. The department is very supportive of continuing the discussion of these issues separate from the Title 21 Rewrite process.

Staff Recommendation: No changes recommended.

63. **Issue:** 21.07.020D.1., *Applicability*

Include in the stream list: Little Survival Creek, which is the stream that feeds 60%+ of the water to the south end of Potters Marsh and it is a wildlife corridor also. It has undeveloped lands along its headwaters and this regulation is needed before more development occurs.

Staff Response: The stream list came directly from the Anchorage Bear Report, where it was based on locations where bears were found—salmon streams.

Staff Recommendation: No changes recommended.

64. **Issue:** 21.07.030, *Private Open Space*

The most important concern here is the absence of requirements for Public Open Space through new development in this revision of Title 21. Staff should publicize that this requirement was dropped even though augmenting current public open space and greenbelts is a strong intent of Comp 2020 and the Parks Plan; and even though there are no other successful, systematic strategies used by the Muni to supplement our public open space where there are deficits or one-time opportunities. The public should know that this Code Revision backed off from addressing public open space. It shouldn't be a dead issue.

Regarding open space, Anchorage 2020 says “New development shall be accompanied by adequate public or private open space, parks or other public recreational facilities.”

We've seen steady erosion of this goal in every draft of the proposed Title 21. Now the requirement for developers to provide public open space or a fee in lieu has been dropped altogether, leaving only a requirement for private open space that is significantly weaker than previous drafts.

In “Module 3” from 2004, Draft 1 and Draft 2, we saw “These standards are enacted ... to ensure adequate and convenient open spaces ...” In 2006 and now we got “these standards are enacted generally ... secure adequate utilities and public facilities, consideration of ... open space needs.” We started out with provisions of some public along with private open space. That has diminished to almost trivial amounts of private open space.

In Clarion's review of Anchorage's Title 21, they recommended that developers dedicate 10 acres of public open space for every 1,000 new residents. Clarion Associates explained this standard is typical across the nation.

People in Anchorage treasure their open space. Our variety of parks is important in defining the city. That was reflected in Anchorage 2020. If new developments do not help provide some of the open space people expect, the cost of providing that space will fall on the backs of every taxpayer. It is reasonable and typical in other cities, for new developments to carry some of the burden of providing open space.

The provisions for open space should be increased to meet national standards, and 50 percent of that space should be “useable” i.e. flat and dry enough for children to play there.

Most disappointing in the draft is that there is no requirement for public open space. In our March 06 comments, we urged the Planning Department to adopt an entirely different public and private open space subsection, because citizens made it clear as they developed the vision for Anchorage 2020, that they value Anchorage’s natural open space and wildlife habitat. The 2004 draft required developers to dedicate 10 acres of public open space for every 1000 new residents or pay a “fee in lieu.” This is the accepted national practice.

I am a long time resident of Anchorage, 25 years, and more than anything about Anchorage, I appreciate our city's unique open space. My family uses this space on a daily basis as do so many others. I see such a variety of users - all age groups, all hours, all types of non-motorized recreation. I am disappointed in the reduction in open space protection in the drafts of Title 21 and am writing to express strong support for protection of our open space and for ensuring adequate open space for the future. That is, return to the standards proposed in the 2004 draft with a minimum of 10 acres of public open space for every 1000 new residents and 10 to 30 percent of private open space for each development. Drive the length of Seward Highway from Huffman to Downtown and really look at and take in the vast, unplanned and ugly expanse of what we have built and abandoned over the years at the expense of our boreal forest and wetlands. We can do better.

Staff Response: There are a number of concerns with a public open space requirement, which include:

1. Some areas of the city are well-served by parks, and others are not. A blanket requirement for a park with every subdivision does not discriminate between well-served and under-served areas.
2. Many subdivisions are quite small and involve just a few lots. Requiring a public park from each subdivision would result in a proliferation of very small parks, which may not be the best situation for the community—sometimes a larger park may be more appropriate.
3. There is little money to maintain the parks that already exist. Before a multitude of small new parks are created, the mechanism for maintenance funding must be identified.
4. The areas of the Bowl where there are large parcels of unsubdivided land are mostly in the Upper Hillside, which is zoned primarily for large lots. Areas with large lots need fewer parks, as there is open space and recreation area provided on each lot.
5. Requiring a public open space set aside with each subdivision means the developer increases the cost of the lots/homes to recoup the cost of the undevelopable park land, impacting the affordability of homes.
6. There is a perceived “lack of land” in the Anchorage Bowl—amount and placement of parks should be carefully balanced with plans to accommodate future population growth.

