

TITLE 21 REWRITE

CHAPTER 21.03

Showing annotated technical edits and changes proposed by
the Administration, the Planning and Zoning Commission,
and the Assembly Title 21 Committee.

December 18, 2012

Page 19 ANNOTATION

Due to the complicated nature of master plans, they are proposed to be added to the list of applications that require pre-application conferences.

Administration Addition
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CHAPTER 21.03: REVIEW AND APPROVAL PROCEDURES

21.03.010 PURPOSE AND STRUCTURE OF THIS CHAPTER

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

21.03.020 COMMON PROCEDURES

A. Applicability

The common procedures of this section 21.03.020 shall apply to all applications for development activity under this title unless otherwise stated. [THE WORD "DIRECTOR" MEANS THE DIRECTOR OF THE PLANNING DEPARTMENT OR HIS OR HER DESIGNEE.]

B. Pre-Application Conferences

1. Purpose

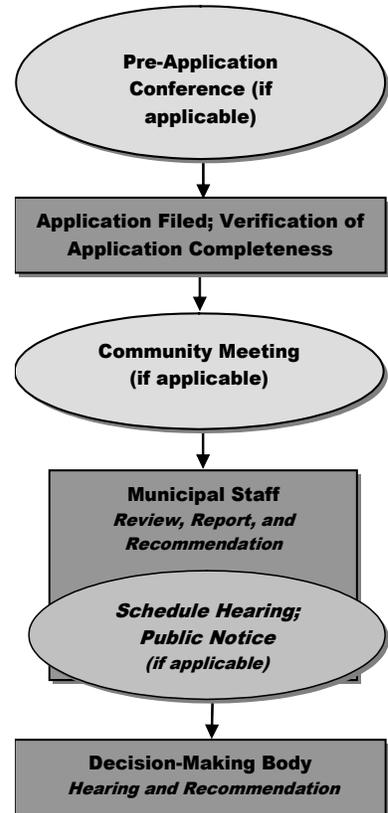
The pre-application conference is an informal discussion to familiarize the applicant and the municipal staff with the applicable provisions of this title that are required to permit the proposed development.

2. Applicability

a. Required for New Applications

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

- i. Rezonings (Map Amendments) (section 21.03.160);
- ii. Subdivisions, except for Abbreviated Plats (section 21.03.200);
- iii. Conditional Uses (section 21.03.080);
- iv. Institutional Master Plans (section 21.03.110);
- v. Major Site Plan Review (section 21.03.180C);
- vi. Public Facility Site Selection (section 21.03.140);
- vii. Girdwood Area Master Plans and Development Master Plans (sections 21.09.030E. and F.); and
- viii. Projects including Class A or B wetlands within or adjacent to the application area.



Page 20 ANNOTATION

Administration Addition
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- 1 No application for these types of approvals shall be accepted until after the pre-
2 application conference is completed and the applicant receives written
3 notification of the conclusions.
- 4 **b. *Exception for Some Changes to Already-Approved Applications***
5 Pre-application conferences are not required for minor amendments to already-
6 approved conditional uses or site plans. All other changes to already-approved
7 applications require a pre-application conference.
- 8 **c. *Optional for All Other Applications***
9 A pre-application conference is optional prior to submittal of any other application
10 under this title not listed in subsection 2.a. above.
- 11 **d. *Waiver***
12 The director may waive the pre-application requirement if the director finds that
13 the projected size, complexity, anticipated impacts, or other factors associated
14 with the proposed development clearly, in his or her judgment, make a pre-
15 application conference unnecessary. The waiver shall be made in writing and
16 shall become a part of the case record for the application.
- 17 **3. *Initiation of Pre-Application Conference***
18 The potential applicant shall request a pre-application conference, in the manner
19 prescribed in the user's guide, with the director. Prior to the pre-application conference,
20 the applicant shall provide to the director a description of the character, location, and
21 magnitude of the proposed development and any other supporting documents such as
22 maps, drawings, models, and the type of entitlement sought. It is the applicant's
23 responsibility to provide sufficiently detailed plans and descriptions of the proposal to
24 enable staff to make the informal recommendations discussed below.
- 25 **4. *Pre-Application Conference Content***
26 **a.** The director shall schedule a pre-application conference after receipt of a proper
27 request. At the conference, the applicant, the director, and any other persons the
28 director deems appropriate and available to attend shall discuss the proposed
29 development. Based upon the information provided by the applicant and the
30 provisions of this title, the parties should discuss in general the proposed
31 development and the applicable requirements and standards of this title.
- 32 **b.** The conference attendees shall discuss the desired development activities with
33 respect to the following items:
- 34 **i.** Applicability of municipality policies, plans, and requirements as they
35 apply to the proposed development.
- 36 **ii.** Appropriateness of the development with respect to the policies set forth
37 in the comprehensive plan and the regulations in this title.
- 38 **iii.** Need, if any, to prepare a subdivision plat.
- 39 **iv.** Any site plan considerations or requirements.
- 40 **v.** Any concerns or requirements related to the anticipated impact upon
41 public rights-of-way and public improvements, and appropriate
42 requirements to mitigate those impacts, including but not limited to traffic
43 impact analyses.
- 44 **vi.** Any concerns related to neighborhood impacts, land use, landscaping
45 concepts, and overall project design.

Page 21 ANNOTATION

PZC states: “This deletes the director’s ability to waive the requirement for a community meeting. Community input is valuable and a long standing practice. The Municipal Charter states that the involvement of citizens should be maximized.”

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- 1 vii. Possible alternatives or modifications related to the proposed application.
- 2 viii. Procedures that will need to be completed to review and act on the
- 3 proposed application [CHANGE].
- 4 c. A checklist of discussion items indicating topics discussed at the pre-application
- 5 conference shall be mailed to the applicant within ten days of the conference.
- 6 The checklist shall be considered proprietary information until an application has
- 7 been submitted.

8 **5. Informal Review Comments Not Binding**

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

15 **6. Application Required Within Six Months**

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

21 **C. Community Meetings**

22 **1. Purpose**

23 The community meeting is an informal opportunity for the developer to inform the
24 surrounding area residents and property owners of the details of a proposed
25 development and application, how the developer intends to meet the standards contained
26 in this title, and to receive public comment and encourage dialogue at an early time in the
27 review process.

28 **2. Applicability**

29 a. **Types of Applications**

30 The applicant shall hold a community meeting for any of the following types of
31 applications[, UNLESS A WAIVER IS GRANTED BY THE DIRECTOR
32 PURSUANT TO SUBSECTION 2.B. BELOW].

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

39 **[WAIVER]**

40 AN APPLICANT MAY REQUEST, WITH JUSTIFICATION, A WAIVER OF THE
41 COMMUNITY MEETING ALONG WITH HIS OR HER APPLICATION. THE
42 DIRECTOR MAY WAIVE THE COMMUNITY MEETING REQUIREMENT IF HE
43 OR SHE DETERMINES THAT THE PROPOSED DEVELOPMENT OR
44 SUBDIVISION WILL NOT HAVE SIGNIFICANT COMMUNITY IMPACTS IN ANY
45 OF THE AREAS LISTED BELOW. THE WAIVER SHALL BE JUSTIFIED IN

Page 22 ANNOTATION

This amendment clarifies that the community council meeting is the appropriate venue for the required community meeting, and any deviation from using the community council meeting should be justified.

From PZC: “Use of the community council meeting should be encouraged and if it is not used, the applicant must explain why. The appropriate Board or Commission should be able to review the reasons for not having a community council meeting.”

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1 WRITING, PROVIDED ALONG WITH THE VERIFICATION OF APPLICATION
2 COMPLETENESS, AND SHALL BE INCLUDED AS PART OF THE CASE
3 RECORD.

4 i. TRAFFIC;

5 ii. IMPACTS UPON NATURAL RESOURCES PROTECTED UNDER
6 CHAPTER 21.07 OF THIS CODE;

7 iii. PROVISION OF PUBLIC SERVICES SUCH AS POLICE AND/OR FIRE
8 SERVICE, SCHOOLS, OR PARKS;

9 iv. COMPATIBILITY OF BUILDING DESIGN OR SCALE; OR

10 v. OPERATIONAL COMPATIBILITY, SUCH AS LIGHTING, HOURS OF
11 OPERATION, ODORS, NOISE, LITTER, OR GLARE.]

12 b. **Community Councils**

13 The applicant is encouraged to use the community council(s) meeting of the
14 project area as the community meeting when the community council(s) meeting
15 is available. If an applicant chooses not to use the community council for the
16 community meeting, the applicant shall provide a written explanation to the
17 director outlining the reasons for this decision. The explanation shall be available
18 to the appropriate board or commission at the time of authorization review. If the
19 community council(s) meeting for the project area is not scheduled in a timely
20 manner, the applicant shall organize a community meeting. If the project area
21 spans more than one community council and the applicant chooses to attend
22 community council meetings, the applicant shall attend the community council
23 meetings of all applicable community councils.

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

25 When required, there shall be at least one community meeting held after the pre-
26 application conference (if applicable), but prior to the submittal of an application.

27 4. **Notice of Community Meeting**

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

30 5. **Attendance at Community Meeting**

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

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

37 6. **Summary of Community Meeting**

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

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

Page 23 ANNOTATION

Fee waivers are allowed for a short board situation (when not enough board or commission members are present to take action on cases), so this amendment is needed for consistency.

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- 1 b. Content and dates of mailing, [DATES MAILED,] and number of mailings,
2 including letters, meeting notices, and any other written material;
- 3 c. The number of people that participated in the meeting(s);
- 4 d. A summary of concerns, issues, and problems expressed during the meeting(s),
5 including:
 - 6 i. The substance of the concerns, issues, and problems;
 - 7 ii. How the applicant has addressed or intends to address concerns,
8 issues, and problems expressed at the meeting(s); and
 - 9 iii. Concerns, issues, and problems the applicant is unwilling or unable to
10 address and why.

11 **D. Authority to File Applications**

- 12 1. When an authorized agent files an application under this title on behalf of a property
13 owner, the agent shall provide the municipality with written documentation that the owner
14 of the property has authorized the filing of the application.
- 15 2. When a review or decision-making body initiates action under this title, it does so without
16 prejudice toward the outcome.

17 **E. Application Contents, Submittal Schedule, and Fees**

- 18 1. **Title 21 User's Guide**
19 The director shall compile the requirements for application contents, forms, fees, and the
20 submittal and review schedule (including typical time frames for review) in a user's guide,
21 which shall be made available to the public. The director may amend and update the
22 user's guide from time to time.
- 23 2. **Form of Application**
24 Applications required under this chapter shall be submitted in a form and in such number
25 as required in the user's guide.
- 26 3. **Processing Fees**
27 Applications shall be accompanied by the fee amount established by the assembly and
28 listed in the user's guide. Fees are not subject to waivers except as specifically allowed
29 by this title.
- 30 4. **Waivers**
31 The director may waive certain submittal requirements in order to reduce the burden on
32 the applicant and to tailor the requirements to the information necessary to review a
33 particular application. The director may waive such requirements where he or she finds
34 that the projected size, complexity, anticipated impacts, or other factors associated with
35 the proposed development clearly, in his or her opinion, support such waiver. The waiver
36 shall be made in writing and shall become a part of the case record for the application.

37 **F. Verification of Application Completeness**

- 38 1. The director shall only initiate the review and processing of an application if such
39 application is complete. The director shall make a determination of application
40 completeness and notify the applicant in writing within 15 days of application filing. If the
41 application is determined to be complete, the application shall then be processed
42 according to this title. If an application is determined to be incomplete, the director shall
43 provide an explanation of the application's deficiencies. No further processing of an
44 incomplete application shall occur until the deficiencies are corrected.

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1 2. An application shall be considered complete if it is submitted in the required form,
2 includes all mandatory information, including all supporting materials specified in the title
3 21 user's guide, and is accompanied by the applicable fee. A pre-application conference
4 shall have been held, if required, pursuant to **sub**section 21.03.020B, *Pre-Application*
5 *Conferences*.

6 3. As a consequence for any false or misleading information submitted or supplied by an
7 applicant on an application, that application shall be deemed incomplete.

8 **G. Additional Information**

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

19 2. **Voluntary Information**
20 Any supplemental information, such as revised application materials, that is voluntarily
21 submitted by the applicant, should be submitted before the departmental report is
22 finalized. Any such information submitted after the departmental report is finalized shall
23 cause the application to be automatically postponed to the next regular meeting in order
24 for the department to have time to review the new information, unless the board or
25 commission determines that the new information does not significantly alter the
26 application.

27 **H. Notice**

28 1. **Content of Notices**
29 Public notice required under this chapter shall, unless otherwise specified in this title:
30 a. Identify the date, time, and place of the public hearing, if applicable;
31 b. If applicable, describe the property involved in the application by street address
32 or by legal description and nearest cross street;
33 c. Describe the nature, scope, and purpose of the proposed action;
34 d. If applicable, indicate that interested parties may appear at the hearing and
35 speak on the matter; and

36 e. Indicate where additional information on the matter may be obtained.
37 2. **Summary of Notice Requirements**
38 The following table 21.03-1 summarizes the notice requirements of the procedures set
39 forth in this chapter. Unless otherwise specified in this title, procedures not listed in this
40 table have no public notice requirements.

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Page 25 ANNOTATION

Street and trail reviews should be noticed in accordance with the current process, which was negotiated with the state DOT.

Throughout the process, it became apparent that there are several different administrative variances allowed-
-staff consolidated the processes for these.

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TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			
		Written (Mailed)	Published	Posted	Community Council
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.	✓	✓	-	✓
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	-	✓	-	✓
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	✓	✓	✓	✓
Administrative Variances	21.03.240J.	✓	✓	✓	✓

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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.

Page 26 ANNOTATION

The Assembly Title 21 Committee felt that limiting the mailing to parcels within a mile of the lot proposed to be developed was a reasonable limitation on mailed notice, as areas over a mile away were outside the impact area of a development.

This amendment carries forward municipal ordinance that was changed in early 2010, replacing publication of notice in a newspaper with posting on the municipal website.

Administration Addition

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1 In computing such period, the day of mailing shall not be counted, but the day of the
2 hearing shall be counted. Written notice shall be provided to the following persons or
3 groups:

4 a. **Owners of Subject Property**

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

8 b. **Adjacent Property Owners**

9 All persons listed on the records of the municipal assessor as owners of any land
10 within 500 feet of the outer boundary of the land subject to the application, or
11 owners of the 50 parcels nearest to the outer boundary of the land subject to the
12 application, whichever is the greater number of parcels, at the mailing addresses
13 of such persons in the records of the municipal assessor. Any mailing to the 50
14 nearest parcels shall not include parcels that are entirely located more than a
15 mile from the land subject to the application, which may reduce the number of
16 mailings.

17 c. **Additional Persons**

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

19 4. **Published Notice**

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

25 5. **Posted Notice**

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

38 6. **Community Councils**

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

45 a. Each recognized community council within the municipality shall receive written
46 notice where the subject parcel is one of the following regional public lands or
47 facilities: Ted Stevens Anchorage International Airport; Merrill Field Airport;
48 Birchwood Airport; Far North/Bicentennial Park; Kincaid Park; Russian Jack
49 Springs Park; Beach Lake Park; Edmonds Lake Park; Bird Creek Regional Park;

Page 27 ANNOTATION

This amendment provides that only community councils that encompass or are close to street/trail project areas or neighborhood or district plan areas are provided notice, instead of all councils. This change cuts down on staff work load and the amount of information received by councils that isn't directly relevant to them.

This amendment codifies current Planning Division policy, which is to post staff reports on entitlement applications to the Division's website, for the public to see in advance of a public hearing.

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- 1 Chugach State Park; Anchorage Coastal Wildlife Refuge; BLM tract(s) near Far
2 North/Bicentennial Park.
- 3 b. If the subject parcel is a branch public facility that serves a specific delineated
4 area, such as a public school or fire station, then any community council whose
5 boundaries lie within the delineated district of service of a branch public facility
6 shall receive written notice. This requirement shall only take effect after the
7 municipality has established maps delineating areas of service for the type of
8 branch facility, and has adopted procedures and responsibilities for updating
9 service area boundaries.
- 10 c. Any community council whose boundaries lie beyond the minimum notification
11 distance shall receive notice regarding proposals of potentially major scope or
12 controversy that, in the opinion of the director, are likely to have a significant
13 impact on the residents of the community council beyond the minimum
14 notification distance.
- 15 d. Any community council within the impact area of a street or trail project, a
16 neighborhood or district plan, or other area-specific element of the
17 comprehensive plan, shall receive written notice. The impact area shall, at a
18 minimum, include all community councils within 1,000 feet of the project/plan
19 boundaries. The impact area shall include additional community councils if the
20 recommendations in the project/plan affect specific public lands or facilities as
21 provided in subsections 6.a. or 6.b. above, or are likely to impact residents
22 beyond the minimum impact area, as provided in subsection 6.c. above.
- 23 e. All community councils shall receive notice of **NEIGHBORHOOD OR DISTRICT**
24 **PLANS, STREET AND TRAIL REVIEW,** substantive amendments to the
25 comprehensive plan (except as provided in subsection 6.d. above), and
26 amendments to the text of title 21.
- 27 **7. Constructive Notice**
28 Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant
29 to the notice if a bona fide attempt has been made to comply with applicable notice
30 requirements. Minor defects in notice may include, but are not limited to, errors in a legal
31 description or typographical or grammatical errors that do not impede communication of
32 the notice to affected parties. Failure of a party to receive written notice shall not
33 invalidate subsequent action. In all cases, however, the requirements for the timing of
34 the notice and for specifying the time, date, and place of a hearing shall be strictly
35 construed. If questions arise at the hearing regarding the adequacy of notice, the
36 decision-making body shall make a formal finding as to whether there was substantial
37 compliance with the notice requirements of this title.
- 38 **8. Presumption of Notice**
39 When the records of the municipality document the publication, mailing, and posting of
40 notices as required by this subsection, it shall be presumed that notice of a public hearing
41 was given as required by this subsection.
- 42 **I. Departmental Report**
43 For every decision that requires a public hearing or where otherwise required by this title, the
44 department shall prepare a report to be given to the decision-making body approximately one
45 week before the initial public hearing on the application. The report shall include project
46 background, public comments received, the summary of community meeting (if applicable), and
47 the department's recommendation for action. The report shall be posted on the municipal
48 website.

Page 28 ANNOTATION

Administration Addition
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1 **J. Referrals**

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

6 **K. Concurrent Processing**

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

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

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

23 **L. Postponements**

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

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

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

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

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

39 **M. Conditions of Approval**

40 1. The decision-making body is authorized to impose such conditions upon the entitlement
41 as may be necessary to conform to the standards of this title, reduce or minimize any
42 potential adverse impact upon other property in the area, or to carry out the general
43 purpose and intent of the comprehensive plan and this title. In such cases, any
44 conditions attached to approvals shall be directly related to the impacts of the proposed
45 use or development and shall be roughly proportional in both extent and amount to the
46 anticipated impacts of the proposed use or development.

Page 29 ANNOTATION

This technical amendment lists the types of administrative permits to which this section applies.

By allowing permittees to be renewed for two years, this amendment provides flexibility to the applicant, and is likely to reduce staff overhead time addressing permit renewals.

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

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

6 **N. Decision**

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

8 **O. Lapse of Approval**

9 1. The lapse of approval time frames established by the procedures of this title may be
10 extended only when all of the following conditions exist:

11 a. The provisions of this title must expressly allow the extension;

12 b. An extension request must be filed prior to the applicable lapse-of-approval
13 deadline; and

14 c. The extension request must be in writing and include justification.

15 2. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-
16 making body that granted the original approval (the one being extended).

17 **P. New Application Required**

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

20 **21.03.030 ADMINISTRATIVE PERMITS**

21 **A. Applicability**

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

25 1. Premises containing uses where children are not allowed (21.05.020B.);

26 2. Roominghouse (21.05.030B.4.);

27 3. Telecommunication tower and antenna (21.05.040K.)

28 4. Unlicensed nightclub (21.05.050D.8.c.);

29 5. Hostel in a residential zoning district (21.05.050J.3.); and

30 6. Bed and breakfast (21.05.070D.2.)

31 **B. Administrative Permits**

32 Except as otherwise allowed in this title, a permit issued by the director and pursuant to this
33 section shall be valid between January 1 or the date of issuance and December 31 of either the
34 year in which it is issued or the year after it is issued, EXCEPT THAT PERMITS FOR BED AND
35 BREAKFASTS SHALL BE VALID BETWEEN THE DATE OF ISSUANCE AND DECEMBER 31
36 OF THE YEAR AFTER THE PERMIT WAS ISSUED. Permits and renewals may be for one or
37 two years, at the choice of the applicant. An application for renewal of a permit shall be
38 submitted in the same manner as the original application and no later than December 1
39 immediately preceding the expiration date of that permit.

Page 30 ANNOTATION

Technical amendments to this section clarify wording and authorities, based on current code requirements.

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1 **C. Regulations**

2 The director may promulgate regulations to implement this section, as provided in AMC chapter
3 3.40. Permits shall be issued and renewed as outlined in the title 21 user's guide.

4 **D. Appeals**

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

7 **21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT**

8 **A. Applicability**

9 1. Any use that includes the retail sale of alcoholic beverages is subject to the review
10 process set forth in this section. This process shall apply to such a use regardless of
11 whether it is listed in the use table[s] in section 21.05.010 as being permitted as a matter
12 of right or subject to site plan review or the conditional use process. The applicant shall
13 be required to obtain approval through both the process in this section and the separate
14 process referenced in the use table.

