CHAPTER 3 – REVIEW AND APPROVAL PROCEDURES

GENERAL OVERVIEW

- Community involvement desired.
  - Community input is valuable.
  - Do not allow the director to waive the requirement for community meeting.
  - If the community council is not used, applicant should explain why.

- Appeal of director's decision.
  - If not otherwise provided in the code, the decision of the director may be appealed to the applicable board or commission, based on that board or commission's review authority.

- Cluster housing.
  - Cluster housing not included in provisionally adopted code.
  - Adding cluster housing as a conditional use.

- Improvements associated with land use permits.
  - Concern that the relationship between the dedication or improvement that is required and the structure that is subject of the building or land use permit be direct.
  - There should be a rational nexus between what is required in the permitted development.
  - The cost of the dedication or improvement should be proportional to the impact.
  - The cost of constructing the improvement should not exceed 3% of the estimated cost of the proposed development under the land use permit.

- Rezoning should be initiated by the Assembly, the Planning and Zoning Commission or the administration (not any director of any municipal department).

- Street and trail review.
  - Trail review should be performed by the Urban Design Commission.
  - Street review should be performed by the Planning and Zoning Commission.

- Amendments to provisionally adopted code.
  - Needs to be flexibility to address amendments that will arise following the adoption of Title 21.
  - The two-year timeframe proposed should be expanded to three years.
  - Amendments to address conflicting provisions, inconsistencies, or unintended consequences shall be allowed to be forwarded directly to the Assembly without Planning and Zoning Commission review; however, Planning and Zoning Commission should be given a minimum of ten days' notice of the proposed amendment so that it can forward its opinion to the Assembly for consideration.

PZC'S PROPOSED AMENDMENTS TO CHAPTER 3: REVIEW AND APPROVAL PROCEDURES

Number	Section	Amendment	Comments
1	21.03.020 C.2.a.	Amend the first sentence to provide as follows: "The applicant shall hold a community meeting for any of the following types of applications: i …"	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.
2	21.03.020 C.2.b.	Delete this paragraph providing for a waiver.	See above.
3	21.03.020 C.2.c.	Amend this section which was added by the administration's amendments to be re-lettered as b. and add the following after the first sentence: "If an applicant chooses not to use the community council for the community meeting, the applicant shall provide a written explanation to the director outlining the reasons for this decision. This explanation shall be available to the appropriate Board or Commission at the time of authorization review."	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.
4	21.03.020 C.6.b.	Amend to provide as follows: "Content and dates of mailing"	Provides clarification and certainty as to what must be provided.
5	21.03. 050 C	Add a new section C and re-letter the existing section C as D. The	The director is given

		new section C shall be entitled "Appeal of Director's Decision" and shall provide as follows: If the right to appeal the director's decision is not otherwise provided in this code, the decision of the director may be appealed to the board or commission that has decision making and/or review authority over the type of issue being appealed as set forth in Table 21.02-1.	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.
6	21.03.080	Add a new subsection B which provides as follows (and renumber subsequent sections): B. Applicability Land uses requiring conditional use review are identified in section 21.05.010, *Table of Allowed Uses*, section 21.05.070 C, *Table of Allowed Accessory Uses*, and subsection 21.09.050A., *Table of Allowed Uses (Girdwood*). This section shall not apply to the interior remodeling, renovation, or repair to interior portions of structures that are subject to site plan review under this title except those interior areas that affect conformity to the approval criteria for the conditional use review or the development	Provides clarification regarding remodeling.
7	21.03.080 F.3	Under subsection 21.03.080 F.3. Allowed Uses, add a new b, and move the existing b. to c. The new b. to read as follows: "b. For a BIP-PUD in the I-1 district, in addition to the uses allowed in the I-1 district, a developer may propose to include	This allows uses to continue in the I-1 industrial parks as they are allowed today.

		the following uses in a BIP-PUD: Health Services, Instructional Services, Child Care Centers, Religious Assembly, and offices of government agencies if the location of the latter is consistent with 21.05.040 C 4.b.ii."	
8	21.03.080 F.5	Under section 21.03.080 F.5. Minimum Standards, add a new subsection h, and re-letter the remaining subsections accordingly. The new subsection h. will read as follows: "h. Individual tenancies for business and professional offices, instructional services and health services shall not exceed 5,000 square feet."	This puts a limitation on size.
9	21.03.080 F.5	Under section 21.03.080 F.5. Minimum Standards, add new subsections i. and j. and re-letter the remaining subsections accordingly. The new subsections will read as follows: "i. Individual tenancies for religious assembly and offices of a government agency shall not exceed 15,000 square feet." j. Individual tenancies for retail sale uses shall not exceed 20,000 square feet.	This puts a limitation on size
10	21.03.080 F.5.j.iii	Under a re-lettered subsection 21.03.080 F.5.j.iii., add the following underlined language: "At no time shall the aggregate of the required parking of all uses in the BIP-PUD, <u>which may include parking reductions and alternatives noted in section 21.07.090 F.</u>, exceed the total number of parking spaces provided."	Reductions in parking may be considered.
11	21.03.080	Add a new section H (and make the existing H now I) which new section is entitled "Conditional Use for Cluster Housing" and is	Cluster housing was not included in the

		attached hereto. (in the redlined/bluelined draft)	provisionally adopted code. It is being added using the language in existing code. The existing provisions addressing cluster housing will need to be assimilated into the provisionally adopted code.
12	21.03.100 E.3.b	At the end of the first sentence, add the following: "and in no event shall the estimated cost of constructing the improvement exceed 3 percent of the estimated cost of the proposed development under the land use permit."	The relationship between the dedication or improvement that is required and the structure that is the subject of the building or land use permit must be direct. There must be a rational nexus between what is required and the permitted development. The cost of the dedication or improvement should be proportional to the impact. There should be a limit on the costs.
13	21.03.160 B.3	Delete reference to NMU, CMU and RMU	No longer applicable.
14	21.03.160.D.1.a.	Amend to provide as follows: "A rezoning may be initiated by the assembly, the planning and zoning commission or by the	There are multiple directors of municipal

		Administration.	departments. They should not each have authority to initiate a rezone. The amendment reflects current practice.
15	21.03.160 E.	Delete paragraphs 3, 4, 8, 9, 10 and 11. Amend existing paragraph 2 to provide as follows: "The rezoning complies with and conforms to applicable portions of the comprehensive plan, including the land use plan map, the zoning district purpose in the requested zone, and the purposes of this title." A new paragraph should be added which provides as follows: "The proposed rezoning is generally compatible with, in size and scale, adjacent zoning and development and particularly those uses related to institutional, recreational, public and residential uses."	There are numerous new criteria for rezoning, and as written the criteria are redundant and/or confusing. The amendment clarifies the criteria more succinctly.
16	21.03.160 E.	Add a new paragraph which provides as follows: "A rezone shall not result in split lot zoning."	This should not be a criteria for rezoning but rather a mandatory provision.
17	21.03.180 B.1 and 21.03.180 C.1.	Amend 21.03.180 B.1. and 21.03.180 C.1. to add a new subsection "a" in each which reads: "This section shall not apply to the interior remodeling, renovation, or repair to interior portions of structures that are subject to site plan review under this title except for those interior areas that affect conformity to development and design requirements of this title."	Provides clarification regarding remoldeling.
18	21.03.190 B.1	Delete "and urban design commission" in paragraph 1.	The next several amendments reflect the responsibility for trail

			review going to UDC and the responsibility for street review going to PZC.
19	21.03.190 B.1c	Change “urban design commission” to planning and zoning commission”	
20	21.03.190 B.2.f	At the end of the first sentence, delete “or urban design commission”. At the start of the second sentence delete “The review body” and insert “The planning and zoning commission…”	
21	21.03.190 B.5a and b	Change “urban design commission” to planning and zoning commission”	
22	21.03.190 B.5.d.	Move to 21.03.190 C.4 and delete “The decision may be appealed to the board of adjustment pursuant to section 21.03.050A.	
23	21.03.190 C.1	Change “planning and zoning commission” to “urban design commission”.	
24	21.03.190 C.2	Add a new paragraph iv which reads as follows:”Trails internal to parks and schools shall be reviewed by the appropriate park board and/or the school district.”	
25	21.03.190 C.3.e.	Change title of section from “Planning and Zoning Commission Action” to “Urban Design Commission Action”.	
26	21.03.190 C	Add a new section 5 which is entitled “Trails as part of Subdivision Development or Conditional Use” and provides as follows: “Only when a trail is to be constructed concurrently with a subdivision development or conditional use shall the trail review requirement of this section be the responsibility of the planning and zoning commission.”	
27	21.03.200 E1	Delete NMU, CMU, RMU, MT-1, MT-2.	No longer applicable.
28	21.03.210 B 5.c	Change “two years” to “three years”.	
29	21.03.210 B.5.d.	Amend this section which was added by the administration’s amendments to provide as follows: “If, during the first three years	The two year time frame is expanded to

		after the effective date**,** the assembly, a board or commission or the director determines that an amendment to title 21 is needed to address conflicting provisions. inconsistencies, or unintended consequences associated with the Title 21 Rewrite Project (2002-2012), the amendment may be adopted without planning and zoning commission review; provided, however, that the planning and zoning commission will be given a minimum of ten days' notice of the proposed amendment so that the commission can forward its opinion on the proposed change to the Assembly for consideration.	three years to allow flexibility to address amendments that will arise. The Planning and Zoning Commission should be given the opportunity to provide input to the Assembly regarding any amendment because of its familiarity with title 21. Additionally persons or entities other than the director should be able to initiate this type of amendment.
30	21.03.21.03.250 B.2	Add "nonconforming" before the word "status"	Provides clarification

EXCEPT FOR THE CHANGES PROPOSED HEREIN, THE PLANNING AND ZOING COMMISSION RECOMMENDS APPROVAL OF THE PROVISIONALLY ADOPTED CHAPTER 3 WITH THE 2011 ADMINISTRATION PROPOSED AMENDMENTS AND THE 2010 PZC PROPOSED AMENDMENTS. ATTACHED HERETO IS A REDLINED/BLUELINED VERSION OF CHAPTER 3 WHICH REFLECTS THE ADMINISTRATION AMENDMENTS IN RED INK AND THE PZC'S AMENDMENTS IN BLUE INK.

	Section	Amendment	Purpose/Origin/Notes	
2.	**21.02.030B.***	*Add new subsections B.3. and B.4. as follows; re-number remaining subsections:* **3.** Draft design study report for new construction and reconstruction of streets of collector class or greater in the *Official Streets and Highways Plan;* **4.** Applicable trail projects identified in subsection 21.03.190C., *Trail Review;*	For consistency and completeness of the list of powers and duties.	DON'T ACCEPT—REVISED BY AMENDMENT 2
3.	**21.02.040A.***	*Add new subsection A.3. as follows; re-number remaining subsections:* **3.** Landscaping and streetscape and pedestrian facilities for streets of collector classification or greater in the *Official Streets and Highways Plan* (21.03.190);	For consistency and completeness of the list of powers and duties.	DON'T ACCEPT—SEE AMENDMENT 5
4.	**21.03.020C.2.**	*Add new C.2.c. as follows:* c. The applicant is encouraged to use the community council(s) meeting of the project area as the community meeting when the community council(s) meeting is available. If the community council(s) meeting for the project area is not scheduled in a timely manner, the applicant shall organize a community meeting. If the project area spans more than one community council and the applicant chooses to attend community council meetings, the applicant shall attend the community council meetings of all applicable community councils.	At the Mayor's direction, to emphasize the role of community councils as the main option for public input.	ACCEPT IN PART BUT REVISED BY AMENDMENT 3
5.	**21.03.020E.3.**	Applications shall be accompanied by the fee amount established by the assembly and listed in the user's guide. Fees are not subject to waivers except as specifically allowed by this title.	Fee waivers are allowed for a short board situation, so this amendment is needed for consistency.	ACCEPT
6.	**21.03.020H.2.** **Table 21.03-1**	*On the row for Street and Trail Review, add checks for "Published" and "Community Council" notice.*	To have appropriate public process, and to be consistent with current process (negotiated with the state).	ACCEPT
7.	**21.03.070C.1.b.**	**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.	To implement existing policy and ensure enough public review time for substantive amendments to the comprehensive plan.	ACCEPT
8.	**21.03.080F.***	*Add new subsection F. with the following content for business/industrial park as a planned unit development conditional use; re-letter remaining subsections.*	This amendment addresses public comment by accommodating existing business/industrial parks and preventing	ACCEPT BUT REVISED PER AMENDMENTS 7-10

Section	Amendment	Purpose/Origin/Notes
	F. Conditional Use for a Business-Industrial Park Planned Unit Development **1. Intent and Approval** A business-industrial park planned unit development (BIP-PUD) is intended to provide comprehensively planned commercial-industrial developments that are compatible with surrounding areas. BIP-PUD developments should have integrated, campus-style site plans designed to accommodate a variety of public/institutional, commercial, and industrial uses. High standards for architecture, landscaping, and site planning are encouraged. The planning and zoning commission shall evaluate the proposed planned unit development in accordance with the conditional use approval criteria at C. above. **2. Zoning District** A BIP-PUD is allowed only in the B-3 and I-1 districts. Business-industrial parks existing on [effective date] in other zoning districts shall be considered conforming in those districts. **3. Allowed Uses** **a.** For a BIP-PUD in the B-3 district, in addition to the uses allowed in the B-3 district, a developer may propose to include the following industrial uses in a BIP-PUD: General Industrial Service; Governmental Service; Manufacturing, Light; Warehouse; Wholesale Establishment. **b.** For initial uses proposed in the BIP-PUD that require a conditional use approval, the conditional use application(s) may be combined with the BIP-PUD conditional use and treated as one application and approval process. **4. Development Agreement** The developer shall enter into a development agreement with the project management and engineering department, using the provisions established in subsection 21.03.100E., *Improvements Associated with Land Use Permits.* **5. Minimum Standards** All BIP-PUDs shall meet the following minimum standards, in addition to the applicable standards of this title. The planning and zoning commission may apply additional standards as it may deem necessary to meet the approval criteria. **a.** The minimum site area for a BIP-PUD is seven acres. **b.** In keeping with a campus-style site plan, the number of access points to the BIP-PUD shall be limited to only what is necessary, as determined by the traffic engineer. **c.** Pedestrian walkways shall be provided to streets abutting the BIP-PUD. All transit stops abutting a	nonconformities.

	Section	Amendment	Purpose/Origin/Notes	
		BIP-PUD shall be connected to the internal street/sidewalk system by a pedestrian walkway. Abutting streets without any transit stops shall have at least one pedestrian walkway connection with the BIP-PUD. **d.** L3 buffer landscaping shall be provided along the exterior lot lines of the BIP-PUD. **e.** A BIP-PUD shall have a defined internal street system, which shall have pedestrian facilities and landscaping in accordance with the provisions of this title. Streets shall allow vehicles to travel into and within the development. Driveways shall access parking areas. **f.** Except for stand-alone restaurants located along an outside edge of a BIP-PUD, all buildings shall have a common architectural character utilizing similar materials. The standards of 21.07.130 shall not apply. **g.** Maximum individual building footprint shall be 30,000 square feet. **h.** The uses in the entire BIP-PUD may aggregate their parking as long as the following standards are met: **i.** Required parking for each use shall be located no farther than 800 feet from the primary entrance of the use; **ii.** Relatively direct pedestrian pathways shall be available from required parking to each use; **iii.** At no time shall the aggregate of the required parking of all uses in the BIP-PUD exceed the total number of parking spaces provided. **i.** Loading areas and refuse collection areas shall be internal to the site and not located between any building and any BIP-PUD exterior lot line. **j.** The maximum floor area devoted to retail sales uses shall not exceed 35 percent of the total gross building area of the entire development. **k.** Outdoor storage and display is prohibited.		
9.	**21.03.080F.2 .c.iii.***	Level 3 buffer [LEVEL 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	This amendment was first proposed for public review in 2010 because it was	ACCEPT

	Section	Amendment	Purpose/Origin/Notes	
		Plan.	recognized that a narrower landscaping buffer should be adequate.	
10.	**21.03.100E. (various subsections)**	**E. Improvements Associated with Land Use Permits** **1. Improvements Required** The issuance of a land use permit under this section for the construction of a residential, commercial, or industrial structure on a lot, shall be subject to the permit applicant providing the easements, dedications, and improvements required for a subdivision in the same improvement area under chapter 21.08, *Subdivision Standards.* In applying the provisions of chapter 21.08, *Subdivision Standards,* under this section, the term "lot" shall be substituted for the term "subdivision," the term "permit applicant" shall be substituted for the term "subdivider," and the term "building official [MUNICIPAL ENGINEER]" shall be substituted for the term "platting authority." **2. Exceptions** The requirements in subsection E.1. above shall not apply to a land use permit to the extent that: **a.** All construction associated with a single dwelling unit is located on a single lot, tract, or parcel, regardless of zoning district; **b.** The traffic engineer determines that a street dedication or improvement is not required for traffic circulation; **c.** A dedication or improvement has been provided to the applicable standard of [IN] chapter 21.08, *Subdivision Standards*; **d.** A dedication or improvement will be provided under a subdivision agreement that has been entered into under section 21.08.060, *Subdivision Agreements*, or under an established assessment district; **e.** The municipality has already appropriated funds to construct an improvement; or **f.** The permit is for repairs, maintenance, emergencies, electrical, mechanical, or plumbing. **3. Standards for Requiring Dedications and Improvements** Where chapter 21.08, *Subdivision Standards,* grants discretion to determine whether a dedication or improvement will be required, or to determine the design standards for a dedication or improvement, the building official [MUNICIPAL ENGINEER] shall determine the requirement or standard that applies to a land use permit under this section by applying the following standards:	Corrects decision-making authority that changed with the 2010 reorganization of the Permit Center departments, and clarifies when this can be applied, at the Mayor's direction.	**ACCEPT**

Section	Amendment	Purpose/Origin/Notes
	a. The dedication or improvement shall be reasonably related to and directly correlated to the [ANTICIPATED IMPACT ON PUBLIC FACILITIES AND ADJACENT AREAS THAT WILL RESULT FROM THE USE AND] occupancy of the structure that is the subject of the building or land use permit. Any required public use easement shall be removed when calculating density or lot coverage per the applicable zoning district. The building official [MUNICIPAL ENGINEER] may require the permit applicant to provide information or analyses to determine impacts as set out in the comprehensive plan's policies for transportation, transportation design and maintenance, and water resources on public facilities and adjacent areas, including without limitation the following: ...	
	b. The estimated cost of constructing the improvement shall be reasonable when compared to the estimated cost of the proposed development under the land use permit. The determination of reasonableness shall be based on cost estimates for the improvement and the proposed development that the permit applicant or applicant's agent submits under penalty of perjury. If the building official [MUNICIPAL ENGINEER] determines that the estimated cost to the applicant to complete all the improvements required by this section is unreasonable in relation to the estimated cost of the proposed development, the building official [MUNICIPAL ENGINEER] may reduce or eliminate required improvements as necessary to make the relationship between such costs reasonable.	
	c. The building official [MUNICIPAL ENGINEER] shall consider the potential development of all adjacent parcels, lots, or tracts under common ownership, in addition to the lot, parcel, or tract that is the subject of the permit application, and the impacts associated therewith, in applying the standards in this subsection.	
	d. The building official [MUNICIPAL ENGINEER] may approve adjustments to the improvement requirements under this section to the extent that compliance with the standards would result in an adverse impact on natural features such as wetlands, steep slopes, or existing mature vegetation; existing development; or public safety.	
	4. Phasing of Installation Except as provided in this section, all required improvements shall be constructed and accepted by the municipality before any certificate of zoning compliance is issued for the permitted construction. If the building official [MUNICIPAL ENGINEER] determines that it is not reasonable to require compliance with the preceding sentence, no permit may be issued until the applicant enters into an agreement for construction of the required improvements, with performance guarantees, in the form required for subdivision improvements under section 21.08.050, *Improvements*. ...	

