

1 CHAPTER 21.01: GENERAL PROVISIONS

2 21.01.010 TITLE AND EFFECTIVE DATE

3 | This ~~title~~-Title shall be officially known as "Title 21, Land Use Planning, of the Anchorage Municipal Code
4 | of Ordinances." It also may be called "Title 21," the "Zoning Ordinance," or "the Land Use Ordinance,"
5 | and is referred to throughout this document as "this ~~title~~-Title." This ~~title~~-Title shall become effective on
6 | ~~effective date~~.

Comment [EBM1]: Disagree--Staff's capitalization scheme was based on direction from the Department of Law, which was to use lower case in most instances. In current code, neither the word "title", nor the various board and commission names are capitalized.

7 21.01.020 AUTHORITY

8 | This ~~title~~-Title is adopted pursuant to authority granted generally by the Alaska Constitution, the Alaska
9 | Statutes (A.S.), and the Municipal Charter, and specifically by:

- 10 | A. Alaska Constitution, Article X, Sect. 11 (Home rule powers);
- 11 | B. Municipal Charter, section 10.02(7) (Requires ordinances for land use controls);
- 12 | C. Municipal Charter, section 12.02 (Requires a planning commission); and
- 13 | D. A.S. 29.35.180(b) (Requires a home rule borough to provide for planning, platting, and land use
14 | regulation).

15 21.01.030 PURPOSE OF THIS TITLE

16 | ~~The purpose sections throughout the various chapters and sections of this Title are not intended as~~
17 | ~~requirements, but rather are intended to provide a context whereby the required provisions of this Title~~
18 | ~~are understood. No required provisions shall be included in the purpose sections of this Title. Such~~
19 | ~~provisions must be incorporated into this Title or other provisions of municipal code.~~ The purpose of this
20 | ~~title~~-Title is to implement the ~~goals, objectives and policies of the~~ comprehensive plan in a manner which
21 | protects the public health, safety, welfare, and economic vitality by:

Comment [EBM2]: There is a section regarding rules of interpretation in Chapter 21.14—any statements regarding how to interpret the purpose statements should be located there. Staff has prepared language for the chapter 14 section about interpreting purpose statements. If it remains here, the statement needs to be rewritten to flow better.

- 22 | A. Encouraging the efficient use of existing infrastructure and the available land supply in the
23 | municipality, including redevelopment of underutilized land;
- 24 | B. Promoting a balanced, diverse supply of affordable, quality housing located in safe and livable
25 | neighborhoods;
- 26 | C. Promoting a balanced supply of nonresidential land uses that are compatible with adjacent land
27 | uses and have good access to transportation networks;
- 28 | D. Promoting ~~well-planned~~ development that creates a sense of place and reflects the municipality's
29 | unique northern setting, natural resources, and majestic surroundings;
- 30 | E. ~~Promoting Providing appropriate development incentives to achieve an economically balanced~~
31 | ~~and diverse community and to promote further~~ economic development in the municipality;
- 32 | F. Conserving the value of buildings and land;
- 33 | G. Protecting the wide diversity of fish and wildlife habitats by ~~minimizing-reducing~~ the adverse
34 | impacts of land development on the natural environment;
- 35 | H. ~~To the degree reasonably practicable, p~~Protecting ~~development and residents of the~~
36 | ~~municipality~~the citizens and their properties from flooding, wildfires, seismic risks, and other
37 | hazards;
- 38 | I. ~~Promoting a Encouraging development of a sustainable and accessible~~ system of recreational
39 | facilities, parks, trails, and natural open space that meets year-round neighborhood and
40 | community-wide needs;

Comment [EBM3]: Disagree--Development should be well-planned--that is why there are planning regulations in state and municipal law, a planning department, and a land use and development code.

Comment [EBM4]: Disagree--Staff considers this a valid and appropriate purpose statement.

Comment [EBM5]: Disagree--Minimize means "to reduce to a minimum, decrease to the least possible amount or degree." Reduce means "to lessen in any way, as in size, weight, amount, value, price, etc; diminish" Clearly "minimize" is the appropriate word here.

Comment [EBM6]: Disagree--This is unnecessary in a purpose statement, especially as it is noted above that these are not requirements. The intent of the Muni is to "protect citizens from hazards", not to "protect citizens as much as practicable from hazards"—the second is how it plays out in the regulations. That is where the cost/benefit analysis and the practicality come in.

Comment [EBM7]: Disagree--Are "promoting" and "encouraging" so different that an amendment needs to be made?

- 1 J. Promoting compact development in city centers and infill areas so as to create efficient travel
- 2 patterns;
- 3 K. Encouraging the retention of mature vegetation;
- 4 L. Protecting and enhancing livable and distinctive neighborhoods;
- 5 ~~M. Facilitating the adequate and safe provision of transportation, water, sewage, drainage, schools, parks,~~
- 6 ~~and other public facilities; and~~
- 7 ~~N.M. Promoting Encouraging land and~~ transportation development patterns that ~~promote public health~~
- 8 ~~and insure~~ safety and offer transportation choices.

Comment [EBM8]: Disagree--This is an important function of planning and the code. It is the only clear mention of infrastructure as a separate item from uses

Comment [EBM9]: Disagree--Land is an important word in this purpose statement, as land use and transportation are tightly linked, and land use patterns have more of an impact on transportation choices and public health than transportation patterns.

Comment [EBM10]: Disagree--It is increasingly apparent that public health and land use are closely linked. (See the Obesity Task Force recommendations) Land use regulations must consider and promote public health.

21.01.040 APPLICABILITY AND JURISDICTION

- 10 A. General
- 11 The provisions of this ~~title-Title~~ shall apply to all land, buildings, structures, and uses thereof
- 12 located within the municipality, unless an exemption is provided by the terms of this title.
- 13 B. Application to Governmental Units
- 14 To the extent allowed by law, the provisions of this ~~title-Title~~ shall apply to all land, buildings,
- 15 structures, and uses owned by government agencies, including all municipal, state, and federal
- 16 lands, within the corporate limits of the municipality. Where the provisions of this title do not
- 17 apply to such land, buildings, structures, and uses, such agencies are encouraged to meet the
- 18 provisions of this ~~title-Title~~.
- 19 C. Compliance Required
- 20 No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use,
- 21 nor shall any land, building, or structure be used or changed, except in accordance with this
- 22 ~~title-Title~~. No lot of record that did not exist on the effective date of this ~~title-Title~~ shall be created,
- 23 by subdivision or otherwise, that does not conform to the applicable requirements of this ~~title-Title~~,
- 24 unless allowed by section 21.01.090, *Transitional Provisions*.

21.01.050 OFFICIAL ZONING MAP

- 26 A. Incorporation Into this Ordinance
- 27 The official zoning map designates the location and boundaries of the various zone districts
- 28 established in this ~~title-Title~~. It consists of a series of map pages adopted by ordinance and any
- 29 subsequent amendments in accordance with this ~~title-Title~~. The official zoning map is
- 30 incorporated herein by reference and referred to as the "zoning map" in this ~~title-Title~~. The zoning
- 31 map shall be kept on file in the office of the department and is available for public inspection
- 32 during normal business hours. The map shall be the final authority as to the current zoning status
- 33 of lands, ~~water areas, buildings, and other structures in the municipality.~~
- 34 B. Changes to Official Zoning Map
- 35 Changes made in zoning district boundaries or other matters portrayed on the official zoning map
- 36 shall be made only in accordance with the provisions of section 21.03.160, *Rezoning (Zoning*
- 37 *Map Amendments)*.
- 38 C. Interpretation of District Boundaries
- 39 In the case of any dispute regarding the zoning classification of property subject to this ~~title-Title~~,
- 40 the official zoning map contained in the department shall control, or other official records as
- 41 provided below. The director shall use the rules set forth below to interpret the map. Appeals

Comment [EBM11]: Partially disagree--The entire municipality is zoned, and there is water included in the municipality, so water areas are zoned. It is ok to delete "buildings and other structures".

shall be made to the zoning board of examiners and appeals in accordance with section 21.03.050[040], Appeals.

1. Where the zoning map shows a zoning district boundary line located within or following a street or alley right-of-way, utility line right-of-way, or public use easement, the district boundary shall be considered to be in the center of the right-of-way or easement. If the actual location of such right-of-way, or easement, as indicated in a recorded legal description of such, varies slightly from the location shown on the zoning map, then the actual location shall control.
2. Where the zoning map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall control.
3. Where the zoning map shows a district boundary to coincide with a property line or municipal border, the legal property line or municipal border shall be considered to be the district boundary, unless otherwise indicated on the map.
4. Where the zoning map shows a district boundary to not coincide or approximately coincide with any street, alley, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the zoning map.
5. Where the zoning map shows a district boundary dividing an existing lot, each part of the lot shall be used in conformity with the standards established by this ~~##e-Title~~ for the zoning district in which that part is located.
6. Where the case record conflicts with the zoning map, the case record shall control. For example, if the zoning map shows a property to be zoned R-1, yet the case record shows that the property was actually zoned I-1, the case record would control and the map would be changed to reflect the case record. Any permits issued in reliance on the erroneous designation shall be considered valid under this ~~##eTitle~~; ~~however~~However, the lot, structure, or use shall be considered nonconforming and governed by chapter 21.12, Nonconformities.

D. User's Guide

The User's Guide that is being prepared by staff, shall set forth the procedures and processes governing all applications provided for by this Title. The User's Guide shall not contain any substantive land use provision. Such provisions must be incorporated into this Title or other provisions of municipal code.

21.01.060 CONFLICTING PROVISIONS

A. Conflict with Other Public Laws, Ordinances, Regulations, or Permits

This ~~##e-Title~~ is intended to complement other municipal, state, and federal regulations that affect land use. This ~~##e-Title~~ is not intended to revoke or repeal any other public law, ordinance, regulation, or permit, except as expressly set forth in ordinance. However, where conditions, standards, or requirements imposed by any provision of this ~~##e-Title~~ are either more restrictive or less restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern.

B. Conflict with Comprehensive Plan

This Title implements the goals, policies and objectives of the Comprehensive Plan with a comprehensive set of standards and requirements applicable to all land, buildings, structures,

Comment [EBM12]: Disagree--This is an inappropriate location for discussion of the users guide. This section (21.01.050) is about the Official Zoning Map, which isn't related to the User's Guide. Explanation and regulation of the users guide is in chapter 21.03. It is also redundant to include this section in chapter 1.

Additionally there are concerns about such a broadly worded prohibition against substantive provisions in the users guide. The users guide may reference municipal policy, interpret instructions, or contain pre-approved design alternatives (see sections 21.07.110 and 120) or illustrations—all of which, while not stand-alone substantive provisions, will assist with the substantive provisions in the code. This black and white prohibition makes it more difficult for staff to provide helpful information in the users guide.

Comment [EBM13]: Disagree--This is inappropriate wording for code—by the time the code is adopted, there will be a bare bones users guide that will be fleshed out over time. The code should not contain time-sensitive provisions.

Comment [EBM14]: Our Department of Law recommended that this section B deleted, as by law, the Comprehensive Plan and Title 21 are not allowed to conflict. Coffey's narrative says this section is about creating a hierarchy between the comp plan and T21, but it is really about conflict. No statement of hierarchy (or conflict) is necessary because both documents must be in sync and both documents apply to any entitlement requests.

and uses located within the municipality. Thus, it is vital that the more specific design and development standards that are contained in title Title 21 and are intended to apply to individual development applications shall apply over the general goals and policies of the comprehensive plan in situations where there may be a potential conflict when dealing with development applications. Where conditions, standards, or requirements imposed by any provision of this title Title are either more restrictive or less restrictive than any provision found in the comprehensive plan, the provision of this title Title shall govern.

C. Conflict with Private Agreements

This title Title is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this title Title are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this title Title shall govern. Nothing in this title shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this title Title. In no case shall the municipality be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

21.01.070 SEVERABILITY

- A. If any court of competent jurisdiction invalidates any provision of this title Title, then such judgment shall not affect the validity and continued enforcement of any other provision of this title Title.
- B. If any court of competent jurisdiction invalidates the application of any provision of this title Title, then such judgment shall not affect the application of that provision shall not be applied to any other building, structure, or use not specifically included in that judgment.
- C. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

21.01.080 COMPREHENSIVE PLAN

A. Purpose

The purpose of the comprehensive plan is to set forth in general terms the goals, objectives, strategies, and policies governing land use development of the municipality. As adopted, this section and the documents incorporated in this section constitute the comprehensive plan of the municipality.

B. Elements

1. Adopted Elements

The comprehensive plan consists of the adopted elements identified in the following table, and which are incorporated in this chapter by reference. Plans or other elements that are not listed below are not official elements of the comprehensive plan, though they may be valid planning tools.

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS

Area/Topic	Plan	Adoption Date ¹	Amendments
Anchorage Bowl	Anchorage 2020, Anchorage Bowl Comprehensive Plan	AO 2000-119(S); 2-20-2001	AO 2002-119; 9-10-2002
	Spenard Commercial District Development Strategy	AR 1986-121; 6-17-1986 AO 1987-145; 12-15-1987	
	Tudor Road Public Lands and Institutions Plan	AR 1986-162; 9-9-1986	
	3500 Tudor Road Master Plan	AO 2007-118; 11-13-2007	

Comment [EBM15]: Presumably if the provision was not to be applied universally, then the judgment would say "you can no longer apply this provision at all to any situation". But if it was a case specific invalidation, then we do not want to be limited from applying the provision to other situations. This section was drafted by nationally-recognized land use lawyers.

Comment [EBM16]: Disagree--Not necessarily. This amendment is not accurate.

Comment [EBM17]: Disagree--Coffey is incorrect in his narrative when he stated that what he has eliminated from the table were not adopted plans. As you can see from the adoption date, all of the plan elements were adopted either by assembly ordinance or assembly resolution, and the table note (carried forward from current code) states that any that were adopted by assembly resolution are to be considered to be adopted by assembly ordinance. (some of the ordinances mention being a comp plan element, and some don't)

Staff is not necessarily against removing some of these elements, but a thorough review of the older ones is warranted before a decision on what to remove is made.

Additionally, is deleting them from this table a legal way to "unadopt" plans?

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS

Area/Topic	Plan	Adoption Date ¹	Amendments
	Anchorage Downtown Comprehensive Plan [CENTRAL BUSINESS DISTRICT COMPREHENSIVE DEVELOPMENT PLAN]	AO 2007-113; 12-11-2007 [AR 1983-194(S); 9-13-1983]	
	Hillside District Plan	AO 2010-22; 4-13-2010	
	Utility Corridor Plan	AO 1990-13(S); 2-27-1990	
	Section 36 Land Use Study (recommending Alternative 2)	AO 1992-125; 11-10-1992	
	The Ship Creek/Waterfront Land Use Plan (May 1991), including the Transportation Element	AO 1991-88; 6-3-1991	AIM 1991-178
	Potter Valley Land Use Analysis	AO 1999-144; 12-7-1999	
	University-Medical District Plan	AO 2003-129; 10-21-2003	AO 2009-69; 6-23-1009
Turnagain Arm	Turnagain Arm Comprehensive Plan	AO 2009-126; 12-1-2009 [AO 1987-22; 4-7-1987]	
	Girdwood Area Plan	AO 1994-238(S); 2-28-1995	AO 1998-176; 11-24-1998 AO 2006-47; 4-11-2006
	Crow Creek Neighborhood Land Use Plan	AO 2006-47; 4-11-2006	
	Glacier-Winner Creek Access Corridor Study Final Routing Report	AO 1997-11; 2-4-1997	
	Girdwood-Iditarod Trail Route Study	AR 1997-84; 5-20-1997	
	Girdwood Commercial Areas and Transportation Master Plan	AO 2000-124(S); 2-20-2001	
	Chugiak; Eagle River; Eklutna	Chugiak-Eagle River Comprehensive Plan	AO 1992-133; 1-12-1993
Eagle River Greenbelt Plan		AR 1985-88; April 1985	
Chugiak-Eagle River Long-Range Transportation Plan 2002 Update		AO 2003-128; 9-23-2003	
Eagle River Central Business District Revitalization Plan		AO 2003-74; 5-20-2003	
Environmental Quality	Anchorage Coastal [ZONE] Management Plan	AO 2007-107; 8-28-2007 [AR 1979-153; 8-28-1979]	[AO 1981-3; 3-3-1981]
	208 Areawide Water Quality Management Plan	AR 1979-151; 7-31-1979	AO 1982-33(S); 4-20-1982
	Eagle River PM-10 Control Plan	AR 1990-30; 2-6-1990	AR 1991-197; 9-24-1991 [AO 1985-167; 9-24-1985 AO 1985-168; 9-24-1985 AO 1993-203; 12-7-1993 AO 1997-64; 6-3-1997 AO 1998-78; 6-2-1998 AO 1998-90; 8-18-1998 AO 1999-51; 3-23-1999 AO 2001-141(S); 10-23-2001 AO 2004-150; 11-16-2004]
	[HILLSIDE WASTEWATER MANAGEMENT PLAN]	[AO 1982-52; 5-18-1982]	
	1992 Air Quality Attainment Plan for Anchorage, Alaska	AR 1992-279; 12-8-1992	
	Anchorage Wetlands Management Plan	AO 1982-33(S); 4-20-1982	AO 1984-16(SA); 2-28-1984 AO 1984-130(S); 8-14-1984 AO 1984-163; 7-31-1984 AO 1995-129; 3-12-1996

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS

Area/Topic	Plan	Adoption Date ¹	Amendments
Transportation	Street and Highway Landscape Plan	AO 1981-180; 11-3-1981	
	Areawide Trails Plan	AO 1996-140; 4-8-1997	
	Anchorage Non-Motorized Transportation Plan: Pedestrian Plan	AO 2007-96; 10-9-2007	
	Anchorage Non-Motorized Transportation Plan: Bicycle Plan	AO 2010-08; 3-23-2010	
	Official Streets and Highways Plan	AO 1979-10; 6-19-1979	AO 1983-200; 12-6-1983 AO 1984-255; 1-22-1985 AO 1986-132; 8-19-1986 AO 1996-97(S); 8-13-1996 AO 1997-85; 6-3-97 AO 2000-122; 8-15-2000 AO 2005-115; 10-25-2005
	Anchorage Long-Range Transportation Plan 2025	AO 2005-115; 10-25-2005	
Parks, Greenbelts, and Recreational Facilities	Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan	AO 2005-122; 4-18-2006	
	Areawide Library Facilities Plan	AR 1984-83; 4-10-1984	
	Updated Far North Bicentennial Park Plan	AR 1985-87; 5-14-1985	AO 2002-165; 12-10-2002
	Campbell Creek Park System Acquisition and Development Plan	GAAB Resolution No. R1986-72	
	Rabbit Creek Greenbelt Plan	AR 1987-16; 3-31-1987	
	Chester Creek Greenbelt	AR 11-1975; October 1975	

¹ AO 2000-119(S), at section 9, provides that elements of the comprehensive plan that were originally adopted by resolution are hereby ratified and confirmed, and shall be deemed to have been adopted on the date that they were adopted by resolution.

2. New Elements

~~Procedures for amending the comprehensive plan are set forth in section 21.03.070, Comprehensive Plan Amendments. That process may be used to amend existing elements of the plan or to adopt new plan elements, including, but not limited to:~~

- ~~a. Plan elements that address new topic areas, such as, but not limited to, housing or public utilities;~~
- ~~b. Neighborhood plans;~~
- ~~c. Town center, district, or small area plans; and~~
- ~~d. Land use maps or residential intensity maps.~~

Comment [EBM18]: Disagree with deletion. Staff believes this is helpful for understanding how new comp plan elements are created, but can also live without it.

C. Periodic Review

The comprehensive plan shall be subject to periodic review in accordance with the procedure described in section 21.03.070, *Comprehensive Plan Amendments*.

D. Implementation—Conformity to Plans

The ~~goals, policies and objectives elements~~ of the comprehensive plan ~~are being shall be~~ implemented as provided ~~in this section and as provided~~ in the remainder of this ~~title~~ Title. Zoning map amendments, land use approvals, and subdivisions shall conform to ~~this Title and, in the absence of any conflict with this Title, to~~ the comprehensive plan elements listed in this section. ~~Where comprehensive plan elements conflict, the most recently adopted shall govern.~~

Comment [EBM19]: Disagree-- These changes imply that any goal, policy, or objective of a comp plan related to land use and development is put into Title 21, so that with T21 adopted, there is no more need to look at the comp plan elements. This is not the case. Not all goals, policies, or objectives of the comp plans relating to development are appropriate to be in T21, yet they still apply, and by law, local land use decisions still need to be in conformance with the comp plans.

21.01.090 TRANSITIONAL PROVISIONS

The purpose of transitional provisions is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this ~~title-Title~~ and any future amendments to this title.

A. Violations Continue

Any violation of the previous ~~title-Title~~ 21 ordinance shall continue to be a violation under this ~~title-Title~~ and shall be subject to the penalties and enforcement set forth in chapter 21.13, *Enforcement*, unless the use, development, construction, or other activity complies with the provisions of this ~~title-Title~~.

B. Uses, Characteristics of Use, Structures, and Lots Rendered Lawful [CONFORMING]

A use, characteristic of use, structure, or lot not lawfully existing at the time of the adoption of this ~~title-Title~~ is deemed lawful as of the effective date of this ~~title-Title~~, provided it conforms to all of the requirements of this ~~title-Title~~.

C. Uses, Structures, and Lots Rendered Nonconforming

1. When a lot is used for a purpose that was a lawful use before the effective date of this ~~title-Title~~, and this ~~title-Title~~ no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming ~~and shall be controlled by chapter 21.12, Nonconformities~~.
2. [BUILDINGS, S]Structures[,] and lots that legally existed on the effective date of this ~~title-Title~~ may become nonconforming, based on the provisions of chapter 21.12, *Nonconformities*.

Comment [EBM20]: Disagree--Why delete this sentence? It is perfectly valid and directs anyone reading this section to the appropriate chapter to understand how nonconformities are handled.

D. Processing of Applications Commenced or Approved Under Previous Ordinances

1. Pending Applications

- a. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this ~~title-Title~~, shall, within twelve months of the date of acceptance for completeness, be reviewed in accordance with the provisions of the ordinance in effect on the date the application was deemed complete. However, in such cases, if the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this ~~title-Title~~. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- b. For multi-phase projects, this subsection shall apply only to those phases for which complete applications have been submitted for approval but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this ~~title-Title~~.
- c. An applicant with an approved pending application may waive review available under prior ordinances through a written letter to the director and request for review under this ~~title-Title~~.

2. Preliminary Plats

- a. Any complete preliminary plat application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this ~~title-Title~~, shall, within twelve

1 months of the date of acceptance for completeness, be reviewed in accordance
2 with the provisions of the ordinance in effect on the date the application was
3 deemed complete. Subsequently, the final plat for such subdivision applications
4 also shall be processed and reviewed according to the provisions of the
5 ordinance applicable at the time of submission of the complete application for
6 preliminary plat.

7 **b.** An application for which preliminary approval of a plat was granted prior to the
8 effective date of this ~~title-Title~~ may be processed for a final decision in
9 accordance with the preliminary approval, applicable terms of the ordinance in
10 place at the time of preliminary approval, and any other approved permits and
11 conditions, even if the application does not comply with one or more
12 requirements set forth in this ~~title-Title~~. Preliminary approvals granted under the
13 previous ~~title-Title~~ 21 may be extended no more than once, and for no longer
14 than 24 months (12 months for abbreviated plats), pursuant to the extension
15 procedures applicable under the previous ordinance.

16 **3. Approved Projects**

17 **a.** Conditional use permits, subdivision plats, site plan approvals, grading permits,
18 building permits, land use permits, sign permits, and variances, any of which are
19 valid on **effective date** shall remain valid until their expiration date. Projects with
20 valid approvals or permits may be carried out with the development standards in
21 effect at the time of approval, provided that the permit or approval is valid and
22 has not lapsed.

23 **b.** Any building or development for which a building permit or land use permit was
24 granted prior to the effective date of this ~~title-Title~~ shall be permitted to proceed to
25 construction even if such building or development does not conform to the
26 provisions of this ~~title-Title~~.

27 **c.** If the development for which the building permit or land use permit is issued prior
28 to the effective date of this ~~title-Title~~ fails to comply with the time frames for
29 development established for the permit, including any approved extensions, the
30 building or land use permit shall expire and future development shall be subject
31 to the requirements of this ~~title-Title~~.

32 **4. Remanded Cases**

33 If the board of adjustment remands a case to another decision-making body, that body
34 shall process the case under the rules applicable at the time the original complete
35 application was submitted for approval, unless the applicant has waived review under
36 previous ordinances pursuant to subsection D.1.c. above.

37 **5. Future Amendments**

38 The transitional provisions described in this section shall apply to any future amendment
39 to this title, with the referenced effective date meaning the effective date of the
40 amendment that impacts any particular application.

41 **E. Investment-Backed Expectations**

42 [RESERVED]

Comment [EBM21]: Staff and the Department of Law have recommended deleting this provision.

1 **CHAPTER 21.02: BOARDS, COMMISSIONS, AND MUNICIPAL**
 2 **ADMINISTRATION**

3 **21.02.010 PURPOSE**

4 This chapter sets out the powers and duties of land use boards and commissions, the role of the
 5 assembly, and the responsibilities of municipal staff in the administration of this ~~the~~ Title.

6 **21.02.020 TABLE OF DECISION AND REVIEW AUTHORITY**

7 A. Table 21.02-1 summarizes the major review and decision-making responsibilities of the
 8 assembly, the municipal staff, and the other entities that have roles in the procedures set forth in
 9 chapter 21.03, *Review and Approval Procedures*. Such other entities are referred to as the “land
 10 use boards and commissions” and include: the ~~planning~~ Planning and ~~zoning~~ Zoning
 11 ~~commission~~ Commission, the platting board; the zoning board of examiners and appeals; the
 12 board of adjustment, the ~~urban~~ Urban design ~~Design~~ Design Commission; and the
 13 geotechnical advisory commission.

Comment [EBM22]: Disagree--
 Inconsistent capitalization. Per
 Department of Law, board and
 commission names should not be
 capitalized.

14 B. Table 21.02-1 is a summary tool and includes many, but not all, duties of these entities. Other
 15 duties and responsibilities are set forth in subsequent sections of this chapter and this ~~title~~ Title
 16 and other parts of the municipal code. Some other duties and responsibilities not listed in the
 17 table may require public hearings.

18 C. The referenced ~~footnotes~~ in the tables are set forth immediately below the table.

Comment [EBM23]: Disagree--
 Footnotes go at the end of pages or
 chapters or books. These are just
 notes. Is this really worth amending?

19 D. Even though not referenced in this chapter, the applicant, boards, commissions, or municipal
 20 administration may request that other boards, commissions, government agencies, and non-
 21 governmental agencies review some applications, including, but not limited to, rezonings, site
 22 plans, and subdivisions. Title 21 matters referred to other agencies will follow the procedures
 23 established in chapter 21.03, *Review and Approval Procedures*.

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES

NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.

A = APPEAL = Authority to Hear and Decide Appeals
 D = DECISION = Responsible for Review and Final Decision
 H = HEARING = Public Hearing Required
 R = REVIEW = Responsible for Review and/or Recommendation Only

	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Alcohol Special Land Use Permit	21.03.040	D-H/A ²						R/D ²
Certificates of Zoning Compliance	21.03.060					A		D
Comprehensive Plan Amendments	21.03.070C.	D-H ³¹¹	R-H ³¹¹					R
Conditional Uses	21.03.080		D-H				A	R
Flood Hazard Permits	21.03.090					A		D
Land Use Permits	21.03.100				A ⁴²¹	A ⁴²¹		D
Master Plan, Institutional	21.03.110A.	D-H	R-H					R
Minor Modifications	21.03.120	[D ³]	D ³¹³	D ⁵	[D ³]	A ⁶	A ⁶	D ³¹³

Comment [EBM24]: Incorrect section name.

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</p> <p>A = APPEAL = Authority to Hear and Decide Appeals D = DECISION = Responsible for Review and Final Decision H = HEARING = Public Hearing Required R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Neighborhood or District Plans	21.03.130	D-H	R-H					R
[PLANNED UNIT DEVELOPMENT (PUD)]	21.03.140		D-H				A	R
Public Facility Site Selection [(EXCEPT SCHOOLS)]	21.03.140[150]	D-H/A-H	D-H					R
[SCHOOL SITE SELECTION]	25.25	D-H	R-H					R
Rezoning (Map Amendments)	21.03.160[170]	D-H	R-H					R
Sign Permits	21.03.170[180]						A	D
Site Plan Review, Administrative	21.03.180[190]B.		A	A			A	D
Site Plan Review, Major	21.03.180[190]C.		D-H[D-H]	D-H			A	R
Street and Trail Review	21.03.190[200]		R ⁹ /D	R ⁹ /D				R
Trail Review	21.03.190			R ⁹ /D				R
Preliminary Plat	21.03.200[210]C.5.		D-H ⁹	D-H ⁹	D-H ⁹		A	R
Abbreviated Plat	21.03.200[210]D.				A-H			D
[SPECIAL LAND USE PERMIT FOR ALCOHOL]	21.03.050	D-H						R
Title 21, Text Amendments	21.03.210[220]	D-H	R-H		R-H ¹⁰			R
Vacation of Public and Private Interest in Land	21.03.230[240]				D or A ¹¹		A ¹¹	R or D ¹¹
Variances from the provisions of chapter 21.06, Dimensional Standards and Measurements [MOST PROVISIONS OF THIS TITLE]	21.03.240[250]						D-H	R
Variances from the provisions of subsections 21.07.020C., Steep Slope Development, 21.07.060, Transportation, Connectivity, and Pedestrian Facilities, and chapter 21.08, Subdivision Standards	21.03.240[250]						D-H	A R

- Comment [EBM25]: Sign Permits are deleted. (Coffey's narrative states they are moved, but he did not give an amended chapter 11 showing them included in that chapter.)
- Comment [EBM26]: Wrong cross reference
- Comment [EBM27]: Wrong cross reference
- Comment [EBM28]: Wrong cross reference
- Comment [EBM29]: Wrong cross reference
- Comment [EBM30]: Wrong cross reference
- Comment [EBM31]: Wrong cross reference
- Comment [EBM32]: Wrong cross reference
- Comment [EBM33]: Wrong cross reference
- Comment [EBM34]: Wrong cross reference
- Comment [EBM35]: Wrong cross reference

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES

NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.

A = APPEAL = Authority to Hear and Decide Appeals
 D = DECISION = Responsible for Review and Final Decision
 H = HEARING = Public Hearing Required
 R = REVIEW = Responsible for Review and/or Recommendation Only

	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Variances from the district-specific standards of chapter 21.04, Zoning Districts; the use-specific standards of chapter 21.05, Use Regulations; and the provisions of chapter 21.07, Development and Design Standards and [THE PROVISIONS OF] chapter 21.14[10], Signs.	21.03.240 [21.11.110]			D-H		D-H	A	R
Variances from the provisions of subsections 21.07.050, Utility Distribution Facilities, and 21.05.040K... [T]elecommunication [F]acilities [STANDARDS]	21.03.240[250] D.2.b.		D-H			D-H	[A]	R
Verification of Nonconforming Status	21.03.250[260]					A		D

NOTES:

² See section 21.03.040, *Alcohol-Special Land Use Permit*, to determine whether the Assembly or the director is the decision-making body.

