

EXHIBIT A

CHAPTER 21.01: GENERAL PROVISIONS

21.01.010 TITLE AND EFFECTIVE DATE

This title shall be officially known as "Title 21, Land Use Planning, of the Anchorage Municipal Code of Ordinances." It also may be called "Title 21," the "Zoning Ordinance," or "the Land Use Ordinance," and is referred to throughout this document as "this title." This title shall become effective on January 1, 2014. The previous version of this title, effective on December 31, 2013, may be used until December 31, 2014, at the option of an applicant. The transitional provisions of section 21.01.090 below are applicable beginning on January 1, 2015.

21.01.020 AUTHORITY

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

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

21.01.030 PURPOSE OF THIS TITLE

The purpose of this title is to implement the comprehensive plan in a manner which protects the public health, safety, welfare, and economic vitality by:

- A. Encouraging the efficient use of existing infrastructure and the available land supply in the municipality, including redevelopment;
- B. Encouraging a diverse supply of quality housing located in safe and livable neighborhoods;
- C. Encouraging a balanced supply of nonresidential land uses that are compatible with adjacent land uses and have good access to transportation networks;
- D. Promoting well-planned development that reflects the municipality's unique northern setting, natural resources, and majestic surroundings;
- E. Providing appropriate development incentives to achieve an economically balanced and diverse community and to promote further economic development in the municipality;
- F. Protecting the diversity of fish and wildlife habitats by minimizing adverse impacts of land development on the natural environment;
- G. Protecting development and residents of the municipality from flooding, wildfires, seismic risks, and other hazards;
- H. Encouraging development of a sustainable and accessible system of recreational facilities, parks, trails, and natural open space that meet neighborhood and community-wide needs;
- I. Promoting development in city centers and infill areas so as to create efficient travel patterns;
- J. Promoting development patterns and site designs that protect and enhance the surrounding community character and a variety of appealing and distinctive neighborhoods;

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- 1 K. Promoting a pattern of land use and development upon which to provide for adequate
2 transportation, water supply, sewerage, and other public facilities; and
- 3 L. Encouraging land and transportation development patterns that promote public health and safety
4 and offer transportation choices.

21.01.040 APPLICABILITY AND JURISDICTION

6 A. General

7 The provisions of this title shall apply to all land, buildings, structures, and uses thereof located
8 within the municipality, unless an exemption is provided by the terms of this title.

9 B. Application to Governmental Units

10 To the extent allowed by law, the provisions of this title shall apply to all land, buildings,
11 structures, and uses owned by government agencies, including all municipal, state, and federal
12 lands, within the corporate limits of the municipality. Where the provisions of this title do not
13 apply to such land, buildings, structures, and uses, such agencies are encouraged to meet the
14 provisions of this title.

15 C. Compliance Required

16 No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use,
17 nor shall any land, building, or structure be used or changed, except in accordance with this title.
18 No lot of record that did not exist on the effective date of this title shall be created, by subdivision
19 or otherwise, that does not conform to the applicable requirements of this title, unless allowed by
20 section 21.01.090, *Transitional Provisions*.

21.01.050 OFFICIAL ZONING MAP

22 A. Incorporation Into this Ordinance

23 The official zoning map designates the location and boundaries of the various zone districts
24 established in this title. It consists of a series of map pages adopted by ordinance and any
25 subsequent amendments in accordance with this title. The official zoning map is incorporated
26 herein by reference and referred to as the "zoning map" in this title. The zoning map shall be kept
27 on file in the office of the department and is available for public inspection during normal business
28 hours. The map shall be the final authority as to the current zoning status of lands, water areas,
29 buildings, and other structures in the municipality.

30 B. Changes to Official Zoning Map

31 Changes made in zoning district boundaries or other matters portrayed on the official zoning map
32 shall be made only in accordance with the provisions of section 21.03.160, *Rezoning (Zoning
33 Map Amendments)*.