	Section	Amendment	Purpose/Origin/Notes	
		9. Appeals of Improvement Standards A permit applicant may appeal a decision of the building official [MUNICIPAL ENGINEER] concerning required improvements under this section to the platting board by filing a written notice of appeal with the secretary of the platting board not later than 10 days after receipt of written notice of the decision. The appeal shall be placed on the agenda of the next regularly scheduled platting board meeting that occurs not less than 60 days after the filing of the appeal. The platting board shall hear the appeal.		
11.	**21.03.110D.6.**	**a.** Notice [OF ALL PUBLIC HEARINGS] shall be provided in accordance with section 21.03.020H. **b.** Draft institutional master plans shall be available for public review at least 21 days in advance of the planning and zoning commission's public hearing.	To implement existing policy and ensure enough public review time for institutional master plans.	ACCEPT
12.	**21.03.130E.3.**	[WHEN THE] The department [IS NOT THE SPONSOR OF A PLAN, IT] shall review the plan during the 120 day review period, and prepare a staff report and recommendation for the commission.	To clarify that the planning department does not sponsor plans. This section on Neighborhood or District Plans is for situations where non-municipal entities wish to develop neighborhood or district plans.	ACCEPT
13.	**21.03.160B.3.**	**3.** A rezoning into the B-1A, NMU, CMU, or RMU districts.	At the Mayor's direction, this amendment facilitates rezoning into mixed-use districts for lots that don't meet the minimum size threshold. The change will allow for implementation of the mixed-use districts by individual property owners within existing commercial centers.	DON'T ACCEPT SEE AMENDMENT 8
14.	**21.03.160H.2.**	**2. Minimum Area Requirements** a. No overlay district zoning map amendment shall be considered or approved that applies an overlay district to an area less than 1.75 acres, excluding rights-of-way, except for an amendment extending the boundaries of an existing overlay district. b. Overlay districts shall not be created to apply to property owned by a single person, unless the property is at least 30 acres.	To prevent spot overlay-zoning. The size threshold for property in single ownership is consistent with the size threshold for a Planned Community Development district, which is the district where the property owner can propose his/her own zoning regulations.	ACCEPT

* = Some of the proposed amendments #1 – 106 have been available for public review since May 2010. These are marked with an asterisk*.
† = Amendments numbered R1 through R29 were already recommended for approval by PZC through two cases in the first quarter of 2010.

<table>
<tr><th></th><th>Section</th><th>Amendment</th><th>Purpose/Origin/Notes</th><th></th></tr>
<tr><td>R5</td><td>21.03.190</td><td>Add the following text into the section for Street and Trail Review.

<u>A. Purpose</u>
<u>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.</u>

<u>B. Street Review</u>

<u>1. Applicability and Overview</u>

<u>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 and urban design commission, as indicated below and in table 21.03-4. The stages are:</u>

<u>a.</u> <u>The concept report or equivalent, distributed to the planning and zoning commission as an information item;</u>

<u>b.</u> <u>The draft design study report, reviewed by the planning and zoning commission; and</u>

<u>c.</u> <u>The plans in hand design drawings, reviewed by the urban design commission.</u>

TABLE 21.03-4: STREET AND INTERSECTION PROJECT REVIEW
<table><tr><th>REVIEW</th><th>REVIEW BODY</th><th>PRIMARY DECISION</th></tr><tr><td><u>Concept Report</u></td><td><u>Project Management Team</u></td><td><u>Issue identification, "go, no-go" decision</u></td></tr><tr><td><u>Draft Design Study Report</u></td><td><u>Planning and Zoning Commission</u></td><td><u>Alternatives Development, Evaluation and Screening Criteria, Alternative Decision</u></td></tr></table></td><td>Approved by PZC in 2010</td><td>ACCEPT BUT WITH REVISIONS SET OUT IN AMENDMENTS 12-20</td></tr>
</table>

Section	Amendment	Purpose/Origin/Notes

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.

b. Community Meeting
Public outreach is an essential part of CSS, and is expected to have been conducted prior to submitting an application. Depending on the project, a community meeting may also be held at the application stage; if so, it shall be in accordance with subsection 21.03.020G.

c. Application Submittal
Applications shall contain the information specified in the title 21 user's guide and in *A Strategy for Developing Context Sensitive Transportation Projects* (CSS).

d. Public Notice
Notice of all public hearings shall be provided in accordance with section 21.03.020H.

e. Department Review
The department shall review each proposed application and distribute the application to other reviewers as deemed necessary. Reviewers shall address those aspects of the design that are germane to the commissions' deliberations; detailed lists of technical comments shall be separately coordinated with the design team leader. Based on the results of those reviews the department shall provide a report to the planning and zoning commission or urban design commission, as applicable.

f. Commission Review
A public hearing at the draft design study report and plans in hand design drawings phases will be held at the discretion of the planning and zoning commission or urban design commission. The review body will review and act to approve, approve with conditions, or return the application to the project management team for additional work. Concerns and conditions raised by the commission shall be specifically addressed in subsequent submittals.

Section	Amendment	Purpose/Origin/Notes
	3. Concept Report The concept report shall be distributed to the planning and zoning commission as an information item. The commission shall take no formal action on the report. **4. Draft Design Study Report Review** **a.** The planning and zoning commission shall review the draft design study report or equivalent document, for all applicable street projects, and shall issue a decision. A public hearing is not required but may be held at the commission's discretion. **b.** As applicable, the commission's review of the project draft design study report shall include but not be limited to: i. Existing conditions, including but not limited to traffic volumes; ii. Design standards and criteria, with specific attention to any requests for variances from the criteria; iii. Alternatives identification, evaluation, and recommended alternative; iv. Compliance with this title; v. Long-term impact on existing and projected land uses in the vicinity; vi. Short-term and long-term impact of property acquisition for right-of-way; vii. Impacts on utilities and other public infrastructure, including undergrounding of overhead utilities; viii. Street illumination; ix. Maintenance considerations; x. Environmental constraints; xi. Pedestrian and other non-motorized access; xii. Public involvement summary; xiii. Cost estimate. **c.** Decisions may be appealed to the board of adjustment pursuant to subsection 21.03.050A. **5. Plans in Hand Design Drawings Review**	

Section	Amendment	Purpose/Origin/Notes

a. The urban design commission shall review and approve all landscaping and streetscape and pedestrian facilities for streets of collector classification or greater in the *Official Streets and Highways Plan.*

b. The urban design commission shall approve, approve with conditions, or reject the landscaping, streetscape, and pedestrian design plans at a stage no greater than 65 percent designed, for all applicable street projects. A public hearing is not required but may be held at the commission's discretion.

c. As applicable, the commission's review of the plans in hand design drawings shall include but not be limited to:

i. Compliance with this title;

ii. Context of the area and the long-term impact on existing and projected adjacent land uses;

iii. Initial cost of materials including installation;

iv. Long term costs associated with operation and maintenance;

v. Adherence to a design theme established through local area plans or prior public improvements;

vi. Effectiveness in meeting community design goals; and

vii. Accommodation of pedestrians and non-motorized users.

d. Decisions may be appealed to the planning and zoning commission, which shall be required to hold a public hearing only if the urban design commission did not hold a public hearing.

C. Trail Review

1. Purpose

Trails are a basic part of the infrastructure of the municipality. They are used for transportation, for recreation and leisure, and also provide aesthetic and psychological benefits. Significant additions or revisions to the municipality's trail network benefit by oversight and concurrence in design decisions by the planning and zoning commission.

2. Applicability

Section	Amendment	Purpose/Origin/Notes
	a. This section applies to new construction and reconstruction of the following types of trails: i. Major multi-use trails that extend between multiple neighborhoods, such as the Chester and Campbell Creek Trails, the Ship Creek Trail, and the Coastal Trail. ii. Trails over one-half mile in length in parks classified by the *Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan* as community use area, special use area, or natural resource use area; or in parks classified by the *Anchorage Park, Greenbelt and Recreation Facility Plan Volume 2: "Eagle River-Chugiak-Eklutna"* as Community, Large Urban, or Regional Parks. iii. Trails over one-half mile in length along streams, or connecting subdivisions or other developments. b. Notwithstanding the criteria of 2.a. above, the director may exempt new trails or trail reconstruction projects from this section if the director finds, in writing, that the project is minor in scope and not likely to cause impacts on surrounding properties and neighborhoods. The director may also require new trails or trail reconstruction projects that do not meet the criteria of 2.a. above to be reviewed in accordance with this section, if the trail project is likely to create significant public interest, or cause impacts on surrounding properties and neighborhoods. **3. Review and Action** **a. Pre-Application Conference** The project management team shall request a pre-application conference with the director, in accordance with subsection 21.03.020B. **b. Application Submittal** Applications shall contain the information specified in the title 21 user's guide. **c. Public Notice** Notice of all public hearings shall be provided in accordance with section 21.03.020H. **d. Department Review** The department shall review each proposed application 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.	

	Section	Amendment	Purpose/Origin/Notes	
		e. Planning and Zoning Commission Action The planning and zoning commission shall approve, approve with conditions, or reject the application. A public hearing is not required but may be held at the commission's discretion. **4. Appeals** The decision may be appealed to the board of adjustment pursuant to subsection 21.03.050A.		
15.	**21.03.200E.1.**	Designation of commercial tracts shall be allowed only in the B-3, RO, NMU, CMU, RMU, [MT-1, MT-2,] I-1, I-2, PCD, MC [AND] MI, GC-1 through GC-10, GI-1, GI-2, GRST-1, and GRST-2 zoning districts.	At the Mayor's direction, the MT-1 and MT-2 districts (midtown districts) are proposed for deletion.	ACCEPT BUT REVISE PER AMENDMENT 21
16.	**21.03.210B.5.**	*Add new subsection b. as follows; and re-letter subsequent subsection as c.* a. Notice shall be provided in accordance with section 21.03.020H. b. Title 21 text 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.	To implement existing policy and ensure enough public review time for Title 21 amendments.	ACCEPT
17.	**21.03.210B.5.**	*Add new subsection d. as follows:* d. If, during the first two years after [effective date], the director determines that an amendment to title 21 is needed to address conflicting provisions, inconsistencies, or unintended consequences associated with the Title 21 Rewrite Project (2002-2012), the director may forward a corrective amendment to the assembly, which may adopt the amendment without planning and zoning commission review. After the first two years, the director may apply this provision twice per year.	At the Mayor's direction, this allows for rapid amendments to Title 21 in the first two years after adoption to fix conflicts and unintended consequences. This rapid process would continue to be allowed two times per year for errors that are discovered in later years.	ACCEPT BUT REVISE TO 3 YEARS PER AMENDMENT 22
18.	**21.04.010A.2. Table 21.04-1**	*Delete the MT-1 and MT-2 districts from the table.*	At the Mayor's direction, the MT-1 and MT-2 districts (midtown districts) are proposed for deletion.	
19.	**21.04.020F.2.b.**	*Delete 21.04.020F.2.b. and F.2.b.i.*	At the Mayor's direction, the design standards for single-family structures are proposed for deletion.	
20.	**21.04.020F.2.c.**	Buildings with three or four dwelling units shall [ALSO] comply with the multifamily design standards in subsection 21.07.110C., except that any primary entrance serving just one individual dwelling unit is exempt from subsection 21.07.110C.7., *Primary Entrance Treatment.*	This amendment deletes unnecessary language, due to the proposed deletion of the single-family design standards.	

* = Some of the proposed amendments #1 – 106 have been available for public review since May 2010. These are marked with an asterisk*.

† = Amendments numbered R1 through R29 were already recommended for approval by PZC through two cases in the first quarter of 2010.

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);

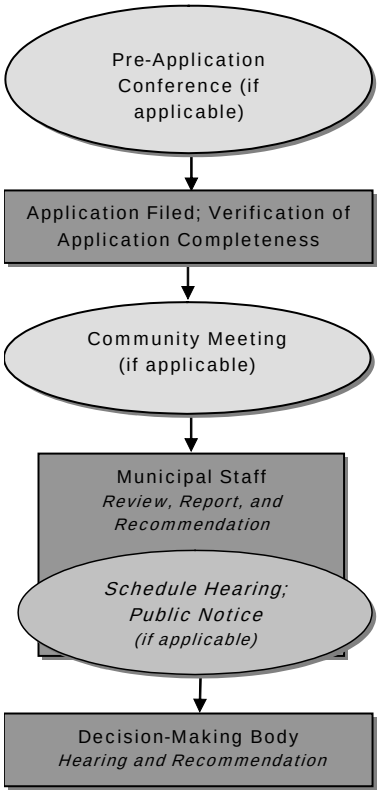
ii. Subdivisions, except for Abbreviated Plats (section 21.03.200);

iii. Conditional Uses (section 21.03.080);

iv. Major Site Plan Review (section 21.03.180C);

v. Public Facility Site Selection (section 21.03.140); and

vi. Projects including Class A or B wetlands within or adjacent to the application area.



Common Procedures

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

b. ***Exception for Some Changes to Already-Approved Applications***
Pre-application conferences are not required for minor amendments to already-approved conditional uses or site plans. All other changes to already-approved applications require a pre-application conference.

c. ***Optional for All Other Applications***
A pre-application conference is optional prior to submittal of any other application under this title not listed in subsection 2.a. above.

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

3. Initiation of Pre-Application Conference
The potential applicant shall request a pre-application conference, in the manner prescribed in the user's guide, with the director. Prior to the pre-application conference, the applicant shall provide to the director a description of the character, location, and magnitude of the proposed development and any other supporting documents such as maps, drawings, models, and the type of entitlement sought. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal to enable staff to make the informal recommendations discussed below.

4. Pre-Application Conference Content

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

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

i. Applicability of municipality policies, plans, and requirements as they apply to the proposed development.

ii. Appropriateness of the development with respect to the policies set forth in the comprehensive plan and the regulations in this title.

iii. Need, if any, to prepare a subdivision plat.

iv. Any site plan considerations or requirements.

v. Any concerns or requirements related to the anticipated impact upon public rights-of-way and public improvements, and appropriate requirements to mitigate those impacts, including but not limited to traffic impact analyses.

vi. Any concerns related to neighborhood impacts, land use, landscaping concepts, and overall project design.

vii. Possible alternatives or modifications related to the proposed application.

viii. Procedures that will need to be completed to review and act on the proposed application [CHANGE].

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

5. Informal Review Comments Not Binding

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

6. Application Required Within Six Months

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

C. Community Meetings

1. Purpose

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

2. Applicability

a. ***Types of Applications***

The applicant shall hold a community meeting for any of the following types of applications: ~~, unless a waiver is granted by the director pursuant to subsection 2.b. below.~~

i. Rezonings (zoning map amendments);

ii. Subdivisions, except for abbreviated plats;

iii. Conditional uses;

iv. Institutional master plans;

v. Major site plan review; and

vi. Public facility site selection [(INCLUDING SCHOOLS)].