15 2. Notwithstanding A.1. above, catering and special event permits issued by the state
16 alcoholic beverage control board are exempt from these approval requirements, but shall
17 meet AMC title 10 requirements and the following:

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

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

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

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

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

34 **B. General Standards**

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

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

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

4 **C. Application and Review Procedure**

5 **1. Application Submittal**

6 Applications for a special land use permit for [ASSEMBLY] alcohol [APPROVAL] shall be
7 submitted to the director within seven days after application is made to the state alcoholic
8 beverage control board for issue or transfer of location of a liquor license. Applications
9 shall contain a zoning map showing the proposed location and any other information
10 specified in the title 21 user's guide. The assembly may promulgate regulations
11 concerning the mandatory information to be submitted with the application for a special
12 land use permit for alcohol.

13 **2. Departmental Review**

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

19 **3. Public Notice**

20 Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with section
21 21.03.020H., *Notice*.

22 **4. Action**

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

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

42 **5. Conditions of Approval**

43 a. The assembly or the director may, in connection with an approval under this
44 section, impose such special terms and conditions or modify existing conditions
45 governing operation of that license as are in the public interest, and are
46 consistent with the purposes of this title.

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

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

4 **6. Effect of Denial**

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

13 **7. Expiration**

14 An approval granted under this section shall expire:

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

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

34 **21.03.050 APPEALS**

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

36 **1. Jurisdiction of Board**

37 The board of adjustment shall decide appeals:

- 38 a. From decisions regarding the approval or denial of a preliminary plat (subsection
39 21.03.200C.);
- 40 b. From decisions regarding the approval or denial of a variance from the **all of the**
41 **provisions of this title with the exception of** subsection 21.05.040K.,
42 **Telecommunication Facilities; chapter 21.06, Dimensional Standards and**
43 **Measurements; and** section 21.07.050, **Utility Distribution Facilities [; CHAPTER**
44 **21.08, SUBDIVISION STANDARDS; AND CHAPTER 21.11, SIGNS];**
- 45 c. From decisions regarding the approval or denial of vacations of public and
46 private interest in land where the platting board is the platting authority (section
47 21.03.230);

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- 1 d. From decisions regarding the approval or denial of a development master plan
2 (subsection 21.09.030F.);
- 3 e. From decisions regarding the approval or denial of applications for conditional
4 uses (section 21.03.080); and
- 5 f. From decisions regarding the approval or denial of applications for major site
6 plan reviews (subsection 21.03.180C.).
- 7 **2. Appellants Before Board**
8 Decisions may be appealed to the board of adjustment by:
- 9 a. Any municipal agency; or
- 10 b. Any party of interest for the application, as defined in chapter 21.14.
- 11 **3. Appellees Before Board**
12 a. Appellees before the board may be:
- 13 i. The party in whose favor the lower administrative body's decision was
14 rendered.
- 15 ii. Any municipal agency.
- 16 iii. Any party of interest for the application, as defined in chapter 21.14.
- 17 b. An appellee shall file a notice of intent to file a brief with the municipal clerk's
18 office on a form prescribed by the municipal clerk, within 10 days after the
19 deadline for filing an appeal. The municipal clerk shall serve notice to such
20 appellees in writing of the date the record is available and of the date the
21 appellant's brief is filed.
- 22 **4. Perfection of Appeal; Notice of Appeal; Appeal Fee**
23 a. An appeal to the board of adjustment must be perfected by the appellant within
24 20 days after the date of service of the decision. The appeal is perfected by the
25 filing of a notice of appeal, appeal fee, and cost bond in accordance with this
26 section.
- 27 b. The notice of appeal must be filed with the municipal clerk on a form prescribed
28 by the municipality and must contain detailed and specific allegations of error. If
29 the appellant is not the applicant, the appellant's notice of appeal shall include
30 certificate of service on the applicant.
- 31 c. The appellant shall pay the current appeal fee. In addition, the appellant shall file
32 a cost bond equal to the estimated cost of preparation of the record. Following
33 completion of the record, the actual cost thereof shall be paid by the appellant.
34 All costs and fees shall be returned to the appellant if the decision of the lower
35 body is reversed in whole or in part.
- 36 **5. New Evidence or Changed Circumstances**
37 a. Allegations of new evidence or changed circumstances shall not be considered
38 or decided by the board of adjustment. Allegations of new evidence or changed
39 circumstances shall be raised by written motion for rehearing, filed with the
40 municipal clerk within 20 days after the date of service of the initial decision of
41 the lower administrative body.
- 42 i. The municipal clerk shall reject any motion filed more than 20 days after
43 the date of service of the initial decision of the lower administrative body,
44 without hearing or reconsideration by the lower administrative body.

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- 1 ii. A decision of the lower administrative body on any issues remanded
2 from the board of adjustment is not an initial decision as described in
3 subsection 5.a. above.
- 4 iii. The municipal clerk shall reject any motion alleging new evidence or
5 changed circumstances filed in response to a lower administrative body's
6 decision on any issue(s) presented on remand.
- 7 b. If the written motion for rehearing is filed in a timely manner, the administrative
8 body from which the appeal is taken shall decide whether to reopen and rehear
9 the matter. A rehearing shall be held if the lower administrative body determines:
- 10 i. If true, that the alleged new evidence or changed circumstances would
11 substantially change the decision of the body, and
- 12 ii. The party alleging new evidence or changed circumstances acted
13 promptly and with diligence in bringing the information to the body's
14 attention.

15 6. **Appeal Record**

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

40 7. **Written Arguments**

- 41 a. **Brief of Appellant**
- 42 The appellant may file a written brief of points and authorities in support of those
43 allegations of error specified in the notice of appeal with the municipal clerk's
44 office within 15 days after service of the appeal record. If the appellant files a
45 brief, allegations of error specified in the notice of appeal and not included in the
46 appellant's brief may be deemed waived or abandoned. The municipal clerk

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1 shall deliver a copy of the appellant's brief to the municipal staff assigned
2 responsibility for the appeal. The municipal clerk shall also serve notice on those
3 appellees who have filed a notice of intent to file a brief that the appellant's brief
4 is available for pickup. Upon request, the municipal clerk shall provide a copy of
5 the appellant's brief to appellees, who shall be charged copying costs as
6 provided in AMCR 3.90.002 and any mailing costs applicable.

7 **b. Brief of Appellee**

8 An appellee who has filed a notice of intent to file a brief may also file with the
9 municipal clerk's office a written response (appellee's brief) to the notice of points
10 on appeal and any brief in support thereof within 15 days after service of notice
11 by the municipal clerk that the appellant's brief is available for pick-up. The
12 municipal clerk shall serve notice on the appellant that appellee briefs have been
13 filed. The director may prepare and submit to the municipal clerk a written
14 response (staff's brief) to the notice of appeal and any brief in support thereof
15 within 15 days after service of notice by the municipal clerk that the appellant's
16 brief is available for pick-up.

17 **c. Reply Brief**

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

21 **d. Form of Briefs**

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

24 **i. Required Attachments**

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

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

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

31 **iii. Page Limitation**

32 The brief of appellant and the brief of appellee are each limited to 25
33 pages exclusive of exhibits and attachments. The reply brief is limited to
34 10 pages exclusive of exhibits.

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

36 Following the time set for the municipal clerk's receipt of all written argument from the
37 appellant, the appellee, and the municipal staff, the municipal clerk shall prepare and
38 distribute to the members of the board of adjustment an appeal packet containing only
39 the appeal record assembled by the clerk and any briefs filed in accordance with
40 subsection A.7. above. The board of adjustment shall set a date for consideration of the
41 issues on appeal. The municipal clerk shall publish notice of the date in a newspaper of
42 general circulation and shall serve notice by mail on the appellant and those appellees
43 who have submitted briefs. The municipal clerk shall make appeal packets shall be
44 made available to the public upon request with costs payable by the public as provided in
45 AMCR 3.90.002.

46 **9. Procedural Changes**

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

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- 1 **10. Conduct of Hearing**
2 a. The meeting at which the board of adjustment deliberates and decides an appeal
3 shall be open to the public and a record of the hearing shall be made.
- 4 b. The board of adjustment shall not hear argument nor take additional testimony or
5 other evidence. The board of adjustment may consider only the material
6 contained in the appeal packet.
- 7 **11. Scope of Review**
8 a. The board of adjustment shall consider an appeal solely on the basis of the
9 record established before the lower administrative body, the notice of appeal, the
10 briefs, and the law.
- 11 b. The board of adjustment may exercise its independent judgment on legal issues
12 raised by the appellant. The term "legal issues," as used in this section, means
13 those matters that relate to the interpretation or construction of ordinances or
14 other provisions of law.
- 15 c. The board of adjustment shall, unless it substitutes its independent judgment
16 pursuant to subsection 11.d. below, defer to the judgment of the lower
17 administrative body regarding factual issues. Findings of fact adopted expressly
18 or by necessary implication by the lower administrative body may be considered
19 as true if they are supported in the record by substantial evidence. The term
20 "substantial evidence," for the purpose of this section, means such relevant
21 evidence as a reasonable mind might accept as adequate to support a
22 conclusion. If the record affords a substantial basis of fact from which the fact in
23 issue may be reasonably inferred, it shall be considered that the fact is supported
24 by substantial evidence.
- 25 d. The board of adjustment may, by unanimous vote, substitute its independent
26 judgment for that of the lower administrative body on any disputed issues or
27 findings of fact. such judgment must be supported on the record by substantial
28 evidence.
- 29 **12. Decision**
30 a. The board of adjustment, by majority vote, may affirm, modify, or reverse the
31 decision of the lower administrative body in whole or in part. A decision
32 reversing or modifying the decision appealed from shall be in a form which finally
33 disposes of the case on appeal except where the case is remanded in
34 accordance with subsection 13.a. below.
- 35 b. Every decision of the board of adjustment to affirm, modify, or reverse the
36 decision of the lower administrative body pursuant to subsection 12.a. above
37 shall be based upon and include written findings and conclusions adopted by the
38 board. Such findings must be reasonably specific so as to provide the
39 community, and, where appropriate, reviewing authorities, a clear and precise
40 understanding of the reason for the board's decision. The board may seek the
41 assistance of legal counsel in the preparation of its decision.
- 42 c. Every final decision of the board of adjustment shall clearly state on its face it is a
43 final decision with respect to all issues involved in the case, and that the parties
44 have 30 days from the date of service of the decision to appeal to the superior
45 court.
- 46 **13. Remand**
47 a. The case shall be remanded to the lower body where the board of adjustment
48 determines any of the following:

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Amendments for completeness--to capture all decisions that are appealed to ZBEA.

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- 1 i. There is insufficient evidence in the record on an issue material to the
2 decision of the case;
- 3 ii. There has been a substantial procedural error that requires further public
4 hearing; or
- 5 iii. The lower administrative body has made a legal error that, in the opinion
6 of the board of adjustment, warrants a remand.
- 7 b. If the board of adjustment remands a case to the lower administrative body, the
8 board shall describe any issue upon which further evidence shall be taken, and
9 shall set forth any further directions the board deems appropriate for the
10 guidance of the lower administrative body.
- 11 c. Cases on remand following a decision of the board shall take precedence over all
12 other matters on the agenda of the lower administrative body.
- 13 d. A board of adjustment decision remanding a case on one or more issues is not a
14 final decision with respect to any issues involved in the appeal. The board of
15 adjustment's decision remanding the case is and shall state that it is the final
16 decision with respect to all matters affirmed by the board of adjustment's
17 decision, when, following service of the lower administrative body's decision on
18 remand, no appeal is perfected within the period specified in subsection
19 21.03.050A.4. The decision shall also state that the parties have 30 days from
20 the expiration of said period to appeal to the superior court.

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

22 **1. Jurisdiction of Board**

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

- 25 a. Interpretation of zoning district boundaries under subsection 21.01.050C.
- 26 b. Denial of an administrative permit under section 21.03.030.
- 27 c. Denial of a certificate of zoning compliance under section 21.03.060.
- 28 **d. Interpretation of whether a conditional use amendments is major or minor under**
29 **subsection 21.03.080D.2.**
- 30 e. Denial of an application for a flood hazard permit under section 21.03.090.
- 31 f. Denial of an application for a building or land use permit **under subsection**
32 **21.03.100** when such denial is based on the requirements of title 21, **except for**
33 **subsection 21.03.100E.**
- 34 g. Compliance with an institutional master plan under subsection 21.03.110F.
- 35 h. Denial of a minor modification under section 21.03.120 when the director is the
36 decision-making body.
- 37 i. Denial of an application for a sign permit **under subsection 21.03.170** when such
38 denial is based on the requirements of title 21.
- 39 **j. Determination of use classification under subsection 21.03.220.**
- 40 **k. Administrative variance for occupancy limits in assisted living facilities under**
41 **subsection 21.03.240J.**

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- 1 l. Denial of a verification of legal nonconforming status under section 21.03.250.
- 2 m. Alleging an error in the enforcement or interpretation of the flood hazard overlay
3 district under subsection 21.04.080D.
- 4 n. Site enhancement plan for a self-storage facility under subsection 21.05.060D.4.
- 5 o. Denial of or imposition of conditions on a certificate for legalization of
6 nonconforming dimensional setback encroachment under section 21.12.030, or a
7 certificate for legalization of lots created prior to September 16, 1975 under
8 subsection 21.12.050C.
- 9 p. Denial of administrative approval to reinstate a damaged nonconforming use
10 under subsection 21.12.030C., or to rebuild a damaged nonconforming structure
11 under subsection 21.12.040D.1.a.
- 12 q. Overcoming presumption of abandonment under subsection 21.12.030E.
- 13 r. Enforcement orders issued under chapter 21.13, *Enforcement*.
- 14 s. Interpretation of general definitions and use definitions.
- 15 **2. Initiation of Appeal**
16 Appeals to the zoning board of examiners and appeals may be brought by any party of
17 interest for the application.
- 18 **3. Time Limit for Filing; Notice of Appeal; Appeal Fee**
19 a. An appeal of an administrative decision to the zoning board of examiners and
20 appeals, as set out in subsection B.1. above, must be filed no later than 20 days
21 after the date of service of the decision.
- 22 b. Notice of appeal must be filed with the director on a form prescribed by the
23 municipality and must contain detailed and specific allegations of error.
- 24 c. The appellant shall pay an appeal fee as set by the assembly, which shall
25 accompany the filing of the notice of appeal. The appeal fee shall be returned to
26 the appellant if the decision of the lower administrative body is reversed in whole,
27 and one-half of the fee shall be returned if the decision is reversed in part.
- 28 **4. Scope of Review**
29 The zoning board of examiners and appeals shall conduct a full evidentiary hearing on an
30 appeal and make its decision on the basis of this title, the evidence, and the argument
31 presented.
- 32 **5. Notice and Public Hearing**
33 a. A public hearing shall be held within 60 days of the filing of a proper notice of
34 appeal.
- 35 b. Notice of the appeal hearing shall be published on the municipal public notice
36 web page of the municipal website [IN A NEWSPAPER OF GENERAL
37 CIRCULATION] at least 14 days prior to the hearing, and, in addition, the
38 appellant shall be sent a notice by mail at least 14 days prior to the hearing.
- 39 c. The zoning board of examiners and appeals may prescribe rules of procedure for
40 additional notification in cases where a decision of the board would have a
41 substantial effect on the surrounding neighborhood.

Page 39 ANNOTATION

PZC stated: “The director is given discretion to make decisions and often an appeal process is specified. However, there should always be checks and balances and every decision of the director provided for in the code should be allowed to be appealed.”

This amendment clarifies the final appeal body for section 21.03.100E.

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1 **6. Decision**

- 2 a. The zoning board of examiners and appeals may affirm or reverse the decision of
3 the decision-making body in whole or in part. It shall require a majority of the full
4 membership, minus those members who disqualify themselves with conflicts of
5 interest in accordance with AMC title 4.
- 6 b. Every decision of the zoning board of examiners and appeals to affirm or reverse
7 an administrative action shall be in writing and based on and include written
8 findings and conclusions adopted by the board. Such findings must be
9 reasonably specific so as to provide the community and, where appropriate,
10 reviewing authorities, with a clear and precise understanding of the reasons for
11 the board's decision.
- 12 c. Every final decision of the zoning board of examiners and appeals shall clearly
13 state it is a final decision and that the parties have 30 days from the date of
14 mailing, or other distribution of the decision to file an appeal to the superior court.

15 **C. Appeal of Director's Decision**

16 If the right to appeal the director's decision is not otherwise provided in this code, the decision of
17 the director may be appealed to the board or commission that has decision-making and/or review
18 authority over the type of issue being appealed as set forth in table 21.02-1.

19 **D. Judicial Appeals—Judicial Review Authorized**

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

- 22 1. A final decision of the board of adjustment on an appeal from a decision regarding the
23 approval or denial of an application for a conditional use.
- 24 2. A final decision of the municipal manager or platting board on an appeal from a decision
25 of the building official regarding off-site improvements for a land use permit.
- 26 3. A final decision of the board of adjustment on an appeal from the platting board regarding
27 an application for a subdivision.
- 28 4. A final decision of the zoning board of examiners and appeals.
- 29 5. Any final action or decision under this title that is appealable to the superior court under
30 the *Alaska Rules of Court* and/or laws of the state of Alaska.

31 **21.03.060 CERTIFICATE OF ZONING COMPLIANCE**

32 **A. Purpose**

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

36 **B. Applicability**

37 A certificate of zoning compliance shall be required prior to the occupancy of any building,
38 structure, or land, except that temporary uses and structures in accordance with section
39 21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of zoning
40 compliance requirements. Where issued, a certificate of occupancy shall be considered the
41 certificate of zoning compliance.

Page 40 ANNOTATION

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1 **C. Issuance**

2 **1. Certificate**

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

6 **2. Conditional Certificate**

7 **a.** Upon approval by the director, the building official may issue a conditional
8 certificate of zoning compliance for a specified portion or portions of a building
9 prior to final completion of the entire building and/or site.

10 **b.** The conditional certificate shall be valid only for the period of time stated in the
11 certificate, not to exceed 270 days.

12 **c.** Conditions that are attached to the conditional certificate of zoning compliance
13 must be completed prior to the expiration of the certificate. When such
14 conditions have not been completed prior to the expiration date of the conditional
15 certificate, the certificate of zoning compliance shall immediately expire.

16 **d.** Upon receipt of a written application to the building official stating satisfactory
17 reasons for the failure to complete work within the given time period, the building
18 official may renew the certificate for a specified period of time, not to exceed 180
19 days.

20 **e.** Only one renewal may be granted, except that single family homes and phased
21 projects may be granted more than one renewal.

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

23 Inside the building safety service area, the building official shall issue a certificate of
24 zoning compliance when, after examination of the building, structure, landscaping, and/or
25 other improvements or changes to the property, the municipality finds that the property
26 complies with the applicable provisions of this title and other applicable ordinances and
27 construction codes of the municipality.

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

29 Outside the building safety service area, the building official shall issue a certificate of
30 zoning compliance when the municipality finds that the property complies with the
31 applicable provisions of this title. For all development except for single- and two-family
32 development, such finding shall follow an examination of the building, structure,
33 landscaping, and/or other improvements or changes to the property. Single- and two-
34 family development shall provide a certified as-built to the building official. Provisions of
35 this title that cannot be verified by a certified as-built may be subject to a physical
36 examination of the property through a final zoning inspection.

37 **5. Appeals**

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

40 **21.03.070 COMPREHENSIVE PLAN AMENDMENTS**

41 **A. Purpose and Scope**

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

Page 41 ANNOTATION

In practice, the Planning Division releases as least one draft (if not multiple drafts) of comprehensive plan elements several months before any public hearing is scheduled, but that was not a requirement of the current code. This amendment clarifies that the public must have no less than three weeks before a public hearing to review a draft plan. In practice, the Division will generally provide additional time.

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B. Levels of Plan Review

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

1. Complete Plan Revision (20-year Intervals)

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

2. Targeted Plan Review (10-year Intervals)

The director shall initiate a targeted review of the plan at least once every 10 years, or in 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.

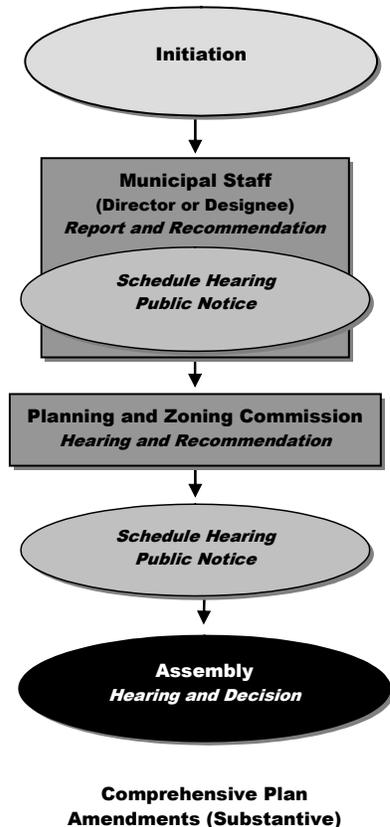
b. Public Notice

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

ii. Substantive amendments to be considered by the planning and zoning commission shall be available for public review at least 21 days in advance of the public hearing.

c. Departmental Review

The department shall review each proposed substantive amendment in light of the



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1 approval criteria set forth in subsection C.2. below and distribute the application
2 to other reviewers as deemed necessary. Based on the results of those reviews,
3 the department shall provide a report to the planning and zoning commission.
4 This report shall include a discussion of all plans and policies that have been
5 adopted by the municipality and are relevant to the proposed amendment.