34 C. Interpretation of District Boundaries

35 In the case of any dispute regarding the zoning classification of property subject to this title, the
36 official zoning map contained in the department shall control, or other official records as provided
37 below. The director shall use the rules set forth below to interpret the map. Appeals shall be
38 made to the zoning board of examiners and appeals in accordance with section 21.03.050,
39 *Appeals*.

- 40 1. Where the zoning map shows a zoning district boundary line located within or following a
41 street or alley right-of-way, utility line right-of-way, or public use easement, the district
42 boundary shall be considered to be in the center of the right-of-way or easement. If the
43 actual location of such right-of-way, or easement, as indicated in a recorded legal

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- 1 description of such, varies slightly from the location shown on the zoning map, then the
2 actual location shall control.
- 3 2. Where the zoning map shows a boundary line as being located a specific distance from a
4 street line or other physical feature, this distance shall control.
- 5 3. Where the zoning map shows a district boundary to coincide with a property line or
6 municipal border, the legal property line or municipal border shall be considered to be the
7 district boundary, unless otherwise indicated on the map.
- 8 4. Where the zoning map shows a district boundary to not coincide or approximately
9 coincide with any street, alley, or property line, and no dimensions are shown, the
10 location of the boundary shall be determined by use of the scale appearing on the zoning
11 map.
- 12 5. Where the zoning map shows a district boundary dividing an existing lot, each part of the
13 lot shall be used in conformity with the standards established by this title for the zoning
14 district in which that part is located.
- 15 6. Where the case record conflicts with the zoning map, the case record shall control. For
16 example, if the zoning map shows a property to be zoned R-1, yet the case record shows
17 that the property was actually zoned I-1, the case record would control and the map
18 would be changed to reflect the case record. Any permits issued in reliance on the
19 erroneous designation shall be considered valid under this title; however, the lot,
20 structure, or use shall be considered nonconforming and governed by chapter 21.12,
21 *Nonconformities*.

22 21.01.060 CONFLICTING PROVISIONS

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

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

30 B. Conflict with Private Agreements

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

38 21.01.070 SEVERABILITY

39 A. Invalidating a Provision

40 If any court of competent jurisdiction invalidates any provision of this title, then such judgment
41 shall not affect the validity and continued enforcement of any other provision of this title.

42 B. Invalidating the Application of a Provision

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If any court of competent jurisdiction invalidates the application of any provision of this title, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment, unless the circumstances leading to the invalidation are the same or substantially similar with respect to the other building, structure, or use.

C. Invalidating a Condition

If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment, unless the circumstances leading to the invalidation of the condition are the same or substantially similar.

21.01.080 COMPREHENSIVE PLAN

A. Purpose

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

B. Elements

1. Adopted Elements

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

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS

Area/Topic	Plan	Adoption Date ¹	Amendments
Anchorage Bowl	Anchorage 2020, Anchorage Bowl Comprehensive Plan	AO 2000-119(S); 2-20-2001	AO 2002-119; 9-10-2002
	Spenard Commercial District Development Strategy	AR 1986-121; 6-17-1986 AO 1987-145; 12-15-1987	
	Tudor Road Public Lands and Institutions Plan	AR 1986-162; 9-9-1986	
	3500 Tudor Road Master Plan	AO 2007-118; 11-13-2007	
	Anchorage Downtown Comprehensive Plan	AO 2007-113; 12-11-2007	
	Hillside District Plan	AO 2010-22; 4-13-2010	
	Utility Corridor Plan	AO 1990-13(S); 2-27-1990	AO 2003-78; 8-19-2003 AO 2005-121(S); 10-25-2005 AO 2007-97; 7-17-2007
	Section 36 Land Use Study (recommending Alternative 2)	AO 1992-125; 11-10-1992	
	The Ship Creek/Waterfront Land Use Plan (May 1991), including the Transportation Element	AO 1991-88; 6-3-1991	AIM 1991-178
	Potter Valley Land Use Analysis	AO 1999-144; 12-7-1999	
	U-MED/Universities and Medical District Framework Master Plan	AO 2003-129; 10-21-2003	AO 2009-69; 6-23-2009 AO 2012-79; 8-21-2012
	West Anchorage District Plan	AO 2012-47; 7-10-2012	
Government Hill Neighborhood Plan	AO 2013-11; 2-12-2013		
Turnagain Arm	Turnagain Arm Comprehensive Plan	AO 2009-126; 12-1-2009	
	Girdwood Area Plan	AO 1994-238(S); 2-28-1995	AO 1998-176; 11-24-1998 AO 2006-47; 4-11-2006 AO 2007-112; 9-11-2007
	Crow Creek Neighborhood Land Use Plan	AO 2006-47; 4-11-2006	
	Glacier-Winner Creek Access Corridor Study Final Routing Report	AO 1997-11; 2-4-1997	