^{3[1]} Only substantive comprehensive plan amendments require a public hearing. See section 21.03.070, *Comprehensive Plan Amendments*.

^{4[2]} ~~The appeal body for subsection 21.03.100[110]E., *Improvements Associated with Land Use Permits*, is the platting board.~~ Appeals related to provisions in ~~title-Title~~ 23 are made to the building board of examiners and appeals.

^{5[3]} An applicant may request application of the minor modification process only once during the review process.

⁶ See section 21.03.120C.5, for appropriate appeal body.

⁷ Site selection for municipal facilities is approved by the assembly. See section 21.03.140.

⁸ See section 21.03.190[200], *Street and Trail Review*.

⁹ The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ may act as the platting authority for conditional uses or major site plan [OR MAJOR SITE PLAN REVIEWS] that create a subdivision. ~~The urban-Urban design-Design commission-Commission may act as the platting authority for major site plan reviews that create a subdivision.~~

¹⁰ Code amendments relating to chapter 21.08, *Subdivision Standards*, require a hearing by the platting board. All code amendments require a hearing by the ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~.

¹¹ See section 21.03.230[240], *Vacation of Public and Private Interest in Lands*.

KEY TO ABBREVIATIONS:
 ASBLY = Anchorage Assembly
 PZC = Planning and Zoning Commission
 PB = Platting Board
 ZBEA = Zoning Board of Examiners and Appeals
 BOA = Board of Adjustment
 UDC = Urban Design Commission
 MS = Municipal Staff

Comment [EBM36]: Wrong cross reference

Comment [EBM37]: Disagree--It is inappropriate (and contradictory with other sections of this code) for an appeal of a ZBEA decision to go to the Board of Adjustment. Appeals from ZBEA decisions go to Superior Court.

Comment [EBM38]: Wrong cross reference

Comment [EBM39]: Wrong cross reference

Comment [EBM40]: Wrong cross reference

Comment [EBM41]: The two sentences of this note conflict. It says that both the PZC and the UDC may act as the platting authority for major site plan reviews.

Comment [EBM42]: Wrong cross reference

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2
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21.02.030 PLANNING AND ZONING COMMISSION

[POWERS AND DUTIES

THE PLANNING AND ZONING COMMISSION HAS THE FOLLOWING RESPONSIBILITIES.]

A. Recommendation to the Assembly

The ~~planning~~ Planning and ~~zoning~~ Zoning ~~commission~~ Commission shall make a recommendation to the assembly on the following:

1. Comprehensive plan amendments (21.03.070);
2. ~~Institutional master~~ Master plans (21.03.110);
3. Neighborhood or district plans (21.03.130);

[SCHOOL SITE SELECTIONS;]

[MAJOR SITE PLAN REVIEWS;]

4. Major site plan reviews (21.03.180C)

- 4.5. Public facility site selection for municipal facilities (21.03.140);

[PRELIMINARY PLATS, WHEN A MAJOR SITE PLAN REVIEW CREATES A SUBDIVISION OR REQUIRES THE VACATION OF A DEDICATED PUBLIC AREA, AND THE COMMISSION DIRECTS IN THE MAJOR SITE PLAN APPROVAL THAT IT SHALL ACT AS THE PLATTING AUTHORITY (21.03.180F.);]

[UNIFIED DEVELOPMENT PLATS, WHERE THE SITE PLAN INCLUDES A LARGE COMMERCIAL ESTABLISHMENT;]

[APPEALS FROM ADMINISTRATIVE SITE PLAN REVIEWS;]

6. Preliminary plats, when a major site plan review creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the major site plan approval that it shall act as the platting authority (21.03.180F);

7. Unified development plats, where the site plan includes a large commercial establishment;

8. Commercial tract plats, where the site plan includes a large commercial establishment (21.03.200E);

9. Appeals from administrative site plan reviews;

- 5.10. Rezoning (zoning map amendments), to include overlay districts (21.03.160); and

- 6.11. Title 21 text amendments (21.03.210).

B. Decision-Making Authority

The ~~planning~~ Planning and ~~zoning~~ Zoning ~~commission~~ Commission has decision-making authority over the following:

1. Conditional uses (21.03.080);

[PLANNED UNIT DEVELOPMENTS;]

2. Preliminary plats, when a conditional use creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the conditional use approval that it shall act as the platting authority (21.03.080F.)

Comment [EBM43]: This implies that the Assembly will make the decision on major site plan reviews, which is not what other portions of the text imply. Also the cross reference is incorrect.

Comment [EBM44]: This implies that the Assembly will make the decision on preliminary plats.

Comment [EBM45]: No mention of "unified development plat" anywhere else in this code. What is this? Does the Assembly make the final decision for this type of approval?

Comment [EBM46]: This implies that the Assembly will make the decision on commercial tract plats

Comment [EBM47]: This implies that the Assembly will hear appeals from administrative site plan reviews

Comment [EBM48]: Wrong cross reference.

- 1 3. Public facility site selections, except for municipal facilities (21.03.140) [(EXCEPT
- 2 SCHOOLS)];
- 3 4. Appeals from the director's decision regarding consistency with an institutional master
- 4 plan (21.03.110F.); and
- 5 5. Variances from the provisions of subsection 21.05.040K., *Telecommunication Facilities*,
- 6 and section 21.07.050, *Utility Distribution Facilities (21.03.240)*; [AND]
- 7 6. Major site plan reviews (21.03.180C.);
- 8 7. Preliminary plats, when a major site plan review creates a subdivision or requires the
- 9 vacation of a dedicated public area, and the commission directs in the major site plan
- 10 approval that it shall act as the platting authority (21.03.180F.);
- 11 8. Commercial tract plats, where the site plan includes a large commercial establishment
- 12 (21.03.200E.);
- 13 9. Draft design study reports, landscaping and streetscape and pedestrian facilities
- 14 including new construction and reconstruction of streets and collector class or greater in
- 15 the *Official Streets and Highways Plan*;

Comment [EBM49]: Inconsistent with table above, which shows that ZBEA has this authority.

Comment [EBM50]: Wrong cross reference.

Comment [EBM51]: Wrong cross reference

Comment [EBM52]: Wrong cross reference

Comment [EBM53]: Wrong cross reference

Comment [EBM54]: Needs cross-reference to appropriate section; needs to be written more clearly; typo needs fixing.

C. Other Powers and Duties

The planning and zoning commission shall:

[MAKE A RECOMMENDATION TO THE APPROPRIATE AGENCY ON NEW CONSTRUCTION AND RECONSTRUCTION OF STREETS OF COLLECTOR CLASS OR GREATER IN THE *OFFICIAL STREETS AND HIGHWAYS PLAN*, AND ON PUBLIC TRAIL PROJECTS INVOLVING ALL TRAILS FOR WHICH ANY PORTION UTILIZES PUBLICLY-OWNED LAND, EASEMENTS, OR RIGHTS-OF-WAY THAT ARE OVER ONE-HALF MILE IN LENGTH (21.03.190B.).]

- 1. Develop, review, and make recommendations to the assembly regarding policies, plans, and ordinances to implement the municipal function of planning for the economic, social, and land use needs of the community.
- 2. Review and make recommendations to the assembly and school board regarding the annual capital improvement program of the municipality and school district.
- 3. Review and make recommendations to the mayor regarding the annual work program of the department.

[PROMULGATE REGULATIONS TO IMPLEMENT OR MAKE SPECIFIC THE PROVISIONS OF THIS TITLE, EXCEPT PROVISIONS OF CHAPTER 21.08, *SUBDIVISION STANDARDS*, WHICH ARE RESERVED TO THE PLATTING BOARD.]

- 4. Promulgate regulations to implement or make specific the provisions of this Title, except provisions of Chapter 21.08, Subdivision Standards, which are reserved to the Platting Board.
- 4.5. Exercise such other powers, and perform such other duties, as are provided by law.

21.02.040 URBAN DESIGN COMMISSION

A. Decision-Making Authority

The ~~urban Urban design-Design~~ ~~commission-Commission~~ has decision-making authority over the following:

~~1. Review of trails, as specified in 21.03.190.~~

~~1. Major site plan reviews (21.03.180C.);~~

~~2. Preliminary plats, when a major site plan review creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the major site plan approval that it shall act as the platting authority (21.03.180F.);~~

~~3. Commercial tract plats, where the site plan includes a large commercial establishment (21.03.200E.);~~

~~4. Variances from the district specific standards of chapter 21.04, Zoning Districts; the use specific standards of chapter 21.05, Use Regulations; and the provisions of chapter 21.07, Development and Design Standards and chapter 21.11, Signs;~~

~~5. Appeals of administrative site plan reviews (21.03.180B.); and~~

~~6. Appeals of the director's decision regarding subsection 21.12.060B., Bringing Characteristics Into Compliance.~~

Comment [EBM55]: Disagree--The department does not agree with the transfer of these responsibilities away from the UDC.

B. Other Powers and Duties

The ~~urban Urban design-Design~~ ~~commission-Commission~~ shall:

~~1. Advise the mayor, assembly, and planning and zoning commission regarding urban design, northern climate design, and winter city design matters, including design-related amendments to the comprehensive plan and title 21.~~

Comment [EBM56]: Disagree--Why delete this? This is an important and useful function of this board.

~~1. Review and make recommendations regarding any entitlement requests, in accordance with authority delegated by the planning and zoning commission or platting board under this title.~~

Comment [EBM57]: Disagree--This is a harmless "power/duty"—if the PZC or PB wish to have the UDC's perspective on a project, why shouldn't they be able to ask? Also not sure that deleting it here actually removes the ability of other boards to request this.

~~2.1. Perform those duties stated in title 7, relating to the art funding requirements for public buildings and facilities.~~

~~3.2. Designate historic signs pursuant to subsection 21.12.070F.~~

~~4.3. Exercise such other powers, and perform such other duties, as are provided by law.~~

[RESERVED]

21.02.050 PLATTING BOARD

[POWERS AND DUTIES

THE PLATTING BOARD HAS THE FOLLOWING RESPONSIBILITIES.]

A. Decision-Making Authority

The platting board has decision-making authority over the following:

1. Preliminary plats (except in those situations where a different board or commission acts as the platting authority—see subsections 21.03.080F., *Platting for Conditional Uses*, and 21.03.180F., *Platting for Site Plans*);
2. Public hearing and review of preliminary plats
- 2.3. Commercial tract [UNIFIED DEVELOPMENT] plats, when not included in a large commercial establishment site plan review (21.03.200E.);
- 3.4. Vacations of public and private interest in lands, where the platting board is the platting authority ([SEE SUBSECTION] 21.03.230C.);
- 4.5. Variances from the provisions of chapter 21.08, *Subdivision Standards* (21.03.240);
- 5.6. Variances from the following provisions of chapter 21.07: subsection 21.07.020C., *Steep Slope Development*, and section 21.07.060, *Transportation, Connectivity, and Pedestrian Facilities* [RESERVED];
- 6.7. Modification or removal of plat note(s) (21.03.200G.);
- 7.8. Appeals of the following decisions:
 - a. [APPEALS OF] Land use permits [ISSUED] under subsection 21.03.100E, *Improvements Associated with Land Use Permits*;
 - b. [APPEALS OF] Record of survey maps (21.03.150);
 - c. Abbreviated plats (21.03.200D.);
 - d. Right-of-way acquisition plats (21.03.200F.); and
 - e. Vacations of public and private interest in lands, where the platting officer is the platting authority (21.03.230).

Comment [EBM58]: Wrong cross reference

Comment [EBM59]: Disagree--This is the same thing as #1—redundant.

Comment [EBM60]: Wrong cross reference

Comment [EBM61]: Wrong cross reference.

Comment [EBM62]: Wrong cross reference.

Comment [EBM63]: Wrong cross reference.

Comment [EBM64]: This subsection was deleted.

Comment [EBM65]: Wrong cross reference.

Comment [EBM66]: Wrong cross reference.

Comment [EBM67]: Wrong cross reference.

B. Other Powers and Duties

The platting board shall:

1. Interpret [PROMULGATE REGULATIONS TO IMPLEMENT] or make specific the provisions of chapter 21.08, *Subdivision Standards*.
1. Review and make recommendations to the planning—Planning and zoning—Zoning commission—Commission regarding all proposed amendments to chapter 21.08, *Subdivision Standards*.
2. Authorize extensions of subdivision agreements as provided in section 21.08.060C., *Time Limit for Completion of Improvements*.
3. Exercise such other powers, and perform such other duties, as are provided by law.

21.02.060 ZONING BOARD OF EXAMINERS AND APPEALS

[POWERS AND DUTIES

THE ZONING BOARD OF EXAMINERS AND APPEALS HAS THE FOLLOWING RESPONSIBILITIES.]

A. Decision-Making Authority

The zoning board of examiners and appeals has decision-making authority over the following:

1. Appeals pursuant to subsection 21.03.050[040]B.;
2. Variances from the provisions of chapter 21.06, Dimensional Standards and Measurements; [ALL PROVISIONS OF THIS TITLE EXCEPT SUBSECTION 21.05.040K., TELECOMMUNICATION FACILITIES; SECTION 21.07.050, UTILITY DISTRIBUTION FACILITIES; CHAPTER 21.08, SUBDIVISION STANDARDS; AND CHAPTER 21.11, SIGNS;]
[APPEALS OF THE DIRECTOR'S DECISION REGARDING SUBSECTION 21.12.060B., BRINGING CHARACTERISTICS INTO COMPLIANCE;]
3. Overcoming presumption of abandonment pursuant to subsection 21.12.030E.; and
4. Time extensions for amortized signs, pursuant to subsection 21.12.070G.
5. Variances from the district-specific standards of chapter 21.04, Zoning Districts; the use-specific standards of chapter 21.05, Use Regulations; and the provisions of chapter 21.07, Development and Design Standards and chapter 21.11, Signs;
6. Appeals of administrative site plan reviews (21.03.180B.); and
7. Appeals of the director's decision regarding subsection 21.12.060B., Bringing Characteristics Into Compliance.

Comment [EBM68]: Staff disagrees with moving this from UDC to ZBEA.

Comment [EBM69]: Staff disagrees with moving this from UDC to ZBEA. If the UDC is eliminated, this should go to PZC with a public hearing Wrong cross reference.

Comment [EBM70]: Staff disagrees with moving this from UDC to ZBEA.

B. Other Powers and Duties

The zoning board of examiners and appeals shall:

1. Adopt general rules or make findings in specific cases regarding proposed changes of nonconforming uses, pursuant to section 21.12.030B., *Change of Use*.
1. Interpret or make specific the provisions of this ~~##e~~Title, except provisions of chapter 21.08, *Subdivision Standards*.
2. Exercise such other powers, and perform such other duties, as are provided by law.

C. Subpoenas

The zoning board of examiners and appeals has the right to subpoena witnesses and documents using a form provided by the municipal clerk and submitted to the clerk for issuance at least five working days before the date of the hearing.

21.02.070 BOARD OF ADJUSTMENT

A. Powers and Duties

The board of adjustment has the responsibilities set forth in subsection 21.03.050[040]A.1.

B. Subpoenas

The board of adjustment has the right to subpoena witnesses and documents using a form provided by the municipal clerk and submitted to the clerk for issuance at least five working days before the date of the hearing.

21.02.080 GEOTECHNICAL ADVISORY COMMISSION

A. Powers and Duties

1. The geotechnical advisory commission shall serve as a technical advisory board in the municipality.
2. The commission shall act in an advisory capacity to the assembly, the mayor, boards, commissions, and heads of municipal departments and agencies, and shall have the following responsibilities:
 - a. To make recommendations and give advice on geotechnical engineering issues and natural hazards risk mitigation.
 - b. To recommend and review special studies relating to geotechnical engineering and natural hazards risk mitigation issues.
 - c. To act in an advisory capacity regarding proposed development located in high or moderate snow avalanche hazard zones, in areas designated with high or very high susceptibility to seismically induced ground failure, and in areas susceptible to other natural hazards.

21.02.090 ASSEMBLY

A. Decision-Making Authority

The assembly has the following decision-making authority under this title:

1. Special land use permit for alcohol—for beverage dispensary and package store liquor licenses (21.03.040);
2. Comprehensive plan amendments (21.03.070);
3. Institutional master plans (21.03.110);
4. Neighborhood or district plans (21.03.130);
[SCHOOL SITE SELECTIONS;]
5. Public facility site selection for municipal facilities (21.03.140);
6. Rezoning (zoning map amendments), to include overlay districts (21.03.160);
7. Title 21 text amendments (21.03.210);
8. Appeals on public facility site selections for non-municipal facilities (21.03.140); and
9. Any other action not delegated to the ~~planning~~ Planning and ~~zoning~~ Zoning ~~commission~~ Commission, platting board, zoning board of examiners and appeals, board of adjustment, ~~urban~~ Urban design ~~Design~~ commission Commission, or municipal staff, as the assembly may deem desirable and necessary to implement the provisions of this title.

Comment [EBM71]: Wrong cross reference.

B. Land Use Procedure

1. The land use review and approval procedures specified in chapter 21.03, *Review and Approval Procedures*, supplement the assembly's procedures under title 2.
2. Where a board or commission has authority under this title to review and comment on a land use matter, the assembly shall not take final action on the matter until it has received

1 and taken notice of the review comments and recommendations of the board or
2 commission.

3 **21.02.100 MUNICIPAL STAFF**

4 Municipal departments shall have the review and decision-making responsibilities set forth in this chapter
5 and other sections of this title, to be carried out in accordance with the terms of this title. The
6 departments also shall have such additional powers and duties as may be set forth in other ordinances,
7 rules, and operating procedures of the municipality.

8

1 **CHAPTER 21.03: REVIEW AND APPROVAL PROCEDURES**

2 **21.03.010 PURPOSE AND STRUCTURE OF THIS CHAPTER**

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

8 **21.03.020 COMMON PROCEDURES**

9 **A. Applicability**

10 The common procedures of this section 21.03.020 shall apply to all applications for development
11 activity under this ~~title~~ Title unless otherwise stated. The word "director" means the director of the
12 planning department or his or her designee.

13 **B. Pre-Application Conferences**

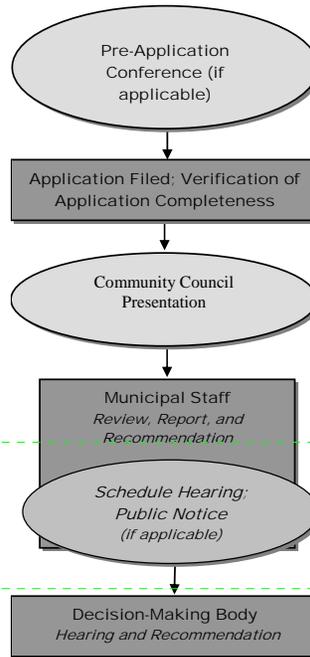
14 **1. Purpose**

15 The pre-application conference is an informal
16 discussion to familiarize the applicant and the
17 municipal staff with the applicable provisions of this
18 ~~title~~ Title that are required to permit the proposed
19 development.

20 **2. Applicability**

21 **a. Required for New Applications**
22 A pre-application conference is required prior
23 to submittal of the following types of
24 applications:

- 25 i. Rezonings (Map Amendments) (section 21.03.160);
- 26 ii. Subdivisions, except for Abbreviated Plats (section 21.03.200);
- 27 iii. Conditional Uses (section 21.03.080);
- 28 iv. Major Site Plan Review (section 21.03.180C);
- 29 v. Public Facility Site Selection (section 21.03.140); and
- 30 vi. Projects including Class A or B wetlands within or adjacent to the application area.



Comment [EBM72]: Wrong cross reference.

Comment [EBM73]: Wrong cross reference.

Common Procedures

38 No application for these types of approvals shall be accepted until after the pre-
39 application conference is completed and the applicant receives written
40 notification of the conclusions.

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

1 Pre-application conferences are not required for minor amendments to already-
2 approved conditional uses or site plans. All other changes to already-approved
3 applications require a pre-application conference.

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

5 A pre-application conference is optional prior to submittal of any other application
6 under this [title>Title](#) not listed in subsection 2.a. above.

7 **d. Waiver**

8 The director may waive the pre-application requirement if the director finds that
9 the projected size, complexity, anticipated impacts, or other factors associated
10 with the proposed development clearly, in his or her judgment, make a pre-
11 application conference unnecessary. The waiver shall be made in writing and
12 shall become a part of the case record for the application.

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

14 The potential applicant shall request a pre-application conference, in the manner
15 prescribed in the [user's-User's guideGuide](#), with the director. Prior to the pre-application
16 conference, the applicant shall provide to the director a description of the character,
17 location, and magnitude of the proposed development and any other supporting
18 documents such as maps, drawings, models, and the type of entitlement sought. It is the
19 applicant's responsibility to provide sufficiently detailed plans and descriptions of the
20 proposal to enable staff to make the informal recommendations discussed below.

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

22 **a.** The director shall schedule a pre-application conference after receipt of a proper
23 request [in the manner prescribed in the Users' Guide](#). At the conference, the
24 applicant, the director, and any other persons the director deems appropriate and
25 available to attend shall discuss the proposed development. Based upon the
26 information provided by the applicant and the provisions of this [title>Title](#), the
27 parties should discuss in general the proposed development and the applicable
28 requirements and standards of this [title>Title](#).

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

- 31 **i.** Applicability of municipality policies, plans, and requirements as they
32 apply to the proposed development.
- 33 **ii.** Appropriateness of the development with respect to the policies set forth
34 in the comprehensive plan and the regulations in this [title>Title](#).
- 35 **iii.** Need, if any, to prepare a subdivision plat.
- 36 **iv.** Any site plan considerations or requirements.
- 37 **v.** Any concerns or requirements related to the anticipated impact upon
38 public rights-of-way and public improvements, and appropriate
39 requirements to mitigate those impacts, including but not limited to traffic
40 impact analyses.
- 41 **vi.** Any concerns related to neighborhood impacts, land use, landscaping
42 concepts, and overall project design.
- 43 **vii.** Possible alternatives or modifications related to the proposed application.
- 44 **viii.** Procedures that will need to be completed to review and act on the
45 proposed [application](#) [CHANGE].

c. A checklist of discussion items indicating topics discussed at the pre-application conference shall be mailed to the applicant within ten days of the conference. The checklist shall be considered proprietary information until an application has been submitted.

5. **Informal Review Comments Not Binding**

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

6. **Application Required Within Six Months**

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

C. **Community Meetings**

1. **Purpose**

Community Councils are recognized by the Charter of the Municipality of Anchorage. They are intended to afford citizens an opportunity for maximum community involvement and self-determination. Those applications identified in sub-section C. 2. A. below shall, prior to the public hearing on such application, present the application to the appropriate Community Council to allow the community meeting is an informal opportunity for the developer-applicant to inform the surrounding area residents and property owners of the details of a proposed development and application, how the developer-applicant intends to meet the standards contained in this titleTitle, and to receive public comment and encourage dialogue at an early time in the review process.

Comment [EBM74]: Disagree-- Staff does not agree that this section should be changed to require a community council meeting. See major issue list.

2. **Applicability**

a. **Types of Applications**

The applicant shall attend and present the application at the community council meeting hold a community meeting for any of the following types of applications; unless a waiver is granted by the director pursuant to subsection 2.b. below.

- i. Rezoning (zoning map amendments);
- ii. Subdivisions, except for abbreviated plats;
- iii. Conditional uses;
- iv. Institutional master Master plans;
- v. Major site plan review; and
- vi. Public facility site selection [(INCLUDING SCHOOLS)].

Comment [EBM75]: Disagree—see list of major issues.

b. Waiver

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

Comment [EBM76]: Disagree--A waiver allowance provides flexibility and allows the director to make a judgment that holding a meeting would be a waste of time for a simple/minor entitlement request.

- i. ~~Traffic;~~
- ii. ~~Impacts upon natural resources protected under chapter 21.07 of this code;~~
- iii. ~~Provision of public services such as police and/or fire service, schools, or parks;~~
- iv. ~~Compatibility of building design or scale; or~~
- v. ~~Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.~~

3. Timing and Number of Community Council Meetings

~~When required, there shall be at least one presentation of the application to the appropriate Community Council(s) unless the Community Council fails to schedule a properly requested meeting made in a timely fashion by the applicant. The presentation may be scheduled at any time prior to the initial public hearing, community meeting held after the pre-application conference (if applicable), but prior to the submittal of an application.~~

Comment [EBM77]: Disagree--What is a "timely fashion"? One week? One month? If the community council will be required to meet (rather than staff's suggestion of holding a community meeting on a date of the applicant's choosing), it must be clear how quickly they must arrange the meeting. This is too vague.

4. Community Council Appearance Notice of Community Meeting

~~The applicant shall request, in writing, an appearance before the appropriate community council(s) concurrent with the filing of the application. The applicant shall provide written (mailed) notice of the community meeting in accordance with subsection H.4. below, at least 21 days prior to the community meeting.~~

5. Attendance at Community Meeting

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

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

6. Summary of Community Meeting

~~The applicant shall prepare a written summary of the community meeting(s), which shall be submitted to the director and the affected community council(s) no later than seven days after the date of the meeting. The written summary shall be included in the departmental report. At a minimum, the written summary shall include the following information:~~

Comment [EBM78]: Disagree--As the muni cannot afford to pay staff to attend every one of these meetings, it is very important that there be a written record of what happened at the meeting, both for staff and for the decision-making body. What is being asked for in this summary is minimal and would not take very long for the applicant to write up.

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

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

~~c. The number of people that participated in the meeting(s);~~

~~d. A summary of concerns, issues, and problems expressed during the meeting(s), including:~~

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

~~ii. How the applicant has addressed or intends to address concerns, issues, and problems expressed at the meeting(s); and~~

1 | ~~iii. Concerns, issues, and problems the applicant is unwilling or unable to address~~
2 | ~~and why.~~

3 | **D. Authority to File Applications**

- 4 | 1. When an authorized agent files an application under this ~~title~~ Title on behalf of a property
5 | owner, the agent shall provide the municipality with written documentation that the owner
6 | of the property has authorized the filing of the application.
- 7 | 1. When a review or decision-making body initiates action under this ~~title~~ Title, it does so
8 | without prejudice toward the outcome.

9 | **E. Application Contents, Submittal Schedule, and Fees**

10 | 1. **Title 21 User's' Guide**

11 | The director shall compile the requirements for application contents, forms, fees, and the
12 | submittal and review schedule (including typical time frames for review) in a ~~user's~~ Users'
13 | ~~guide~~ Guide, which shall ~~describe the processes and procedures for all applications.~~ The
14 | ~~Users' Guide shall be readily made~~ available to the public. The director may amend and
15 | update the ~~user's~~ Users' ~~guide~~ Guide from time to time. ~~Nothing contained in the Users'~~
16 | ~~Guide shall be a substantive land use or development requirement.~~

Comment [EBM79]: Why is this change necessary?

Comment [EBM80]: Disagree-- there are concerns about such a broadly worded prohibition against substantive provisions in the users guide. The users guide may reference municipal policy, interpret instructions, or contain pre-approved design alternatives (see sections 21.07.110 and 120) or illustrations—all of which, while not stand-alone substantive provisions, will assist with the substantive provisions in the code. This black and white prohibition makes it more difficult for staff to provide helpful information in the users guide.

17 | 2. **Form of Application**

18 | Applications required under this chapter shall be submitted in a form and in such number
19 | as required in the ~~user's guide~~ Users' Guide.

20 | 3. **Processing Fees**

21 | Applications shall be accompanied by the fee amount established by the assembly and
22 | listed in the ~~user's guide~~ Users' Guide. Fees are not subject to waivers.

23 | 4. **Waivers**

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

30 | **F. Verification of Application Completeness**

31 | 1. The director shall only initiate the review and processing of an application if such
32 | application is complete. The director shall make a determination of application
33 | completeness and notify the applicant in writing within 15 days of application filing. If the
34 | application is determined to be complete, the application shall then be processed
35 | according to this ~~title~~ Title. If an application is determined to be incomplete, the director
36 | shall provide an explanation ~~in the written notification~~ of the application's deficiencies. No
37 | further processing of an incomplete application shall occur until the deficiencies are
38 | corrected. ~~Any deficiencies which are not part of the initial notification shall be addressed~~
39 | ~~during the application process without further delay of that process.~~

Comment [EBM81]: Disagree— There are instances where deficiencies are not discovered until later in the review, and if the application moves forward without delay and thus without the needed information, it ends up in a recommendation for denial by staff or being postponed by the board/commission, which would cause more delay than just fixing the discrepancy in the first place.

40 | 2. An application shall be considered complete if it is submitted in the required form,
41 | includes all mandatory information, including all supporting materials specified in the ~~title~~
42 | Title 21 ~~user's guide~~ Users' Guide, and is accompanied by the applicable fee. A pre-
43 | application conference shall have been held, if required, pursuant to ~~sub~~section
44 | 21.03.020B, *Pre-Application Conferences*.

45 | 3. ~~If As a consequence for~~ any false or misleading information ~~is~~ submitted or supplied by
46 | an applicant on an application, that application shall be deemed incomplete.

G. Additional Information

1. Requested Information

Nothing in this section prohibits the department or the decision-making body on the application from requesting additional information deemed necessary for review, after the application is complete. Any supplemental technical reports, special studies, and/or revised application materials that are requested following the original application must be received at least thirty days prior to a public hearing. Any board or commission scheduled to hear an application. The municipality may postpone and reschedule a public hearing or approval deadline if such reports and studies are submitted less than thirty days prior to a public hearing, unless the applicable board or commission waives this time limit in a specific case for cause. Copies of such additional materials shall be delivered to all reviewers who received the original application packet.

Comment [EBM82]: Disagree-- Planning staff needs the ability to postpone cases in this situation. It will only cause a longer delay to either wait for the board/commission meeting to delay, or wait to try to contact the board/commission and have them agree to delay. It is more efficient to allow "municipality" to delay.

2. Voluntary Information

Any supplemental information, such as revised application materials, that is voluntarily submitted by the applicant, should be submitted before the departmental report is finalized. Any such information submitted after the departmental report is finalized shall may cause the application to be automatically postponed to the next regular meeting in order for the department to have time to review the new information, unless if the board or commission determines that further department review is not required. the new information does not significantly alter the application.

Comment [EBM83]: Disagree--Late submittals of new plans/information has been a huge problem over the years. It is important for applicants to understand that they must get their information in early enough for a thorough review to be performed by all necessary staff/agencies. The default should be automatic postponement.

Additionally, the wording now says (paraphrased) "late info may cause postponement if board determines further review not required"—that doesn't make sense.

Comment [EBM84]: Disagree--The purpose is very different from the scope. The public must be given information about the nature and scope of a project, not just the reason for it. A reason for a road project could be "to improve traffic flow", but without knowing that the nature of the project is "road rebuilding" and the scope is "adding a lane in either direction", the public would have no concept of what the project is.