The Planning Department recognizes that this is a significant but complicated public policy issue, and understands the pros and cons associated with such a requirement. The department supports continued discussion and resolution of these issues separate from the Title 21 rewrite process. It will require more expertise and resources than are currently available for the Title 21 rewrite process.

Staff Recommendation: No changes recommended.

65. **Issue:** 21.07.030, *Private Open Space*

This section has been watered down from prior drafts. The Clarion Consultants cautioned about reducing these standards in their initial report.

The 2005 Draft required private open space of 800 sq feet/unit. That's about 30% less than Clarion recommended but in the realm of what could be considered "compromise."

The open space requirements were minimal with the provisions that 50% could be used for snow storage and private yards could count for 50%. That meant that all of the non private yard private open space can be used as a snow dump.

In the 2006 Draft, private open space standards were reduced from 800 square feet per housing unit to 600 square feet with development in the central business district exempt from setting aside open space.

In the current Draft, private open space for residential depends on the zoning with the highest at 400 sq ft lowest is 100 sq ft. Surprisingly, the densest developments will have the least open space. And still, snow storage can overlap with 50% of the private open space.

A mere 6' balcony is hardly enough open space for most people, and if this is in a development without common open space, such a small balcony could seem oppressive.

Staff Response: The requirements for open space attempt to find a balance between providing the space and other land use goals, such as affordable housing and sufficient density in certain locations to encourage better transit availability. The public hearing draft requirements—the square footage requirements—are not significantly different from the current code open space requirements, but the quality of the open space is improved. The minimum dimension is increased and the type of land that counts as open space is more restricted, in order to achieve better quality open space.

Staff is proposing an amendment to maintain the level of open space now required in the commercial districts.

Staff Recommendation: Page 18, lines 24-26, amend to read, "Where dwelling units are part of the development, an additional 100 [60] square feet of private open space per dwelling unit shall be provided."

66. **Issue:** 21.07.030B., *Applicability*

The title should more clearly indicate that the section establishes a substantive requirement.

Staff Response: Staff has no objection.

Staff Recommendation: Page 18, line 10, amend to read, "B. Applicability and Open Space Requirement"

67. **Issue:** 21.07.030B., *Applicability*

Floor area used for parking (usually structured parking) should not count as gross floor area for the purposes of calculating private open space. There should be as few disincentives as possible to creating structured parking.

Staff Response: Staff has no objection to exempting floor area used for parking from the gross floor area for this section.

Staff Recommendation: Page 18, lines 11-12, amend to read, “Development shall be required to set aside private open space according to the following minimum requirements. Single-family, two-family, and townhouse residential uses are exempt. For the purposes of this section, gross floor area shall not include floor area devoted to parking or loading, or indoor private open that meets the standards of C.4. below.”

68. **Issue:** 21.07.030B., *Applicability*

Staff should include a figure of the minimum private outdoor open space and minimum common outdoor open space that would be available under B1 through B3. It appears to me that most R4 would have less than 50 feet of private open space per unit but could it be 0 square feet? I think a 6 by 10 balcony or 60 square feet should be a minimum.

Applicability: insert “required private open space may be either private or common”.

Staff Response: In B.1., the open space may be all common (shared among all units), or all individual to the units (private yards). In B.2. and B.3., at least half, but possibly all the open space shall be common (shared among all units). It is possible in the R-4 for there to be no open space that is individual to each unit. Many multifamily developments provide balconies, but this allows flexibility if there are reasons why balconies would be inappropriate.

Staff Recommendation: No changes recommended.

69. **Issue:** 21.07.030C., *Standards*

The new open space section is intended to establish higher standards for the quality and dimensions of usable yards.

However, testing and review of yard areas in some recent multifamily developments indicates that the draft open space standards would still allow certain spaces that fail the intent of the open space section to be counted toward the required open space. The following examples may achieve or nearly achieve the new standards, even though the spaces are linear, poorly delineated from the public sidewalk, and seem unused/unusable.



Fairview, 9th and Medfra

The open space above comes close to or perhaps meets the 15 ft width requirement. If the slope is less than 10%, it appears to comply even though the slope makes it unusable except for the small decks. It lacks definition, privacy, or enough setback.