~~**b.** ***Waiver***~~

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

~~**i.** Traffic;~~

~~**ii.** Impacts upon natural resources protected under chapter 21.07 of this code;~~

~~**iii.** Provision of public services such as police and/or fire service, schools, or parks;~~

~~**iv.** Compatibility of building design or scale; or~~

~~**v.** Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.~~

b. The applicant is encouraged to use the community council(s) meeting of the project area as the community meeting when the community council(s) meeting is available. If an applicant chooses not to use the community council for the community meeting, the applicant shall provide a written explanation to the director outlining the reasons for this decision. This explanation shall be available to the appropriate Board or Commission at the time of authorization review. If the community council(s) meeting for the project area is not scheduled in a timely manner, the applicant shall organize a community meeting. If the project area spans more than one community council and the applicant chooses to attend community council meetings, the applicant shall attend the community council meetings of all applicable community councils.

3. Timing and Number of Community Meetings
When required, there shall be at least one community meeting held after the pre-application conference (if applicable), but prior to the submittal of an application.

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

5. Attendance at Community Meeting

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

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

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

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

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

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

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

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

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

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

D. Authority to File Applications

1. When an authorized agent files an application under this title on behalf of a property owner, the agent shall provide the municipality with written documentation that the owner of the property has authorized the filing of the application.

2. When a review or decision-making body initiates action under this title, it does so without prejudice toward the outcome.

E. Application Contents, Submittal Schedule, and Fees

1. Title 21 User's Guide
The director shall compile the requirements for application contents, forms, fees, and the submittal and review schedule (including typical time frames for review) in a user's guide, which shall be made available to the public. The director may amend and update the user's guide from time to time.

2. Form of Application
Applications required under this chapter shall be submitted in a form and in such number as required in the user's guide.

3. Processing Fees
Applications shall be accompanied by the fee amount established by the assembly and listed in the user's guide. Fees are not subject to waivers except as specifically allowed by this title.

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

F. Verification of Application Completeness

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

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

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

G. Additional Information

1. Requested Information

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

2. Voluntary Information

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

H. Notice

1. Content of Notices

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

a. Identify the date, time, and place of the public hearing, if applicable;

b. If applicable, describe the property involved in the application by street address or by legal description and nearest cross street;

c. Describe the nature, scope, and purpose of the proposed action;

d. If applicable, indicate that interested parties may appear at the hearing and speak on the matter; and

e. Indicate where additional information on the matter may be obtained.

2. Summary of Notice Requirements

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

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.	-	✓	-	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
		Notice Required			
Type of Application or Procedure	**Section**	**Written (Mailed)**	**Published**	**Posted**	**Community Council**
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	✓	✓	✓	✓
Rezonings (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	✓	✓	✓	✓

3. Written (Mailed) Notice

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

a. ***Owners of Subject Property***

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

b. ***Adjacent Property Owners***

All persons listed on the records of the municipal assessor as owners of any land within 500 feet of the outer boundary of the land subject to the application, or

owners of the 50 parcels nearest to the outer boundary of the land subject to the application, whichever is the greater number of parcels, at the mailing addresses of such persons in the records of the municipal assessor.

c. ***Additional Persons***
Such additional persons or geographic areas as the director may designate.

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

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

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

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

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

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

d. All community councils shall receive notice of neighborhood or district plans, street and trail review, substantive amendments to the comprehensive plan, and amendments to the text of Title 21.

7. Constructive Notice

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

8. Presumption of Notice

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

I. Departmental Report

For every decision that requires a public hearing or where otherwise required by this title, the department shall prepare a report to be given to the decision-making body approximately one week before the initial public hearing on the application. The report shall include project background, public comments received, the summary of community meeting (if applicable), and the department's recommendation for action.

J. Referrals

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

K. Concurrent Processing

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

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

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

L. Postponements

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

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

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

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

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

M. Conditions of Approval

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

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

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

N. Decision

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

O. Lapse of Approval

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

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

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

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

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

P. New Application Required

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

21.03.030 ADMINISTRATIVE PERMITS

A. Applicability

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

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

2. Roominghouse (21.05.030B.4.);

3. Telecommunication tower and antenna (21.05.040K.)

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

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

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

B. Administrative Permits

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

C. Regulations

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

D. Appeals

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

21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT

A. Applicability

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

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

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

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

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

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

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

B. General Standards

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

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

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

C. Application and Review Procedure

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

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

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

4. Action

a. The special land use permit for alcohol for any use that includes the retail sale of alcoholic beverages, with the exception of a restaurant or eating place that [LICENSED BY THE STATE ALCOHOLIC BEVERAGE CONTROL BOARD TO]

sells beer and wine for consumption only on the licensed premises, shall be considered by the assembly. After holding a public hearing, the assembly shall approve, approve conditionally, or deny the application. In considering action, the assembly shall apply the criteria set forth in this title for conditional uses in section 21.03.080C., *Approval Criteria*. The assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.

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

5. Conditions of Approval

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

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

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

6. Effect of Denial

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

7. Expiration

An approval granted under this section shall expire:

a. One hundred twenty days after the transfer of the license to sell alcoholic beverages from the premises has been approved by the state alcoholic beverage control board, unless there is an application filed with the control board prior to the expiration of the 120 day period;

b. The use holding the permit has been discontinued, vacant, or inactive for a continuous period of at least one year; or

c. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly or the director when the alcohol approval was granted under this section, unless the licensee applies for and

receives [ASSEMBLY] approval for a modification of the existing alcohol approval to reflect the change.

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

21.03.050 APPEALS

A. Appeals to Board of Adjustment

1. Jurisdiction of Board

The Board of Adjustment shall decide appeals:

a. From decisions regarding the approval or denial of a preliminary plat (subsection 21.03.200C.);

b. From decisions regarding the approval or denial of a variance from the all of the provisions of this title with the exception of subsection 21.05.040K., *Telecommunication Facilities*; chapter 21.06, *Dimensional Standards and Measurements*; and section 21.07.050, *Utility Distribution Facilities* [; CHAPTER 21.08, *SUBDIVISION STANDARDS*; AND CHAPTER 21.11, *SIGNS*];

c. From decisions regarding the approval or denial of vacations of public and private interest in land where the platting board is the platting authority (section 21.03.230);

d. From decisions regarding the approval or denial of a development master plan (subsection 21.09.030F.);

e. From decisions regarding the approval or denial of applications for conditional uses (section 21.03.080); and

f. From decisions regarding the approval or denial of applications for major site plan reviews (subsection 21.03.180C.).

2. Appellants Before Board

Decisions may be appealed to the Board of Adjustment by:

a. Any municipal agency; or

b. Any party of interest for the application, as defined in chapter 21.14.

3. Appellees Before Board

a. Appellees before the board may be:

i. The party in whose favor the lower administrative body's decision was rendered.

ii. Any municipal agency.

iii. Any party of interest for the application, as defined in chapter 21.14.

b. An appellee shall file a notice of intent to file a brief with the municipal clerk's office on a form prescribed by the municipal clerk, within 10 days after the deadline for filing an appeal. The municipal clerk shall serve notice to such appellees in writing of the date the record is available and of the date the appellant's brief is filed.

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

a. An appeal to the Board of Adjustment must be perfected by the appellant within 20 days after the date of service of the decision. The appeal is perfected by the filing of a notice of appeal, appeal fee, and cost bond in accordance with this section.

b. The notice of appeal must be filed with the municipal clerk on a form prescribed by the municipality and must contain detailed and specific allegations of error. If the appellant is not the applicant, the appellant's notice of appeal shall include certificate of service on the applicant.

c. The appellant shall pay the current appeal fee. In addition, the appellant shall file a cost bond equal to the estimated cost of preparation of the record. Following completion of the record, the actual cost thereof shall be paid by the appellant. All costs and fees shall be returned to the appellant if the decision of the lower body is reversed in whole or in part.

5. New Evidence or Changed Circumstances

a. Allegations of new evidence or changed circumstances shall not be considered or decided by the Board of Adjustment. Allegations of new evidence or changed circumstances shall be raised by written motion for rehearing, filed with the municipal clerk within 20 days after the date of service of the initial decision of the lower administrative body.

i. The municipal clerk shall reject any motion filed more than 20 days after the date of service of the initial decision of the lower administrative body, without hearing or reconsideration by the lower administrative body.

ii. A decision of the lower administrative body on any issues remanded from the Board of Adjustment is not an initial decision as described in subsection 5.a. above.

iii. The municipal clerk shall reject any motion alleging new evidence or changed circumstances filed in response to a lower administrative body's decision on any issue(s) presented on remand.

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

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

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

6. Appeal Record

a. The appellant shall arrange for the preparation of the transcript of the board hearing by a court reporter or the board and commission recording secretary and shall pay the cost of such preparation. The appellant shall file the transcript with

the municipal clerk. If the appellant fails to file the transcript within 30 days after the filing of the notice of appeal, the municipal clerk shall reject the appeal.

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

i. A copy of the notice of appeal filed by the appellant.

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

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

iv. A copy from the department of the written decision of the administrative body, including its findings and conclusions.

c. Upon completion of the record, the municipal clerk shall serve notice on the appellant of the cost of its preparation. If the appellant fails to pay the costs within seven days of receiving the notice, the appeal shall be rejected. Upon timely payment of costs, the municipal clerk shall serve a copy of the record on the appellant. The municipal clerk shall also serve notice on the appellees who have filed a notice of intent to file a brief that the record is available for pickup. Upon request, the municipal clerk shall provide a copy of the record to an appellee or the public. A copying cost for the record will be charged as set out in AMCR 3.90.002. The appellee shall also be charged any mailing costs.

7. Written Arguments

a. ***Brief of Appellant***

The appellant may file a written brief of points and authorities in support of those allegations of error specified in the notice of appeal with the municipal clerk's office within 15 days after service of the appeal record. If the appellant files a brief, allegations of error specified in the notice of appeal and not included in the appellant's brief may be deemed waived or abandoned. The municipal clerk shall deliver a copy of the appellant's brief to the municipal staff assigned responsibility for the appeal. The municipal clerk shall also serve notice on those appellees who have filed a notice of intent to file a brief that the appellant's brief is available for pickup. Upon request, the municipal clerk shall provide a copy of the appellant's brief to appellees, who shall be charged copying costs as provided in AMCR 3.90.002 and any mailing costs applicable.

b. ***Brief of Appellee***

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

c. ***Reply Brief***

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

d. ***Form of Briefs***
The municipal clerk shall not accept a brief unless it is in the form prescribed by this subsection.

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

ii. ***Text of Brief, Exclusive of Attachments***
Briefs shall be typewritten on 8½- by 11-inch pages, double-spaced, with quotations over two lines being single-spaced and indented.

iii. ***Page Limitation***
The brief of appellant and the brief of appellee are each limited to 25 pages exclusive of exhibits and attachments. The reply brief is limited to 10 pages exclusive of exhibits.

8. Appeal Packet; Notice of Hearing
Following the time set for the municipal clerk's receipt of all written argument from the appellant, the appellee, and the municipal staff, the municipal clerk shall prepare and distribute to the members of the Board of Adjustment an appeal packet containing only the appeal record assembled by the clerk and any briefs filed in accordance with subsection A.7. above. The Board of Adjustment shall set a date for consideration of the issues on appeal. The municipal clerk shall publish notice of the date in a newspaper of general circulation and shall serve notice by mail on the appellant and those appellees who have submitted briefs. The municipal clerk shall make appeal packets shall be made available to the public upon request with costs payable by the public as provided in AMCR 3.90.002.

9. Procedural Changes
Upon timely application and for good cause shown, the Board of Adjustment may relax or modify the procedural rules or the rules relating to costs contained herein for the orderly transaction of appeals before the board.

10. Conduct of Hearing

a. The meeting at which the Board of Adjustment deliberates and decides an appeal shall be open to the public and a record of the hearing shall be made.

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

11. Scope of Review

a. The Board of Adjustment shall consider an appeal solely on the basis of the record established before the lower administrative body, the notice of appeal, the briefs, and the law.

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

c. The Board of Adjustment shall, unless it substitutes its independent judgment pursuant to subsection 11.d. below, defer to the judgment of the lower administrative body regarding factual issues. Findings of fact adopted expressly

or by necessary implication by the lower administrative body may be considered as true if they are supported in the record by substantial evidence. The term "substantial evidence," for the purpose of this section, means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record affords a substantial basis of fact from which the fact in issue may be reasonably inferred, it shall be considered that the fact is supported by substantial evidence.

d. The Board of Adjustment may, by unanimous vote, substitute its independent judgment for that of the lower administrative body on any disputed issues or findings of fact. such judgment must be supported on the record by substantial evidence.

12. Decision

a. The Board of Adjustment, by majority vote, may affirm, modify, or reverse the decision of the lower administrative body in whole or in part. A decision reversing or modifying the decision appealed from shall be in a form which finally disposes of the case on appeal except where the case is remanded in accordance with subsection 13.a. below.

b. Every decision of the Board of Adjustment to affirm, modify, or reverse the decision of the lower administrative body pursuant to subsection 12.a. above shall be based upon and include written findings and conclusions adopted by the board. Such findings must be reasonably specific so as to provide the community, and, where appropriate, reviewing authorities, a clear and precise understanding of the reason for the board's decision. The board may seek the assistance of legal counsel in the preparation of its decision.

c. Every final decision of the Board of Adjustment shall clearly state on its face it is a final decision with respect to all issues involved in the case, and that the parties have 30 days from the date of service of the decision to appeal to the superior court.

13. Remand

a. The case shall be remanded to the lower body where the Board of Adjustment determines any of the following:

i. There is insufficient evidence in the record on an issue material to the decision of the case;

ii. There has been a substantial procedural error that requires further public hearing; or

iii. The lower administrative body has made a legal error that, in the opinion of the Board of Adjustment, warrants a remand.

b. If the Board of Adjustment remands a case to the lower administrative body, the board shall describe any issue upon which further evidence shall be taken, and shall set forth any further directions the board deems appropriate for the guidance of the lower administrative body.

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

d. A Board of Adjustment decision remanding a case on one or more issues is not a final decision with respect to any issues involved in the appeal. The Board of Adjustment's decision remanding the case is and shall state that it is the final decision with respect to all matters affirmed by the Board of Adjustment's

decision, when, following service of the lower administrative body's decision on remand, no appeal is perfected within the period specified in subsection 21.03.050A.4. The decision shall also state that the parties have 30 days from the expiration of said period to appeal to the superior court.

B. Appeals to Zoning Board of Examiners and Appeals

1. Jurisdiction of Board

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

a. Interpretation of zoning district boundaries under subsection 21.01.050C.

b. Denial of an administrative permit under section 21.03.030.

c. Denial of a certificate of zoning compliance under section 21.03.060.

d. Interpretation of whether a conditional use amendments is major or minor under subsection 21.03.080D.2.

e. Denial of an application for a flood hazard permit under section 21.03.090.

f. Denial of an application for a building or land use permit under subsection 21.03.100 when such denial is based on the requirements of Title 21, except for subsection 21.03.100E.

g. Compliance with an institutional master plan under subsection 21.03.110F.

h. Denial of a minor modification under section 21.03.120 when the director is the decision-making body.

i. Denial of an application for a sign permit under subsection 21.03.170 when such denial is based on the requirements of Title 21.

j. Determination of use classification under subsection 21.03.220.

k. Administrative variance for occupancy limits in assisted living facilities under subsection 21.03.240J.

l. Denial of a verification of legal nonconforming status under section 21.03.250.

m. Alleging an error in the enforcement or interpretation of the flood hazard overlay district under subsection 21.04.080D.

n. Site enhancement plan for a self-storage facility under subsection 21.05.060D.4.

o. Denial of or imposition of conditions on a certificate for legalization of nonconforming dimensional setback encroachment under section 21.12.030, or a certificate for legalization of lots created prior to September 16, 1975 under subsection 21.12.050C.

p. Denial of administrative approval to reinstate a damaged nonconforming use under subsection 21.12.030C., or to rebuild a damaged nonconforming structure under subsection 21.12.040D.1.a.

q. Overcoming presumption of abandonment under subsection 21.12.030E.

r. Enforcement orders issued under chapter 21.13, *Enforcement.*

s. Interpretation of general definitions and use definitions.

2. Initiation of Appeal

Appeals to the zoning board of examiners and appeals may be brought by any party of interest for the application.

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

a. An appeal of an administrative decision to the zoning board of examiners and appeals, as set out in subsection B.1. above, must be filed no later than 20 days after the date of service of the decision.

b. Notice of appeal must be filed with the director on a form prescribed by the municipality and must contain detailed and specific allegations of error.

c. The appellant shall pay an appeal fee as set by the assembly, which shall accompany the filing of the notice of appeal. The appeal fee shall be returned to the appellant if the decision of the lower administrative body is reversed in whole, and one-half of the fee shall be returned if the decision is reversed in part.

4. Scope of Review

The zoning board of examiners and appeals shall conduct a full evidentiary hearing on an appeal and make its decision on the basis of this title, the evidence, and the argument presented.

5. Notice and Public Hearing

a. A public hearing shall be held within 60 days of the filing of a proper notice of appeal.

b. Notice of the appeal hearing shall be published on the municipal public notice web page of the municipal website [IN A NEWSPAPER OF GENERAL CIRCULATION] at least 14 days prior to the hearing, and, in addition, the appellant shall be sent a notice by mail at least 14 days prior to the hearing.

c. The zoning board of examiners and appeals may prescribe rules of procedure for additional notification in cases where a decision of the board would have a substantial effect on the surrounding neighborhood.

6. Decision

a. The zoning board of examiners and appeals may affirm or reverse the decision of the decision-making body in whole or in part. It shall require a majority of the full membership, minus those members who disqualify themselves with conflicts of interest in accordance with AMC title 4.

b. Every decision of the zoning board of examiners and appeals to affirm or reverse an administrative action shall be in writing and based on and include written findings and conclusions adopted by the board. Such findings must be reasonably specific so as to provide the community and, where appropriate, reviewing authorities, with a clear and precise understanding of the reasons for the board's decision.

