

# 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.

### 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.

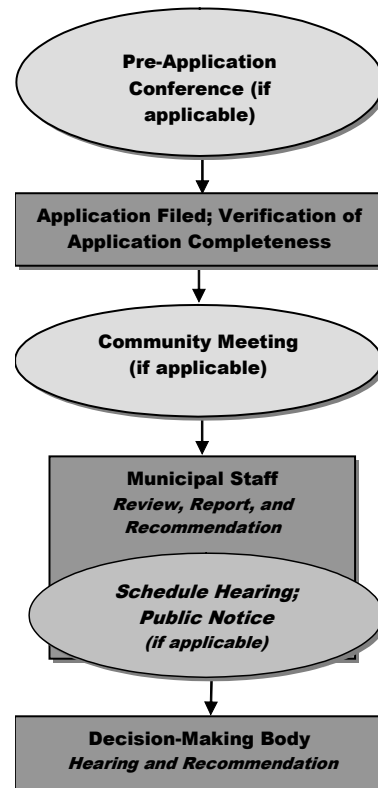
#### 2. Applicability

##### a. *Required for New Applications*

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

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

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.



Common Procedures

- 1                   **b.     *Exception for Some Changes to Already-Approved Applications***  
2                   Pre-application conferences are not required for minor amendments to already-  
3                   approved conditional uses or site plans. All other changes to already-approved  
4                   applications require a pre-application conference.
- 5                   **c.     *Optional for All Other Applications***  
6                   A pre-application conference is optional prior to submittal of any other application  
7                   under this title not listed in subsection 2.a. above.
- 8                   **d.     *Waiver***  
9                   The director may waive the pre-application requirement if the director finds that  
10                  the projected size, complexity, anticipated impacts, or other factors associated  
11                  with the proposed development clearly, in his or her judgment, make a pre-  
12                  application conference unnecessary. The waiver shall be made in writing and  
13                  shall become a part of the case record for the application.
- 14                  **3.     *Initiation of Pre-Application Conference***  
15                  The potential applicant shall request a pre-application conference, in the manner  
16                  prescribed in the user's guide, with the director. Prior to the pre-application conference,  
17                  the applicant shall provide to the director a description of the character, location, and  
18                  magnitude of the proposed development and any other supporting documents such as  
19                  maps, drawings, models, and the type of entitlement sought. It is the applicant's  
20                  responsibility to provide sufficiently detailed plans and descriptions of the proposal to  
21                  enable staff to make the informal recommendations discussed below.
- 22                  **4.     *Pre-Application Conference Content***  
23                  **a.**     The director shall schedule a pre-application conference after receipt of a proper  
24                  request. At the conference, the applicant, the director, and any other persons the  
25                  director deems appropriate and available to attend shall discuss the proposed  
26                  development. Based upon the information provided by the applicant and the  
27                  provisions of this title, the parties should discuss in general the proposed  
28                  development and the applicable requirements and standards of this title.
- 29                  **b.**     The conference attendees shall discuss the desired development activities with  
30                  respect to the following items:
- 31                    **i.**     Applicability of municipality policies, plans, and requirements as they  
32                    apply to the proposed development.
- 33                    **ii.**    Appropriateness of the development with respect to the policies set forth  
34                    in the comprehensive plan and the regulations in this title.
- 35                    **iii.**   Need, if any, to prepare a subdivision plat.
- 36                    **iv.**   Any site plan considerations or requirements.
- 37                    **v.**     Any concerns or requirements related to the anticipated impact upon  
38                    public rights-of-way and public improvements, and appropriate  
39                    requirements to mitigate those impacts, including but not limited to traffic  
40                    impact analyses.
- 41                    **vi.**   Any concerns related to neighborhood impacts, land use, landscaping  
42                    concepts, and overall project design.
- 43                    **vii.**   Possible alternatives or modifications related to the proposed application.
- 44                    **viii.**   Procedures that will need to be completed to review and act on the  
45                    proposed application.

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

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

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

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

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

18 **C. Community Meetings**

19 **1. Purpose**

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

25 **2. Applicability**

26 **a. Types of Applications**

27 The applicant shall hold a community meeting for any of the following types of  
28 applications.

- 29 i. Rezoning (zoning map amendments);  
30 ii. Subdivisions, except for abbreviated plats;  
31 iii. Conditional uses;  
32 iv. Institutional master plans;  
33 v. Major site plan review; and  
34 vi. Public facility site selection.

35 **b. Community Councils**

36 The applicant shall use as its first choice the community council(s) meeting of the  
37 project area as the community meeting when the community council(s) meeting  
38 is available. If an applicant chooses not to use the community council for the  
39 community meeting, the applicant shall provide a written explanation to the  
40 director outlining the reasons for this decision. The explanation shall be available  
41 to the appropriate board or commission at the time of authorization review. If the  
42 community council(s) meeting for the project area is not scheduled in a timely  
43 manner, the applicant shall organize a community meeting. If the project area  
44 spans more than one community council and the applicant chooses to attend  
45 community council meetings, the applicant shall attend the community council  
46 meetings of all applicable community councils.

- 1           **3.     Timing and Number of Community Meetings**  
2           When required, there shall be at least one community meeting held after the pre-  
3           application conference (if applicable), but prior to the submittal of an application.
- 4           **4.     Notice of Community Meeting**  
5           The applicant shall provide written (mailed) notice of the community meeting in  
6           accordance with subsection H.4. below, at least 21 days prior to the community meeting.
- 7           **5.     Attendance at Community Meeting**  
8           **a.**     If a community meeting is required, the applicant or applicant's representative  
9           shall attend the community meeting. The applicant shall be responsible for  
10          scheduling the community meeting, coordinating the community meeting, and for  
11          retaining an independent facilitator if the applicant determines one is needed.
- 12          **b.**     All community meetings shall be convened at a place in the vicinity of the  
13          proposed development.
- 14          **6.     Summary of Community Meeting**  
15          The applicant shall prepare a written summary of the community meeting(s), which shall  
16          be submitted to the director and the affected community council(s) no later than seven  
17          days after the date of the meeting. The written summary shall be included in the  
18          departmental report. At a minimum, the written summary shall include the following  
19          information:
- 20          **a.**     Dates and locations of all meetings where citizens were invited to discuss the  
21          applicant's proposals;
- 22          **b.**     Content and dates of mailing, and number of mailings, including letters, meeting  
23          notices, and any other written material;
- 24          **c.**     The number of people that participated in the meeting(s);
- 25          **d.**     A summary of concerns, issues, and problems expressed during the meeting(s),  
26          including:
- 27                  **i.**     The substance of the concerns, issues, and problems;
- 28                  **ii.**    How the applicant has addressed or intends to address concerns,  
29                  issues, and problems expressed at the meeting(s); and
- 30                  **iii.**   Concerns, issues, and problems the applicant is unwilling or unable to  
31                  address and why.
- 32          **D.     Authority to File Applications**
- 33                  **1.**     When an authorized agent files an application under this title on behalf of a property  
34                  owner, the agent shall provide the municipality with written documentation that the owner  
35                  of the property has authorized the filing of the application.
- 36                  **2.**     When a review or decision-making body initiates action under this title, it does so without  
37                  prejudice toward the outcome.
- 38          **E.     Application Contents, Submittal Schedule, and Fees**
- 39                  **1.     Title 21 User's Guide**  
40                  The director shall compile the requirements for application contents, forms, fees, and the  
41                  submittal and review schedule (including typical time frames for review) in a user's guide,  
42                  which shall be made available to the public. The director, after seeking the  
43                  recommendation of the planning and zoning commission, may amend and update the

1 user's guide from time to time. See subsection 21.14.020F. for more information about  
2 the user's guide.

3 **2. Form of Application**

4 Applications required under this chapter shall be submitted in a form and in such number  
5 as required in the user's guide.

6 **3. Processing Fees**

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

10 **4. Waivers**

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

17 **F. Verification of Application Completeness**

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

25 2. An application shall be considered complete if it is submitted in the required form,  
26 includes all mandatory information, including all supporting materials specified in the title  
27 21 user's guide, and is accompanied by the applicable fee. A pre-application conference  
28 shall have been held, if required, pursuant to subsection 21.03.020B, *Pre-Application*  
29 *Conferences*.

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

32 **G. Additional Information**

33 **1. Requested Information**

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

43 **2. Voluntary Information**

44 Any supplemental information, such as revised application materials, that is voluntarily  
45 submitted by the applicant, should be submitted before the departmental report is  
46 finalized. Any such information submitted after the departmental report is finalized shall  
47 cause the application to be automatically postponed to the next regular meeting in order  
48 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			Community Council
		Written (Mailed)	Published	Posted	
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-	-
Appeal of an Enforcement Order	21.13	-	-	✓	-
Appeals to ZBEA	21.03.050B.	✓	✓	-	✓
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-	✓
Conditional Uses	21.03.080	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
Master Plan, Development	21.09.030F.	✓	✓	✓	✓
Master Plan, Institutional	21.03.110	✓	✓	✓	✓
Neighborhood or District Plans	21.03.130	-	✓	-	✓
Nonconforming Uses of Land or Structures, Replication of	21.12.030C.	✓	✓	✓	✓
Nonconforming Structures, Replication of	21.12.040D.	✓	✓	✓	✓
Public Facility Site Selection	21.03.140	✓	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Site Plan Review, Administrative	21.03.180C.	-	✓	-	-
Site Plan Review, Major	21.03.180C.	✓	✓	✓	✓
Street and Trail Review	21.03.190	-	✓	-	✓
Subdivisions (with existing physical access)	21.03.200	✓	✓	✓	✓
Subdivisions (without existing physical access)	21.03.200	✓	✓	-	✓
Abbreviated Plats	21.03.200D.	-	✓	-	✓
Modification or Removal of Plat Notes	21.03.200G.	✓	✓	✓	✓
Title 21, Text Amendments	21.03.210	-	✓	-	✓
Vacation of Public and Private Interest in Land	21.03.230	✓	✓	✓	✓
Variances	21.03.240	✓	✓	✓	✓
Administrative Variances	21.03.240J.	✓	✓	✓	✓

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**3. Written (Mailed) Notice**

When table 21.03-1 requires that written notice be provided, the director shall deposit such notice into first class mail at least 21 days prior to the scheduled date of the hearing. 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. Any mailing to the 50 nearest parcels shall not include parcels that are entirely located more than a mile from the land subject to the application, which may reduce the number of mailings.

**c. Joint Base Elmendorf-Richardson**

The commander of Joint Base Elmendorf-Richardson (JBER) when the subject parcel is within 500 feet of JBER or within 500 feet of the boundary of a safety zone or noise contour that emanates from JBER and has been shared with and accepted by the community development department.

**d. Additional Persons**

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

2           **4.     Published Notice**

3           When table 21.03-1 requires that notice be published, the director shall cause a notice to  
4           be published on the municipal public notice web page of the municipal website. The  
5           notice shall be published at least 21 days before the scheduled hearing date. In  
6           computing such period, the day of publication shall not be counted, but the day of the  
7           hearing shall be counted.

8           **5.     Posted Notice**

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

21          **6.     Community Councils**

22          When table 21.03-1 requires that notice be given to community councils, any officially  
23          recognized community council whose boundary includes any part of the subject property,  
24          and any additional such council whose boundary lies within 1,000 feet of any part of the  
25          subject property shall receive written (mailed) notice in accordance with H.3. above.  
26          Furthermore, the department shall provide notice to additional community councils in the  
27          following instances:

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

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

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

47          **d.**       Any community council within the impact area of a street or trail project, a  
48          neighborhood or district plan, or other area-specific element of the  
49          comprehensive plan, shall receive written notice. The impact area shall, at a  
50          minimum, include all community councils within 1,000 feet of the project/plan

1 boundaries. The impact area shall include additional community councils if the  
2 recommendations in the project/plan affect specific public lands or facilities as  
3 provided in subsections 6.a. or 6.b. above, or are likely to impact residents  
4 beyond the minimum impact area, as provided in subsection 6.c. above.

- 5 e. All community councils shall receive notice of substantive amendments to the  
6 comprehensive plan (except as provided in subsection 6.d. above), and  
7 amendments to the text of title 21.

8 **7. Constructive Notice**

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

19 **8. Presumption of Notice**

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

23 **I. Departmental Report**

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

30 **J. Referrals**

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

35 **K. Concurrent Processing**

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

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

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

4   **L.       Postponements**

- 5           1.       If only five or fewer board or commission members are in attendance at the hearing, the  
6           applicant may request a postponement of his or her case, and the fee for the first  
7           postponement request shall be waived.
- 8           2.       The applicant may request a postponement of his or her case for any other reason, which  
9           he or she shall state to the decision-making body. If the decision-making body grants the  
10          postponement request, the applicant shall pay the postponement fee listed in the user's  
11          guide, and a new hearing date shall be determined by the department.
- 12          a.       If public notice pursuant to subsection H. above has not been given, the director  
13          is the decision-making body for the purpose of granting a postponement.
- 14          b.       If public notice pursuant to subsection H. above has been given, the decision-  
15          making body is the board or commission identified in this chapter for the  
16          entitlement requested.
- 17          3.       Re-notice of the new time for hearing is only required if the postponement is for more  
18          than 30 days, or if no date certain is set for the hearing at the time of postponement.

19   **M.       Conditions of Approval**

- 20          1.       The decision-making body is authorized to impose such conditions upon the entitlement  
21          as may be necessary to conform to the standards of this title, reduce or minimize any  
22          potential adverse impact upon other property in the area, or to carry out the general  
23          purpose and intent of the comprehensive plan and this title. In such cases, any  
24          conditions attached to approvals shall be directly related to the impacts of the proposed  
25          use or development and shall be roughly proportional in both extent and amount to the  
26          anticipated impacts of the proposed use or development.
- 27          2.       No conditions of approval, except for those attached to variance approvals, shall be less  
28          restrictive than the requirements of this title or applicable special limitations.
- 29          3.       Unless there is a time schedule stated as part of the condition, all conditions of approval  
30          shall be met within one year of the date of approval (unless the condition is ongoing, such  
31          as a specification of hours of operation).

32   **N.       Decision**

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

34   **O.       Lapse of Approval**

- 35          1.       The lapse of approval time frames established by the procedures of this title may be  
36          extended only when all of the following conditions exist:
- 37          a.       The provisions of this title must expressly allow the extension;
- 38          b.       An extension request must be filed prior to the applicable lapse-of-approval  
39          deadline; and
- 40          c.       The extension request must be in writing and include justification.
- 41          2.       Unless otherwise noted, authority to grant extensions of time shall rest with the decision-  
42          making body that granted the original approval (the one being extended).

1 **P. New Application Required**

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

4 **21.03.030 ADMINISTRATIVE PERMITS**

5 **A. Applicability**

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

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

15 **B. Administrative Permits**

16 Except as otherwise allowed in this title, a permit issued by the director and pursuant to this  
17 section shall be valid between January 1 or the date of issuance and December 31 of either the  
18 year in which it is issued or the year after it is issued. Permits and renewals may be for one or  
19 two years, at the choice of the applicant. An application for renewal of a permit shall be  
20 submitted in the same manner as the original application and no later than December 1  
21 immediately preceding the expiration date of that permit.

22 **C. Regulations**

23 The director may promulgate regulations to implement this section, as provided in AMC chapter  
24 3.40. Permits shall be issued and renewed as outlined in the title 21 user's guide.

25 **D. Appeals**

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

28 **21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT**

29 **A. Applicability**

- 30 1. Any use that includes the retail sale of alcoholic beverages is subject to the review  
31 process set forth in this section. This process shall apply to such a use regardless of  
32 whether it is listed in the use table in section 21.05.010 as being permitted as a matter of  
33 right or subject to site plan review or the conditional use process. The applicant shall be  
34 required to obtain approval through both the process in this section and the separate  
35 process referenced in the use table.
- 36 2. Notwithstanding A.1. above, catering and special event permits issued by the state  
37 alcoholic beverage control board are exempt from these approval requirements, but shall  
38 meet AMC title 10 requirements and the following:
  - 39 a. When multiple permits are issued for the same location, the permits shall be for  
40 discreet events, and shall not be used to avoid the special land use permit  
41 process; and

- 1                   b.       The catering and special event permit shall be reviewed by the chief of police in  
2                                   order to address any recurring problems at the site that have involved the police.
- 3           3.       No modification of an existing special land use permit for alcohol shall be required for the  
4                   first duplicate liquor license provided:
- 5                   a.       There is no increase in the square footage of the premise licensed for the retail  
6                                   sale or dispensing of alcoholic beverages; or
- 7                   b.       If there is an increase in the square footage of the licensed premise, such  
8                                   increase is five hundred square feet or less, whether or not the area of increase  
9                                   is used year-round. In such case the licensed business shall request a minor  
10                                  modification to their approval by submitting a site plan for department review,  
11                                  along with the fee specified in the user's guide. The department shall review the  
12                                  site plan for potential impacts including, but not limited to, parking, lighting, noise,  
13                                  and traffic.

14 **B.       General Standards**

15 Any use, whether principal or accessory, involving the retail sale or dispensing of alcoholic  
16 beverages is permitted only by approval under this section. This provision applies to all uses, in  
17 all districts, involving the retail sale, dispensing, or service of alcoholic beverages including, but  
18 not limited to, liquor stores, restaurants, bars, dinner theaters, movie theaters, brew pubs,  
19 tearooms, and cafes, but applies only to the retail sale or dispensing of alcoholic beverages and  
20 not to related principal or accessory uses.