H. Notice

1. Content of Notices

Public notice required under this chapter shall, unless otherwise specified in this titleTitle:

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

2. Summary of Notice Requirements

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

Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-	-
Appeal of an Enforcement Order	21.13	-	-	✓	-
Appeals to ZBEA	21.03.050B.	✓	✓	-	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-	✓
Conditional Uses	21.03.080	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
Master Plan, Development	21.09.030F.	✓	✓	✓	✓
Master Plan, Institutional	21.03.110	✓	✓	✓	✓
Neighborhood or District Plans	21.03.130	-	✓	-	✓
Nonconforming Uses of Land or Structures, Replication of	21.12.030C.	✓	✓	✓	✓
Nonconforming Structures, Replication of	21.12.040D.	✓	✓	✓	✓
Public Facility Site Selection	21.03.140	✓	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓	✓
Site Plan Review, Major	21.03.180C	✓	✓	✓	✓
Street and Trail Review	21.03.190	-	✓	-	-
Trail Review	21.03.190		✓		
Subdivisions (with existing physical access)	21.03.200	✓	✓	✓	✓
Subdivisions (without existing physical access)	21.03.200	✓	✓	-	✓
Abbreviated Plats	21.03.200D.	-	✓	-	✓
Modification or Removal of Plat Notes	21.03.200G.	✓	✓	✓	✓
Title 21, Text Amendments	21.03.210	-	✓	-	✓
Vacation of Public and Private Interest in Land	21.03.230	✓	✓	✓	✓
Variances	21.03.240	✓	✓	✓	✓

Comment [EBM85]: Disagree-- Written (mailed) notice is much more important than published notice in this case, as it is the direct neighbors who are likely to be most affected by the replication of the nonconformity. (comment applies to deletion of check mark just above as well.)

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3. Written (Mailed) Notice

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

a. Owners of Subject Property

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

1 **b. Adjacent Property Owners**

2 All persons listed on the records of the municipal assessor as owners of any land
3 within 500 feet of the outer boundary of the land subject to the application, or
4 owners of the 50 parcels nearest to the outer boundary of the land subject to the
5 application and which parcels are within one mile of the subject property,
6 whichever is the greater number of parcels, at the mailing addresses of such
7 persons in the records of the municipal assessor.

8 **c. Additional Persons**

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

10 **4. Published Notice**

11 When table 21.03-1 requires that notice be published, the director shall cause a notice to
12 be published on the municipal public notice web page of the municipal website. [IN A
13 NEWSPAPER HAVING GENERAL CIRCULATION.] The notice shall be published at
14 least 21 days before the scheduled hearing date. In computing such period, the day of
15 publication shall not be counted, but the day of the hearing shall be counted.

16 **5. Posted Notice**

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

29 **6. Community Councils**

30 When table 21.03-1 requires that notice be given to community councils, a[A]ny officially
31 recognized community council whose boundary includes any part of the subject property,
32 and any additional such council whose boundary lies within 1,000 feet of any part of the
33 subject property shall receive written (mailed) notice in accordance with H.3. above.
34 Furthermore, the department shall provide notice to additional community councils in the
35 following instances:

36 **a.** Each recognized community council within the municipality shall receive written
37 notice where the subject parcel is one of the following regional public lands or
38 facilities: Ted Stevens Anchorage International Airport; Merrill Field Airport;
39 Birchwood Airport; Far North/Bicentennial Park; Kincaid Park; Russian Jack
40 Springs Park; Beach Lake Park; Edmonds Lake Park; Bird Creek Regional Park;
41 Chugach State Park; Anchorage Coastal Wildlife Refuge; BLM tract(s) near Far
42 North/Bicentennial Park.

43 **b.** If the subject parcel is a branch public facility that serves a specific delineated
44 area, such as a public school or fire station, then any community council whose
45 boundaries lie within the delineated district of service of a branch public facility
46 shall receive written notice. This requirement shall only take effect after the
47 municipality has established maps delineating areas of service for the type of
48 branch facility, and has adopted procedures and responsibilities for updating
49 service area boundaries.

Comment [EBM86]: Disagree--Why delete this phrase? Is this amendment really necessary?

Comment [EBM87]: Disagree--Why remove this word?

Comment [EBM88]: Disagree--The facilities listed here were already approved for CC notice in the adopted Community Council Redistricting project of 2003. Removing TSAIA takes this out of sync with adopted municipal policy. Also, TSAIA is used by everybody in the whole region, so all community councils should be informed of changes.

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

6 d. All community councils within the area of a proposed neighborhood or district
7 plans, served by the street or trail being reviewed, or substantive amendments to
8 the comprehensive plan, and amendments to the text of Title 21 shall receive
9 written notice of the proposed action. ~~neighborhood or district plans, street and~~
10 ~~trail review, substantive amendments to the comprehensive plan, and~~
11 ~~amendments to the text of title 21.~~

Comment [EBM89]: Disagree--This sentence makes no sense: what CCs are in the area of a substantive amendment to the comprehensive plan or an amendment to the text of T21? Also, people from all different CCs drive on streets and use trails. What harm does it do to notify all CCs of those projects? And sending them neighborhood or district plans shows them what other neighborhoods are doing.

12 **7. Constructive Notice**

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

23 **8. Presumption of Notice**

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

27 **I. Departmental Report**

28 For every decision that requires a public hearing or where otherwise required by this ~~title~~ Title, the
29 department shall prepare a report to be given to the decision-making body at least ten (10) days
30 approximately one week before the initial public hearing on the application. The report shall
31 include project background, public comments received, any comments received from the affected
32 community council(s), the summary of community meeting (if applicable), and the department's
33 recommendation for action. ~~The written report shall be posted on the municipality's web site for~~
34 public viewing.

Comment [EBM90]: Disagree-- Staff is concerned that the change means there will not be sufficient time for staff review, particularly if voluntary information can be submitted after the report is finalized, as has been changed above.

35 **J. Referrals**

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

Comment [EBM91]: Disagree-- Comments from CCs are considered public comments and are thus already included in this paragraph—this amendment is unnecessary.

40 **K. Concurrent Processing**

41 1. Where possible without creating an undue administrative burden on the municipality's
42 decision-making bodies and staff, this ~~title~~ Title intends to accommodate the
43 simultaneous processing of applications for different permits and approvals that may be
44 required for the same development project in order to expedite the overall review
45 process. Review and decision-making bodies considering applications submitted
46 simultaneously shall render separate reports, recommendations, and decisions on each
47 application based on the specific standards applicable to each approval.

Comment [EBM92]: Disagree--As noted above, this is important information for staff and the decision making body.

48 2. Some forms of approval depend on the applicant having previously received another form
49 of approval, or require the applicant to take particular action within some time period

1 following the approval in order to avoid having the approval lapse. Therefore, even
2 though this ~~title-Title~~ intends to accommodate simultaneous processing, applicants
3 should note that each of the permits and approvals set forth in this ~~title-Title~~ has its own
4 timing and review sequence.

- 5 3. The expected time frame and approval process for a consolidated application shall follow
6 the longest time frame and approval process required from among the joined application
7 types.

8 **L. Postponements**

- 9 1. If only five or fewer board or commission members are in attendance at the hearing, the
10 applicant may request a postponement of his or her case, and the fee for the first
11 postponement request shall be waived.

- 12 2. The applicant may request a postponement of his or her case for any other reason, which
13 he or she shall state to the commission. If the decision-making body grants the
14 postponement request, the applicant shall pay the postponement fee ~~listed in the user's~~
15 ~~guide,~~ and a new hearing date shall be determined by the department.

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

- 18 b. If public notice pursuant to subsection H. above has been given, the decision-
19 making body is the board or commission identified in this chapter for the
20 entitlement requested.

- 21 3. Re-notice of the new time for hearing is only required if the postponement is for more
22 than 30 days, or if no date certain is set for the hearing at the time of postponement.

23 **M. Conditions of Approval**

- 24 1. The decision-making body is authorized to impose such conditions upon the entitlement
25 as may be necessary to conform to the standards of this ~~title-Title~~, reduce or minimize any
26 potential adverse impact upon other property in the area, or to carry out the general
27 purpose and intent of ~~the comprehensive plan and this title-Title~~. In such cases, any
28 conditions attached to approvals shall be directly related to the impacts of the proposed
29 use or development and shall be roughly proportional in both extent and amount to the
30 anticipated impacts of the proposed use or development.

- 31 2. No conditions of approval, except for those attached to variance approvals, shall be less
32 restrictive than the requirements of this ~~title-Title~~ or applicable special limitations.

- 33 **3.N.** Unless there is a time schedule stated as part of the condition, all conditions of approval shall be
34 met within one year of the date of approval (unless the condition is ongoing, such as a
35 specification of hours of operation).

36 **N.O. Decision**

37 Recommendations and decisions ~~of all boards and commissions~~ shall be made in accordance
38 with ~~AMC §Title 4.~~

39 **O.P. Lapse of Approval**

- 40 1. The lapse of approval time frames established by the procedures of this ~~title-Title~~ may be
41 extended only when all of the following conditions exist:

- 42 a. The provisions of this ~~title-Title~~ must expressly allow the extension;

Comment [EBM93]: Disagree--Why is this deletion important? The fee structure will continue to be approved by the Assembly, even if it is listed in the users guide, and this tells people where to find the fees.

Comment [EBM94]: Disagree--Entitlements must be consistent with the comprehensive plan.

Comment [EBM95]: Disagree--Why would this be moved from being a sub-paragraph under Conditions of Approval? If it is to stand alone, it needs a section title.

Comment [EBM96]: Disagree--The Assembly Cmte, led by Coffey, pushed the dept to move sections about the decision (one example being the requirement that decisions be based on findings of fact) into Title 4. This change has not been completed (there is a T4 ordinance) but it does leave guidance for the Director's decisions out in the cold.

- b. An extension request must be filed prior to the applicable lapse-of-approval deadline; and
 - c. The extension request must be in writing and include justification.
2. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval (the one being extended).

P.Q. New Application Required

If an application is inactive for one year awaiting action by the petitioner, the application shall be discarded and a new application shall be required.

21.03.030 ADMINISTRATIVE PERMITS

A. Applicability

It shall be a violation of law for any person to engage in a land use for which an administrative permit is required by this ~~title-Title~~ without first obtaining such a permit. **An administrative permit is required for the following uses:**

- 1. Premises containing uses where children are not allowed (21.05.020B.);
- 2. Roominghouse (21.05.030B.4.);
- 3. Telecommunication tower and antenna (21.05.040K.);
- 4. Unlicensed nightclub (21.05.050D.8.c.);
- 5. Hostel in a residential zoning district (21.05.050J.3.); and
- 6. Bed and breakfast (21.05.070D.2.)

Comment [EBM97]: Wrong cross reference.

Comment [EBM98]: Wrong cross reference.

Comment [EBM99]: Wrong cross reference.

B. Administrative Permits

Except as otherwise allowed in this ~~title-Title~~, a permit issued by the director and pursuant to this section shall be valid between January 1 or the date of issuance and December 31 of the year in which it is issued, except that permits for bed and breakfasts shall be valid between the date of issuance and December 31 of the year after the permit was issued. An application for renewal of a permit shall be submitted in the same manner as the original application and no later than December 1 immediately preceding the expiration date of that permit.

C. Regulations

Subject to review and approval by the Assembly, ~~The the~~ director may promulgate regulations to implement this section, as provided in AMC chapter 3.40. Permits shall be issued and renewed as outlined in the ~~title-Title~~ 21 ~~user's guide~~ Users' Guide.

Comment [EBM100]: Disagree— Unnecessary as this is already covered in AMC 3.40.

D. Appeals

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

21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT

A. Applicability

- 1. Any use that includes the retail sale of alcoholic beverages is subject to the review process set forth in this section. This process shall apply to such a use regardless of whether it is listed in the use ~~tables~~ in section 21.05.010 as being permitted as a matter of right or subject to site plan review or the conditional use process. The applicant shall

Comment [EBM101]: Only one table now.

1 be required to obtain approval through both the process in this section and the separate
2 process referenced in the use table.

3 2. Notwithstanding A.1. above, catering and special event permits issued by the state
4 alcoholic beverage control board are exempt from these approval requirements, but shall
5 meet AMC ~~title-Title~~ 10 requirements and the following:

6 a. When multiple permits are issued for the same location, the permits shall be for
7 discreet events, and shall not be used to avoid the special land use permit
8 process; and

9 b. The catering and special event permit shall be reviewed by the chief of police in
10 order to address any recurring problems at the site that have involved the police.

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

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

15 b. If there is an increase in the square footage of the licensed premise, such
16 increase is five hundred square feet or less, whether or not the area of increase
17 is used year-round. In such case the licensed business shall request a minor
18 modification to their approval by submitting a site plan for department review,
19 along with the fee specified in the ~~user's guide~~Users' Guide. The department
20 shall review the site plan for potential impacts including, but not limited to,
21 parking, lighting, noise, and traffic.

22 **B. General Standards**

23 [THE FOLLOWING PROVISIONS APPLY TO ALL USES, IN ALL DISTRICTS, INVOLVING THE
24 RETAIL SALE, DISPENSING, OR SERVICE OF ALCOHOLIC BEVERAGES INCLUDING, BUT
25 NOT LIMITED TO, LIQUOR STORES, RESTAURANTS, BARS, DINNER THEATERS, MOVIE
26 THEATERS, BREW PUBS, TEAROOMS, AND CAFES.]

27 [1.] Any use, whether principal or accessory, involving the retail sale or dispensing of
28 alcoholic beverages is permitted only by approval [OF THE ASSEMBLY] under this
29 section. This provision applies to all uses, in all districts, involving the retail sale,
30 dispensing, or service of alcoholic beverages including, but not limited to, liquor stores,
31 restaurants, bars, dinner theaters, movie theaters, brew pubs, tearooms, and cafes,
32 but[THIS REQUIREMENT] applies only to the retail sale or dispensing of alcoholic
33 beverages and not to related principal or accessory uses.

34 [2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE TO THE CONTRARY,
35 AN APPROVAL FOR USES INVOLVING THE RETAIL SALE OF ALCOHOLIC
36 BEVERAGES SHALL ONLY REQUIRE THE APPROVAL OF THE ASSEMBLY.]

37 **C. Application and Review Procedure**

38 1. **Application Submittal**

39 Applications for a special land use permit for [ASSEMBLY] alcohol [APPROVAL] shall be
40 submitted to the director within seven days after application is made to the state alcoholic
41 beverage control board for issue or transfer of location of a liquor license. Applications
42 shall contain a zoning map showing the proposed location and any other information
43 specified in the title-Title 21 user's guideUsers' Guide. The assembly may promulgate
44 regulations concerning the mandatory information to be submitted with the application for
45 a special land use permit for alcohol.

2. **Departmental Review**

The department shall prepare and submit a report and a list of all licenses located within a minimum of 1,000 feet of the proposed use to the assembly, and shall address the conformity of the proposed application with this [title-Title](#) and AMC chapter 10.50. The department shall also submit a proposed resolution for assembly consideration in connection with liquor license applications.

3. **Public Notice**

Notice **[OF ALL PUBLIC HEARINGS]** shall be provided in accordance with section 21.03.020H., *Notice*.

4. **Action**

a. The special land use permit for alcohol for any use that includes the retail sale of alcoholic beverages, with the exception of a restaurant or eating place **that [LICENSED BY THE STATE ALCOHOLIC BEVERAGE CONTROL BOARD TO]** sell^s beer and wine for consumption only on the licensed premises, shall be considered by the assembly. After holding a public hearing, the assembly shall approve, approve conditionally, or deny the application. In considering action, the assembly shall apply the criteria set forth in this [title-Title](#) for conditional uses in section 21.03.080C., *Approval Criteria*. The assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.

b. The special land use permit for alcohol for a restaurant or eating place **that [LICENSED BY THE STATE ALCOHOLIC BEVERAGE CONTROL BOARD TO]** sell^s beer and wine for consumption only on the licensed premises, shall be considered by the director. In considering whether to approve, approve conditionally, or deny the application, the director shall apply the criteria set forth in this [title-Title](#) for conditional uses in section 21.03.080C., *Approval Criteria*. The director shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested. The director's decision may be appealed to the assembly.

5. **Conditions of Approval**

a. The assembly ~~or the director~~ may, in connection with an approval under this section, impose such special terms and conditions or modify existing conditions governing operation of that license as are in the public interest, and are consistent with the purposes of this [title-Title](#).

b. Conditions of approvals under this section are enforceable under the provisions of this [title-Title](#). The assembly may revoke such an approval for failure to comply with conditions of the permit, provided a public hearing with notice to the owner affected is first held.

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

6. **Effect of Denial**

An application for approval under this section that has been denied **[BY THE ASSEMBLY]** shall not be accepted for rehearing for a period of one year following such denial if the director finds the proposed application is substantially the same as that denied **[BY THE ASSEMBLY]**, and if no substantially new evidence or change in circumstances has occurred. This paragraph shall not apply to an application filed under assembly direction at a hearing at which a like application was considered. This paragraph does not apply if the alcoholic beverage control board remands a case that was previously denied **[BY THE ASSEMBLY]**.

Comment [EBM102]: Disagree--If the authority to approve certain types of liquor-serving establishments is given to the director, then he or she must also have the authority to place conditions on the approval to address any potential impacts to the neighbors/public.

7. **Expiration**

An approval granted under this section shall expire:

- a. One hundred twenty days after the transfer of the license to sell alcoholic beverages from the premises has been approved by the state alcoholic beverage control board, unless there is an application filed with the control board prior to the expiration of the 120 day period;
- b. The use holding the permit has been discontinued, vacant, or inactive for a continuous period of at least one year; or
- c. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly **or the director** when the alcohol approval was granted under this section, unless the licensee applies for and receives **[ASSEMBLY]** approval for a modification of the existing alcohol approval to reflect the change.

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

21.03.050 APPEALS

A. Appeals to Board of Adjustment

1. Jurisdiction of Board

The board of adjustment shall decide appeals:

- a. From decisions regarding the approval or denial of a preliminary plat (subsection 21.03.200C.);
- b. From decisions regarding the approval or denial of a variance from the all of the provisions of this ~~title~~ Title with the exception of subsection 21.05.040K., Telecommunication Facilities; chapter 21.06, Dimensional Standards and Measurements; and section 21.07.050, Utility Distribution Facilities [; CHAPTER 21.08, SUBDIVISION STANDARDS; AND CHAPTER 21.11, SIGNS];
- c. From decisions regarding the approval or denial of vacations of public and private interest in land where the platting board is the platting authority (section 21.03.230);
- d. From decisions regarding the approval or denial of a development master plan (subsection 21.09.030F.);
- e. From decisions regarding the approval or denial of applications for conditional uses (section 21.03.080); and
- f. From decisions regarding the approval or denial of applications for major site plan reviews (subsection 21.03.180C.).

Comment [EBM103]: Wrong cross reference.

Comment [EBM104]: Disagree--As noted earlier, it is inappropriate (and contradictory with other sections of this code) for an appeal from a ZBEA decision to go to the Board of Adjustment. Appeals from ZBEA go to Superior Court.

Comment [EBM105]: Wrong cross reference.

Comment [EBM106]: Wrong cross reference.

2. Appellants Before Board

Decisions may be appealed to the board of adjustment by:

- a. Any municipal agency; or

- 1 b. Any party of interest for the application, as defined in chapter 21.14.
- 2 **3. Appellees Before Board**
- 3 a. Appellees before the board may be:
- 4 i. The party in whose favor the lower administrative body's decision was
- 5 rendered.
- 6 ii. Any municipal agency.
- 7 iii. Any party of interest for the application, as defined in chapter 21.14.
- 8 b. An appellee shall file a notice of intent to file a brief with the municipal clerk's
- 9 office on a form prescribed by the municipal clerk, within 10 days after the
- 10 deadline for filing an appeal. The municipal clerk shall serve notice to such
- 11 appellees in writing of the date the record is available and of the date the
- 12 appellant's brief is filed.
- 13 **4. Perfection of Appeal; Notice of Appeal; Appeal Fee**
- 14 a. An appeal to the board of adjustment must be perfected by the appellant within
- 15 20 days after the date of service of the decision. The appeal is perfected by the
- 16 filing of a notice of appeal, appeal fee, and cost bond in accordance with this
- 17 section.
- 18 b. The notice of appeal must be filed with the municipal clerk on a form prescribed
- 19 by the municipality and must contain detailed and specific allegations of error. If
- 20 the appellant is not the applicant, the appellant's notice of appeal shall include
- 21 certificate of service on the applicant.
- 22 c. The appellant shall pay the current appeal fee. In addition, the appellant shall file
- 23 a cost bond equal to the estimated cost of preparation of the record. Following
- 24 completion of the record, the actual cost thereof shall be paid by the appellant.
- 25 All costs and fees shall be returned to the appellant if the decision of the lower
- 26 body is reversed in whole or in part.
- 27 **5. New Evidence or Changed Circumstances**
- 28 a. Allegations of new evidence or changed circumstances shall not be considered
- 29 or decided by the board of adjustment. Allegations of new evidence or changed
- 30 circumstances shall be raised by written motion for rehearing, filed with the
- 31 municipal clerk within 20 days after the date of service of the initial decision of
- 32 the lower administrative body.
- 33 i. The municipal clerk shall reject any motion filed more than 20 days after
- 34 the date of service of the initial decision of the lower administrative body,
- 35 without hearing or reconsideration by the lower administrative body.
- 36 ii. A decision of the lower administrative body on any issues remanded
- 37 from the board of adjustment is not an initial decision as described in
- 38 subsection 5.a. above.
- 39 iii. The municipal clerk shall reject any motion alleging new evidence or
- 40 changed circumstances filed in response to a lower administrative body's
- 41 decision on any issue(s) presented on remand.
- 42 b. If the written motion for rehearing is filed in a timely manner, the administrative
- 43 body from which the appeal is taken shall decide whether to reopen and rehear
- 44 the matter. A rehearing shall be held if the lower administrative body determines:

- 1 i. If true, that the alleged new evidence or changed circumstances would
2 substantially change the decision of the body, and
- 3 ii. The party alleging new evidence or changed circumstances acted
4 promptly and with diligence in bringing the information to the body's
5 attention.

6 **6. Appeal Record**

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

31 **7. Written Arguments**

- 32 a. ***Brief of Appellant***
33 The appellant may file a written brief of points and authorities in support of those
34 allegations of error specified in the notice of appeal with the municipal clerk's
35 office within 15 days after service of the appeal record. If the appellant files a
36 brief, allegations of error specified in the notice of appeal and not included in the
37 appellant's brief may be deemed waived or abandoned. The municipal clerk
38 shall deliver a copy of the appellant's brief to the municipal staff assigned
39 responsibility for the appeal. The municipal clerk shall also serve notice on those
40 appellees who have filed a notice of intent to file a brief that the appellant's brief
41 is available for pickup. Upon request, the municipal clerk shall provide a copy of
42 the appellant's brief to appellees, who shall be charged copying costs as
43 provided in AMCR 3.90.002 and any mailing costs applicable.
- 44 b. ***Brief of Appellee***
45 An appellee who has filed a notice of intent to file a brief may also file with the
46 municipal clerk's office a written response (appellee's brief) to the notice of points
47 on appeal and any brief in support thereof within 15 days after service of notice
48 by the municipal clerk that the appellant's brief is available for pick-up. The

1 municipal clerk shall serve notice on the appellant that appellee briefs have been
2 filed. The director may prepare and submit to the municipal clerk a written
3 response (staff's brief) to the notice of appeal and any brief in support thereof
4 within 15 days after service of notice by the municipal clerk that the appellant's
5 brief is available for pick-up.

6 **c. Reply Brief**

7 An appellant may file a written reply brief to appellee briefs submitted pursuant to
8 subsection 7.b. The appellant's reply brief is due within 15 days after service of
9 notice by the municipal clerk that the appellee's brief is available for pick-up.

10 **d. Form of Briefs**

11 The municipal clerk shall not accept a brief unless it is in the form prescribed by
12 this subsection.

13 **i. Required Attachments**

14 All briefs shall be filed with an attached copy of the ordinances and
15 regulations principally relied upon, set out verbatim. All briefs shall also
16 include an excerpt of record of the pages on which the brief relies.

17 **ii. Text of Brief, Exclusive of Attachments**

18 Briefs shall be typewritten on 8½- by 11-inch pages, double-spaced, with
19 quotations over two lines being single-spaced and indented.

20 **iii. Page Limitation**

21 The brief of appellant and the brief of appellee are each limited to 25
22 pages exclusive of exhibits and attachments. The reply brief is limited to
23 10 pages exclusive of exhibits.

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

25 Following the time set for the municipal clerk's receipt of all written argument from the
26 appellant, the appellee, and the municipal staff, the municipal clerk shall prepare and
27 distribute to the members of the board of adjustment an appeal packet containing only
28 the appeal record assembled by the clerk and any briefs filed in accordance with
29 subsection A.7. above. The board of adjustment shall set a date for consideration of the
30 issues on appeal. The municipal clerk shall publish notice of the date in a newspaper of
31 general circulation and shall serve notice by mail on the appellant and those appellees
32 who have submitted briefs. The municipal clerk shall make appeal packets shall be
33 made available to the public upon request with costs payable by the public as provided in
34 AMCR 3.90.002.

35 **9. Procedural Changes**

36 Upon timely application and for good cause shown, the board of adjustment may relax or
37 modify the procedural rules or the rules relating to costs contained herein for the orderly
38 transaction of appeals before the board.

39 **10. Conduct of Hearing**

40 **a.** The meeting at which the board of adjustment deliberates and decides an appeal
41 shall be open to the public and a record of the hearing shall be made.

42 **b.** The board of adjustment shall not hear argument nor take additional testimony or
43 other evidence. The board of adjustment may consider only the material
44 contained in the appeal packet.

45 **11. Scope of Review**

46 **a.** The board of adjustment shall consider an appeal solely on the basis of the
47 record established before the lower administrative body, the notice of appeal, the
48 briefs, and the law.

- 1 **b.** The board of adjustment may exercise its independent judgment on legal issues
2 raised by the appellant. The term "legal issues," as used in this section, means
3 those matters that relate to the interpretation or construction of ordinances or
4 other provisions of law.
- 5 **c.** The board of adjustment shall, unless it substitutes its independent judgment
6 pursuant to subsection 11.d. below, defer to the judgment of the lower
7 administrative body regarding factual issues. Findings of fact adopted expressly
8 or by necessary implication by the lower administrative body may be considered
9 as true if they are supported in the record by substantial evidence. The term
10 "substantial evidence," for the purpose of this section, means such relevant
11 evidence as a reasonable mind might accept as adequate to support a
12 conclusion. If the record affords a substantial basis of fact from which the fact in
13 issue may be reasonably inferred, it shall be considered that the fact is supported
14 by substantial evidence.
- 15 **d.** The board of adjustment may, by unanimous vote, substitute its independent
16 judgment for that of the lower administrative body on any disputed issues or
17 findings of fact. such judgment must be supported on the record by substantial
18 evidence.

19 **12. Decision**

- 20 **a.** The board of adjustment, by majority vote, may affirm, modify, or reverse the
21 decision of the lower administrative body in whole or in part. A decision
22 reversing or modifying the decision appealed from shall be in a form which finally
23 disposes of the case on appeal except where the case is remanded in
24 accordance with subsection 13.a. below.
- 25 **b.** Every decision of the board of adjustment to affirm, modify, or reverse the
26 decision of the lower administrative body pursuant to subsection 12.a. above
27 shall be based upon and include written findings and conclusions adopted by the
28 board. Such findings must be reasonably specific so as to provide the
29 community, and, where appropriate, reviewing authorities, a clear and precise
30 understanding of the reason for the board's decision. The board may seek the
31 assistance of legal counsel in the preparation of its decision.
- 32 **c.** Every final decision of the board of adjustment shall clearly state on its face it is a
33 final decision with respect to all issues involved in the case, and that the parties
34 have 30 days from the date of service of the decision to appeal to the superior
35 court.

36 **13. Remand**

- 37 **a.** The case shall be remanded to the lower body where the board of adjustment
38 determines any of the following:
- 39 **i.** There is insufficient evidence in the record on an issue material to the
40 decision of the case;
- 41 **ii.** There has been a substantial procedural error that requires further public
42 hearing; or
- 43 **iii.** The lower administrative body has made a legal error that, in the opinion
44 of the board of adjustment, warrants a remand.
- 45 **b.** If the board of adjustment remands a case to the lower administrative body, the
46 board shall describe any issue upon which further evidence shall be taken, and
47 shall set forth any further directions the board deems appropriate for the
48 guidance of the lower administrative body.

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

- 3 d. A board of adjustment decision remanding a case on one or more issues is not a
- 4 final decision with respect to any issues involved in the appeal. The board of
- 5 adjustment's decision remanding the case is and shall state that it is the final
- 6 decision with respect to all matters affirmed by the board of adjustment's
- 7 decision, when, following service of the lower administrative body's decision on
- 8 remand, no appeal is perfected within the period specified in subsection
- 9 21.03.050A.4. The decision shall also state that the parties have 30 days from
- 10 the expiration of said period to appeal to the superior court.

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

12 **1. Jurisdiction of Board**

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

Comment [EBM107]: Section is inconsistent with table in chapter 2. Missing is appeal from an admin site plan review.

- 15 a. Interpretation of zoning district boundaries under subsection 21.01.050C.
- 16 b. Denial of an administrative permit under section 21.03.030.
- 17 c. Denial of a certificate of zoning compliance under section 21.03.060.
- 18 **d. Interpretation of whether a conditional use amendments is major or minor under**
- 19 **subsection 21.03.080D.2.**
- 20 e. Denial of an application for a flood hazard permit under section 21.03.090.
- 21 f. Denial of an application for a building or land use permit **under subsection**
- 22 **21.03.100** when such denial is based on the requirements of ~~the Title 21~~, **except**
- 23 **for subsection 21.03.100E.**
- 24 g. Compliance with an institutional master plan under subsection 21.03.110F.
- 25 h. Denial of a minor modification under section 21.03.120 when the director is the
- 26 decision-making body.
- 27 i. Denial of an application for a **sign permit under subsection 21.03.170** when such
- 28 denial is based on the requirements of ~~the Title 21~~.
- 29 **j. Determination of use classification under subsection 21.03.220.**
- 30 **k. Administrative variance for occupancy limits in assisted living facilities under**
- 31 **subsection 21.03.240J.**
- 32 l. Denial of a verification of legal nonconforming status under section 21.03.250.
- 33 **m. Alleging an error in the enforcement or interpretation of the flood hazard overlay**
- 34 **district under subsection 21.04.080D.**
- 35 **n. Site enhancement plan for a self-storage facility under subsection 21.05.060D.4.**
- 36 o. Denial of or imposition of conditions on a certificate for legalization of
- 37 nonconforming dimensional setback encroachment under section 21.12.030, or a
- 38 certificate for legalization of lots created prior to September 16, 1975 under
- 39 subsection 21.12.050C.

Comment [EBM108]: Sign permit requirement was deleted.

Comment [EBM109]: Wrong cross reference.

Comment [EBM110]: Wrong cross reference.

Comment [EBM111]: Wrong cross reference.