Fairview, 13th and Barrow

The open space above is 15 ft wide and meets the dimensional requirements. Its slope may exceed 10% but perhaps not by very much. It may not meet the walkway requirement if public sidewalks don't count. Otherwise, it would seem to comply as is.

Staff Response: Staff (who raised the issue) are working on a solution and hope to present one at Monday's meeting.

Staff Recommendation: HOLD

70. **Issue:** 21.07.030C.1.a., *Areas Not Credited*

This does not allow setbacks with slopes over 10% to be counted for private open space. That might be too restrictive for Hillside development. Maybe meet the goal of having useable space by not allowing setbacks with slopes greater than the median slope for the development.

Staff Response: Most Hillside development is single-family or two-family, which is not required to provide private open space.

Staff Recommendation: No changes recommended.

71. **Issue:** 21.07.030C.1.a., *Areas Not Credited*

AHBA requests changing 10% to 25%, a one foot rise in ten feet is hardly a slope to be concerned over for open space. Also, to allow drainage easements, not having ditches or streams, to count for open space.

Staff Response: The intent of this section is to provide high-quality open space for active or passive recreation, relaxation, and enjoyment. The intent is not to have the leftover bits of the property, those portions of property that are more difficult to develop, or portions of property primarily used for some other function, become the open space areas.

Staff Recommendation: No changes recommended.

72. **Issue:** 21.07.030C.1.b., *Areas Not Credited*

Some drainage easements could be a good place for useable open space. Aren't they similar to "water quality easements" in 21.07.040E.9?

Staff Response: Some may be, but most probably aren't good places for usable open space, particularly if the space is to be used for active or passive recreation. A water quality easement is not necessarily a drainage easement or a ditch.

Staff Recommendation: No changes recommended.

73. **Issue:** 21.07.030C.2., *Use of Private Open Space Areas*

Request a change to yard width to "no less than 10 feet". Change balcony to "no less than 5 feet", due to structural requirements under the building code.

Staff Response: The department considers 10 feet to be insufficient for a private yard. The commenter does not explain what structural requirements under the building code make 6 feet a problem.

Staff Recommendation: No changes recommended.

74. **Issue:** 21.07.030C.4., *Indoor Private Open Space Option*

Delete the Indoor Private Open Space Option as an exemption from outdoor open space. This is substituting totally unlike amenities, A closed room does not provide a healthful connection to the natural setting even with 2 glass walls, and there is not guarantee of any quality to this indoor space other than the windows or skylights, which may not even provide views. It could be a video game room or a laundry room with large windows or a skylight roof covered with ice, and serve almost none of the health and recreation benefits of outdoor open space.

Staff Response: As only a quarter of the open space requirement may be fulfilled by indoor space, and indoor space allows more comfortable winter use for more fragile elements of the population, the department considers this an appropriate option.

Staff Recommendation: No changes recommended.

75. **Issue:** 21.07.030C.7., *Fee In Lieu Prohibited*

The large section on “payments in lieu” of providing open space should be restored to provide flexibility in providing a realistic amount of open space. This provision can ensure that fees from a given area are used within the area.

Staff Response: The fee-in-lieu concept was originally proposed with the public open space requirement, never with the private open space requirement. The intent of this section is for developments to provide open space for the use of the residents, customers, and/or employees. If a fee in lieu is provided and a number of fees are accumulated to purchase open space in the area, the status of that land would be confusing (private? for whom? public?) and the intent of the section would not be fulfilled.

Staff Recommendation: No changes recommended.

76. **Issue:** 21.07.040, *Drainage, Storm Water Treatment, Erosion Control, and Prohibited Discharges*

(A)(2)(a) Regulating development preparation and land-disturbing activity in order to control erosion, sedimentation, and the introduction and spread of non-native invasive plants and accordingly...

(d) Regulate land disturbance to minimize the introduction and spread of non-native invasive plants which may become established in streams and watersheds.

(E)(9)(c)(vi) Revegetation with non-native invasive species, sub-species, or varieties.

(3) Dumping in Watercourses or Water Bodies: ...dirt, snow, ice, plant, or other material in such a manner as to obstruct...

(G)(1)(f) Any site where non-native invasive plants have become established (threatening watershed health) and where seeds or other reproductive parts of non-native invasive plants have the potential to spread to uninfested sites.