21 **C.       Application and Review Procedure**

22 **1.       Application Submittal**

23 Applications for a special land use permit for alcohol shall be submitted to the director  
24 after application is made to the state alcoholic beverage control board for issue or  
25 transfer of location of a liquor license. Applications shall contain a zoning map showing  
26 the proposed location and any other information specified in the title 21 user's guide. The  
27 assembly may promulgate regulations concerning the mandatory information to be  
28 submitted with the application for a special land use permit for alcohol.

29 **2.       Departmental Review**

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

35 **3.       Public Notice**

36 Notice shall be provided in accordance with section 21.03.020H., *Notice*.

37 **4.       Action**

38 **a.**       The special land use permit for alcohol for any use that includes the retail sale of  
39 alcoholic beverages, with the exception of a restaurant or eating place that sells  
40 beer and wine for consumption only on the licensed premises, shall be  
41 considered by the assembly. After holding a public hearing, the assembly shall  
42 approve, approve conditionally, or deny the application. In considering action,  
43 the assembly shall apply the criteria set forth in this title for conditional uses in  
44 section 21.03.080D., *Approval Criteria*. The assembly shall not take into  
45 consideration the sum paid by any person to acquire the license for which a  
46 permit is requested.

47 **b.**       The special land use permit for alcohol for a restaurant or eating place that sells  
48 beer and wine for consumption only on the licensed premises, shall be

1 considered by the director. In considering whether to approve, approve  
2 conditionally, or deny the application, the director shall apply the criteria set forth  
3 in this title for conditional uses in section 21.03.080D., *Approval Criteria*. The  
4 director shall not take into consideration the sum paid by any person to acquire  
5 the license for which a permit is requested. The director's decision may be  
6 appealed to the assembly.

7 **5. Conditions of Approval**

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

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

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

19 **6. Effect of Denial**

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

27 **7. Expiration**

28 An approval granted under this section shall expire:

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

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

35 c. If the operation of the business becomes substantially different from the business  
36 and operation reviewed by the assembly or the director when the alcohol  
37 approval was granted under this section, unless the licensee applies for and  
38 receives approval for a modification of the existing alcohol approval to reflect the  
39 change.

40 For the purposes of this section, "substantially different" means any material change in  
41 the operation of the business which could result in significant impact on the use and  
42 enjoyment of adjacent properties by property owners or occupants. A material change  
43 includes, without limitation, an increase in the late night or early morning hours of  
44 operation; a change involving the type of entertainment presented which results in an  
45 increase in noise level at the property line; or a change from a business which meets the  
46 requirements of the state alcoholic beverage control board statutes and regulations for a  
47 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*;
- 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

1 the appellant is not the applicant, the appellant's notice of appeal shall include  
2 certificate of service on the applicant.

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

8 **5. New Evidence or Changed Circumstances**

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

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

17 ii. A decision of the lower administrative body on any issues remanded  
18 from the board of adjustment is not an initial decision as described in  
19 subsection 5.a. above.

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

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

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

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

31 **6. Appeal Record**

32 a. The appellant shall arrange for the preparation of the transcript of the board  
33 hearing by a court reporter or the board and commission recording secretary and  
34 shall pay the cost of such preparation. The appellant shall file the transcript with  
35 the municipal clerk. If the appellant fails to file the transcript within 30 days after  
36 the filing of the notice of appeal, the municipal clerk shall reject the appeal.

37 b. Upon timely perfection of an appeal to the board of adjustment, the municipal  
38 clerk shall assemble an appeal record. The record shall contain:

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

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

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

- 1                   iv.     A copy from the department of the written decision of the administrative  
2                   body, including its findings and conclusions.
- 3                   c.     Upon completion of the record, the municipal clerk shall serve notice on the  
4                   appellant of the cost of its preparation. If the appellant fails to pay the costs  
5                   within seven days of receiving the notice, the appeal shall be rejected. Upon  
6                   timely payment of costs, the municipal clerk shall serve a copy of the record on  
7                   the appellant. The municipal clerk shall also serve notice on the appellees who  
8                   have filed a notice of intent to file a brief that the record is available for pickup.  
9                   Upon request, the municipal clerk shall provide a copy of the record to an  
10                  appellee or the public. A copying cost for the record will be charged as set out in  
11                  AMCR 3.90.002. The appellee shall also be charged any mailing costs.

12                  7.     **Written Arguments**

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

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

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

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

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

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

- 49                  iii.   ***Page Limitation***

1 The brief of appellant and the brief of appellee are each limited to 25  
2 pages exclusive of exhibits and attachments. The reply brief is limited to  
3 10 pages exclusive of exhibits.

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

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

15 **9. Procedural Changes**

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

19 **10. Conduct of Hearing**

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

22 b. The board of adjustment shall not hear argument nor take additional testimony or  
23 other evidence. The board of adjustment may consider only the material  
24 contained in the appeal packet.

25 **11. Scope of Review**

26 a. The board of adjustment shall consider an appeal solely on the basis of the  
27 record established before the lower administrative body, the notice of appeal, the  
28 briefs, and the law.

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

33 c. The board of adjustment shall, unless it substitutes its independent judgment  
34 pursuant to subsection 11.d. below, defer to the judgment of the lower  
35 administrative body regarding factual issues. Findings of fact adopted expressly  
36 or by necessary implication by the lower administrative body may be considered  
37 as true if they are supported in the record by substantial evidence. The term  
38 "substantial evidence," for the purpose of this section, means such relevant  
39 evidence as a reasonable mind might accept as adequate to support a  
40 conclusion. If the record affords a substantial basis of fact from which the fact in  
41 issue may be reasonably inferred, it shall be considered that the fact is supported  
42 by substantial evidence.

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

47 **12. Decision**

48 a. The board of adjustment, by majority vote, may affirm, modify, or reverse the  
49 decision of the lower administrative body in whole or in part. A decision

1 reversing or modifying the decision appealed from shall be in a form which finally  
2 disposes of the case on appeal except where the case is remanded in  
3 accordance with subsection 13.a. below.

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

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

15 **13. Remand**

16 **a.** The case shall be remanded to the lower body where the board of adjustment  
17 determines any of the following:

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

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

22 **iii.** The lower administrative body has made a legal error that, in the opinion  
23 of the board of adjustment, warrants a remand.

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

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

30 **d.** A board of adjustment decision remanding a case on one or more issues is not a  
31 final decision with respect to any issues involved in the appeal. The board of  
32 adjustment's decision remanding the case is and shall state that it is the final  
33 decision with respect to all matters affirmed by the board of adjustment's  
34 decision, when, following service of the lower administrative body's decision on  
35 remand, no appeal is perfected within the period specified in subsection  
36 21.03.050A.4. The decision shall also state that the parties have 30 days from  
37 the expiration of said period to appeal to the superior court.

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

39 **1. Jurisdiction of Board**

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

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

43 **b.** Denial of an administrative permit under section 21.03.030.

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

- 1           d.     Interpretation of whether a conditional use amendment is major or minor under  
2           subsubsection 21.03.080D.2.
- 3           e.     Denial of an application for a flood hazard permit under section 21.03.090.
- 4           f.     Denial of an application for a building or land use permit under subsection  
5           21.03.100 when such denial is based on the requirements of title 21, except for  
6           subsubsection 21.03.100E.
- 7           g.     Compliance with an institutional master plan under subsection 21.03.110F.
- 8           h.     Denial of a minor modification under section 21.03.120 when the director is the  
9           decision-making body.
- 10          i.     Denial of an application for a sign permit under subsection 21.03.170 when such  
11          denial is based on the requirements of title 21.
- 12          j.     Determination of use classification under subsection 21.03.220.
- 13          k.     Administrative variance for occupancy limits in assisted living facilities under  
14          subsubsection 21.03.240J.
- 15          l.     Denial of a verification of legal nonconforming status under section 21.03.250.
- 16          m.     Alleging an error in the enforcement or interpretation of the flood hazard overlay  
17          district under subsection 21.04.080D.
- 18          n.     Site enhancement plan for a self-storage facility under subsection 21.05.060D.4.
- 19          o.     Denial of or imposition of conditions on a certificate for legalization of  
20          nonconforming dimensional setback encroachment under section 21.12.030, or a  
21          certificate for legalization of lots created prior to September 16, 1975 under  
22          subsubsection 21.12.050C.
- 23          p.     Denial of administrative approval to reinstate a damaged nonconforming use  
24          under subsection 21.12.030C., or to rebuild a damaged nonconforming structure  
25          under subsection 21.12.040D.1.a.
- 26          q.     Overcoming presumption of abandonment under subsection 21.12.030E.
- 27          r.     Enforcement orders issued under chapter 21.13, *Enforcement*.
- 28          s.     Interpretation of general definitions and use definitions.
- 29          **2.     Initiation of Appeal**  
30          Appeals to the zoning board of examiners and appeals may be brought by any party of  
31          interest for the application.
- 32          **3.     Time Limit for Filing; Notice of Appeal; Appeal Fee**  
33          a.     An appeal of an administrative decision to the zoning board of examiners and  
34          appeals, as set out in subsection B.1. above, must be filed no later than 20 days  
35          after the date of service of the decision.
- 36          b.     Notice of appeal must be filed with the director on a form prescribed by the  
37          municipality and must contain detailed and specific allegations of error.
- 38          c.     The appellant shall pay an appeal fee as set by the assembly, which shall  
39          accompany the filing of the notice of appeal. The appeal fee shall be returned to

1 the appellant if the decision of the lower administrative body is reversed in whole,  
2 and one-half of the fee shall be returned if the decision is reversed in part.

3 **4. Scope of Review**

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

7 **5. Notice and Public Hearing**

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

10 b. Notice of the appeal hearing shall be published on the municipal public notice  
11 web page of the municipal website at least 14 days prior to the hearing, and, in  
12 addition, the appellant shall be sent a notice by mail at least 14 days prior to the  
13 hearing.

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

17 **6. Decision**

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

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

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

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

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

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

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

38 1. A final decision of the board of adjustment on an appeal from a decision regarding the  
39 approval or denial of an application for a conditional use.

40 2. A final decision of the municipal manager or platting board on an appeal from a decision  
41 of the building official regarding off-site improvements for a land use permit.

42 3. A final decision of the board of adjustment on an appeal from the platting board regarding  
43 an application for a subdivision.

44 4. A final decision of the zoning board of examiners and appeals.

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

3   **21.03.060     CERTIFICATE OF ZONING COMPLIANCE**

4   **A.     Purpose**

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

8   **B.     Applicability**

9           A certificate of zoning compliance shall be required prior to the occupancy of any building,  
10          structure, or land, except that temporary uses and structures in accordance with section  
11          21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of zoning  
12          compliance requirements. Where issued, a certificate of occupancy shall be considered the  
13          certificate of zoning compliance.

14   **C.     Issuance**

15          **1.     Certificate**

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

19          **2.     Conditional Certificate**

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

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

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

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

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

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

36           Inside the building safety service area, the building official shall issue a certificate of  
37           zoning compliance in accordance with AMC 23.10.107.3, *Certificate of Occupancy*  
38           *Issuance*, when, after examination of the building, structure, landscaping, and/or other  
39           improvements or changes to the property, the municipality finds that the property  
40           complies with the applicable provisions of this title and other applicable ordinances and  
41           construction codes of the municipality. Where there is no construction or placement of a  
42           structure, or addition to an existing structure, no as-built survey is required. An as-built is  
43           not required for a fence.

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

45           Outside the building safety service area, the building official shall issue a certificate of  
46           zoning compliance when the municipality finds that the property complies with the

1 applicable provisions of this title. An as-built survey certified by a surveyor registered  
2 with the state of Alaska is required for construction or placement of a structure, or  
3 addition to a structure. An as-built is not required for a fence.

4 a. For single- and two-family development, site inspection is not required.  
5 However, provisions of this title that cannot be verified by an as-built may be  
6 subject to physical examination of the property through a final zoning inspection.

7 b. For all other development, such finding shall follow an examination of the  
8 building/structure exterior, landscaping, and/or other improvements or changes to  
9 the property through a final zoning inspection.

10 **5. Appeals**

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

13 **21.03.070 COMPREHENSIVE PLAN AMENDMENTS**

14 **A. Purpose and Scope**

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

18 **B. Levels of Plan Review**

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

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

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

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

35 The director shall initiate a targeted review of the plan at least once every 10 years, or in  
36 conjunction with an area-wide rezoning, in order to make it consistent with economic and  
37 demographic trends, recent and proposed land use decisions, and adopted studies and  
38 plans. Any amendments shall follow the procedures of subsections C. and D. below.

39 **3. Other Plan Amendments**

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

44 **C. Procedure for Substantive Amendments**

45 **1. Procedure**

46 **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 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**

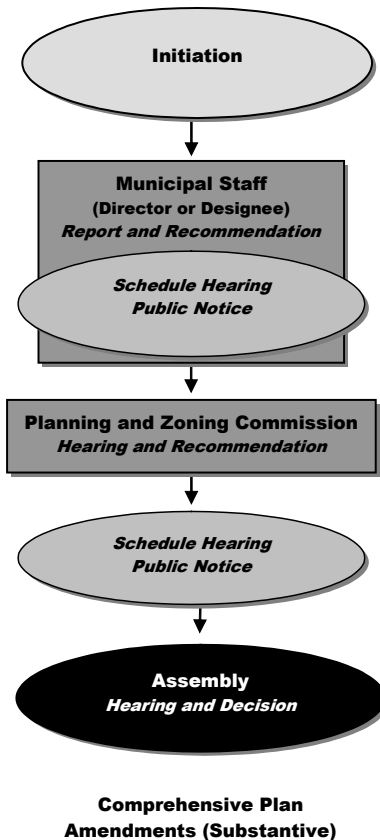
The assembly shall hold a public hearing on the proposed amendment. Based on the commission's recommendation, testimony received, and the approval criteria in subsection C.2. below, the assembly shall:

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



- 1 i. A change in projections or assumptions from those on which the  
2 comprehensive plan is based;
- 3 ii. Identification of new issues, needs, or opportunities that are not  
4 adequately addressed in the comprehensive plan;
- 5 iii. A change in the policies, objectives, principles, or standards governing  
6 the physical development of the municipality or any other geographic  
7 areas addressed by the comprehensive plan; or
- 8 iv. Identification of errors or omissions in the comprehensive plan.
- 9 b. The proposed amendment maintains the internal consistency of the  
10 comprehensive plan, and is consistent with the other elements of the  
11 comprehensive plan without the need to change other components of the plan to  
12 maintain internal consistency.
- 13 c. The proposed amendment would not be detrimental to the public interest, health,  
14 safety, convenience, or welfare of the community.
- 15 d. If the proposed amendment is to the comprehensive plan map, the requested  
16 land use designation is found to be equally or more supportive of the  
17 comprehensive plan goals, objectives, policies, and guidelines, than the old land  
18 use designation.
- 19 e. If the proposed amendment is to the comprehensive plan map, the subject site is  
20 consistent with the adopted description and locational criteria for the requested  
21 land use designation, and is physically suitable to accommodate the proposed  
22 designation, including but not limited to access, physical constraints, provision of  
23 utilities, and compatibility with surrounding designations and development  
24 patterns.
- 25 **3. Concurrent Zoning Changes Allowed**
- 26 a. Requests for rezonings (zoning map amendments) may be considered  
27 concurrently with a comprehensive plan map amendment. The zoning map  
28 amendment shall be to a zone corresponding to the requested comprehensive  
29 plan map designation. Concurrent zoning map amendments shall meet all of the  
30 approval criteria of subsection 21.03.160E.
- 31 b. The planning and zoning commission shall submit its report and recommendation  
32 regarding the comprehensive plan map amendment to the assembly at the same  
33 time it submits the report and recommendation on the rezoning case. The  
34 assembly and planning and zoning commission shall consider the plan  
35 amendment proposal and rezoning request separately, and shall act separately  
36 on the two items.
- 37 **D. Procedure for Cosmetic Amendments**
- 38 **1. Initiation**
- 39 Any review or decision-making body, or director of any municipal department, may, at  
40 any time on their own motion, request that the director investigate and evaluate a specific  
41 cosmetic amendment proposal. No public hearing or public notification is required.
- 42 **2. Departmental Review**
- 43 The department shall review each proposed cosmetic amendment and shall provide a  
44 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**

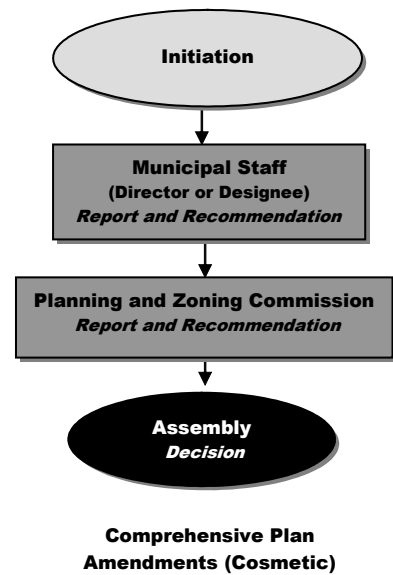
The conditional use approval procedure is intended for situations where a use may or may not be appropriate in a district, depending on the specific location, the use characteristics, and potential conditions to decrease the adverse impacts of the use on surrounding properties and/or the community-at-large. 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.