- 1 p. Denial of administrative approval to reinstate a damaged nonconforming use
2 under subsection 21.12.030C., or to rebuild a damaged nonconforming structure
3 under subsection 21.12.040D.1.a.
- 4 q. Overcoming presumption of abandonment under subsection 21.12.030E.
- 5 r. Enforcement orders issued under chapter 21.13, *Enforcement*.
- 6 s. Interpretation of general definitions and use definitions.
- 7 **2. Initiation of Appeal**
8 Appeals to the zoning board of examiners and appeals may be brought by any party of
9 interest for the application.
- 10 **3. Time Limit for Filing; Notice of Appeal; Appeal Fee**
11 a. An appeal of an administrative decision to the zoning board of examiners and
12 appeals, as set out in subsection B.1. above, must be filed no later than 20 days
13 after the date of service of the decision.
- 14 b. Notice of appeal must be filed with the director on a form prescribed by the
15 municipality and must contain detailed and specific allegations of error.
- 16 c. The appellant shall pay an appeal fee as set by the assembly, which shall
17 accompany the filing of the notice of appeal. The appeal fee shall be returned to
18 the appellant if the decision of the lower administrative body is reversed in whole,
19 and one-half of the fee shall be returned if the decision is reversed in part.
- 20 **4. Scope of Review**
21 The zoning board of examiners and appeals shall conduct a full evidentiary hearing on an
22 appeal and make its decision on the basis of this ~~the~~Title, the evidence, and the
23 argument presented.
- 24 **5. Notice and Public Hearing**
25 a. A public hearing shall be held within 60 days of the filing of a proper notice of
26 appeal.
- 27 b. Notice of the appeal hearing shall be published on the municipal public notice
28 web page of the municipal website [IN A NEWSPAPER OF GENERAL
29 CIRCULATION] at least 14 days prior to the hearing, and, in addition, the
30 appellant shall be sent a notice by mail at least 14 days prior to the hearing.
- 31 c. The zoning board of examiners and appeals may prescribe rules of procedure for
32 additional notification in cases where a decision of the board would have a
33 substantial effect on the surrounding neighborhood.
- 34 **6. Decision**
35 a. The zoning board of examiners and appeals may affirm or reverse the decision of
36 the decision-making body in whole or in part. It shall require a majority of the full
37 membership, minus those members who disqualify themselves with conflicts of
38 interest in accordance with AMC title 4.
- 39 b. Every decision of the zoning board of examiners and appeals to affirm or reverse
40 an administrative action shall be in writing and based on and include written
41 findings and conclusions adopted by the board. Such findings must be
42 reasonably specific so as to provide the community and, where appropriate,
43 reviewing authorities, with a clear and precise understanding of the reasons for
44 the board's decision.

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

4 **C. Judicial Appeals**

5 **1. Judicial Review Authorized**

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

- 9 a. A final decision of the board of adjustment on an appeal from a decision
10 regarding the approval or denial of an application for a conditional use.
- 11 b. A final decision of the board of adjustment on an appeal from the platting board
12 regarding an application for a subdivision.
- 13 c. A final decision of the zoning board of examiners and appeals.
- 14 d. Any final action or decision under this ~~title~~-Title that is appealable to the superior
15 court under the *Alaska Rules of Court* and/or laws of the ~~state~~-State of Alaska.

16 **21.03.060 CERTIFICATE OF ZONING COMPLIANCE**

17 **A. Purpose**

18 A certificate of zoning compliance shall be required at the completion of any development in the
19 municipality for which a permit is required, to ensure that the development complies with all
20 applicable standards of this ~~title~~-Title.

21 **B. Applicability**

22 A certificate of zoning compliance shall be required prior to the occupancy of any building,
23 structure, or land, except that temporary uses and structures in accordance with section
24 21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of zoning
25 compliance requirements. Where issued, a certificate of occupancy shall be considered the
26 certificate of zoning compliance.

27 **C. Issuance**

28 **1. Certificate**

29 Upon approval by the director, the building official shall issue a certificate of zoning
30 compliance, which is valid as long as the conditions of the building or land use permit
31 remain in effect.

32 **2. Conditional Certificate**

- 33 a. Upon approval by the director, the building official may issue a conditional
34 certificate of zoning compliance for a specified portion or portions of a building
35 prior to final completion of the entire building and/or site.
- 36 b. The conditional certificate shall be valid only for the period of time stated in the
37 certificate, not to exceed 270 days.
- 38 c. Conditions that are attached to the conditional certificate of zoning compliance
39 must be completed prior to the expiration of the certificate. When such
40 conditions have not been completed prior to the expiration date of the conditional
41 certificate, the certificate of zoning compliance shall immediately expire.
- 42 d. Upon receipt of a written application to the building official stating satisfactory
43 reasons for the failure to complete work within the given time period, the building

1 official may renew the certificate for a specified period of time, not to exceed 180
2 days.

- 3 e. Only one renewal may be granted, except that single family homes and phased
4 projects may be granted more than one renewal.

5 **3. Inside the Building Safety Service Area**

6 Inside the building safety service area, the building official shall issue a certificate of
7 zoning compliance when, after examination of the building, structure, landscaping, and/or
8 other improvements or changes to the property, the municipality finds that the property
9 complies with the applicable provisions of this ~~title-Title~~ and other applicable ordinances
10 and construction codes of the municipality.

11 **4. Outside the Building Safety Service Area**

12 Outside the building safety service area, the building official shall issue a certificate of
13 zoning compliance when the municipality finds that the property complies with the
14 applicable provisions of this title. For all development except for single- and two-family
15 development, such finding shall follow an examination of the building, structure,
16 landscaping, and/or other improvements or changes to the property. Single- and two-
17 family development shall provide a certified as-built to the building official. Provisions of
18 this ~~title-Title~~ that cannot be verified by a certified as-built may be subject to a physical
19 examination of the property through a final zoning inspection.

20 **5. Appeals**

21 Denial of a certificate of zoning compliance may be appealed to the zoning board of
22 examiners and appeals in accordance with subsection 21.03.050B.

23 **21.03.070 COMPREHENSIVE PLAN AMENDMENTS**

24 **A. Purpose and Scope**

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

28 **B. Levels of Plan Review**

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

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

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

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

46 The director shall initiate a targeted review of the plan at least once every 10 years, or in
47 conjunction with an area-wide rezoning, in order to make it consistent with economic and

demographic trends, recent and proposed land use decisions, and adopted studies and plans. Any amendments shall follow the procedures of subsections C. and D. below.

3. Other Plan Amendments

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

C. Procedure for Substantive Amendments

1. Procedure

a. Initiation

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

b. Public Notice

Notice ~~[OF ALL PUBLIC HEARINGS]~~ shall be provided in accordance with section 21.03.020H.

c. Departmental Review

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

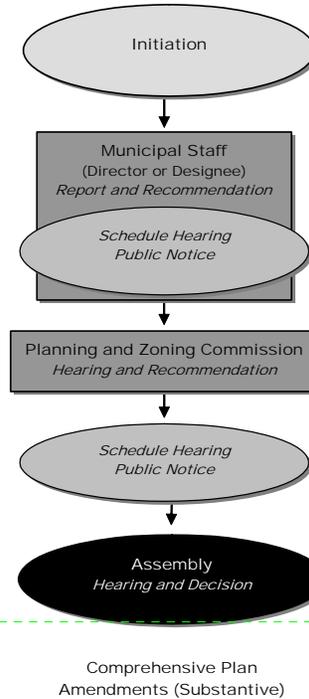
d. Planning and Zoning Commission Action

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

e. Assembly Action

The assembly shall hold a public hearing on the proposed amendment. Based on the commission's recommendation, testimony received, and the approval criteria in subsection C.2. below, the assembly shall:

- i. Approve the amendment by ordinance, either as submitted or with ~~modifications suggested by staff, the planning and zoning commission, or the assembly~~ further amendments as deemed necessary and appropriate by the assembly;
- ii. Reject the proposed amendment; or



Comment [EBM112]: Disagree-- Unnecessary change

1 iii. Refer the proposed amendment, and/or any substantial modifications
2 proposed by the assembly, back to the ~~planning-Planning~~ and ~~zoning~~
3 ~~Zoning commission-Commission~~ or to a committee of the assembly for
4 further consideration.

5 **2. Approval Criteria**

6 The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ may submit a
7 recommendation for approval, and the assembly may approve an amendment if, in the
8 judgment of the commission or the assembly, the amendment meets the following
9 approval criteria:

10 a. The proposed amendment is necessary in order to address one or more of the
11 following:

12 i. A change in projections or assumptions from those on which the
13 comprehensive plan is based;

14 ii. Identification of new issues, needs, or opportunities that are not
15 adequately addressed in the comprehensive plan;

16 iii. A change in the policies, objectives, principles, or standards governing
17 the physical development of the municipality or any other geographic
18 areas addressed by the comprehensive plan; or

19 iv. Identification of errors or omissions in the comprehensive plan.

20 b. The proposed amendment maintains the internal consistency of the
21 comprehensive plan, and is consistent with the other elements of the
22 comprehensive plan without the need to change other components of the plan to
23 maintain internal consistency ~~unless such other changes are deemed appropriate~~
24 ~~by the assembly.~~

25 c. The proposed amendment would not be detrimental to the public interest, health,
26 safety, convenience, or welfare of the community.

27 d. If the proposed amendment is to the comprehensive plan map, the requested
28 land use designation is found to be equally or more supportive of the
29 comprehensive plan goals, objectives, policies, and guidelines, than the old land
30 use designation.

31 e. If the proposed amendment is to the comprehensive plan map, the subject site is
32 consistent with the adopted description and locational criteria for the requested
33 land use designation, and is physically suitable to accommodate the proposed
34 designation, including but not limited to access, physical constraints, provision of
35 utilities, and compatibility with surrounding designations and development
36 patterns.

37 **3. Concurrent Zoning Changes Allowed**

38 a. Requests for rezonings (zoning map amendments) may be considered
39 concurrently with a comprehensive plan map amendment. The zoning map
40 amendment shall be to a zone corresponding to the requested comprehensive
41 plan map designation. Concurrent zoning map amendments shall meet all of the
42 approval criteria of subsection 21.03.160[170]E.

43 b. The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ shall submit
44 its report and recommendation regarding the comprehensive plan map
45 amendment to the assembly at the same time it submits the report and
46 recommendation on the rezoning case. The assembly and ~~planning-Planning~~

Comment [EBM113]: Disagree--
This change is pointless. The paragraph doesn't say that the Assembly can't make other changes. It says that internal consistency needs to be maintained. Any proposed change needs to have examined whether it creates the need for other changes, and if it does, those other changes need to be made as well.

and ~~zoning-Zoning commission-Commission~~ shall consider the plan amendment proposal and rezoning request separately, and shall act separately on the two items.

D. Procedure for Cosmetic Amendments

1. Initiation

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

2. Departmental Review

The department shall review each proposed cosmetic amendment and shall provide a report to the ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~.

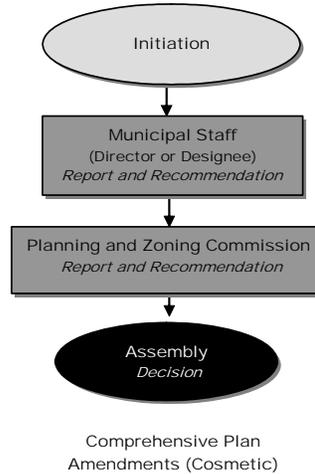
3. Planning and Zoning Commission Action

The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ shall submit, within a reasonable time, a report and recommendation to the assembly regarding whether or not the proposed amendment should be adopted as submitted, adopted with modifications, or rejected.

4. Assembly Action

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

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



21.03.080 CONDITIONAL USES

A. Purpose

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

B. Procedure

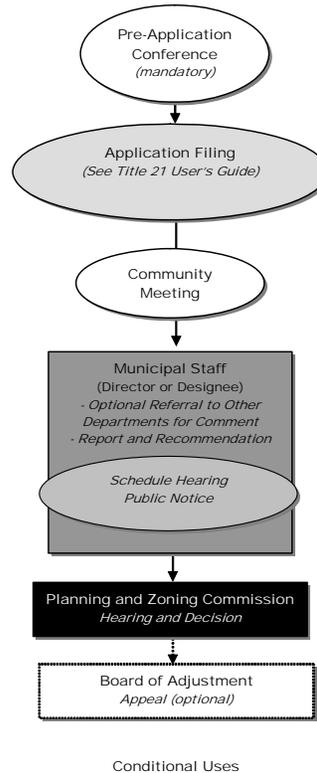
1. Initiation

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

2. Pre-Application Conference

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

- 1 | **3. Community Council Meeting**
 2 | A community council meeting is required in accordance with subsection 21.03.020C.
- 3 | **4. Application Submittal**
 4 | Applications for a conditional use approval shall contain the information specified in the
 5 | ~~title-Title~~ 21 user's guide, and shall be submitted to the director on a form provided by the
 6 | department.
- 7 | **5. Public Notice**
 8 | Notice ~~[OF ALL PUBLIC HEARINGS]~~ shall be provided in accordance with section
 9 | 21.03.020H.
- 10 | **6. Departmental Review**
 11 | The department shall review each proposed conditional use approval application in light
 12 | of the approval criteria of subsection C. below and distribute the application to other
 13 | reviewers as deemed necessary. Based on the results of those reviews, the department
 14 | shall provide a report to the ~~planning-Planning~~ and ~~zoning-Zoning~~ commission
 15 | Commission.
- 16 | **7. Planning and Zoning Commission Action**
 17 | The ~~planning-Planning~~ and ~~zoning-Zoning~~ commission
 18 | Commission shall hold a public hearing on the proposed application and act to approve, approve with
 19 | conditions, or deny the proposed conditional use, based on the approval criteria of subsection C. below.
- 22 | **8. Appeal**
 23 | Decisions on conditional use approvals may be
 24 | appealed to the board of adjustment in accordance
 25 | with subsection 21.03.050A.
- 26 | **C. Approval Criteria**
 27 | The ~~planning-Planning~~ and ~~zoning-Zoning~~ commission
 28 | Commission may approve a conditional use application if, in
 29 | the judgment of the commission, all of the following criteria
 30 | have been met in all material matters:
- 31 | 1. The proposed use is consistent with the
 32 | comprehensive plan and all applicable provisions of
 33 | this ~~title-Title~~ and applicable state and federal
 34 | regulations;
- 35 | 2. The proposed use is consistent with the purpose and
 36 | intent of the zoning district in which it is located,
 37 | including any district-specific standards set forth in
 38 | chapter 21.04;
- 39 | 3. The proposed use is consistent with any applicable
 40 | use-specific standards set forth in chapter 21.05;
- 41 | 4. The site size, dimensions, shape, location, and topography are adequate for the needs of
 42 | the proposed use and any mitigation needed to address potential impacts;
- 43 | 5. The proposed use will not alter the character of the surrounding area in a manner which
 44 | substantially limits, impairs, or prevents the use of surrounding properties of the permitted
 45 | uses listed in the underlying zoning district;



- 1 6. The proposed use is compatible with uses allowed on adjacent properties, in terms of its
2 scale, site design, operating characteristics (hours of operation, traffic generation,
3 lighting, noise, odor, dust, and other external impacts);
- 4 7. Any significant adverse impacts anticipated to result from the use will be mitigated or
5 offset to the maximum extent feasible;
- 6 8. The proposed use is appropriately located with respect to the transportation system,
7 including but not limited to existing and/or planned street designations and
8 improvements, street capacity, access to collectors or arterials, connectivity, off-site
9 parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation,
10 and safety for all modes; and
- 11 9. The proposed use is appropriately located with respect to existing and/or planned water
12 supply, fire and police protection, wastewater disposal, storm water disposal, and similar
13 facilities and services.

14 **D. Amendments to Approved Conditional Uses**

15 **1. Original Procedure Applies for Most Amendments**

16 Amendment of a conditional use approval shall follow the same process required for the
17 original approval of a conditional use, unless the amendment is determined to be a minor
18 amendment as described in subsection D.2. below.

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

20 The director may **administratively** approve **[ADMINISTRATIVELY]** minor amendments to
21 any approved conditional use upon written application and documentation by the
22 applicant, and upon the director's determination that the amendment is a minor
23 amendment.

24 **a. Procedure**

- 25 i. Upon receiving a written request from the applicant for a conditional use
26 amendment, the director shall determine if the proposed amendment will
27 be processed as a minor amendment or major amendment. The
28 applicant may appeal the director's decision in writing to the zoning
29 board of examiners and appeals within 10 days of the decision.
- 30 ii. Immediately following the director's determination that a proposed
31 amendment is minor, the director shall:
 - 32 (A) Issue a minor amendment affidavit, which shall be transmitted to
33 the planning and zoning commission for their information; and
 - 34 (B) Attach a form stating the nature of the modification, date of
35 approval, and bearing the signature of the director to the
36 conditional use on file in the department.
- 37 iii. If the original approval had been recorded, the amended plan shall be
38 recorded by the municipality at the applicant's expense.

39 **b. Types of Minor Amendments**

40 The following are amendments which the director may reasonably determine to
41 be "minor":

- 42 i. Insubstantial changes to the text to add clarity or correct conflicting
43 provisions.
- 44 ii. Changes in street alignment if such changes further the intent of the plan
45 and this code, and are acceptable to the municipal engineer.

- iii. Changes in building envelope, setback, and similar provisions of 10 percent[~~%~~] or less.
- iv. Incidental changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the plan and this code.

E. Platting for Conditional Uses

- 1. If development under an approval under this section creates a subdivision or requires the vacation of a dedicated public area, the approval is not effective until a final plat for the subdivision or vacation is approved and recorded in accordance with this ~~title~~Title. A preliminary plat required under this section is subject to approval as required by section 21.03.200, *Subdivisions*.
- 2. Unless the planning and zoning commission directs in the final approval that it shall act as the platting authority, the platting board is the platting authority for subdivisions under this subsection.
- 3. The platting authority under this subsection may require that any street right-of-way, walkway, utility easement, or other public area designated under the final approval be dedicated to the public.

Comment [EBM114]: Wrong cross reference

F. Conditional Use for a Residential Planned Unit Development

1. Intent and Approval

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

- ~~a. Creative use of the land, imaginative architectural design, a consolidation of usable open space and recreation areas, and the preservation of natural features.~~
- ~~b. The mixing of compatible land uses, residential densities, and housing types within the neighborhood.~~
- ~~c. The efficiency of the configuration of utilities, vehicular circulation, and parking facilities.~~
- ~~d. Enhancing the surrounding environment.~~
- ~~e. Maintaining population densities and lot coverage that are consistent with available public services and the comprehensive plan.~~

2. Minimum Standards

~~All planned unit developments shall meet the following minimum standards. In addition, the planning and zoning commission may require compliance with such other design standards relating to the construction, design, and placement of buildings, landscaping, streets, roadways, walkways, drainageways, and other site design features as it may deem necessary. A PUD shall comply with any special limitations of the zoning district. The user's guide may include guidelines to assist developers in meeting such standards.~~

a. Minimum Site Area

~~The minimum site area for a PUD shall be 2.0 acres for PUDs located entirely in the R-2F, R-2M, R-3, and R-4 zoning districts. If any portion of a proposed PUD is located within the R-1, R-1A, R-2A, R-2D, R-5, [OR] R-7, GR-1, GR-2, GR-2A, GR-3, GR-4, or GR-5 zoning districts, the minimum site area shall be 5.0 acres.~~

Comment [EBM115]: Disagree-- Staff does not recommend moving PUDs to the master planning section. See major issues list.

1 ~~If any portion of a proposed PUD is located within the R-6, R-8, or R-9 zoning~~
2 ~~districts, the minimum site area shall be 10 acres.~~

3 **b. Open Space**

4 A minimum of 30 percent of the site shall be reserved as open space which shall
5 meet the following standards:

6 i. ~~At least one half of such open space shall be contiguous;~~

7 ii. ~~The open space shall not include public or private streets or rights of way;~~
8 ~~parking facilities, driveways, other motor vehicle circulation areas,~~
9 ~~loading areas, or refuse collection areas; slopes over 15 percent; 50~~
10 ~~percent of designated snow storage areas; drainage easements, ditches,~~
11 ~~swales, or other areas intended to collect and channel water;~~

12 iii. ~~In class A districts, no portion of the required open space shall be less than~~
13 ~~2,000 square feet in area or less than 30 feet in its smallest dimension,~~
14 ~~except for individual yards, balconies, or decks pursuant to b.iv. and b.v.~~
15 ~~below;~~

16 iv. ~~In class B districts, no portion of the required open space shall be less than~~
17 ~~half of the minimum lot size of the underlying district in area, or less than~~
18 ~~100 feet in its smallest dimension, except for individual yards, balconies,~~
19 ~~or decks pursuant to b.v. and b.vi. below;~~

20 v. ~~A minimum of 12 percent and a maximum of 50 percent of required open space~~
21 ~~shall consist of yards which shall be reserved for the residents of~~
22 ~~individual dwelling units; and~~

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

26 **c. Design**

27 i. ~~Any nonresidential use permitted in a PUD shall be compatible with the~~
28 ~~residential nature of the development. Parking areas which are intended~~
29 ~~to serve nonresidential uses shall be separated from those designed to~~
30 ~~serve residential areas. Unless nonresidential and residential uses are~~
31 ~~combined within a single structure, nonresidential uses shall be~~
32 ~~separated from dwelling units by L3 buffer landscaping.~~

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

35 iii. ~~Level 4 screening landscaping shall be planted along each boundary of the~~
36 ~~PUD adjacent to a nonresidential district or a right of way designated for~~
37 ~~collector or greater capacity on the *Official Streets And Highways Plan*.~~

38 iv. ~~Common open space with L4 screening landscaping shall be provided along~~
39 ~~any lot line abutting a residential neighborhood where any abutting lot is~~
40 ~~greater than 150 percent of the average lot size along that lot line of the~~
41 ~~PUD.~~

42 v. ~~Any two adjacent buildings within a PUD shall be separated from each other by~~
43 ~~a distance equal to one half the height of the taller building.~~

44 vi. Each **dwelling** unit shall be provided with either heated parking, or at least one
45 electrical outlet that is convenient to the required parking space(s).

d. Access and Connectivity

PUDs shall comply with section 21.07.060, *Transportation and Connectivity*.

e. Utility Installation

All new utilities shall be installed underground.

f. Homeowners' Agreements

Any PUD which will involve the formation of a horizontal property regime under the terms of AS 34.07.010 et seq. or any mandatory homeowners' or similar association shall submit for review by the commission the articles of incorporation and bylaws of any such association prior to the sale of any property subject to the association. The commission may require any provisions necessary to ensure that the provisions and intent of this title are met.

3. Development Options

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

a. Density

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

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

b. Uses

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

c. Dimensional Standards

i. Height limitations in the R-1, R-1A, R-2A, R-2D, R-2F, R-2M, R-6, R-7, R-8, [OR] R-9, GR-1, GR-2, GR-2A, GR-3, GR-4, or GR-5 zoning districts

~~may be exceeded by an additional five feet. Height limitations in the R-3 and R-4 districts may be exceeded by an additional 10 feet.~~

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

4.Planned Unit Developments in the Turnagain Arm District

~~PUDs in the TA district shall conform, with regard to uses and residential density, to the land use plans of the Turnagain Arm Area Plan and the standards of this section.~~

G.F. Abandonment of Conditional Use

An otherwise lawful conditional use approval shall expire if:

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

21.03.090 FLOOD HAZARD PERMITS

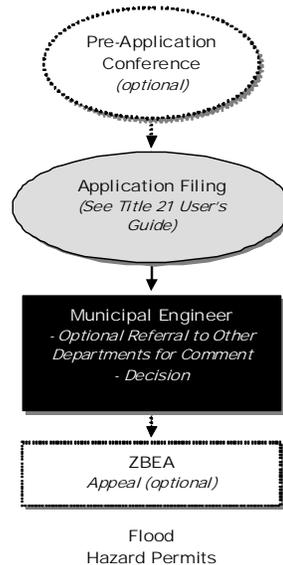
A. Applicability

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

B. Application Contents

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

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



C. Evaluation; Additional Information

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

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

9 **D. Criteria for Issuance**

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

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

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

23 The municipal engineer shall act on an application in the manner described in this section within
24 30 days from receiving the application, except that, where additional information is required, the
25 official shall act within 30 days of the receipt of such additional requested information.

26 **F. Notice on Subdivision Plats**

27 Where any portion of a subdivision is situated within a flood hazard district, a note shall be placed
28 on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard
29 district as it exists on the date hereof. The boundaries of the flood hazard district may be altered
30 from time to time in accordance with the provisions of section 21.04.060D.3., *Creation of Flood
31 Hazard Overlay District; Official Flood Hazard Reports and Maps*. All construction activities and
32 any land use within the flood hazard district shall conform to the requirements of section
33 21.04.060D., *Flood Hazard Overlay District*."

34 **G. Appeals**

35 Denial of a flood hazard permit may be appealed to the zoning board of examiners and appeals in
36 accordance with section 21.03.050B.

37 **21.03.100 LAND USE PERMITS**

38 **A. PurposeApplicability**

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

Comment [EBM116]: Disagree--
The applicability is in section B—this
is the purpose statement. Why was
this changed?

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

3 **B. Applicability**

4 **1. In the Municipality**

5 In the municipality, a land use permit shall be required prior to:

- 6 **a.** Construction or placement of a building or addition to an existing building whose
7 floor area is 120 square feet or greater;
- 8 **b.** Installation of telecommunication towers;
- 9 **c.** Construction of a fence over eight feet in height;
- 10 **d.** Excavation of more than 50 cubic yards on any lot or tract;
- 11 **e.** Filling or grading more than 50 cubic yards on any lot or tract;
- 12 **f.** Changing the principal use of a building, as defined by “change of use” in chapter
13 21.14; or
- 14 **g.** Mechanized land clearing of more than one contiguous acre (chainsaws
15 excluded).

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

17 Inside the building safety service area, a building permit shall be considered the land use
18 permit and shall be required in accordance with B.1. above and ~~title~~ Title 23. The
19 issuance of a building permit may also be subject to the improvement requirements
20 referenced in subsection E. below.

21 **C. Procedures**

22 **1. Application Submittal**

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

25 **2. Approval Procedure**

- 26 **a.** The building official shall review each application for a land use permit.
- 27 **b.** The building official shall determine whether the application complies with all
28 requirements of ~~title~~ Title 23. The director shall determine whether the
29 application complies with all requirements of ~~title~~ Title 21, and shall inform the
30 building official of his or her determination.
- 31 **c.** The building official shall issue a land use permit upon finding that the application
32 and the proposed work complies with the approval criteria of subsection D.
33 below.
- 34 **d.** A land use permit shall become null and void unless the work approved by the
35 permit is commenced (see “start of construction” in chapter 21.14) within 12
36 months after the date of issuance. If after start of construction the work is
37 discontinued for a period of 12 months, the permit therefore shall immediately
38 expire. No work authorized by any permit that has expired shall thereafter be
39 performed until a permit has been reinstated, or until a new permit has been
40 secured.

1 **3. Changes to Approved Permits**

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

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

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

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

19 **5. Appeals**

- 20 **a.** Denials or revocations of a land use permit relating to [title-Title](#) 21 compliance,
21 with the exception of those relating to subsection 21.03.100E, may be appealed
22 to the zoning board of examiners and appeals in accordance with subsection
23 21.03.050B.
- 24 **b.** Denials or revocations of a land use permit relating to [title-Title](#) 23 compliance
25 may be appealed to the building board of examiners and appeals.

26 **D. Approval Criteria**

27 No land use permit shall be issued unless the building official determines that all required
28 approvals have been granted and the plans comply with all applicable provisions of [title-Title](#) 23,
29 and the director determines the plans comply with all applicable provisions of this [title-Title](#).

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

31 **1.Improvements Required**

32 ~~The issuance of a land use permit under this section for the construction of a residential,~~
33 ~~commercial, or industrial structure on a lot, shall be subject to the permit applicant~~
34 ~~providing the easements, dedications, and improvements required for a subdivision in the~~
35 ~~same improvement area under chapter 21.08, Subdivision Standards. In applying the~~
36 ~~provisions of chapter 21.08, Subdivision Standards, under this section, the term "lot" shall~~
37 ~~be substituted for the term "subdivision," the term "permit applicant" shall be substituted~~
38 ~~for the term "subdivider," and the term "municipal engineer" shall be substituted for the~~
39 ~~term "platting authority."~~

40 **2.Exceptions**

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

- 43 ~~**a.**All construction associated with a single dwelling unit is located on a single lot, tract, or~~
44 ~~parcel, regardless of zoning district;~~

Comment [EBM117]: Disagree with deletion of this section—see major issues.