Staff Response: See Issue #1.

Staff Recommendation: No changes recommended.

77. **Issue:** 21.07.040A., *Purpose*

This Purpose statement is not reflective of the Comp Plan valuation on natural setting and the policies on water quality and watersheds. The environmental quality purposes (2a, 2b, 2c) have all been listed at a lower level of importance than the so-called primary considerations of access, maintenance, safety in 1d. Remove this distinction. The pollution issues and storm

water issues, etc also have highly-significant long-term public impacts on health and safety. List all the considerations in 1d, 2a, 2b, and 2c in one equal list.

Staff Response: There is no hierarchy of purpose statements between A.1. and A.2. All purpose statements apply equally. See also Issue #81.

Staff Recommendation: No changes recommended.

78. **Issue:** 21.07.040A.1., *Purpose*

Does the inclusion of the word ‘and’ here by codify the Design Criteria Manual? If it does then we need to have it as part of this process.

Staff Response: The Design Criteria Manual is intended to be referenced. It is already adopted by the Project Management and Engineering Department and available through their website.

Staff Recommendation: Page 21, lines 2-5, amend to read, “The municipal engineer shall develop, implement, and maintain various guidance manuals which shall provide standards and guidelines for this section 21.07.040. The *Design Criteria Manual* and the *Storm Water Treatment Plan Review Guidance Manual* are examples of such manuals[, AND ARE ADOPTED HEREIN BY REFERENCE].”

79. **Issue:** 21.07.040A.1.c., *Purpose*

Replace last sentence with a stronger directive: “the features, capacity and function of the existing natural system shall be retained”. The current language to “consider and utilize” the functions is weak and does not match the directly preceding endorsement of natural systems.

Staff Response: Drainage design is one of the most site-specific elements of development, and flexibility must be provided to allow decision-makers to work on a case-by-case basis.

Staff Recommendation: No changes recommended.

80. **Issue:** 21.07.040A.1.d., *Purpose*

Please define “arctic climate function”.

Staff Response: “Arctic climate function” means how the drainage and storm water management facilities function in an arctic climate. The section should be amended to recognize that Anchorage is in a sub-arctic climate.

Staff Recommendation: Page 20, lines 23-25, amend to read, “Drainage and storm water management facilities shall be designed with ease of maintenance, long-term function, sub-arctic climate function, protection of public safety, and accessibility as primary considerations.”

81. **Issue:** 21.07.040A.1.d. and A.2., *Purpose*

Why are water quality and minimizing pollution secondary ("other") purposes of drainage systems? The primary design consideration is listed as maintenance and access (A.1.d). This places the developer's and administrator's cost or convenience above public health and a clean natural environment.

Staff Response: "Other" does not mean "secondary." This section covers a variety of water-related issues as noted by the title. The purpose statement lists purposes in section A.1. that are directly related to drainage, and purposes in section A.2. that relate to all the issues of section 21.07.040.

Staff Recommendation: No changes recommended.

82. **Issue:** 21.07.040B., *Relationship to Chapter 21.12, Nonconformities*

Please clarify why nonconforming rights do not apply if the drainage is functioning and not presenting a danger to public safety or welfare.

Staff Response: The requirements for drainage systems are such that if they are functioning and not having an offsite impact, then they are likely conforming.

Staff Recommendation: No changes recommended.

83. **Issue:** 21.07.040D.3.c., *Drainage Plan Required*

Stiff fines and penalties for non-compliance should be attached to this.

Staff Response: Fines and penalties are addressed in section 21.07.040H. and in Chapter 13, *Enforcement*.

Staff Recommendation: No changes recommended.

84. **Issue:** 21.07.040D.4., *Standards*

Insert ...and the Design Criteria Manual *and the purposes of this section*.

Reason: the Design Criteria Manual is subject to change with only internal review. The public interest as stated in this section and adopted land use plans may not be adequately represented because internal reviews may focus primarily on the engineering elements of the design criteria. Also, the Design Criteria Manual is not as easily available to nor as easily understood by the public.

Standards should be tied to the purposes of this section as well as to the Design Criteria Manual. Perhaps the DCM may need to be modified to ensure its intent includes broad public benefits such as water quality and preventing pollution.