**B. Applicability**

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

**C. Procedure**

- 1. **Initiation**  
An application for a conditional use approval shall be initiated by the owner(s) of the subject property.
- 2. **Pre-Application Conference**  
Before filing an application, the applicant shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.
- 3. **Community Meeting**  
A community meeting is required in accordance with subsection 21.03.020C.
- 4. **Application Submittal**



1 Applications for a conditional use approval shall contain the information specified in the  
 2 title 21 user's guide, and shall be submitted to the director on a form provided by the  
 3 department.

4 **5. Public Notice**

5 Notice shall be provided in accordance with section 21.03.020H.

6 **6. Departmental Review**

7 The department shall review each proposed conditional use approval application in light  
 8 of the approval criteria of subsection D. below and distribute the application to other  
 9 reviewers as deemed necessary. Based on the results of those reviews, the department  
 10 shall provide a report to the planning and zoning commission.

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

12 The planning and zoning commission shall hold a public hearing on the proposed  
 13 application and act to approve, approve with conditions, or deny the proposed conditional  
 14 use, based on the approval criteria of subsection D.  
 15 below.

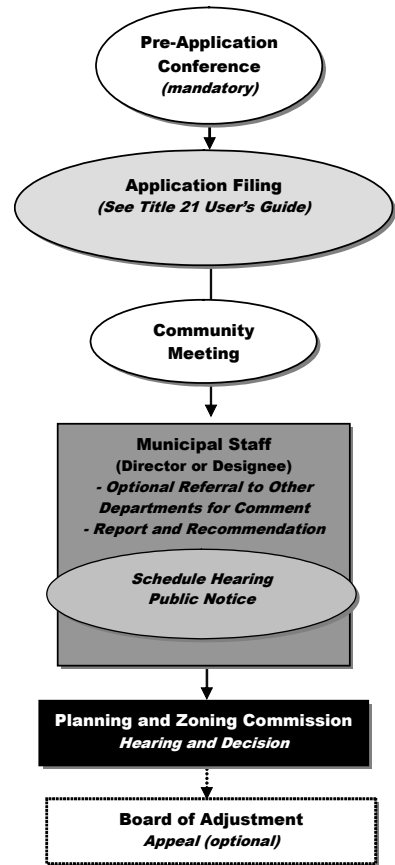
16 **8. Appeal**

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

20 **D. Approval Criteria**

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

- 25 1. The proposed use is consistent with the  
 26 comprehensive plan and all applicable provisions of  
 27 this title and applicable state and federal regulations;
- 28 2. The proposed use is consistent with the purpose and  
 29 intent of the zoning district in which it is located,  
 30 including any district-specific standards set forth in  
 31 chapter 21.04;
- 32 3. The proposed use is consistent with any applicable  
 33 use-specific standards set forth in chapter 21.05;
- 34 4. The site size, dimensions, shape, location, and  
 35 topography are adequate for the needs of the  
 36 proposed use and any mitigation needed to address  
 37 potential impacts;
- 38 5. The proposed use will not alter the character of the  
 39 surrounding area in a manner which substantially  
 40 limits, impairs, or prevents the use of surrounding  
 41 properties for the permitted uses listed in the underlying zoning district;
- 42 6. The proposed use is compatible with uses allowed on adjacent properties, in terms of its  
 43 scale, site design, operating characteristics (hours of operation, traffic generation,  
 44 lighting, noise, odor, dust, and other external impacts);
- 45 7. Any significant adverse impacts anticipated to result from the use will be mitigated or  
 46 offset to the maximum extent feasible;



Conditional Uses

- 1           8.     The proposed use is appropriately located with respect to the transportation system,  
2           including but not limited to existing and/or planned street designations and  
3           improvements, street capacity, access to collectors or arterials, connectivity, off-site  
4           parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation,  
5           and safety for all modes; and
- 6           9.     The proposed use is appropriately located with respect to existing and/or planned water  
7           supply, fire and police protection, wastewater disposal, storm water disposal, and similar  
8           facilities and services.

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

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

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

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

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

18   **a.     Procedure**

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

33   **b.     Types of Minor Amendments**

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

- 36           i.     Insubstantial changes to the text to add clarity or correct conflicting  
37           provisions.
- 38           ii.    Changes in street alignment if such changes further the intent of the plan  
39           and this code, and are acceptable to the municipal engineer.
- 40           iii.    Changes in building envelope, setback, and similar provisions of 10  
41           percent or less.
- 42           iv.    Incidental changes in landscaping, sign placement, lighting fixtures, etc.  
43           to further the intent of the plan and this code.

- 1 **F. Platting for Conditional Uses**
- 2 1. If development under an approval under this section creates a subdivision or requires the  
3 vacation of a dedicated public area, the approval is not effective until a final plat for the  
4 subdivision or vacation is approved and recorded in accordance with this title. A  
5 preliminary plat required under this section is subject to approval as required by section  
6 21.03.200, *Subdivisions*.
- 7 2. Unless the planning and zoning commission directs in the final approval that it shall act  
8 as the platting authority, the platting board is the platting authority for subdivisions under  
9 this subsection.
- 10 3. The platting authority under this subsection may require that any street right-of-way,  
11 walkway, utility easement, or other public area designated under the final approval be  
12 dedicated to the public.
- 13 **G. Conditional Use for a Business-Industrial Park Planned Unit Development**
- 14 1. **Intent and Approval**  
15 A business-industrial park planned unit development (BIP-PUD) is intended to provide  
16 comprehensively planned commercial-industrial developments that are compatible with  
17 surrounding areas. BIP-PUD developments should have integrated, campus-style site  
18 plans designed to accommodate a variety of public/institutional, commercial, and  
19 industrial uses. High standards for architecture, landscaping, and site planning are  
20 encouraged. The planning and zoning commission shall evaluate the proposed planned  
21 unit development in accordance with the conditional use approval criteria at D. above.
- 22 2. **Zoning District**  
23 A BIP-PUD is allowed only in the B-3 and I-1 districts. Business-industrial parks existing  
24 on January 1, 2014 in other zoning districts shall be considered conforming in those  
25 districts.
- 26 3. **Allowed Uses**
- 27 a. For a BIP-PUD in the B-3 district, in addition to the uses allowed in the B-3  
28 district, a developer may propose to include the following industrial uses in a BIP-  
29 PUD: general industrial service; governmental service; manufacturing, light;  
30 warehouse; wholesale establishment.
- 31 b. For a BIP-PUD in the I-1 district, in addition to the uses allowed in the I-1 district,  
32 a developer may propose to include the following uses in a BIP-PUD: child care  
33 center, health services, and government administrative and civic facilities, if the  
34 location of the latter is consistent with subsection 21.05.040C.4.b.ii.
- 35 c. For initial uses proposed in the BIP-PUD that require a conditional use approval,  
36 the conditional use application(s) may be combined with the BIP-PUD conditional  
37 use and treated as one application and approval process.
- 38 4. **Development Agreement**  
39 The developer shall enter into a development agreement with the private development  
40 division, using the provisions established in subsection 21.03.100E., *Improvements*  
41 *Associated with Land Use Permits*.
- 42 5. **Minimum Standards**  
43 All BIP-PUDs shall meet the following minimum standards, in addition to the applicable  
44 standards of this title. The planning and zoning commission may apply additional  
45 standards as it may deem necessary to meet the approval criteria.
- 46 a. The minimum site area for a BIP-PUD is seven acres.

- 1           **b.**       In keeping with a campus-style site plan, the number of access points to the BIP-  
2           PUD shall be limited to only what is necessary, as determined by the traffic  
3           engineer.
- 4           **c.**       Pedestrian walkways shall be provided to streets abutting the BIP-PUD. All  
5           transit stops abutting a BIP-PUD shall be connected to the internal  
6           street/sidewalk system by a pedestrian walkway. Where abutting streets have no  
7           transit stops, the BIP-PUD shall have a pedestrian walkway connection to the  
8           abutting street at least every 500 feet, unless the abutting street is a restricted  
9           access street without pedestrian facilities.
- 10          **d.**       L2 buffer landscaping shall be provided along the exterior lot lines of the BIP-  
11          PUD.
- 12          **e.**       A BIP-PUD shall have a defined internal street system, which shall have  
13          pedestrian facilities and landscaping in accordance with the provisions of this  
14          title. Streets shall allow vehicles to travel into and within the development.  
15          Driveways shall access parking areas.
- 16          **f.**       Except for stand-alone restaurants located along an outside edge of a BIP-PUD,  
17          all buildings shall have a common architectural character utilizing similar  
18          materials. The standards of 21.07.130 shall not apply.
- 19          **g.**       Maximum individual building footprint shall be 30,000 square feet.
- 20          **h.**       Individual tenancies for instructional services; health services; and office,  
21          business or professional, shall not exceed 5,000 square feet.
- 22          **i.**       Individual tenancies for government administration and civic buildings and  
23          religious assembly shall not exceed 15,000 square feet.
- 24          **j.**       Individual tenancies for uses in the retail sales use category shall not exceed  
25          20,000 square feet.
- 26          **k.**       The uses in the entire BIP-PUD may aggregate their parking as long as the  
27          following standards are met:
- 28               **i.**       Required parking for each use shall be located no farther than 800 feet  
29               from the primary entrance of the use;
- 30               **ii.**      Relatively direct pedestrian pathways shall be available from required  
31               parking to each use;
- 32               **iii.**      The sum of the required parking for all uses in the BIP-PUD, which may  
33               include parking reductions and alternatives noted in subsection  
34               21.07.090F., shall be provided at all times.
- 35          **l.**       Loading areas and refuse collection areas shall be internal to the site and not  
36          located between any building and any BIP-PUD exterior lot line.
- 37          **m.**       The maximum floor area devoted to retail sales uses shall not exceed 35 percent  
38          of the total gross building area of the entire development.
- 39          **n.**       Outdoor storage and display is prohibited.

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

41 **1.       Intent and Approval**

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

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

17 **2. Minimum Standards**

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

24 a. **Minimum Site Area**

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

31 b. **Open Space**

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

- 34 i. At least one-half of such open space shall be contiguous;
- 35 ii. The open space shall not include public or private streets or rights of  
36 way; parking facilities, driveways, other motor vehicle circulation areas,  
37 loading areas, or refuse collection areas; slopes over 15 percent; 50  
38 percent of designated snow storage areas; drainage easements, ditches,  
39 swales, or other areas intended to collect and channel water;
- 40 iii. In class A districts, no portion of the required open space shall be less  
41 than 2,000 square feet in area or less than 30 feet in its smallest  
42 dimension, except for individual yards, balconies, or decks pursuant to  
43 b.iv. and b.v. below;
- 44 iv. In class B districts, no portion of the required open space shall be less  
45 than half of the minimum lot size of the underlying district in area, or less

- 1 than 100 feet in its smallest dimension, except for individual yards,  
2 balconies, or decks pursuant to b.v. and b.vi. below;
- 3 v. A minimum of 12 percent and a maximum of 50 percent of required open  
4 space shall consist of yards which shall be reserved for the residents of  
5 individual dwelling units; and
- 6 vi. In multistory buildings, balconies or decks may be used in lieu of  
7 individual yards provided that the total area of all balconies or decks is  
8 not less than the total yard area otherwise required.
- 9 c. **Design**
- 10 i. Any nonresidential use permitted in a PUD shall be compatible with the  
11 residential nature of the development. Parking areas which are intended  
12 to serve nonresidential uses shall be separated from those designed to  
13 serve residential areas. Unless nonresidential and residential uses are  
14 combined within a single structure, nonresidential uses shall be  
15 separated from dwelling units by L2 buffer landscaping.
- 16 ii. Pedestrian walkways shall connect residential and nonresidential uses  
17 within a PUD.
- 18 iii. L2 buffer landscaping shall be planted along each boundary of the PUD  
19 adjacent to a nonresidential district or a right-of-way designated for  
20 collector or greater capacity on the *Official Streets And Highways Plan*.
- 21 iv. Common open space with L3 screening landscaping shall be provided  
22 along any lot line abutting a residential neighborhood where any abutting  
23 lot is greater than 150 percent of the average lot size along that lot line of  
24 the PUD.
- 25 v. Any two adjacent buildings within a PUD shall be separated from each  
26 other by a distance equal to one-half the height of the taller building.
- 27 vi. Each dwelling unit shall be provided with either heated parking, or at  
28 least one electrical outlet that is convenient to the required parking  
29 space(s).
- 30 d. **Access and Connectivity**  
31 PUDs shall comply with section 21.07.060, *Transportation and Connectivity*.
- 32 e. **Utility Installation**  
33 All new utilities shall be installed underground.
- 34 f. **Homeowners' Agreements**  
35 Any PUD which will involve the formation of a horizontal property regime under  
36 the terms of AS 34.07.010 et seq. or any mandatory homeowners' or similar  
37 association shall submit for review by the commission the articles of  
38 incorporation and bylaws of any such association prior to the sale of any property  
39 subject to the association. The commission may require any provisions  
40 necessary to ensure that the provisions and intent of this title are met.
- 41 3. **Development Options**  
42 The following provisions allow the developer of the PUD to propose changes from the  
43 provisions of the underlying zoning district with regard to density, allowed uses, and  
44 dimensional standards. The extent of the changes to the standards shall be determined  
45 by the planning and zoning commission in accordance with the approval criteria of  
46 subsection F.1. above.

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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-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

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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.

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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, 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.

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

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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.

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I. **Abandonment of Conditional Use**

An otherwise lawful conditional use approval shall expire if:

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

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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**

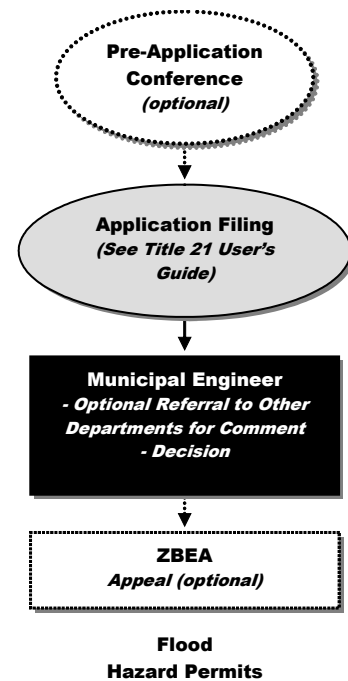
Upon receipt of an application for a flood hazard permit, the municipal engineer shall transmit copies of the application, together with pertinent information, to interested and affected departments and agencies within the municipality, requesting technical assistance in evaluating the proposed application. 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.

**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;



- 1           2.       The proposed water supply and sanitation systems and the ability of these systems to  
2           prevent disease, contamination, and unsanitary conditions will not be impaired by  
3           flooding;
- 4           3.       The susceptibility of the proposed facility and its contents to flood damage is minimal;
- 5           4.       There will be adequate access to the property in times of flood for ordinary and  
6           emergency vehicles;
- 7           5.       The proposed use, structure, or activity is in conformance with all applicable land use  
8           regulations; and
- 9           6.       All necessary floodproofing will be provided.

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

11           The municipal engineer shall act on an application in the manner described in this section within  
12           30 days from receiving the application, except that, where additional information is required, the  
13           official shall act within 30 days of the receipt of such additional requested information.

14 **F.       Notice on Subdivision Plats**

15           Where any portion of a subdivision is situated within a flood hazard district, a note shall be placed  
16           on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard  
17           district as it exists on the date hereof. The boundaries of the flood hazard district may be altered  
18           from time to time in accordance with the provisions of section 21.04.060D.3., *Creation of Flood*  
19           *Hazard Overlay District; Official Flood Hazard Reports and Maps.* All construction activities and  
20           any land use within the flood hazard district shall conform to the requirements of section  
21           21.04.060D., *Flood Hazard Overlay District.*"

22 **G.       Appeals**

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

25 **21.03.100       LAND USE PERMITS**

26 **A.       Purpose**

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

31 **B.       Applicability**

32           **1.       In the Municipality**

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

- 34           a.       Construction or placement of a building or addition to an existing building whose  
35           floor area is 120 square feet or greater;
- 36           b.       Installation of telecommunication towers;
- 37           c.       Construction of a fence over eight feet in height;
- 38           d.       Excavation of more than 50 cubic yards on any lot or tract;
- 39           e.       Filling or grading more than 50 cubic yards on any lot or tract;

1 f. Changing the principal use of a building, as defined by “change of use” in chapter  
2 21.14; or

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

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

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

10 **C. Procedures**

11 **1. Application Submittal**

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

14 **2. Approval Procedure**

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

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

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

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

30 **3. Changes to Approved Permits**

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

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

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

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

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

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

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

2 **5. Appeals**

3 a. Denials or revocations of a land use permit relating to title 21 compliance, with  
4 the exception of those relating to subsection 21.03.100E, may be appealed to the  
5 zoning board of examiners and appeals in accordance with subsection  
6 21.03.050B.

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

9 **D. Approval Criteria**

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

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

14 **1. Purpose**

15 The purpose of this section is to determine what off-site public infrastructure  
16 improvements are reasonably necessary to serve a development, determine the portion  
17 of the demand for off-site public infrastructure improvement which is created by a  
18 development, and provide for dedications or improvements which are directly proportional  
19 to the development's demand for the public infrastructure improvements.

20 **2. Improvements Required**

21 The issuance of a land use permit under this section for the construction of a residential,  
22 commercial, or industrial structure on a lot, shall be subject to the permit applicant  
23 providing the easements, dedications, and improvements required for a subdivision in the  
24 same improvement area under chapter 21.08, *Subdivision Standards*. In applying the  
25 provisions of chapter 21.08, *Subdivision Standards*, under this section, the term "lot" shall  
26 be substituted for the term "subdivision," the term "permit applicant" shall be substituted  
27 for the term "subdivider," and the term "building official" shall be substituted for the term  
28 "platting authority."