6 **d. Planning and Zoning Commission Action**
7 The planning and zoning commission shall hold a public hearing on the proposed
8 amendment. Based on testimony received, the department's report, and the
9 approval criteria in subsection C.2. below, the commission shall recommend that
10 the assembly approve, approve with modifications, or deny the proposed
11 amendment.

12 **e. Assembly Action**
13 The assembly shall hold a public hearing on the proposed amendment. Based
14 on the commission's recommendation, testimony received, and the approval
15 criteria in subsection C.2. below, the assembly shall:

16 **i.** Approve the amendment by ordinance, either as submitted or with
17 modifications suggested by staff, the planning and zoning commission,
18 or the assembly;

19 **ii.** Reject the proposed amendment; or

20 **iii.** Refer the proposed amendment, and/or any substantial modifications
21 proposed by the assembly, back to the planning and zoning commission
22 or to a committee of the assembly for further consideration.

23 **2. Approval Criteria**

24 The planning and zoning commission may submit a recommendation for approval, and
25 the assembly may approve an amendment if, in the judgment of the commission or the
26 assembly, the amendment meets the following approval criteria:

27 **a.** The proposed amendment is necessary in order to address one or more of the
28 following:

29 **i.** A change in projections or assumptions from those on which the
30 comprehensive plan is based;

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

33 **iii.** A change in the policies, objectives, principles, or standards governing
34 the physical development of the municipality or any other geographic
35 areas addressed by the comprehensive plan; or

36 **iv.** Identification of errors or omissions in the comprehensive plan.

37 **b.** The proposed amendment maintains the internal consistency of the
38 comprehensive plan, and is consistent with the other elements of the
39 comprehensive plan without the need to change other components of the plan to
40 maintain internal consistency.

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

43 **d.** If the proposed amendment is to the comprehensive plan map, the requested
44 land use designation is found to be equally or more supportive of the

Page 43 ANNOTATION

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1 comprehensive plan goals, objectives, policies, and guidelines, than the old land
2 use designation.

3 e. If the proposed amendment is to the comprehensive plan map, the subject site is
4 consistent with the adopted description and locational criteria for the requested
5 land use designation, and is physically suitable to accommodate the proposed
6 designation, including but not limited to access, physical constraints, provision of
7 utilities, and compatibility with surrounding designations and development
8 patterns.

9 **3. Concurrent Zoning Changes Allowed**

10 a. Requests for rezonings (zoning map amendments) may be considered
11 concurrently with a comprehensive plan map amendment. The zoning map
12 amendment shall be to a zone corresponding to the requested comprehensive
13 plan map designation. Concurrent zoning map amendments shall meet all of the
14 approval criteria of subsection 21.03.160[170]E.

15 b. The planning and zoning commission shall submit its report and recommendation
16 regarding the comprehensive plan map amendment to the assembly at the same
17 time it submits the report and recommendation on the rezoning case. The
18 assembly and planning and zoning commission shall consider the plan
19 amendment proposal and rezoning request separately, and shall act separately
20 on the two items.

21 **D. Procedure for Cosmetic Amendments**

22 **1. Initiation**

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

26 **2. Departmental Review**

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

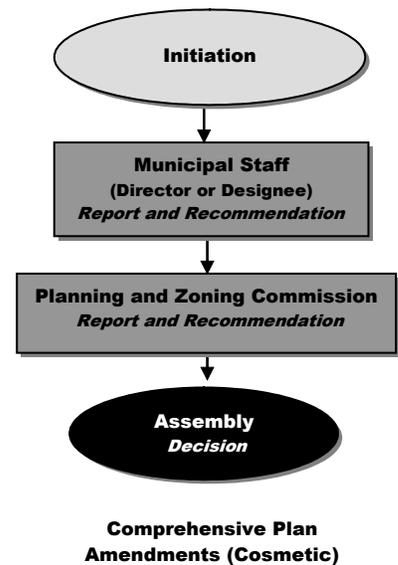
29 **3. Planning and Zoning Commission Action**

30 The planning and zoning commission shall submit,
31 within a reasonable time, a report and recommendation
32 to the assembly regarding whether or not the proposed
33 amendment should be adopted as submitted, adopted
34 with modifications, or rejected.

35 **4. Assembly Action**

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

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



Page 44 ANNOTATION

From PZC: “Provides clarification regarding remodeling.”

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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. Applicability

1. Land uses requiring conditional use approval are identified in table 21.05-1, *Table of Allowed Uses*, table 21.05-3, *Table of Allowed Accessory Uses*, and table 21.09-1, *Table of Allowed Uses (Girdwood)*.
2. This section shall not apply to remodeling, renovation, or repair to interior portions of structures that are subject to conditional use approval under this title, except those interior areas that affect conformity to the approval criteria for conditional use approval or the development and design requirements of this title.

C. 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.
3. **Community Meeting**
 A community meeting is required in accordance with subsection 21.03.020C.
4. **Application Submittal**
 Applications for a conditional use approval shall contain the information specified in the title 21 user's guide, and shall be submitted to the director on a form provided by the department.
5. **Public Notice**
 Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with section 21.03.020H.
6. **Departmental Review**
 The department shall review each proposed conditional use approval application in light of the approval criteria of subsection **DIC**. 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 and zoning commission.



Conditional Uses

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1 **7. Planning and Zoning Commission Action**

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

5 **8. Appeal**

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

8 **D. Approval Criteria**

9 The planning and zoning commission may approve a conditional use application if, in the
10 judgment of the commission, all of the following criteria have been met in all material matters:

- 11 1. The proposed use is consistent with the comprehensive plan and all applicable provisions
12 of this title and applicable state and federal regulations;
- 13 2. The proposed use is consistent with the purpose and intent of the zoning district in which
14 it is located, including any district-specific standards set forth in chapter 21.04;
- 15 3. The proposed use is consistent with any applicable use-specific standards set forth in
16 chapter 21.05;
- 17 4. The site size, dimensions, shape, location, and topography are adequate for the needs of
18 the proposed use and any mitigation needed to address potential impacts;
- 19 5. The proposed use will not alter the character of the surrounding area in a manner which
20 substantially limits, impairs, or prevents the use of surrounding properties of the permitted
21 uses listed in the underlying zoning district;
- 22 6. The proposed use is compatible with uses allowed on adjacent properties, in terms of its
23 scale, site design, operating characteristics (hours of operation, traffic generation,
24 lighting, noise, odor, dust, and other external impacts);
- 25 7. Any significant adverse impacts anticipated to result from the use will be mitigated or
26 offset to the maximum extent feasible;
- 27 8. The proposed use is appropriately located with respect to the transportation system,
28 including but not limited to existing and/or planned street designations and
29 improvements, street capacity, access to collectors or arterials, connectivity, off-site
30 parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation,
31 and safety for all modes; and
- 32 9. The proposed use is appropriately located with respect to existing and/or planned water
33 supply, fire and police protection, wastewater disposal, storm water disposal, and similar
34 facilities and services.

35 **E. Amendments to Approved Conditional Uses**

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

37 Amendment of a conditional use approval shall follow the same process required for the
38 original approval of a conditional use, unless the amendment is determined to be a minor
39 amendment as described in subsection **E[D].2.** below.

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

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

Page 46 ANNOTATION

This type of conditional use was added to address existing business parks that successfully combine commercial and industrial uses, often including a small mix of retail.

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1 a. **Procedure**

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

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

9 (A) Issue a minor amendment affidavit, which shall be transmitted to
10 the planning and zoning commission for their information; and

11 (B) Attach a form stating the nature of the modification, date of
12 approval, and bearing the signature of the director to the
13 conditional use on file in the department.

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

16 b. **Types of Minor Amendments**

17 The following are amendments which the director may reasonably determine to
18 be "minor":

19 i. Insubstantial changes to the text to add clarity or correct conflicting
20 provisions.

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

23 iii. Changes in building envelope, setback, and similar provisions of 10
24 percent[%] or less.

25 iv. Incidental changes in landscaping, sign placement, lighting fixtures, etc.
26 to further the intent of the plan and this code.

27 **F. Platting for Conditional Uses**

28 1. If development under an approval under this section creates a subdivision or requires the
29 vacation of a dedicated public area, the approval is not effective until a final plat for the
30 subdivision or vacation is approved and recorded in accordance with this title. A
31 preliminary plat required under this section is subject to approval as required by section
32 21.03.200, *Subdivisions*.

33 2. Unless the planning and zoning commission directs in the final approval that it shall act
34 as the platting authority, the platting board is the platting authority for subdivisions under
35 this subsection.

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

39 **G. Conditional Use for a Business-Industrial Park Planned Unit Development**

40 1. **Intent and Approval**

41 A business-industrial park planned unit development (BIP-PUD) is intended to provide
42 comprehensively planned commercial-industrial developments that are compatible with
43 surrounding areas. BIP-PUD developments should have integrated, campus-style site
44 plans designed to accommodate a variety of public/institutional, commercial, and

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1 industrial uses. High standards for architecture, landscaping, and site planning are
2 encouraged. The planning and zoning commission shall evaluate the proposed planned
3 unit development in accordance with the conditional use approval criteria at D[C], above.

4 **2. Zoning District**

5 A BIP-PUD is allowed only in the B-3 and I-1 districts. Business-industrial parks existing
6 on [effective date] in other zoning districts shall be considered conforming in those
7 districts.

8 **3. Allowed Uses**

9 a. For a BIP-PUD in the B-3 district, in addition to the uses allowed in the B-3
10 district, a developer may propose to include the following industrial uses in a BIP-
11 PUD: general industrial service; governmental service; manufacturing, light;
12 warehouse; wholesale establishment.

13 b. For a BIP-PUD in the I-1 district, in addition to the uses allowed in the I-1 district,
14 a developer may propose to include the following uses in a BIP-PUD: child care
15 center, health services, and government administrative and civic buildings, if the
16 location of the latter is consistent with subsection 21.05.040C.4.b.ii.

17 c. For initial uses proposed in the BIP-PUD that require a conditional use approval,
18 the conditional use application(s) may be combined with the BIP-PUD conditional
19 use and treated as one application and approval process.

20 **4. Development Agreement**

21 The developer shall enter into a development agreement with the private development
22 division, using the provisions established in subsection 21.03.100E., *Improvements*
23 *Associated with Land Use Permits*.

24 **5. Minimum Standards**

25 All BIP-PUDs shall meet the following minimum standards, in addition to the applicable
26 standards of this title. The planning and zoning commission may apply additional
27 standards as it may deem necessary to meet the approval criteria.

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

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

32 c. Pedestrian walkways shall be provided to streets abutting the BIP-PUD. All
33 transit stops abutting a BIP-PUD shall be connected to the internal
34 street/sidewalk system by a pedestrian walkway. Abutting streets without any
35 transit stops shall have at least one pedestrian walkway connection with the BIP-
36 PUD.

37 d. L2 [L3] buffer landscaping shall be provided along the exterior lot lines of the
38 BIP-PUD.

39 e. A BIP-PUD shall have a defined internal street system, which shall have
40 pedestrian facilities and landscaping in accordance with the provisions of this
41 title. Streets shall allow vehicles to travel into and within the development.
42 Driveways shall access parking areas.

43 f. Except for stand-alone restaurants located along an outside edge of a BIP-PUD,
44 all buildings shall have a common architectural character utilizing similar
45 materials. The standards of 21.07.130 shall not apply.

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- 1 g. Maximum individual building footprint shall be 30,000 square feet.
- 2 h. Individual tenancies for instructional services; health services; and office,
3 business or professional, shall not exceed 5,000 square feet.
- 4 i. Individual tenancies for government administration and civic buildings and
5 religious assembly shall not exceed 15,000 square feet.
- 6 j. Individual tenancies for uses in the retail sales use category shall not exceed
7 20,000 square feet.
- 8 k. The uses in the entire BIP-PUD may aggregate their parking as long as the
9 following standards are met:
- 10 i. Required parking for each use shall be located no farther than 800 feet
11 from the primary entrance of the use;
- 12 ii. Relatively direct pedestrian pathways shall be available from required
13 parking to each use;
- 14 iii. At no time shall the aggregate of the required parking of all uses in the
15 BIP-PUD, which may include parking reductions and alternatives noted
16 in subsection 21.07.090F., exceed the total number of parking spaces
17 provided.
- 18 l. Loading areas and refuse collection areas shall be internal to the site and not
19 located between any building and any BIP-PUD exterior lot line.
- 20 m. The maximum floor area devoted to retail sales uses shall not exceed 35 percent
21 of the total gross building area of the entire development.
- 22 n. Outdoor storage and display is prohibited.

23 **H. Conditional Use for a Residential Planned Unit Development**

24 **1. Intent and Approval**

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

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

Page 49 ANNOTATION

Allows PUDs in some Girdwood zoning districts.

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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. 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 30 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 designated snow storage areas; drainage easements, ditches, swales, or other areas intended to collect and channel water;
- iii. In class A districts, no portion of the required open space shall be less than 2,000 square feet in area or less than 30 feet in its smallest dimension, except for individual yards, balconies, or decks pursuant to b.iv. and b.v. below;
- iv. In class B districts, no portion of the required open space shall be less than half of the minimum lot size of the underlying district in area, or less than 100 feet in its smallest dimension, except for individual yards, balconies, or decks pursuant to b.v. and b.vi. below;
- v. A minimum of 12 percent and a maximum of 50 percent of required open space shall consist of yards which shall be reserved for the residents of individual dwelling units; and
- vi. 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 [L3] buffer landscaping.
- ii. Pedestrian walkways shall connect residential and nonresidential uses within a PUD.

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- iii. L[EVEL] 2 buffer [4 SCREENING] landscaping shall be planted along each boundary of the PUD adjacent to a nonresidential 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 [L4] screening landscaping shall be provided along any lot line abutting a residential neighborhood where any abutting lot is greater than 150 percent of the average lot size along that lot line of the PUD.
 - v. 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.
 - vi. 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.
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 are of a PUD shall be determined by the planning and zoning commission. However, in no event shall the number of dwelling units per acre exceed the maximums established by the following schedule:

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

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TABLE 21.03-2	
Zoning District	Dwelling Units per Acre (gross area)
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.

I. 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

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1 4. A description of the extent to which any watercourse will be altered or relocated as a
 2 result of proposed development.

3 **C. Evaluation; Additional Information**

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

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

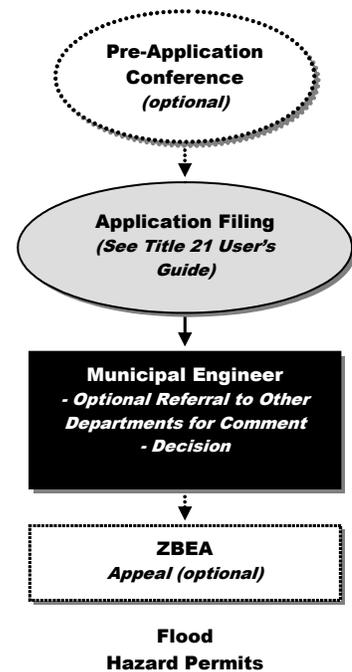
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 19 **D. Criteria for Issuance**

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

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

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

37 The municipal engineer shall act on an application in the manner described in this section within
 38 30 days from receiving the application, except that, where additional information is required, the
 39 official shall act within 30 days of the receipt of such additional requested information.



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1 **F. Notice on Subdivision Plats**

2 Where any portion of a subdivision is situated within a flood hazard district, a note shall be placed
3 on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard
4 district as it exists on the date hereof. The boundaries of the flood hazard district may be altered
5 from time to time in accordance with the provisions of section 21.04.060D.3., *Creation of Flood
6 Hazard Overlay District; Official Flood Hazard Reports and Maps*. All construction activities and
7 any land use within the flood hazard district shall conform to the requirements of section
8 21.04.060D., *Flood Hazard Overlay District*."

9 **G. Appeals**

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

12 **21.03.100 LAND USE PERMITS**

13 **A. Purpose**

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

18 **B. Applicability**

19 **1. In the Municipality**

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

- 21 a. Construction or placement of a building or addition to an existing building whose
22 floor area is 120 square feet or greater;
- 23 b. Installation of telecommunication towers;
- 24 c. Construction of a fence over eight feet in height;
- 25 d. Excavation of more than 50 cubic yards on any lot or tract;
- 26 e. Filling or grading more than 50 cubic yards on any lot or tract;
- 27 f. Changing the principal use of a building, as defined by "change of use" in chapter
28 21.14; or
- 29 g. Mechanized land clearing of more than one contiguous acre (chainsaws
30 excluded).

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

32 Inside the building safety service area, a building permit shall be considered the land use
33 permit and shall be required in accordance with B.1. above and title 23. The issuance of
34 a building permit may also be subject to the improvement requirements referenced in
35 subsection E. below.

36 **C. Procedures**

37 **1. Application Submittal**

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

40 **2. Approval Procedure**

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

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- 1 b. The building official shall determine whether the application complies with all
2 requirements of title 23. The director shall determine whether the application
3 complies with all requirements of title 21, and shall inform the building official of
4 his or her determination.
- 5 c. The building official shall issue a land use permit upon finding that the application
6 and the proposed work complies with the approval criteria of subsection D.
7 below.
- 8 d. A land use permit shall become null and void unless the work approved by the
9 permit is commenced (see “start of construction” in chapter 21.14) within 12
10 months after the date of issuance. If after start of construction the work is
11 discontinued for a period of 12 months, the permit therefore shall immediately
12 expire. No work authorized by any permit that has expired shall thereafter be
13 performed until a permit has been reinstated, or until a new permit has been
14 secured.
- 15 **3. Changes to Approved Permits**
- 16 a. After a land use permit has been issued, no substantial changes or deviations
17 from the terms of the permit or the application and accompanying plans and
18 specifications shall be made without the specific written approval of such
19 changes or deviations by the building official.
- 20 b. An amendment to a land use permit that requires payment of an additional fee,
21 either because of an increase in the size of the buildings, a change in the scope
22 of work, or an increase in the estimated cost of the proposed work, shall not be
23 approved until the applicant has paid the additional fees and the amendment has
24 been properly reviewed and approved for conformance with applicable codes.
- 25 **4. Revocation of Land Use Permit**
- 26 The issuing department may revoke and require the return of any land use permit by
27 notifying the permit holder in writing, stating the reason for such revocation. The issuing
28 department shall revoke land use permits for any of the following reasons:
- 29 a. Any material departure from the approved application, plans, or specifications;
- 30 b. Refusal or failure to comply with the requirements of this title or any other
31 applicable state or local laws;
- 32 c. False statements or misrepresentations made in securing such permit.
- 33 **5. Appeals**
- 34 a. Denials or revocations of a land use permit relating to title 21 compliance, with
35 the exception of those relating to subsection 21.03.100E, may be appealed to the
36 zoning board of examiners and appeals in accordance with subsection
37 21.03.050B.
- 38 b. Denials or revocations of a land use permit relating to title 23 compliance may be
39 appealed to the building board of examiners and appeals.
- 40 **D. Approval Criteria**
- 41 No land use permit shall be issued unless the building official determines that all required
42 approvals have been granted and the plans comply with all applicable provisions of title 23, and
43 the director determines the plans comply with all applicable provisions of this title.

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Due to concerns that there were not enough limitations placed on potential requirements for off-site improvements required by the municipality, language was added to more closely link any off-site improvement requirements to the impacts created by new development. Additionally, authority was transferred from the municipal engineer to the building official, in accordance with the departmental reorganization that occurred in fall of 2010.

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1 E. Improvements Associated with Land Use Permits

2 1. Purpose

3 The purpose of this section is to determine what off-site public infrastructure
4 improvements are reasonably necessary to serve a development, determine the portion
5 of the demand for off-site public infrastructure improvement which is created by a
6 development, and provide for dedications or improvements which are directly proportional
7 to the development's demand for the public infrastructure improvements.

8 2. Improvements Required

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

17 3. Exceptions

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

- 20 a. All construction associated with a single dwelling unit is located on a single lot,
21 tract, or parcel, regardless of zoning district;
- 22 b. The traffic engineer determines that a street dedication or improvement is not
23 required for traffic circulation;
- 24 c. A dedication or improvement has been provided to the applicable standard of [IN]
25 chapter 21.08, *Subdivision Standards*;
- 26 d. A dedication or improvement will be provided under a subdivision agreement that
27 has been entered into under section 21.08.060, *Subdivision Agreements*, or
28 under an established assessment district;
- 29 e. The municipality has already appropriated funds to construct an improvement; or
- 30 f. The permit is for repairs, maintenance, emergencies, electrical, mechanical, or
31 plumbing.

32 4. Standards for Requiring Dedications and Improvements

33 Where chapter 21.08, *Subdivision Standards*, grants discretion to determine whether a
34 dedication or improvement will be required, or to determine the design standards for a
35 dedication or improvement, the building official "MUNICIPAL ENGINEER" shall determine
36 the requirement or standard that applies to a land use permit under this section by
37 applying the following standards:

- 38 a. The dedication or improvement shall be directly correlated [REASONABLY
39 RELATED] to the [ANTICIPATED IMPACT ON PUBLIC FACILITIES AND
40 ADJACENT AREAS THAT WILL RESULT FROM THE USE AND] occupancy of
41 the structure that is the subject of the building or land use permit. The required
42 dedication or improvement shall bear a rational nexus to the public facility
43 improvement needs created by the development. The extent of a requirement
44 shall be no greater than what is proportional to the impact of the development.
45 Any required public use easement shall be removed when calculating density or
46 lot coverage per the applicable zoning district. The building official "MUNICIPAL
47 ENGINEER" may require the permit applicant to provide information or analyses

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

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A multi-layered appeal process was developed to address concerns with this section.