- ~~b. The traffic engineer determines that a street dedication or improvement is not required for traffic circulation;~~
- ~~c. A dedication or improvement has been provided to the applicable standard of § [IN] chapter 21.08, *Subdivision Standards*;~~
- ~~d. A dedication or improvement will be provided under a subdivision agreement that has been entered into under section 21.08.060, *Subdivision Agreements*, or under an established assessment district;~~
- ~~e. The municipality has already appropriated funds to construct an improvement; or~~
- ~~f. The permit is for repairs, maintenance, emergencies, electrical, mechanical, or plumbing.~~

3. Standards for Requiring Dedications and Improvements

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

- ~~a. The dedication or improvement shall be reasonably related to the anticipated impact on public facilities and adjacent areas that will result from the use and occupancy of the structure that is the subject of the building or land use permit. Any required public use easement shall be removed when calculating density or lot coverage per the applicable zoning district. The municipal engineer may require the permit applicant to provide information or analyses to determine impacts as set out in the comprehensive plan's policies for transportation, transportation design and maintenance, and water resources on public facilities and adjacent areas, including without limitation the following:
 - ~~i. A traffic impact analysis, or similar information. The traffic engineer may require a traffic impact analysis if the same would be required for approval of a subdivision, conditional use, or site plan for similar development under this title.~~
 - ~~ii. A drainage study, or similar information. A drainage study may be required if the same would be required for approval of a subdivision, conditional use, or site plan for similar development under this title.~~
 - ~~iii. An estimate of the financial costs of impacts on public facilities and adjacent areas without the required improvements, including without limitation continuity of improvements, maintenance costs of public facilities, parking, drainage, noise and dust control, pedestrian and vehicle safety and access, and emergency vehicle access and response time.~~
 - ~~iv. Information concerning the consistency of the impacts of the proposed development with the comprehensive plan.~~
 - ~~v. A design of internal streets and location of fire hydrants satisfactory to the fire marshal for purposes of fire protection within the development. Outside the Anchorage fire service area, the state fire marshal's standards control.~~~~
- ~~b. The estimated cost of constructing the improvement shall be reasonable when compared to the estimated cost of the proposed development under the land use permit. The determination of reasonableness shall be based on cost estimates~~

1 ~~for the improvement and the proposed development that the permit applicant or~~
2 ~~applicant's agent submits under penalty of perjury. If the municipal engineer~~
3 ~~determines that the estimated cost to the applicant to complete all the~~
4 ~~improvements required by this section is unreasonable in relation to the~~
5 ~~estimated cost of the proposed development, the municipal engineer may reduce~~
6 ~~or eliminate required improvements as necessary to make the relationship~~
7 ~~between such costs reasonable.~~

8 ~~c.The municipal engineer shall consider the potential development of all adjacent parcels,~~
9 ~~lots, or tracts under common ownership, in addition to the lot, parcel, or tract that~~
10 ~~is the subject of the permit application, and the impacts associated therewith, in~~
11 ~~applying the standards in this subsection.~~

12 ~~d.The municipal engineer may approve adjustments to the improvement requirements~~
13 ~~under this section to the extent that compliance with the standards would result in~~
14 ~~an adverse impact on natural features such as wetlands, steep slopes, or~~
15 ~~existing mature vegetation; existing development; or public safety.~~

16 **4.Phasing of Installation**

17 ~~Except as provided in this section, all required improvements shall be constructed and~~
18 ~~accepted by the municipality before any certificate of zoning compliance is issued for the~~
19 ~~permitted construction. If the municipal engineer determines that it is not reasonable to~~
20 ~~require compliance with the preceding sentence, no permit may be issued until the~~
21 ~~applicant enters into an agreement for construction of the required improvements, with~~
22 ~~performance guarantees, in the form required for subdivision improvements under~~
23 ~~section 21.08.050, *Improvements*.~~

24 **5.Warranty**

25 ~~All improvements required under this section shall be subject to the warranty and~~
26 ~~guarantee of warranty requirements provided for subdivision improvements in section~~
27 ~~21.08.050, *Improvements*.~~

28 **6.Oversizing**

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

38 **7.Fee in Lieu**

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

41 ~~a.That the improvements or construction activities associated therewith would create a~~
42 ~~potential undue safety hazard to motorists or pedestrians; or~~

43 ~~b.Due to the nature of existing development on adjacent properties it is unlikely that~~
44 ~~improvements would be extended in the foreseeable future and the~~
45 ~~improvements associated with the development under review do not, by~~
46 ~~themselves, provide a sufficient improvement to safety or capacity or a sufficient~~
47 ~~benefit to the property to be developed under the building or land use permit to~~
48 ~~warrant construction.~~

~~c. Any fee paid pursuant to this section shall be accounted for separately, and the fee paid shall be dedicated and used only for the purpose of constructing the public facilities which were identified by the municipal engineer and for which the fee was paid.~~

8. Fee Amount

~~The amount of the fee in lieu shall be the full cost of the improvements as estimated by an engineer registered as a professional engineer in Alaska. In the event the applicant or successor in interest later elects or is required to install improvements for which the fee was paid, the fee shall be refunded (without interest), so long as the claim for refund is filed within two years from the date of acceptance of the improvement.~~

9. Appeals of Improvement Standards

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

21.03.110 MASTER PLANNING INSTITUTIONAL

A. Purpose

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

1. Provide flexibility to institutions to carry out long-range building programs in accord with the institutional mission and objectives;
2. Provide a growing and continuing source of employment for the municipality that is easily accessible and well-integrated with surrounding neighborhoods and the local transportation system;
3. Create attractive and efficient urban areas that incorporate quality design and urban amenities;
4. Protect sensitive portions of the natural environment that are potentially affected by institutional development; and
5. Consider the impacts of institutional development on adjacent neighborhoods.

B. Applicability

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

Comment [EBM118]: If this section is to be expanded to include multiple types of master planning, there needs to be an introductory statement or purpose, as going right into the purpose of an institutional master plan makes it seem like the whole section is about that (as it used to be).

However, staff disagrees with making PUDs into master plans—see discussion in major issues list.

1 **C. Institutional Master Plan Requirements**

2 **1. Planning Area**

3 The planning area for the institutional master plan shall include all the areas that are
4 under the ownership and control of the institution, and for which the institution wishes to
5 establish independent design and development standards under this section.

6 **2. Submittal Requirements**

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

12 **a. Boundaries**

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

17 **b. Mission and Objectives**

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

28 **c. Existing Property and Uses**

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

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

42 **d. Needs of the Institution**

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

- 46 i. Academic;

- 1 ii. Support services;
- 2 iii. Research;
- 3 iv. Office;
- 4 v. Housing;
- 5 vi. Patient care;
- 6 vii. Assembly for public events, worship, cultural events, and the like;
- 7 viii. Recreation and athletics;
- 8 ix. Transit;
- 9 x. Parking; ~~and~~
- 10 xi. Commercial spaces, not including concessionaire space that is intended
- 11 to serve the institutional community.

- 12 e. **Ten-Year Development Envelope**
- 13 The institutional master plan shall include a description of the development
- 14 expected to occur within the planning area boundaries within a 10-year time
- 15 frame. The 10-year development description shall be the maximum amount of
- 16 development proposed by the institution based on anticipated changes in total
- 17 population and programs. The 10-year development description shall include the
- 18 following:

- 19 i. General location of the institution's needs (as listed in 2.d. above) in
- 20 potential development areas as depicted on a site functional use map;
- 21 and

- 22 ii. Estimated total square footage of anticipated development in each
- 23 development area.

- 24 f. **Development and Design Standards**
- 25 The institutional master plan shall include the elements listed below. These
- 26 elements may set different standards than those found in ~~the~~ Title 21. ~~the~~ The
- 27 plan shall list the specific sections of ~~the~~ Title 21 for which different standards
- 28 are to be established by the master plan, and provide rationale for any different
- 29 standards proposed. Where different standards are approved in the institutional
- 30 master plan, those standards shall be applied instead of the corresponding
- 31 standards in ~~the~~ Title 21.

- 32 i. **Borders and Boundaries**
- 33 Treatment along public rights-of-way and boundaries with other
- 34 landowners, with regard to building setbacks and landscape buffers.

- 35 ii. **Transportation and Parking Management**
- 36 A transportation and parking management plan including how additional
- 37 parking demand and transit will be accommodated within the planning
- 38 area.

- 39 iii. **Natural Resource Protection**
- 40 Identification of sensitive natural resources, including but not limited to
- 41 wetlands and flood plain delineation maps, within the planning area, and
- 42 the institution's plans for maintaining or mitigating impacts on those
- 43 sensitive areas. The institutional master plan shall not reduce or

1 otherwise weaken the natural resource protection standards of section
2 21.07.020.

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

4 Open space and pedestrian circulation guidelines and objectives,
5 including a description of the circulation system to be provided through
6 the planning area, plans for ensuring the accessibility of pedestrian areas
7 and open spaces, and links to surrounding community open space,
8 where appropriate.

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

10 Institutional design standards and objectives, identified through written
11 and graphic materials, that address the following issues:

12 (A) Dimensional standards for building setbacks, height, and lot
13 coverage;

14 (B) Site design and circulation;

15 (C) Landscaping and site amenities;

16 (D) Building orientation;

17 (E) Building massing and articulation;

18 (F) Building sustainability; ~~and~~

19 (G) Northern climate design.

20 **vi. Wayfinding and Signage**

21 A wayfinding and signage plan including building, vehicular, and
22 pedestrian signage.

23 **vii. Timing**

24 A conceptual development schedule and phasing plan.

25 **g. Twenty Year Development Areas**

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

31 **D. Residential Planned Unit Development**

32 **1. Intent and Approval**

33 A residential planned unit development (PUD) is intended to allow flexibility for residential
34 development in the zoning ordinance and to achieve the creation of a more desirable
35 environment than would be possible through a strict application of this provision Title.
36 The Planning and Zoning Commission shall evaluate the proposed planned unit
37 development in accordance with the following criteria:

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

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

Comment [EBM119]: The approval process below indicates that the Assembly is the decision-making body, so why say PZC here?

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

d. Enhancing the surrounding environment.

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

2. Minimum Standards

All planned unit developments shall meet the following minimum standards. In addition, the Planning and Zoning Commission may require compliance with such other design standards relating to the construction, design, and placement of buildings, landscaping, streets, roadways, walkways, drainageways, and other site design features as it may deem necessary. The Users' Guide may include guidelines to assist developers in meeting such standards.

a. Minimum Site Area

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

b. Open Space

A minimum of 20 percent of the site shall be reserved as open space which shall meet the following standards:

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

ii. The open space shall not include public or private streets or rights of way; parking facilities, driveways, other motor vehicle circulation areas, loading areas, or refuse collection areas; slopes over 15 percent; 50 percent of drainage easements, ditches, swales, or other areas intended to collect and channel water; and

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

c. Design

i. Any nonresidential use permitted in a PUD shall be compatible with the residential nature of the development. Parking areas which are intended to serve nonresidential uses shall be separated from those designed to serve residential areas. Unless nonresidential and residential uses are combined within a single structure, nonresidential uses shall be separated from dwelling units by L2 buffer landscaping.

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

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

iv. Common open space with L3 screening landscaping shall be provided along any lot line abutting a residential neighborhood where any abutting

Comment [EBM120]: Disagree-- Coffey removed the words "and the comprehensive plan" at the end of this sentence. This is current code language. All entitlements must be consistent with the comprehensive plan.

Comment [EBM121]: Disagree-- Coffey removed the provision requiring that PUDs comply with any district special limitations (SLs). While this would probably be the case anyway, it seems clearer to state it, so that there is no confusion and the applicant is aware.

Comment [EBM122]: According to F below, the Assembly is the decision-making body.

Comment [EBM123]: This district no longer exists

Comment [EBM124]: Disagree-- The provisionally-adopted code and the current code require 30% open space for a PUD.

Comment [EBM125]: Disagree-- Other open space requirements that were deleted:
-current code requires that no portion of the open space be less than 2,000 sf and less than 30 ft in smallest dimension (in provisionally adopted code, this is carried forward for Class A districts, with a slightly different requirement in class B districts)
-current code requires that a minimum of 12% and maximum of 50% of required open space be private yards for individual dwellings. Provisionally adopted code carries this forward.

Comment [EBM126]: Disagree-- Provisionally adopted code says "50 percent of designated snow storage areas". Any portion of a drainage easement should not count as open space, as that is where drainage water will be flowing.

Comment [EBM127]: Disagree-- The various levels of landscaping were deleted from this draft. If they were brought back, L2 is not buffer landscaping, it is visual enhancement landscaping. Current code requires a 30 foot "heavily" landscaped buffer in this situation. Provisionally adopted code proposed 15 feet. L2, if carried forward, would be 8 feet.

Comment [EBM128]: Landscaping levels have been deleted from code.

Comment [EBM129]: Disagree-- Current code and provisionally adopted code have "nonresidential" district. As PUDs are usually more residential, the intent is to buffer them from any NON residential (like commercial or industrial) that is abutting.

Comment [EBM130]: Landscaping levels were deleted from this code. L3 is "buffer" landscaping, not "screening".

lot is greater than 150 percent of the average lot size along that lot line of the PUD.

Comment [EBM131]: Disagree-- Another deleted provision from current code and provisionally adopted code:
 -Any two adjacent buildings within a PUD shall be separated from each other by a distance equal to one-half the height of the taller building.

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

d. Access and Connectivity

PUDs shall comply with section 21.07.060, *Transportation and Connectivity*.

e. Utility Installation

All new utilities shall be installed underground.

f. Homeowners' Agreements

Any PUD which will involve the formation of a horizontal property regime under the terms of AS 34.07.010 et seq. or any mandatory homeowners' or similar association shall submit for review by the commission the articles of incorporation and bylaws of any such association prior to the sale of any property subject to the association. The commission may require any provisions necessary to ensure that the provisions and intent of this Title are met.

Comment [EBM132]: According to F below, the Assembly is the decision-making body.

3. Development Options

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

Comment [EBM133]: According to F below, the Assembly is the decision making body.

a. Density

The number of dwelling units per acre allowable on the gross are of a PUD shall be determined by the Planning And Zoning Commission. However, in no event shall the number of dwelling units per acre exceed the maximums established by the following schedule:

Comment [EBM134]: Wrong cross reference.

Comment [EBM135]: According to F below, the Assembly is the decision-making body.

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

Comment [EBM136]: This district was deleted.

b. Uses

The applicant may propose any residential use, and in class A zoning districts, may propose any commercial use that is allowed in the R-4 district in table 21.05-1. A PUD may not include the storage or use of mobile homes or quonset huts. Any nonresidential use must be specifically authorized as to its exact location,

1 type, and size. In no event shall the total gross floor area of all nonresidential
2 uses exceed 10 percent of the total gross floor area of the PUD.

3 **c. Dimensional Standards**

4 i. Height limitations in the R-1, R-1A, R-2A, R-2D, R-2F, R-2M, R-6, R-7,
5 R-8, [OR] R-9, GR-1, GR-2, GR-2A, GR-3, GR-4, or GR-5 zoning
6 districts may be exceeded by an additional five feet. Height limitations in
7 the R-3 and R-4 districts may be exceeded by an additional 10 feet.

Comment [EBM137]: This district was deleted.

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

10 **4. Planned Unit Developments in the Turnagain Arm District**

11 PUDs in the TA district shall conform, with regard to uses and residential density, to the
12 land use plans of the *Turnagain Arm Area Plan* and the standards of this section.

13 **E. Business-Industrial Park Planned Unit Development**

14 **1. Intent and Approval**

15 A business-industrial park planned unit development (BIP-PUD) is intended to provide
16 comprehensively planned commercial-industrial developments that are compatible with
17 surrounding areas. BIP-PUD developments should have integrated, campus-style site
18 plans designed to accommodate a variety of public/institutional, commercial, and
19 industrial uses. High standards for architecture, landscaping, and site planning are
20 encouraged. The Planning and Zoning Commission shall evaluate the proposed planned
21 unit development in accordance with the conditional use approval criteria at C. above.

Comment [EBM139]: Wrong cross reference.

22 **2. Zoning District**

23 A BIP-PUD is allowed only in the B-3 district. Business-industrial parks existing on
24 [effective date] in other zoning districts shall be considered conforming in those districts.

Comment [EBM140]: Why remove this as being a type of conditional use when the conditional use approval criteria are still used?

25 **3. Allowed Uses**

26 a. In addition to the uses allowed in the B-3 district, a developer may propose to
27 include the following industrial uses in a BIP-PUD: General Industrial Service;
28 Governmental Service; Manufacturing; Light Warehouse; Wholesale
29 Establishment.

Comment [EBM138]: According to F below, the Assembly is the decision making body.

30 b. For initial uses proposed in the BIP-PUD that require a conditional use approval,
31 the conditional use application(s) may be combined with the BIP-PUD conditional
32 use and treated as one application and approval process.

Comment [EBM141]: No longer a use type.

Comment [EBM142]: No longer a use type

Comment [EBM143]: Needs to be corrected if this is no longer a type of CU.

33 **4. Development Agreement**

34 The developer shall enter into a development agreement with the project management
35 and engineering department, using the provisions established in subsection 21.03.100E,
36 *Improvements Associated with Land Use Permits*.

Comment [EBM144]: Needs correction

Comment [EBM145]: Needs correction

37 **5. Minimum Standards**

38 All BIP-PUDs shall meet the following minimum standards, in addition to the applicable
39 standards of this Title. The Planning and Zoning Commission may apply additional
40 standards as it may deem necessary to meet the approval criteria.

Comment [EBM147]: This section was deleted.

Comment [EBM146]: Needs to be changed to community development department.

41 a. The minimum site area for a BIP-PUD is seven acres.

Comment [EBM148]: According to F below, the Assembly is the decision-making body.

42 b. In keeping with a campus-style site plan, the number of access points to the BIP-
43 PUD shall be limited to only what is necessary, as determined by the traffic
44 engineer.

- c. Pedestrian walkways shall be provided to streets abutting the BIP-PUD. All transit stops abutting a BIP-PUD shall be connected to the internal street/sidewalk system by a pedestrian walkway. Abutting streets without any transit stops shall have at least one pedestrian walkway connection with the BIP-PUD.
- d. L3 buffer landscaping shall be provided along the exterior lot lines of the BIP-PUD.
- e. A BIP-PUD shall have a defined internal street system, which shall have pedestrian facilities and landscaping in accordance with the provisions of this Title. Streets shall allow vehicles to travel into and within the development. Driveways shall access parking areas.
- f. Except for stand-alone restaurants located along an outside edge of a BIP-PUD, all buildings shall have a common architectural character utilizing similar materials. The standards of 21.07.130 shall not apply.
- g. Maximum individual building footprint shall be 30,000 square feet.
- h. The uses in the entire BIP-PUD may aggregate their parking as long as the following standards are met:
 - i. Required parking for each use shall be located no farther than 800 feet from the primary entrance of the use;
 - ii. Relatively direct pedestrian pathways shall be available from required parking to each use;
 - iii. At no time shall the aggregate of the required parking of all uses in the BIP-PUD exceed the total number of parking spaces provided.
- i. Loading areas and refuse collection areas shall be internal to the site and not located between any building and any BIP-PUD exterior lot line.
- j. The maximum floor area devoted to retail sales uses shall not exceed 35 percent of the total gross building area of the entire development.
- k. Outdoor storage and display is prohibited.

Comment [EBM149]: Landscaping levels were deleted.

D.F. Procedures for Master Plan Approval

1. **Initiation**
An application for approval of an institutional master plan shall be initiated by the owner or managing agent of the subject property.
2. **Pre-Application Conference**
Before filing an application, an applicant shall request a pre-application conference with the director. See section 21.03.020B.
3. **Community Meeting**
A ~~community~~ Community council meeting is required in accordance with subsection 21.03.020C.
4. **Application Submittal**
Applications for institutional master plan approval shall contain all information and supporting materials specified in the ~~title~~ Title 21 user's guide Users' Guide and in subsection C.2. above, and shall be submitted to the director on a form provided by the department. The director may require the submittal of such other information as may be

Comment [EBM150]: Presumably these procedures apply to all three types of applications (institutional master plan, PUD, and BIP-PUD), so this language should state that. If these procedures are NOT intended to apply to PUDs and BIP-PUDs, then it makes no sense why they were placed between the institutional master plan section and this section, and then there are no procedures stated for those two types of entitlements.

Comment [EBM151]: Presumably these procedures apply to all three types of applications (institutional master plan, PUD, and BIP-PUD), so this language should state that.

necessary to permit the informed exercise of judgment under the criteria for the review of the plan, as set out in subsection E. below.

5. Departmental Review

The department shall review the proposed institutional master plan in light of the approval criteria set forth in subsection E. below, and shall distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the ~~planning—Planning~~ and ~~zoning—Zoning~~ ~~commission—Commission~~.

Comment [EBM152]: Presumably these procedures apply to all three types of applications (institutional master plan, PUD, and BIP-PUD), so this language should state that.

6. Public Notice

Notice ~~[OF ALL PUBLIC HEARINGS]~~ shall be provided in accordance with section 21.03.020H.

7. Planning and Zoning Commission Action

a. The ~~planning—Planning~~ and ~~zoning—Zoning~~ ~~commission—Commission~~ shall hold a public hearing on the proposed institutional master plan and, at the close of the hearing, recommend that the assembly approve the plan as submitted, approve the plan subject to conditions or modifications, or deny the plan, based on the approval criteria of subsection E. below.

Comment [EBM153]: Presumably these procedures apply to all three types of applications (institutional master plan, PUD, and BIP-PUD), so this language should state that.

b. If the ~~planning—Planning~~ and ~~zoning—Zoning~~ ~~commission—Commission~~ recommends that the assembly approve a plan as submitted or with conditions or modifications, within 60 days of the commission's action the director shall forward the recommendation to the assembly.

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

Comment [EBM154]: Presumably these procedures apply to all three types of applications (institutional master plan, PUD, and BIP-PUD), so this language should state that.

8. Assembly Action

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

Comment [EBM155]: Is it necessary and appropriate for the Assembly to approve PUDs and BIP-PUDs? The department thinks that those applications should be approved by the PZC, in which case it makes much more sense to leave them as types of conditional uses.

Comment [EBM156]: Presumably these procedures apply to all three types of applications (institutional master plan, PUD, and BIP-PUD), so this language should state that.

9. Approval of Final Institutional Master Plan

a. The approval of an institutional master plan expires 12 months after the date of approval by the assembly unless, before the approval expires, the applicant files the final institutional master plan, including any modifications or conditions required by the assembly, with the director.

b. The director shall certify the final institutional master plan within 60 days of filing by the applicant, or if the plan is not in compliance with the assembly's approval, the director shall issue a detailed list of reasons and recommended amendments to the final institutional master plan to achieve compliance.

c. Until the approval of an institutional master plan by the assembly and the filing by the applicant of a final institutional master plan accepting the modifications or conditions required by the assembly, the affected institutional shall continue to be governed solely by the provisions of ~~title—Title~~ 21 other than this section.

Comment [EBM157]: Over the next four sections, the phrase "institutional master plan" is used 19 times. **Clearly no effort was taken to adjust this master planning section to work for three different types of master plans, and not just the institutional master plan.** In addition, the approval criteria, the approval criteria and the compliance section are geared towards an institutional master plan and mention documents and requirements that were not applied to PUDs and BIP-PUDs. If PUDs and BIP-PUDs are to remain in this section as types of master plan, a considerable amount of work will be needed to make this section internally consistent with itself.

E.G. Approval Criteria

An institutional master plan may be approved if the assembly finds that it is consistent with the comprehensive plan and will achieve the following:

1. Provides flexibility to the institution to plan and implement long-range development programs to achieve its institutional mission and objectives;
2. Facilitates the continuation of the institution as a major source of service and employment that is easily accessible and well integrated with surrounding neighborhoods and the public transportation system;
3. Ensures that institutional facilities, especially those that are publicly funded, are well designed and constructed, include urban amenities, and are efficient to operate over their life-cycles;
4. Protects and mitigates effects of development on sensitive portions of the natural environment; and
5. Recognizes and addresses potential significant adverse impacts of institutional development on adjacent built environments, neighborhoods, and the community at large.

Comment [EBM158]: Neither the PUD nor the BIP-PUD reference these approval criteria—if they are to be types of master plans, they should reference these criteria and be evaluated using them.

However, the criteria are clearly geared towards a master plan for an institution. PUDs and BIP-PUDs should go back to being types of conditional uses.

F.H. Compliance with Institutional Master Plan

1. Projects developed under the auspices of an approved institutional master plan are exempt from the review and approval procedures required in table 21.05-2.
2. Before a building permit or land use permit is issued for any project within an area covered by an approved institutional master plan, the director shall certify that the proposed project is consistent with the approved institutional master plan. The applicant shall submit a request for certification of consistency on a form provided by the department.
3. Such a certification shall be found if the proposed project is consistent or substantially consistent with the approved institutional master plan, or if the project is found to be not consistent with the approved institutional master plan, but the director finds the proposed project creates minimal impact according to the following criteria:
 - a. Not more than 25 percent of the proposed project is located outside the development areas depicted on the site functional use map;
 - b. The proposed project does not result in the addition of more than 10 percent additional square footage on a cumulative basis to the estimated total square footage of the affected site functional use category;
 - c. The project does not result in the creation of or the need for additional parking beyond that covered in the approved transportation and parking management element; and
 - d. The project does not result in the coverage of more than 25,000 square feet of site area.
4. A certification of consistency, finding of inconsistency, or finding of consistency subject to conditions, shall be issued within 45 days of receipt of an application for such certification.

Comment [EBM159]: Wrong cross reference.

5. If the director finds that a project is not consistent with the approved institutional master plan, the director shall issue a detailed list of reasons and recommended actions to achieve compliance.
6. The director may issue a finding of inconsistency, or a finding of consistency subject to conditions, only where the director finds that the matters resulting in the inconsistency, or the conditions to which the certification is made subject, are required by specific terms of the approved institutional master plan or any applicable ~~title-Title~~ 21 provisions.
7. The director's decision may be appealed to the ~~planning-Planning~~ and ~~zoning-Zoning~~ ~~commission~~Commission.

G.I. Modifications to Approved Institutional Master Plans

1. **Minor Amendments**
The director may administratively approve amendments to an approved institutional master plan upon written application, unless the assembly determines the amendment is a major amendment. Minor amendments are defined generally as modifications to approved plans that do not affect land use or density in ways that would have significant adverse impacts on public facilities, utilities, traffic circulation, or other major infrastructure systems; or on surrounding neighborhoods or development.
2. **Major Amendments**
Major amendments of an approved institutional master plan shall follow the same process required for the original approval of an institutional master plan.

21.03.120 MINOR MODIFICATIONS

A. Purpose and Scope

This section sets out the required review and approval procedures for "minor modifications," which are minor deviations from otherwise applicable standards that may be approved by the director, the ~~planning-Planning~~ and ~~zoning-Zoning~~ ~~commission~~Commission, or the ~~urban-Design~~ ~~commission~~Platting Board. Minor modifications are to be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal variance process.

B. Applicability

1. **Minor Modifications to General Development and Zoning District Standards**
As part of the review and approval of any procedure set forth in this chapter, the director, the ~~planning-Planning~~ and ~~zoning-Zoning~~ ~~commission~~Commission, ~~or the urban-Urban~~ ~~design-Design~~ ~~commission~~ ~~Commission~~ ~~or the Platting Board~~ may approve minor modifications of up to a maximum of five percent from the following general development and zoning district standards provided that the approval criteria of subsection D. below are met.
 - a. Minimum lot area or setback requirements set forth in chapter 21.06, *Dimensional Standards and Measurements*;
 - b. General development standards set forth in chapter 21.07, *Development and Design Standards*, ~~except for the natural resource protection standards in subsection 21.07.020B~~;
 - c. A deviation from the district-specific standards set forth in chapter 21.04, *Zoning Districts*.
 - d. The dimensional standards, site development and design standards, and building design standards set forth in chapter 21.09, *Girdwood Land Use Regulations* (sections 21.09.060, 21.09.070, and 21.09.080).

Comment [EBM160]: Disagree-- Minor modifications are like mini variances. The Platting Board has no need to grant minor modifications, as they have the power to grant variances from Chapter 21.08 at the same time they consider a platting action.

Comment [EBM161]: Disagree-- Our stream protection setbacks are significantly less than the general scientific consensus for what protects the health of the stream. The natural resource protection standards should not be available for minor modifications.

Comment [EBM162]: Disagree-- Staff does not agree with allowing minor modifications from the use-specific standards of chapter 4. This would allow minor modifications from the flood plain and airport height regulations, which could be in violation of federal law. This could allow commercial development to be more than half the gross floor area in the R-4 district, which is supposed to be a residential district.

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

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

- a. An increase in overall project density unless permitted in this Title;
- b. A change in permitted uses or mix of uses;
- c. ~~A deviation from the district-specific standards set forth in chapter 21.04, Zoning Districts, or~~ the use-specific standards set forth in chapter 21.05, Use Regulations; or
- d. A change in conditions attached to the approval of any subdivision plan (section 21.03.200), site plan (section 21.03.180), [OR] conditional use (section 21.03.080), or rezone (special limitation) (section 21.03.160).

Comment [EBM163]: Disagree-- This additional language has no meaning. If additional density is permitted elsewhere in the title, then it wouldn't be through the minor modification process, and there isn't anywhere in the title that specifically says density can be increased through the minor modification process.

C. **Procedure**

1. **Limitation on Minor Modifications**

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

Comment [EBM164]: Staff disagrees with this change.

2. **Minor Modifications Approved by Director**

For uses allowed by-right or when he or she is the decision-maker, the director may approve a minor modification allowed under this section at any time prior to final decision.

3. **Minor Modifications Approved by Planning and Zoning Commission, ~~or the Urban Design Commission or the Platting Board~~**

~~The planning-Planning and zoning-Zoning commissionCommission, or the urban-Urban design-Design commission-Commission or Platting Board~~ may approve a minor modification allowed under this section at any time before taking action on a development application.

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

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

5. **Appeals**

Denial of a minor modification may be appealed to the same body as an appeal of the underlying approval process. For instance, denial of a minor modification in a conditional use application may be appealed to the board of adjustment, as the board of adjustment hears appeals of conditional use approvals. Denial of a minor modification associated with a permitted use may be appealed to the zoning board of examiners and appeals.

Comment [EBM165]: Disagree--As continually noted, entitlements must be consistent with the comprehensive plan.

D. **Approval Criteria**

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

- 1. The requested modification ~~is consistent with the comprehensive plan and the stated purpose of this title~~ is not significantly inconsistent with this Title;
- 2. The requested modification ~~meets all~~ substantially complies with other applicable building and safety codes;

Comment [EBM166]: Disagree-- What does "significantly inconsistent" mean? This is impossible to implement.

Comment [EBM167]: Disagree-- What does "substantially complies" mean? How is staff to implement that? We have worked hard to make the code more measurable and less discretionary as was requested by the development community, and this goes in the opposite direction.

- 1 **3.** The requested modification does not encroach into a recorded easement;
- 2 **4.** The requested modification will have no significant adverse impact on the health, safety,
- 3 or general welfare of surrounding property owners or the general public, or such impacts
- 4 will be substantially mitigated; and
- 5 **5.** The requested modification is necessary to either: (a) compensate for some practical
- 6 difficulty or some unusual aspect of the site of the proposed development not shared by
- 7 landowners in general; or (b) accommodate an alternative or innovative design practice
- 8 that achieves to the same or better degree the objective of the existing design standard
- 9 to be modified. In determining if "practical difficulty" exists, the factors set forth in section
- 10 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

Comment [EBM168]: Wrong cross reference.

21.03.130 NEIGHBORHOOD OR DISTRICT PLANS

A. Purpose and Authority

1. Purpose

- a. The purpose of this section is to allow and facilitate the development of neighborhood or district plans by citizen groups that are approved by the assembly. Neighborhood and district plans that are developed by local government are not subject to this section, but rather follow the process of section 21.03.070C., *Comprehensive Plan Amendments, Substantive*.
- b. Neighborhood or district plans shall be guided by the elements of the comprehensive plan, as defined in section 21.01.080. Neighborhood or district plans should give specificity to the goals, objectives, policies, and strategies of the comprehensive plan. These plans shall supplement and elaborate on the comprehensive plan. The goal of a neighborhood or district plan is to protect and promote the positive elements of neighborhood or district character and identity, while promoting the orderly growth, improvement, and future development of the neighborhood, community, or municipality.

2. Authority

- a. These procedures and minimum standards are established for the creation and review of plans for the development, growth, and improvement of the municipality, and its neighborhoods and communities. The plans may be sponsored, upon express approval of the assembly by resolution, by any group or organization representing the broad public interest, upon express approval by assembly resolution (hereafter called the "sponsor").
- b. In order to obtain the approval of the assembly as a sponsor, any community council, group of councils, or other groups or organizations shall request a resolution from the assembly authorizing them to proceed with the development of a neighborhood or district plan. The group shall demonstrate, to the reasonable satisfaction of a majority of the assembly, that
 - i. They represent the broad public interest necessary to successfully develop a plan;
 - ii. They have read and understand the requirements of this ordinance, and that their proposed plan will comply with the standards set forth in this ordinance; and
 - iii. They have sufficient financial resources and a sufficient level of knowledge and expertise to warrant the expenditure of public resources as provided herein.

1 **3. Policy Guidance**

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

13 **B. Plan Submittal**

14 **1. Initiation Meeting**

15 The sponsor of a plan shall meet with the department at the initiation of the planning
16 process to discuss and clarify content requirements, scheduling, and other relevant
17 issues. Periodically, the department shall report to the commission, and to the assembly
18 by an assembly information memorandum (AIM) requiring no further action, on the
19 progress of neighborhood or district plans underway.

20 **2. Work Program**

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

25 **3. Submittal**

26 Twenty-two printed copies along with an electronic version of all proposed plans shall be
27 submitted to the department. The submittal shall include the name(s) and address(es) of
28 the person(s) designated by the sponsor to be its representative(s) in any discussions of
29 the plan.