29 **3. Exceptions**

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

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

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

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

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

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

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

1           **4. Standards for Requiring Dedications and Improvements**

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

7           **a.**       The dedication or improvement shall be directly correlated to the occupancy of  
8           the structure that is the subject of the building or land use permit. The required  
9           dedication or improvement shall bear a rational nexus to the public facility  
10          improvement needs created by the development. The extent of a requirement  
11          shall be no greater than what is proportional to the impact of the development.  
12          Any required public use easement shall be removed when calculating density or  
13          lot coverage per the applicable zoning district. The building official may require  
14          the permit applicant to provide information or analyses to determine impacts as  
15          set out in the comprehensive plan's policies for transportation, transportation  
16          design and maintenance, and water resources on public facilities and adjacent  
17          areas, including without limitation the following:

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

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

25          **iii.**     An estimate of the financial costs of impacts on public facilities and  
26          adjacent areas without the required improvements, including without  
27          limitation continuity of improvements, maintenance costs of public  
28          facilities, parking, drainage, noise and dust control, pedestrian and  
29          vehicle safety and access, and emergency vehicle access and response  
30          time.

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

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

37          **b.**       The building official shall consider relevant level of service standards, standards  
38          for adequate facilities, and/or design standards for public facilities.

39          **c.**       The estimated cost of constructing the improvement shall be reasonable when  
40          compared to the estimated cost of the proposed development under the land use  
41          permit. The determination of reasonableness shall be based on cost estimates  
42          for the improvement and the proposed development that the permit applicant or  
43          applicant's agent submits under penalty of perjury. If the building official  
44          determines that the estimated cost to the applicant to complete all the  
45          improvements required by this section is unreasonable in relation to the  
46          estimated cost of the proposed development, the building official may reduce or  
47          eliminate required improvements as necessary to make the relationship between  
48          such costs reasonable.

- 1           d.     The building official shall consider the potential development of all adjacent  
2 parcels, lots, or tracts under common ownership, in addition to the lot, parcel, or  
3 tract that is the subject of the permit application, and the impacts associated  
4 therewith, in applying the standards in this subsection.
- 5           e.     The building official may approve adjustments to the improvement requirements  
6 under this section to the extent that compliance with the standards would result in  
7 an adverse impact on natural features such as wetlands, steep slopes, or  
8 existing mature vegetation; existing development; or public safety.

9           **5.     Phasing of Installation**

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

17           **6.     Warranty**

18 All improvements required under this section shall be subject to the warranty and  
19 guarantee of warranty requirements provided for subdivision improvements in section  
20 21.08.050, *Improvements*.

21           **7.     Oversizing**

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

31           **8.     Fee in Lieu**

32 A fee in lieu of the required improvements may be accepted if the building official  
33 determines:

- 34           a.     That the improvements or construction activities associated therewith would  
35 create a potential undue safety hazard to motorists or pedestrians; or
- 36           b.     Due to the nature of existing development on adjacent properties it is unlikely  
37 that improvements would be extended in the foreseeable future and the  
38 improvements associated with the development under review do not, by  
39 themselves, provide a sufficient improvement to safety or capacity or a sufficient  
40 benefit to the property to be developed under the building or land use permit to  
41 warrant construction.
- 42           c.     Any fee paid pursuant to this section shall be accounted for separately, and the  
43 fee paid shall be dedicated and used only for the purpose of constructing the  
44 public facilities which were identified by the building official and for which the fee  
45 was paid.

46           **9.     Fee Amount**

47 The amount of the fee in lieu shall be the full cost of the improvements as estimated by  
48 an engineer registered as a professional engineer in Alaska. In the event the applicant or  
49 successor in interest later elects or is required to install improvements for which the fee

1 was paid, the fee shall be refunded (without interest), so long as the claim for refund is  
2 filed within two years from the date of acceptance of the improvement.

3 **10. Appeals of Improvement Standards**

4 **a. Administrative Appeal**

5 A permit applicant may request an administrative appeal of a decision of the  
6 building official concerning required improvements under this section. The  
7 appeal shall first be to the director, and at the discretion of the applicant, may  
8 advance to the municipal manager. Notice of appeal shall be filed with the  
9 director not later than 30 days after the date of service of the decision, on a form  
10 prescribed by the municipality, and shall contain detailed and specific allegations  
11 of error. Decisions shall be reported in writing, including findings, within 30 days  
12 after the filing of an appeal.

13 **b. Administrative Appeal Advanced to Municipal Manager**

14 An appeal rejected by the director may be resubmitted with additional information  
15 for reconsideration by the municipal manager. If this advance appeal is elected,  
16 the applicant shall submit notice of appeal to the director not later than 10 days  
17 after the date of service of the decision. Final decision of the municipality shall  
18 rest with the municipal manager. The final decision shall be reported in writing  
19 within 10 days after the filing of the advanced appeal. The decision shall include  
20 written findings and the reason for the decision, and shall clearly state it is a final  
21 decision and that the parties have 30 days from the date of service of the  
22 decision to file an appeal to the superior court.

23 **c. Appeals to the Platting Board**

24 A permit applicant may alternatively appeal a decision of the building official  
25 concerning required improvements under this section to the platting board, using  
26 the procedure of appeals to the zoning board of examiners and appeals  
27 established in section 21.03.050B., except as follows: the applicant shall file a  
28 written notice of appeal with the secretary of the platting board not later than 10  
29 days after receipt of written notice of the decision. The appeal shall be placed on  
30 the agenda of the next regularly scheduled platting board meeting that occurs not  
31 less than 60 days after the filing of the appeal. The platting board shall hear the  
32 appeal.

33 **d. Judicial Review**

34 A final decision of the municipal manager or the platting board may be appealed  
35 to the superior court, provided the applicant shall file such appeal within 30 days  
36 from the date of mailing, or other distribution of the decision.

37 **21.03.110 MASTER PLANNING, INSTITUTIONAL**

38 **A. Purpose**

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

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

- 1           2.       Provide a growing and continuing source of employment for the municipality that is easily  
2           accessible and well-integrated with surrounding neighborhoods and the local  
3           transportation system;
- 4           3.       Create attractive and efficient urban areas that incorporate quality design and urban  
5           amenities;
- 6           4.       Protect sensitive portions of the natural environment that are potentially affected by  
7           institutional development; and
- 8           5.       Consider the impacts of institutional development on adjacent neighborhoods.

9   **B.     Applicability**

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

18   **C.     Institutional Master Plan Requirements**

19       **1.     Planning Area**

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

23       **2.     Submittal Requirements**

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

29           **a.     Boundaries**

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

34           **b.     Mission and Objectives**

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

45           **c.     Existing Property and Uses**

46           The institutional master plan shall include a description of land, buildings, and  
47           other structures owned or occupied by the institution within the planning area

1 boundaries as of the date of submittal of the institutional master plan. The  
2 following information shall be required:

- 3 i. Illustrative site plans showing the footprints of each building and  
4 structure, together with roads, sidewalks, parking, landscape features,  
5 and other significant site improvements;
- 6 ii. Land and building uses;
- 7 iii. Gross floor area in square feet of each individual building;
- 8 iv. Building height in stories and feet of each individual building; and
- 9 v. A description of parking and loading areas and facilities, including a  
10 statement of the approximate number of parking spaces in each area or  
11 facility.

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

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

- 16 i. Academic;
- 17 ii. Support services;
- 18 iii. Research;
- 19 iv. Office;
- 20 v. Housing;
- 21 vi. Patient care;
- 22 vii. Assembly for public events, worship, cultural events, and the like;
- 23 viii. Recreation and athletics;
- 24 ix. Transit;
- 25 x. Parking; and
- 26 xi. Commercial spaces, not including concessionaire space that is intended  
27 to serve the institutional community.

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

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

- 35 i. General location of the institution's needs (as listed in 2.d. above) in  
36 potential development areas as depicted on a site functional use map;  
37 and
- 38 ii. Estimated total square footage of anticipated development in each  
39 development area.

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

2           The institutional master plan shall include the elements listed below. These  
3           elements may set different standards than those found in title 21. the plan shall  
4           list the specific sections of title 21 for which different standards are to be  
5           established by the master plan, and provide rationale for any different standards  
6           proposed. Where different standards are approved in the institutional master  
7           plan, those standards shall be applied instead of the corresponding standards in  
8           title 21.

9           **i.       *Borders and Boundaries***

10          Treatment along public rights-of-way and boundaries with other  
11          landowners, with regard to building setbacks and landscape buffers.

12          **ii.      *Transportation and Parking Management***

13          A transportation and parking management plan including how additional  
14          parking demand and transit will be accommodated within the planning  
15          area.

16          **iii.     *Natural Resource Protection***

17          Identification of sensitive natural resources, including but not limited to  
18          wetlands and flood plain delineation maps, within the planning area, and  
19          the institution's plans for maintaining or mitigating impacts on those  
20          sensitive areas. The institutional master plan shall not reduce or  
21          otherwise weaken the natural resource protection standards of section  
22          21.07.020.

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

24          Open space and pedestrian circulation guidelines and objectives,  
25          including a description of the circulation system to be provided through  
26          the planning area, plans for ensuring the accessibility of pedestrian areas  
27          and open spaces, and links to surrounding community open space,  
28          where appropriate.

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

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

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

34               **(B)**     Site design and circulation;

35               **(C)**     Landscaping and site amenities;

36               **(D)**     Building orientation;

37               **(E)**     Building massing and articulation;

38               **(F)**     Building sustainability; and

39               **(G)**     Northern climate design.

40          **vi.      *Wayfinding and Signage***

41          A wayfinding and signage plan including building, vehicular, and  
42          pedestrian signage.

43          **vii.     *Timing***

44          A conceptual development schedule and phasing plan.

1           **g.     *Twenty Year Development Areas***

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

7   **D.     Procedures for Master Plan Approval**

8           **1.     Initiation**

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

11          **2.     Pre-Application Conference**

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

14          **3.     Community Meeting**

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

16          **4.     Application Submittal**

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

23          **5.     Departmental Review**

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

28          **6.     Public Notice**

29           **a.**     Notice shall be provided in accordance with section 21.03.020H.

30           **b.**     Draft institutional master plans shall be available for public review at least 21  
31           days in advance of the planning and zoning commission's public hearing.

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

33           **a.**     The planning and zoning commission shall hold a public hearing on the proposed  
34           institutional master plan and, at the close of the hearing, recommend that the  
35           assembly approve the plan as submitted, approve the plan subject to conditions  
36           or modifications, or deny the plan, based on the approval criteria of subsection E.  
37           below.

38           **b.**     If the planning and zoning commission recommends that the assembly approve a  
39           plan as submitted or with conditions or modifications, within 60 days of the  
40           commission's action the director shall forward the recommendation to the  
41           assembly.

42           **c.**     If the planning and zoning commission recommends denial of a plan, that action  
43           is final unless, within 20 days of the commission's action, the applicant files a  
44           written statement with the municipal clerk requesting that the proposed  
45           institutional master plan be submitted to the assembly.

1           **8. Assembly Action**

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

8           **9. Approval of Final Institutional Master Plan**

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

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

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

21   **E. Approval Criteria**

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

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

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

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

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

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

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

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

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

- 1           3.       Such a certification shall be found if the proposed project is consistent or substantially  
2                   consistent with the approved institutional master plan, or if the project is found to be not  
3                   consistent with the approved institutional master plan, but the director finds the proposed  
4                   project creates minimal impact according to the following criteria:
- 5                   a.       Not more than 25 percent of the proposed project is located outside the  
6                   development areas depicted on the site functional use map;
- 7                   b.       The proposed project does not result in the addition of more than 10 percent  
8                   additional square footage on a cumulative basis to the estimated total square  
9                   footage of the affected site functional use category;
- 10                  c.       The project does not result in the creation of or the need for additional parking  
11                   beyond that covered in the approved transportation and parking management  
12                   element; and
- 13                  d.       The project does not result in the coverage of more than 25,000 square feet of  
14                   site area.
- 15           4.       A certification of consistency, finding of inconsistency, or finding of consistency subject to  
16                   conditions, shall be issued within 45 days of receipt of an application for such  
17                   certification.
- 18           5.       If the director finds that a project is not consistent with the approved institutional master  
19                   plan, the director shall issue a detailed list of reasons and recommended actions to  
20                   achieve compliance.
- 21           6.       The director may issue a finding of inconsistency, or a finding of consistency subject to  
22                   conditions, only where the director finds that the matters resulting in the inconsistency, or  
23                   the conditions to which the certification is made subject, are required by specific terms of  
24                   the approved institutional master plan or any applicable title 21 provisions.
- 25           7.       The director's decision may be appealed to the planning and zoning commission.

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

- 27           1.       **Minor Amendments**  
28                   The director may administratively approve minor amendments to an approved  
29                   institutional master plan upon written application. Minor amendments are defined  
30                   generally as modifications to approved plans that do not affect land use or density in  
31                   ways that would have significant adverse impacts on public facilities, utilities, traffic  
32                   circulation, or other major infrastructure systems; or on surrounding neighborhoods or  
33                   development.
- 34           2.       **Major Amendments**  
35                   Major amendments of an approved institutional master plan shall follow the same  
36                   process required for the original approval of an institutional master plan.

37 **21.03.120       MINOR MODIFICATIONS**

38 **A.       Purpose and Scope**

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

1 **B. Applicability**

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

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

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

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

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

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

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

19 **a.** An increase in overall project density;

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

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

24 **d.** A change in conditions attached to the approval of any subdivision plan (section  
25 21.03.200), site plan (section 21.03.180), conditional use (section 21.03.080), or  
26 rezone (special limitation) (section 21.03.160).

27 **C. Procedure**

28 **1. Limitation on Minor Modifications**

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

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

34 **2. Minor Modifications Approved by Director**

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

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

39 The planning and zoning commission, or urban design commission may approve a minor  
40 modification allowed under this section at any time before taking action on a development  
41 application.

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

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

5           **5.     Appeals**

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

11       **D.     Approval Criteria**

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

- 14           1.     The requested modification is consistent with the comprehensive plan and the stated  
15           purpose of this title;
- 16           2.     The requested modification meets all other applicable building and safety codes;
- 17           3.     The requested modification does not encroach into a recorded easement;
- 18           4.     The requested modification will have no significant adverse impact on the health, safety,  
19           or general welfare of surrounding property owners or the general public, or such impacts  
20           will be substantially mitigated; and
- 21           5.     The requested modification is necessary to either: (a) compensate for some practical  
22           difficulty or some unusual aspect of the site of the proposed development not shared by  
23           landowners in general; or (b) accommodate an alternative or innovative design practice  
24           that achieves to the same or better degree the objective of the existing design standard  
25           to be modified. In determining if “practical difficulty” exists, the factors set forth in section  
26           21.03.240G., *Approval Criteria (for Variances)* shall be considered.

27       **21.03.130     NEIGHBORHOOD OR DISTRICT PLANS**

28       **A.     Purpose and Authority**

29           **1.     Purpose**

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

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

43           **2.     Authority**

44           a.     These procedures and minimum standards are established for the creation and  
45           review of plans for the development, growth, and improvement of the  
46           municipality, and its neighborhoods and communities. The plans may be

1 sponsored, upon express approval of the assembly by resolution, by any group  
2 or organization representing the broad public interest, upon express approval by  
3 assembly resolution (hereafter called the “sponsor”).

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

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

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

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

17 **3. Policy Guidance**

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

29 **B. Plan Submittal**

30 **1. Initiation Meeting**

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

36 **2. Work Program**

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

41 **3. Submittal**

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

1 **C. Threshold Review and Determination**

2 **1. Department Review and Determination**

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

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

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

13 **2. Coordination of Plan Review**

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

19 **D. Standards**

20 **1. Form and Content**

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

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

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

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

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

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

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

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

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

- 1 i. Inventories or description and analysis of existing conditions, problems,  
2 or needs; projections of future conditions, problems, or needs; and  
3 recommended goals and strategies to address those conditions,  
4 problems, or needs.
- 5 ii. Alternatively, or concomitantly with the elements described above, a plan  
6 may also contain a vision for a future end state and a strategy(ies) for  
7 achieving it.
- 8 The level of detail and analysis shall be appropriate to the goals and  
9 recommendations presented in the plan. The information and analysis relied  
10 upon to support the recommendations shall be sufficiently identified to facilitate  
11 later plan review, including accuracy and validity of the information and analysis.  
12 Supporting information may be contained in the form of narrative, maps, charts,  
13 tables, technical appendices, or the like.
- 14 g. A plan shall contain a land use plan map for the geographic area encompassed  
15 by the plan. The land use plan map shall propose appropriate land use  
16 categories, which generally include: residential, commercial, industrial,  
17 institutional, transportation, community facilities, parks, and natural open space.  
18 The land use plan map may provide more specificity than the general categories.
- 19 h. Plans shall be accompanied by documentation showing public participation in the  
20 plan formulation and preparation. Public outreach, such as surveys, workshops,  
21 hearings, or technical advisory committees, is recommended as a tool for  
22 community support and consensus, in addition to department, commission, and  
23 assembly approval.
- 24 **2. Sound Planning Policy**
- 25 a. Every plan, regardless of form and content, shall include discussion of:
- 26 i. Its long-range consequences;
- 27 ii. Impact on economic and housing opportunity for all persons, particularly  
28 low- and moderate-income, and persons with disabilities;
- 29 iii. Provision of future growth and development opportunities;
- 30 iv. Ability to improve the physical environment; and
- 31 v. Effect on the geographic distribution of municipal facilities.
- 32 b. A plan shall set forth goals, objectives, purposes, policies, strategies, and/or  
33 recommendations within the legal authority of the municipality.
- 34 c. A plan considering issues under the jurisdiction of specific municipal or state  
35 agencies shall disclose all agency comments.
- 36 d. A plan shall analyze its relationship to applicable policy documents, including all  
37 adopted elements of the comprehensive plan, as well as its relationship to  
38 adjoining neighborhoods and other areas.
- 39 e. A plan shall solicit input from residents, local businesses, agencies, and non-  
40 profit organizations local to the neighborhood, and demonstrate it has considered  
41 these comments on their merits.