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1 issued until the applicant enters into an agreement for construction of the required
2 improvements, with performance guarantees, in the form required for subdivision
3 improvements under section 21.08.050, *Improvements*.

4 **6. Warranty**

5 All improvements required under this section shall be subject to the warranty and
6 guarantee of warranty requirements provided for subdivision improvements in section
7 21.08.050, *Improvements*.

8 **7. Oversizing**

9 If an improvement exceeding the requirements of this section is requested by the
10 municipality and is necessary for the adequate and efficient development of surrounding
11 areas, the municipality may require the applicant to install or accommodate oversizing.
12 Inside the Anchorage road and drainage service area, **IN SUCH EVENT** the municipality
13 shall reimburse the applicant for the cost of the oversizing at least as soon as budgeted
14 funds are available after completion and acceptance of the improvements. This
15 subsection shall not be a limitation on the municipality's ability to require a utility to
16 oversize its facilities or a limitation on the manner in which the municipality may pay its
17 proportionate share of the costs of oversizing.

18 **8. Fee in Lieu**

19 A fee in lieu of the required improvements may be accepted if the **building official**
20 **MUNICIPAL ENGINEER** determines:

- 21 a. That the improvements or construction activities associated therewith would
22 create a potential undue safety hazard to motorists or pedestrians; or
- 23 b. Due to the nature of existing development on adjacent properties it is unlikely
24 that improvements would be extended in the foreseeable future and the
25 improvements associated with the development under review do not, by
26 themselves, provide a sufficient improvement to safety or capacity or a sufficient
27 benefit to the property to be developed under the building or land use permit to
28 warrant construction.
- 29 c. Any fee paid pursuant to this section shall be accounted for separately, and the
30 fee paid shall be dedicated and used only for the purpose of constructing the
31 public facilities which were identified by the **building official** **MUNICIPAL**
32 **ENGINEER** and for which the fee was paid.

33 **9. Fee Amount**

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

39 **10. Appeals of Improvement Standards**

40 a. **Administrative Appeal**

41 A permit applicant may request an administrative appeal of a decision of the
42 building official concerning required improvements under this section. The
43 appeal shall first be to the director, and at the discretion of the applicant, may
44 advance to the municipal manager. Notice of appeal shall be filed with the
45 director not later than 30 days after the date of service of the decision, on a form
46 prescribed by the municipality, and shall contain detailed and specific allegations
47 of error. Decisions shall be reported in writing, including findings, within 30 days
48 after the filing of an appeal.

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Added language adds a bit more flexibility, as exact numbers can't be known.

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1 **B. Applicability**

2 An institutional master plan may be submitted and approved, in accordance with the procedures
3 of this section, for any multi-building development site of 25 contiguous acres or more in common
4 ownership in any zoning district or combination of districts. The process provides an alternative
5 to the procedures and development and design standards of this title for institutions seeking to
6 develop large, complex sites with multiple buildings and uses following a contextually aesthetic
7 design theme. For the purposes of this section, the term contiguous acres means an area of lots
8 and/or tracts whose boundaries either touch or are separated only by a street or other right-of-
9 way.

10 **C. Institutional Master Plan Requirements**

11 **1. Planning Area**

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

15 **2. Submittal Requirements**

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

21 **a. Boundaries**

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

26 **b. Mission and Objectives**

27 The institutional master plan shall include a statement that defines the
28 organizational mission and objectives of the institution and description of how
29 development contemplated or defined by the institutional master plan advances
30 the goals and objectives of the institution. The statement should describe the
31 approximate number of people being served by the institution on the site, the
32 number of people employed on the site, and the estimated maximum number of
33 people present on the site for any single event or activity. The statement should
34 include any projected changes in the size of those populations, and how such
35 projections were calculated. It should also specify any services to be provided to
36 residents in adjacent neighborhoods and in other areas of the municipality.

37 **c. Existing Property and Uses**

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

- 42 i. Illustrative site plans showing the footprints of each building and
43 structure, together with roads, sidewalks, parking, landscape features,
44 and other significant site improvements;
- 45 ii. Land and building uses;
- 46 iii. Gross floor area in square feet of each individual building;
- 47 iv. Building height in stories and feet of each individual building; and

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- 1 v. A description of parking and loading areas and facilities, including a
2 statement of the approximate number of parking spaces in each area or
3 facility.
- 4 d. ***Needs of the Institution***
5 The institutional master plan shall include a summary and projection of the
6 institution's current and future land use needs within the planning area
7 boundaries, such as, but not limited to, the following types of facilities:
- 8 i. Academic;
9 ii. Support services;
10 iii. Research;
11 iv. Office;
12 v. Housing;
13 vi. Patient care;
14 vii. Assembly for public events, worship, cultural events, and the like;
15 viii. Recreation and athletics;
16 ix. Transit;
17 x. Parking; and
18 xi. Commercial spaces, not including concessionaire space that is intended
19 to serve the institutional community.
- 20 e. ***Ten-Year Development Envelope***
21 The institutional master plan shall include a description of the development
22 expected to occur within the planning area boundaries within a 10-year time
23 frame. The 10-year development description shall be the maximum amount of
24 development proposed by the institution based on anticipated changes in total
25 population and programs. The 10-year development description shall include the
26 following:
- 27 i. General location of the institution's needs (as listed in 2.d. above) in
28 potential development areas as depicted on a site functional use map;
29 and
30 ii. Estimated total square footage of anticipated development in each
31 development area.
- 32 f. ***Development and Design Standards***
33 The institutional master plan shall include the elements listed below. These
34 elements may set different standards than those found in title 21. the plan shall
35 list the specific sections of title 21 for which different standards are to be
36 established by the master plan, and provide rationale for any different standards
37 proposed. Where different standards are approved in the institutional master
38 plan, those standards shall be applied instead of the corresponding standards in
39 title 21.
- 40 i. ***Borders and Boundaries***
41 Treatment along public rights-of-way and boundaries with other
42 landowners, with regard to building setbacks and landscape buffers.

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- 1 ii. *Transportation and Parking Management*
2 A transportation and parking management plan including how additional
3 parking demand and transit will be accommodated within the planning
4 area.
- 5 iii. *Natural Resource Protection*
6 Identification of sensitive natural resources, including but not limited to
7 wetlands and flood plain delineation maps, within the planning area, and
8 the institution's plans for maintaining or mitigating impacts on those
9 sensitive areas. The institutional master plan shall not reduce or
10 otherwise weaken the natural resource protection standards of section
11 21.07.020.
- 12 iv. *Open Space and Pedestrian Circulation*
13 Open space and pedestrian circulation guidelines and objectives,
14 including a description of the circulation system to be provided through
15 the planning area, plans for ensuring the accessibility of pedestrian areas
16 and open spaces, and links to surrounding community open space,
17 where appropriate.
- 18 v. *Site and Building Design Standards*
19 Institutional design standards and objectives, identified through written
20 and graphic materials, that address the following issues:
- 21 (A) Dimensional standards for building setbacks, height, and lot
22 coverage;
- 23 (B) Site design and circulation;
- 24 (C) Landscaping and site amenities;
- 25 (D) Building orientation;
- 26 (E) Building massing and articulation;
- 27 (F) Building sustainability; and
- 28 (G) Northern climate design.
- 29 vi. *Wayfinding and Signage*
30 A wayfinding and signage plan including building, vehicular, and
31 pedestrian signage.
- 32 vii. *Timing*
33 A conceptual development schedule and phasing plan.
- 34 g. *Twenty Year Development Areas*
35 The institutional master plan shall include written and graphic materials
36 identifying future development areas beyond those noted in the 10-year
37 development description. This information shall include, at a minimum, the
38 general location and approximate scale of anticipated development that may
39 occur within a 20 year period.
- 40 **D. Procedures for Master Plan Approval**
- 41 1. **Initiation**
42 An application for approval of an institutional master plan shall be initiated by the owner
43 or managing agent of the subject property.

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This amendment ensures a minimal public review period greater than provided for most entitlement requests.

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- 1 2. **Pre-Application Conference**
2 Before filing an application, an applicant shall request a pre-application conference with
3 the director. See section 21.03.020B.
- 4 3. **Community Meeting**
5 A community meeting is required in accordance with subsection 21.03.020C.
- 6 4. **Application Submittal**
7 Applications for institutional master plan approval shall contain all information and
8 supporting materials specified in the title 21 user's guide and in subsection C.2. above,
9 and shall be submitted to the director on a form provided by the department. The director
10 may require the submittal of such other information as may be necessary to permit the
11 informed exercise of judgment under the criteria for the review of the plan, as set out in
12 subsection E. below.
- 13 5. **Departmental Review**
14 The department shall review the proposed institutional master plan in light of the approval
15 criteria set forth in subsection E. below, and shall distribute the application to other
16 reviewers as deemed necessary. Based on the results of those reviews, the department
17 shall provide a report to the planning and zoning commission.
- 18 6. **Public Notice**
 - 19 a. Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with
20 section 21.03.020H.
 - 21 b. Draft institutional master plans shall be available for public review at least 21
22 days in advance of the planning and zoning commission's public hearing.
- 23 7. **Planning and Zoning Commission Action**
 - 24 a. The planning and zoning commission shall hold a public hearing on the proposed
25 institutional master plan and, at the close of the hearing, recommend that the
26 assembly approve the plan as submitted, approve the plan subject to conditions
27 or modifications, or deny the plan, based on the approval criteria of subsection E.
28 below.
 - 29 b. If the planning and zoning commission recommends that the assembly approve a
30 plan as submitted or with conditions or modifications, within 60 days of the
31 commission's action the director shall forward the recommendation to the
32 assembly.
 - 33 c. If the planning and zoning commission recommends denial of a plan, that action
34 is final unless, within 20 days of the commission's action, the applicant files a
35 written statement with the municipal clerk requesting that the proposed
36 institutional master plan be submitted to the assembly.
- 37 8. **Assembly Action**
38 The assembly shall hold a public hearing on the proposed institutional master plan. At
39 the close of the hearing, taking into account the recommendations of the director and the
40 planning and zoning commission, any public comment, and based on the approval
41 criteria of subsection E. below, the assembly shall, within 90 days, approve the plan,
42 approve the plan with modifications or conditions, deny the plan, or refer the plan back to
43 the planning and zoning commission.
- 44 9. **Approval of Final Institutional Master Plan**
 - 45 a. The approval of an institutional master plan expires 12 months after the date of
46 approval by the assembly unless, before the approval expires, the applicant files
47 the final institutional master plan, including any modifications or conditions
48 required by the assembly, with the director.

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- 1 b. The director shall certify the final institutional master plan within 60 days of filing
2 by the applicant, or if the plan is not in compliance with the assembly's approval,
3 the director shall issue a detailed list of reasons and recommended amendments
4 to the final institutional master plan to achieve compliance.
- 5 c. Until the approval of an institutional master plan by the assembly and the filing by
6 the applicant of a final institutional master plan accepting the modifications or
7 conditions required by the assembly, the affected institutional shall continue to be
8 governed solely by the provisions of title 21 other than this section.

9 **E. Approval Criteria**

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

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

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

- 26 1. Projects developed under the auspices of an approved institutional master plan are
27 exempt from the review and approval procedures required in table 21.05-112.
- 28 2. Before a building permit or land use permit is issued for any project within an area
29 covered by an approved institutional master plan, the director shall certify that the
30 proposed project is consistent with the approved institutional master plan. The applicant
31 shall submit a request for certification of consistency on a form provided by the
32 department.
- 33 3. Such a certification shall be found if the proposed project is consistent or substantially
34 consistent with the approved institutional master plan, or if the project is found to be not
35 consistent with the approved institutional master plan, but the director finds the proposed
36 project creates minimal impact according to the following criteria:
- 37 a. Not more than 25 percent of the proposed project is located outside the
38 development areas depicted on the site functional use map;
- 39 b. The proposed project does not result in the addition of more than 10 percent
40 additional square footage on a cumulative basis to the estimated total square
41 footage of the affected site functional use category;
- 42 c. The project does not result in the creation of or the need for additional parking
43 beyond that covered in the approved transportation and parking management
44 element; and

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- 1 d. The project does not result in the coverage of more than 25,000 square feet of
2 site area.
- 3 4. A certification of consistency, finding of inconsistency, or finding of consistency subject to
4 conditions, shall be issued within 45 days of receipt of an application for such
5 certification.
- 6 5. If the director finds that a project is not consistent with the approved institutional master
7 plan, the director shall issue a detailed list of reasons and recommended actions to
8 achieve compliance.
- 9 6. The director may issue a finding of inconsistency, or a finding of consistency subject to
10 conditions, only where the director finds that the matters resulting in the inconsistency, or
11 the conditions to which the certification is made subject, are required by specific terms of
12 the approved institutional master plan or any applicable title 21 provisions.
- 13 7. The director's decision may be appealed to the planning and zoning commission.

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

15 **1. Minor Amendments**

16 The director may administratively approve **minor** amendments to an approved
17 institutional master plan upon written application, **UNLESS THE ASSEMBLY**
18 **DETERMINES THE AMENDMENT IS A MAJOR AMENDMENT**. Minor amendments
19 are defined generally as modifications to approved plans that do not affect land use or
20 density in ways that would have significant adverse impacts on public facilities, utilities,
21 traffic circulation, or other major infrastructure systems; or on surrounding neighborhoods
22 or development.

23 **2. Major Amendments**

24 Major amendments of an approved institutional master plan shall follow the same
25 process required for the original approval of an institutional master plan.

26 **21.03.120 MINOR MODIFICATIONS**

27 **A. Purpose and Scope**

28 This section sets out the required review and approval procedures for "minor modifications,"
29 which are minor deviations from otherwise applicable standards that may be approved by the
30 director, the planning and zoning commission, or the urban design commission. Minor
31 modifications are to be used when the small size of the modification requested, and the
32 unlikelihood of any adverse effects on nearby properties or the neighborhood, make it
33 unnecessary to complete a formal variance process.

34 **B. Applicability**

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

36 As part of the review and approval of any procedure set forth in this chapter, the director,
37 the planning and zoning commission, or the urban design commission may approve
38 minor modifications of up to a maximum of five percent from the following general
39 development and zoning district standards provided that the approval criteria of
40 subsection D. below are met.

- 41 a. Minimum lot area or setback requirements set forth in chapter 21.06,
42 *Dimensional Standards and Measurements*;
- 43 b. General development standards set forth in chapter 21.07, *Development and*
44 *Design Standards*, except for the natural resource protection standards in
45 subsection 21.07.020B.;

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- 1 c. The dimensional standards, site development and design standards, and building
2 design standards set forth in chapter 21.09, *Girdwood Land Use Regulations*
3 (sections 21.09.060, 21.09.070, and 21.09.080).
- 4 **2. Exceptions to Authority to Grant Minor Modifications**
5 In no circumstance shall any decision-making body approve a minor modification that
6 results in:
- 7 a. An increase in overall project density;
- 8 b. A change in permitted uses or mix of uses;
- 9 c. A deviation from the district-specific standards set forth in chapter 21.04, *Zoning*
10 *Districts*, or the use-specific standards set forth in chapter 21.05, *Use*
11 *Regulations*; or
- 12 d. A change in conditions attached to the approval of any subdivision plan (section
13 21.03.200), site plan (section 21.03.180), [OR] conditional use (section
14 21.03.080), or rezone (special limitation) (section 21.03.160).
- 15 **C. Procedure**
- 16 **1. Limitation on Minor Modifications**
- 17 a. An applicant may request application of the minor modification process to his or
18 her development only once during the review process.
- 19 b. In no instance may an applicant use the minor modification process to obtain
20 approval for adjustments to more than three standards applicable to the same
21 development.
- 22 **2. Minor Modifications Approved by Director**
23 For uses allowed by-right or when he or she is the decision-maker, the director may
24 approve a minor modification allowed under this section at any time prior to final decision.
- 25 **3. Minor Modifications Approved by Planning and Zoning Commission, or Urban**
26 **Design Commission**
27 The planning and zoning commission, or urban design commission may approve a minor
28 modification allowed under this section at any time before taking action on a development
29 application.
- 30 **4. Written Findings Noted on Pending Application**
31 Staff shall specify in writing any approved minor modifications and the finding supporting
32 such modifications on the pending development application for which the modifications
33 were sought, which shall be included as part of the case record.
- 34 **5. Appeals**
35 Denial of a minor modification may be appealed to the same body as an appeal of the
36 underlying approval process. For instance, denial of a minor modification in a conditional
37 use application may be appealed to the board of adjustment, as the board of adjustment
38 hears appeals of conditional use approvals. Denial of a minor modification associated
39 with a permitted use may be appealed to the zoning board of examiners and appeals.
- 40 **D. Approval Criteria**
41 The decision-making body may approve the minor modification only if it finds that the modification
42 meets all of the criteria below:
- 43 **1.** The requested modification is consistent with the comprehensive plan and the stated
44 purpose of this title;

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- 1 2. The requested modification meets all other applicable building and safety codes;
- 2 3. The requested modification does not encroach into a recorded easement;
- 3 4. The requested modification will have no significant adverse impact on the health, safety,
4 or general welfare of surrounding property owners or the general public, or such impacts
5 will be substantially mitigated; and
- 6 5. The requested modification is necessary to either: (a) compensate for some practical
7 difficulty or some unusual aspect of the site of the proposed development not shared by
8 landowners in general; or (b) accommodate an alternative or innovative design practice
9 that achieves to the same or better degree the objective of the existing design standard
10 to be modified. In determining if “practical difficulty” exists, the factors set forth in section
11 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

21.03.130 NEIGHBORHOOD OR DISTRICT PLANS

A. Purpose and Authority

1. Purpose

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

2. Authority

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

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- 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 and zoning commission shall consider adopted plans in review of land use,
5 zoning actions, and capital improvement programs, where consideration is consistent
6 with the charter, the comprehensive plan, and general law. Agencies shall consider
7 adopted neighborhood or district plans as guidance for actions, whether or not actions
8 are subject to commission review. The existence of an adopted neighborhood or district
9 plan shall not preclude the assembly, any municipal department or agency, or any board
10 or commission of the municipality from developing other plans or taking actions not
11 contemplated in the neighborhood or district plan affecting the same geographic area or
12 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.

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1 **D. Standards**

2 **1. Form and Content**

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

4 **a.** The plan shall state its sponsoring entity or entities and the names of the
5 individuals who participated in the development of the plan.

6 **b.** A plan shall enhance or implement goals, objectives, policies, and/or strategies
7 of the comprehensive plan and provide further detail and specificity. A plan may
8 take the form of a master plan or targeted plan.

9 **i.** A master plan for a neighborhood, district, or other geographic area of
10 the municipality may combine elements related to housing, industrial and
11 commercial uses, transportation, land use regulation, open space,
12 recreation, cultural features, health, economic vitality, community
13 facilities, and other infrastructure.

14 **ii.** A targeted plan may consider one or a small number of elements of
15 neighborhood, district, or municipal-wide problems or needs, and shall
16 focus on issues related to the use, development, and improvement of
17 land within the plan study area.

18 **c.** A plan shall not be limited to a single zoning district or a specific parcel in private
19 ownership. A plan shall cover an identifiable, cohesive geographic area or
20 neighborhood.

21 **d.** Plans shall be presented in clear language and coherent form with elements,
22 chapters, or sections organized in logical sequence.

23 **e.** Plans shall state goals, objectives, or purposes clearly and succinctly. Policy
24 statements or recommendations shall contain documentation and explanation of
25 the data, analysis, or rationale underlying each. Plans shall analyze and propose
26 policies to address identified problems.

27 **f.** A plan shall contain, as applicable:

28 **i.** Inventories or description and analysis of existing conditions, problems,
29 or needs; projections of future conditions, problems, or needs; and
30 recommended goals and strategies to address those conditions,
31 problems, or needs.

32 **ii.** Alternatively, or concomitantly with the elements described above, a plan
33 may also contain a vision for a future end state and a strategy(ies) for
34 achieving it.

35 The level of detail and analysis shall be appropriate to the goals and
36 recommendations presented in the plan. The information and analysis relied
37 upon to support the recommendations shall be sufficiently identified to facilitate
38 later plan review, including accuracy and validity of the information and analysis.
39 Supporting information may be contained in the form of narrative, maps, charts,
40 tables, technical appendices, or the like.

41 **g.** A plan shall contain a land use plan map for the geographic area encompassed
42 by the plan. The land use plan map shall propose appropriate land use
43 categories, which generally include: residential, commercial, industrial,
44 institutional, transportation, community facilities, parks, and natural open space.
45 The land use plan map may provide more specificity than the general categories.

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This amendment helps clarify that the Neighborhood or District Plan section only applies to plans developed by non-municipal entities. Any neighborhood or district plan created by the municipality falls under the Comprehensive Plan section.

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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
40 during the 120 day review period, and prepare a staff report and recommendation for the
41 commission. The department shall consider the neighborhood, community, and
42 municipal-wide impacts and the long-term effects of the actions or policies recommended
43 by the plan. The department shall also consider the impact of the plan on economic and

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1 housing opportunity, future growth and development, and the physical environment,
2 including 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.

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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 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; or
 - 36 iv. Subject to approval of a conditional use under this 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.

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1 **B. Community Meeting**

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

3 **C. 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 **D. Public Notice**

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

10 **E. 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 and zoning 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 **F. 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 H(1). below.

30 **G. 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.