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

C. Appeal of Director's Decision

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

D. Judicial Appeals

1. Judicial Review Authorized

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

a. A final decision of the Board of Adjustment on an appeal from a decision regarding the approval or denial of an application for a conditional use.

b. A final decision of the Board of Adjustment on an appeal from the platting board regarding an application for a subdivision.

c. A final decision of the zoning board of examiners and appeals.

d. Any final action or decision under this title that is appealable to the superior court under the *Alaska Rules of Court* and/or laws of the state of Alaska.

21.03.060 CERTIFICATE OF ZONING COMPLIANCE

A. Purpose

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

B. Applicability

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

C. Issuance

1. Certificate

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

2. Conditional Certificate

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

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

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

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

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

3. Inside the Building Safety Service Area

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

4. Outside the Building Safety Service Area

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

5. Appeals

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

21.03.070 COMPREHENSIVE PLAN AMENDMENTS

A. Purpose and Scope

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

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

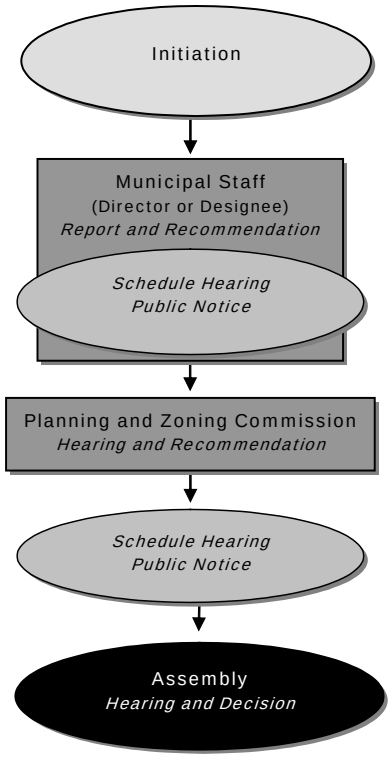
d. *Planning and Zoning Commission Action*

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

e. *Assembly Action*

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

i. Approve the amendment by ordinance, either as submitted or with modifications suggested by



Comprehensive Plan Amendments (Substantive)

staff, the Planning and Zoning Commission, or the assembly;

ii. Reject the proposed amendment; or

iii. Refer the proposed amendment, and/or any substantial modifications proposed by the assembly, back to the Planning and Zoning Commission or to a committee of the assembly for further consideration.

2. Approval Criteria

The Planning and Zoning Commission may submit a recommendation for approval, and the assembly may approve an amendment if, in the judgment of the commission or the assembly, the amendment meets the following approval criteria:

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

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

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

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

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

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

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

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

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

3. Concurrent Zoning Changes Allowed

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

b. The Planning and Zoning Commission shall submit its report and recommendation regarding the comprehensive plan map amendment to the assembly at the same time it submits the report and recommendation on the

rezoning case. The assembly and Planning and Zoning Commission shall consider the plan amendment proposal and rezoning request separately, and shall act separately on the two items.

D. Procedure for Cosmetic Amendments

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

2. Departmental Review
The department shall review each proposed cosmetic amendment and shall provide a report to the Planning and Zoning Commission.

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

4. Assembly Action
The assembly shall consider the reports and recommendations of the Planning and Zoning Commission and the director at a regularly scheduled assembly meeting, and will take action to either:

a. Approve or deny the amendment;

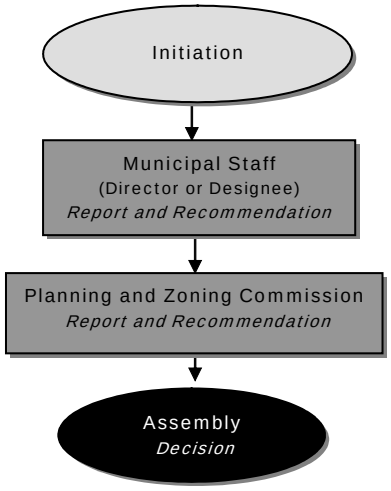
b. Approve the amendment with modifications; or

c. Refer the matter back to the Planning and Zoning Commission for further consideration.

21.03.080 CONDITIONAL USES

A. Purpose

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



Comprehensive Plan Amendments (Cosmetic)

B. Applicability

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

1. This section shall not apply to the interior remodeling, renovation, or repair to interior portions of structures that are subject to site plan review under this Title except those interior areas that affect conformity to the approval criteria for the conditional use review 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

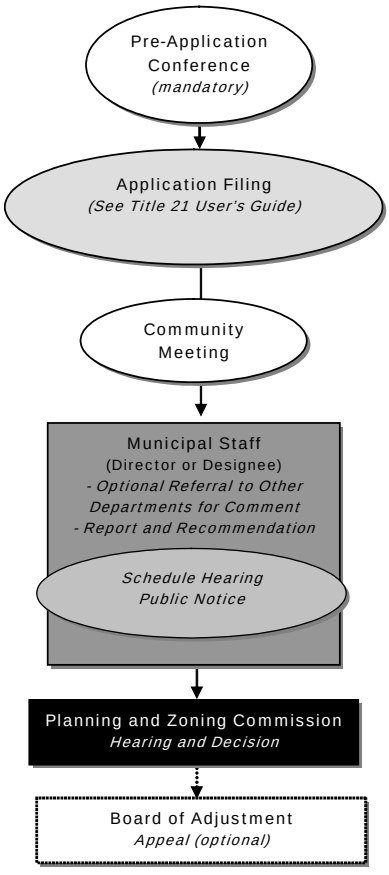
The department shall review each proposed conditional use approval application in light of the approval criteria of subsection C. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the Planning and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

7. Planning and Zoning Commission Action

The Planning and Zoning Commission shall hold a public hearing on the proposed application and act to approve, approve with conditions, or deny the proposed conditional use, based on the approval criteria of subsection C. below.

8. Appeal

Decisions on conditional use approvals may be appealed to the Board of Adjustment in accordance with subsection 21.03.050A.



Conditional Uses

D. Approval Criteria

The Planning and Zoning Commission may approve a conditional use application if, in the judgment of the commission, all of the following criteria have been met in all material matters:

1. The proposed use is consistent with the comprehensive plan and all applicable provisions of this title and applicable state and federal regulations;

2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04;

3. The proposed use is consistent with any applicable use-specific standards set forth in chapter 21.05;

4. The site size, dimensions, shape, location, and topography are adequate for the needs of the proposed use and any mitigation needed to address potential impacts;

5. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties of the permitted uses listed in the underlying zoning district;

6. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

7. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent feasible;

8. The proposed use is appropriately located with respect to the transportation system, including but not limited to existing and/or planned street designations and improvements, street capacity, access to collectors or arterials, connectivity, off-site parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation, and safety for all modes; and

9. The proposed use is appropriately located with respect to existing and/or planned water supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.

E. Amendments to Approved Conditional Uses

1. Original Procedure Applies for Most Amendments

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

2. Administrative Approval of Minor Amendments

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

a. ***Procedure***

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

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

(A) Issue a minor amendment affidavit, which shall be transmitted to the Planning and Zoning Commission for their information; and

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

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

b. ***Types of Minor Amendments***

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

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

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

iii. Changes 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.

F. Platting for Conditional Uses

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

2. Unless the Planning and Zoning Commission directs in the final approval that it shall act as the platting authority, the platting board is the platting authority for subdivisions under this subsection.

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

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

1. Intent and Approval

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

2. Zoning District

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

3. Allowed Uses

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

b. For a BIP-PUD in the I-1 district, in addition to the uses allowed in the I-1 district, a developer may propose to include the following uses in a BIP-PUD: Health Services, Instructional Services, Child Care Centers, Religious Assembly, and

offices of government agencies if the location of the latter is consistent with 21.05.040.C.4.b.ii.

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

4. Development Agreement

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

5. Minimum Standards

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

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

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

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

d. L3 buffer landscaping shall be provided along the exterior lot lines of the BIP-PUD.

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

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

g. Maximum individual building footprint shall be 30,000 square feet.

h. Individual tenancies for business and professional offices, instructional services and health services shall not exceed 5,000 square feet.

i. Individual tenancies for religious assembly and offices of a government agency shall not exceed 15,000 square feet.

j. Individual tenancies for retail sale uses shall not exceed 20,000 square feet.

k. The uses in the entire BIP-PUD may aggregate their parking as long as the following standards are met:

i. Required parking for each use shall be located no farther than 800 feet from the primary entrance of the use;

ii. Relatively direct pedestrian pathways shall be available from required parking to each use;

iii. At no time shall the aggregate of the required parking of all uses in the BIP-PUD, which may include parking reductions and alternatives noted in section 21.07.090.F., exceed the total number of parking spaces provided.

l. Loading areas and refuse collection areas shall be internal to the site and not located between any building and any BIP-PUD exterior lot line.

m. The maximum floor area devoted to retail sales uses shall not exceed 35 percent of the total gross building area of the entire development.

n. Outdoor storage and display is prohibited.

H. Conditional Use for a Residential Planned Unit Development

1. Intent and Approval

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

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

p. The mixing of compatible land uses, residential densities, and housing types within the neighborhood.

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

r. Enhancing the surrounding environment.

s. Maintaining population densities and lot coverage that are consistent with available public services and the comprehensive plan.

2. Minimum Standards

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

a. ***Minimum Site Area***

The minimum site area for a PUD shall be 2.0 acres for PUDs located entirely in the R-2F, R-2M, R-3, and R-4 zoning districts. If any portion of a proposed PUD is located within the R-1, R-1A, R-2A, R-2D, R-5, [OR] R-7, GR-1, GR-2, GR-2A, GR-3, GR-4, or GR-5 zoning districts, the minimum site area shall be 5.0 acres. 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 L3 buffer landscaping.

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

iii. Level 3 buffer[Level 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 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
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. Conditional Use for Cluster Housing

1. Intent

a. A cluster housing development is a design technique that provides open space and other site amenities in a subdivision by permitting individual lots of less area than otherwise permitted in the underlying use district. The community receives the benefits of open space within subdivisions and land developers may provide subdivisions at a somewhat higher density than permitted by the underlying use district.

b. Cluster housing is intended to provide a development option particularly suited to tracts of land that include marginal areas. Marginal lands may include wetlands, steep slopes or geophysical hazard areas. By clustering the overall number of units possible on the developable portion, construction and infrastructure costs may be lowered. Correspondingly, open space amenities are provided and environmentally sensitive lands conserved.

c. It is also intended to provide a design option in transition density areas, where zones of different densities abut. Lower costs in subdivision development should be reflected in lower housing costs.

d. Cluster housing developments may include single-family detached, semidetached and other forms of attached housing.

2. General Standards; Platting

a. A cluster housing development shall conform to the requirements of this section and to an approved site plan in addition to the requirements of the use district in which the cluster housing development is located.

b. No building or land use permits shall be issued until a final plat for the cluster housing development has been approved and filed in accordance with this title.

3. Maximum Density and Minimum Site Area

a. There shall be no more than one principal structure per lot.

b. The maximum number of dwelling units permitted in the cluster housing development shall be based upon the following schedule. The acreage of the site shall be calculated at its gross acreage at the time of proposed development but shall include the abutting rights-of-way only in those zoning districts which allow the inclusion of rights-of-way.

Table 21.03-3

Zoning District	Dwelling Units per acre
R-1	5.0
R-1A	5.0

Table 21.03-3	
Zoning District	**Dwelling Units per acre**
R-2A	**10.0**
R-2D	**16.0**
R-2M	**19.0**
R-3	**20.0**
R-4	**24.0**
R-5	**5.0**
R-5A	**0.8**
R-6	**0.8**
R-7	**2.0**
R-8	**0.2**
R-9	**0.4**
R-10	**As provided in section 21.40.115.F**
R-11	**As provided in the Turnagain Arm Comprehensive Plan**

4. Review of Housing Type

The pre-application submissions for a cluster housing development in the R-1 or R-1A use districts, more than 50 percent of whose dwelling units are attached, are subject to review and approval by the Planning and Zoning Commission for compatibility with surrounding land use patterns.

5. Maximum Lot Coverage

Maximum lot coverage for areas other than common areas is as follows:

a. Two common walls per dwelling unit: 70 percent

b. One common wall per dwelling unit: 50 percent

c. All others: 40 percent

6. Minimum Yard Requirements

Minimum yard requirements for zoning districts R-6, R-8, R-9 and R-10 shall be as follows:

a. Front yard: 25 feet

b. Side yard 10 feet

c. Rear yard 20 feet

d. Minimum yard requirements for all other zoning districts not listed in this subsection shall be the same as the underlying zoning district, except, in the instance of attached dwelling units, side yards shall not be required. However, if a side yard is provided, it shall be the minimum established in the underlying zoning district for each adjoining lot

7. Common Area

a. Development of the common area in accordance with an approved site plan and subdivision plat shall be guaranteed with a subdivision agreement.

b. All areas of the common area not devoted to buildings, structures, parking areas, courts, walkways, improved areas for sport and game activities and driveways shall be covered by one or more of the following: lawn grass, shrubbery, trees or undisturbed indigenous vegetation.

c. The space between and surrounding clusters is allocated to pedestrian circulation and open space.

d. Common Open Space

i. In a cluster housing development at least 30 percent of the site area shall be common open space. Environmentally sensitive features such as wetlands, natural drainage ways, steep slopes, ponds, lakes, creeks, streams and the like may be included in the computation of open space provided toward this requirement. Private spaces, such as patios, decks, balconies, yards within individually owned lots and the like are not included in the definition of common open space.

ii. Of the required common open space at least 600 square feet per dwelling unit shall be provided as common usable open space within cluster subdivisions that are created with any lots less than 6,000 square feet in area.

e. Common Usable Open Space

i. Shall have an area of not less than 2,500 square feet;

ii. Shall not be used for roads, parking facilities, driveways, storage, including the storing of snow, or service areas;

iii. Shall not include Type “A” or Type “B” wetlands. Water bodies may be permitted only if the area provides or substantially contributes to a recreation area;

iv. Shall be within a distance of 1,000 feet from the cluster subdivision;

v. Shall have a slope equal to or less than five percent when the usable open space has an area of 10,000 square feet or less. A common usable open space area greater than 10,000 square feet in size may have slopes exceeding 15 percent on no more than ten percent of the usable open space, unless the platting authority finds that a greater slope is consistent with the intent of this section;

vi. May be retained as natural vegetation. Improvements may include seeding with lawn grass or other seed mix approved by the planning department with an established access to a source of water for maintenance. Improvements may also include pavement or other appropriate surfaces or complementary structures to allow for active outdoor recreation uses.

f. Site Plan

A conceptual site plan for the common open space shall be submitted with the preliminary plat.

8. Homeowner's Association

a. A homeowner's association shall be established for all cluster housing developments. All owners of property within the cluster housing development shall automatically become members of the homeowners' association.

b. Any declaration under the Horizontal Property Regimes Act, common wall agreements, declaration of covenants, conditions and restrictions and homeowner agreements proposed to be recorded to govern the use of the land and structures within a cluster housing development must be reviewed for conformity with this title by the director of the department of community planning and development.

c. The responsibility for the operation and maintenance of the common area facilities shall reside with the homeowners' association.

9. Buffer Landscaping

Buffer landscaping shall be planted along each lot line adjoining a right-of-way designated for collector or greater capacity on the Official Streets and Highways plan. The landscaping shall be maintained by the property owner or his designee.

J. Abandonment of Conditional Use

An otherwise lawful conditional use approval shall expire if:

1. For any reason the conditional use is abandoned in its entirety for a period of one year or longer; or

2. The property owner notifies the Planning and Zoning Commission of the abandonment of the conditional use approval. A conditional use shall not be abandoned under this subsection if the result of the abandonment is the creation of a nonconforming land use.

21.03.090 FLOOD HAZARD PERMITS

A. Applicability

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

B. Application Contents

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

1. The elevation in relation to mean sea level of the lowest floor, including basement or crawl space, of all structures;

2. The elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 21.04.060D.7., *Construction Requirements (in Flood Hazard Overlay District)*; and

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

C. Evaluation; Additional Information

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

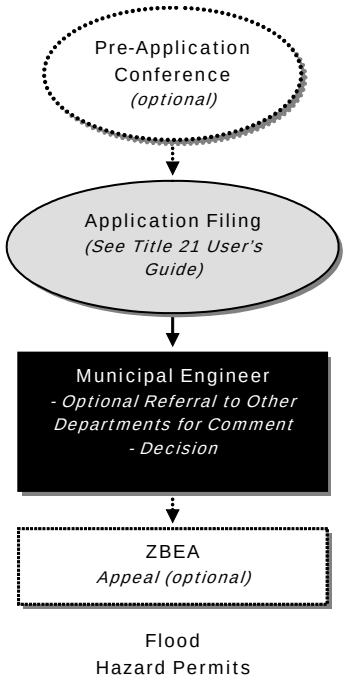
1. A valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.

2. Specification of proposed construction and materials, floodproofing, filling, dredging, grading, channel improvement, water supply, and sanitary facilities.

3. A profile showing the slope of the bottom of the channel or flow line of the stream.

4. A report of soil types and conditions.

5. Analysis of proximity to a dam break area.



Flood Hazard Permits

D. Criteria for Issuance

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

1. The proposed use or structure poses a minimal increase in probable flood height or velocities caused by encroachment;

2. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions will not be impaired by flooding;

3. The susceptibility of the proposed facility and its contents to flood damage is minimal;

4. There will be adequate access to the property in times of flood for ordinary and emergency vehicles;

5. The proposed use, structure, or activity is in conformance with all applicable land use regulations; and

6. All necessary floodproofing will be provided.

E. Time for Acting on Application

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

F. Notice on Subdivision Plats

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

any land use within the flood hazard district shall conform to the requirements of section 21.04.060D., *Flood Hazard Overlay District*."