1 **E. Plan Distribution and Review**

2 **1. Plan Distribution**

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

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

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

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

15 **3. Department Review**

16 The department shall review the plan during the 120 day review period, and prepare a  
17 staff report and recommendation for the commission. The department shall consider the  
18 neighborhood, community, and municipal-wide impacts and the long-term effects of the  
19 actions or policies recommended by the plan. The department shall also consider the  
20 impact of the plan on economic and housing opportunity, future growth and development,  
21 and the physical environment, including consistency of the plan with other adopted plans.

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

23 **1. Schedule for Review**

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

26 **2. Public Notice**

27 Notice shall be provided in accordance with section 21.03.020H.

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

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

39 **4. Commission Findings**

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

44 **G. Assembly Adoption**

45 **1. Transmission to Assembly**

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

1           **2. Public Notice**

2           Notice shall be provided in accordance with subsection 21.03.020H.

3           **3. Assembly Action**

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

- 5           a.       Adopt the plan;
- 6           b.       Adopt the plan with modifications;
- 7           c.       Remand the plan to the commission; or
- 8           d.       Not adopt the plan.

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

13       **H. Review and Revision**

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

20       **21.03.140 PUBLIC FACILITY SITE SELECTION**

21       **A. Purpose**

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

25       **B. Applicability**

- 26          1.       Unless exempted by subsection B.2. below, this section shall apply to the following  
27                  government facilities that are not exempt by law from municipal land use regulation:
  - 28                  a.       Any newly constructed building or buildings and any existing building acquired by  
29                          purchase or lease, in which government operations or activities occupy more  
30                          than a total of 50,000 square feet of gross floor area;
  - 31                  b.       Any use of land over 20 acres in area (not including projects covered under  
32                          section 21.03.190, *Street and Trail Review*);
  - 33                  c.       Public schools;
  - 34                  d.       Fire stations, unless such station is determined by the director not to have  
35                          impacts on the surrounding neighborhood;
  - 36                  e.       Any sports, entertainment, or civic center designed for more than 1,500  
37                          spectators;
  - 38                  f.       Any public snow disposal or landfill site; and
  - 39                  g.       A facility that, in the judgment of the director, warrants a public process for site  
40                          selection due to the potential for significant impacts on surrounding properties.

- 1           **2.**     This section shall not apply to the following:
- 2                   **a.**     Any site that is:
- 3                           **i.**     Designated for the subject use on a municipal plan adopted by the  
4   assembly;
- 5                           **ii.**    Part of an area, development, or institutional master plan;
- 6                           **iii.**   Determined by a dedication to the municipality on a final plat approved  
7   and recorded in accordance with this title; or
- 8                           **iv.**    Subject to approval of a conditional use under this title.
- 9                   **b.**     Any facility site selection reviewed by the commission or approved by the  
10    assembly before January 1, 2014;
- 11                   **c.**     Any facility site selection for which over \$500,000 has been expended for design  
12    or construction before January 1, 2014.

13 **B.     Community Meeting**

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

15 **C.     Required Information**

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

19 **D.     Public Notice**

20           Notice shall be provided in accordance with subsection 21.03.020H.

21 **E.     Departmental Review**

- 22           **1.**     The department shall review each proposed site selection application in light of the  
23    approval criteria set forth in subsection I. below, and distribute the application to other  
24    reviewers as deemed necessary.
- 25           **2.**     Based on the results of those reviews, the department shall provide a report to the  
26    planning and zoning commission.
- 27           **3.**     For school site sections, the department shall also provide the report to the Anchorage  
28    school board for its review and recommendation.

29 **F.     Planning and Zoning Commission**

- 30           **1.**     The commission shall review the RFP criteria (or similar guidelines) or the site  
31    alternatives for any applicable facility.
- 32           **2.**     The commission shall hold a public hearing.
- 33           **3.**     For school site selections, the school board and the commission may meet in a joint  
34    public hearing; however, the school board and the commission shall separately consider  
35    and make recommendations to the assembly. Both recommendations shall then be  
36    forwarded as a package to the assembly for approval.
- 37           **4.**     For site selections of municipal facilities, the commission shall make a recommendation  
38    to the assembly, based on the approval criteria of subsection I. below.

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

3   **G.       Assembly Action**

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

- 7           1.       Approve a specific recommended site;
- 8           2.       Approve a specific evaluated site;
- 9           3.       Reject some or all recommended sites; or
- 10          4.       Remand the evaluated and recommended sites to the commission (and the school board  
11          if applicable) for further investigation, review, and evaluation.

12   **H.       Approval Criteria**

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

- 17          1.       Whether the site will allow development that is compatible with current and projected land  
18          uses;
- 19          2.       Whether the site is large enough to accommodate the proposed use and future additions  
20          or another planned public facility;
- 21          3.       Whether the proposed government use and its intensity is compatible with the  
22          surrounding district and adopted policies for future development in the district;
- 23          4.       Whether adequate utility and transportation infrastructure is available to the site;
- 24          5.       Whether the site is located near a transit route, if applicable;
- 25          6.       Whether there are existing or planned walkways connecting the site to transit stops and  
26          surrounding residential areas, where applicable;
- 27          7.       The environmental suitability of the site;
- 28          8.       The financial feasibility of the site, including maintenance and operations; and
- 29          9.       Whether the proposed site for major municipal, state, and federal administrative offices  
30          conforms with the adopted policy priority for locating in the Central Business District.  
31          Satellite government offices and other civic functions are encouraged to locate in regional  
32          or town centers if practicable.

33   **I.       Request for Assembly Hearing**

- 34          1.       Decisions by the planning and zoning commission are final unless, within 20 days of the  
35          date of service, any party of interest requests an assembly hearing in a letter sent to the  
36          director.
- 37          2.       The assembly may hold a public hearing on the case at its discretion.

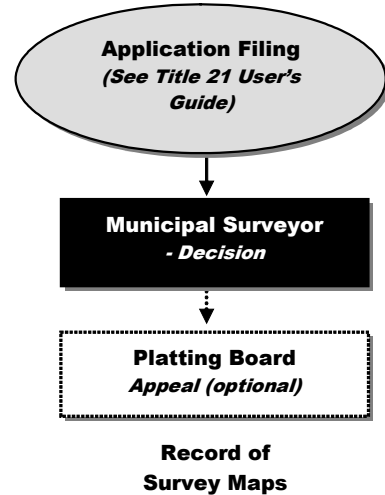
**21.03.150 RECORD OF SURVEY MAPS**

**A. Purpose and Authorization**

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

**B. Use of Record of Survey Maps**

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



**C. Application Submittal**

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 on a form provided by the department.

**D. Monuments**

Monuments set for the survey shall conform to the standards of the public works department.

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

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

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

13 **D. General Procedure**

14 **1. Initiation**

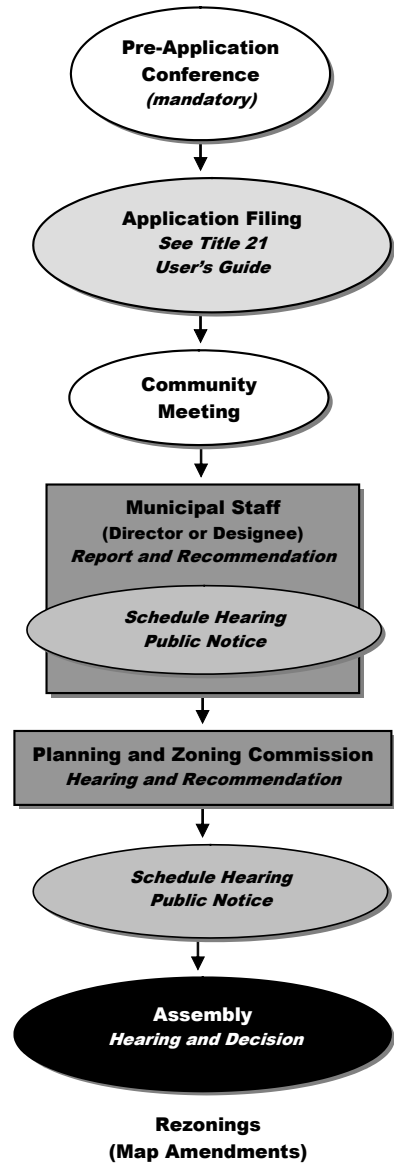
- 15 a. A rezoning may be initiated by the assembly, the
- 16 planning and zoning commission, or by the
- 17 administration.
- 18 b. In addition, any person may initiate a rezoning by
- 19 submitting a petition favoring the rezoning signed
- 20 by the owners of at least 51 percent of the area
- 21 within the property to be rezoned. For the
- 22 purposes of this subsection, an owner of
- 23 property subject to the Horizontal Property
- 24 Regimes Act (A.S. 34.07) owns a percentage of
- 25 the appurtenant common areas equal to the
- 26 percentage for that property stated in the
- 27 recorded declaration committing the property to
- 28 the Horizontal Property Regimes Act.
- 29 c. A rezoning application shall expire one year after
- 30 submittal unless a public hearing on the
- 31 application has been held by the assembly on or
- 32 before that date; provided, however, that the
- 33 director may extend the application for six
- 34 months if the reason for the delay was due to
- 35 circumstances beyond the control of the
- 36 applicant.
- 37 d. Rezoning shall precede corps of engineers
- 38 wetland permit applications.

39 **2. Pre-Application Conference**

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

43 **3. Community Meeting**

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



- 1           **4. Application Submittal**  
2           Applications for a rezoning shall contain the information specified in the title 21 user's  
3           guide, and shall be submitted to the director on a form provided by the department.  
4           Additional materials may be required for certain types of rezoning, such as rezoning with  
5           special limitations.
- 6           **5. Public Notice**  
7           Notice shall be provided in accordance with section 21.03.020H. In addition, the  
8           published and written (mailed) notice for the public hearing before the assembly shall list  
9           the protest provisions set forth in subsection D.9. below.
- 10          **6. Departmental Review**  
11          The department shall review each proposed rezoning in light of the approval criteria in  
12          subsection E. below and distribute the application to other reviewers as deemed  
13          necessary. Based on the results of those reviews, the department shall provide a report  
14          to the planning and zoning commission.
- 15          **7. Planning and Zoning Commission Action**  
16          **a.**       The planning and zoning commission shall hold a public hearing on the proposed  
17          rezoning and, at the close of the hearing, taking into account the  
18          recommendations of the department and public input, and based upon the  
19          approval criteria of subsection E. below, shall recommend approval, approval  
20          with special limitations or other modifications (at least as restrictive as submitted  
21          in the application), or denial. The commission shall include written findings  
22          based on each of the approval criteria.
- 23          **b.**       If the commission recommends approval or approval with special limitations or  
24          other modifications, within 60 days of the commission's written resolution, the  
25          director shall forward the recommendation to the assembly with an ordinance to  
26          amend the official zoning map in accordance with the recommendation.
- 27          **c.**       If the commission recommends denial, the amendment shall be deemed  
28          disapproved unless, within 15 days of the commission's written resolution  
29          recommending denial, the applicant files a written statement with the municipal  
30          clerk requesting that an ordinance amending the zoning map as set out in the  
31          application be submitted for action by the assembly. The draft ordinance shall be  
32          appended to an Assembly Informational Memorandum (AIM) for consideration by  
33          the assembly.
- 34          **8. Assembly Action**  
35          The assembly shall hold a public hearing on the proposed rezoning and shall, at the  
36          close of the hearing, taking into account the recommendations of the department,  
37          planning and zoning commission, and public input, and based upon the approval criteria  
38          of subsection E. below:
- 39          **a.**       Approve the zoning map amendment as submitted in the application to the  
40          planning and zoning commission;
- 41          **b.**       Approve the zoning map amendment with special limitations (see subsection G.)  
42          or other modifications at least as restrictive as those submitted in the application,  
43          provided that an ordinance approving an amendment initiated under this section  
44          shall become effective only with the written consent of the property owner(s) to  
45          the special limitations or other modifications;
- 46          **c.**       Deny the amendment; or
- 47          **d.**       Remand the proposed amendment to the planning and zoning commission or to  
48          a committee of the assembly for further consideration.

- 1           **9.     Protests**
- 2           **a.**     Any owner of property subject to a proposed rezoning may protest the rezoning
- 3                     by filing a written protest with the clerk pursuant to this subsection.
- 4           **b.**     Any owner of property within 300 feet of the outer boundary of the land to which
- 5                     the amendment applies may protest the rezoning by filing a written protest with
- 6                     the clerk that is signed by the owners of at least one-third of the property,
- 7                     excluding rights-of-way, of:
- 8                     **i.**     The land to which the amendment applies; or
- 9                     **ii.**    The land within 300 feet of the outer boundary of the land to which the
- 10                    amendment applies;
- 11                    excluding land owned by the municipality, except where the municipality joins in
- 12                    the protest.
- 13           **c.**     To be valid, the protest shall state the factual and/or legal basis for the protest,
- 14                     contain a legal description of the property on behalf of which the protest is made,
- 15                     be signed by the owner of that property, and be received by the municipal clerk
- 16                     after notice of a public hearing before the assembly on a zoning map amendment
- 17                     and at least three business days before the time set for the assembly public
- 18                     hearing on the amendment.
- 19           **d.**     Assembly approval of a rezoning subject to a valid protest under this subsection
- 20                     shall require an affirmative vote of eight assembly members.
- 21           **10.    Waiting Period for Reconsideration**
- 22                     Following denial of a rezoning request, no new application for the same or substantially
- 23                     the same rezoning shall be accepted within two years of the date of denial, unless denial
- 24                     is made without prejudice.
- 25           **11.    Form of Amending Ordinance**
- 26                     An ordinance amending the zoning map shall contain the following:
- 27                     **a.**     The names of the current and the requested zoning districts;
- 28                     **b.**     The legal description of the subject property;
- 29                     **c.**     Any special limitations being applied to the subject property; and
- 30                     **d.**     An effective clause.
- 31           **E.     Approval Criteria**
- 32                     The planning and zoning commission may recommend approval, and the assembly may approve
- 33                     a rezoning, if the rezoning meets all of the following criteria:
- 34                     **1.**     The rezoning shall be in the best interest of the citizens of Anchorage and shall promote
- 35                     the public health, safety, and general welfare;
- 36                     **2.**     The rezoning complies with and conforms to the comprehensive plan, including the
- 37                     comprehensive plan map(s);
- 38                     **3.**     The rezoning is generally consistent with the zoning district purpose in the requested
- 39                     zone, and the purpose of this title;

- 1           4.       The rezoning is compatible with surrounding zoning and development, and protects areas  
2           designated for specific uses on the zoning map from incompatible land uses or  
3           development intensities;
- 4           5.       Facilities and services (including roads and transportation, water, gas, electricity, police  
5           and fire protection, and sewage and waste disposal, as applicable) are capable of  
6           supporting the uses allowed by the zone or will be capable by the time development is  
7           complete, while maintaining adequate levels of service to existing development;
- 8           6.       The rezoning is not likely to result in significant adverse impacts upon the natural  
9           environment, including air, water, noise, storm water management, wildlife, and  
10          vegetation, or such impacts shall be substantially mitigated;
- 11          7.       The proposed rezoning is not likely to result in significant adverse impacts upon adjacent  
12          land uses, or such impacts shall be mitigated through stipulations;
- 13          8.       The rezone does not extend or exacerbate a land use pattern that is inconsistent with the  
14          comprehensive plan; and
- 15          9.       The rezoning shall not result in a split-zoned lot.

16   **F.       Flexibility of Interpretation**

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

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

34   **G.       Rezonings with Special Limitations**

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

38          1.       **Purposes**

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

- 40               a.       To prohibit structures, or uses of land or structures, that would adversely affect  
41               the surrounding neighborhood or conflict with the comprehensive plan.

- 1           **b.**     To conform the zoning map amendment to the comprehensive plan, or to further  
2           the goals and policies of the comprehensive plan.
- 3           **c.**     To conform development under the zoning map amendment to existing patterns  
4           of development in the surrounding neighborhood.
- 5           **d.**     To mitigate the adverse effects of development under the zoning map  
6           amendment on the natural environment, the surrounding neighborhood, and on  
7           public facilities and services.

8           **2.     Types of Limitations**

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

- 10          **a.**     Limit residential density; or prohibit structures, or uses of land or structures,  
11          otherwise permitted in a zoning district.
- 12          **b.**     Require compliance with design standards for structures and other site features.
- 13          **c.**     Require compliance with a site plan approved under this title.
- 14          **d.**     Require the construction and installation of improvements, including public  
15          improvements.
- 16          **e.**     Impose time limits for taking subsequent development actions.