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Approval criteria was added/amended to address concerns that government facilities that were inappropriate for the central business district would be forced to locate there.

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H. 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, 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 the proposed government use and its intensity is compatible with the surrounding district and adopted policies for future development in the district;
4. Whether adequate utility and transportation infrastructure is available to the site;
5. Whether the site is located near a transit route, if applicable;
6. Whether there are existing or planned walkways connecting the site to transit stops and surrounding residential areas, where applicable;
7. The environmental suitability of the site;
8. The financial feasibility of the site, including maintenance and operations; and
9. Whether the proposed site for m[M]ajor municipal, state, and federal administrative offices conforms with the adopted policy priority for locating [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.

I. Request for Assembly Hearing

1. Decisions by the planning and zoning commission are final unless, within 20 days of the date of service, any party of interest 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.

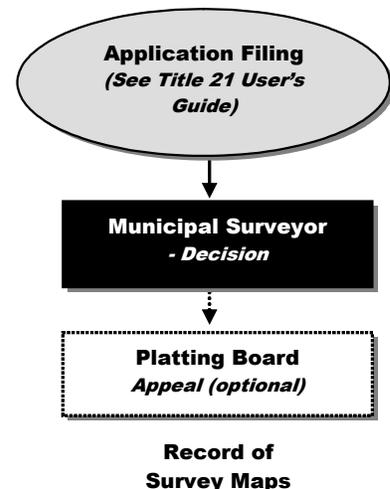
21.03.150 RECORD OF SURVEY MAPS

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



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1 recombine lots into acreage, and any record of survey map purporting to do so shall be
2 null and void.

3 **C. Application Submittal**

4 Applications for approval of a record of survey map shall contain the information specified in the
5 title 21 user's guide, and shall be submitted to the **planning officer** [DIRECTOR] on a form provided
6 by the department.

7 **D. Monuments**

8 Monuments set for the survey shall conform to the standards of the **public works** department [OF
9 PROJECT MANAGEMENT AND ENGINEERING].

10 **E. Approval**

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

13 **F. Appeals**

14 All decisions of the municipal surveyor under this section shall be final unless appealed to the
15 platting board within 15 days of the date of approval.

16 **21.03.160 REZONINGS (ZONING MAP AMENDMENTS)**

17 **A. Purpose and Scope**

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

29 **B. Minimum Area Requirements**

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

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

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

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

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PZC states: “There are multiple directors of municipal departments. They should not each have authority to initiate a rezone. The amendment reflects current practice.”

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D. General Procedure

1. Initiation

- a. A rezoning may be initiated by the assembly, the planning and zoning commission, or by the administration [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 shall precede corps of engineers wetland permit applications.

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 Meeting

A community 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 21 user's 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 and zoning commission.



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- 1 **7. Planning and Zoning Commission Action**
2 **a.** The planning and zoning commission shall hold a public hearing on the proposed
3 rezoning and, at the close of the hearing, taking into account the
4 recommendations of the department and public input, and based upon the
5 approval criteria of subsection E. below, shall recommend approval, approval
6 with special limitations or other modifications (at least as restrictive as submitted
7 in the application), or denial. The commission shall include written findings
8 based on each of the approval criteria.
- 9 **b.** If the commission recommends approval or approval with special limitations or
10 other modifications, within 60 days of the commission's written resolution, the
11 director shall forward the recommendation to the assembly with an ordinance to
12 amend the official zoning map in accordance with the recommendation.
- 13 **c.** If the commission recommends denial, the amendment shall be deemed
14 disapproved unless, within 15 days of the commission's written resolution
15 recommending denial, the applicant files a written statement with the municipal
16 clerk requesting that an ordinance amending the zoning map as set out in the
17 application be submitted for action by the assembly. The draft ordinance shall be
18 appended to an Assembly Informational Memorandum (AIM) for consideration by
19 the assembly.
- 20 **8. Assembly Action**
21 The assembly shall hold a public hearing on the proposed rezoning and shall, at the
22 close of the hearing, taking into account the recommendations of the department,
23 planning and zoning commission, and public input, and based upon the approval criteria
24 of subsection E. below:
- 25 **a.** Approve the zoning map amendment as submitted in the application to the
26 planning and zoning commission;
- 27 **b.** Approve the zoning map amendment with special limitations (see subsection G.)
28 or other modifications at least as restrictive as those submitted in the application,
29 provided that an ordinance approving an amendment initiated under this section
30 shall become effective only with the written consent of the property owner(s) to
31 the special limitations or other modifications;
- 32 **c.** Deny the amendment; or
- 33 **d.** Remand the proposed amendment to the planning and zoning commission or to
34 a committee of the assembly for further consideration.
- 35 **9. Protests**
36 **a.** Any owner of property subject to a proposed rezoning may protest the rezoning
37 by filing a written protest with the clerk pursuant to this subsection.
- 38 **b.** Any owner of property within 300 feet of the outer boundary of the land to which
39 the amendment applies may protest the rezoning by filing a written protest with
40 the clerk that is signed by the owners of at least one-third of the property,
41 excluding rights-of-way, of:
- 42 **i.** The land to which the amendment applies; or
- 43 **ii.** The land within 300 feet of the outer boundary of the land to which the
44 amendment applies;
- 45 excluding land owned by the municipality, except where the municipality joins in
46 the protest.

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Criteria were consolidated and reworded.

PZC states: “There are numerous new criteria for rezoning, and as written the criteria are redundant and/or confusing. The amendment clarifies the criteria more succinctly.”

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1 c. To be valid, the protest shall state the factual and/or legal basis for the protest,
2 contain a legal description of the property on behalf of which the protest is made,
3 be signed by the owner of that property, and be received by the municipal clerk
4 after notice of a public hearing before the assembly on a zoning map amendment
5 and at least three business days before the time set for the assembly public
6 hearing on the amendment.

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

9 **10. Waiting Period for Reconsideration**

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

13 **11. Form of Amending Ordinance**

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

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

19 **E. Approval Criteria**

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

- 22 1. The rezoning shall be in the best interest of the citizens of Anchorage and shall promote
23 the public health, safety, and general welfare;
- 24 2. The rezoning complies with and conforms to the comprehensive plan, including the
25 comprehensive plan map(s) [AND THE PURPOSES OF THIS TITLE];
- 26 3. The rezoning is generally consistent with the zoning district purpose in the requested
27 zone, and the purpose of this title;
- 28 4. The rezoning is compatible with surrounding zoning and development, and protects areas
29 designated for specific uses on the zoning map from incompatible land uses or
30 development intensities;

31 [THE PROPOSED REZONING CONFORMS TO THE COMPREHENSIVE PLAN MAP,
32 AS FOLLOWS:

- 33 a. THE REZONING SHALL BE TO A ZONE CORRESPONDING TO THE
34 COMPREHENSIVE PLAN MAP, INCLUDING THE ZONING CONSISTENCY
35 TABLE, EXCEPT AS PROVIDED IN F. BELOW.
- 36 b. WHEN THE COMPREHENSIVE PLAN MAP DESIGNATION HAS MORE THAN
37 ONE CORRESPONDING ZONE, IT SHALL BE SHOWN THAT THE
38 PROPOSED ZONE IS THE MOST APPROPRIATE, TAKING INTO
39 CONSIDERATION THE PURPOSES OF EACH ZONE AND THE ZONING
40 PATTERN OF SURROUNDING LAND.]

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1 [THE REZONING IS CONSISTENT WITH THE STATED PURPOSE OF THE
2 PROPOSED ZONING DISTRICT AND THE APPLICABLE PORTIONS OF THE
3 COMPREHENSIVE PLAN;]

- 4 5. Facilities and services (including roads and transportation, water, gas, electricity, police
5 and fire protection, and sewage and waste disposal, as applicable) are capable of
6 supporting the uses allowed by the zone or will be capable by the time development is
7 complete, while maintaining adequate levels of service to existing development;
- 8 6. The rezoning is not likely to result in significant adverse impacts upon the natural
9 environment, including air, water, noise, storm water management, wildlife, and
10 vegetation, or such impacts shall be substantially mitigated;
- 11 7. The proposed rezoning is not likely to result in significant adverse impacts upon adjacent
12 land uses, or such impacts shall be mitigated through stipulations;

13 [THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE PLANNING
14 COMMISSION AND THE ASSEMBLY THAT THE SUPPLY OF LAND IN THE DESIRED
15 ZONING DISTRICT IS INSUFFICIENT OR INADEQUATE FOR THE STATED
16 PURPOSE AND THAT SUFFICIENT LAND OF THE EXISTING ZONING DISTRICT
17 REMAINS IN THE AREA TO MEET THE NEEDS OF THE COMMUNITY;]

- 18 8. The rezone does not extend [INITIATE, CONTINUE,] or exacerbate a land use pattern
19 that is inconsistent with the comprehensive plan;

20 [THE PROPOSED REZONING MAINTAINS AND PRESERVES THE COMPATIBILITY
21 OF SURROUNDING ZONING AND DEVELOPMENT, AND PROTECTS AREAS
22 DESIGNATED FOR SPECIFIC USES ON THE ZONING MAP FROM INCOMPATIBLE
23 LAND USES OR DEVELOPMENT INTENSITIES;] and

- 24 9. The rezoning shall [DOES] not result in a split-zoned lot.

25 **F. Flexibility of Interpretation**

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

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

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1 **G. Rezoning with Special Limitations**

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

5 **1. Purposes**

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

- 7 a. To prohibit structures, or uses of land or structures, that would adversely affect
8 the surrounding neighborhood or conflict with the comprehensive plan. [; OR]
- 9 b. To conform the zoning map amendment to the comprehensive plan, or to further
10 the goals and policies of the comprehensive plan. [; OR]
- 11 c. To conform development under the zoning map amendment to existing patterns
12 of development in the surrounding neighborhood. [; OR]
- 13 d. To mitigate the adverse effects of development under the zoning map
14 amendment on the natural environment, the surrounding neighborhood, and on
15 public facilities and services.

16 **2. Types of Limitations**

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

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

26 **3. Effect of Approval**

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

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

33 **1. Purpose and Applicability**

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

- 39 a. Permit, require, prohibit, or restrict structures or the use of land or structures;
- 40 b. Alter the provisions of the use-specific requirements as applied to property within
41 the overlay district;

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The intent of an overlay district is to apply to an area, a neighborhood, a district, or some other similar community area. This section is not intended to allow one property owner who has a 2 acre lot to develop his or her own standards, to only be applied to his or her lot.

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- 1 c. Require new development or attributes of new development to conform to a
2 specific architectural or design theme;
- 3 d. Require a design review approval process; and/or
- 4 e. Alter the development standards of the underlying district by decreasing or
5 increasing the requirements with regard to building height, setbacks, lot area, lot
6 width, lot coverage, and lot densities of the underlying district.
- 7 **2. Minimum Area Requirements**
- 8 a. No overlay district zoning map amendment shall be considered or approved that
9 applies an overlay district to an area less than 1.75 acres, excluding rights-of-
10 way, except for an amendment extending the boundaries of an existing overlay
11 district.
- 12 b. Overlay districts shall not be created to apply to property owned by a single
13 person, unless the property is at least 30 acres.
- 14 **3. General Procedure for Creating, Altering, or Eliminating Overlay Districts**
- 15 Overlay districts shall be established, altered, or eliminated using the general rezoning
16 procedure set forth in subsection D. above, *General Procedure*, except as modified by
17 the following provisions:
- 18 a. **Contents of Adopting Ordinance**
- 19 An ordinance amending the zoning map for an overlay district shall contain the
20 following:
- 21 i. The name of the overlay district that the ordinance applies;
- 22 ii. The legal description of the land within the overlay district applied by the
23 ordinance; and
- 24 iii. All standards of development to be governed by the overlay district.
- 25 b. **Effect of Approval**
- 26 i. Where a specification in an overlay zoning map amendment conflicts
27 with any provision of this title, the overlay zoning map amendment shall
28 govern.
- 29 ii. An overlay district adopted in the same manner as the original ordinance
30 remains effective until repealed or amended. The assembly may set a
31 time for the overlay district to expire if it finds the planning objectives will
32 be met or completed within a specific time period.
- 33 c. **Map of Overlay Districts**
- 34 i. Each overlay district shall be annotated on the zoning map with a symbol
35 unique to the overlay district and shall be identified on the zoning map by
36 the suffix "OV" and the number of the ordinance applying the overlay
37 district shall be printed on the zoning map within the boundaries of the
38 overlay district.
- 39 ii. The department shall maintain, for inspection by the public, maps
40 showing the location of the overlay districts and records of the
41 assembly's purpose and intent in establishing each district.

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

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

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

6 **1. Purpose**

7 The assembly may, through the rezoning process, adopt a regulatory zoning strategy that
8 is customized for a specific property or group of properties. The zoning strategy may
9 substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07
10 (see subsection I.4. below) in order to allow the development to achieve the goals of the
11 comprehensive plan and title 21 in a unique way. The assembly must find that the
12 proposed strategy will result in development that is compatible with that which would
13 occur with conventional application of the requirements of chapters 21.05, 21.06, and
14 21.07.

15 **2. Procedure**

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

18 **3. Minimum Area Requirements**

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

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

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

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

27 i. Chapter 21.05, *Use Regulations*;

28 ii. Chapter 21.06, *Dimensional Standards*;

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

30 iv. Section 21.07.030, *Open Space*;

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

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

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

34 viii. Section 21.07.100, *Exterior Lighting* ~~[RESIDENTIAL DESIGN~~
35 ~~STANDARDS]~~;

36 ix. Section 21.07.110, *Residential Design Standards*
37 ~~[PUBLIC/INSTITUTIONAL AND COMMERCIAL DESIGN STANDARDS]~~;

38 x. Section 21.07.120, *Public/Institutional and Commercial Design*
39 ~~Standards~~ ~~[LARGE COMMERCIAL ESTABLISHMENTS]~~;

40 xi. Section 21.07.130, *Large Commercial Establishments* ~~[EXTERIOR~~
41 ~~LIGHTING]~~; and

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- 1 **xii.** Subsection 21.08.050D., *Interior Streets*.
- 2 **c.** Along with the application and documentation information required in I.5. below,
3 the applicant must also submit the following information with regard to any
4 proposed in-lieu standards.
- 5 **i.** Clear specification of the proposed in-lieu standards, and the title 21
6 standards for which the proposed in-lieu standards are a substitute. Any
7 title 21 standards that are not replaced with approved in-lieu standards
8 shall apply in the PCD district.
- 9 **ii.** A statement of why compliance with title 21 standards would interfere
10 with the goals, purposes, or functions of development in the proposed
11 PCD district.
- 12 **iii.** A demonstration of how the proposed in-lieu standards would be at least
13 as effective as the title 21 standards in fulfilling the intents and purposes
14 of title 21, and furthering the goals and policies of the comprehensive
15 plan, including any applicable neighborhood or district plans.
- 16 **iv.** A statement of the expected benefits of the proposed in-lieu standards.
- 17 **d.** The planning and zoning commission may recommend approval, and the
18 assembly may approve a rezone to the PCD district with in-lieu standards if they
19 find that the in-lieu standards will result in development that is compatible with
20 the intents and purposes of title 21 and the goals and policies of the
21 comprehensive plan, and do not compromise public health, safety, or welfare.
- 22 **5. Application and Documentation**
23 Applications for rezoning to a PCD district shall contain the information specified in the
24 title 21 user's guide, and the following:
- 25 **a.** If proposing in-lieu standards for subsection 21.07.020C., *Steep Slope*
26 *Development*, the information required in subsection 21.07.020C. []
- 27 **b.** Development Areas: a PCD district that proposes to segregate differing land
28 uses and/or different project phases shall provide and maintain a map that clearly
29 distinguishes the boundaries of each development area. The development areas
30 shall be identified with an alpha, numeric, or alphanumeric coding system to
31 allow for easy identification of each area. Different in-lieu standards may be
32 proposed for each development area.
- 33 **c.** Table of allowed uses and use definitions:
- 34 **i.** The PCD district shall establish a table of allowed uses and a table of
35 accessory uses. The table shall be formatted in the same manner as the
36 tables depicted in chapter 21.05 listing the land use, and if development
37 areas are proposed, noting each with its designated land uses. The
38 table abbreviations set forth at 21.05.010A. shall be used.
- 39 **ii.** The land uses listed in the table of allowed uses or the table of
40 accessory uses shall be defined in chapter 21.05, or the PCD district
41 shall provide a use definition for those uses not listed in sections
42 21.05.020 through 21.05.080.
- 43 **d.** Dimensional standards and measurements:

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- 1 i. The PCD district shall establish a table of dimensional standards. The
2 table shall be formatted in the same manner as the tables depicted in
3 chapter 21.06 listing the dimensional standards, and if development
4 areas are proposed, noting each with its designated dimensional
5 standards.
- 6 ii. Unless specifically provided otherwise (see subsection I.4. above), the
7 measurements and exceptions section 21.06.030 shall apply.
- 8 **6. Relationship to Other Requirements**
9 When there is a conflict between the PCD district requirements and other requirements of
10 this title, the PCD district requirements control. The specific requirements of this title
11 apply unless the PCD district provides other requirements for the same specific topic.
- 12 **7. Changes to an Approved PCD District**
- 13 **a. Approval by Assembly**
14 Approval of a zoning map amendment in accordance with section 21.03.160 is
15 required for the following amendments to the PCD district:
- 16 i. Any increase in the total number of authorized dwelling units;
- 17 ii. Any decrease in the total open space acreage;
- 18 iii. Any increase in the total gross building area of commercial or industrial
19 structures;
- 20 iv. Any addition or deletion of any permitted principal use, conditional use,
21 or accessory use;
- 22 v. Any changes in the development standards;
- 23 vi. Any density transfer between development areas that will result in a 25
24 percent or greater cumulative increase or decrease in the number of
25 dwelling units in any development area; or
- 26 vii. Any change in the acreage of a development area equal to or more than
27 25 percent of the total acreage of the development area.
- 28 **b. Approval by the Planning and Zoning Commission**
29 Approval by the planning and zoning commission is required for the following
30 amendments to the PCD district:
- 31 i. Any density transfer between development areas that will result in a
32 cumulative increase or decrease of more than 10 percent but less than
33 25 percent in the number of dwelling units in any development area; or
- 34 ii. Any change in the acreage of a development area of more than 10
35 percent but less than 25 percent of the total acreage of the development
36 area.
- 37 **c. Approval by the Director**
38 Approval by the director is required for the following amendments to the PCD
39 district:
- 40 i. Any density transfer between development areas that will result in a
41 cumulative increase or decrease of 10 percent or less in the number of
42 dwelling units in any development area; or

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- 1 ii. Any change in the acreage of a development area of 10 percent or less
 2 of the total acreage of the development area.

3 **21.03.170 SIGN PERMITS**

4 **A. Applicability**

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

8 **B. Approval Requirements for Signs**

9 Proposed signs shall be required to receive a permit from the building official as set forth in the
 10 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

11
 12 **C. Application Submittal**

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

16 **D. Review and Approval**

17 Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in
 18 21.03.100C.2, *Approval Procedure (for Land Use Permits)*.

19 **E. Appeals**

- 20 1. Denial of a sign permit relating to title 21 compliance may be appealed to the zoning
 21 board of examiners and appeals in accordance with subsection 21.03.050B.
- 22 2. Denial of a sign permit relating to title 23 compliance may be appealed to the building
 23 board of examiners and appeals.

24 **21.03.180 SITE PLAN REVIEW**

25 **A. Purpose**

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

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PZC states: "Provides clarification regarding remodeling."

Due to the concern that large projects would have significant land use issues, and the concern that the planning and zoning commission has more experience addressing land use issues than does the urban design commission, the Assembly Committee proposes having large site plan reviews go to the planning and zoning commission, and small and medium reviews go to the urban design commission.

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1 **B. General Applicability**

2 This section shall not apply to remodeling, renovation, or repair to interior portions of structures
3 that are subject to site plan review under this title, except those interior areas that affect
4 conformity to the approval criteria for site plan review or the development and design
5 requirements of this title.

6 **C. Administrative Site Plan Review**

7 **1. Applicability**

8 Land uses requiring administrative site plan review are identified in table 21.05-1
9 [SECTION 21.05.010], Table[S] of Allowed Uses, table 21.05-3, Tables of Allowed
10 Accessory Uses, and table 21.09-1, Table of Allowed Uses (Girdwood).

11 **2. Procedure**

12 **a. Application Submittal**

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

16 **b. Departmental Review and Director's Action**

17 The department shall review each proposed administrative site plan application
18 in light of the approval criteria of subsection E. below and distribute the
19 application to other reviewers as deemed necessary. Based on the results of
20 those reviews, the director shall take final action on the site plan application and
21 approve, approve with conditions, or deny the application. The department's
22 review and the director's action, including referral to other agencies and bodies,
23 shall be completed within 60 days of verification of a complete application.

24 **c. Appeals**

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

28 **D. Major Site Plan Review**

29 **1. Applicability**

30 Land uses requiring major site plan review are identified in table 21.05-1 [SECTION
31 21.05.010], Tables of Allowed Uses and table 21.09-1, Table of Allowed Uses
32 (Girdwood).

33 **2. Decision-Making Authority**

34 For non-residential development with a gross floor area of 100,000 square feet or
35 greater, and for residential development of 140 units or more, the decision-making body
36 shall be the planning and zoning commission. For all other major site plan reviews, the
37 decision-making body shall be the urban design commission.