Staff Response: 21.07.040A.1. states that the Design Criteria is intended to implement the listed purposes. It also states that drainage plans are intended to implement the listed purposes, so the proposed language is unnecessary.

Staff Recommendation: No changes recommended.

85. **Issue:** 21.07.040D.5.c., *When No Permit is Required*

Clarify by adding (italics): If a project is under construction *and drainage issues in violation of the DCM or this section arise*, the municipal engineer (delete may) *shall* issue a stop work order...

Staff Response: The public hearing draft language gives the municipal engineer the flexibility to issue a stop work order and require a project review even if no violation has occurred. It is related to 5.b. and should probably be combined with that subsection.

Staff Recommendation: Amend to combine 5.b. and 5.c.

86. **Issue:** 21.07.040D.5.d., *When No Permit is Required*

In this section on negative impacts to surrounding property, compel the municipal engineer to enforce. Change wording from “may pursue enforcement” to shall pursue enforcement. The responsibility for drainage review is with the municipality. After the project has been completed, the developer has little interest in the aftereffects, and private legal challenges to seek mitigation or repair are costly, and the MOA needs to be in charge.

Staff Response: Staff supports allowing the municipal engineer to have flexibility to respond appropriately to each individual situation.

Staff Recommendation: No changes recommended.

87. **Issue:** 21.07.040D.6., *Exposure of Subsurface Flows*

Clarify: ...The developer shall amend the drainage plan to address the exposed flows and shall submit it to the Muni and receive approval before resuming site work.

Staff Response: The department has no objection to the clarification.

Staff Recommendation: Amend to read, “If, during site work, unexpected subsurface flows are exposed, site work in the affected area shall immediately stop. The developer shall amend the drainage plan to address the exposed flows and potential for glaciation and shall submit it to the municipality [FOR] and receive approval before resuming site work.”

88. **Issue:** 21.07.040E.3.b., *Exceptions*

Federal regulations deal with all disturbances on developments greater than one acre. In this section the MOA is proposing to extend that to disturbances greater than 500 square feet and more than four feet in depth. Why is the MOA imposing such a strict standard?

Staff Response: In addition to the Construction General Permit, the Feds through the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit program (MS4) require the municipality to eliminate pollutants in stormwater discharges. Our MS4 permit requires us to have a construction site controls program complying with federal, state, and local requirements – this includes sites under one acre. The administrative compliance requirements for this project size are less stringent but water pollution control standards are equally rigorous.

Staff Recommendation: No changes recommended.

89. **Issue:** 21.07.040E.3.c.x., *Exceptions*

Individual residential car washing may include chemicals; specify with water only.

Does this exclude fund-raising car washings, which can result in dozens of cars washed?

Staff Response: This language is taken directly from the municipality's federal permit to discharge into waters of the US.

Fund raising car washes, by practice, are categorized with residential car washing.

Staff Recommendation: No changes recommended.

90. **Issue:** 21.07.040E.3.c.xiii., *Exceptions*

Street washing may cause surges in fecal matter from pets and sediments and salts from sanding. How is this addressed. Does “washing” allow any sort of cleansers? If not, use instead the words ‘street rinsing’.

Staff Response: This language is taken directly from the municipality’s federal permit to discharge into waters of the US.

Staff Recommendation: No changes recommended.

91. **Issue:** 21.07.040E.5., *Land Clearing*

Last sentence is not clear: Change from “buffers of temporary native veg” to “temporary buffers of native vegetation”. Add to last sentence: “...protected from disturbance with fencing as specified in standards of chapter 7”.

Staff Response: The department has no objection to these changes.

Staff Recommendation: Amend to read, “Those temporary buffers of [TEMPORARY] native vegetation in commercial and industrial zoning districts not essential to the parcel’s development shall be retained and protected from disturbance as specified in subsection 21.07.080G.3.”

92. **Issue:** 21.07.040E.7.c., *Erosion and Sediment Control Administrator (ESCA)*

Revoking certificate seems too lenient for violations. What are the penalties to the developer. Include some sort of liability or enforcement tool to the developer as well as the non-performing ESCA.

Reason: drainage is an issue of significant and lasting impact to the public. MOA has had many cases of significant impacts to adjoining property and water bodies.

Staff Response: Any violations that are caused by an incompetent ESCA are also separately treated as violations under the code. An incident which may cause an ESCA certificate to be revoked is not always a violation.

Staff Recommendation: No changes recommended.