30 **C. Threshold Review and Determination**

31 **1. Department Review and Determination**

32 Within 90 days of the submittal of a plan, the department shall review the plan and
33 determine whether the plan meets the standards for form, content, and for consistency
34 with sound planning, as set forth in subsection D. below.

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

38 **b.** If the department determines the plan does not meet the threshold standards of
39 subsection D., the staff shall provide written notification to the sponsor of all
40 deficiencies with respect to form, content, process, and any changes, additions,
41 or deletions which, in the opinion of staff, may correct such deficiencies.

42 **2. Coordination of Plan Review**

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

D. Standards

1. Form and Content

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

- a. The plan shall state its sponsoring entity or entities and the names of the individuals who participated in the development of the plan.
- b. A plan shall enhance or implement goals, objectives, policies, and/or strategies of the comprehensive plan and provide further detail and specificity. A plan may take the form of a master plan or targeted plan.
 - i. A master plan for a neighborhood, district, or other geographic area of the municipality may combine elements related to housing, industrial and commercial uses, transportation, land use regulation, open space, recreation, cultural features, health, economic vitality, community facilities, and other infrastructure.
 - ii. A targeted plan may consider one or a small number of elements of neighborhood, district, or municipal-wide problems or needs, and shall focus on issues related to the use, development, and improvement of land within the plan study area.
- c. A plan shall not be limited to a single zoning district or a specific parcel in private ownership. A plan shall cover an identifiable, cohesive geographic area or neighborhood.
- d. Plans shall be presented in clear language and coherent form with elements, chapters, or sections organized in logical sequence.
- e. Plans shall state goals, objectives, or purposes clearly and succinctly. Policy statements or recommendations shall contain documentation and explanation of the data, analysis, or rationale underlying each. Plans shall analyze and propose policies to address identified problems.
- f. A plan shall contain, as applicable:
 - i. Inventories or description and analysis of existing conditions, problems, or needs; projections of future conditions, problems, or needs; and recommended goals and strategies to address those conditions, problems, or needs.
 - ii. Alternatively, or concomitantly with the elements described above, a plan may also contain a vision for a future end state and a strategy(ies) for achieving it.
 - iii. The level of detail and analysis shall be appropriate to the goals and recommendations presented in the plan. The information and analysis relied upon to support the recommendations shall be sufficiently identified to facilitate later plan review, including accuracy and validity of the information and analysis. Supporting information may be contained in the form of narrative, maps, charts, tables, technical appendices, or the like.
- g. A plan shall contain a land use plan map for the geographic area encompassed by the plan. The land use plan map shall propose appropriate land use categories, which generally include: residential, commercial, industrial, institutional, transportation, community facilities, parks, and natural open space. The land use plan map may provide more specificity than the general categories.

Comment [EBM169]: Disagree-- This paragraph does not state what a plan shall contain, so it should not be a numbered sub-paragraph, but rather a stand alone paragraph under "f" as in the provisionally adopted section. (Effectively, delete the "iii" and bring the left margin out half an inch)

1 h. Plans shall be accompanied by documentation showing public participation in the
2 plan formulation and preparation. Public outreach, such as surveys, workshops,
3 hearings, or technical advisory committees, is recommended as a tool for
4 community support and consensus, in addition to department, commission, and
5 assembly approval.

6 **2. Sound Planning Policy**

7 a. Every plan, regardless of form and content, shall include discussion of:

8 i. Its long-range consequences;

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

11 iii. Provision of future growth and development opportunities;

12 iv. Ability to improve the physical environment; ~~and~~

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

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

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

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

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

24 **E. Plan Distribution and Review**

25 **1. Plan Distribution**

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

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

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

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

38 **3. Department Review**

39 When the department is not the sponsor of a plan, it shall review the plan during the 120
40 day review period, and prepare a staff report and recommendation for the commission.
41 The department shall consider the neighborhood, community, and municipal-wide
42 impacts and the long-term effects of the actions or policies recommended by the plan.
43 The department shall also consider the impact of the plan on economic and housing

1 opportunity, future growth and development, and the physical environment, including
2 consistency of the plan with other adopted plans.

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

4 **1. Schedule for Review**

5 The commission shall schedule a public hearing within 60 days following the final day of
6 the public review period.

7 **2. Public Notice**

8 Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with section
9 21.03.020H.

10 **3. Planning and Zoning Commission Action**

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

21 **4. Commission Findings**

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

26 **G. Assembly Adoption**

27 **1. Transmission to Assembly**

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

31 **2. Public Notice**

32 Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with subsection
33 21.03.020H.

34 **3. Assembly Action**

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

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

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

1 **H. Review and Revision**

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

8 **21.03.140 PUBLIC FACILITY SITE SELECTION**

9 **A. Purpose**

10 This section sets forth a process by which the municipality shall review and decide upon selection
11 of sites before certain public facilities may be authorized, or publicly owned land is designated as
12 the site for certain public facilities.

13 **B. Applicability**

14 1. Unless exempted by subsection B.2. below, this section shall apply to the following
15 government facilities that are not exempt by law from municipal land use regulation:

- 16 a. Any newly constructed building or buildings and any existing building acquired by
17 purchase or lease, in which government operations or activities occupy more
18 than a total of 50,000 square feet of gross floor area;
- 19 b. Any use of land over 20 acres in area ~~(not including projects covered under~~
20 ~~section 21.03.190, Street and Trail Review);~~
- 21 c. Public schools;
- 22 d. Fire stations, unless such station is determined by the director not to have
23 impacts on the surrounding neighborhood;
- 24 e. Any sports, entertainment, or civic center designed for more than 1,500
25 spectators;
- 26 f. Any public snow disposal or landfill site; and
- 27 g. A facility that, in the judgment of the director, warrants a public process for site
28 selection due to the potential for significant impacts on surrounding properties.

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

- 30 a. Any site that is:
 - 31 i. Designated for the subject use on a municipal plan adopted by the
32 assembly;
 - 33 ii. Part of an area, development, or institutional master plan;
 - 34 iii. Determined by a dedication to the municipality on a final plat approved
35 and recorded in accordance with this ~~title~~Title; or
 - 36 iv. Subject to approval of a conditional use under this ~~title~~Title.
- 37 b. Any facility site selection reviewed by the commission or approved by the
38 assembly before ~~effective date~~;
- 39 c. Any facility site selection for which over \$500,000 has been expended for design
40 or construction before ~~effective date~~.

Comment [EBM170]: Disagree--
Deleting this means that every city or
state road project affecting more than
20 acres will need to go through a
public facility site selection, which is
an unnecessary waste of time, given
that planning documents like the
LRTP and the OSHP, through a
public process, have already
determined the location of these
roads.

1 **C. Community Council Meeting**

2 A community council meeting is required in accordance with subsection 21.03.020C.

3 **D. Required Information**

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

7 **E. Public Notice**

8 Notice **[OF ALL PUBLIC HEARINGS]** shall be provided in accordance with subsection
9 21.03.020H.

10 **F. Departmental Review**

11 1. The department shall review each proposed site selection application in light of the
12 approval criteria set forth in subsection I. below, and distribute the application to other
13 reviewers as deemed necessary.

14 2. Based on the results of those reviews, the department shall provide a report to the
15 planning-Planning and zoning-Zoning ~~commission~~Commission.

16 3. For school site sections, the department shall also provide the report to the Anchorage
17 school board for its review and recommendation.

18 **G. Planning and Zoning Commission**

19 1. The commission shall review the RFP criteria (or similar guidelines) or the site
20 alternatives for any applicable facility.

21 2. The commission shall hold a public hearing.

22 3. For school site selections, the school board and the commission may meet in a joint
23 public hearing; however, the school board and the commission shall separately consider
24 and make recommendations to the assembly. Both recommendations shall then be
25 forwarded as a package to the assembly for approval.

26 4. For site selections of municipal facilities, the commission shall make a recommendation
27 to the assembly, based on the approval criteria of subsection I. below.

28 5. For all other site selections, the commission shall decide on the proposed site based on
29 the approval criteria of subsection I. below.

30 **H. Assembly Action**

31 For municipal facilities, upon receipt of the recommendations from the commission (and the
32 Anchorage school board if applicable), the assembly may, based on the criteria of subsection I.
33 below and at its discretion, hold a public hearing and take one of the following actions:

34 1. Approve a specific recommended site;

35 2. Approve a specific evaluated site;

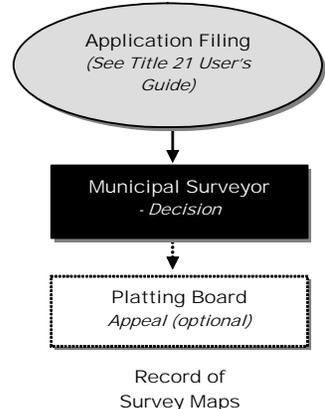
36 3. Reject some or all recommended sites; or

37 4. Remand the evaluated and recommended sites to the commission (and the school board
38 if applicable) for further investigation, review, and evaluation.

I. Approval Criteria

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

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



J. Request for Assembly Hearing

1. Decisions by the ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ are final unless, within 20 days of the date of service, any party of interest ([see definition of "party of interest" in Chapter 14 of this Title](#)) requests an assembly hearing in a letter sent to the director.
2. The assembly may hold a public hearing on the case at its discretion.

21.03.150 RECORD OF SURVEY MAPS

A. Purpose and Authorization

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

B. Use of Record of Survey Maps

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

C. Application Submittal

1 Applications for approval of a record of survey map shall contain the information specified in the
2 ~~title-Title~~ 21 user's guide, and shall be submitted to the ~~plattin~~ officer [DIRECTOR] on a form
3 provided by the department.

4 **D. Monuments**

5 Monuments set for the survey shall conform to the standards of the ~~public works~~ department [OF
6 PROJECT MANAGEMENT AND ENGINEERING].

7 **E. Approval**

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

10 **F. Appeals**

11 All decisions of the municipal surveyor under this section shall be final unless appealed to the
12 ~~plattin-Plattin board-Board~~ within 15 days of the date of approval.

13 ~~[At this point in Mr. Coffey's version, there is a zoning map of downtown Eagle River and the~~
14 ~~surrounding area.]~~

15 **21.03.160 REZONINGS (ZONING MAP AMENDMENTS)**

16 **A. Purpose and Scope**

17 The boundaries of any zone district in the municipality may be changed or the zone classification
18 of any parcel of land may be changed pursuant to this section. This section states the
19 procedures and approval criteria necessary to process an amendment to the official zoning map.
20 ~~Zoning is not effective if it is too easily or frequently changed. Zoning is intended to provide a~~
21 ~~degree of certainty that is important for long-term investment and neighborhood cohesion and~~
22 ~~stability. The purpose of rezoning is not to relieve particular hardships, nor to confer special~~
23 ~~privileges or rights on any person, but to make adjustments to the official zoning map that are~~
24 ~~necessary in light of changed conditions or changes in public policy, or that are necessary to~~
25 ~~advance the general welfare of the municipality. Rezoning shall not be used as a way to~~
26 ~~legitimize nonconforming uses or structures, and should not be used when a conditional use,~~
27 ~~variance, or minor modification could be used to achieve the same result.~~

Comment [EBM171]: Disagree--
The purpose/scope section is the exact right location to place explanatory and intent language about zoning and what zoning is all about. This language is very important for applicants to understand the nature of zoning, and how their zoning application might be considered.

28 **B. Minimum Area Requirements**

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

- 31 1. A rezoning extending the boundaries of an existing zoning district; or
32 2. A rezoning initiated by the municipal administration to place municipally owned land in a
33 PLI, PR, [OR] DR, ~~GIP, or GOS~~ zoning district.

34 ~~3. A rezoning into the B-1A district.~~

Comment [EBM172]: Disagree--
Staff does not agree with this deletion. See major issues list.

35 **C. When a Comprehensive Plan Map Amendment is Required**

36 Zoning map amendments may also require an amendment to the comprehensive plan map.
37 Determination of whether the comprehensive plan map must also be amended is based upon
38 whether the proposed zoning map amendment is to a zone consistent with the comprehensive
39 plan map. If an amendment to the comprehensive plan map is required, the zoning map
40 amendment can only be made if the amendment to the comprehensive plan map is approved
41 ~~concurrently with the zoning map amendmentfirst.~~ Both amendments may be processed
42 concurrently, as provided in subsection 21.03.070C.3.

Comment [EBM173]: Disagree--
This amendment is unnecessary, especially given the next sentence. A comprehensive plan map amendment must be made FIRST so that a zoning map amendment is consistent with the comp plan. If the two are processed concurrently, then the comp plan map amendment would be voted on first. This amendment implies that you couldn't do the comp plan map amendment a month before the zoning map amendment.

D. General Procedure

1. Initiation

- a. A rezoning may be initiated by the assembly, ~~or the planning-Zoning commission~~ Planning and Zoning Commission; ~~or by the director of any municipal department.~~
- b. In addition, any person may initiate a rezoning by submitting a petition favoring the rezoning signed by the owners of at least 51 percent of the area within the property to be rezoned. For the purposes of this subsection, an owner of property subject to the Horizontal Property Regimes Act (A.S. 34.07) owns a percentage of the appurtenant common areas equal to the percentage for that property stated in the recorded declaration committing the property to the Horizontal Property Regimes Act.
- c. A rezoning application shall expire one year after submittal unless a public hearing on the application has been held by the assembly on or before that date; provided, however, that the director ~~[OR DESIGNEE]~~ may extend the application for six months if the reason for the delay was due to circumstances beyond the control of the applicant.
- d. Rezoning may precede or be processed concurrently with shall precede ~~corps of~~ engineers wetland permit applications.

Comment [EBM174]: Disagree-- Probably not a big deal as any director of a department could ask the administration to ask the Assembly to introduce a rezoning, but that is cumbersome. The Planning Department and the Parks Department are two departments that may need to initiate rezones. Also HLB and the Development Authority. Current code states that "the municipal administration" may initiate a rezone, and it doesn't seem like that has been abused over time.

2. Pre-Application Conference

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

3. Community Council Meeting

A community council meeting is required in accordance with subsection 21.03.020C.

4. Application Submittal

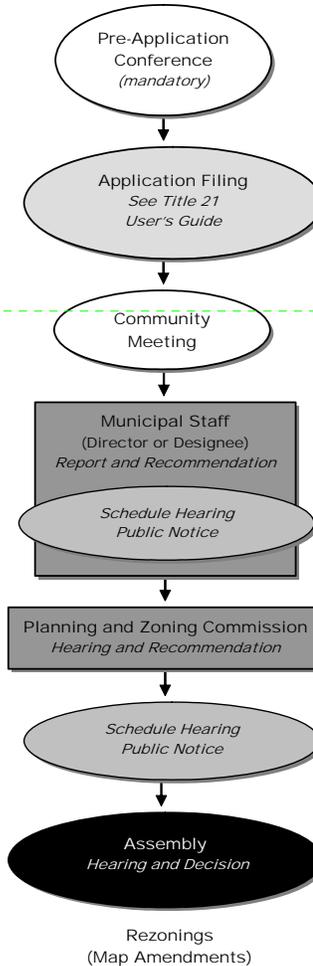
Applications for a rezoning shall contain the information specified in the ~~title-Title 21 user's guide~~ Users' Guide, and shall be submitted to the director on a form provided by the department. Additional materials may be required for certain types of rezoning, such as rezoning with special limitations.

5. Public Notice

Notice ~~[OF ALL PUBLIC HEARINGS]~~ shall be provided in accordance with section 21.03.020H. In addition, the published and written (mailed) notice for the public hearing before the assembly shall list the protest provisions set forth in subsection D.9. below.

6. Departmental Review

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



Comment [EBM175]: Disagree-- This has proved problematic in the past. In the 80s, a COE fill permit was approved and the applicant filled a wetland, but the subsequent rezoning request was denied. The filled wetland lies undeveloped to this day. Requiring rezones to precede COE applications has the support of COE and will ensure that appropriate decisions are made.

7. **Planning and Zoning Commission Action**

- 1
2 | a. The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ shall hold a
3 public hearing on the proposed rezoning and, at the close of the hearing, taking
4 into account the recommendations of the department and public input, and based
5 upon the approval criteria of subsection E. below, shall recommend approval,
6 approval with special limitations or other modifications ~~(at least as restrictive as~~
7 ~~submitted in the application),~~ or denial. The commission shall include written
8 findings based on each of the approval criteria.
- 9
10 | b. If the commission recommends approval or approval with special limitations or
11 other modifications, within 60 days of the commission's written resolution, the
12 director shall forward the recommendation to the assembly with an ordinance to
amend the official zoning map in accordance with the recommendation.
- 13
14 | c. If the commission recommends denial, the amendment shall be deemed
15 disapproved unless, within ~~45-30~~ days of the commission's written resolution
16 recommending denial, the applicant files a written statement with the municipal
17 clerk requesting that an ordinance amending the zoning map as set out in the
18 application be submitted for action by the assembly. The draft ordinance shall be
19 appended to an Assembly Informational Memorandum (AIM) for consideration by
the assembly.

Comment [EBM176]: Disagree--
This is an important provision of
current code that should be retained.
See major issues list.

20
21 | 8. **Assembly Action**

22 The assembly shall hold a public hearing on the proposed rezoning and shall, at the
23 close of the hearing, taking into account the recommendations of the department,
24 ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~, and public input, and
based upon the approval criteria of subsection E. below:

- 25 | a. Approve the zoning map amendment as submitted in the application to the
26 ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~;
- 27 | b. Approve the zoning map amendment with special limitations (see subsection
28 ~~GF.~~) or other modifications ~~at least as restrictive as those submitted in the~~
29 ~~application,~~ provided that an ordinance approving an amendment initiated under
30 this section shall become effective only with the written consent of the property
31 owner(s) to the special limitations or other modifications;
- 32 | c. Deny the amendment; or
- 33 | d. Remand the proposed amendment to the ~~planning-Planning~~ and ~~zoning-Zoning~~
34 ~~commission-Commission~~ or to a committee of the assembly for further
35 consideration.

Comment [EBM177]: See
comment above.

36
37 | 9. **Protests**

- 38 | a. Any owner of property subject to a proposed rezoning may protest the rezoning
by filing a written protest with the clerk pursuant to this subsection.
- 39 | b. Any owner of property within 300 feet of the outer boundary of the land to which
40 the amendment applies may protest the rezoning by filing a written protest with
41 the clerk that is signed by the owners of at least one-third of the property,
42 excluding rights-of-way, of:
- 43 | i. The land to which the amendment applies; or
- 44 | ii. The land within 300 feet of the outer boundary of the land to which the
45 amendment applies; ~~excluding land owned by the municipality, except~~
46 ~~where the municipality joins in the protest.~~

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

Comment [EBM178]: Disagree-- This is a change from current code, and means that the municipality could squash a protest by not joining in if at least one third of the property to be rezoned is owned by the muni. This takes away from the public's right to be heard.

- c. To be valid, the protest shall state the factual and/or legal basis for the protest, contain a legal description of the property on behalf of which the protest is made, be signed by the owner of that property, and be received by the municipal clerk after notice of a public hearing before the assembly on a zoning map amendment and at least three business days before the time set for the assembly public hearing on the amendment.
- d. Assembly approval of a rezoning subject to a valid protest under this subsection shall require an affirmative vote of eight assembly members.

10. Waiting Period for Reconsideration

Following denial of a rezoning request, no new application for the same or substantially the same rezoning shall be accepted within two years of the date of denial, unless denial is made without prejudice.

11. Form of Amending Ordinance

An ordinance amending the zoning map shall contain the following:

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

E. Approval Criteria

The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ may recommend approval, and the assembly may approve a rezoning, if the rezoning meets all of the following criteria:

- 1. The rezoning shall be in the best interest of the citizens of Anchorage and shall promote the public health, safety, and general welfare;
- 2. The rezoning complies with and conforms to ~~the comprehensive plan and~~ the purposes of this ~~title~~Title;

Comment [EBM179]: Disagree--As continually noted, conformance with the comp plan is a requirement of law.

~~3. The proposed rezoning conforms to the comprehensive plan map, as follows:~~

~~a. The rezoning shall be to a zone corresponding to the comprehensive plan map, including the zoning consistency table, except as provided in F. below.~~

~~b. When the comprehensive plan map designation has more than one corresponding zone, it shall be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.~~

Comment [EBM180]: Staff disagrees with this deletion.—see major issues list.

~~4.3. The rezoning is consistent with the stated purpose of the proposed zoning district and the applicable portions of the comprehensive plan;~~

Comment [EBM181]: Disagree--As continually noted, conformance with the comp plan is a requirement of law.

~~5.4. Facilities and services (including roads and transportation, water, gas, electricity, police and fire protection, and sewage and waste disposal, as applicable) are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, while maintaining adequate levels of service to existing development;~~

1 | 6.5. The rezoning is not likely to result in significant adverse impacts upon the natural
2 | environment, including air, water, noise, storm water management, wildlife, and
3 | vegetation, or such impacts shall be substantially mitigated;

4 | 7.6. The proposed rezoning is not likely to result in significant adverse impacts upon adjacent
5 | land uses, or such impacts shall be mitigated through ~~stipulations~~ conditions;

6 | 8.7. The applicant demonstrates to the satisfaction of the ~~planning commission and the~~
7 | assembly that the supply of land in the desired zoning district is insufficient or inadequate
8 | for the stated purpose and that sufficient land of the existing zoning district remains in the
9 | area to meet the needs of the community;

10 | ~~9. The rezoning does not initiate, continue, or exacerbate a pattern that is inconsistent with the~~
11 | ~~comprehensive plan;~~

12 | 10.8. The proposed rezoning maintains and preserves the compatibility of surrounding zoning
13 | and development, and protects areas designated for specific uses on the zoning map
14 | from incompatible land uses or development intensities; and

15 | 11.9. The rezoning does not result in a split-zoned lot.

16 | **F. Flexibility of Interpretation**

17 | ~~The comprehensive plan map and the approval criteria of subsection E. above may be interpreted~~
18 | ~~with flexibility within the following parameters:~~

19 | ~~1. A proposed rezoning that is to a district that does not correspond to the comprehensive plan~~
20 | ~~map may be considered if processed concurrently with a related amendment to the~~
21 | ~~comprehensive plan map following the procedures of subsection 21.03.070,~~
22 | ~~Comprehensive Plan Amendments.~~

23 | ~~2. Where the location of comprehensive plan map designation boundaries appear generalized or~~
24 | ~~uncertain, proposed zoning amendments on or near the boundaries shall be treated as~~
25 | ~~follows:~~

26 | ~~a. Areas clearly within a particular comprehensive plan map designation shall follow the~~
27 | ~~standards of that designation.~~

28 | ~~b. The designation of areas at or near boundaries on the comprehensive plan map shall~~
29 | ~~be interpreted in accordance with the goals, objectives, policies, and guidelines~~
30 | ~~of the comprehensive plan, including locational criteria for designations on the~~
31 | ~~comprehensive plan map.~~

32 | ~~3. Interpretation shall not be a basis for cumulative encroachment by incompatible land uses.~~

33 | **G.F. Rezoning with Special Limitations**

34 | Pursuant to this subsection, a rezoning may include special limitations that restrict some aspects
35 | of development, to a greater degree than otherwise provided for a zoning district applied by the
36 | rezoning.

37 | **1. Purposes**

38 | A rezoning may include special limitations for one or more of the following purposes:

39 | a. To prohibit structures, or uses of land or structures, that would adversely affect
40 | the surrounding neighborhood or conflict with the comprehensive plan. [; OR]

41 | b. To conform the zoning map amendment to the comprehensive plan, or to further
42 | the goals and policies of the comprehensive plan. [; OR]

Comment [EBM182]: Disagree--
PZC is using the same criteria to
make their recommendation about
whether to pass the rezoning to the
Assembly, or deny it, meaning it won't
go to the assembly without extra
action by the applicant.

Comment [EBM183]: Disagree--
This is an important provision to
counteract the domino effect of
rezoning one property, and then all
the neighbors demand the same
rezoning.

Comment [EBM184]: Disagree--
Staff disagrees with this deletion.
This is important for interpreting the
land use plan map, which must be
followed.

- c. To conform development under the zoning map amendment to existing patterns of development in the surrounding neighborhood. [; OR]
- d. To mitigate the adverse effects of development under the zoning map amendment on the natural environment, the surrounding neighborhood, and on public facilities and services.

2. Types of Limitations

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

- a. Limit residential density; or prohibit structures, or uses of land or structures, otherwise permitted in a zoning district. [;]
- b. Require compliance with design standards for structures and other site features. [;]
- c. Require compliance with a site plan approved under this ~~the~~ Title. [;]
- d. Require the construction and installation of improvements, including public improvements. [; OR]
- e. Impose time limits for taking subsequent development actions.

3. Effect of Approval

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

H.G. Rezoning to Create, Alter, or Eliminate Overlay Districts

1. Purpose and Applicability

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

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

2. Minimum Area Requirements

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

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

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

5 **a. Contents of Adopting Ordinance**

6 An ordinance amending the zoning map for an overlay district shall contain the
7 following:

- 8 i. The name of the overlay district that the ordinance applies;
- 9 ii. The legal description of the land within the overlay district applied by the
10 ordinance; and
- 11 iii. All standards of development to be governed by the overlay district.

12 **b. Effect of Approval**

- 13 i. Where a specification in an overlay zoning map amendment conflicts
14 with any provision of this ~~title~~Title, the overlay zoning map amendment
15 shall govern.
- 16 ii. An overlay district adopted in the same manner as the original ordinance
17 remains effective until repealed or amended. The assembly may set a
18 time for the overlay district to expire if it finds the planning objectives will
19 be met or completed within a specific time period.

20 **c. Map of Overlay Districts**

- 21 i. Each overlay district shall be annotated on the zoning map with a symbol
22 unique to the overlay district and shall be identified on the zoning map by
23 the suffix "OV" and the number of the ordinance applying the overlay
24 district shall be printed on the zoning map within the boundaries of the
25 overlay district.
- 26 ii. The department shall maintain, for inspection by the public, maps
27 showing the location of the overlay districts and records of the
28 assembly's purpose and intent in establishing each district.

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

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

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

34 **1. Purpose**

35 The assembly may, through the rezoning process, adopt a regulatory zoning strategy that
36 is customized for a specific property or group of properties. The zoning strategy may
37 substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07
38 (see subsection I.4. below) in order to allow the development to achieve the goals of the
39 comprehensive plan and ~~title~~Title 21 in a unique way. The assembly must find that the
40 proposed strategy will result in development that is compatible with that which would
41 occur with conventional application of the requirements of chapters 21.05, 21.06, ~~and~~
42 21.07 ~~and~~ 21.080.

43 **2. Procedure**

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

Comment [EBM185]: Assume this is a reference to chapter 8. Should a PC district be allowed to change the street standards? The subdivision agreement section? Need to discuss...

3. **Minimum Area Requirements**

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

4. **In-Lieu Standards Allowed**

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

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

- i. Chapter 21.05, *Use Regulations*;
- ii. Chapter 21.06, *Dimensional Standards*;
- iii. Subsection 21.07.020C., ~~Steep-Slope-Development~~*Natural Resource Protection*;
- iv. Section 21.07.030, *Open Space*;
- v. Section 21.07.060, *Transportation and Connectivity*;
- vi. ~~Section 21.07.070~~ *Neighborhood Protection Standards*;
- vi.vii. Section 21.07.080, *Landscaping, Screening, and Fencing*;
- vii.viii. Section 21.07.090, *Off-Street Parking and Loading*;
- viii.ix. Section 21.07.100, ~~Exterior Lighting~~ *[RESIDENTIAL DESIGN STANDARDS]*;
- ix.x. Section 21.07.110, ~~Residential Design Standards~~ *[PUBLIC/INSTITUTIONAL AND COMMERCIAL DESIGN STANDARDS]*;
- x.xi. Section 21.07.120, ~~Public/Institutional and Commercial Design Standards~~ *[LARGE COMMERCIAL ESTABLISHMENTS]*;
- xi.xii. Section 21.07.130, ~~Large Commercial Establishments~~ *[EXTERIOR LIGHTING]*; and
- xii.xiii. Subsection 21.08.050D., *Interior Streets*.

c. Along with the application and documentation information required in I.5. below, ~~the~~The applicant must also submit the following information with regard to any proposed in-lieu standards.

- i. Clear specification of the proposed in-lieu standards, and the ~~title~~Title 21 standards for which the proposed in-lieu standards are a substitute. Any ~~title~~Title 21 standards that are not replaced with approved in-lieu standards shall apply in the PCD district.
- ii. A statement of why compliance with ~~title~~Title 21 standards would interfere with the goals, purposes, or functions of development in the proposed PCD district.
- iii. A demonstration of how the proposed in-lieu standards would be at least as effective as the ~~title~~Title 21 standards in fulfilling the intents and purposes of ~~title~~Title 21, and furthering the goals and policies of the

Comment [EBM186]: Disagree-- Our natural resource protection requirements are significantly less than the scientifically-accepted minimums to protect the health of the resources. Our minimal requirements should not be subject to changes.

Comment [EBM187]: Disagree-- This section allows decision-making bodies to place conditions on development on a case-by-case basis due to anticipated negative impacts of new development on existing neighbors. Thus there really isn't a standard for which an in-lieu standard can be proposed.

