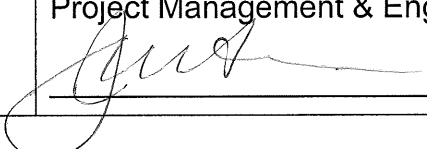




OPERATING POLICY & PROCEDURE

<p>Title: Operating Policy and Procedure for Contesting and Appealing Decisions made by the Private Development Division of the Project Management & Engineering Department pertaining to reviews and approval under its purview</p>	<p>P & P No.: 10</p>	<p>Effective Date: January 7, 2008</p>
<p>Prepared by: Donald C. Keefer, P.E., Private Development Manager Project Management & Engineering</p>	<p>Supersedes No.: New</p>	<p>Dated:</p>
<p>Approved by: J. W. Hansen, Deputy Director, Project Management & Engineering</p> 		

I. PURPOSE

To publish the policies and procedures for documenting and advancing administrative contests and appeals to decisions made by the Private Development Division of the Project Management & Engineering Department.

These policies and procedures apply to the following:

- subdivision agreements;
- road extension agreements;
- improvement of public places agreements; and
- private and public improvements required as a condition of granting a right-of-way permit, a building permit, or a land use permit.

These policies are in no way intended to preempt any other appeal processes promulgated in municipal code, international building code (to include local amendments), international fire code (to include local amendments), or to usurp established authorities or appeals processes of established boards and commissions.

II. POLICY

An applicant or developer may contest or appeal a decision of the Private Development Division as the decision pertains to requirements to secure approvals for items listed in Part 1.

Each application for an appeal and each response to an appeal shall be in writing.

An application for appeal shall be directed first to the Municipal Engineer, and at the discretion of the applicant, may advance to the Municipal Manager. Final decision of the Municipality

shall clearly state that it is a final decision with respect to all issues under the application for appeal. The final decision of the Municipality shall state that the applicant may appeal to the superior court if filed within thirty (30) days from the date the Municipal decision is issued to the applicant. If not appealed to the superior court within thirty (30) days, the Municipal decision shall be conclusive.

Overturning a decision, and in some cases a prior approval, shall not be based solely on cost. Justification shall demonstrate why the decision does not (or did not) support orderly development of infrastructure.

Any change to this policy shall be subject to a 30-day comment period.

III. PRIVATE DEVELOPMENT OPERATING PROCEDURES

An applicant for appeal shall first direct an application to the Municipal Engineer.

An application for appeal must be based on one (or more) of the following claims:

- the true intent of codes was incorrectly interpreted and applied;
- the terms and conditions of an agreement were incorrectly interpreted and applied;
- the provision of code do not fully apply;
- the Municipality has failed to meet its obligations under an agreement; or,
- the proposed construction and/or material is equal to or better than accepted standards.

The application shall objectively and clearly present the following:

- the request;
- the desired results;
- justification (to include advantages and disadvantages) for the request;
- pertinent history of the applicable review processes and decisions to date; and
- why the past decision is perceived flawed.

All appeal applications delivered to PM&E will require a date stamp at the time of delivery. The Municipal Engineer shall respond to each appeal no later than ten (10) business days following the date stamp of receipt.

The Municipality shall objectively and clearly document reasons for approving or rejecting the application.

Applications rejected by the Municipal Engineer may then be appealed to the Municipal Manager, with applicable updates to the application. If this advance appeal is elected, the applicant shall submit applications to the Municipal Manager no later than ten (10) business days following receipt of a rejection from the Municipal Engineer. The Municipal Manager shall respond to the appeal no later than ten (10) business days following receipt of an application.

For extenuating circumstances and cause, extensions of time for the above may be granted provided the Developer and the Municipality are mutually agreeable to the extension, and the extension and reason is, or reasons are, memorialized in writing.

Final position/decision of the Municipality shall rest with the Municipal Manager and shall clearly state that it is a its final decision with respect to all issues under the application for appeal.

The final position/decision of the Municipality shall include a provision that the applicant may appeal to the superior court if filed within thirty (30) days from the date the Municipal decision is issued to the applicant. If the applicant does not appeal to the superior court within thirty (30) days of the date of the Municipal decision, the Municipal decision shall be conclusive.

IV. ORGANIZATIONS AFFECTED

Development Services Department
Planning Department
Project Management & Engineering Department
Maintenance and Operations
Traffic Department
Anchorage Fire Department

V. REFERENCES

- A. MOA Title 21 Code of Ordinances and Regulations
- B. MOA Title 24 Code of Ordinances
- C. MOA Standard Specifications (MASS) (currently adopted version)
- D. MOA Grading, Excavation, and Fill Code (currently adopted version)
- E. MOA Erosion and Sediment Control and Materials Containment Guidance Manual (currently adopted version)
- F. MOA Storm Water Treatment Plan Review Guidance Manual (currently adopted version)
- G. Design Criteria Manual (currently adopted version)
- H. Private Development Handbook
- I. Policy and Procedure No. 6: Operating Policy and Procedures for project administered by the Private Development Division of the Project Management & Engineering Department.

VI. DEFINITIONS

- A. **Municipality:** The Municipality of Anchorage.
- B. **Private Development (PD):** A division within the Project Management & Engineering Department.

BI-ANNUAL REVIEW

This Policy and Procedure shall be reviewed for required updates no later than December 31st of odd-numbered years.