38 **3. Procedure**

39 **a. Pre-Application Conference**

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

42 **b. Community Meeting**

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

44 **c. Application Submittal**

45 Applications for a major site plan review shall contain the information specified in
46 the title 21 user's guide, and shall be submitted to the director on a form provided
47 by the department.

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1 d. **Public Notice**

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

4 e. **Departmental Review**

5 The department shall review each proposed major site plan application in light of
6 the approval criteria of subsection E. below and distribute the application to other
7 reviewers as deemed necessary. Based on the results of those reviews, the
8 department shall provide a report to the applicable [URBAN DESIGN]
9 commission.

10 f. **[URBAN DESIGN] Commission Action**

11 The applicable [URBAN DESIGN] commission shall hold a public hearing on the
12 proposed application and, taking into account the recommendations of the
13 department and public input, shall act to approve, approve with conditions, or
14 deny the proposed major site plan, based on the approval criteria of subsection
15 E. below.

16 g. **Appeals**

17 Denial of a major site plan may be appealed to the board of adjustment in
18 accordance with subsection 21.03.050A.

19 **E. Expiration**

20 1. **General**

21 A site plan approval shall automatically expire at the end of 24 months after the effective
22 date unless a building or land use permit for at least one building in the development
23 proposed in the site plan is approved and construction has begun (see the definition of
24 “start of construction” in chapter 21.14). A change in ownership of the property does not
25 affect this time frame.

26 2. **Extension**

27 a. **First Extension**

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

34 b. **Further Extensions**

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

40 **F. Approval Criteria**

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

43 1. The site plan is consistent with any previously approved subdivision plat, planned
44 development master plan, or any other precedent plan or land use approval;

45 2. The site plan complies with all applicable development and design standards set forth in
46 this title, including but not limited to the provisions in chapter 21.04, *Zoning Districts*,
47 chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional Standards and*
48 *Measurements*, and chapter 21.07, *Development and Design Standards*;

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1 3. The site plan addresses any significant adverse impacts that can reasonably be
2 anticipated to result from the use, by mitigating or offsetting those impacts to the
3 maximum extent feasible; and

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

6 **G. Platting for Site Plans**

7 1. If development under an approval under this section will create a subdivision or requires
8 the vacation of a dedicated public area, the approval is not effective until a final plat for
9 the subdivision or vacation is approved and recorded in accordance with this title. A
10 preliminary plat required under this section is subject to approval as required by section
11 21.03.200, *Subdivisions*.

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

15 **H. Amendments to Approved Site Plans**

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

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

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

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

24 a. **Procedure**

25 i. Upon receiving a written request from the applicant for a site plan
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 urban design 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 site
36 plan [MYLAR] 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.

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At the time of provisional adoption of chapter 21.03, the details of this section were still not agreed upon. Staff continued to work and refine the section, and brought the section language to the planning and zoning commission in 2010. At that time, the commission recommended this language for adoption. The 2012 commission also reviewed and forward the language forward for adoption. The Assembly Committee reviewed and agreed to this language. The process is essentially how road projects are reviewed and approved today, and follows a memorandum of agreement between the municipality and the state DOT for reviewing state road projects as well.

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- 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.

21.03.190 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. Streets and trails are not only utilitarian, but also add lasting value to the community and convey the image of the municipality to all users. These important parts of the municipality’s fabric benefit by oversight and concurrence in the design decisions by citizen bodies that are represented by the planning and zoning commission and the urban design commission. All transportation projects are required to identify functional and design issues early in the process and include public input at various stages of the project. In addition, projects meeting certain thresholds are required to include the planning and zoning commission and urban design commission in the review and approval process.

B. Street Review

1. Applicability and Overview

All MOA transportation projects are required to follow *A Strategy for Developing Context Sensitive Transportation Projects*. New construction and reconstruction of street and intersection projects involving streets of collector classification or greater in the *Official Streets and Highways Plan* are required to follow a review process by the planning and zoning commission, as indicated below and in table 21.03-4. The stages are:

- a. The concept report or equivalent, distributed to the planning and zoning commission as an information item;
- b. The draft design study report, reviewed by the planning and zoning commission; and
- c. The plans in hand design drawings, reviewed by the urban design commission.

TABLE 21.03-4: STREET AND INTERSECTION PROJECT REVIEW		
REVIEW	REVIEW BODY	PRIMARY DECISION
Concept Report	Project Management Team	Issue identification, “go, no-go” decision
Draft Design Study Report	Planning and Zoning Commission	Alternatives development, evaluation and screening criteria, alternative decision
Plans in Hand Design Drawings	Urban Design Commission	Approval of plans at 65 percent stage, including landscaping “theme”

2. Procedure for Design Study Report and Plans in Hand Review

a. Pre-Application Conference

The project management team shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.

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- 1 b. **Community Meeting**
2 Public outreach is an essential part of context-sensitive solutions (CSS), and is
3 expected to have been conducted prior to submitting an application. Depending
4 on the project, a community meeting may also be held at the application stage; if
5 so, it shall be in accordance with subsection 21.03.020G.
- 6 c. **Application Submittal**
7 Applications shall contain the information specified in the title 21 user's guide and
8 in *A Strategy for Developing Context Sensitive Transportation Projects*.
- 9 d. **Public Notice**
10 Notice of all public hearings shall be provided in accordance with section
11 21.03.020H.
- 12 e. **Department Review**
13 The department shall review each proposed application and distribute the
14 application to other reviewers as deemed necessary. Reviewers shall address
15 those aspects of the design that are germane to the commissions' deliberations;
16 detailed lists of technical comments shall be separately coordinated with the
17 design team leader. Based on the results of those reviews, the department shall
18 provide a report to the planning and zoning commission or urban design
19 commission, as applicable.
- 20 f. **Commission Review**
21 A public hearing at the draft design study report and plans in hand design
22 drawings phases will be held at the discretion of the planning and zoning
23 commission. The planning and zoning commission will review and act to
24 approve, approve with conditions, or return the application to the project
25 management team for additional work. Concerns and conditions raised by the
26 commission shall be specifically addressed in subsequent submittals.
- 27 3. **Concept Report**
28 The concept report shall be distributed to the planning and zoning commission as an
29 information item. The commission shall take no formal action on the report.
- 30 4. **Draft Design Study Report Review**
31 a. The planning and zoning commission shall review the draft design study report or
32 equivalent document, for all applicable street projects, and shall issue a decision.
33 A public hearing is not required but may be held at the commission's discretion.
- 34 b. As applicable, the commission's review of the project draft design study report
35 shall include but not be limited to:
- 36 i. Existing conditions, including but not limited to traffic volumes;
- 37 ii. Design standards and criteria, with specific attention to any requests for
38 variances from the criteria;
- 39 iii. Alternatives identification, evaluation, and recommended alternative;
- 40 iv. Compliance with this title;
- 41 v. Long-term impact on existing and projected land uses in the vicinity;
- 42 vi. Short-term and long-term impact of property acquisition for right-of-way;

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As current code has no specifics for trail review, it is called out separately here.

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- 1 vii. Impacts on utilities and other public infrastructure, including
2 undergrounding of overhead utilities;
- 3 viii. Street illumination;
- 4 ix. Maintenance considerations;
- 5 x. Environmental constraints;
- 6 xi. Pedestrian and other non-motorized access;
- 7 xii. Public involvement summary; and
- 8 xiii. Cost estimate.
- 9 c. Decisions may be appealed to the board of adjustment pursuant to subsection
10 21.03.050A.
- 11 5. **Plans in Hand Design Drawings Review**
- 12 a. The urban design commission shall review and approve all landscaping and
13 streetscape and pedestrian facilities for streets of collector classification or
14 greater in the Official Streets and Highways Plan.
- 15 b. The urban design commission shall approve, approve with conditions, or reject
16 the landscaping, streetscape, and pedestrian design plans at a stage no greater
17 than 65 percent designed, for all applicable street projects. A public hearing is
18 not required but may be held at the commission's discretion.
- 19 c. As applicable, the commission's review of the plans in hand design drawings
20 shall include but not be limited to:
- 21 i. Compliance with this title;
- 22 ii. Context of the area and the long-term impact on existing and projected
23 adjacent land uses;
- 24 iii. Initial cost of materials including installation;
- 25 iv. Long-term costs associated with operation and maintenance;
- 26 v. Adherence to a design theme established through local area plans or
27 prior public improvements;
- 28 vi. Effectiveness in meeting community design goals; and
- 29 vii. Accommodation of pedestrians and non-motorized users.
- 30 C. **Trail Review**
- 31 1. **Purpose**
- 32 Trails are a basic part of the infrastructure of the municipality. They are used for
33 transportation, for recreation and leisure, and also provide aesthetic and psychological
34 benefits. Significant additions or revisions to the municipality's trail network benefit by
35 oversight and concurrence in design decisions by the urban design commission.
- 36 2. **Applicability**
- 37 a. This section applies to new construction and reconstruction of the following types
38 of trails:

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- 1 i. Major multi-use trails that extend between multiple neighborhoods, such
2 as the Chester and Campbell Creek Trails, the Ship Creek Trail, and the
3 Coastal Trail.
- 4 ii. Trails over one-half mile in length in parks classified by the *Anchorage*
5 *Bowl Park, Natural Resource, and Recreation Facility Plan* as community
6 use area, special use area, or natural resource use area; or in parks
7 classified by the *Anchorage Park, Greenbelt and Recreation Facility Plan*
8 *Volume 2: "Eagle River-Chugiak-Eklutna"* as community, large urban, or
9 regional parks.
- 10 iii. Trails over one-half mile in length along streams, or connecting
11 subdivisions or other developments.
- 12 iv. Trails internal to parks and schools shall be reviewed by the appropriate
13 park board and/or the school district.
- 14 b. Notwithstanding the criteria of 2.a. above, the director may exempt new trails or
15 trail reconstruction projects from this section if the director finds, in writing, that
16 the project is minor in scope and not likely to cause impacts on surrounding
17 properties and neighborhoods. The director may also require new trails or trail
18 reconstruction projects that do not meet the criteria of 2.a. above to be reviewed
19 in accordance with this section, if the trail project is likely to create significant
20 public interest, or cause impacts on surrounding properties and neighborhoods.
- 21 **3. Review and Action**
- 22 a. **Pre-Application Conference**
23 The project management team shall request a pre-application conference with
24 the direction, in accordance with subsection 21.03.020B.
- 25 b. **Application Submittal**
26 Applications shall contain the information specified in the title 21 user's guide.
- 27 c. **Public Notice**
28 Notice of all public hearings shall be provided in accordance with section
29 21.03.020H.
- 30 d. **Department Review**
31 The department shall review each proposed application and distribute the
32 application to other reviewers as deemed necessary. Based on the results of
33 those reviews, the department shall provide a report to the planning and zoning
34 commission.
- 35 e. **Urban Design Commission Action**
36 Urban design commission shall approve, approve with conditions, or reject the
37 application. A public hearing is not required but may be held at the commission's
38 discretion.
- 39 **4. Appeals**
40 Decisions may be appealed to the planning and zoning commission, which shall be
41 required to hold a public hearing only if the urban design commission did not hold a
42 public hearing.
- 43 **5. Trails As Part of Subdivision Development of Conditional Use**
44 Only when a trail is to be constructed concurrently with a subdivision development or
45 conditional use shall the trail review requirement of this section be the responsibility of
46 the planning and zoning commission.

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21.03.200 SUBDIVISIONS

A. Purpose

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

B. Applicability

1. General

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

2. Abbreviated Plat

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

- a. A movement or elimination of lot lines that does not:
 - i. Result in an increase in the permitted density of residential units within the area being subdivided or resubdivided.
 - ii. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
 - iii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
- b. The subdivision of a single tract, parcel, or lot into no more than three tracts or eight lots, provided that the subdivision does not:
 - i. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
 - ii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
 - iii. Divide a tract, parcel or lot:
 - (A) Created within the previous 48 months pursuant to the approval of a preliminary plat under this section;
 - (B) Contiguous to or having an owner either in an individual capacity or as an owner of a corporation, partnership, or other legal entity of a preliminary plat approved within the previous 48 months; or
 - (C) That is 10 acres or more in the R-6, R-7, R-8, R-9, and R-10 zoning districts or that is governed by AO 84-21 (G-5 areawide rezoning).
- c. Vacations and relocations under section 21.03.230C.1.

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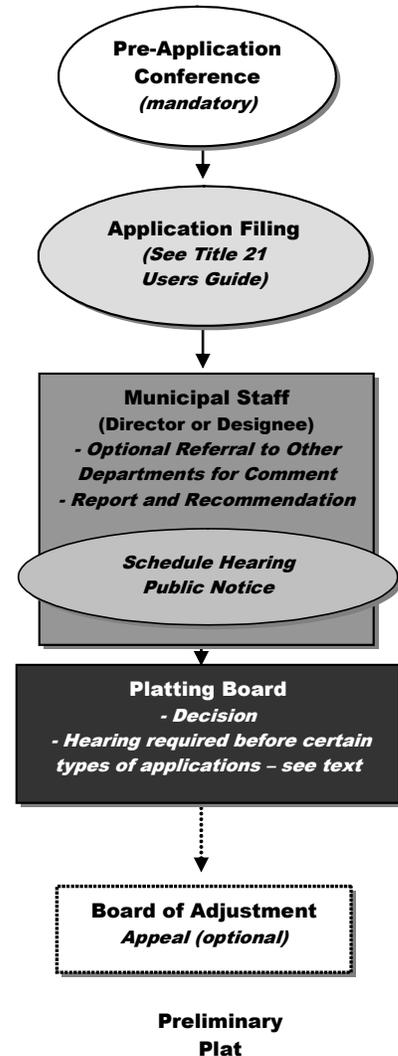
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- 1 d. Subdivision of a cemetery into burial plots.
- 2 e. A plat required by section 21.03.080F. for approval of a conditional use, or
- 3 section 21.03.180F. for approval of a site plan.
- 4 f. A plat depicting the creation of two attached single-family lots.
- 5 **3. Subdivision Approval is Prerequisite to Other Approvals**
- 6 a. No building permit, land use permit, certificate of zoning compliance, or certificate
- 7 of occupancy may be issued for any building, structure, or improvement located
- 8 within a subdivision, and no plat for a subdivision may be recorded with the state
- 9 of Alaska, until all required dedications of land have been made, and all required
- 10 improvements have been installed in accordance with the procedures and
- 11 requirements of this section, or an approved subdivision agreement is in place
- 12 pursuant to section 21.08.060, *Subdivision Agreements*.
- 13 b. The municipality shall not accept or maintain any street, and shall not extend or
- 14 connect any street lighting, water service, or
- 15 sanitary sewer service to any subdivision of
- 16 land, until and unless a plat for the subdivision
- 17 has been approved and recorded in
- 18 accordance with the requirements set forth in
- 19 this section.
- 20 **4. Restriction on Sale or Transfer of Subdivided Land**
- 21 **Without Approved Plat**
- 22 Any person who transfers or sells any land located
- 23 within the municipality by reference to a plat that has
- 24 not been approved by the municipality and recorded by
- 25 the state of Alaska shall be guilty of a violation of this
- 26 title. The description by metes and bounds in the
- 27 instrument of transfer or other document used in the
- 28 process of selling or transferring shall not exempt the
- 29 transaction from such penalties. The municipality also
- 30 may enjoin such transfer or sale by filing an action for
- 31 an injunction.
- 32 **5. Existing Lots of Record**
- 33 No provision of chapter 21.08, *Subdivision Standards*,
- 34 applies to any lot of record in a subdivision legally
- 35 created and filed before the effective date of this title,
- 36 unless the lot is further subdivided or resubdivided.
- 37 **C. Review and Approval of Subdivision Plans**
- 38 **1. Applicability**
- 39 This section shall apply to all subdivisions not meeting
- 40 the eligibility criteria for the abbreviated plat procedure.
- 41 **2. Pre-Application Conference**
- 42 Before filing an application for a new subdivision or a
- 43 modification of an already-approved subdivision, the
- 44 applicant shall request a pre-application conference
- 45 with the **platting officer** [DIRECTOR], in accordance
- 46 with subsection 21.03.020B.
- 47 **3. Community Meeting**
- 48 A community meeting is required in accordance with subsection 21.03.020C.



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- 1 **4. Application Submittal**
2 a. Unless waived by the **platting officer** [DIRECTOR], a preliminary plat shall include
3 all land under contiguous ownership, unless separate legal descriptions exist as
4 a matter of record. If only a portion of the land is intended for immediate
5 development, the remaining portion shall be given a tract number and shall be
6 part of the preliminary and final plat. Requirements for surveying this remaining
7 tract may be waived at the discretion of the municipal surveyor. By plat note,
8 development shall not be allowed on the remaining tract until approved under this
9 section.
- 10 b. Applications for a preliminary plat shall contain the information specified in the
11 title 21 user's guide, and shall be submitted to the **platting officer** [DIRECTOR] on
12 a form provided by the department.
- 13 c. For subdivision plats that have A or B wetlands, the applicant shall have initiated
14 corps of engineers wetland permitting prior to submitting the preliminary plat.
- 15 **5. Public Notice**
16 Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with subsection
17 21.03.020H.
- 18 **6. Departmental Review**
19 The department shall review each proposed preliminary plat in light of the approval
20 criteria of subsection C.9. below and distribute the application to other reviewers as
21 deemed necessary. Based on the results of those reviews, the department shall provide
22 a report to the platting board.
- 23 **7. Action on Preliminary Plat**
24 a. **Platting Authority**
25 The platting board is the platting authority for preliminary plats, except as
26 provided in subsection 21.03.080F. for conditional uses, and subsection
27 21.03.180F. for site plans.
- 28 b. **Action by Platting Authority**
29 Subject to paragraph 7.c. below, the platting authority shall, based on the
30 approval criteria of subsection C.9. below, take action on the preliminary plat
31 within 90 days after the submittal date, or shall return the plat to the applicant for
32 modification or correction. The reasons for denial of a plat shall be stated in the
33 records of the platting authority.
- 34 c. **Referral to Other Agency**
35 If the platting authority finds that:
- 36 i. It cannot determine whether a preliminary plat conforms to the approval
37 criteria of subsection C.9. below, because a specific controlling land use,
38 public facility, or other public policy issue has not been resolved; and
- 39 ii. An official board, commission or legislative body of the municipality or
40 another government has been identified as being responsible for
41 resolving that issue;
- 42 then, upon a majority vote, the platting authority may refer the issue to the
43 responsible official, board, commission, or legislative body and postpone action
44 on the plat for a period not exceeding 90 days or to its next regular meeting after
45 the responsible official, board, commission, or legislative body responds to the
46 referral, whichever occurs first.

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- d. **Public Hearing**
The platting authority shall hold a public hearing before action on the following types of subdivision applications:
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- i. Approval of a preliminary plat, except applications allowed to use the abbreviated plat procedure;
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- ii. Approval of a final plat that differs from the preliminary plat (see section 21.03.200C.8.b.);
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- iii. Modification or deletion of a condition of plat approval;
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- iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision Standards*; and
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- v. Vacation of dedicated right-of-way; BLM and section line easements; or platted landscape, drainage, slope, or protective well radii easements.
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- e. **Approval Period; Time Extensions**
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- i. Notwithstanding any subsequent change in the subdivision regulations, zoning regulations, and zoning districts, the approval of the preliminary plat shall be effective:
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- (A) For at least 24 months and up to 60 months from the date of approval, when it pertains to a development of no less than 10 acres and includes a phasing plan. The length of the approval period shall be based upon the platting board's evaluation of the size, complexity, and phasing elements of the development.
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- (B) For 24 months from the date of approval when it pertains to a development of less than 10 acres or does not include a phasing plan.
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- ii. The preliminary plat shall become null and void after the approval period unless an extension of time is granted by the platting authority. A request for a time extension must be made in writing by the subdivider. The extension request must be received by the **platting officer [DIRECTOR]** prior to the expiration of the preliminary plat to be eligible for consideration by the platting authority.
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- iii. Such a time extension shall be granted only if the authority finds that current conditions are substantially the same as those that existed when the preliminary plat was originally approved. The **platting officer [DIRECTOR]** shall conduct the reevaluation for every extension request that does not raise the total time of extension for a particular plat beyond 24 months and present his or her findings to the authority. Every extension request that raises the total time of extension for a particular plat beyond 24 months shall be evaluated in the same manner as an original plat application, including payment of the applicable fee.
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- iv. Only two time extensions may be approved for a preliminary plat approved by the platting authority. Approval of the second extension shall require a noticed public hearing.
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- v. Preliminary plats being finalized in portions or phases shall not be construed to automatically extend the original approval period. **Notwithstanding subsection e.iii. above, preliminary plats that include a phasing plan and a full layout plan may be approved for up to 60 months.**

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In response to a PZC recommended change that allowed phased projects to never expire, a compromise was worked out that allows a phased approval with a full layout plan to be valid for up to 15 years (an initial five year approval and two potential five year extensions).

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1 with the option of one 60 month extension by the platting board (on the
2 consent agenda) and an additional 60 month extension by the platting
3 board (with a public hearing in accordance with subsection e.iv. above).
4 Such extensions shall be granted only if the authority finds that current
5 conditions are substantially the same as those that existed when the
6 preliminary plat was originally approved. [SUCH AN EXTENSION MAY
7 ONLY BE GRANTED BY THE PLATTING AUTHORITY IN
8 ACCORDANCE WITH THE PROCEDURES SET OUT IN THIS
9 SUBSECTION.]

10 f. **Appeals**

11 All decisions as to approval or denial of a preliminary plat by the platting authority
12 shall be final unless appealed to the board of adjustment.