- 1 comprehensive plan, including any applicable neighborhood or district
2 plans.
- 3 iv. A statement of the expected benefits of the proposed in-lieu standards.
- 4 | d. The ~~planning—Planning~~ and ~~zoning—Zoning commission—Commission~~ may
5 recommend approval, and the assembly may approve a rezone to the PCD
6 district with in-lieu standards if they find that the in-lieu standards will result in
7 | development that is compatible with the intents and purposes of ~~the Title~~ 21 and
8 the goals and policies of the comprehensive plan, and do not compromise public
9 health, safety, or welfare.
- 10 **5. Application and Documentation**
11 Applications for rezoning to a PCD district shall contain the information specified in the
12 | ~~the Title 21 user's guide~~ *Users' Guide*, and the following:
- 13 a. If proposing in-lieu standards for subsection 21.07.020C., *Steep Slope*
14 *Development*, the information required in subsection 21.07.020C. [.]
- 15 b. Development Areas: a PCD district that proposes to segregate differing land
16 uses and/or different project phases shall provide and maintain a map that clearly
17 distinguishes the boundaries of each development area. The development areas
18 shall be identified with an alpha, numeric, or alphanumeric coding system to
19 allow for easy identification of each area. Different in-lieu standards may be
20 proposed for each development area.
- 21 c. Table of allowed uses and use definitions:
- 22 i. The PCD district shall establish a table of allowed uses and a table of
23 accessory uses. The table shall be formatted in the same manner as the
24 tables depicted in chapter 21.05 listing the land use, and if development
25 areas are proposed, noting each with its designated land uses. The
26 table abbreviations set forth at 21.05.010A. shall be used.
- 27 ii. The land uses listed in the table of allowed uses or the table of
28 accessory uses shall be defined in chapter 21.05, or the PCD district
29 shall provide a use definition for those uses not listed in sections
30 21.05.020 through 21.05.080.
- 31 d. Dimensional standards and measurements:
- 32 i. The PCD district shall establish a table of dimensional standards. The
33 table shall be formatted in the same manner as the tables depicted in
34 chapter 21.06 listing the dimensional standards, and if development
35 areas are proposed, noting each with its designated dimensional
36 standards.
- 37 ii. Unless specifically provided otherwise (see subsection I.4. above), the
38 measurements and exceptions section 21.06.030 shall apply.
- 39 **6. Relationship to Other Requirements**
40 When there is a conflict between the PCD district requirements and other requirements of
41 | this ~~the Title~~, the PCD district requirements control. The specific requirements of this ~~the~~
42 | ~~Title~~ apply unless the PCD district provides other requirements for the same specific
43 topic.
- 44 **7. Changes to an Approved PCD District**
45 a. *Approval by Assembly*

- 1 Approval of a zoning map amendment in accordance with section 21.03.160 is
2 required for the following amendments to the PCD district:
- 3 i. Any increase in the total number of authorized dwelling units;
 - 4 ii. Any decrease in the total open space acreage;
 - 5 iii. Any increase in the total gross building area of commercial or industrial
6 structures;
 - 7 iv. Any addition or deletion of any permitted principal use, conditional use,
8 or accessory use;
 - 9 v. Any changes in the development standards;
 - 10 vi. Any density transfer between development areas that will result in a 25
11 percent or greater cumulative increase or decrease in the number of
12 dwelling units in any development area; or
 - 13 vii. Any change in the acreage of a development area equal to or more than
14 25 percent of the total acreage of the development area.
- 15 b. **Approval by the Planning and Zoning Commission**
16 Approval by the ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~
17 is required for the following amendments to the PCD district:
- 18 i. Any density transfer between development areas that will result in a
19 cumulative increase or decrease of more than 10 percent but less than
20 25 percent in the number of dwelling units in any development area; or
 - 21 ii. Any change in the acreage of a development area of more than 10
22 percent but less than 25 percent of the total acreage of the development
23 area.
- 24 c. **Approval by the Director**
25 Approval by the director is required for the following amendments to the PCD
26 district:
- 27 i. Any density transfer between development areas that will result in a
28 cumulative increase or decrease of 10 percent or less in the number of
29 dwelling units in any development area; or
 - 30 ii. Any change in the acreage of a development area of 10 percent or less
31 of the total acreage of the development area.

32 **21.03.170 SIGN PERMITS**

33 **A.Applicability**

34 ~~No person shall erect, locate, move, alter, or replace any sign or cause a sign to be located or~~
35 ~~maintained, unless all applicable provisions of this section and chapter 21.11, Signs, have been~~
36 ~~met.~~

37 **B.Approval Requirements for Signs**

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

TABLE 21.03-3: SIGN PERMIT REQUIREMENTS

	Permit required by Title 21	No permit required by Title 21; permit may be required by Title 23
Sign Plate		X
Permanent Building Sign	X	
Permanent Freestanding Sign	X	
Entrance/Exit		X
Instructional		X
Temporary — on a parcel		X
Temporary — for a business		X
Construction signs		X
Temporary for any Residential Unit		X

C. Application Submittal

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

D. Review and Approval

Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in 21.03.100C.2, *Approval Procedure (for Land Use Permits)*.

E. Appeals

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

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

21.03.18021.03.170 SITE PLAN REVIEW

A. Purpose

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

Comment [EBM188]: Disagree-- Staff doesn't agree with this deletion.

B. Administrative Site Plan Review

1. Applicability

Land uses requiring administrative site plan review are identified in section 21.05.010, *Tables of Allowed Uses, section 21.05.070C., Tables of Allowed Accessory Uses, and subsection 21.09.050A., Table of Allowed Uses (Girdwood)*.

Comment [EBM189]: Needs amending for consistency

2. Procedure

a. Application Submittal

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

Comment [EBM190]: Needs amending for consistency

b. Departmental Review and Director's Action

The department shall review each proposed administrative site plan application in light of the approval criteria of subsection E. below and distribute the

1 application to other reviewers as deemed necessary. Based on the results of
2 those reviews, the director shall take final action on the site plan application and
3 approve, approve with conditions, or deny the application. The department's
4 review and the director's action, including referral to other agencies and bodies,
5 shall be completed within 60 days of verification of a complete application.

6 **c. Appeals**

7 Denial of an administrative site plan may be appealed to the ~~urban design~~
8 ~~commission~~Board of Adjustment, in which case it shall be treated as a major site
9 plan review application under subsection C. below.

Comment [EBM191]: Disagree—it is inappropriate for an appeal of an administrative approval to go to the Board of Adjustment. The BOA reviews the record of the case, and there would be no record in this situation. Appeals of administrative decisions should either go to ZBEA, or to be a public hearing at a different board. For instance, appeals of short plats go to the platting board and become like regular (long) plats. The same situation should be in place here—appeals of admin site plan reviews should go to the UDC (or PZC if UDC is eliminated) to become major site plan reviews.

Comment [EBM192]: Amendment needed for consistency.

10 **C. Major Site Plan Review**

11 **1. Applicability**

12 Land uses requiring major site plan review are identified in section 21.05.010, Tables of
13 Allowed Uses and subsection 21.09.050A., Table of Allowed Uses (Girdwood).

14 **2. Procedure**

15 **a. Pre-Application Conference**

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

18 **b. Community Council Meeting**

19 A community council meeting is required in accordance with subsection
20 21.03.020C.

21 **c. Application Submittal**

22 Applications for a major site plan review shall contain the information specified in
23 the ~~title~~Title 21 user's guideUsers' Guide, and shall be submitted to the director
24 on a form provided by the department.

25 **d. Public Notice**

26 Notice ~~[OF ALL PUBLIC HEARINGS]~~ shall be provided in accordance with
27 subsection 21.03.020H.

28 **e. Departmental Review**

29 The department shall review each proposed major site plan application in light of
30 the approval criteria of subsection E. below and distribute the application to other
31 reviewers as deemed necessary. Based on the results of those reviews, the
32 department shall provide a report to the ~~urban~~Urban designDesign
33 ~~commission~~Commission.

Comment [EBM193]: In Chapter 2, Coffey gave authority over major site plan reviews to PZC. Why would the department then give a report to the UDC?

34 **f. ~~Urban Design~~Planning and Zoning Commission Action**

35 The ~~urban design commission~~Planning and Zoning Commission shall hold a
36 public hearing on the proposed application and, taking into account the
37 recommendations of the department and public input, shall act to approve,
38 approve with conditions, or deny the proposed major site plan, based on the
39 approval criteria of subsection E. below.

Comment [EBM194]: If the PZC is to take action, why give the staff report to UDC as above?

40 **g. Appeals**

41 Denial of a major site plan may be appealed to the ~~board~~Board of ~~adjustment~~
42 Adjustment in accordance with subsection 21.03.050A.

43 **D. Expiration**

44 **1. General**

45 A site plan approval shall automatically expire at the end of 24 months after the effective
46 date unless a building or land use permit for at least one building in the development
47 proposed in the site plan is approved and construction has begun (see the definition of

"start of construction" in chapter 21.14). A change in ownership of the property does not affect this time frame.

2. Extension

a. First Extension

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

b. Further Extensions

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

Comment [EBM195]: If the PZC is to be the decision-making body, why would the UDC be giving extensions on the approval?

E. Approval Criteria

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

1. The site plan is consistent with any previously approved subdivision plat, planned development master plan, or any other precedent plan or land use approval;
2. The site plan complies with all applicable development and design standards set forth in this ~~the~~ Title, including but not limited to the provisions in chapter 21.04, *Zoning Districts*, chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional Standards and Measurements*, and chapter 21.07, *Development and Design Standards*;
3. The site plan addresses any significant adverse impacts that can reasonably be anticipated to result from the use, by mitigating or offsetting those impacts to the maximum extent feasible; ~~and~~

~~4. The development proposed in the site plan is consistent with the goals, objectives, and policies of the comprehensive plan.~~

Comment [EBM196]: Disagree--As continually noted, entitlement approvals must be consistent with the comprehensive plan by law.

F. Platting for Site Plans

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

~~2. Unless the authority granting approval directs in the approval that it shall act as the platting authority, the director is the platting authority for subdivisions under this subsection.~~

G. Amendments to Approved Site Plans

1. Original Procedure Applies for Most Amendments

Amendment of a site plan shall follow the same process required for the original approval of a site plan, unless the amendment is determined to be a minor amendment as described in subsection G.2. below.

2. **Administrative Approval of Minor Amendments**

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

a. **Procedure**

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

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

(A) Issue a minor amendment affidavit, which shall be transmitted to the ~~urban~~ ~~Urban design~~ ~~Design commission~~ ~~Commission~~ for their information; and

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

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

b. **Types of Minor Amendments**

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

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

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

iii. Changes of 10 percent or less in building envelope, setback, and similar provisions ~~[OF 10 PERCENT OR LESS]~~.

iv. Incidental changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the plan and this code.

Comment [EBM197]: If PZC is supposed to be the decision-making authority, why would the UDC be notified about minor amendments?

~~21.03.190~~ ~~21.03.180~~ **STREET AND TRAIL REVIEW**

~~[RESERVED]~~

A. Purpose

Streets are a significant investment in the municipality's infrastructure and establish long-term land use impacts on nearby properties and the community at large.

Major Multi-Use Trails are a basic part of the infrastructure of the Municipality. They are used for transportation, for recreation and leisure. Major Multi-Use Trails also have long-term impacts on nearby properties and the community at large. Trails in Major Parks are subject to Master Plans.

These important parts of the municipality's infrastructure benefit by oversight in the design decisions by citizen bodies that are represented by the Planning and Zoning Commission and the Urban Design Commission and the Anchorage Parks and Recreation Commission and the Chugiak/Eagle River Parks and Recreation Commission.

Comment [EBM198]: See dept comments in major issue list.

1 **B. Applicability**

2
3 **1. Streets**

4 a. All Municipal transportation projects are required to follow the *Strategy for*
5 *Developing Context Sensitive Transportation Projects* policy.

6 b. New construction and major reconstruction of street and intersection projects
7 involving streets of collector classification or greater in the *Official Streets and*
8 *Highways Plan* and meeting the Anchorage Metro Area Transportation Solutions”
9 (AMATS) definitions of “New Road Connection” or “Road Reconstruction”, but
10 not “Road Rehabilitation” or “Pavement Replacement Program” are required to
11 follow a review process by the Planning and Zoning Commission as described
12 below and in table 21.03-4.

13 **2. Application to Specific Trails**

14 a. This section applies to Major Multi-Use Trails and to new construction and major
15 reconstruction of those Trails, but not to resurfacing, repair or maintenance of
16 any other new or existing trails.

17
18 i. Only Major multi-use trails such as the *Chester Creek Trail, Campbell*
19 *Creek Trail, Ship Creek Trail, the Coastal Trail* shall be subject to review
20 and approval by the Urban Design Commission;

21
22 ii. This section does not apply to those trails in parks that have an existing
23 Master Plan such as *Kincaid Park and Bicentennial Park*; and other
24 Parks classified by the *Anchorage Park, Greenbelt and Recreation*
25 *Facility Plan Volume 2* or the *Eagle River-Chugiak-Eklutna Plan* as Large
26 Urban or Regional Parks. Any new construction or major maintenance of
27 trails within these named parks or another park that is subject to a
28 Master Plan shall be reviewed by either the *Chugiak/Eagle River Parks*
29 and *Recreation Board* or the *Anchorage Parks and Recreation Board* to
insure compliance with the existing Master Plan.

30 b. Notwithstanding the criteria of 2.a. above, the director may exempt new Major
31 Multi-Use Trails or reconstruction projects for Major Multi-Use Trails from this
32 section if the director finds, in writing, that the project is minor in scope and not
33 likely to cause impacts on surrounding properties and neighborhoods.

34
35 **C. Review Process**

36 **1. Street review Process**

37 a. The concept report or equivalent shall be distributed to the Planning and Zoning
38 Commission as an information item and shall contain a clearly defined and
39 substantiated purpose and need statement;

40 b. The Planning and Zoning Commission shall review and approve a draft design
41 study report (35% design completion).

42 c. The Planning and Zoning Commission shall render its decision on the proposed
43 plan when the design is 65% complete.

44 **2. Trail Review Process**

45 a. The concept report or equivalent shall be distributed to the Urban Design
46 Commission as an information item and shall contain a clearly defined and
47 substantiated purpose and need statement;

1 **b.** The Urban Design Commission shall review and comment on the draft design
2 study report (35% design completion).

3 **c.** The Urban Design Commission shall render its decision on the proposed plan
4 when the design is 65% complete.

5 **3. Concept Report**

6 The concept report shall be distributed to the appropriate commission by the staff as an
7 information item. The staff shall address the issue of purpose and need in the concept
8 report. The appropriate Commission shall determine that there is a clearly defined and
9 substantiated purpose and need for the street or the trail. In the absence of such a
10 determination, the project shall not be taken to the next stage.

11 **4. Procedure for Design Study Report and 65% Design Drawings**

12 **a. Pre-Application Conference**

13 The project management team shall request a pre-application conference with
14 the director, in accordance with subsection 21.03.020B.

15 **b. Public Outreach**

16 Public outreach is an essential part of Context Sensitive Solutions. Applicants
17 are expected to meet with the appropriate community council(s) after the 35%
18 design study report has been submitted to the respective commission and before
19 the 65% design drawings have been submitted to the respective commission
20

21 **c. Application Submittal**

22 Applications shall contain the information specified in the Title 21 Users' Guide
23 and in *A Strategy for Developing Context Sensitive Transportation Projects*
24 (CSS).

25 **d. Public Notice**

26 Notice of all public hearings shall be provided in accordance with section
27 21.03.020H.

28 **e. Department Review**

29 The department shall review each proposed application and distribute the
30 application to other reviewers as deemed necessary. Reviewers shall address
31 those aspects of the design that are germane to the commissions' deliberations;
32 detailed lists of technical comments shall be separately coordinated with the
33 design team leader. Based on the results of those reviews the department shall
34 provide a report to the planning and zoning commission or urban design
35 commission, as applicable

36 **5. Draft Design Study Report and 65 Percent Design Completion Review and Decision**
37 **by the Planning and Zoning Commission for Applicable Street Projects and by the**
38 **Urban Design Commission for Applicable Trail Projects**

39 **a.** The Planning and Zoning Commission shall review, modify, approve or
40 disapprove, the both draft design study report (35% completion) and
41 subsequently the design drawings (65% completion) for all applicable street
42 projects.

43 **b.** The Urban Design Commission shall review, modify, approve or disapprove, the
44 both draft design study report (35% completion) and subsequently the design
45 drawings (65% completion) for all applicable trail projects.

46 **c.** Both Commissions shall provide a public hearing after submission of the draft
47 design drawings (35% completion) and prior to final action on the project.

- 1 d. As applicable, the review process of both Commissions shall include, but not
2 limited to the following issues:
- 3 i. Existing conditions throughout the location of the new street or the new
4 trail;
- 5 ii. The applicable design standards and criteria, including landscaping
6 requirements, with specific attention to any requests for variances from
7 the criteria;
- 8 iii. Compliance with this Title;
- 9 iv. Identification and evaluation of alternatives and recommendations arising
10 out of the evaluation;
- 11 v. Project construction costs;
- 12 vi. Both short and long term impacts on surrounding properties;
- 13 vii. Both short and long term impacts on property acquisition for rights-of-
14 way;
- 15 viii. Impacts on utilities and other public infrastructure, including the
16 requirement of undergrounding utilities;
- 17 ix. Maintenance costs and other maintenance considerations;
- 18 x. Pedestrian and other non-motorized access and use;
- 19 c. Decisions of the Planning and Zoning Commission or the Urban Design
20 Commission may be appealed to the Board of Adjustment pursuant to subsection
21 21.03.050A.

22
23 **21.03.20021.03.190 SUBDIVISIONS**

24 **A. Purpose**

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

29 **B. Applicability**

30 **1. General**

31 The procedures of this section, and the standards and requirements set forth in chapter
32 21.08, *Subdivision Standards*, shall apply to all subdivisions or resubdivisions that result
33 in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land,
34 including subdivisions or resubdivisions created by an exercise of the power of eminent
35 domain by an agency of the state or municipality. All subdivisions applications shall be
36 reviewed according to the process set forth in subsection C. below, unless they qualify for
37 the abbreviated plat procedure.

38 **2. Abbreviated Plat**

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

- 1 a. A movement or elimination of lot lines that does not:
- 2 i. Result in an increase in the permitted density of residential units within
- 3 the area being subdivided or resubdivided.
- 4 ii. Allow a change in the permitted use to which the lot or tract may be
- 5 devoted under existing zoning.
- 6 iii. Deny adequate access to and from all lots or tracts created by the
- 7 subdivision or those adjacent to it.
- 8 b. The subdivision of a single tract, parcel, or lot into no more than three tracts or
- 9 eight lots, provided that the subdivision does not:
- 10 i. Allow a change in the permitted use to which the lot or tract may be
- 11 devoted under existing zoning.
- 12 ii. Deny adequate access to and from all lots or tracts created by the
- 13 subdivision or those adjacent to it.
- 14 iii. Divide a tract, parcel or lot:
- 15 (A) Created within the previous 48 months pursuant to the approval
- 16 of a preliminary plat under this section;
- 17 (B) Contiguous to or having an owner either in an individual capacity
- 18 or as an owner of a corporation, partnership, or other legal entity
- 19 of a preliminary plat approved within the previous 48 months; or
- 20 (C) That is 10 acres or more in the R-6, R-7, R-8, R-9, and R-10
- 21 zoning districts or that is governed by AO 84-21 (G-5 areawide
- 22 rezoning).
- 23 c. Vacations and relocations under section 21.03.230C.1.
- 24 d. Subdivision of a cemetery into burial plots.
- 25 e. A plat required by section 21.03.080F. for approval of a conditional use, or
- 26 section 21.03.180F. for approval of a site plan.
- 27 f. A plat depicting the creation of two attached single-family lots.
- 28 **3. Subdivision Approval is Prerequisite to Other Approvals**
- 29 a. No building permit, land use permit, certificate of zoning compliance, or certificate
- 30 of occupancy may be issued for any building, structure, or improvement located
- 31 within a subdivision, and no plat for a subdivision may be recorded with the state
- 32 of Alaska, until all required dedications of land have been made, and all required
- 33 improvements have been installed in accordance with the procedures and
- 34 requirements of this section, or an approved subdivision agreement is in place
- 35 pursuant to section 21.08.060, *Subdivision Agreements*.
- 36 b. The municipality shall not accept or maintain any street, and shall not extend or
- 37 connect any street lighting, water service, or sanitary sewer service to any
- 38 subdivision of land, until and unless a plat for the subdivision has been approved
- 39 and recorded in accordance with the requirements set forth in this section.
- 40 **4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat**
- 41 Any person who transfers or sells any land located within the municipality by reference to
- 42 a plat that has not been approved by the municipality and recorded by the state of Alaska

Comment [EBM199]: Wrong cross reference

Comment [EBM200]: Wrong cross reference

shall be guilty of a violation of this title. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The municipality also may enjoin such transfer or sale by filing an action for an injunction.

5. Existing Lots of Record

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

C. Review and Approval of Subdivision Plans

1. Applicability

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

2. Pre-Application Conference

Before filing an application for a new subdivision or a modification of an already-approved subdivision, the applicant shall request a pre-application conference with the **plating officer** [DIRECTOR], in accordance with subsection 21.03.020B.

3. Community Council Meeting

A community council meeting is required in accordance with subsection 21.03.020C.

4. Application Submittal

a. Unless waived by the **plating officer** [DIRECTOR], a preliminary plat shall include all land under contiguous ownership, unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be part of the preliminary and final plat. Requirements for surveying this remaining tract may be waived at the discretion of the municipal surveyor. By plat note, development shall not be allowed on the remaining tract until approved under this section.

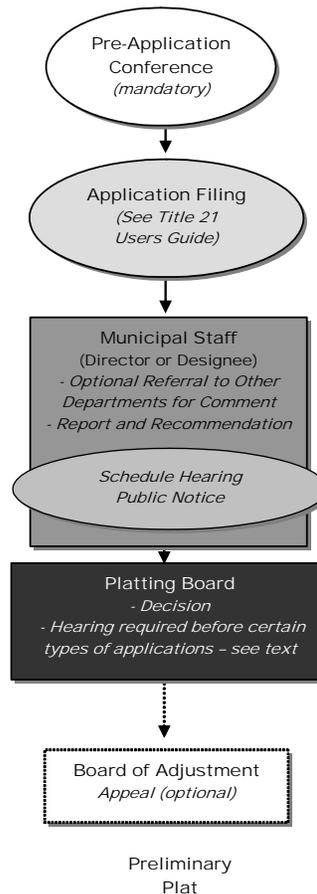
b. Applications for a preliminary plat shall contain the information specified in the ~~title~~ Title 21 ~~user's guide~~ Users' Guide, and shall be submitted to the **plating officer** [DIRECTOR] on a form provided by the department.

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

5. Public Notice

Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with subsection 21.03.020H.

6. Departmental Review



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

5 **7. Action on Preliminary Plat**

6 **a. Platting Authority**

7 The platting board is the platting authority for preliminary plats, except as
8 provided in subsection 21.03.080F. for conditional uses, and subsection
9 21.03.180F. for site plans.

Comment [EBM201]: Wrong cross reference.

10 **b. Action by Platting Authority**

11 Subject to paragraph 7.c. below, the platting authority shall, based on the
12 approval criteria of subsection C.9. below, take action on the preliminary plat
13 within 90 days after the submittal date, or shall return the plat to the applicant for
14 modification or correction. The reasons for denial of a plat shall be stated in the
15 records of the platting authority.

16 **c. Referral to Other Agency**

17 If the platting authority finds that:

- 18 i. It cannot determine whether a preliminary plat conforms to the approval
19 criteria of subsection C.9. below, because a specific controlling land use,
20 public facility, or other public policy issue has not been resolved; and
- 21 ii. An official board, commission or legislative body of the municipality or
22 another government has been identified as being responsible for
23 resolving that issue;

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

29 **d. Public Hearing**

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

- 32 i. Approval of a preliminary plat, except applications allowed to use the
33 abbreviated plat procedure;
- 34 ii. Approval of a final plat that differs from the preliminary plat (see section
35 21.03.200C.8.b.);
- 36 iii. Modification or deletion of a condition of plat approval;
- 37 iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision*
38 *Standards*; and
- 39 v. Vacation of dedicated right-of-way; BLM and section line easements; or
40 platted landscape, drainage, slope, or protective well radii easements.

Comment [EBM202]: Wrong cross reference

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

- 42 i. Notwithstanding any subsequent change in the subdivision regulations,
43 zoning regulations, and zoning districts, the approval of the preliminary
44 plat shall be effective:

- 1 (A) For at least 24 months and up to 60 months from the date of
2 approval, when it pertains to a development of no less than 10
3 acres and includes a phasing plan. The length of the approval
4 period shall be based upon the platting board's evaluation of the
5 size, complexity, and phasing elements of the development.
- 6 (B) For 24 months from the date of approval when it pertains to a
7 development of less than 10 acres or does not include a phasing
8 plan.
- 9 ii. The preliminary plat shall become null and void after the approval period
10 unless an extension of time is granted by the platting authority. A
11 request for a time extension must be made in writing by the subdivider.
12 The extension request must be received by the **platting officer**
13 **[DIRECTOR]** prior to the expiration of the preliminary plat to be eligible
14 for consideration by the platting authority.
- 15 iii. Such a time extension shall be granted only if the authority finds that
16 current conditions are substantially the same as those that existed when
17 the preliminary plat was originally approved. The director shall conduct
18 the reevaluation for every extension request that does not raise the total
19 time of extension for a particular plat beyond 24 months and present his
20 or her findings to the authority. Every extension request that raises the
21 total time of extension for a particular plat beyond 24 months shall be
22 evaluated in the same manner as an original plat application, including
23 payment of the applicable fee.
- 24 iv. Only two time extensions may be approved for a preliminary plat
25 approved by the platting authority. Approval of the second extension
26 shall require a noticed public hearing.
- 27 v. Preliminary plats being finalized in portions or phases shall not be
28 construed to automatically extend the original approval period. Such an
29 extension may only be granted by the platting authority in accordance
30 with the procedures set out in this subsection.
- 31 f. **Appeals**
32 All decisions as to approval or denial of a preliminary plat by the platting authority
33 shall be final unless appealed to the board of adjustment.
- 34 g. **Resubmittal Following Denial**
35 No new application for the same or substantially the same preliminary plat shall
36 be accepted by the platting authority within one year of denial of the original
37 application. The waiting period required by this section may be waived in an
38 individual case, based upon new evidence or changed circumstances, by the
39 affirmative vote of a majority of the platting authority.
- 40 8. **Final Plat**
41 a. **Procedure When Final Plat Corresponds to Preliminary Plat as Approved**
42 i. A hearing on the final plat shall not be required when such plat
43 essentially conforms to the preliminary plat approved by the platting
44 board. The final plat shall, in addition, meet all conditions imposed by
45 the board in approving the preliminary plat.
- 46 ii. The final plat map shall constitute only that portion of the approved
47 preliminary plat that is proposed to be recorded and developed at the
48 time. If only a portion of the approved preliminary plat is proposed for

1 final plat approval, such portions shall conform to all requirements of this
2 section and chapter 21.08, *Subdivision Standards*.

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

4 **(A)** The final plat shall be submitted to the **platting officer**
5 **[DEPARTMENT]** for examination as to compliance with all terms
6 of the preliminary plat as approved by the platting authority. If all
7 conditions have been met, a statement to that effect, appearing
8 on the final plat, shall be signed by the platting authority. The
9 final plat shall not be signed until the documents described in
10 paragraph a.iv. and a.v. below have been received.

11 **(B)** Upon acceptance of the final plat, the department shall forward
12 the final plat to the **public works [PROJECT MANAGEMENT**
13 **AND ENGINEERING]** department for final checking and
14 inspection before final approval is given. If requested, a
15 subdivision survey shall be submitted to the **public works**
16 **[PROJECT MANAGEMENT AND ENGINEERING]** department
17 with a complete set of field and computation notes showing the
18 original or reestablished corners of the plat and of lots within the
19 plat. Traverse sheets and work sheets showing the closure
20 within the allowable limits of error of the exterior boundaries of
21 each irregular block and lot of the subdivision may also be
22 required. Final approval by the **public works [PROJECT**
23 **MANAGEMENT AND ENGINEERING]** department shall be
24 indicated by a statement appearing on the plat.

25 **iv.** Final approval by the platting board shall be dependent upon receipt of
26 the following material:

27 **(A)** A statement from the development services department stating
28 that all conditions imposed by the department on the preliminary
29 plat and approved by the platting board have been met. This
30 approval by the development services department shall not
31 affect any subsequent requirements relating to sewage disposal
32 and water supply as they apply to any lots within the plat.

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

39 **(C)** A certificate to plat showing the legal and equitable owners,
40 including mortgagees, contract purchasers and fee owners, of
41 the land to be platted, plus all grants, reservations, covenants,
42 deed restrictions, and easements of record which may condition
43 the use of the property.

44 **v.** If the subdivision is to be served by a community water or sewer system,
45 the development services department may require the subdivider to
46 provide the following before the platting board finally approves the plat:

47 **(A)** Any approvals or certificates required by the state departments
48 of environmental conservation and natural resources.

- 1 (B) An agreement under the standards and procedures set out in
2 section 21.08.060, *Subdivision Agreements*, to ensure that the
3 system installed will be compatible with existing public water and
4 sewer systems.
- 5 (C) Approval of the plans, specifications, and installation and
6 operating procedures for the system by the municipal water and
7 wastewater utility pursuant to chapter 21.08, *Subdivision*
8 *Standards*, and regulations promulgated thereunder.
- 9 vi. Final plats affecting land neither supplied, nor under subdivision
10 agreement to be supplied, both with public water and public sewer, shall
11 be submitted to the development services department for a
12 determination that all lots and proposed water and wastewater facilities
13 conform to AMC chapter 15.65 at the time of determination.
- 14 b. **Procedure When Final Plat Differs from Preliminary Plat**
15 When the final plat differs from the preliminary plat, the plat shall be considered a
16 new application for preliminary plat approval under this subsection C., except that
17 all decisions as to approval or denial of this plat by the platting board as
18 submitted under this section shall be final unless appealed to superior court.
- 19 c. **Requirements for Final Plat**
20 The final plat shall be prepared to the technical specifications, and shall be
21 accompanied by appropriate supporting materials, as specified in the [title-Title 21](#)
22 [user's-guideUsers' Guide](#).
- 23 d. **Subdivision Agreements and Cost Estimates**
24 All final plats requiring public improvements, except those requiring
25 monumentation only, shall be accompanied by a subdivision agreement between
26 the subdivider and the municipality and an engineer's estimate of the cost of all
27 required public improvements. Requirements for such an agreement are further
28 described in section 21.08.060, *Subdivision Agreements*.
- 29 e. **Notes, Restrictions, and Covenants**
30 The platting board may place such conditions upon granting of final plat approval
31 as are necessary to preserve the public welfare in accordance with the
32 subdivision regulations. (See section 21.03.020M.) When such a condition of
33 approval entails a restriction upon the use of all or part of the property being
34 subdivided, a note specifying such restrictions shall be placed on the face of the
35 plat. Such note shall constitute a restrictive covenant in favor of the municipality
36 and the public and shall run with the land, enforceable against all subsequent
37 owners. Any such restrictive covenant may be enforced against the subdivider or
38 any subsequent owner by the municipality or by any specifically affected member
39 of the public.
- 40 9. **Approval Criteria**
41 The platting board may approve a preliminary or final plat only if it finds that the plat
42 conforms to chapters 21.06, *Dimensional Standards and Measurements*, 21.07,
43 *Development and Design Standards*, and 21.08, *Subdivision Standards*, and, to the
44 maximum extent feasible:
- 45 a. Promotes the public health, safety, and welfare;
- 46 b. Mitigates the effects of incompatibilities between the land uses or residential
47 densities in the subdivision and the land uses and residential densities in the
48 surrounding neighborhood, including but not limited to visual, noise, traffic, and
49 environmental effects;

- c. Provides for the proper arrangement of streets in relation to existing or proposed streets;
- d. Provides for adequate and convenient open space;
- e. Provides for the efficient movement of vehicular and pedestrian traffic;
- f. Ensures adequate and properly placed utilities;
- g. Provides access for firefighting apparatus;
- h. Provides opportunities for recreation, light, and air, and avoids congestion;
- i. Facilitates the orderly and efficient layout and use of the land;
- j. Does not create a split-zoned lot; and

Comment [EBM203]: Needs amendment.

~~k. Furthers the goals and policies of the comprehensive plan and conforms to the comprehensive plan in the manner required by section 21.01.080, Comprehensive Plan.~~

Comment [EBM204]: Disagree--As continually noted, entitlement approvals must be consistent with the comprehensive plan, by law.

D. Abbreviated Plat Procedure

1. Authorization

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

2. Application Submittal

Applications for abbreviated plats shall contain all of the submittal requirements that are listed in the [Title 21 user's guide](#) *Users' Guide*. Applications shall be submitted to the **plating officer** [DIRECTOR] on a form provided by the department.