17          **3.     Effect of Approval**

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

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

24          **1.     Purpose and Applicability**

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

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

39          **2.     Minimum Area Requirements**

- 40          **a.**     No overlay district zoning map amendment shall be considered or approved that  
41          applies an overlay district to an area less than 1.75 acres, excluding rights-of-

1 way, except for an amendment extending the boundaries of an existing overlay  
2 district.

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

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

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

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

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

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

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

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

16 b. ***Effect of Approval***

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

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

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

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

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

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

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

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

38 **1. Purpose**

39 The assembly may, through the rezoning process, adopt a regulatory zoning strategy that  
40 is customized for a specific property or group of properties. The zoning strategy may  
41 substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07  
42 (see subsection I.4. below) in order to allow the development to achieve the goals of the  
43 comprehensive plan and title 21 in a unique way. The assembly must find that the  
44 proposed strategy will result in development that is compatible with that which would  
45 occur with conventional application of the requirements of chapters 21.05, 21.06, and  
46 21.07.

- 1           **2. Procedure**  
2           Rezoning to PCD districts shall follow the general rezoning procedure set forth in section  
3           D. above, except as modified by this section.
- 4           **3. Minimum Area Requirements**  
5           No PCD district zoning map amendment shall be considered or approved that is equal to  
6           an area of less than 30 acres. These limits exclude rights-of-way and do not apply to  
7           amendments that extend the boundaries of an existing PCD district.
- 8           **4. In-Lieu Standards Allowed**  
9           **a.**     The use of standards that are different from standards stated in title 21 is  
10           intended to allow a developer some flexibility and creativity in meeting the intents  
11           and purposes of the code.
- 12           **b.**     In-lieu standards for the following sections may be proposed for the PCD district:
- 13                   **i.**     Chapter 21.05, *Use Regulations*;
- 14                   **ii.**    Chapter 21.06, *Dimensional Standards*;
- 15                   **iii.**   Subsection 21.07.020C., *Steep Slope Development*;
- 16                   **iv.**   Section 21.07.030, *Open Space*;
- 17                   **v.**     Section 21.07.060, *Transportation and Connectivity*;
- 18                   **vi.**    Section 21.07.080, *Landscaping, Screening, and Fencing*;
- 19                   **vii.**   Section 21.07.090, *Off-Street Parking and Loading*;
- 20                   **viii.**   Section 21.07.100, *Exterior Lighting*;
- 21                   **ix.**    Section 21.07.110, *Residential Design Standards*;
- 22                   **x.**     Section 21.07.120, *Large Establishments*; and
- 23                   **xi.**    Subsection 21.08.050D., *Interior Streets*.
- 24           **c.**     Along with the application and documentation information required in I.5. below,  
25           the applicant must also submit the following information with regard to any  
26           proposed in-lieu standards.
- 27                   **i.**     Clear specification of the proposed in-lieu standards, and the title 21  
28                   standards for which the proposed in-lieu standards are a substitute. Any  
29                   title 21 standards that are not replaced with approved in-lieu standards  
30                   shall apply in the PCD district.
- 31                   **ii.**    A statement of why compliance with title 21 standards would interfere  
32                   with the goals, purposes, or functions of development in the proposed  
33                   PCD district.
- 34                   **iii.**   A demonstration of how the proposed in-lieu standards would be at least  
35                   as effective as the title 21 standards in fulfilling the intents and purposes  
36                   of title 21, and furthering the goals and policies of the comprehensive  
37                   plan, including any applicable neighborhood or district plans.
- 38                   **iv.**    A statement of the expected benefits of the proposed in-lieu standards.

- 1           d.       The planning and zoning commission may recommend approval, and the  
2               assembly may approve a rezone to the PCD district with in-lieu standards if they  
3               find that the in-lieu standards will result in development that is compatible with  
4               the intents and purposes of title 21 and the goals and policies of the  
5               comprehensive plan, and do not compromise public health, safety, or welfare.

6           **5.       Application and Documentation**

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

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

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

- 17           c.       Table of allowed uses and use definitions:

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

- 23           ii.      The land uses listed in the table of allowed uses or the table of  
24               accessory uses shall be defined in chapter 21.05, or the PCD district  
25               shall provide a use definition for those uses not listed in sections  
26               21.05.020 through 21.05.080.

- 27           d.       Dimensional standards and measurements:

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

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

35           **6.       Relationship to Other Requirements**

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

39           **7.       Changes to an Approved PCD District**

40           a.       ***Approval by Assembly***

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

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

- 44           ii.      Any decrease in the total open space acreage;

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

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
Temporary – on a parcel		X
Temporary – for a business		X
Construction signs		X
Temporary for any Residential Unit		X

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**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. General Applicability**

This section shall not apply to 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 site plan review or the development and design requirements of this title.

**C. Administrative Site Plan Review**

**1. Applicability**

Land uses requiring administrative site plan review are identified in table 21.05-1, *Table of Allowed Uses*, table 21.05-3, *Tables of Allowed Accessory Uses*, and table 21.09-1, *Table of Allowed Uses (Girdwood)*.

**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**

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

8 **c. Appeals**

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

12 **D. Major Site Plan Review**

13 **1. Applicability**

14 Land uses requiring major site plan review are identified in table 21.05-1, *Tables of*  
15 *Allowed Uses* and table 21.09-1, *Table of Allowed Uses* (Girdwood).

16 **2. Decision-Making Authority**

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

21 **3. Procedure**

22 **a. Pre-Application Conference**

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

25 **b. Community Meeting**

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

27 **c. Application Submittal**

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

31 **d. Public Notice**

32 Notice shall be provided in accordance with subsection 21.03.020H.

33 **e. Departmental Review**

34 The department shall review each proposed major site plan application in light of  
35 the approval criteria of subsection E. below and distribute the application to other  
36 reviewers as deemed necessary. Based on the results of those reviews, the  
37 department shall provide a report to the applicable commission.

38 **f. Commission Action**

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

43 **g. Appeals**

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

1 **E. Expiration**

2 **1. General**

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

8 **2. Extension**

9 **a. First Extension**

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

16 **b. Further Extensions**

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

22 **F. Approval Criteria**

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

- 25 **1.** The site plan is consistent with any previously approved subdivision plat, planned  
26 development master plan, or any other precedent plan or land use approval;
- 27 **2.** The site plan complies with all applicable development and design standards set forth in  
28 this title, including but not limited to the provisions in chapter 21.04, *Zoning Districts*,  
29 chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional Standards and*  
30 *Measurements*, and chapter 21.07, *Development and Design Standards*;
- 31 **3.** The site plan addresses any significant adverse impacts that can reasonably be  
32 anticipated to result from the use, by mitigating or offsetting those impacts to the  
33 maximum extent feasible; and
- 34 **4.** The development proposed in the site plan is consistent with the goals, objectives, and  
35 policies of the comprehensive plan.

36 **G. Platting for Site Plans**

- 37 **1.** If development under an approval under this section will create a subdivision or requires  
38 the vacation of a dedicated public area, the approval is not effective until a final plat for  
39 the subdivision or vacation is approved and recorded in accordance with this title. A  
40 preliminary plat required under this section is subject to approval as required by section  
41 21.03.200, *Subdivisions*.
- 42 **2.** Unless the authority granting approval directs in the approval that it shall act as the  
43 platting authority, the director is the platting authority for subdivisions under this  
44 subsection.

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

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

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

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

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

10 **a. Procedure**

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

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

18 **(A)** Issue a minor amendment affidavit, which shall be transmitted to  
19 the urban design commission for their information; and

20 **(B)** Attach a form stating the nature of the modification, date of  
21 approval, and bearing the signature of the director to the site  
22 plan on file in the department.

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

25 **b. Types of Minor Amendments**

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

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

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

32 iii. Changes of 10 percent or less in building envelope, setback, and similar  
33 provisions.

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

36 **21.03.190 STREET AND TRAIL REVIEW**

37 **A. Purpose**

38 Streets are a significant investment in the municipality's infrastructure and establish long-term  
39 land use impacts on nearby properties and the community at large. Streets and trails are not only  
40 utilitarian, but also add lasting value to the community and convey the image of the municipality to  
41 all users. These important parts of the municipality's fabric benefit by oversight and concurrence  
42 in the design decisions by citizen bodies that are represented by the planning and zoning  
43 commission and the urban design commission. All transportation projects are required to identify  
44 functional and design issues early in the process and include public input at various stages of the

project. In addition, projects meeting certain thresholds are required to include the planning and zoning commission and urban design commission in the review and approval process.

**B. Street Review**

**1. Applicability and Overview**

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

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

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

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

- a. **Pre-Application Conference**  
 The project management team shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.
- b. **Community Meeting**  
 Public outreach is an essential part of context-sensitive solutions (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*.
- 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

1 design team leader. Based on the results of those reviews, the department shall  
2 provide a report to the planning and zoning commission or urban design  
3 commission, as applicable.

4 **f. Commission Review**

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

11 **3. Concept Report**

12 The concept report shall be distributed to the planning and zoning commission as an  
13 information item. The commission shall take no formal action on the report.

14 **4. Draft Design Study Report Review**

15 **a.** The planning and zoning commission shall review the draft design study report or  
16 equivalent document, for all applicable street projects, and shall issue a decision.  
17 A public hearing is not required but may be held at the commission's discretion.

18 **b.** As applicable, the commission's review of the project draft design study report  
19 shall include but not be limited to:

- 20 **i.** Existing conditions, including but not limited to traffic volumes;
- 21 **ii.** Design standards and criteria, with specific attention to any requests for  
22 variances from the criteria;
- 23 **iii.** Alternatives identification, evaluation, and recommended alternative;
- 24 **iv.** Compliance with this title;
- 25 **v.** Long-term impact on existing and projected land uses in the vicinity;
- 26 **vi.** Short-term and long-term impact of property acquisition for right-of-way;
- 27 **vii.** Impacts on utilities and other public infrastructure, including  
28 undergrounding of overhead utilities;
- 29 **viii.** Street illumination;
- 30 **ix.** Maintenance considerations;
- 31 **x.** Environmental constraints;
- 32 **xi.** Pedestrian and other non-motorized access;
- 33 **xii.** Public involvement summary; and
- 34 **xiii.** Cost estimate.

35 **c.** Decisions may be appealed to the board of adjustment pursuant to subsection  
36 21.03.050A.

37 **5. Plans in Hand Design Drawings Review**

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

- 1           **b.**     The urban design commission shall approve, approve with conditions, or reject  
2           the landscaping, streetscape, and pedestrian design plans at a stage no greater  
3           than 65 percent designed, for all applicable street projects. A public hearing is  
4           not required but may be held at the commission’s discretion.
- 5           **c.**     As applicable, the commission’s review of the plans in hand design drawings  
6           shall include but not be limited to:
- 7                   **i.**     Compliance with this title;
- 8                   **ii.**    Context of the area and the long-term impact on existing and projected  
9                   adjacent land uses;
- 10                  **iii.**   Initial cost of materials including installation;
- 11                  **iv.**   Long-term costs associated with operation and maintenance;
- 12                  **v.**     Adherence to a design theme established through local area plans or  
13                  prior public improvements;
- 14                  **vi.**    Effectiveness in meeting community design goals; and
- 15                  **vii.**   Accommodation of pedestrians and non-motorized users.

16           **6.     Conformance with Recommendations**  
17           No agency may proceed with a project that does not conform to the applicable  
18           commission’s decisions under this section, unless the agency furnishes the commission  
19           and the assembly a written statement of the reasons for its decision to proceed, at least  
20           30 days before implementing the decision.

21   **C.     Trail Review**

22           **1.     Purpose**  
23           Trails are a basic part of the infrastructure of the municipality. They are used for  
24           transportation, for recreation and leisure, and also provide aesthetic and psychological  
25           benefits. Significant additions or revisions to the municipality’s trail network benefit by  
26           oversight and concurrence in design decisions by the urban design commission.

27           **2.     Applicability**

- 28           **a.**     This section applies to new construction and reconstruction of the following types  
29           of trails:
- 30                   **i.**     Major multi-use trails that extend between multiple neighborhoods, such  
31                   as the Chester and Campbell Creek Trails, the Ship Creek Trail, and the  
32                   Coastal Trail.
- 33                   **ii.**    Trails over one-half mile in length in parks classified by the *Anchorage*  
34                   *Bowl Park, Natural Resource, and Recreation Facility Plan* as community  
35                   use area, special use area, or natural resource use area; or in parks  
36                   classified by the *Anchorage Park, Greenbelt and Recreation Facility Plan*  
37                   *Volume 2: “Eagle River-Chugiak-Eklutna”* as community, large urban, or  
38                   regional parks.
- 39                   **iii.**   Trails over one-half mile in length along streams, or connecting  
40                   subdivisions or other developments.
- 41                   **iv.**    Trails internal to parks and schools shall be reviewed by the appropriate  
42                   park board and/or the school district.

1           b.       Notwithstanding the criteria of 2.a. above, the director may exempt new trails or  
2 trail reconstruction projects from this section if the director finds, in writing, that  
3 the project is minor in scope and not likely to cause impacts on surrounding  
4 properties and neighborhoods. The director may also require new trails or trail  
5 reconstruction projects that do not meet the criteria of 2.a. above to be reviewed  
6 in accordance with this section, if the trail project is likely to create significant  
7 public interest, or cause impacts on surrounding properties and neighborhoods.

8           **3. Review and Action**

9           **a. Pre-Application Conference**

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

12           **b. Application Submittal**

13           Applications shall contain the information specified in the title 21 user's guide.

14           **c. Public Notice**

15           Notice of all public hearings shall be provided in accordance with section  
16 21.03.020H.

17           **d. Department Review**

18           The department shall review each proposed application and distribute the  
19 application to other reviewers as deemed necessary. Based on the results of  
20 those reviews, the department shall provide a report to the planning and zoning  
21 commission.

22           **e. Urban Design Commission Action**

23           Urban design commission shall approve, approve with conditions, or reject the  
24 application. A public hearing is not required but may be held at the commission's  
25 discretion.

26           **4. Appeals**

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

30           **5. Trails As Part of Subdivision Development or Conditional Use**

31           Only when a trail is to be constructed concurrently with a subdivision development or  
32 conditional use shall the trail review requirement of this section be the responsibility of  
33 the planning and zoning commission.

34 **21.03.200 SUBDIVISIONS**

35 **A. Purpose**

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

40 **B. Applicability**

41 **1. General**

42           The procedures of this section, and the standards and requirements set forth in chapter  
43 21.08, *Subdivision Standards*, shall apply to all subdivisions or resubdivisions that result  
44 in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land,  
45 including subdivisions or resubdivisions created by an exercise of the power of eminent  
46 domain by an agency of the state or municipality. All subdivisions applications shall be

1 reviewed according to the process set forth in subsection C. below, unless they qualify for  
2 the abbreviated plat procedure.

3 **2. Abbreviated Plat**

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

7 **a.** A movement or elimination of lot lines that does not:

8 **i.** Result in an increase in the permitted density of residential units within  
9 the area being subdivided or resubdivided.

10 **ii.** Allow a change in the permitted use to which the lot or tract may be  
11 devoted under existing zoning.

12 **iii.** Deny adequate access to and from all lots or tracts created by the  
13 subdivision or those adjacent to it.

14 **b.** The subdivision of a single tract, parcel, or lot into no more than three tracts or  
15 eight lots, provided that the subdivision does not:

16 **i.** Allow a change in the permitted use to which the lot or tract may be  
17 devoted under existing zoning.

18 **ii.** Deny adequate access to and from all lots or tracts created by the  
19 subdivision or those adjacent to it.

20 **iii.** Divide a tract, parcel or lot:

21 **(A)** Created within the previous 48 months pursuant to the approval  
22 of a preliminary plat under this section;

23 **(B)** Contiguous to or having an owner either in an individual capacity  
24 or as an owner of a corporation, partnership, or other legal entity  
25 of a preliminary plat approved within the previous 48 months; or

26 **(C)** That is 10 acres or more in the R-6, R-7, R-8, R-9, and R-10  
27 zoning districts or that is governed by AO 84-21 (G-5 areawide  
28 rezoning).

29 **c.** Vacations and relocations under section 21.03.230C.1.

30 **d.** Subdivision of a cemetery into burial plots.

31 **e.** A plat required by section 21.03.080F. for approval of a conditional use, or  
32 section 21.03.180F. for approval of a site plan.

33 **f.** A plat depicting the creation of two attached single-family lots.

34 **3. Subdivision Approval is Prerequisite to Other Approvals**

35 **a.** No building permit, land use permit, certificate of zoning compliance, or certificate  
36 of occupancy may be issued for any building, structure, or improvement located  
37 within a subdivision, and no plat for a subdivision may be recorded with the state  
38 of Alaska, until all required dedications of land have been made, and all required  
39 improvements have been installed in accordance with the procedures and  
40 requirements of this section, or an approved subdivision agreement is in place  
41 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, in accordance with subsection 21.03.020B.