G. Appeals

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

21.03.100 LAND USE PERMITS

A. Purpose

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

B. Applicability

1. In the Municipality

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

a. Construction or placement of a building or addition to an existing building whose floor area is 120 square feet or greater;

b. Installation of telecommunication towers;

c. Construction of a fence over eight feet in height;

d. Excavation of more than 50 cubic yards on any lot or tract;

e. Filling or grading more than 50 cubic yards on any lot or tract;

f. Changing the principal use of a building, as defined by "change of use" in chapter 21.14; or

g. Mechanized land clearing of more than one contiguous acre (chainsaws excluded).

2. Inside Building Safety Service Area

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

C. Procedures

1. Application Submittal

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

2. Approval Procedure

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

b. The building official shall determine whether the application complies with all requirements of title 23. The director shall determine whether the application complies with all requirements of Title 21, and shall inform the building official of his or her determination.

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

d. A land use permit shall become null and void unless the work approved by the permit is commenced (see "start of construction" in chapter 21.14) within 12 months after the date of issuance. If after start of construction the work is discontinued for a period of 12 months, the permit therefore shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a permit has been reinstated, or until a new permit has been secured.

3. Changes to Approved Permits

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

b. An amendment to a land use permit that requires payment of an additional fee, either because of an increase in the size of the buildings, a change in the scope of work, or an increase in the estimated cost of the proposed work, shall not be approved until the applicant has paid the additional fees and the amendment has been properly reviewed and approved for conformance with applicable codes.

4. Revocation of Land Use Permit

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

a. Any material departure from the approved application, plans, or specifications;

b. Refusal or failure to comply with the requirements of this title or any other applicable state or local laws;

c. False statements or misrepresentations made in securing such permit.

5. Appeals

a. Denials or revocations of a land use permit relating to Title 21 compliance, with the exception of those relating to subsection 21.03.100E, may be appealed to the zoning board of examiners and appeals in accordance with subsection 21.03.050B.

b. Denials or revocations of a land use permit relating to title 23 compliance may be appealed to the building board of examiners and appeals.

D. Approval Criteria

No land use permit shall be issued unless the building official determines that all required approvals have been granted and the plans comply with all applicable provisions of title 23, and the director determines the plans comply with all applicable provisions of this title.

E. Improvements Associated with Land Use Permits

1. Improvements Required

The issuance of a land use permit under this section for the construction of a residential, commercial, or industrial structure on a lot, shall be subject to the permit applicant providing the easements, dedications, and improvements required for a subdivision in the same improvement area under chapter 21.08, *Subdivision Standards*. In applying the provisions of chapter 21.08, *Subdivision Standards,* under this section, the term "lot" shall

be substituted for the term "subdivision," the term "permit applicant" shall be substituted for the term "subdivider," and the term "building official"["municipal engineer"] shall be substituted for the term "platting authority."

2. Exceptions

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

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

b. The traffic engineer determines that a street dedication or improvement is not required for traffic circulation;

c. A dedication or improvement has been provided to the applicable standard of [IN] chapter 21.08, *Subdivision Standards*;

d. A dedication or improvement will be provided under a subdivision agreement that has been entered into under section 21.08.060, *Subdivision Agreements*, or under an established assessment district;

e. The municipality has already appropriated funds to construct an improvement; or

f. The permit is for repairs, maintenance, emergencies, electrical, mechanical, or plumbing.

3. Standards for Requiring Dedications and Improvements

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

a. The dedication or improvement shall be reasonably related to and directly correlated to the [anticipated impact on public facilities and adjacent areas that will result from the use and] occupancy of the structure that is the subject of the building or land use permit. Any required public use easement shall be removed when calculating density or lot coverage per the applicable zoning district. The building official [municipal engineer] may require the permit applicant to provide information or analyses to determine impacts as set out in the comprehensive plan's policies for transportation, transportation design and maintenance, and water resources on public facilities and adjacent areas, including without limitation the following:

i. A traffic impact analysis, or similar information. The traffic engineer may require a traffic impact analysis if the same would be required for approval of a subdivision, conditional use, or site plan for similar development under this title.

ii. A drainage study, or similar information. A drainage study may be required if the same would be required for approval of a subdivision, conditional use, or site plan for similar development under this title.

iii. An estimate of the financial costs of impacts on public facilities and adjacent areas without the required improvements, including without limitation continuity of improvements, maintenance costs of public facilities, parking, drainage, noise and dust control, pedestrian and

vehicle safety and access, and emergency vehicle access and response time.

iv. Information concerning the consistency of the impacts of the proposed development with the comprehensive plan.

v. A design of internal streets and location of fire hydrants satisfactory to the fire marshal for purposes of fire protection within the development. Outside the Anchorage fire service area, the state fire marshal's standards control.

b. The estimated cost of constructing the improvement shall be reasonable when compared to the estimated cost of the proposed development under the land use permit, and in no event shall the estimated cost of constructing the improvement exceed 3 percent of the estimated cost of the proposed development under the land use permit. The determination of reasonableness shall be based on cost estimates for the improvement and the proposed development that the permit applicant or applicant's agent submits under penalty of perjury. If the building official [municipal engineer] determines that the estimated cost to the applicant to complete all the improvements required by this section is unreasonable in relation to the estimated cost of the proposed development, the building official [municipal engineer] may reduce or eliminate required improvements as necessary to make the relationship between such costs reasonable.

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

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

4. Phasing of Installation

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

5. Warranty

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

6. Oversizing

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

facilities or a limitation on the manner in which the municipality may pay its proportionate share of the costs of oversizing.

7. Fee in Lieu

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

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

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

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

8. Fee Amount

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

9. Appeals of Improvement Standards

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

21.03.110 MASTER PLANNING, INSTITUTIONAL

A. Purpose

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

1. Provide flexibility to institutions to carry out long-range building programs in accord with the institutional mission and objectives;

2. Provide a growing and continuing source of employment for the municipality that is easily accessible and well-integrated with surrounding neighborhoods and the local transportation system;

3. Create attractive and efficient urban areas that incorporate quality design and urban amenities;

4. Protect sensitive portions of the natural environment that are potentially affected by institutional development; and

5. Consider the impacts of institutional development on adjacent neighborhoods.

B. Applicability

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

C. Institutional Master Plan Requirements

1. Planning Area

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

2. Submittal Requirements

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

a. *Boundaries*

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

b. *Mission and Objectives*

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

c. *Existing Property and Uses*

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

i. Illustrative site plans showing the footprints of each building and structure, together with roads, sidewalks, parking, landscape features, and other significant site improvements;

ii. Land and building uses;

iii. Gross floor area in square feet of each individual building;

iv. Building height in stories and feet of each individual building; and

v. A description of parking and loading areas and facilities, including a statement of the approximate number of parking spaces in each area or facility.

d. ***Needs of the Institution***

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

i. Academic;

ii. Support services;

iii. Research;

iv. Office;

v. Housing;

vi. Patient care;

vii. Assembly for public events, worship, cultural events, and the like;

viii. Recreation and athletics;

ix. Transit;

x. Parking; and

xi. Commercial spaces, not including concessionaire space that is intended to serve the institutional community.

e. ***Ten-Year Development Envelope***

The institutional master plan shall include a description of the development expected to occur within the planning area boundaries within a 10-year time frame. The 10-year development description shall be the maximum amount of development proposed by the institution based on anticipated changes in total population and programs. The 10-year development description shall include the following:

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

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

f. ***Development and Design Standards***

The institutional master plan shall include the elements listed below. These elements may set different standards than those found in Title 21. the plan shall list the specific sections of Title 21 for which different standards are to be established by the master plan, and provide rationale for any different standards proposed. Where different standards are approved in the institutional master

plan, those standards shall be applied instead of the corresponding standards in Title 21.

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

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

iii. ***Natural Resource Protection***
Identification of sensitive natural resources, including but not limited to wetlands and flood plain delineation maps, within the planning area, and the institution's plans for maintaining or mitigating impacts on those sensitive areas. The institutional master plan shall not reduce or otherwise weaken the natural resource protection standards of section 21.07.020.

iv. ***Open Space and Pedestrian Circulation***
Open space and pedestrian circulation guidelines and objectives, including a description of the circulation system to be provided through the planning area, plans for ensuring the accessibility of pedestrian areas and open spaces, and links to surrounding community open space, where appropriate.

v. ***Site and Building Design Standards***
Institutional design standards and objectives, identified through written and graphic materials, that address the following issues:

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

(B) Site design and circulation;

(C) Landscaping and site amenities;

(D) Building orientation;

(E) Building massing and articulation;

(F) Building sustainability; and

(G) Northern climate design.

vi. ***Wayfinding and Signage***
A wayfinding and signage plan including building, vehicular, and pedestrian signage.

vii. ***Timing***
A conceptual development schedule and phasing plan.

g. ***Twenty Year Development Areas***
The institutional master plan shall include written and graphic materials identifying future development areas beyond those noted in the 10-year development description. This information shall include, at a minimum, the

general location and approximate scale of anticipated development that may occur within a 20 year period.

D. Procedures for Master Plan Approval

1. Initiation

An application for approval of an institutional master plan shall be initiated by the owner or managing agent of the subject property.

2. Pre-Application Conference

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

3. Community Meeting

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

4. Application Submittal

Applications for institutional master plan approval shall contain all information and supporting materials specified in the Title 21 user's guide and in subsection C.2. above, and shall be submitted to the director on a form provided by the department. The director may require the submittal of such other information as may be necessary to permit the informed exercise of judgment under the criteria for the review of the plan, as set out in subsection E. below.

5. Departmental Review

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

6. Public Notice

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

b. Draft institutional master plans shall be available for public review at least 21 days in advance of the Planning and Zoning Commission's public hearing.

7. Planning and Zoning Commission Action

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

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

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

8. Assembly Action

The assembly shall hold a public hearing on the proposed institutional master plan. At the close of the hearing, taking into account the recommendations of the director and the Planning and Zoning Commission, any public comment, and based on the approval

criteria of subsection E. below, the assembly shall, within 90 days, approve the plan, approve the plan with modifications or conditions, deny the plan, or refer the plan back to the Planning and Zoning Commission.

9. Approval of Final Institutional Master Plan

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

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

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

E. Approval Criteria

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

1. Provides flexibility to the institution to plan and implement long-range development programs to achieve its institutional mission and objectives;

2. Facilitates the continuation of the institution as a major source of service and employment that is easily accessible and well integrated with surrounding neighborhoods and the public transportation system;

3. Ensures that institutional facilities, especially those that are publicly funded, are well designed and constructed, include urban amenities, and are efficient to operate over their life-cycles;

4. Protects and mitigates effects of development on sensitive portions of the natural environment; and

5. Recognizes and addresses potential significant adverse impacts of institutional development on adjacent built environments, neighborhoods, and the community at large.

F. Compliance with Institutional Master Plan

1. Projects developed under the auspices of an approved institutional master plan are exempt from the review and approval procedures required in table 21.05-2.

2. Before a building permit or land use permit is issued for any project within an area covered by an approved institutional master plan, the director shall certify that the proposed project is consistent with the approved institutional master plan. The applicant shall submit a request for certification of consistency on a form provided by the department.

3. Such a certification shall be found if the proposed project is consistent or substantially consistent with the approved institutional master plan, or if the project is found to be not consistent with the approved institutional master plan, but the director finds the proposed project creates minimal impact according to the following criteria:

a. Not more than 25 percent of the proposed project is located outside the development areas depicted on the site functional use map;

b. The proposed project does not result in the addition of more than 10 percent additional square footage on a cumulative basis to the estimated total square footage of the affected site functional use category;

c. The project does not result in the creation of or the need for additional parking beyond that covered in the approved transportation and parking management element; and

d. The project does not result in the coverage of more than 25,000 square feet of site area.

4. A certification of consistency, finding of inconsistency, or finding of consistency subject to conditions, shall be issued within 45 days of receipt of an application for such certification.

5. If the director finds that a project is not consistent with the approved institutional master plan, the director shall issue a detailed list of reasons and recommended actions to achieve compliance.

6. The director may issue a finding of inconsistency, or a finding of consistency subject to conditions, only where the director finds that the matters resulting in the inconsistency, or the conditions to which the certification is made subject, are required by specific terms of the approved institutional master plan or any applicable Title 21 provisions.

7. The director's decision may be appealed to the Planning and Zoning Commission.

G. Modifications to Approved Institutional Master Plans

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

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

21.03.120 MINOR MODIFICATIONS

A. Purpose and Scope

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

B. Applicability

1. Minor Modifications to General Development and Zoning District Standards
As part of the review and approval of any procedure set forth in this chapter, the director, the Planning and Zoning Commission, or the Urban Design Commission may approve minor modifications of up to a maximum of five percent from the following general

development and zoning district standards provided that the approval criteria of subsection D. below are met.

a. Minimum lot area or setback requirements set forth in chapter 21.06, *Dimensional Standards and Measurements*;

b. General development standards set forth in chapter 21.07, *Development and Design Standards*, except for the natural resource protection standards in subsection 21.07.020B.;

c. The dimensional standards, site development and design standards, and building design standards set forth in chapter 21.09, *Girdwood Land Use Regulations* (sections 21.09.060, 21.09.070, and 21.09.080).

2. Exceptions to Authority to Grant Minor Modifications

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

a. An increase in overall project density;

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

c. A deviation from the district-specific standards set forth in chapter 21.04, *Zoning Districts*, or the use-specific standards set forth in chapter 21.05, *Use Regulations*; or

d. A change in conditions attached to the approval of any subdivision plan (section 21.03.200), site plan (section 21.03.180), [OR] conditional use (section 21.03.080), or rezone (special limitation) (section 21.03.160).

C. Procedure

1. Limitation on Minor Modifications

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

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

2. Minor Modifications Approved by Director

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

3. Minor Modifications Approved by Planning and Zoning Commission, or Urban Design Commission

The Planning and Zoning Commission, or Urban Design Commission may approve a minor modification allowed under this section at any time before taking action on a development application.

4. Written Findings Noted on Pending Application

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

5. Appeals

Denial of a minor modification may be appealed to the same body as an appeal of the underlying approval process. For instance, denial of a minor modification in a conditional use application may be appealed to the Board of Adjustment, as the Board of Adjustment

hears appeals of conditional use approvals. Denial of a minor modification associated with a permitted use may be appealed to the zoning board of examiners and appeals.

D. Approval Criteria

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

1. The requested modification is consistent with the comprehensive plan and the stated purpose of this title;

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

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

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

5. The requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if "practical difficulty" exists, the factors set forth in section 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

21.03.130 NEIGHBORHOOD OR DISTRICT PLANS

A. Purpose and Authority

1. Purpose

a. The purpose of this section is to allow and facilitate the development of neighborhood or district plans by citizen groups that are approved by the assembly. Neighborhood and district plans that are developed by local government are not subject to this section, but rather follow the process of section 21.03.070C., *Comprehensive Plan Amendments, Substantive*.

b. Neighborhood or district plans shall be guided by the elements of the comprehensive plan, as defined in section 21.01.080. Neighborhood or district plans should give specificity to the goals, objectives, policies, and strategies of the comprehensive plan. These plans shall supplement and elaborate on the comprehensive plan. The goal of a neighborhood or district plan is to protect and promote the positive elements of neighborhood or district character and identity, while promoting the orderly growth, improvement, and future development of the neighborhood, community, or municipality.

2. Authority

a. These procedures and minimum standards are established for the creation and review of plans for the development, growth, and improvement of the municipality, and its neighborhoods and communities. The plans may be sponsored, upon express approval of the assembly by resolution, by any group or organization representing the broad public interest, upon express approval by assembly resolution (hereafter called the "sponsor").

b. In order to obtain the approval of the assembly as a sponsor, any community council, group of councils, or other groups or organizations shall request a resolution from the assembly authorizing them to proceed with the development of a neighborhood or district plan. The group shall demonstrate, to the reasonable satisfaction of a majority of the assembly, that

i. They represent the broad public interest necessary to successfully develop a plan;

ii. They have read and understand the requirements of this ordinance, and[;] that their proposed plan will comply with the standards set forth in this ordinance; and

iii. They have sufficient financial resources and a sufficient level of knowledge and expertise to warrant the expenditure of public resources as provided herein.

3. Policy Guidance

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

B. Plan Submittal

1. Initiation Meeting

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

2. Work Program

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

3. Submittal

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

C. Threshold Review and Determination

1. Department Review and Determination

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

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

b. If the department determines the plan does not meet the threshold standards of subsection D., the staff shall provide written notification to the sponsor of all

deficiencies with respect to form, content, process, and any changes, additions, or deletions which, in the opinion of staff, may correct such deficiencies.

2. Coordination of Plan Review

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

D. Standards

1. Form and Content

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

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

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

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

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

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

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

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

f. A plan shall contain, as applicable:

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

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

The level of detail and analysis shall be appropriate to the goals and recommendations presented in the plan. The information and analysis relied upon to support the recommendations shall be sufficiently identified to facilitate

later plan review, including accuracy and validity of the information and analysis. Supporting information may be contained in the form of narrative, maps, charts, tables, technical appendices, or the like.

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

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

2. Sound Planning Policy

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

i. Its long-range consequences;

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

iii. Provision of future growth and development opportunities;

iv. Ability to improve the physical environment; and

v. Effect on the geographic distribution of municipal facilities.