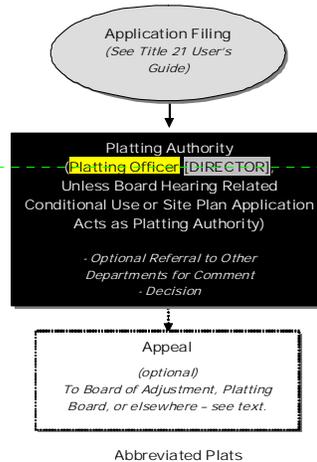
3. Public Notice

Before acting on an abbreviated plat application under this section, the **plating officer** [DIRECTOR] shall provide notice in accordance with section 21.03.020H.

4. Action on Plat

a. Platting Authority

The **plating officer** [DIRECTOR] is the platting authority for abbreviated plats, except as provided in section 21.03.230 for vacation or relocation of certain dedicated public areas. The **plating officer** [DIRECTOR] may refer any application to the platting board that he or she deems may need further or more extensive analysis and public comment concerning access into adjacent property.



Comment [EBM205]: Wrong cross reference.

b. Review and Decision

The platting authority shall review each proposed subdivision in light of the approval criteria of subsection C.9. above and shall consult other municipal offices or agencies as necessary. Based on the results of that

1 review, the platting authority shall act to approve, approve with conditions, or
2 deny the plat.

3 **c. Variances**

4 i. When acting as the platting authority under this section, the **platting**
5 **officer** [DIRECTOR] may not grant variances from the provisions of
6 chapter 21.08, *Subdivision Standards*.

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

Comment [EBM206]: Wrong cross reference

Comment [EBM207]: Wrong cross reference

12 **d. Duration of Preliminary Approval**

13 Abbreviated plat approval expires after 24 months; provided that the board
14 hearing an application for conditional use or site plan approval may extend the
15 expiration of abbreviated plat approval in conjunction with extending the time for
16 implementing the conditional use or site plan.

17 **e. Time Extensions**

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

25 **f. Appeals**

26 Decisions of the **platting officer** [DIRECTOR] under this section are final unless
27 appealed within 15 days to the platting board, in which case the appeal shall be
28 treated as an application for preliminary plat approval pursuant to subsection
29 21.03.200C.

Comment [EBM208]: Wrong cross reference

30 **g. Approval of Final Plat**

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

35 **E. Commercial Tract Plats**

36 **1. Applicability**

37 A commercial tract may be created and divided into fragment lots in order to facilitate
38 construction of commercial developments requiring multiple phases of construction.
39 Designation of commercial tracts shall be allowed only in the B-3, RO, **NMU, CMU, RMU,**
40 **MT-1, MT-2, I-1, I-2, PCD, MC, [AND] MI, GC-1 through GC-10, GI-1, GI-2, GRST-1, and**
41 **GRST-2** zoning districts.

42 **2. Platting Authority**

43 The ~~urban design commission~~ **platting board** shall be the platting authority for a
44 commercial tract whose site plan includes a large commercial establishment. The
45 platting board shall be the platting authority for all other commercial tracts.

Comment [EBM209]: Disagree--
This amendment means that large commercial establishments that include a platting action will have to go to two different boards/commissions—the PZC for approval of the large commercial establishment (big box) and the platting board for approval of the plat. In current code, platting authority for big box stores is the PZC.

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

47 **a. Application Submittal**

1 Applications for a commercial tract plat shall contain the information specified in
2 the ~~title-Title 21 user's guide~~Users' Guide, and shall be submitted to the ~~platting~~
3 ~~officer~~ [DIRECTOR] on a form provided by the department. An application for
4 approval of a commercial tract shall be signed by the owners of the property
5 involved.

6 **b. Action by Platting Authority**

- 7 i. The platting authority shall act upon the application for approval of a
8 commercial tract whose site plan includes a large commercial
9 establishment as part of the major site plan review for the large
10 commercial establishment under subsection 21.03.~~180C~~170.
11
12 ii. Except as provided in E.3.b.i. above, the platting authority shall act upon
13 the application for commercial tract approval following the review and
14 approval procedures of a preliminary plat in accordance with subsection
21.03.~~200C~~190C.7.

Comment [EBM210]: This
contradicts E.2. above.

15 **c. Recording of Site Plan**

16 Upon approval of a commercial tract under subsection E.3.b. above, the ~~platting~~
17 ~~officer~~ [DIRECTOR] shall, after notice to the petitioner, record the commercial
18 tract site plan as approved, together with any declarations, covenants, and
19 restrictions, with the district recorder's office.

20 **d. Conformance with Site Plan**

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

26 **e. Alteration of Boundaries**

27 The process for amending or altering the boundaries of an approved commercial
28 tract shall be the same process as that of the original approval of the commercial
29 tract plat.

30 **f. Amendment of Site Plan**

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

33 **4. Division of Tract**

34 The owner of a commercial tract may divide the tract into fragment lots provided that
35 such division is consistent with the approved commercial tract site plan and recorded
36 declarations, covenants, and restrictions applicable to the commercial tract. Any property
37 description used to divide an area of the commercial tract into a fragment lot shall not be
38 considered a lot or tract under the terms of this ~~title-Title~~ or ~~title-Title~~ 23, but shall be
39 otherwise a lawful lot or tract. Any fragment lot created under this section shall contain
40 the minimum area, width, and depth otherwise required for lots in the zoning district in
41 which the fragment lot is located.

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

43 **1. Generally**

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

- 1 **2. Application Submittal**
2 Applications for a right-of-way acquisition plat shall contain the information specified in
3 | the ~~title-Title~~ 21 ~~user's-guideUsers' Guide~~, and shall be submitted to the **plating officer**
4 **[DIRECTOR]** on a form provided by the department.
- 5 **3. Applicability of Requirements**
6 **a.** A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.
7 **b.** Survey requirements for a right-of-way acquisition plat shall be established by
8 agreement between the municipal surveyor and the government agency applying
9 for plat approval, or, if there is no such agreement, by the provisions of this
10 ~~titleTitle~~.
- 11 **4. Action**
12 **a. Plating Authority**
13 The **plating officer** **[DIRECTOR]** shall act as the platting authority unless the
14 government agency applying for plat approval requests a public hearing before
15 the platting board.
16 **b. Duration of Approval**
17 The preliminary approval of the right-of-way acquisition plat shall be for a period
18 of 60 months; provided, however, that the **plating officer** **[DIRECTOR]** may grant
19 an extension of time for filing the final plat upon a finding that it is in the public
20 interest to do so.
21 **c. Appeals**
22 All decisions of the **plating officer** **[DIRECTOR]** under this section shall be final
23 unless appealed to the platting board within 15 days. An appeal under this
24 subsection shall be treated as an application for preliminary plat approval
25 pursuant to section 21.03.200C.
- 26 **5. Requirements for Final Plat**
27 Requirements for final right-of-way acquisition plats shall be established by agreement
28 between the director and the government agency applying for plat approval, or, if there is
29 no such agreement, by the provisions of this ~~titleTitle~~.
- 30 **G. Modification or Removal of Plat Notes**
31 **1. Purpose**
32 This section sets forth a process by which the platting board may modify or remove plat
33 notes from recorded plats.
34 **2. Initiation**
35 Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of
36 land encumbered by the plat note. If the applicable plat note encumbers more than one
37 lot, the owners of all encumbered lots shall be a party to the application.
38 **3. Application**
39 Applications for modifying or removing a plat note(s) shall contain the information
40 | specified in the ~~title-Title~~ 21 ~~user's-guideUsers' Guide~~, and shall be submitted to the
41 **plating officer** **[DIRECTOR]** on a form provided by the department.
42 **4. Public Notice**
43 Notice **[OF ALL PUBLIC HEARINGS]** shall be provided in accordance with section
44 21.03.020H.

Comment [EBM211]: Wrong cross reference

1 **5. Departmental Review**

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

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

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

10 **7. Recordation**

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

13 **8. Appeal**

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

16 **9. Approval Criteria**

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

- 19 a. Conditions that required the plat note(s) on the original plat have changed and
20 the need for the plat note has been negated;
- 21 b. Modification or removal of the plat note(s) will not have a negative impact on
22 adjacent or nearby properties; and
- 23 c. Despite modification or removal of the plat note(s), the plat continues to meet the
24 approval criteria of subsection 21.03.200C.9.

Comment [EBM212]: Wrong cross reference.

25 ~~21.03.210~~**21.03.200 TITLE 21 – TEXT AMENDMENTS**

26 **A. Purpose and Scope**

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

32 **B. Procedure**

33 **1. Initiation**

34 A petition for amendment to the text of this ~~title-Title~~ may be initiated by any review or
35 decision-making body, ~~including the Assembly itself~~.

Comment [EBM213]: Disagree-- Unnecessary, as the Assembly is a decision-making body.

36 **2. Application Submittal**

37 Proposals for text amendments shall be in ordinance form and shall be filed with the
38 director.

39 **3. Departmental Review**

40 The department shall review each proposed text amendment in light of the approval
41 criteria of subsection C. below and distribute the application to other reviewers as
42 deemed necessary. Based on the results of those reviews, the department shall provide
43 a report to the ~~planning-Planning~~ and ~~zoning-Zoning commission~~**Commission**. A positive
44 recommendation shall be accompanied by a draft ordinance reflecting the
45 recommendation.

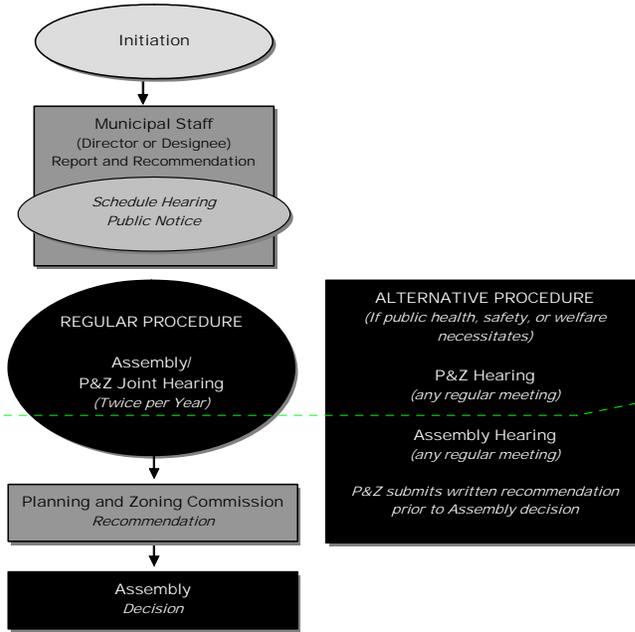
4. **Review by Other Boards or Commissions**

- a. Any text amendments proposed that amend the powers and duties of any board or commission shall be reviewed by that board or commission, which shall forward a recommendation to the assembly.
- b. In addition, if any text amendments are proposed in chapter 21.08, *Subdivision Standards*, the platting board shall review such proposed amendments and forward a recommendation to the ~~planning-Planning and zoning-Zoning commission~~ Commission and the assembly.

5. **Notice and Frequency of Amendments**

- a. [WRITTEN AND PUBLISHED NOTICE [OF PUBLIC HEARINGS ON TEXT AMENDMENTS] shall be provided in accordance with [PURSUANT TO THE GENERAL NOTICE PROVISIONS OF] section 21.03.020H.

- b. ~~Starting on [two years after the effective date], text amendments shall be considered no more than two times per year. However, where the assembly determines by a majority vote that the public health, safety, or welfare necessitates, text amendments may be considered at any regularly scheduled meeting of the assembly, provided that the assembly holds a public hearing on the proposed amendment and the planning and zoning commission holds a public hearing and provides a written report and recommendation on the proposed amendment prior to the assembly's decision.~~



Comment [EBM214]: Disagree-- This section is very important for applicants and staff and should not be deleted. See major issues list. If this remains deleted, the graphic needs to be changed.

Amendments to Text of Title 21

6. **Planning and Zoning Commission Action**

- a. As soon as possible after the public hearing, but no later than 60 days, the ~~planning-Planning and zoning-Zoning commission-Commission~~ shall make a recommendation to the assembly to approve or deny the text amendment based on the approval criteria of subsection C. below.
- b. If the commission recommends approval of the amendment, the director shall submit the draft ordinance to the assembly.
- c. If no recommendation is made within 60 days, then the ~~planning-Planning and zoning-Zoning commission-Commission~~ may request an extension of time from the assembly. If no recommendation is made and no extension is granted, then

the assembly may act on the proposed amendment without a recommendation from the ~~planning-Planning~~ and ~~zoning-Zoning commission~~Commission.

7. Assembly Action

After a public hearing and reviewing the reports and recommendations of the director and the ~~planning-Planning~~ and ~~zoning-Zoning commission~~Commission and the ~~planning-Planning~~ and the platting board if appropriate, the assembly shall vote to approve, approve with amendments, or deny the proposed amendment, based on the approval criteria of subsection C. below. The assembly also may refer the proposed amendment back to the ~~planning-Planning~~ and ~~zoning-Zoning commission~~Commission or to a committee of the assembly for further consideration. Text amendments shall be approved in the form of ordinances.

Notwithstanding the processes or the approval criteria in Subsection C below, during the two year period immediately after the effective date of this Title, the Assembly may, at its discretion, consider amendments to this Title at any time without the necessity of review by the Planning and Zoning Commission or the Platting Board if the Assembly determines that the amendment is necessary or appropriate to effectuate the provisions of this Title or the comprehensive plan.

Comment [EBM215]: Staff is not necessarily opposed to something like this, but there needs to be some criteria to make sure the amendments relate to problems with the new code, not just some provision that someone with an assemblymember's ear dislikes.

C. Approval Criteria

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

1. The proposed amendment will promote the public health, safety, and general welfare;
2. The proposed amendment is consistent with the comprehensive plan and the stated purposes of this ~~the~~Title; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

~~21.03.22~~2021.03.210 **USE CLASSIFICATION REQUESTS**

A. Purpose and Applicability

1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*, and in section 21.09.050, *Use Regulations (Girdwood)*, describe one or more uses having similar characteristics, but do not list every use or activity that may fall within the classification. This section shall be used to determine all questions or disputes whether a specific use is deemed to be within a use classification permitted in a zoning district.
2. The provisions of this section shall not apply to permit any specific use that is expressly prohibited in a zoning district.

B. Procedures for Use Classification Request

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

1. Application Submittal and Action

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

2. **Appeals**

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

3. **Form of Determination**

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

C. **Standards for Review**

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

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

2. The volume and type of sales (retail or wholesale) on the premises, and the size and type of items sold and nature of inventory on the premises.;

3. Any processing done on the premises, including assembly, manufacturing, final production, warehousing, shipping, and distribution.;

4. Any dangerous, hazardous, toxic, or explosive materials used in the processing on the premises.;

~~5. The nature and location of storage and outdoor display of merchandise (enclosed, open, inside or outside the principal building); and predominant types of items stored (such as business vehicles, work-in-process, inventory and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders).;~~

Comment [EBM216]: Disagree-- Why delete provisions that can help the director establish the appropriate use type?

~~6.5.~~ The type, size, height, and nature of buildings and structures.;

~~7.6.~~ The number and density of employees and customers per unit area of site in relation to business hours and employment shifts.;

~~8. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes, and whether trip purposes can be shared by other uses on the site.;~~

Comment [EBM217]: Disagree-- Why delete provisions that can help the director establish the appropriate use type?

~~9.7.~~ Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses.;

~~10.8.~~ The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes.;

~~11.9.~~ Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities.;

~~12.10.~~ The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

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

2 **1. Typical Uses: Amendment to this Title**

3 If the director finds that the particular use or category of use(s) that was the subject of the
4 use classification request is likely to be common or to recur frequently, or that omission
5 from this ~~title-Title~~ is likely to lead to public uncertainty and confusion, the director shall
6 initiate an amendment to this ~~title-Title~~ under section 21.03.210, *Title 21-Text*
7 *Amendments*. The determination of the director shall be binding on all officers and
8 departments of the municipality.

Comment [EBM218]: Wrong cross reference.

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

10 If the director finds that the particular use or category of use(s) that was the subject of the
11 use classification request is of an unusual or transitory nature, or is unlikely to recur
12 frequently, the director may approve the use without initiating an amendment to this
13 ~~title-Title~~. However, the director's determination shall thereafter be binding on all officers
14 and departments of the municipality.

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

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

19 **21.03.23021.03.220 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS**

20 **A. Authority**

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

26 **B. Application Submittal**

27 Applications for vacation requests shall contain the information specified in the ~~title-Title~~ *21 user's*
28 *guideUsers' Guide*, and shall be submitted to the **platting officer** [DIRECTOR] on a form provided
29 by the department.

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

31 **1.** The **platting officer** [DIRECTOR] is the platting authority for applications to vacate the
32 following platted interests:

- 33 **a.** Drainage easements granted under section 21.08.050M.
- 34 **b.** Zero lot line maintenance easements.
- 35 **c.** Public utility easements.
- 36 **d.** Private easements, but only upon the written concurrence of the beneficiaries.
- 37 **e.** Relocation of any of the above-described interests.

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

D. Action

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

E. Approval Period

The approval of a vacation expires 24 months after the date of approval unless, before its approval expires, a conveyance of the vacated interest is approved in accordance with law and a final plat depicting the vacation is approved and filed in accordance with this ~~title~~Title. A street right-of-way or easement whose vacation is finally approved under this section is a right-of-way or easement without substantial value to the municipality and is conveyed upon the filing of a final plat depicting the vacation.

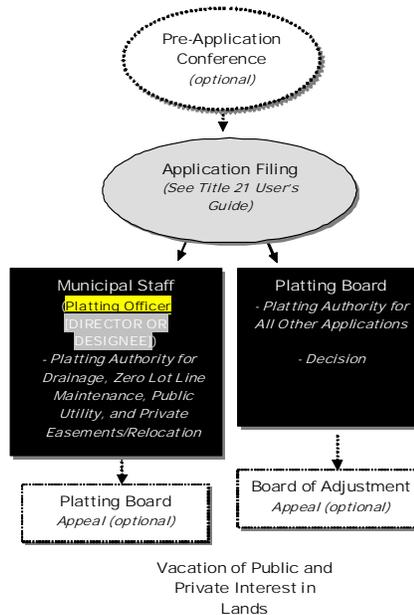
F. Appeals

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

Comment [EBM219]: Wrong cross reference

G. Title to Vacated Area

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



~~21.03.240~~21.03.230 VARIANCES

A. Purpose and Scope

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

B. Decision-Making Bodies Authorized to Consider Variance Requests

1. The platting authority shall be authorized to review and consider all requests for variances to standards of the following sections:

- a. Subsection 21.07.020C., *Steep Slope Development*;
- b. Section 21.07.060, *Transportation, Connectivity, and Pedestrian Facilities*; and
- c. Chapter 21.08, *Subdivision Standards*.

2. The ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ shall be authorized to review and consider all requests for variances of standards of the following sections:

- a. Subsection 21.05.040K., *Telecommunication Facilities*; and
- b. Section 21.07.050, *Utility Distribution Facilities*.

Comment [EBM220]: There is inconsistency in Chapter 21.02 as to which body hears these variances.

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

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

- a. ~~Planning and Zoning Commission:~~ District-specific standards of chapter 21.04, *Zoning Districts*;
- b. ~~Planning and Zoning Commission:~~ Use-specific standards of chapter 21.05, *Use Regulations*;
- c. ~~Platting Board:~~ Chapter 21.07, *Development and Design Standards*;
- d. ~~Planning and Zoning Commission:~~ The following sections of chapter 21.09, *Girdwood Land Use Regulations: 21.09.040, Zoning Districts: 21.09.050, Use Regulations: 21.09.070, Site Development and Design Standards: 21.09.080, Building Design Standards:*

Comment [EBM221]: This is inconsistent with Chapter 21.02.

Comment [EBM222]: This is inconsistent with Chapter 21.02.

Comment [EBM223]: This is inconsistent with Chapter 21.02.

- e. ~~Urban Design Commission:~~ Chapter 21.11, *Signs*, including the maximum sign area, the maximum sign height, the location of the sign, and the number of signs on the parcel. In evaluation the request for a variance to the maximum sign height, the ~~urban-Urban design-Design commission-Commission~~ may consider whether there are special topographic circumstances that would result in a material impairment of visibility of the sign from the adjacent roadway which significantly diminishes the owner's or user's ability to continue to communicate adequately and effectively with the public through the use of the sign.

Comment [EBM224]: This is inconsistent with Chapter 21.02.

1 5. The zoning board of examiners and appeals shall be
 2 authorized to review and consider variance requests from
 3 chapter 21.06, *Dimensional Standards and Measurements*,
 4 and from section 21.09.060, *Dimensional Standards*
 5 (*Girdwood*). The zoning board may only grant variances
 6 from dimensional standards.

7 6. No variance may be granted from the definitions set forth in
 8 chapter 21.14.

9 **C. Application Submittal**

10 Applications for a variance shall contain the information specified in
 11 the ~~title-Title 21 user's guide~~*Users' Guide*, and shall be submitted
 12 to the director on a form provided by the department.

13 **D. Public Notice**

14 Notice **[OF ALL PUBLIC HEARINGS]** shall be provided in
 15 accordance with section 21.03.020H.

16 **E. Departmental Review**

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

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

- 23 1. Once the application is complete, the director shall
 24 schedule the application for consideration at a public
 25 hearing, and shall transmit to the appropriate decision-
 26 making body all applications and other records pertaining
 27 to the variance prior to the hearing. Upon receiving the application materials from the
 28 director, the decision-making body shall hold a public hearing on the proposed variance.
- 29 2. In considering the application, the decision-making body shall review the application
 30 materials, the approval criteria of subsection G., and all testimony and evidence received
 31 at the public hearing.
- 32 3. After conducting the public hearing, the decision-making body may: deny the application;
 33 conduct an additional public hearing on the application; or grant the minimum required
 34 variance. Any approval or denial of the request shall be by resolution, accompanied by
 35 written findings of fact that the variance meets or does not meet each of the applicable
 36 criteria set forth in subsection G., stating the reasons for such findings. A concurring vote
 37 of a majority of the fully constituted membership of the entity, minus those excused by
 38 conflicts of interest, shall be required to grant a variance.
- 39 4. Under no circumstances shall the decision-making body grant a variance to allow a use
 40 not permitted in the zoning district containing the property for which the variance is
 41 sought.
- 42 5. Under no circumstances shall the decision-making body grant a variance from any written
 43 conditions attached by another decision-making body to the approval of a conditional
 44 use, subdivision plat, **[OR]** site plan, **or rezone (special limitation)**.

45 **G. Approval Criteria**



Variances

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

4 **1. Variances from the District-Specific Standards of Chapter 21.04, Zoning Districts,**
5 **the Use-Specific Standards of Chapter 21.05, Use Regulations, [AND] Chapter**
6 **21.07, Development and Design Standards, Section 21.09.040, Section 21.09.050,**
7 **Section 21.09.070, Section 21.09.080, and Chapter 21.11, Signs**

- 8 a. The proposed alternative achieves the intent of the subject design standard to
9 the same or better degree than the subject standard;
- 10 b. The proposed alternative achieves the goals and policies of the comprehensive
11 plan to the same or better degree than the subject standard;
- 12 c. The proposed alternative results in benefits to the community that are equivalent
13 to or better than compliance with the subject standard;
- 14 d. The variance, if granted, will not adversely affect the use of adjacent property as
15 permitted under this code;
- 16 e. The variance, if granted, does not change the character of the zoning district
17 where the property is located, is in keeping with the intent of the code, and does
18 not permit a use not otherwise permitted in the district in which the property lies;
19 and
- 20 f. The variance, if granted, does not adversely affect the health, safety, and welfare
21 of the people of the municipality.

22 **2. Variances from Chapter 21.06, Dimensional Standards and Measurements and**
23 **from Section 21.09.060 (Girdwood)**

- 24 a. There exist exceptional or extraordinary physical circumstances of the subject
25 property including, but not limited to, streams, wetlands, or slope, and those
26 circumstances are not applicable to other land in the same zoning district;
- 27 b. Because of these physical circumstances, the strict application of the code
28 creates an exceptional or undue hardship upon the property owner, and would
29 deprive the applicant of rights commonly enjoyed by other properties in the same
30 district under the terms of the zoning ordinance;
- 31 c. The hardship is not self-imposed, special conditions and circumstances do not
32 result from the actions of the applicant, and such conditions and circumstances
33 do not merely constitute inconvenience;
- 34 d. The variance, if granted, will not adversely affect the use of adjacent property as
35 permitted under this code;
- 36 e. The variance, if granted, does not change the character of the zoning district
37 where the property is located, is in keeping with the intent of the code, and does
38 not permit a use not otherwise permitted in the district in which the property lies;
- 39 f. The variance, if granted, does not adversely affect the health, safety, and welfare
40 of the people of the municipality; and
- 41 g. The variance granted is the minimum variance that will make possible a
42 reasonable use of the land.

3. **Variances from Chapter 21.08, Subdivision Standards**

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

4. **Variances from Airport Height Zoning Regulations**

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

H. **Lapse of Approval**

Any variance granted shall become null and void if:

- 1. The variance is not exercised within one year of the date it is granted **or as otherwise conditioned**, or
- 2. Any building, structure, or characteristic of use permitted by variance is moved or altered so as to enlarge the variance or discontinue it.

I. **Appeals**

- 1. An appeal from a decision of the platting board or the ~~urban-Urban design Design commission-Commission~~ shall be brought to the board of adjustment in accordance with sections 21.03.050A.
- 2. An appeal from a decision of the ~~planning-Planning~~ and ~~zoning-Zoning commission-Commission~~ or the zoning board of examiners and appeals shall be brought in accordance with section 21.03.050C.

Comment [EBM225]: In chapter 21.02, the UDC hears no variances. Resolve inconsistency.

Comment [EBM226]: There is inconsistency in Chapter 21.02 about whether or not the PZC hears any variances. Resolve this inconsistency. If the PZC is to hear any variances, this is saying that an appeal from a variance decision by PZC goes to Superior Court. That is highly unusual.

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

1. **Intent**

The intent of this section is to provide a procedure to allow persons with disabilities and assisted living providers to request reasonable accommodation from the department when access to decent safe, accessible and affordable housing with assisted living would not be available absent a reasonable accommodation. This administrative variance procedure is available to address application for minor variance in dimensional and setback requirements to accommodate special needs of persons with disabilities and to address application for variance in occupancy limits of no more than three persons.

2. **Application**

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

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

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

3 **4. Time for approval**

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

8 **5. Standards**

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

- 13 **a.** For administrative variance applications to increase occupancy limits in R-1, R-
14 1A, R-2A and R-2D districts, the extent to which the accommodation and the
15 assisted living provider seek to protect and preserve the primarily residential
16 character of the district. Factors may include traffic patterns, on-street parking
17 patterns, the control exercised by the assisted living provider to mitigate
18 environmental disturbance associated with ingress and egress of facility staff
19 workers at shift change, and any other measures taken by the assisted living
20 provider to ensure the commercial aspects of the facility do not detract from its
21 residential purpose and the primarily residential character of the district. An
22 example of a commercial aspect is if residential trash containers were standard
23 in the neighborhood and the assisted living provider used one or more dumpsters
24 due to volume. An example of a mitigation measure for this aspect the assisted
25 living provider might take is to screen the dumpster.
- 26 **b.** For administrative variance applications to increase occupancy limits, economic
27 hardship on the intended occupants if the variance is denied. Cost and
28 availability of other housing alternatives may be addressed in preparation and
29 review of the application.
- 30 **c.** Whether the requested accommodation and the assisted living provider are
31 implementing accident prevention and safety measures specific to the needs of
32 the residents, including but not limited to safety measures in state law and
33 regulation, and in municipal fire code adopted under [Title 23](#).
- 34 **d.** Whether the accommodation requested is advancing housing opportunities for
35 disabled individuals in a residential community without jeopardizing residential
36 aspects of the neighborhood with commercial aspects of operation.
- 37 **e.** For administrative variance applications to increase occupancy limits, whether
38 the proposed size of the facility is necessary for the facility's financial viability.
- 39 **f.** External characteristics and impacts of the proposed facility, including without
40 limitation appearance, projected contribution to traffic volumes and on-street
41 parking within the neighborhood, available street lighting and sidewalks.
- 42 **g.** Quantifiable risks to the health, safety, and quality of life of area residents and
43 users.
- 44 **h.** Administrative and economic burden on the municipality, in either approval or
45 denial of the variance.
- 46 **i.** Other factors deemed relevant to the applicant or the department in review of the
47 application.

1 **6. Conditions**

2 In approving a variance, the department may impose reasonable conditions designed to
3 address the standards in subsection J.5. or mitigate impacts created by the variance.

4 **7. Appeal**

5 All decisions of the department under this section shall be final unless an appeal is filed
6 in a timely manner. Appeals of the decision to approve or deny a variance under this
7 section shall be to the zoning board of examiners and appeals, pursuant to the provisions
8 of subsection 21.03.050B., except an appeal may be brought by any person with
9 standing to request reasonable accommodation under the Fair Housing Act, 42 U.S.C. §
10 3604(f).

11 **K. Administrative Variances for Signs**

12 1. The director may grant an administrative variance from the height restrictions and/or
13 setback requirements for freestanding signs, provided:

14 a. Special topographic circumstances exist that would result in a material
15 impairment of visibility of a conforming sign from the adjacent roadway;

16 b. There is no reasonable conforming alternative to the variance;

17 c. Any setback variance does not result in an encroachment into a public right-of-
18 way; and

19 d. A fee has been received.

20 2. The director shall make written findings and conclusions for each variance request.

21 3. If the request for an administrative variance is denied, the applicant may apply for a
22 public hearing variance under this section 21.03.240.

23 **L. Administrative Variances for Large Domestic Animal Facility**

24 Application for administrative approval of deviation in minimum lot size of 40,000 square feet may
25 be made to the department. The director may approve deviation of site area square footage, not
26 to exceed 10 percent, upon consultation with the department of health and human services and
27 the department of development services.

28 ~~21.03.250~~21.03.240 **VERIFICATION OF NONCONFORMING STATUS**

29 **A. Process**

30 Owners of lots, uses, or structures that may not conform to the requirements of this ~~title~~-Title may
31 request a verification of nonconforming status by filing an application with the director in
32 accordance with this section. Owners of signs that do not conform to the requirements of this ~~title~~
33 Title shall comply with section 21.12.070, *Nonconforming Signs*.

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

40 2. Such verifications shall run with the land, and their status shall not be affected by
41 changes of tenancy, ownership, or management.

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

1 **B. Exceptions**

2 Notwithstanding subsection A. above:

3 1. Where the contention for nonconforming use is raised in a court in any action brought to
4 enforce this ~~title-Title~~ before an application for determination has been filed under this
5 section, this section shall not be applicable and the court shall have jurisdiction to
6 determine the issue.

7 2. Nothing in this section shall be construed to deprive the director the right to make a
8 decision regarding a claimed nonconforming use or status as incident to a valid pending
9 application for a land use permit.

10 **C. Appeals**

11 Denial of the director's decision on nonconforming status may be appealed to the zoning board of
12 examiners and appeals pursuant to subsection 21.03.050B.