93. **Issue:** 21.07.040F.2.b.vi., *Prohibited Discharges or Acts*

To the list of prohibited discharges, add animal excrement if this is not covered in the definition of wastewater in 15.65.010.

Staff Response: Prohibitions on improper disposal of animal excrement are in Title 15. Staff notes there are two definitions of wastewater in Title 15, and recommends using a different one from the one referenced in this section. The two definitions are:

15.65.010--Wastewater means water contaminated by human excreta, food wastes, washwater and other liquid wastes commonly discharged into water-carried sewage disposal systems, and such diluting water as may have entered the waste disposal system. Wastewater does not mean liquids containing hazardous wastes as defined by federal, state or municipal law.

15.20.010--Wastewater means water contaminated by human or animal excreta, food wastes, sewage, washwater and other liquid wastes discharged into water-carried sewage disposal systems, excluding liquids containing hazardous wastes as defined and regulated by federal, state or other municipal laws.

Staff Recommendation: Page 27, line 37, amend to read, “Wastewater, as defined in AMC section 15.20.010 [15.65.010].”

94. **Issue:** 21.07.040G.1.d., *Hazardous Sites*

Question what is so magical about 72 hours. Many yards become flooded during breakup and retain water until the ground thaws in a few weeks. Are our yards now hazardous sites by law? The Anchorage area has large areas of peat deposits which retain vast quantities of runoff. These same areas have become and are quickly becoming subdivisions, are these areas now undevelopable since they are to be classified as hazardous sites? Also, recommend addressing construction sites as temporary ponds may be permissible for on-site retention of run-off and final grading has not been accomplished.

Staff Response: The retention of water for more than 72 hours is only considered a hazardous site if the health of the watershed, the requirements of the Municipal Separate Storm Sewer System permit, or the safety of the public are endangered (per G.1.). Ponding in a yard during breakup is unlikely to meet these conditions. Temporary ponds during construction should be intentional and part of the planning/design documents. If it is not, it would only be considered a hazardous site if it meets the conditions noted above.

Staff Recommendation: No changes recommended.

95. **Issue:** 21.07.040G.2., *Hazardous sites*

On these hazardous sites, i. Insert language to Require engineer to issue a stop work order immediately with use of “shall”. Reason: hazardous sites need mandatory action, stronger

than the “may stop work” under section H.2.a. Public interest in safety and environment should not be compromised for a single project’s progress.

Staff Response: The stop work order is discretionary, because the situation may be such that the current work is not what is creating or did create the hazardous site.

Staff Recommendation: No changes recommended.

96. **Issue:** 21.07.040H.2., *Penalties*

Having a fine of \$1,000.00 per day is a fine deterrent; however, how does the municipality intend on enforcing such a fine? Will the fine be levied by an inspector, the Municipal Engineer, Code Enforcement or the hearing officer? Normally a violator has recourse much sooner than waiting thirty to ninety days to get before the Zoning Board of Examiners and Appeals, especially at a \$1,000.00 per day. Request that fines be “up to \$1,000.00 a day” as the fine should fit the offence.

Staff Response: Depending on whether a citation or an enforcement order is issued, the fine may be levied by the hearing officer or by code enforcement. In H.2.b., the optional nature of the fines (“Violators of this section MAY also be charged \$1,000 per day...”) provides leeway for situations such as those mentioned in the comment. In H.2.c., only after conviction, the fine may be imposed, or injunctive relief may be imposed (or both).

Staff Recommendation: No changes recommended.

97. **Issue:** 21.07.040H.2.b. and c., *Penalties*

Allows for the same penalty for intentional wrongful conduct as negligent wrongful conduct. Intentional tortuous conduct implies that a person intended the wrongful conduct to occur. Negligence involves conduct that was not intended to cause harm. The effect may, in some cases, be the same; however, the person who willfully violates the code has far greater accountability than the person who causes an unforeseen accident. It is important to distinguish between intentional and negligent tortuous conduct because state liability statutes and insurance policies cover only negligent and not intentional wrongdoing. While a person may be liable for damage to a wetland or similar violation stomping on a home owner for a misjudgment the same as a willful violator is just being heavy handed. It would be better if this section stated “up to \$5,000.00”. Giving the courts more leeway in the fines levied allows for appropriate response to the offence.