**3. Community Meeting**

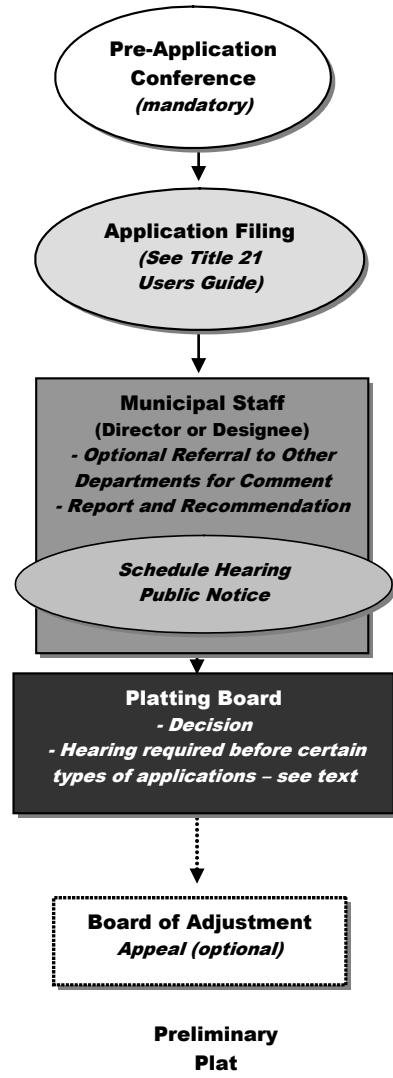
A community meeting is required in accordance with subsection 21.03.020C.

**4. Application Submittal**

a. Unless waived by the platting officer, 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 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.



1           **5. Public Notice**

2           Notice shall be provided in accordance with subsection 21.03.020H.

3           **6. Departmental Review**

4           The department shall review each proposed preliminary plat in light of the approval  
5           criteria of subsection C.9. below and distribute the application to other reviewers as  
6           deemed necessary. Based on the results of those reviews, the department shall provide  
7           a report to the platting board.

8           **7. Action on Preliminary Plat**

9           **a. Platting Authority**

10           The platting board is the platting authority for preliminary plats, except as  
11           provided in subsection 21.03.080F. for conditional uses, and subsection  
12           21.03.180F. for site plans.

13           **b. Action by Platting Authority**

14           Subject to paragraph 7.c. below, the platting authority shall, based on the  
15           approval criteria of subsection C.9. below, take action on the preliminary plat  
16           within 90 days after the submittal date, or shall return the plat to the applicant for  
17           modification or correction. The reasons for denial of a plat shall be stated in the  
18           records of the platting authority.

19           **c. Referral to Other Agency**

20           If the platting authority finds that:

- 21           i.       It cannot determine whether a preliminary plat conforms to the approval  
22           criteria of subsection C.9. below, because a specific controlling land use,  
23           public facility, or other public policy issue has not been resolved; and
- 24           ii.      An official board, commission or legislative body of the municipality or  
25           another government has been identified as being responsible for  
26           resolving that issue;

27           then, upon a majority vote, the platting authority may refer the issue to the  
28           responsible official, board, commission, or legislative body and postpone action  
29           on the plat for a period not exceeding 90 days or to its next regular meeting after  
30           the responsible official, board, commission, or legislative body responds to the  
31           referral, whichever occurs first.

32           **d. Public Hearing**

33           The platting authority shall hold a public hearing before action on the following  
34           types of subdivision applications:

- 35           i.       Approval of a preliminary plat, except applications allowed to use the  
36           abbreviated plat procedure;
- 37           ii.      Approval of a final plat that differs from the preliminary plat (see section  
38           21.03.200C.8.b.);
- 39           iii.     Modification or deletion of a condition of plat approval;
- 40           iv.     Granting of a variance from the provisions of chapter 21.08, *Subdivision*  
41           *Standards*; and
- 42           v.     Vacation of dedicated right-of-way; BLM and section line easements; or  
43           platted landscape, drainage, slope, or protective well radii easements.

44           **e. Approval Period; Time Extensions**

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- i. Notwithstanding any subsequent change in the subdivision regulations, zoning regulations, and zoning districts, the approval of the preliminary plat shall be effective:
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- (A) For at least 24 months and up to 60 months from the date of approval, when it pertains to a development of no less than 10 acres and includes a phasing plan. The length of the approval period shall be based upon the platting board's evaluation of the size, complexity, and phasing elements of the development.
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- (B) For 24 months from the date of approval when it pertains to a development of less than 10 acres or does not include a phasing plan.
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- ii. The preliminary plat shall become null and void after the approval period unless an extension of time is granted by the platting authority. A request for a time extension must be made in writing by the subdivider. The extension request must be received by the platting officer prior to the expiration of the preliminary plat to be eligible for consideration by the platting authority.
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- iii. Such a time extension shall be granted only if the authority finds that current conditions are substantially the same as those that existed when the preliminary plat was originally approved. The platting officer shall conduct the reevaluation for every extension request that does not raise the total time of extension for a particular plat beyond 24 months and present his or her findings to the authority. Every extension request that raises the total time of extension for a particular plat beyond 24 months shall be evaluated in the same manner as an original plat application, including payment of the applicable fee.
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- iv. Only two time extensions may be approved for a preliminary plat approved by the platting authority. Approval of the second extension shall require a noticed public hearing.
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- v. Preliminary plats being finalized in portions or phases shall not be construed to automatically extend the original approval period. Notwithstanding subsection e.iii. above, preliminary plats that include a phasing plan and a full layout plan may be approved for up to 60 months, with the option of one 60 month extension by the platting board (on the consent agenda) and an additional 60 month extension by the platting board (with a public hearing in accordance with subsection e.iv. above). Such extensions 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.
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- 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.
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- 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 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 department for final checking and inspection before final approval is given. If requested, a subdivision survey shall be submitted to the public works 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 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.

- 1 v. If the subdivision is to be served by a community water or sewer system,  
2 the development services department may require the subdivider to  
3 provide the following before the platting board finally approves the plat:
- 4 (A) Any approvals or certificates required by the state departments  
5 of environmental conservation and natural resources.
- 6 (B) An agreement under the standards and procedures set out in  
7 section 21.08.060, *Subdivision Agreements*, to ensure that the  
8 system installed will be compatible with existing public water and  
9 sewer systems.
- 10 (C) Approval of the plans, specifications, and installation and  
11 operating procedures for the system by the municipal water and  
12 wastewater utility pursuant to chapter 21.08, *Subdivision*  
13 *Standards*, and regulations promulgated thereunder.
- 14 vi. Final plats affecting land neither supplied, nor under subdivision  
15 agreement to be supplied, both with public water and public sewer, shall  
16 be submitted to the development services department for a  
17 determination that all lots and proposed water and wastewater facilities  
18 conform to AMC chapter 15.65 at the time of determination.
- 19 b. ***Procedure When Final Plat Differs from Preliminary Plat***  
20 When the final plat differs from the preliminary plat, the plat shall be considered a  
21 new application for preliminary plat approval under this subsection C., except that  
22 all decisions as to approval or denial of this plat by the platting board as  
23 submitted under this section shall be final unless appealed to superior court.
- 24 c. ***Requirements for Final Plat***  
25 The final plat shall be prepared to the technical specifications, and shall be  
26 accompanied by appropriate supporting materials, as specified in the title 21  
27 user's guide.
- 28 d. ***Subdivision Agreements and Cost Estimates***  
29 All final plats requiring public improvements, except those requiring  
30 monumentation only, shall be accompanied by a subdivision agreement between  
31 the subdivider and the municipality and an engineer's estimate of the cost of all  
32 required public improvements. Requirements for such an agreement are further  
33 described in section 21.08.060, *Subdivision Agreements*.
- 34 e. ***Notes, Restrictions, and Covenants***  
35 The platting board may place such conditions upon granting of final plat approval  
36 as are necessary to preserve the public welfare in accordance with the  
37 subdivision regulations. (See section 21.03.020M.) When such a condition of  
38 approval entails a restriction upon the use of all or part of the property being  
39 subdivided, a note specifying such restrictions shall be placed on the face of the  
40 plat. Such note shall constitute a restrictive covenant in favor of the municipality  
41 and the public and shall run with the land, enforceable against all subsequent  
42 owners. Any such restrictive covenant may be enforced against the subdivider or  
43 any subsequent owner by the municipality or by any specifically affected member  
44 of the public.
- 45 9. **Approval Criteria**  
46 The platting board may approve a preliminary or final plat only if it finds that the plat  
47 conforms to chapters 21.06, *Dimensional Standards and Measurements*, 21.07,  
48 *Development and Design Standards*, and 21.08, *Subdivision Standards*, and, to the  
49 maximum extent feasible:

- 1 a. Promotes the public health, safety, and welfare;
- 2 b. Mitigates the effects of incompatibilities between the land uses or residential
- 3 densities in the subdivision and the land uses and residential densities in the
- 4 surrounding neighborhood, including but not limited to visual, noise, traffic, and
- 5 environmental effects;
- 6 c. Provides for the proper arrangement of streets in relation to existing or proposed
- 7 streets;
- 8 d. Provides for adequate and convenient open space;
- 9 e. Provides for the efficient movement of vehicular and pedestrian traffic;
- 10 f. Ensures adequate and properly placed utilities;
- 11 g. Provides access for firefighting apparatus;
- 12 h. Provides opportunities for recreation, light, and air, and avoids congestion;
- 13 i. Facilitates the orderly and efficient layout and use of the land;
- 14 j. Does not create a split-zoned lot; and
- 15 k. Furthers the goals and policies of the comprehensive plan and conforms to the
- 16 comprehensive plan in the manner required by section 21.01.080,
- 17 *Comprehensive Plan.*

18 **D. Abbreviated Plat Procedure**

19 **1. Authorization**

20 Except for preliminary plats where the applicant is an  
21 agency of the municipal, state, or federal  
22 governments, the preliminary plats described in  
23 subsection B.2.b. above are subject to approval under  
24 the abbreviated procedure in this subsection instead  
25 of the procedure in subsection C. above. Preliminary  
26 plats described in B.2.b., where the applicant is an  
27 agency of the municipal, state, or federal  
28 governments, are subject to approval under the  
29 procedure in subsection C. above.

30 **2. Application Submittal**

31 Applications for abbreviated plats shall contain all of  
32 the submittal requirements that are listed in the title  
33 21 user's guide. Applications shall be submitted to  
34 the platting officer on a form provided by the  
35 department.

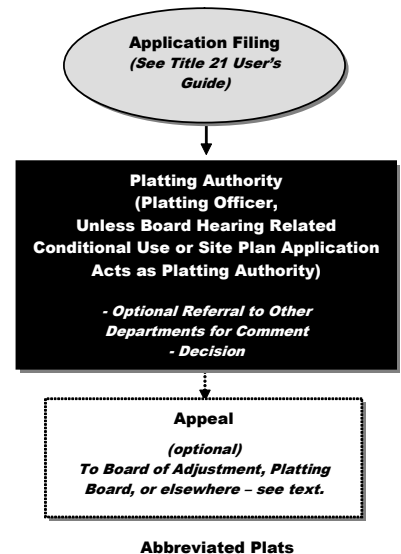
36 **3. Public Notice**

37 Before acting on an abbreviated plat application under  
38 this section, the platting officer shall provide notice in accordance with section  
39 21.03.020H.

40 **4. Action on Plat**

41 **a. *Platting Authority***

42 The platting officer is the platting authority for abbreviated plats, except as  
43 provided in section 21.03.230 for vacation or relocation of certain dedicated  
44 public areas. The platting officer may refer any application to the platting board



1 that he or she deems may need further or more extensive analysis and public  
2 comment concerning access into adjacent property.

3 **b. Review and Decision**

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

8 **c. Variances**

9 i. When acting as the platting authority under this section, the platting  
10 officer may not grant variances from the provisions of chapter 21.08,  
11 *Subdivision Standards*.

12 ii. When acting as the platting authority under section 21.03.080F., *Platting*  
13 *for Conditional Uses*, or 21.03.180F., *Platting for Site Plans*, the board or  
14 commission hearing an application for conditional use or site plan  
15 approval may grant variances from the provisions of chapter 21.08,  
16 *Subdivision Standards*, in accordance with section 21.03.240, *Variances*.

17 **d. Duration of Preliminary Approval**

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

22 **e. Time Extensions**

23 The abbreviated plat shall become null and void after the preliminary approval  
24 period unless an extension of time is granted by the platting officer. A request for  
25 a time extension must be made in writing by the subdivider. Such a time  
26 extension shall be granted only if the platting officer finds that current conditions  
27 are substantially the same as those that existed when the preliminary plat was  
28 approved. Only one extension of no more than 24 months may be approved.

29 **f. Appeals**

30 Decisions of the platting officer under this section are final unless appealed within  
31 15 days to the platting board, in which case the appeal shall be treated as an  
32 application for preliminary plat approval pursuant to subsection 21.03.200C.

33 **g. Approval of Final Plat**

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

38 **E. Commercial Tract Plats**

39 **1. Applicability**

40 A commercial tract may be created and divided into fragment lots in order to facilitate  
41 construction of commercial developments requiring multiple phases of construction.  
42 Designation of commercial tracts shall be allowed only in the B-3, RO, I-1, I-2, PCD, MC,  
43 MI, GC-1 through GC-10, GI-1, GI-2, GRST-1, and GRST-2 zoning districts.

44 **2. Platting Authority**

45 The planning and zoning commission or the urban design commission shall be the  
46 platting authority for a commercial tract whose site plan includes a large commercial  
47 establishment (see section 21.03.180C. for applicable commission). The platting board  
48 shall be the platting authority for all other commercial tracts.

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

2           **a. Application Submittal**

3           Applications for a commercial tract plat shall contain the information specified in  
4           the title 21 user's guide, and shall be submitted to the platting officer on a form  
5           provided by the department. An application for approval of a commercial tract  
6           shall be signed by the owners of the property involved.

7           **b. Action by Platting Authority**

8           i.       The platting authority shall act upon the application for approval of a  
9           commercial tract whose site plan includes a large commercial  
10          establishment as part of the major site plan review for the large  
11          commercial establishment under subsection 21.03.180C.

12          ii.       Except as provided in E.3.b.i. above, the platting authority shall act upon  
13          the application for commercial tract approval following the review and  
14          approval procedures of a preliminary plat in accordance with subsection  
15          21.03.200C.7.

16          **c. Recording of Site Plan**

17          Upon approval of a commercial tract under subsection E.3.b. above, the platting  
18          officer shall, after notice to the petitioner, record the commercial tract site plan as  
19          approved, together with any declarations, covenants, and restrictions, with the  
20          district recorder's office.

21          **d. Conformance with Site Plan**

22          It shall be unlawful for any person to construct, erect, or maintain any structure,  
23          building, fence, or improvement, including landscaping, parking, and other  
24          facilities, on property designated as a commercial tract, unless such  
25          improvements are constructed or reconstructed in a manner consistent with the  
26          approved commercial tract site plan.

27          **e. Alteration of Boundaries**

28          The process for amending or altering the boundaries of an approved commercial  
29          tract shall be the same process as that of the original approval of the commercial  
30          tract plat.

31          **f. Amendment of Site Plan**

32          Any amendment or alteration of an approved commercial tract site plan shall be  
33          made only upon approval of the platting authority as provided in this section.

34           **4. Division of Tract**

35           The owner of a commercial tract may divide the tract into fragment lots provided that  
36           such division is consistent with the approved commercial tract site plan and recorded  
37           declarations, covenants, and restrictions applicable to the commercial tract. Any property  
38           description used to divide an area of the commercial tract into a fragment lot shall not be  
39           considered a lot or tract under the terms of this title or title 23, but shall be otherwise a  
40           lawful lot or tract. Any fragment lot created under this section shall contain the minimum  
41           area, width, and depth otherwise required for lots in the zoning district in which the  
42           fragment lot is located.

43           **F. Right-of-Way Acquisition Plat**

44           **1. Generally**

45           A plat for a subdivision created by a government agency's acquisition of a street or trail  
46           right-of-way is subject to approval under this section and is not subject to any other  
47           approval procedure for plats under this title.

- 1           **2. Application Submittal**  
2           Applications for a right-of-way acquisition plat shall contain the information specified in  
3           the title 21 user's guide, and shall be submitted to the platting officer on a form provided  
4           by the department.
- 5           **3. Applicability of Requirements**  
6           **a.**       A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.  
7           **b.**       Survey requirements for a right-of-way acquisition plat shall be established by  
8           agreement between the municipal surveyor and the government agency applying  
9           for plat approval, or, if there is no such agreement, by the provisions of this title.
- 10          **4. Action**  
11          **a. Platting Authority**  
12          The platting officer shall act as the platting authority unless the government  
13          agency applying for plat approval requests a public hearing before the platting  
14          board.
- 15          **b. Duration of Approval**  
16          The preliminary approval of the right-of-way acquisition plat shall be for a period  
17          of 60 months; provided, however, that the platting officer may grant an extension  
18          of time for filing the final plat upon a finding that it is in the public interest to do  
19          so.
- 20          **c. Appeals**  
21          All decisions of the platting officer under this section shall be final unless  
22          appealed to the platting board within 15 days. An appeal under this subsection  
23          shall be treated as an application for preliminary plat approval pursuant to section  
24          21.03.200C.
- 25          **5. Requirements for Final Plat**  
26          Requirements for final right-of-way acquisition plats shall be established by agreement  
27          between the director and the government agency applying for plat approval, or, if there is  
28          no such agreement, by the provisions of this title.
- 29          **G. Modification or Removal of Plat Notes**  
30          **1. Purpose**  
31          This section sets forth a process by which the platting board may modify or remove plat  
32          notes from recorded plats.
- 33          **2. Initiation**  
34          Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of  
35          land encumbered by the plat note. If the applicable plat note encumbers more than one  
36          lot, the owners of all encumbered lots shall be a party to the application.
- 37          **3. Application**  
38          Applications for modifying or removing a plat note(s) shall contain the information  
39          specified in the title 21 user's guide, and shall be submitted to the platting officer on a  
40          form provided by the department.
- 41          **4. Public Notice**  
42          Notice shall be provided in accordance with section 21.03.020H.
- 43          **5. Departmental Review**  
44          The department shall review the proposed modification or removal of a plat note(s) in  
45          light of the approval criteria of subsection G.9. below and distribute to other reviewers as

1 deemed necessary. Based on the results of those reviews, the department shall provide  
2 a report to the platting board.