13 g. **Resubmittal Following Denial**

14 No new application for the same or substantially the same preliminary plat shall
15 be accepted by the platting authority within one year of denial of the original
16 application. The waiting period required by this section may be waived in an
17 individual case, based upon new evidence or changed circumstances, by the
18 affirmative vote of a majority of the platting authority.

19 8. **Final Plat**

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

21 i. A hearing on the final plat shall not be required when such plat
22 essentially conforms to the preliminary plat approved by the platting
23 board. The final plat shall, in addition, meet all conditions imposed by
24 the board in approving the preliminary plat.

25 ii. The final plat map shall constitute only that portion of the approved
26 preliminary plat that is proposed to be recorded and developed at the
27 time. If only a portion of the approved preliminary plat is proposed for
28 final plat approval, such portions shall conform to all requirements of this
29 section and chapter 21.08, *Subdivision Standards*.

30 iii. The following procedure shall be followed for the final plat:

31 (A) The final plat shall be submitted to the **platting officer**
32 **[DEPARTMENT]** for examination as to compliance with all terms
33 of the preliminary plat as approved by the platting authority. If all
34 conditions have been met, a statement to that effect, appearing
35 on the final plat, shall be signed by the platting authority. The
36 final plat shall not be signed until the documents described in
37 paragraph a.iv. and a.v. below have been received.

38 (B) Upon acceptance of the final plat, the department shall forward
39 the final plat to the **public works [PROJECT MANAGEMENT**
40 **AND ENGINEERING]** department for final checking and
41 inspection before final approval is given. If requested, a
42 subdivision survey shall be submitted to the **public works**
43 **[PROJECT MANAGEMENT AND ENGINEERING]** department
44 with a complete set of field and computation notes showing the
45 original or reestablished corners of the plat and of lots within the
46 plat. Traverse sheets and work sheets showing the closure
47 within the allowable limits of error of the exterior boundaries of
48 each irregular block and lot of the subdivision may also be
49 required. Final approval by the **public works [PROJECT**

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1 **MANAGEMENT AND ENGINEERING]** department shall be
2 indicated by a statement appearing on the plat.

3 **iv.** Final approval by the platting board shall be dependent upon receipt of
4 the following material:

5 **(A)** A statement from the development services department stating
6 that all conditions imposed by the department on the preliminary
7 plat and approved by the platting board have been met. This
8 approval by the development services department shall not
9 affect any subsequent requirements relating to sewage disposal
10 and water supply as they apply to any lots within the plat.

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

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

22 **v.** If the subdivision is to be served by a community water or sewer system,
23 the development services department may require the subdivider to
24 provide the following before the platting board finally approves the plat:

25 **(A)** Any approvals or certificates required by the state departments
26 of environmental conservation and natural resources.

27 **(B)** An agreement under the standards and procedures set out in
28 section 21.08.060, *Subdivision Agreements*, to ensure that the
29 system installed will be compatible with existing public water and
30 sewer systems.

31 **(C)** Approval of the plans, specifications, and installation and
32 operating procedures for the system by the municipal water and
33 wastewater utility pursuant to chapter 21.08, *Subdivision*
34 *Standards*, and regulations promulgated thereunder.

35 **vi.** Final plats affecting land neither supplied, nor under subdivision
36 agreement to be supplied, both with public water and public sewer, shall
37 be submitted to the development services department for a
38 determination that all lots and proposed water and wastewater facilities
39 conform to AMC chapter 15.65 at the time of determination.

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

41 When the final plat differs from the preliminary plat, the plat shall be considered a
42 new application for preliminary plat approval under this subsection C., except that
43 all decisions as to approval or denial of this plat by the platting board as
44 submitted under this section shall be final unless appealed to superior court.

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- c. **Requirements for Final Plat**
The final plat shall be prepared to the technical specifications, and shall be accompanied by appropriate supporting materials, as specified in the title 21 user's guide.
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- d. **Subdivision Agreements and Cost Estimates**
All final plats requiring public improvements, except those requiring monumentation only, shall be accompanied by a subdivision agreement between the subdivider and the municipality and an engineer's estimate of the cost of all required public improvements. Requirements for such an agreement are further described in section 21.08.060, *Subdivision Agreements*.
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- e. **Notes, Restrictions, and Covenants**
The platting board may place such conditions upon granting of final plat approval as are necessary to preserve the public welfare in accordance with the subdivision regulations. (See section 21.03.020M.) When such a condition of approval entails a restriction upon the use of all or part of the property being subdivided, a note specifying such restrictions shall be placed on the face of the plat. Such note shall constitute a restrictive covenant in favor of the municipality and the public and shall run with the land, enforceable against all subsequent owners. Any such restrictive covenant may be enforced against the subdivider or any subsequent owner by the municipality or by any specifically affected member of the public.
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9. **Approval Criteria**
The platting board may approve a preliminary or final plat only if it finds that the plat conforms to chapters 21.06, *Dimensional Standards and Measurements*, 21.07, *Development and Design Standards*, and 21.08, *Subdivision Standards*, and, to the maximum extent feasible:
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- a. Promotes the public health, safety, and welfare;
- b. Mitigates the effects of incompatibilities between the land uses or residential densities in the subdivision and the land uses and residential densities in the surrounding neighborhood, including but not limited to visual, noise, traffic, and environmental effects;
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- c. Provides for the proper arrangement of streets in relation to existing or proposed streets;
- 34
- d. Provides for adequate and convenient open space;
- 35
- e. Provides for the efficient movement of vehicular and pedestrian traffic;
- 36
- f. Ensures adequate and properly placed utilities;
- 37
- g. Provides access for firefighting apparatus;
- 38
- h. Provides opportunities for recreation, light, and air, and avoids congestion;
- 39
- i. Facilitates the orderly and efficient layout and use of the land;
- 40
- j. Does not create a split-zoned lot; and
- 41
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- 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*.

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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. Applications shall be submitted to the **platting officer** [DIRECTOR] on a form provided by the department.

3. Public Notice

Before acting on an abbreviated plat application under this section, the **platting officer** [DIRECTOR] shall provide notice in accordance with section 21.03.020H.

4. Action on Plat

a. Platting Authority

The **platting 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 **platting 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.

b. Review and Decision

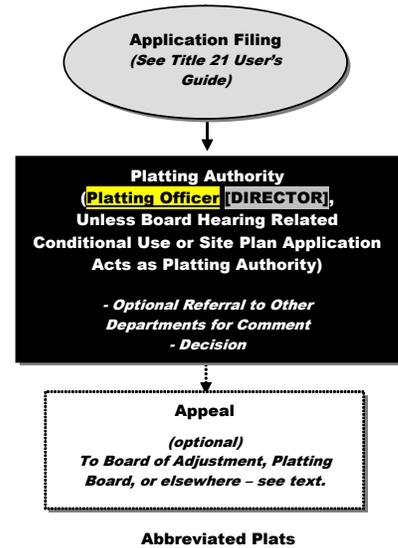
The platting authority shall review each proposed subdivision in light of the approval criteria of subsection C.9. above and shall consult other municipal offices or agencies as necessary. Based on the results of that review, the platting authority shall act to approve, approve with conditions, or deny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

c. Variances

- i. When acting as the platting authority under this section, the **platting officer** [DIRECTOR] may not grant variances from the provisions of chapter 21.08, *Subdivision Standards*.
- ii. When acting as the platting authority under section 21.03.080F., *Platting for Conditional Uses*, or 21.03.180F., *Platting for Site Plans*, the board or commission hearing an application for conditional use or site plan approval may grant variances from the provisions of chapter 21.08, *Subdivision Standards*, in accordance with section 21.03.240, *Variances*.

d. Duration of Preliminary Approval

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



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Due to the changes to the Major Site Plan Review section which assigns large projects to PZC and small and medium projects to the UDC, the PZC needed to be added to this section.

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1 e. **Time Extensions**

2 The abbreviated plat shall become null and void after the preliminary approval
3 period unless an extension of time is granted by the **planning officer** [DIRECTOR].
4 A request for a time extension must be made in writing by the subdivider. Such a
5 time extension shall be granted only if the **planning officer** [DIRECTOR] finds that
6 current conditions are substantially the same as those that existed when the
7 preliminary plat was approved. Only one extension of no more than 24 months
8 may be approved.

9 f. **Appeals**

10 Decisions of the **planning officer** [DIRECTOR] under this section are final unless
11 appealed within 15 days to the platting board, in which case the appeal shall be
12 treated as an application for preliminary plat approval pursuant to subsection
13 21.03.200C.

14 g. **Approval of Final Plat**

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

19 E. **Commercial Tract Plats**

20 1. **Applicability**

21 A commercial tract may be created and divided into fragment lots in order to facilitate
22 construction of commercial developments requiring multiple phases of construction.
23 Designation of commercial tracts shall be allowed only in the B-3, RO, [NMU, CMU,
24 RMU, MT-1, MT-2,] I-1, I-2, PCD, MC, [AND] MI, **GC-1 through GC-10, GI-1, GI-2,**
25 **GRST-1, and GRST-2** zoning districts.

26 2. **Platting Authority**

27 The **planning and zoning commission or the** urban design commission shall be the
28 platting authority for a commercial tract whose site plan includes a large commercial
29 establishment (**see section 21.03.180C. for applicable commission**). The platting board
30 shall be the platting authority for all other commercial tracts.

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

32 a. **Application Submittal**

33 Applications for a commercial tract plat shall contain the information specified in
34 the title 21 user's guide, and shall be submitted to the **planning officer**
35 [DIRECTOR] on a form provided by the department. An application for approval
36 of a commercial tract shall be signed by the owners of the property involved.

37 b. **Action by Platting Authority**

38 i. The platting authority shall act upon the application for approval of a
39 commercial tract whose site plan includes a large commercial
40 establishment as part of the major site plan review for the large
41 commercial establishment under subsection 21.03.180C.

42 ii. Except as provided in E.3.b.i. above, the platting authority shall act upon
43 the application for commercial tract approval following the review and
44 approval procedures of a preliminary plat in accordance with subsection
45 21.03.200C.7.

46 c. **Recording of Site Plan**

47 Upon approval of a commercial tract under subsection E.3.b. above, the **planning**
48 **officer** [DIRECTOR] shall, after notice to the petitioner, record the commercial

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- 1 tract site plan as approved, together with any declarations, covenants, and
2 restrictions, with the district recorder's office.
- 3 d. **Conformance with Site Plan**
4 It shall be unlawful for any person to construct, erect, or maintain any structure,
5 building, fence, or improvement, including landscaping, parking, and other
6 facilities, on property designated as a commercial tract, unless such
7 improvements are constructed or reconstructed in a manner consistent with the
8 approved commercial tract site plan.
- 9 e. **Alteration of Boundaries**
10 The process for amending or altering the boundaries of an approved commercial
11 tract shall be the same process as that of the original approval of the commercial
12 tract plat.
- 13 f. **Amendment of Site Plan**
14 Any amendment or alteration of an approved commercial tract site plan shall be
15 made only upon approval of the platting authority as provided in this section.
- 16 4. **Division of Tract**
17 The owner of a commercial tract may divide the tract into fragment lots provided that
18 such division is consistent with the approved commercial tract site plan and recorded
19 declarations, covenants, and restrictions applicable to the commercial tract. Any property
20 description used to divide an area of the commercial tract into a fragment lot shall not be
21 considered a lot or tract under the terms of this title or title 23, but shall be otherwise a
22 lawful lot or tract. Any fragment lot created under this section shall contain the minimum
23 area, width, and depth otherwise required for lots in the zoning district in which the
24 fragment lot is located.
- 25 F. **Right-of-Way Acquisition Plat**
- 26 1. **Generally**
27 A plat for a subdivision created by a government agency's acquisition of a street or trail
28 right-of-way is subject to approval under this section and is not subject to any other
29 approval procedure for plats under this title.
- 30 2. **Application Submittal**
31 Applications for a right-of-way acquisition plat shall contain the information specified in
32 the title 21 user's guide, and shall be submitted to the **platting officer** [DIRECTOR] on a
33 form provided by the department.
- 34 3. **Applicability of Requirements**
35 a. A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.
36 b. Survey requirements for a right-of-way acquisition plat shall be established by
37 agreement between the municipal surveyor and the government agency applying
38 for plat approval, or, if there is no such agreement, by the provisions of this title.
- 39 4. **Action**
- 40 a. **Platting Authority**
41 The **platting officer** [DIRECTOR] shall act as the platting authority unless the
42 government agency applying for plat approval requests a public hearing before
43 the platting board.
- 44 b. **Duration of Approval**
45 The preliminary approval of the right-of-way acquisition plat shall be for a period
46 of 60 months; provided, however, that the **platting officer** [DIRECTOR] may grant

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1 an extension of time for filing the final plat upon a finding that it is in the public
2 interest to do so.

3 c. **Appeals**
4 All decisions of the **platting officer** [DIRECTOR] under this section shall be final
5 unless appealed to the platting board within 15 days. An appeal under this
6 subsection shall be treated as an application for preliminary plat approval
7 pursuant to section 21.03.200C.

8 5. **Requirements for Final Plat**
9 Requirements for final right-of-way acquisition plats shall be established by agreement
10 between the director and the government agency applying for plat approval, or, if there is
11 no such agreement, by the provisions of this title.

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

13 1. **Purpose**
14 This section sets forth a process by which the platting board may modify or remove plat
15 notes from recorded plats.

16 2. **Initiation**
17 Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of
18 land encumbered by the plat note. If the applicable plat note encumbers more than one
19 lot, the owners of all encumbered lots shall be a party to the application.

20 3. **Application**
21 Applications for modifying or removing a plat note(s) shall contain the information
22 specified in the title 21 user's guide, and shall be submitted to the **platting officer**
23 [DIRECTOR] on a form provided by the department.

24 4. **Public Notice**
25 Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with section
26 21.03.020H.

27 5. **Departmental Review**
28 The department shall review the proposed modification or removal of a plat note(s) in
29 light of the approval criteria of subsection G.9. below and distribute to other reviewers as
30 deemed necessary. Based on the results of those reviews, the department shall provide
31 a report to the platting board.

32 6. **Action by the Platting Board**
33 The platting board shall hold a public hearing on the proposed application and act to
34 approve, approve with alterations, or deny the proposed modification or removal of a plat
35 note(s), based on the approval criteria of subsection G.9. below.

36 7. **Recordation**
37 Once approved by the platting board, a plat with modified or deleted plat notes shall be
38 re-recorded in accordance with the procedures of the district recorder's office.

39 8. **Appeal**
40 Decisions on modifying or removing a plat note(s) may be appealed to the board of
41 adjustment in accordance with subsection 21.03.050A.

42 9. **Approval Criteria**
43 Plat note modifications or deletions may be approved if the platting board finds that all of
44 the following approval criteria have been met:

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

Page 103 ANNOTATION

Administration Addition
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PZC Addition
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- b. Modification or removal of the plat note(s) will not have a negative impact on adjacent or nearby properties; and
- c. Despite modification or removal of the plat note(s), the plat continues to meet the approval criteria of subsection 21.03.200C.9.

21.03.210 TITLE 21 – TEXT AMENDMENTS

A. Purpose and Scope

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

B. Procedure

1. Initiation

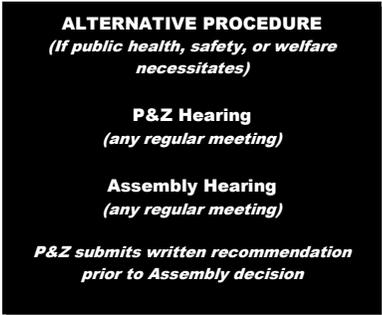
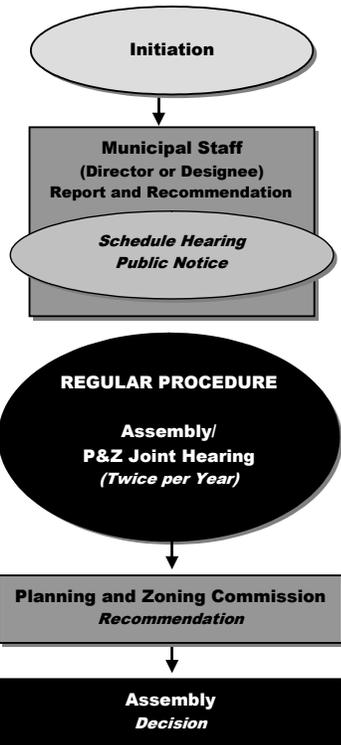
A petition for amendment to the text of this title may be initiated by any review or decision-making body.

2. Application Submittal

Proposals for text amendments shall be in ordinance form and shall be filed with the director.

3. Departmental Review

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



4. Review by Other Boards or Commissions

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

b. In addition, if any text amendments are proposed in chapter 21.08, *Subdivision Standards*, the platting board shall review such proposed amendments and

Amendments to Text of Title 21

Page 104 ANNOTATION

This amendment is to provide the public with adequate time to review a proposed code amendment before a public hearing.

This section addresses the inevitable conflicts and unintended consequences that will arise, despite the best effort of staff and all reviewers to test and imagine various circumstances, and that need to be fixed quickly. It allows conflicts, inconsistencies, and unintended consequences to be fixed by Assembly ordinance without PZC review during the first three years after the code is effective. Policy changes are still intended to go through the “normal” ordinance change review process--first PZC, then Assembly.

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1 forward a recommendation to the planning and zoning commission and the
2 assembly.

3 **5. Notice and Frequency of Amendments**

4 a. [WRITTEN AND PUBLISHED N]Notice [OF PUBLIC HEARINGS ON TEXT
5 AMENDMENTS] shall be provided in accordance with [PURSUANT TO THE
6 GENERAL NOTICE PROVISIONS OF] section 21.03.020H.

7 b. Title 21 text amendments to be considered by the planning and zoning
8 commission shall be available for public review at least 21 days in advance of the
9 public hearing.

10 c. Starting on three [TWO] years after the effective date, text amendments shall be
11 considered no more than two times per year. However, where the assembly
12 determines by a majority vote that the public health, safety, or welfare
13 necessitates, text amendments may be considered at any regularly scheduled
14 meeting of the assembly, provided that the assembly holds a public hearing on
15 the proposed amendment and the planning and zoning commission holds a
16 public hearing and provides a written report and recommendation on the
17 proposed amendment prior to the assembly's decision.

18 d. If, during the first three years after [effective date], the director determines that a
19 technical amendment to title 21 is needed to address conflicting provisions,
20 inconsistencies, or unintended consequences associated with the Title 21
21 Rewrite Project (2002-2012), the director may forward a corrective amendment to
22 the assembly, which may adopt the amendment without planning and zoning
23 commission review; provided, however, that the director shall notify the
24 commission at the time the proposed amendment is submitted to the assembly,
25 so that the commission can forward its opinion on the proposed change to the
26 assembly for consideration. All other amendments shall be processed through
27 the planning and zoning commission for review and recommendation to the
28 assembly.

29 **6. Planning and Zoning Commission Action**

30 a. As soon as possible after the public hearing, but no later than 60 days, the
31 planning and zoning commission shall make a recommendation to the assembly
32 to approve or deny the text amendment based on the approval criteria of
33 subsection C. below.

34 b. If the commission recommends approval of the amendment, the director shall
35 submit the draft ordinance to the assembly.

36 c. If no recommendation is made within 60 days, then the planning and zoning
37 commission may request an extension of time from the assembly. If no
38 recommendation is made and no extension is granted, then the assembly may
39 act on the proposed amendment without a recommendation from the planning
40 and zoning commission.

41 **7. Assembly Action**

42 After a public hearing and reviewing the reports and recommendations of the director and
43 the planning and zoning commission, the assembly shall vote to approve, approve with
44 amendments, or deny the proposed amendment, based on the approval criteria of
45 subsection C. below. The assembly also may refer the proposed amendment back to the
46 planning and zoning commission or to a committee of the assembly for further
47 consideration. Text amendments shall be approved in the form of ordinances.

Page 105 ANNOTATION

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1 **C. Approval Criteria**

2 Text amendments may be approved if the assembly finds that all of the following approval criteria
3 have been met:

- 4 1. The proposed amendment will promote the public health, safety, and general welfare;
- 5 2. The proposed amendment is consistent with the comprehensive plan and the stated
6 purposes of this title; and
- 7 3. The proposed amendment is necessary or desirable because of changing conditions,
8 new planning concepts, or other social or economic conditions.

9 **21.03.220 USE CLASSIFICATION REQUESTS**

10 **A. Purpose and Applicability**

- 11 1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*, and in
12 *section 21.09.050, Use Regulations (Girdwood)*, describe one or more uses having
13 similar characteristics, but do not list every use or activity that may fall within the
14 classification. This section shall be used to determine all questions or disputes whether a
15 specific use is deemed to be within a use classification permitted in a zoning district.
- 16 2. The provisions of this section shall not apply to permit any specific use that is expressly
17 prohibited in a zoning district.