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

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

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

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

E. Plan Distribution and Review

1. Plan Distribution

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

2. Public, Agency, and Community Council Review

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

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

3. Department Review

[When the] The department [is not the sponsor of a plan, it] shall review the plan during the 120 day review period, and prepare a staff report and recommendation for the commission. The department shall consider the neighborhood, community, and municipal-wide impacts and the long-term effects of the actions or policies recommended by the plan. The department shall also consider the impact of the plan on economic and housing opportunity, future growth and development, and the physical environment, including consistency of the plan with other adopted plans.

F. Planning and Zoning Commission Review

1. Schedule for Review

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

2. Public Notice

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

3. Planning and Zoning Commission Action

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

4. Commission Findings

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

G. Assembly Adoption

1. Transmission to Assembly

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

2. Public Notice

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

3. Assembly Action

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

a. Adopt the plan;

b. Adopt the plan with modifications;

c. Remand the plan to the commission; or

d. Not adopt the plan.

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

H. Review and Revision

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

21.03.140 PUBLIC FACILITY SITE SELECTION

A. Purpose

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

B. Applicability

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

a. Any newly constructed building or buildings and any existing building acquired by purchase or lease, in which government operations or activities occupy more than a total of 50,000 square feet of gross floor area;

b. Any use of land over 20 acres in area (not including projects covered under section 21.03.190*, Street and Trail Review*);

c. Public schools;

d. Fire stations, unless such station is determined by the director not to have impacts on the surrounding neighborhood;

e. Any sports, entertainment, or civic center designed for more than 1,500 spectators;

f. Any public snow disposal or landfill site; and

g. A facility that, in the judgment of the director, warrants a public process for site selection due to the potential for significant impacts on surrounding properties.

2. This section shall not apply to the following:

a. Any site that is:

i. Designated for the subject use on a municipal plan adopted by the assembly;

ii. Part of an area, development, or institutional master plan;

iii. Determined by a dedication to the municipality on a final plat approved and recorded in accordance with this title; or

iv. Subject to approval of a conditional use under this title.

b. Any facility site selection reviewed by the commission or approved by the assembly before [*effective date*];

c. Any facility site selection for which over $500,000 has been expended for design or construction before [*effective date*].

B. Community Meeting

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

C. Required Information

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

D. Public Notice

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

E. Departmental Review

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

2. Based on the results of those reviews, the department shall provide a report to the Planning and Zoning Commission.

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

F. Planning and Zoning Commission

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

2. The commission shall hold a public hearing.

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

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

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

G. Assembly Action

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

1. Approve a specific recommended site;

2. Approve a specific evaluated site;

3. Reject some or all recommended sites; or

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

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 adequate utility and transportation infrastructure is available to the site;

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

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

6. The environmental suitability of the site;

7. The financial feasibility of the site, including maintenance and operations; and

8. Major municipal, state, and federal administrative offices shall locate in the Central Business District. Satellite government offices and other civic functions are encouraged to locate in regional or town centers if practicable.

I. Request for Assembly Hearing

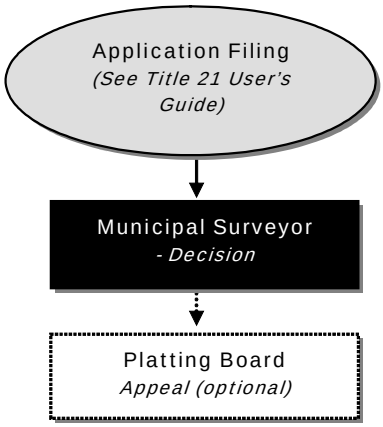
1. Decisions by the Planning and Zoning Commission are final unless, within 20 days of the date of service, any party of interest requests an assembly hearing in a letter sent to the director.

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.



Record of Survey Maps

B. Use of Record of Survey Maps

1. A record of survey map is a map depicting the exterior boundaries of a legally created lot, parcel, or tract, and includes a correction to a record of survey map.

2. A record of survey map shall not be used to depict the boundaries of a lot, parcel, or tract, which lot, parcel,

or tract was created or subdivided contrary to law. A record of survey map shall not subdivide property or recombine lots into acreage, and any record of survey map purporting to do so shall be null and void.

C. Application Submittal

Applications for approval of a record of survey map 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.

D. Monuments

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

E. Approval

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

F. Appeals

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

21.03.160 REZONINGS (ZONING MAP AMENDMENTS)

A. Purpose and Scope

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

B. Minimum Area Requirements

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

1. A rezoning extending the boundaries of an existing zoning district; or

2. A rezoning initiated by the municipal administration to place municipally owned land in a PLI, PR, [OR] DR, GIP, or GOS zoning district.

3. A rezoning into the B-1A, ~~NMU, CMU, or RMU~~ district.

C. When a Comprehensive Plan Map Amendment is Required

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

D. General Procedure

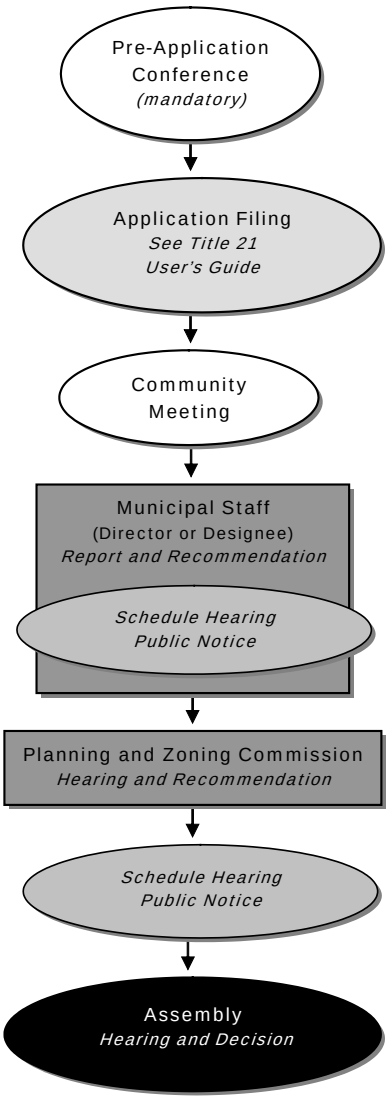
1. Initiation

a. A rezoning may be initiated by the assembly, the Planning and Zoning Commission, or by the ~~director of any municipal department~~ Administration.

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. Rezonings shall precede corps of engineers wetland permit applications.



Rezonings
(Map Amendments)

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.

7. Planning and Zoning Commission Action

a. The Planning and Zoning Commission shall hold a public hearing on the proposed rezoning and, at the close of the hearing, taking into account the recommendations of the department and public input, and based upon the approval criteria of subsection E. below, shall recommend approval, approval with special limitations or other modifications (at least as restrictive as submitted in the application), or denial. The commission shall include written findings based on each of the approval criteria.

b. If the commission recommends approval or approval with special limitations or other modifications, within 60 days of the commission's written resolution, the director shall forward the recommendation to the assembly with an ordinance to amend the official zoning map in accordance with the recommendation.

c. If the commission recommends denial, the amendment shall be deemed disapproved unless, within 15 days of the commission's written resolution recommending denial, the applicant files a written statement with the municipal clerk requesting that an ordinance amending the zoning map as set out in the application be submitted for action by the assembly. The draft ordinance shall be appended to an Assembly Informational Memorandum (AIM) for consideration by the assembly.

8. Assembly Action

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

a. Approve the zoning map amendment as submitted in the application to the Planning and Zoning Commission;

b. Approve the zoning map amendment with special limitations (see subsection G.) or other modifications at least as restrictive as those submitted in the application, provided that an ordinance approving an amendment initiated under this section shall become effective only with the written consent of the property owner(s) to the special limitations or other modifications;

c. Deny the amendment; or

d. Remand the proposed amendment to the Planning and Zoning Commission or to a committee of the assembly for further consideration.

9. Protests

a. Any owner of property subject to a proposed rezoning may protest the rezoning by filing a written protest with the clerk pursuant to this subsection.

b. Any owner of property within 300 feet of the outer boundary of the land to which the amendment applies may protest the rezoning by filing a written protest with the clerk that is signed by the owners of at least one-third of the property, excluding rights-of-way, of:

i. The land to which the amendment applies; or

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

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

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

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

10. Waiting Period for Reconsideration

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

11. Form of Amending Ordinance

An ordinance amending the zoning map shall contain the following:

a. The names of the current and the requested zoning districts;

b. The legal description of the subject property;

c. Any special limitations being applied to the subject property; and

d. An effective clause.

E. Approval Criteria

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

1. The rezoning shall be in the best interest of the citizens of Anchorage and shall promote the public health, safety, and general welfare;

2. The rezoning complies with and conforms to applicable portions of the comprehensive plan, including the land use plan map, the zoning district purpose in the requested zone, and the purposes of this title;

3. The proposed rezoning is generally compatible with, in size and scale, adjacent zoning and development and particularly those uses related to institutional, recreational, public and residential uses.

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

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

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

~~4. The rezoning is consistent with the stated purpose of the proposed zoning district and the applicable portions of the comprehensive plan;~~

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

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

6. The proposed rezoning is not likely to result in significant adverse impacts upon adjacent land uses, or such impacts shall be mitigated through stipulations;

7. A rezone shall not result in split lot zoning.

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

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

~~10. The proposed rezoning maintains and preserves the compatibility of surrounding zoning and development, and protects areas designated for specific uses on the zoning map from incompatible land uses or development intensities; and~~

~~11. The rezoning does not result in a split-zoned lot.~~

F. Flexibility of Interpretation

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

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

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

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

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

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

G. Rezonings with Special Limitations

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

1. Purposes
A rezoning may include special limitations for one or more of the following purposes:

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

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

c. To conform development under the zoning map amendment to existing patterns of development in the surrounding neighborhood.[; OR]

d. To mitigate the adverse effects of development under the zoning map amendment on the natural environment, the surrounding neighborhood, and on public facilities and services.

2. Types of Limitations

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

a. Limit residential density; or prohibit structures, or uses of land or structures, otherwise permitted in a zoning district.[;]

b. Require compliance with design standards for structures and other site features.[;]

c. Require compliance with a site plan approved under this title.[;]

d. Require the construction and installation of improvements, including public improvements.[; OR]

e. Impose time limits for taking subsequent development actions.

3. Effect of Approval

a. A zoning district subject to special limitations shall be identified on the zoning map by the suffix "SL," and the number of the ordinance applying the special limitations shall be printed on the zoning map.

b. Where a special limitation in a zoning map amendment conflicts with any less restrictive provision of this title, the special limitation governs.

H. Rezonings to Create, Alter, or Eliminate Overlay Districts

1. Purpose and Applicability

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

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

b. Alter the provisions of the use-specific requirements as applied to property within the overlay district;

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

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

e. Alter the development standards of the underlying district by decreasing or increasing the requirements with regard to building height, setbacks, lot area, lot width, lot coverage, and lot densities of the underlying district.

2. Minimum Area Requirements

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

b. Overlay districts shall not be created to apply to property owned by a single person, unless the property is at least 30 acres.

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

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

a. ***Contents of Adopting Ordinance***

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

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

ii. The legal description of the land within the overlay district applied by the ordinance; and

iii. All standards of development to be governed by the overlay district.

b. ***Effect of Approval***

i. Where a specification in an overlay zoning map amendment conflicts with any provision of this title, the overlay zoning map amendment shall govern.

ii. An overlay district adopted in the same manner as the original ordinance remains effective until repealed or amended. The assembly may set a time for the overlay district to expire if it finds the planning objectives will be met or completed within a specific time period.

c. ***Map of Overlay Districts***

i. Each overlay district shall be annotated on the zoning map with a symbol unique to the overlay district and shall be identified on the zoning map by the suffix "OV" and the number of the ordinance applying the overlay district shall be printed on the zoning map within the boundaries of the overlay district.

ii. The department shall maintain, for inspection by the public, maps showing the location of the overlay districts and records of the assembly's purpose and intent in establishing each district.

4. Establishment or Modification of Airport Height Overlay Districts

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

I. Rezoning to Planned Community Development District (PCD)

1. Purpose

The assembly may, through the rezoning process, adopt a regulatory zoning strategy that is customized for a specific property or group of properties. The zoning strategy may substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07 (see subsection I.4. below) in order to allow the development to achieve the goals of the

comprehensive plan and Title 21 in a unique way. The assembly must find that the proposed strategy will result in development that is compatible with that which would occur with conventional application of the requirements of chapters 21.05, 21.06, and 21.07.

2. Procedure

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

3. Minimum Area Requirements

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

4. In-Lieu Standards Allowed

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

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

i. Chapter 21.05, *Use Regulations*;

ii. Chapter 21.06, *Dimensional Standards*;

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

iv. Section 21.07.030, *Open Space*;

v. Section 21.07.060, *Transportation and Connectivity*;

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

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

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

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

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

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

xii. Subsection 21.08.050D., *Interior Streets*.

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

i. Clear specification of the proposed in-lieu standards, and the Title 21 standards for which the proposed in-lieu standards are a substitute. Any Title 21 standards that are not replaced with approved in-lieu standards shall apply in the PCD district.

ii. A statement of why compliance with Title 21 standards would interfere with the goals, purposes, or functions of development in the proposed PCD district.

iii. A demonstration of how the proposed in-lieu standards would be at least as effective as the Title 21 standards in fulfilling the intents and purposes of Title 21, and furthering the goals and policies of the comprehensive plan, including any applicable neighborhood or district plans.

iv. A statement of the expected benefits of the proposed in-lieu standards.

d. The Planning and Zoning Commission may recommend approval, and the assembly may approve a rezone to the PCD district with in-lieu standards if they find that the in-lieu standards will result in development that is compatible with the intents and purposes of Title 21 and the goals and policies of the comprehensive plan, and do not compromise public health, safety, or welfare.

5. Application and Documentation

Applications for rezoning to a PCD district shall contain the information specified in the Title 21 user's guide, and the following:

a. If proposing in-lieu standards for subsection 21.07.020C., *Steep Slope Development*, the information required in subsection 21.07.020C.[;]

b. Development Areas: a PCD district that proposes to segregate differing land uses and/or different project phases shall provide and maintain a map that clearly distinguishes the boundaries of each development area. The development areas shall be identified with an alpha, numeric, or alphanumeric coding system to allow for easy identification of each area. Different in-lieu standards may be proposed for each development area.

c. Table of allowed uses and use definitions:

i. The PCD district shall establish a table of allowed uses and a table of accessory uses. The table shall be formatted in the same manner as the tables depicted in chapter 21.05 listing the land use, and if development areas are proposed, noting each with its designated land uses. The table abbreviations set forth at 21.05.010A. shall be used.

ii. The land uses listed in the table of allowed uses or the table of accessory uses shall be defined in chapter 21.05, or the PCD district shall provide a use definition for those uses not listed in sections 21.05.020 through 21.05.080.

d. Dimensional standards and measurements:

i. The PCD district shall establish a table of dimensional standards. The table shall be formatted in the same manner as the tables depicted in chapter 21.06 listing the dimensional standards, and if development areas are proposed, noting each with its designated dimensional standards.

ii. Unless specifically provided otherwise (see subsection I.4. above), the measurements and exceptions section 21.06.030 shall apply.

6. Relationship to Other Requirements

When there is a conflict between the PCD district requirements and other requirements of this title, the PCD district requirements control. The specific requirements of this title apply unless the PCD district provides other requirements for the same specific topic.

7. Changes to an Approved PCD District

a. ***Approval by Assembly***

Approval of a zoning map amendment in accordance with section 21.03.160 is required for the following amendments to the PCD district:

i. Any increase in the total number of authorized dwelling units;

ii. Any decrease in the total open space acreage;

iii. Any increase in the total gross building area of commercial or industrial structures;

iv. Any addition or deletion of any permitted principal use, conditional use, or accessory use;

v. Any changes in the development standards;

vi. Any density transfer between development areas that will result in a 25 percent or greater cumulative increase or decrease in the number of dwelling units in any development area; or

vii. Any change in the acreage of a development area equal to or more than 25 percent of the total acreage of the development area.

b. ***Approval by the Planning and Zoning Commission***

Approval by the Planning and Zoning Commission is required for the following amendments to the PCD district:

i. Any density transfer between development areas that will result in a cumulative increase or decrease of more than 10 percent but less than 25 percent in the number of dwelling units in any development area; or

ii. Any change in the acreage of a development area of more than 10 percent but less than 25 percent of the total acreage of the development area.

c. ***Approval by the Director***

Approval by the director is required for the following amendments to the PCD district:

i. Any density transfer between development areas that will result in a cumulative increase or decrease of 10 percent or less in the number of dwelling units in any development area; or

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

21.03.170 SIGN PERMITS

A. Applicability

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

B. Approval Requirements for Signs

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

TABLE 21.03-3: SIGN PERMIT REQUIREMENTS

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

C. Application Submittal

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

D. Review and Approval

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

E. Appeals

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

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

21.03.180 SITE PLAN REVIEW

A. Purpose

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

B. Administrative Site Plan Review

1. Applicability

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

a. This section shall not apply to the interior remodeling, renovation or repair to interior portions of structures that are subject to site plan review under this Title

except for those interior areas that affect conformity to development and design requirements of this Title.

2. Procedure

a. *Application Submittal*

Applications for an administrative site plan review 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.

b. *Departmental Review and Director's Action*

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

c. *Appeals*

Denial of an administrative site plan may be appealed to the Urban Design Commission, in which case it shall be treated as a major site plan review application under subsection C. below.