3 **6. Action by the Platting Board**

4 The platting board shall hold a public hearing on the proposed application and act to  
5 approve, approve with alterations, or deny the proposed modification or removal of a plat  
6 note(s), based on the approval criteria of subsection G.9. below.

7 **7. Recordation**

8 Once approved by the platting board, a plat with modified or deleted plat notes shall be  
9 re-recorded in accordance with the procedures of the district recorder's office.

10 **8. Appeal**

11 Decisions on modifying or removing a plat note(s) may be appealed to the board of  
12 adjustment in accordance with subsection 21.03.050A.

13 **9. Approval Criteria**

14 Plat note modifications or deletions may be approved if the platting board finds that all of  
15 the following approval criteria have been met:

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

18 b. Modification or removal of the plat note(s) will not have a negative impact on  
19 adjacent or nearby properties; and

20 c. Despite modification or removal of the plat note(s), the plat continues to meet the  
21 approval criteria of subsection 21.03.200C.9.

22 **21.03.210 TITLE 21 – TEXT AMENDMENTS**

23 **A. Purpose and Scope**

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

29 **B. Procedure**

30 **1. Initiation**

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

33 **2. Application Submittal**

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

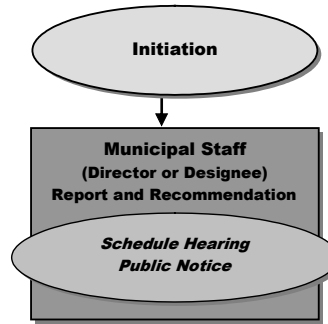
36 **3. Departmental Review**

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

42 **4. Review by Other Boards or Commissions**

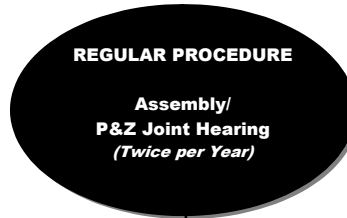
43 a. Any text amendments proposed that amend the powers and duties of any board  
44 or commission shall be reviewed by that board or commission, which shall  
45 forward a recommendation to the assembly.

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.

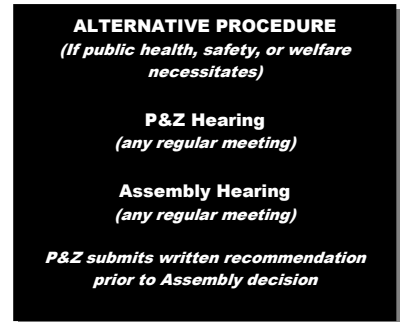
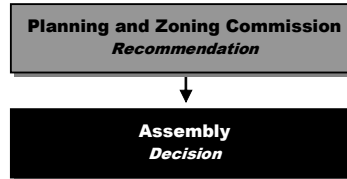


5. **Notice and Frequency of Amendments**

a. 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.



Amendments to Text of Title 21

c. Starting on January 1, 2017, 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 three years after January 1, 2014, the director determines that a technical 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; provided, however, that the director shall notify the commission at the time the proposed amendment is submitted to the assembly, so that the commission can forward its opinion on the proposed change to the assembly for consideration. All other amendments shall be processed through the planning and zoning commission for review and recommendation to the assembly.

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.

- 1           b.     If the commission recommends approval of the amendment, the director shall  
2           submit the draft ordinance to the assembly.
- 3           c.     If no recommendation is made within 60 days, then the planning and zoning  
4           commission may request an extension of time from the assembly. If no  
5           recommendation is made and no extension is granted, then the assembly may  
6           act on the proposed amendment without a recommendation from the planning  
7           and zoning commission.

8           **7. Assembly Action**

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

15       **C. Approval Criteria**

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

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

23       **21.03.220 USE CLASSIFICATION REQUESTS**

24       **A. Purpose and Applicability**

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

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

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

34           1.     **Application Submittal and Action**

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

42           2.     **Appeals**

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

1           **3. Form of Determination**

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

4   **C. Standards for Review**

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

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

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

2 **1. Typical Uses: Amendment to this Title**

3 If the director finds that the particular use or category of use(s) that was the subject of the  
4 use classification request is likely to be common or to recur frequently, or that omission  
5 from this title is likely to lead to public uncertainty and confusion, the director shall initiate  
6 an amendment to this title under section 21.03.210, *Title 21-Text Amendments*. The  
7 determination of the director shall be binding on all officers and departments of the  
8 municipality.

9 **2. Atypical Uses: Determination Binding**

10 If the director finds that the particular use or category of use(s) that was the subject of the  
11 use classification request is of an unusual or transitory nature, or is unlikely to recur  
12 frequently, the director may approve the use without initiating an amendment to this title.  
13 However, the director's determination shall thereafter be binding on all officers and  
14 departments of the municipality.

15 **E. Official Record of Use Classification Determinations**

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

19 **21.03.230 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS**

20 **A. Authority**

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

26 **B. Application Submittal**

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

29 **C. Decision-Making Responsibilities for Vacations**

30 **1.** The platting officer is the platting authority for applications to vacate the following platted  
31 interests:

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

37 **2.** The platting board is the platting authority for all other applications to vacate a dedicated  
38 public area.

**D. Action**

The platting officer 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**

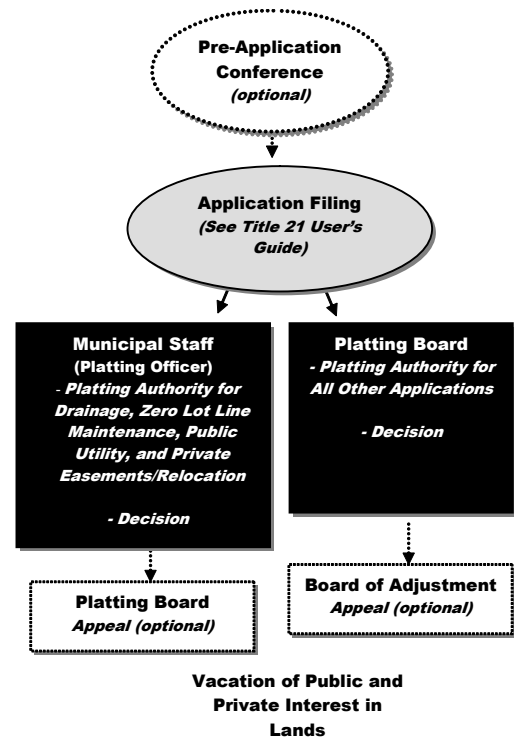
Appeals of the platting officer's decision on a vacation under his or her jurisdiction shall be treated as an application for preliminary plat approval pursuant to section 21.03.200C. Appeals of the platting board's decision on a vacation under its jurisdiction shall be to the board of adjustment.

**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. Requests for variances from the airport height zoning regulations set forth in section 21.04.060C. shall be referred to the Federal Aviation Administration.

3. 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.

4. The zoning board of examiners and appeals shall be authorized to review and consider variance requests from:

- a. Subsection 21.05.040K., *Telecommunication Facilities*;
- b. Subsection 21.07.050, *Utility Distribution Facilities*;
- c. Chapter 21.06, *Dimensional Standards and Measurements*; and
- d. Section 21.09.060, *Dimensional Standards (Girdwood)*.

1 The zoning board may only grant variances from dimensional  
 2 standards.

3 5. No variance may be granted from the definitions set forth in  
 4 chapter 21.14.

5 **C. Application Submittal**

6 Applications for a variance shall contain the information specified in  
 7 the title 21 user's guide, and shall be submitted to the director on a  
 8 form provided by the department.

9 **D. Public Notice**

10 Notice shall be provided in accordance with section 21.03.020H.

11 **E. Departmental Review**

12 The department shall review each proposed variance in light of the  
 13 approval criteria of subsection G. below and distribute to other  
 14 reviewers as deemed necessary. Based on the results of those  
 15 reviews, the department shall provide a report to the decision-making  
 16 body.

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

18 1. Once the application is complete, the director shall schedule  
 19 the application for consideration at a public hearing, and shall  
 20 transmit to the appropriate decision-making body all  
 21 applications and other records pertaining to the variance prior  
 22 to the hearing. Upon receiving the application materials from  
 23 the director, the decision-making body shall hold a public  
 24 hearing on the proposed variance.

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

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

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

38 5. Under no circumstances shall the decision-making body grant a variance from any written  
 39 conditions attached by another decision-making body to the approval of a conditional  
 40 use, subdivision plat, site plan, or rezone (special limitation).

41 **G. Approval Criteria**

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



Variances

- 1           **1.       Variances from the District-Specific Standards of Chapter 21.04, *Zoning Districts*,**  
2           **the Use-Specific Standards of Chapter 21.05, *Use Regulations*, Chapter 21.07,**  
3           ***Development and Design Standards*, Section 21.09.040, Section 21.09.050, Section**  
4           **21.09.070, Section 21.09.080, and Chapter 21.11, *Signs***
  - 5           **a.**       The proposed alternative achieves the intent of the subject design standard to  
6           the same or better degree than the subject standard;
  - 7           **b.**       The proposed alternative achieves the goals and policies of the comprehensive  
8           plan to the same or better degree than the subject standard;
  - 9           **c.**       The proposed alternative results in benefits to the community that are equivalent  
10           to or better than compliance with the subject standard;
  - 11           **d.**       The variance, if granted, will not adversely affect the use of adjacent property as  
12           permitted under this code;
  - 13           **e.**       The variance, if granted, does not change the character of the zoning district  
14           where the property is located, is in keeping with the intent of the code, and does  
15           not permit a use not otherwise permitted in the district in which the property lies;
  - 16           **f.**       Persons with disabilities are provided with access as required by the Americans  
17           with Disabilities Act (ADA) and reasonable accommodation; and
  - 18           **g.**       The variance, if granted, does not adversely affect the health, safety, and welfare  
19           of the people of the municipality.
- 20           **2.       Variances from Chapter 21.06, *Dimensional Standards and Measurements* and**  
21           **from Section 21.09.060 (*Girdwood*)**
  - 22           **a.**       There exist exceptional or extraordinary physical circumstances of the subject  
23           property including, but not limited to, streams, wetlands, or slope, and those  
24           circumstances are not applicable to other land in the same zoning district;
  - 25           **b.**       Because of these physical circumstances, the strict application of the code  
26           creates an exceptional or undue hardship upon the property owner, and would  
27           deprive the applicant of rights commonly enjoyed by other properties in the same  
28           district under the terms of the zoning ordinance;
  - 29           **c.**       The hardship is not self-imposed, special conditions and circumstances do not  
30           result from the actions of the applicant, and such conditions and circumstances  
31           do not merely constitute inconvenience;
  - 32           **d.**       The variance, if granted, will not adversely affect the use of adjacent property as  
33           permitted under this code;
  - 34           **e.**       The variance, if granted, does not change the character of the zoning district  
35           where the property is located, is in keeping with the intent of the code, and does  
36           not permit a use not otherwise permitted in the district in which the property lies;
  - 37           **f.**       The variance, if granted, does not adversely affect the health, safety, and welfare  
38           of the people of the municipality;
  - 39           **g.**       Persons with disabilities are provided with access as required by the Americans  
40           with Disabilities Act (ADA) and reasonable accommodation; and
  - 41           **h.**       The variance granted is the minimum variance that will make possible a  
42           reasonable use of the land.

1           **3.     Variances from Chapter 21.08, Subdivision Standards**

- 2           **a.**     There are special circumstances or conditions affecting the property such that  
3                     the strict application of the provisions of the subdivision regulations would clearly  
4                     be impractical, unreasonable, or undesirable to the general public;
- 5           **b.**     The granting of the specific variance will not be detrimental to the public welfare  
6                     or injurious to other property in the area in which such property is situated;
- 7           **c.**     Such variance will not have the effect of nullifying the intent and purpose of the  
8                     subdivision regulations or the comprehensive plan of the municipality; and
- 9           **d.**     Undue hardship would result from strict compliance with specific provisions or  
10                    requirements of the subdivision regulations. The applicant may supplement the  
11                    form with supporting documents.

12           **4.     Variances from Airport Height Zoning Regulations**

13           The Federal Aviation Administration shall complete an airspace determination that  
14           concludes that the proposed variance would not create a hazard.

15 **H.     Lapse of Approval**

16           Any variance granted shall become null and void if:

- 17           **1.**     The variance is not exercised within one year of the date it is granted or as otherwise  
18                    conditioned, or
- 19           **2.**     Any building, structure, or characteristic of use permitted by variance is moved or altered  
20                    so as to enlarge the variance or discontinue it.

21 **I.     Appeals**

- 22           **1.**     An appeal from a decision of the platting board or the urban design commission shall be  
23                    brought to the board of adjustment in accordance with sections 21.03.050A.
- 24           **2.**     An appeal from a decision of the planning and zoning commission or the zoning board of  
25                    examiners and appeals shall be brought in accordance with section 21.03.050C.

26 **J.     Administrative Variances**

27           **1.     Process**

28           **a.     Application Submittal**

29                    Applications for an administrative variance shall contain the information specified  
30                    in the title 21 user's guide, and shall be submitted to the director on a form  
31                    provided by the department.

32           **b.     Notice**

33                    Notice shall be provided in accordance with section 21.03.020H.

34           **c.     Time For Approval**

35                    The director shall make a determination on an application within 45 days of  
36                    submittal, and shall provide written findings of the decision. Notification of  
37                    approval or denial shall be posted electronically on the department's municipal  
38                    web site and furnished in writing to the applicant by mail or delivered by  
39                    electronic means.

40           **d.     Appeals**

41                    If the request for an administrative variance is denied, the applicant may apply for  
42                    a public hearing variance before the urban design commission under this section  
43                    21.03.240. Additionally, denial of requests for administrative variance from  
44                    occupancy limits for assisted living facilities may be appealed by any person with

1 standing to request reasonable accommodation under the Fair Housing Act, 42  
2 U.S.C. § 3604(f).

3 **2. From Occupancy Limits For Assisted Living Facilities**

4 **a. Intent**

5 The intent of this section is to provide a procedure to allow persons with  
6 disabilities and assisted living providers to request reasonable accommodation  
7 from the department when access to decent safe, accessible and affordable  
8 housing with assisted living would not be available absent a reasonable  
9 accommodation. This administrative variance procedure is available to address  
10 application for minor variance in dimensional and setback requirements to  
11 accommodate special needs of persons with disabilities and to address  
12 application for variance in occupancy limits of no more than three persons.

13 **b. Standards**

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

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

- 1                   vi.     External characteristics and impacts of the proposed facility, including  
2   without limitation appearance, projected contribution to traffic volumes  
3   and on-street parking within the neighborhood, available street lighting  
4   and sidewalks.
- 5                   vii.    Quantifiable risks to the health, safety, and quality of life of area  
6   residents and users.
- 7                   viii.   Administrative and economic burden on the municipality, in either  
8   approval or denial of the variance.
- 9                   ix.     Other factors deemed relevant to the applicant or the department in  
10    review of the application.
- 11                c.     **Conditions**  
12    In approving a variance, the department may impose reasonable conditions  
13    designed to address the standards in subsection J.5. or mitigate impacts created  
14    by the variance.
- 15                3.     **For Signs**  
16    The director may grant an administrative variance from the height restrictions and/or  
17    setback requirements for freestanding signs, provided:
- 18                   a.     Special topographic circumstances exist that would result in a material  
19    impairment of visibility of a conforming sign from the adjacent roadway;
- 20                   b.     There is no reasonable conforming alternative to the variance;
- 21                   c.     Any setback variance does not result in an encroachment into a public right-of-  
22    way; and
- 23                   d.     A fee has been received.
- 24                4.     **For Large Domestic Animal Facility**  
25    Application for administrative approval of deviation in minimum lot size of 40,000 square  
26    feet may be made to the department. The director may approve deviation of site area  
27    square footage, not to exceed 10 percent, upon consultation with the department of  
28    health and human services.
- 29                5.     **For Refuse Receptacle Location and Screening**  
30                   a.     The director shall seek and document comments from the applicable refuse  
31    service providers
- 32                   b.     Approval criteria for this administrative variance is listed in subsection  
33    21.07.080G.2.i.

34   **21.03.250 VERIFICATION OF NONCONFORMING STATUS**

- 35   A.     **Process**  
36    Owners of lots, uses, or structures that may not conform to the requirements of this title may  
37    request a verification of nonconforming status by filing an application with the director in  
38    accordance with this section. Owners of signs that do not conform to the requirements of this title  
39    shall comply with section 21.12.070, *Nonconforming Signs*.
- 40                1.     The application shall be accompanied by documentation that establishes the approximate  
41    date that the lot, use, or structure was established; proof that the lot, use, or structure  
42    was lawfully established at the time it became nonconforming; and proof that the use has  
43    not been discontinued or abandoned, except as provided in subsection B. below. The

1 director shall require additional information if deemed necessary to permit an accurate  
2 determination.

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

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

7 **B. Exceptions**

8 Notwithstanding subsection A. above:

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

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

16 **C. Appeals**

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