Staff Response: As noted, the effect of the conduct may be the same. The accountability is also the same—the person who causes the problem, whether intentionally or not, is responsible for it. By differentiating between intentional and negligent conduct, the municipality would have an added requirement of determining whether the conduct was intentional or negligent. That would be extremely difficult, and the municipality does not have the resources to make such an investigation.

Staff Recommendation: No changes recommended.

98. **Issue:** 21.07.040I.1. and 2., *Appeals*

As the body to which appeals are heard under 21.07.040 the Zoning Board of Examiners and Appeals has no authority of interpretation nor ability to waive the standards. These are appeals of decisions of the Municipal Engineer and will most likely involve how the code is to be interpreted and cases of engineering judgment. Yet, even though some board members are professional engineers and attorneys, thereby able to ascertain if any requirement of code may be in conflict with sound legal and engineering principals, the board is unable to render a ruling because it has no authority to do so. The board needs the ability to use its discretion in these matters.

Staff Response: The Zoning Board of Examiners and Appeals is not intended to be, nor organized to be, an engineering board that can make substantive decisions about engineering requirements. If requirements of code are in conflict with sound legal and engineering principals, then that should be addressed through adjustments to the code. It should be noted that in some situations, there may be engineering solutions that the code prohibits, because the solution would create an impact that is unacceptable to the community as noted in adopted goals and policies.

Staff Recommendation: No changes recommended.

99. **Issue:** 21.07.050, *Utility Distribution Facilities*

Few people know the difference between “distribution lines” which may be undergrounded and “transmission lines” which CEA won’t underground. It would avoid unrealistic expectations if a sentence were added to make that clear to readers.

Staff Response: “Utility distribution line” is defined in chapter 21.14. The department will consider also defining “utility transmission line.”

Staff Recommendation: No changes recommended in chapter 21.07.

100. **Issue:** 21.07.050B.1., *Exceptions*

Change the boundaries of the required undergrounding so that Potter, Golden View and Bear Valley are included. Areas south of Rabbit Creek Road include .1,000 – 2,000 acres of undeveloped land that is mostly in large tracts and can spread the cost of undergrounding. This area is highly visible from major viewpoints on the Seward Highway/Potter Marsh. More importantly to public safety, it is an extremely high wind area and outages and fire hazards are increased by aboveground electric lines.

Staff Response: The Assembly passed this undergrounding ordinance in March 2005. When the Assembly has recently taken action on an issue, the Planning Department has carried forward that action without changes to the substance.

Staff Recommendation: No changes recommended.

101. **Issue:** 21.07.050D., *Relationship to Chapter 21.12, Nonconformities*

Unclear. Is this self-negating?

Staff Response: This current code provision states that nonconforming utility distribution lines are subject to nonconforming provisions included in this section (at 21.07.050F.), and that nonconforming utility distribution lines are not considered nonconforming use or structures.

Staff Recommendation: No changes recommended.

102. **Issue:** 21.07.050E.3.a. and 3.d.ii., *Designation of Target Areas*

Modify the section to have the entire urban core be a target area in order to make all the land between the creeks and west of Merrill Field be subject to the undergrounding of utilities.

This area is unique in Anchorage in that it was platted out at the founding of the City. The prevailing pattern of underlying platted land is that of a grid, with short blocks and alleys for service facilities. The area is laid out to be pedestrian oriented yet there are many instances where utility poles are sited in the sidewalk. One of the worst examples is the 15th avenue corridor between Cordova Street and Gambell Street. The Code should reflect the underlying structural characteristics of the platted land and as such the Fairview Council requests this change.

Staff Response: The undergrounding ordinance was revisited in 2005. The Title 21 Rewrite carries forward the decisions made in 2005.

Staff Recommendation: No changes recommended.

103. **Issue:** 21.07.140, *Operational Standards*

(C) Standard (insert between lines 20, 21): No equipment or process should cause the introduction of non-native invasive plants to a previously uncontaminated site or contribute to the spread of non-native invasive plants to uncontaminated sites.

Staff Response: As noted in previous responses, this is not how the problem of invasive plants should be handled.

Staff Recommendation: No changes recommended.

Technical Edits

- Change “ephemeral stream” to “ephemeral channel” throughout the chapter.
- Page 28, line 32—“an” to “any”
- Page 29, line 1—“assess” to “assessed”
- Change “date of passage” to “effective date” throughout the chapter.