C. Major Site Plan Review

1. Applicability

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

a. This section shall not apply to the interior remodeling, renovation or repair to interior portions of structures that are subject to site plan review under this Title except for those interior areas that affect conformity to development and design requirements of this Title.

2. Procedure

a. *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.

b. *Community Meeting*

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

c. *Application Submittal*

Applications for a major site plan review 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.

d. *Public Notice*

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

e. *Departmental Review*

The department shall review each proposed major site plan application in light of the approval criteria of 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 Urban Design Commission.

f. *Urban Design Commission Action*

The Urban Design Commission shall hold a public hearing on the proposed application and, taking into account the recommendations of the department and public input, shall act to approve, approve with conditions, or deny the proposed major site plan, based on the approval criteria of subsection E. below.

g. ***Appeals***

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

D. Expiration

1. General

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

2. Extension

a. ***First Extension***

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

b. ***Further Extensions***

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

E. Approval Criteria

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

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

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

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

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

F. Platting for Site Plans

1. If development under an approval under this section will create a subdivision or requires the vacation of a dedicated public area, the approval is not effective until a final plat for the subdivision or vacation is approved and recorded in accordance with this title. A

preliminary plat required under this section is subject to approval as required by section 21.03.200, *Subdivisions*.

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

G. Amendments to Approved Site Plans

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

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

a. ***Procedure***

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

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

(A) Issue a minor amendment affidavit, which shall be transmitted to the Urban Design Commission for their information; and

(B) Attach a form stating the nature of the modification, date of approval, and bearing the signature of the director to the site plan mylar on file in the department.

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

b. ***Types of Minor Amendments***
The following are amendments which the director may reasonably determine to be "minor":

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

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

iii. Changes of 10 percent or less in building envelope, setback, and similar provisions [OF 10 PERCENT OR LESS].

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

21.03.190 STREET AND TRAIL REVIEW

[RESERVED]

A. 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 ~~and Urban Design 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 concept report or equivalent, distributed to the Planning and Zoning Commission as an information item;

c. The draft design study report, reviewed by the Planning and Zoning Commission; and

d. The plans in hand design drawings, reviewed by the Urban Design Commission Planning and Zoning 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 21.030.020B.

b. Community Meeting

Public outreach is an essential part of CSS, and is expected to have been conducted prior to submitting an application. Depending on the project, a community meeting

may also be held at the application stage; if so, it shall be in accordance with subsection 21.03.020G.

c. Application Submittal

Applications shall contain the information specified in the Title 21 user's guide and in A Strategy for Developing Context Sensitive Transportation Projects (CSS)

d. Public Notice

Notice of all public hearings shall be provided in accordance with section 21.03.020.H

e. Department Review

The department shall review each proposed application and distribute the application to other reviewers as deemed necessary. Reviewers shall address those aspects of the design that are germane to the commissions' deliberations; detailed lists of technical comments shall be separately coordinated with the design team leader. Based on the results of those reviews the department shall provide a report to the Planning and Zoning Commission or Urban Design Commission, as applicable.

f. Commission Review

A public hearing at the draft design study report and plans in hand design drawings phases will be held at the discretion of the Planning and Zoning Commission. The Planning and Zoning Commission will review and act to approve, approve with conditions, or return the application to the project management team for additional work. Concerns and conditions raised by the commission shall be specifically addressed in subsequent submittals.

3. Concept Report

The concept report shall be distributed to the Planning and Zoning Commission as an information item. The commission shall take no formal action on the report.

4. Draft Design Study Report Review

a. The Planning and Zoning Commission shall review the draft design study report or equivalent document, for all applicable street projects, and shall issue a decision. A public hearing is not required but may be held at the commission's discretion.

b. As applicable, the commission's review of the project draft design study report shall include but not be limited to:

i. Existing conditions, including but not limited to traffic volumes;

ii. Design standards and criteria, with specific attention to any requests for variances from the criteria;

iii. Alternatives identification, evaluation, and recommended alternative;

iv. Compliance with this Title;

v. Long-term impact on existing and projected land uses in the vicinity;

vi. Short-term and long-term impact of property acquisition for right-of-way;

vii. Impacts on utilities and other public infrastructure, including undergrounding of overhead utilities;

viii. Street illumination

ix. Maintenance considerations

x. Environmental Constraints

xi. Pedestrian and other non-motorized access

xii. Public involvement summary

xiii. Cost estimate

c. Decisions may be appealed to the Board of Adjustment pursuant to subsection 21.03.050.A.

5. Plans in Hand Design Drawings Review

a. The Planning and Zoning Commission shall review and approve all landscaping and streetscape and pedestrian facilities for streets of collector classification or greater in the *Official Streets and Highways Plan*.

b. The Planning and Zoning Commission shall approve, approve with conditions, or reject the landscaping, streetscape, and pedestrian design plans at a stage no greater than 65 percent designed, for all applicable street projects. A public hearing is not required but may be held at the commission's discretion.

c. As applicable, the commission's review of the plans in hand design drawings shall include but not be limited to:

i. Compliance with this Title;

ii. Context of the area and the long-term impact on existing and projected adjacent land uses;

iii. Initial cost of materials including installation;

iv. Long term costs associated with operation and maintenance;

v. Adherence to a design theme established through local area plans or prior public improvements;

vi. Effectiveness in meeting community design goals; and

vii. Accommodation of pedestrians and non-motorized users.

~~**d.** Decisions may be appealed to the Planning and Zoning Commission, which shall be required to hold a public hearing only if the Urban Design Commission did not hold a public hearing.~~

C. Trail Review

1. Purpose

Trails are a basic part of the infrastructure of the municipality. They are used for transportation, for recreation and leisure, and also provide aesthetic and psychological benefits. Significant additions or revisions to the municipality's trail network benefit by oversight and concurrence in design decisions by the ~~Planning and Zoning Commission~~ Urban Design Commission.

2. Applicability

a. This section applies to new construction and reconstruction of the following types of trails

i. Major multi-use trails that extend between multiple neighborhoods, such as the Chester and Campbell Creek Trails, the Ship Creek Trail, and the Coastal Trail.

ii. Trails over one-half mile in length in parks classified by the Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan as community use area, special use area, or natural resource use area; or in parks classified by the Anchorage Park, Greenbelt and Recreation Facility Plan Volume 2: "Eagle River-Chugiak-Eklutna" as Community, Large Urban, or Regional Parks.

iii. Trails over one-half mile in length along streams, or connecting subdivisions or other developments.

iv. Trails internal to parks and schools shall be reviewed by the appropriate park board and/or the school district.

b. Notwithstanding the criteria of 2.a. above, the director may exempt new trails or trail reconstruction projects from this section if the director finds, in writing, that the project is minor in scope and not likely to cause impacts on surrounding properties and neighborhoods. The director may also require new trails or trail reconstruction projects that do not meet the criteria of 2.a. above to be reviewed in accordance with this section, if the trail project is likely to create significant public interest, or cause impacts on surrounding properties and neighborhoods.

3. Review and Action

a. Pre-Application Conference

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

b. Application Submittal

Applications shall contain the information specified in the Title 21 User's Guide.

c. Public Notice

Notice of all public hearings shall be provided in accordance with section 21.03.020.H.

d. Department Review

The department shall review each proposed application 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.

e. ~~Planning and Zoning Commission~~ Urban Design Commission Action

~~The Planning and Zoning Commission~~ Urban Design Commission shall approve, approve with conditions, or reject the application. A public hearing is not required but may be held at the commission's discretion.

4. Appeals

~~The decision may be appealed to the Board of Adjustment pursuant to subsection 21.03.050.A.~~ Decisions may be appealed to the Planning and Zoning Commission, which shall be required to hold a public hearing only if the Urban Design Commission did not hold a public hearing.

5. Trails As Part of Subdivision Development of Conditional Use

Only when a trail is to be constructed concurrently with a subdivision development or conditional use shall the trail review requirement of this section be the responsibility of the Planning and Zoning Commission.

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.

d. Subdivision of a cemetery into burial plots.

e. A plat required by section 21.03.080F. for approval of a conditional use, or section 21.03.180F. for approval of a site plan.

f. A plat depicting the creation of two attached single-family lots.

3. Subdivision Approval is Prerequisite to Other Approvals

a. No building permit, land use permit, certificate of zoning compliance, or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded with the state of Alaska, until all required dedications of land have been made, and all required improvements have been installed in accordance with the procedures and requirements of this section, or an approved subdivision agreement is in place pursuant to section 21.08.060, *Subdivision Agreements*.

b. The municipality shall not accept or maintain any street, and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a plat for the subdivision has been approved and recorded in accordance with the requirements set forth in this section.

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

Any person who transfers or sells any land located within the municipality by reference to a plat that has not been approved by the municipality and recorded by the state of Alaska shall be guilty of a violation of this title. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The municipality also may enjoin such transfer or sale by filing an action for an injunction.

5. Existing Lots of Record

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

C. Review and Approval of Subdivision Plans

1. Applicability

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

2. Pre-Application Conference

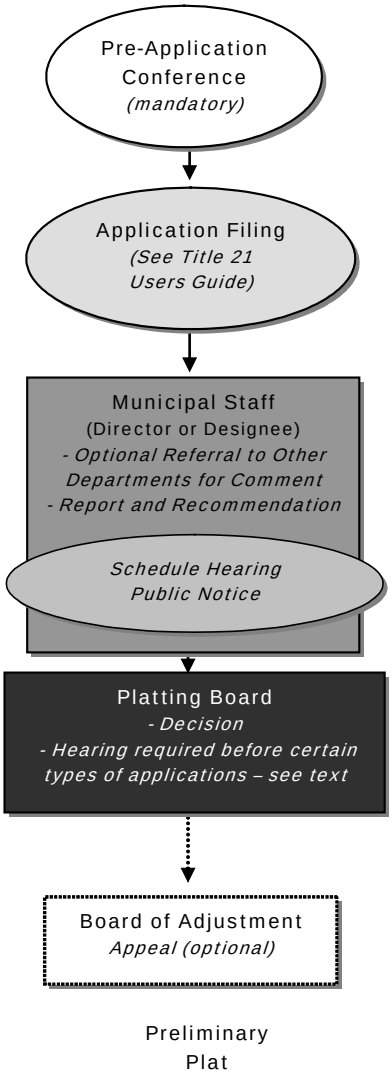
Before filing an application for a new subdivision or a modification of an already-approved subdivision, the applicant shall request a pre-application conference with the platting officer [DIRECTOR], in accordance with subsection 21.03.020B.

3. Community Meeting

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

4. Application Submittal

a. Unless waived by the platting officer [DIRECTOR], a preliminary plat shall include all land under contiguous ownership, unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be part of the preliminary and final plat.



Requirements for surveying this remaining tract may be waived at the discretion of the municipal surveyor. By plat note, development shall not be allowed on the remaining tract until approved under this section.

b. Applications for a preliminary plat shall contain the information specified in the Title 21 user's guide, and shall be submitted to the platting officer [DIRECTOR]on a form provided by the department.

c. For subdivision plats that have A or B wetlands, the applicant shall have initiated corps of engineers wetland permitting prior to submitting the preliminary plat.

5. Public Notice

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

6. Departmental Review

The department shall review each proposed preliminary plat in light of the approval criteria of subsection C.9. 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 platting board.

7. Action on Preliminary Plat

a. ***Platting Authority***

The platting board is the platting authority for preliminary plats, except as provided in subsection 21.03.080F. for conditional uses, and subsection 21.03.180F. for site plans.

b. ***Action by Platting Authority***

Subject to paragraph 7.c. below, the platting authority shall, based on the approval criteria of subsection C.9. below, take action on the preliminary plat within 90 days after the submittal date, or shall return the plat to the applicant for modification or correction. The reasons for denial of a plat shall be stated in the records of the platting authority.

c. ***Referral to Other Agency***

If the platting authority finds that:

i. It cannot determine whether a preliminary plat conforms to the approval criteria of subsection C.9. below, because a specific controlling land use, public facility, or other public policy issue has not been resolved; and

ii. An official board, commission or legislative body of the municipality or another government has been identified as being responsible for resolving that issue;

then, upon a majority vote, the platting authority may refer the issue to the responsible official, board, commission, or legislative body and postpone action on the plat for a period not exceeding 90 days or to its next regular meeting after the responsible official, board, commission, or legislative body responds to the referral, whichever occurs first.

d. ***Public Hearing***

The platting authority shall hold a public hearing before action on the following types of subdivision applications:

i. Approval of a preliminary plat, except applications allowed to use the abbreviated plat procedure;

ii. Approval of a final plat that differs from the preliminary plat (see section 21.03.200C.8.b.);

iii. Modification or deletion of a condition of plat approval;

iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision Standards*; and

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

e. ***Approval Period; Time Extensions***

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

(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.

(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.

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.

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 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.

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.

v. Preliminary plats being finalized in portions or phases shall not be construed to automatically extend the original approval period. Such an extension may only be granted by the platting authority in accordance with the procedures set out in this subsection.

f. ***Appeals***

All decisions as to approval or denial of a preliminary plat by the platting authority shall be final unless appealed to the Board of Adjustment.

g. ***Resubmittal Following Denial***

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

8. Final Plat

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

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

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

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

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

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

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

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

(B) A certificate from the tax collecting official or a note on the face of the plat stating that all municipal real property taxes levied

against the property are paid in full, or, if approval is sought between January 1 and the tax due date, that there is on deposit with the chief fiscal officer an amount sufficient to pay estimated real property tax for the current year.

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

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

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

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

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

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

b. ***Procedure When Final Plat Differs from Preliminary Plat***
When the final plat differs from the preliminary plat, the plat shall be considered a new application for preliminary plat approval under this subsection C., except that all decisions as to approval or denial of this plat by the platting board as submitted under this section shall be final unless appealed to superior court.

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.

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*.

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.

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:

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;

c. Provides for the proper arrangement of streets in relation to existing or proposed streets;

d. Provides for adequate and convenient open space;

e. Provides for the efficient movement of vehicular and pedestrian traffic;

f. Ensures adequate and properly placed utilities;

g. Provides access for firefighting apparatus;

h. Provides opportunities for recreation, light, and air, and avoids congestion;

i. Facilitates the orderly and efficient layout and use of the land;

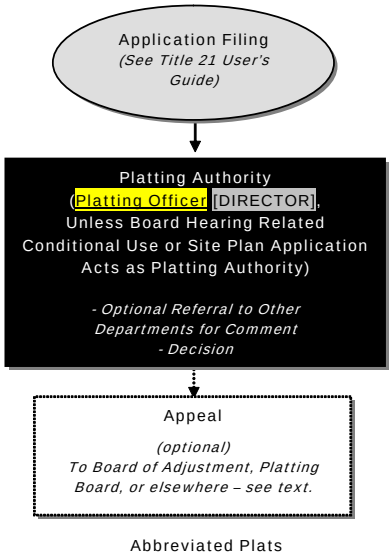
j. Does not create a split-zoned lot; and

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*.

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.



Abbreviated Plats

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.

e. *Time Extensions*

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

f. *Appeals*

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

g. *Approval of Final Plat*

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

E. Commercial Tract Plats

1. Applicability

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

2. Platting Authority

The Urban Design Commission shall be the platting authority for a commercial tract whose site plan includes a large commercial establishment. The platting board shall be the platting authority for all other commercial tracts.

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

a. *Application Submittal*

Applications for a commercial tract plat 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. An application for approval of a commercial tract shall be signed by the owners of the property involved.

b. *Action by Platting Authority*

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

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

c. *Recording of Site Plan*

Upon approval of a commercial tract under subsection E.3.b. above, the platting officer [DIRECTOR] shall, after notice to the petitioner, record the commercial tract site plan as approved, together with any declarations, covenants, and restrictions, with the district recorder's office.

d. *Conformance with Site Plan*

It shall be unlawful for any person to construct, erect, or maintain any structure, building, fence, or improvement, including landscaping, parking, and other facilities, on property designated as a commercial tract, unless such improvements are constructed or reconstructed in a manner consistent with the approved commercial tract site plan.

e. *Alteration of Boundaries*

The process for amending or altering the boundaries of an approved commercial tract shall be the same process as that of the original approval of the commercial tract plat.

f. *Amendment of Site Plan*

Any amendment or alteration of an approved commercial tract site plan shall be made only upon approval of the platting authority as provided in this section.

4. Division of Tract

The owner of a commercial tract may divide the tract into fragment lots provided that such division is consistent with the approved commercial tract site plan and recorded declarations, covenants, and restrictions applicable to the commercial tract. Any property

description used to divide an area of the commercial tract into a fragment lot shall not be considered a lot or tract under the terms of this title or title 23, but shall be otherwise a lawful lot or tract. Any fragment lot created under this section shall contain the minimum area, width, and depth otherwise required for lots in the zoning district in which the fragment lot is located.

F. Right-of-Way Acquisition Plat

1. Generally

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

2. Application Submittal

Applications for a right-of-way acquisition plat 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.

3. Applicability of Requirements

a. A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.

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

4. Action

a. ***Platting Authority***

The platting officer [DIRECTOR] shall act as the platting authority unless the government agency applying for plat approval requests a public hearing before the platting board.

b. ***Duration of Approval***

The preliminary approval of the right-of-way acquisition plat shall be for a period of 60 months; provided, however, that the platting officer [DIRECTOR] may grant an extension of time for filing the final plat upon a finding that it is in the public interest to do so.

c. ***Appeals***

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

5. Requirements for Final Plat

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

G. Modification or Removal of Plat Notes

1. Purpose

This section sets forth a process by which the platting board may modify or remove plat notes from recorded plats.