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

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

20 1. **Application Submittal and Action**

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

28 2. **Appeals**

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

31 3. **Form of Determination**

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

34 **C. Standards for Review**

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

- 41 1. The primary activity of the establishment and its relationship to existing use categories
42 and use types. The primary activity may be the principal product or group of products
43 produced or distributed, or services rendered. It may be the share of production costs,

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

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

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

Page 107 ANNOTATION

Administration Addition

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E. Official Record of Use Classification Determinations

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

21.03.230 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS

A. Authority

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

B. Application Submittal

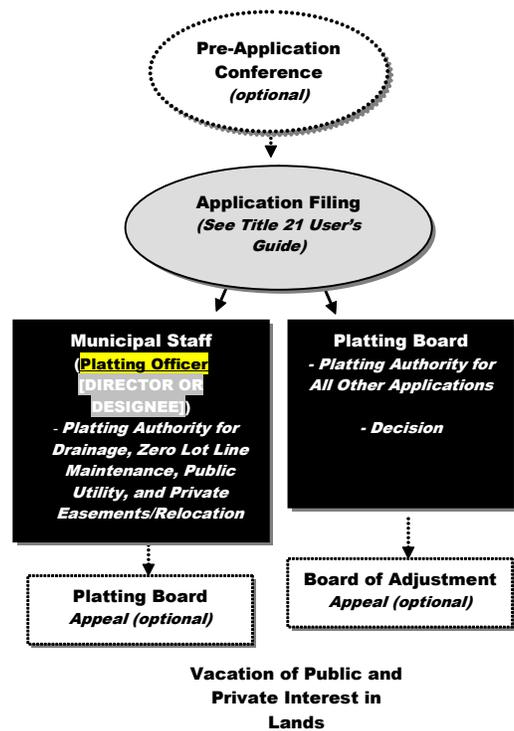
Applications for vacation requests shall contain the information specified in the title 21 user's guide, and shall be submitted to the **platting officer** [DIRECTOR] on a form provided by the department.

C. Decision-Making Responsibilities for Vacations

1. The **platting officer** [DIRECTOR] is the platting authority for applications to vacate the following platted interests:

- a. Drainage easements granted under section 21.08.050M.
- b. Zero lot line maintenance easements.
- c. Public utility easements.
- d. Private easements, but only upon the written concurrence of the beneficiaries.
- e. Relocation of any of the above-described interests.

2. The platting board is the platting authority for all other applications to vacate a dedicated 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. 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.

Page 108 ANNOTATION

This amendment and lines 21-23 on the following page are necessary to be consistent with changes that PZC recommended in Chapter 21.02, which was to transfer variance authority for telecommunications facilities and utility distributions facilities from PZC to ZBEA.

Administration Addition

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1 **F. Appeals**

2 Appeals of the **platting officer's** [DIRECTOR'S] decision on a vacation under his or her jurisdiction
3 shall be treated as an application for preliminary plat approval pursuant to section 21.03.200C.
4 Appeals of the platting board's decision on a vacation under its jurisdiction shall be to the board of
5 adjustment.

6 **G. Title to Vacated Area**

7 1. The title to the street or other public right-of-way vacated on a plat attaches to the lot or
8 lands bordering on the area in equal proportions, except that, if the area was originally
9 dedicated by different persons, original boundary lines shall be adhered to so that the
10 street area which lies on one side of the boundary line shall attach to the abutting
11 property on that side, and the street area which lies on the other side of the boundary line
12 shall attach to the property on that side. The portion of a vacated street that lies within
13 the limits of a platted addition attaches to the lots of the platted addition bordering on the
14 area. If a public square is vacated, the title to it vests in the municipality.

15 2. If the municipality acquired the street or other public area vacated for legal consideration
16 before the final act of vacation, the fair market value of the street or public area shall be
17 deposited with the municipality. Title transferred under this subsection shall be warranted
18 by the municipality in the same manner as it was received.

19 3. The provisions of paragraph G.1. of this section notwithstanding, the platting board may
20 determine that all or a portion of the area vacated should be devoted to another public
21 purpose and, if so, title to the area vacated and held for another public purpose does not
22 vest as provided in paragraph G.1. but remains in the municipality.

23 **21.03.240 VARIANCES**

24 **A. Purpose and Scope**

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

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

35 1. The platting authority shall be authorized to review and consider all requests for
36 variances to standards of the following sections:

37 a. Subsection 21.07.020C., *Steep Slope Development*;

38 b. Section 21.07.060, *Transportation, Connectivity, and Pedestrian Facilities*; and

39 c. Chapter 21.08, *Subdivision Standards*.

40 **THE PLANNING AND ZONING COMMISSION SHALL BE AUTHORIZED TO REVIEW**
41 **AND CONSIDER ALL REQUESTS FOR VARIANCES OF STANDARDS OF THE**
42 **FOLLOWING SECTIONS:**

43 **SUBSECTION 21.05.040K., TELECOMMUNICATION FACILITIES; AND**

44 **SECTION 21.07.050, UTILITY DISTRIBUTION FACILITIES.**

Page 109 ANNOTATION

Variance authority for the sections of the Girdwood chapter was not made explicit at the time of adoption of chapter 21.09. This amendment provides for variance authority for the Girdwood chapter.

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- 1 2. Requests for variances from the airport height zoning regulations set forth in section
 2 21.04.060C. shall be referred to the Federal Aviation Administration.
- 3 3. The urban design commission shall be authorized to review and consider all requests for
 4 variances to standards of the following sections:
- 5 a. District-specific standards of chapter 21.04, *Zoning Districts*;
- 6 b. Use-specific standards of chapter 21.05, *Use Regulations*;
- 7 c. Chapter 21.07, *Development and Design Standards*;
- 8 d. The following sections of chapter 21.09, *Girdwood Land Use Regulations*:
 9 21.09.040, *Zoning Districts*; 21.09.050, *Use Regulations*; 21.09.070, *Site*
 10 21.09.080, *Building Design Standards*;
- 11 e. Chapter 21.11, *Signs*, including the maximum sign area, the maximum sign
 12 height, the location of the sign, and the number of signs on the parcel. In
 13 evaluation the request for a variance to the maximum sign height, the urban
 14 design commission may consider whether there are special topographic
 15 circumstances that would result in a material impairment of visibility of the sign
 16 from the adjacent roadway which significantly diminishes the owner's or user's
 17 ability to continue to communicate adequately and effectively with the public
 18 through the use of the sign.
- 19 4. The zoning board of examiners and appeals shall be
 20 authorized to review and consider variance requests from:
- 21 a. Subsection 21.05.040K., *Telecommunication*
 22 *Facilities*;
- 23 b. Subsection 21.07.050, *Utility Distribution Facilities*;
- 24 c. Chapter 21.06, *Dimensional Standards and*
 25 *Measurements*; and
- 26 d. Section 21.09.060, *Dimensional*
 27 *Standards (Girdwood)*.
- 28 The zoning board may only grant variances from
 29 dimensional standards.
- 30 5. No variance may be granted from the definitions set forth
 31 in chapter 21.14.
- 32 **C. Application Submittal**
- 33 Applications for a variance shall contain the information specified
 34 in the title 21 user's guide, and shall be submitted to the director
 35 on a form provided by the department.
- 36 **D. Public Notice**
- 37 Notice [OF ALL PUBLIC HEARINGS] shall be provided in
 38 accordance with section 21.03.020H.
- 39 **E. Departmental Review**
- 40 The department shall review each proposed variance in light of the
 41 approval criteria of subsection G. below and distribute to other



Variances

Page 110 ANNOTATION

This amendment is proposed to recognize that sometimes variances are needed to accommodate persons with disabilities.

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1 reviewers as deemed necessary. Based on the results of those reviews, the department shall
2 provide a report to the decision-making body.

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

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

9 2. In considering the application, the decision-making body shall review the application
10 materials, the approval criteria of subsection G., and all testimony and evidence received
11 at the public hearing.

12 3. After conducting the public hearing, the decision-making body may: deny the application;
13 conduct an additional public hearing on the application; or grant the minimum required
14 variance. Any approval or denial of the request shall be by resolution, accompanied by
15 written findings of fact that the variance meets or does not meet each of the applicable
16 criteria set forth in subsection G., stating the reasons for such findings. A concurring vote
17 of a majority of the fully constituted membership of the entity, minus those excused by
18 conflicts of interest, shall be required to grant a variance.

19 4. Under no circumstances shall the decision-making body grant a variance to allow a use
20 not permitted in the zoning district containing the property for which the variance is
21 sought.

22 5. Under no circumstances shall the decision-making body grant a variance from any written
23 conditions attached by another decision-making body to the approval of a conditional
24 use, subdivision plat, [OR] site plan, **or rezone (special limitation).**

25 **G. Approval Criteria**

26 The application must state with particularity the relief sought and must specify the facts or
27 circumstances that are alleged to show that the application substantially meets the following
28 standards:

29 1. **Variances from the District-Specific Standards of Chapter 21.04, *Zoning Districts*,**
30 **the Use-Specific Standards of Chapter 21.05, *Use Regulations*, [AND] Chapter**
31 **21.07, *Development and Design Standards*, Section 21.09.040, Section 21.09.050,**
32 **Section 21.09.070, Section 21.09.080, and Chapter 21.11, *Signs***

33 a. The proposed alternative achieves the intent of the subject design standard to
34 the same or better degree than the subject standard;

35 b. The proposed alternative achieves the goals and policies of the comprehensive
36 plan to the same or better degree than the subject standard;

37 c. The proposed alternative results in benefits to the community that are equivalent
38 to or better than compliance with the subject standard;

39 d. The variance, if granted, will not adversely affect the use of adjacent property as
40 permitted under this code;

41 e. The variance, if granted, does not change the character of the zoning district
42 where the property is located, is in keeping with the intent of the code, and does
43 not permit a use not otherwise permitted in the district in which the property lies;

44 f. **Persons with disabilities are provided with access as required by the Americans**
45 **with Disabilities Act (ADA) and reasonable accommodation;** and

Page 111 ANNOTATION

This amendment is proposed to recognize that sometimes variances are needed to accommodate persons with disabilities.

Administration Addition
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- 1 g. The variance, if granted, does not adversely affect the health, safety, and welfare
2 of the people of the municipality.
- 3 2. **Variances from Chapter 21.06, *Dimensional Standards and Measurements* and**
4 **from Section 21.09.060 (Girdwood)**
- 5 a. There exist exceptional or extraordinary physical circumstances of the subject
6 property including, but not limited to, streams, wetlands, or slope, and those
7 circumstances are not applicable to other land in the same zoning district;
- 8 b. Because of these physical circumstances, the strict application of the code
9 creates an exceptional or undue hardship upon the property owner, and would
10 deprive the applicant of rights commonly enjoyed by other properties in the same
11 district under the terms of the zoning ordinance;
- 12 c. The hardship is not self-imposed, special conditions and circumstances do not
13 result from the actions of the applicant, and such conditions and circumstances
14 do not merely constitute inconvenience;
- 15 d. The variance, if granted, will not adversely affect the use of adjacent property as
16 permitted under this code;
- 17 e. The variance, if granted, does not change the character of the zoning district
18 where the property is located, is in keeping with the intent of the code, and does
19 not permit a use not otherwise permitted in the district in which the property lies;
- 20 f. The variance, if granted, does not adversely affect the health, safety, and welfare
21 of the people of the municipality;
- 22 g. Persons with disabilities are provided with access as required by the Americans
23 with Disabilities Act (ADA) and reasonable accommodation; and
- 24 h. The variance granted is the minimum variance that will make possible a
25 reasonable use of the land.
- 26 3. **Variances from Chapter 21.08, *Subdivision Standards***
- 27 a. There are special circumstances or conditions affecting the property such that
28 the strict application of the provisions of the subdivision regulations would clearly
29 be impractical, unreasonable, or undesirable to the general public;
- 30 b. The granting of the specific variance will not be detrimental to the public welfare
31 or injurious to other property in the area in which such property is situated;
- 32 c. Such variance will not have the effect of nullifying the intent and purpose of the
33 subdivision regulations or the comprehensive plan of the municipality; and
- 34 d. Undue hardship would result from strict compliance with specific provisions or
35 requirements of the subdivision regulations. The applicant may supplement the
36 form with supporting documents.
- 37 4. **Variances from Airport Height Zoning Regulations**
- 38 The Federal Aviation Administration shall complete an airspace determination that
39 concludes that the proposed variance would not create a hazard.

40 **H. Lapse of Approval**

41 Any variance granted shall become null and void if:

- 42 1. The variance is not exercised within one year of the date it is granted or as otherwise
43 conditioned, or

Page 112 ANNOTATION

Staff notices that there were multiple types of administrative variances that had been written into specific sections of code. Staff proposes to standardize the process for granting these different types of administrative variances.

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

3 **I. Appeals**

- 4 1. An appeal from a decision of the platting board or the urban design commission shall be
5 brought to the board of adjustment in accordance with sections 21.03.050A.
- 6 2. An appeal from a decision of the planning and zoning commission or the zoning board of
7 examiners and appeals shall be brought in accordance with section 21.03.050C.

8 **J. Administrative Variances**

9 1. **Process**

10 a. **Application Submittal**
11 Applications for an administrative variance shall contain the information specified
12 in the title 21 user's guide, and shall be submitted to the director on a form
13 provided by the department.

14 b. **Notice**
15 Notice shall be provided in accordance with section 21.03.020H.

16 c. **Time For Approval**
17 The director shall make a determination on an application within 45 [60] days of
18 submittal, and shall provide written findings of the decision. Notification of
19 approval or denial shall be posted electronically on the department's municipal
20 web site and furnished in writing to the applicant by mail or delivered by
21 electronic means.

22 d. **Appeals**
23 If the request for an administrative variance is denied, the applicant may apply for
24 a public hearing variance before the urban design commission under this section
25 21.03.240. Additionally, denial of requests for administrative variance from
26 occupancy limits for assisted living facilities may be appealed by any person with
27 standing to request reasonable accommodation under the Fair Housing Act, 42
28 U.S.C. § 3604(f).

29 2. **F[F]rom Occupancy Limits For Assisted Living Facilities**

30 a. **Intent**
31 The intent of this section is to provide a procedure to allow persons with
32 disabilities and assisted living providers to request reasonable accommodation
33 from the department when access to decent safe, accessible and affordable
34 housing with assisted living would not be available absent a reasonable
35 accommodation. This administrative variance procedure is available to address
36 application for minor variance in dimensional and setback requirements to
37 accommodate special needs of persons with disabilities and to address
38 application for variance in occupancy limits of no more than three persons.

39 **[APPLICATION]**
40 APPLICATION FOR MINOR VARIANCE IN DIMENSIONAL AND SETBACK
41 REQUIREMENTS TO ACCOMMODATE SPECIAL NEEDS OF PERSONS WITH
42 DISABILITIES AND APPLICATION FOR VARIANCE IN OCCUPANCY LIMITS
43 OF NO MORE THAN THREE PERSONS SHALL BE MADE TO THE DIRECTOR
44 ON A FORM PROVIDED BY THE DEPARTMENT, SHALL BE EXECUTED BY
45 OR ON BEHALF OF THE PERSON WITH DISABILITIES SEEKING THE
46 REASONABLE ACCOMMODATION, OR THE OWNER OF THE REAL
47 PROPERTY, OR THE LESSEE WITH PROOF OF THE OWNER'S CONSENT.

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Administration Addition
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1 AND SHALL BE COMPLETE IN ALL RESPECTS PRIOR TO REVIEW UNDER
2 THIS SECTION.]

3 **[PUBLIC NOTICE OF APPLICATION FOR VARIANCE IN OCCUPANCY**
4 **LIMITS**

5 NOTICE SHALL BE PROVIDED IN ACCORDANCE WITH SECTION
6 21.03.020H.]

7 **[TIME FOR APPROVAL**

8 THE DEPARTMENT SHALL MAKE A DETERMINATION ON AN APPLICATION
9 WITHIN 60 DAYS OF SUBMITTAL. NOTIFICATION OF APPROVAL OR
10 DENIAL SHALL BE POSTED ELECTRONICALLY ON THE DEPARTMENT'S
11 MUNICIPAL WEB SITE AND FURNISHED IN WRITING TO THE APPLICANT
12 BY MAIL OR DELIVERED BY ELECTRONIC MEANS.]

13 **b. Standards**

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

- 19 i. For administrative variance applications to increase occupancy limits in
20 R-1, R-1A, R-2A and R-2D districts, the extent to which the
21 accommodation and the assisted living provider seek to protect and
22 preserve the primarily residential character of the district. Factors may
23 include traffic patterns, on-street parking patterns, the control exercised
24 by the assisted living provider to mitigate environmental disturbance
25 associated with ingress and egress of facility staff workers at shift
26 change, and any other measures taken by the assisted living provider to
27 ensure the commercial aspects of the facility do not detract from its
28 residential purpose and the primarily residential character of the district.
29 An example of a commercial aspect is if residential trash containers were
30 standard in the neighborhood and the assisted living provider used one
31 or more dumpsters due to volume. An example of a mitigation measure
32 for this aspect the assisted living provider might take is to screen the
33 dumpster.
- 34 ii. For administrative variance applications to increase occupancy limits,
35 economic hardship on the intended occupants if the variance is denied.
36 Cost and availability of other housing alternatives may be addressed in
37 preparation and review of the application.
- 38 iii. Whether the requested accommodation and the assisted living provider
39 are implementing accident prevention and safety measures specific to
40 the needs of the residents, including but not limited to safety measures in
41 state law and regulation, and in municipal fire code adopted under title
42 23.
- 43 iv. Whether the accommodation requested is advancing housing
44 opportunities for disabled individuals in a residential community without
45 jeopardizing residential aspects of the neighborhood with commercial
46 aspects of operation.
- 47 v. For administrative variance applications to increase occupancy limits,
48 whether the proposed size of the facility is necessary for the facility's
49 financial viability.

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- 1 vi. External characteristics and impacts of the proposed facility, including
2 without limitation appearance, projected contribution to traffic volumes
3 and on-street parking within the neighborhood, available street lighting
4 and sidewalks.
- 5 vii. Quantifiable risks to the health, safety, and quality of life of area
6 residents and users.
- 7 viii. Administrative and economic burden on the municipality, in either
8 approval or denial of the variance.
- 9 ix. Other factors deemed relevant to the applicant or the department in
10 review of the application.

- 11 c. **Conditions**
12 In approving a variance, the department may impose reasonable conditions
13 designed to address the standards in subsection J.5. or mitigate impacts created
14 by the variance.

15 **[APPEAL**
16 ALL DECISIONS OF THE DEPARTMENT UNDER THIS SECTION SHALL BE
17 FINAL UNLESS AN APPEAL IS FILED IN A TIMELY MANNER. APPEALS OF
18 THE DECISION TO APPROVE OR DENY A VARIANCE UNDER THIS
19 SECTION SHALL BE TO THE ZONING BOARD OF EXAMINERS AND
20 APPEALS, PURSUANT TO THE PROVISIONS OF SUBSECTION 21.03.050B.,
21 EXCEPT AN APPEAL MAY BE BROUGHT BY ANY PERSON WITH STANDING
22 TO REQUEST REASONABLE ACCOMMODATION UNDER THE FAIR
23 HOUSING ACT, 42 U.S.C. § 3604(F).]

- 24 3. **[ADMINISTRATIVE VARIANCES F]For Signs**
25 The director may grant an administrative variance from the height restrictions and/or
26 setback requirements for freestanding signs, provided:
- 27 a. Special topographic circumstances exist that would result in a material
28 impairment of visibility of a conforming sign from the adjacent roadway;
- 29 b. There is no reasonable conforming alternative to the variance;
- 30 c. Any setback variance does not result in an encroachment into a public right-of-
31 way; and
- 32 d. A fee has been received.

33 **[THE DIRECTOR SHALL MAKE WRITTEN FINDINGS AND CONCLUSIONS**
34 **FOR EACH VARIANCE REQUEST.**

35 **IF THE REQUEST FOR AN ADMINISTRATIVE VARIANCE IS DENIED, THE**
36 **APPLICANT MAY APPLY FOR A PUBLIC HEARING VARIANCE UNDER THIS**
37 **SECTION 21.03.240.]**

- 38 4. **For Large Domestic Animal Facility**
39 Application for administrative approval of deviation in minimum lot size of 40,000 square
40 feet may be made to the department. The director may approve deviation of site area
41 square footage, not to exceed 10 percent, upon consultation with the department of
42 health and human services.

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1 5. **For Refuse Receptacle Location and Screening**

2 a. The director shall seek and document comments from the applicable refuse
3 service providers

4 b. Approval criteria for this administrative variance is listed in subsection
5 21.07.080G.2.i.

6 **21.03.250 VERIFICATION OF NONCONFORMING STATUS**

7 **A. Process**

8 Owners of lots, uses, or structures that may not conform to the requirements of this title may
9 request a verification of nonconforming status by filing an application with the director in
10 accordance with this section. Owners of signs that do not conform to the requirements of this title
11 shall comply with section 21.12.070, *Nonconforming Signs*.

12 1. The application shall be accompanied by documentation that establishes the approximate
13 date that the lot, use, or structure was established; proof that the lot, use, or structure
14 was lawfully established at the time it became nonconforming; and proof that the use has
15 not been discontinued or abandoned, except as provided in subsection B. below. The
16 director shall require additional information if deemed necessary to permit an accurate
17 determination.

18 2. Such verifications shall run with the land, and their status shall not be affected by
19 changes of tenancy, ownership, or management.

20 3. A verification of nonconforming status shall not be required for continued daily operation
21 or maintenance of a nonconforming lot, use, or structure.

22 **B. Exceptions**

23 Notwithstanding subsection A. above:

24 1. Where the contention for nonconforming use is raised in a court in any action brought to
25 enforce this title before an application for determination has been filed under this section,
26 this section shall not be applicable and the court shall have jurisdiction to determine the
27 issue.

28 2. Nothing in this section shall be construed to deprive the director the right to make a
29 decision regarding a claimed nonconforming use or nonconforming status as incident to a
30 valid pending application for a land use permit.

31 **C. Appeals**

32 Denial of the director's decision on nonconforming status may be appealed to the zoning board of
33 examiners and appeals pursuant to subsection 21.03.050B.