2. Initiation

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

3. Application

Applications for modifying or removing a plat note(s) 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.

4. Public Notice

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

5. Departmental Review

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

6. Action by the Platting Board

The platting board shall hold a public hearing on the proposed application and act to approve, approve with alterations, or deny the proposed modification or removal of a plat note(s), based on the approval criteria of subsection G.9. below.

7. Recordation

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

8. Appeal

Decisions on modifying or removing a plat note(s) may be appealed to the Board of Adjustment in accordance with subsection 21.03.050A.

9. Approval Criteria

Plat note modifications or deletions may be approved if the platting board finds that all of the following approval criteria have been met:

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

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

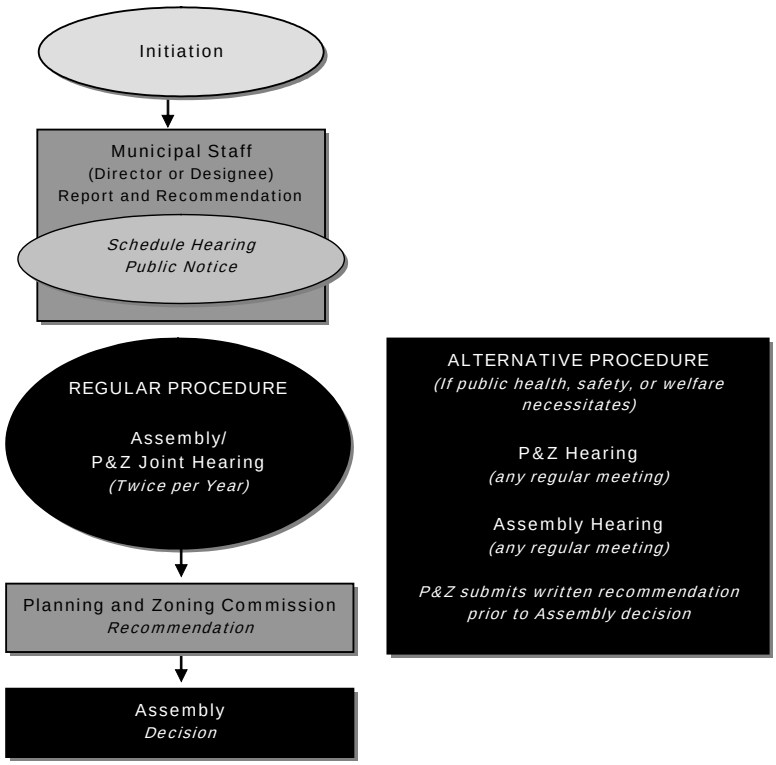
a. Any text amendments proposed that amend the powers and duties of any board or commission shall be reviewed by that board or commission, which shall forward a recommendation to the assembly.

b. In addition, if any text amendments are proposed in chapter 21.08, *Subdivision Standards*, the platting board shall review such proposed amendments and forward a recommendation to the Planning and Zoning Commission and the assembly.

5. Notice and Frequency of Amendments

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

b. Title 21 text 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.



Amendments to Text of Title 21

c. Starting on [~~two~~ *years three years after the effective date*], text amendments shall be considered no more than two times per year. However, where the assembly determines by a majority vote that the public health, safety, or welfare necessitates, text amendments may be considered at any regularly scheduled meeting of the assembly, provided that the assembly holds a public hearing on the proposed

amendment and the Planning and Zoning Commission holds a public hearing and provides a written report and recommendation on the proposed amendment prior to the assembly's decision.

d. If, during the first ~~two~~ three years after [effective date], the assembly, a board or commission or the director determines that an amendment to Title 21 is needed to address conflicting provisions, inconsistencies, or unintended consequences associated with the Title 21 Rewrite Project (2002-2012), ~~the director may forward a corrective amendment to the assembly, which may~~ ~~adopt~~ the amendment may be adopted without Planning and Zoning Commission review; provided, however, that the ~~director shall give the~~ Planning and Zoning Commission will be given a minimum of ten days notice of the proposed amendment so that the Commission can forward its opinion on the proposed change to the Assembly for consideration~~. After the first two years, the director may apply this provision twice per year.~~

6. Planning and Zoning Commission Action

a. As soon as possible after the public hearing, but no later than 60 days, the Planning and Zoning Commission shall make a recommendation to the assembly to approve or deny the text amendment based on the approval criteria of subsection C. below.

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

c. If no recommendation is made within 60 days, then the Planning and Zoning Commission may request an extension of time from the assembly. If no recommendation is made and no extension is granted, then the assembly may act on the proposed amendment without a recommendation from the Planning and Zoning Commission.

7. Assembly Action

After a public hearing and reviewing the reports and recommendations of the director and the Planning and Zoning Commission, the assembly shall vote to approve, approve with amendments, or deny the proposed amendment, based on the approval criteria of subsection C. below. The assembly also may refer the proposed amendment back to the Planning and Zoning Commission or to a committee of the assembly for further consideration. Text amendments shall be approved in the form of ordinances.

C. Approval Criteria

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

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

2. The proposed amendment is consistent with the comprehensive plan and the stated purposes of this title; and

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

21.03.220 USE CLASSIFICATION REQUESTS

A. Purpose and Applicability

1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*, and in section 21.09.050, *Use Regulations* (Girdwood), describe one or more uses having similar characteristics, but do not list every use or activity that may fall within the

classification. This section shall be used to determine all questions or disputes whether a specific use is deemed to be within a use classification permitted in a zoning district.

2. The provisions of this section shall not apply to permit any specific use that is expressly prohibited in a zoning district.

B. Procedures for Use Classification Request

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

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

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

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

C. Standards for Review

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

1. The primary activity of the establishment and its relationship to existing use categories and use types. The primary activity may be the principal product or group of products produced or distributed, or services rendered. It may be the share of production costs, capital investment, revenue, shipments, or employment, if evaluating the relative significance of multiple activities.[;]

2. The volume and type of sales (retail or wholesale) on the premises, and the size and type of items sold and nature of inventory on the premises.[;]

3. Any processing done on the premises, including assembly, manufacturing, final production, warehousing, shipping, and distribution.[;]

4. Any dangerous, hazardous, toxic, or explosive materials used in the processing on the premises.[;]

5. The nature and location of storage and outdoor display of merchandise (enclosed, open, inside or outside the principal building); and predominant types of items stored (such as business vehicles, work-in-process, inventory and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders).[;]

6. The type, size, height, and nature of buildings and structures.[;]

7. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts.[;]

8. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes, and whether trip purposes can be shared by other uses on the site.[;]

9. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses.[;]

10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes.[;]

11. Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities.[; AND]

12. The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

D. Effects of Findings by the Director

1. Typical Uses: Amendment to this Title
If the director finds that the particular use or category of use(s) that was the subject of the use classification request is likely to be common or to recur frequently, or that omission from this title is likely to lead to public uncertainty and confusion, the director shall initiate an amendment to this title under section 21.03.210, *Title 21-Text Amendments*. The determination of the director shall be binding on all officers and departments of the municipality.

2. Atypical Uses: Determination Binding
If the director finds that the particular use or category of use(s) that was the subject of the use classification request is of an unusual or transitory nature, or is unlikely to recur frequently, the director may approve the use without initiating an amendment to this title. However, the director's determination shall thereafter be binding on all officers and departments of the municipality.

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

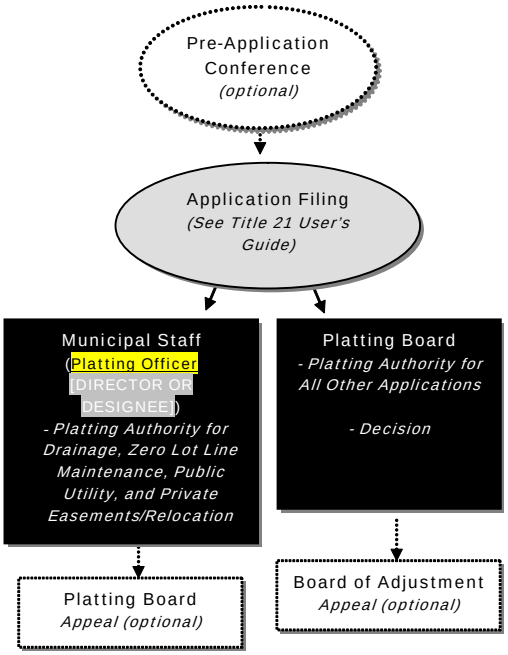
The platting officer [DIRECTOR] or platting board shall take action on the vacation application within 60 days after the submittal date. The reasons for the approval of the vacation shall be stated upon the case record.

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.

F. Appeals

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



Vacation of Public and Private Interest in Lands

G. Title to Vacated Area

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

2. If the municipality acquired the street or other public area vacated for legal consideration before the final act of vacation, the fair market value of the street or public area shall be

deposited with the municipality. Title transferred under this subsection shall be warranted by the municipality in the same manner as it was received.

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

21.03.240 VARIANCES

A. Purpose and Scope

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

B. Decision-Making Bodies Authorized to Consider Variance Requests

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

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

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

c. Chapter 21.08, *Subdivision Standards*.

2. The Planning and Zoning Commission shall be authorized to review and consider all requests for variances of standards of the following sections:

a. Subsection 21.05.040K., *Telecommunication Facilities*; and

b. Section 21.07.050, *Utility Distribution Facilities*.

3. Requests for variances from the airport height zoning regulations set forth in section 21.04.060C. shall be referred to the Federal Aviation Administration.

4. The Urban Design Commission shall be authorized to review and consider all requests for variances to standards of the following sections:

a. District-specific standards of chapter 21.04, *Zoning Districts*;

b. Use-specific standards of chapter 21.05, *Use Regulations*;

c. Chapter 21.07, *Development and Design Standards*;

d. The following sections of chapter 21.09, *Girdwood Land Use Regulations*: 21.09.040, *Zoning Districts*; 21.09.050, *Use Regulations*; 21.09.070, *Site Development and Design Standards*; 21.09.080, *Building Design Standards*;

e. Chapter 21.11, *Signs*, including the maximum sign area, the maximum sign height, the location of the sign, and the number of signs on the parcel. In evaluation the request for a variance to the maximum sign height, the Urban Design Commission may consider whether there are special topographic

circumstances that would result in a material impairment of visibility of the sign from the adjacent roadway which significantly diminishes the owner's or user's ability to continue to communicate adequately and effectively with the public through the use of the sign.

5. The zoning board of examiners and appeals shall be authorized to review and consider variance requests from chapter 21.06, *Dimensional Standards and Measurements*, and from section 21.09.060, *Dimensional Standards* (Girdwood). The zoning board may only grant variances from dimensional standards.

6. No variance may be granted from the definitions set forth in chapter 21.14.

C. Application Submittal

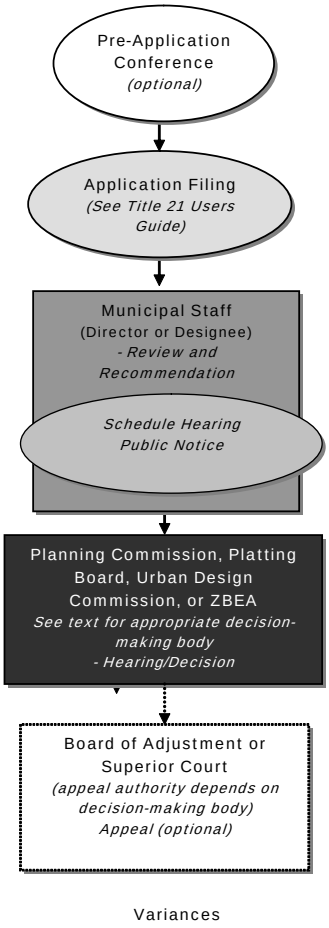
Applications for a variance shall contain the information specified in the Title 21 user's guide, and shall be submitted to the director on a form provided by the department.

D. Public Notice

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

E. Departmental Review

The department shall review each proposed variance in light of the approval criteria of subsection G. below and distribute to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the decision-making body.



Variances

F. Action by the Decision-Making Body

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

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

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

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

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

G. Approval Criteria

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

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

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

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

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

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

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

f. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality.

2. Variances from Chapter 21.06, *Dimensional Standards and Measurements* and from Section 21.09.060 (Girdwood)

a. There exist exceptional or extraordinary physical circumstances of the subject property including, but not limited to, streams, wetlands, or slope, and those circumstances are not applicable to other land in the same zoning district;

b. Because of these physical circumstances, the strict application of the code creates an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance;

c. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience;

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

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

f. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality; and

g. The variance granted is the minimum variance that will make possible a reasonable use of the land.

3. Variances from Chapter 21.08, *Subdivision Standards*

a. There are special circumstances or conditions affecting the property such that the strict application of the provisions of the subdivision regulations would clearly be impractical, unreasonable, or undesirable to the general public;

b. The granting of the specific variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated;

c. Such variance will not have the effect of nullifying the intent and purpose of the subdivision regulations or the comprehensive plan of the municipality; and

d. Undue hardship would result from strict compliance with specific provisions or requirements of the subdivision regulations. The applicant may supplement the form with supporting documents.

4. Variances from Airport Height Zoning Regulations

The Federal Aviation Administration shall complete an airspace determination that concludes that the proposed variance would not create a hazard.

H. Lapse of Approval

Any variance granted shall become null and void if:

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

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

I. Appeals

1. An appeal from a decision of the platting board or the Urban Design Commission shall be brought to the Board of Adjustment in accordance with sections 21.03.050A.

2. An appeal from a decision of the Planning and Zoning Commission or the zoning board of examiners and appeals shall be brought in accordance with section 21.03.050C.

J. Administrative Variances from Occupancy Limits For Assisted Living Facilities

1. Intent

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

2. Application

Application for minor variance in dimensional and setback requirements to accommodate special needs of persons with disabilities and application for variance in occupancy limits of no more than three persons shall be made to the director on a form provided by the department, shall be executed by or on behalf of the person with disabilities seeking the reasonable accommodation, or the owner of the real property, or the lessee with proof of the owner's consent, and shall be complete in all respects prior to review under this section.

3. Public Notice Of Application For Variance In Occupancy Limits

Notice shall be provided in accordance with section 21.03.020H.

4. Time for approval

The department shall make a determination on an application within 60 days of submittal. Notification of approval or denial shall be posted electronically on the department's municipal web site and furnished in writing to the applicant by mail or delivered by electronic means.

5. Standards

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

a. For administrative variance applications to increase occupancy limits in R-1, R-1A, R-2A and R-2D districts, the extent to which the accommodation and the assisted living provider seek to protect and preserve the primarily residential character of the district. Factors may include traffic patterns, on-street parking patterns, the control exercised by the assisted living provider to mitigate environmental disturbance associated with ingress and egress of facility staff workers at shift change, and any other measures taken by the assisted living provider to ensure the commercial aspects of the facility do not detract from its residential purpose and the primarily residential character of the district. An example of a commercial aspect is if residential trash containers were standard in the neighborhood and the assisted living provider used one or more dumpsters due to volume. An example of a mitigation measure for this aspect the assisted living provider might take is to screen the dumpster.

b. For administrative variance applications to increase occupancy limits, economic hardship on the intended occupants if the variance is denied. Cost and availability of other housing alternatives may be addressed in preparation and review of the application.

c. Whether the requested accommodation and the assisted living provider are implementing accident prevention and safety measures specific to the needs of the residents, including but not limited to safety measures in state law and regulation, and in municipal fire code adopted under title 23.

d. Whether the accommodation requested is advancing housing opportunities for disabled individuals in a residential community without jeopardizing residential aspects of the neighborhood with commercial aspects of operation.

e. For administrative variance applications to increase occupancy limits, whether the proposed size of the facility is necessary for the facility's financial viability.

f. External characteristics and impacts of the proposed facility, including without limitation appearance, projected contribution to traffic volumes and on-street parking within the neighborhood, available street lighting and sidewalks.

g. Quantifiable risks to the health, safety, and quality of life of area residents and users.

h. Administrative and economic burden on the municipality, in either approval or denial of the variance.

i. Other factors deemed relevant to the applicant or the department in review of the application.

6. Conditions

In approving a variance, the department may impose reasonable conditions designed to address the standards in subsection J.5. or mitigate impacts created by the variance.

7. Appeal

All decisions of the department under this section shall be final unless an appeal is filed in a timely manner. Appeals of the decision to approve or deny a variance under this section shall be to the zoning board of examiners and appeals, pursuant to the provisions of subsection 21.03.050B., except an appeal may be brought by any person with standing to request reasonable accommodation under the Fair Housing Act, 42 U.S.C. § 3604(f).

K. Administrative Variances for Signs

1. The director may grant an administrative variance from the height restrictions and/or setback requirements for freestanding signs, provided:

a. Special topographic circumstances exist that would result in a material impairment of visibility of a conforming sign from the adjacent roadway;

b. There is no reasonable conforming alternative to the variance;

c. Any setback variance does not result in an encroachment into a public right-of-way; and

d. A fee has been received.

2. The director shall make written findings and conclusions for each variance request.

3. If the request for an administrative variance is denied, the applicant may apply for a public hearing variance under this section 21.03.240.

L. Administrative Variances for Large Domestic Animal Facility

Application for administrative approval of deviation in minimum lot size of 40,000 square feet may be made to the department. The director may approve deviation of site area square footage, not to exceed 10 percent, upon consultation with the department of health and human services and the department of development services.

21.03.250 VERIFICATION OF NONCONFORMING STATUS

A. Process

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

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

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

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

B. Exceptions

Notwithstanding subsection A. above:

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

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

C. Appeals

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