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Sec.21.01.080 Comprehensive Plan

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS			
Area/Topic	Plan	Adoption Date ¹	Amendments
	Girdwood-Iditarod Trail Route Study	AR 1997-84; 5-20-1997	
	Girdwood Commercial Areas and Transportation Master Plan	AO 2000-124(S); 2-20-2001	
Chugiak; Eagle River; Eklutna	Chugiak-Eagle River Comprehensive Plan	AO 1992-133; 1-12-1993	AO 1996-86; 6-25-1996--amended by Alternative 1 of HLB Parcel 1-085 Land Use Study AO 2006-93(S-1); 12-12-2006 AO 2009-104; 9-15-2009—amended by Chugiak-Eagle River Site Specific Land Use Plan, January 2009; amended by AO 2011-104
	Eagle River Greenbelt Plan	AR 1985-88; April 1985	
	Eagle River Central Business District Revitalization Plan	AO 2003-74; 5-20-2003	
Environmental Quality	Anchorage Coastal Management Plan	AO 2007-107; 8-28-2007	
	208 Areawide Water Quality Management Plan	AR 1979-151; 7-31-1979	AO 1982-33(S); 4-20-1982
	Eagle River PM-10 Control Plan	AR 1990-30; 2-6-1990	AR 1991-197; 9-24-1991
	Little Campbell Creek Watershed Management Plan	AO 2008-74; 6-24-2008	
	1992 Air Quality Attainment Plan for Anchorage, Alaska	AR 1992-279; 12-8-1992	
	Anchorage Wetlands Management Plan	AO 1982-33(S); 4-20-1982	AO 1984-16(SA); 2-28-1984 AO 1984-130(S); 8-14-1984 AO 1984-163; 7-31-1984 AO 1995-129; 3-12-1996 AO 2006-94; 7-25-2006
Transportation	Street and Highway Landscape Plan	AO 1981-180; 11-3-1981	
	Areawide Trails Plan	AO 1996-140; 4-8-1997	
	Anchorage Non-Motorized Transportation Plan: Pedestrian Plan	AO 2007-96; 10-9-2007	
	Anchorage Non-Motorized Transportation Plan: Bicycle Plan	AO 2010-08; 3-23-2010	
	Official Streets and Highways Plan	AO 1979-10; 6-19-1979	AO 1983-200; 12-6-1983 AO 1984-255; 1-22-1985 AO 1986-132; 8-19-1986 AO 1996-97(S); 8-13-1996 AO 1997-85; 6-3-1997 AO 2000-122; 8-15-2000 AO 2005-115; 10-25-2005
	2035 Metropolitan Transportation Plan	AO 2012-30(S); 4-10-2012	
Parks, Greenbelts, and Recreational Facilities	Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan	AO 2005-122; 4-18-2006	
	Anchorage Park, Greenbelt and Recreation Facility Plan, Volume 2: Eagle River—Chugiak—Eklutna	AO 1985-188; 12-17-1985	
	Anchorage Park, Greenbelt and Recreation Facility Plan, Volume 3: Turnagain Arm	AO 1985-188; 12-17-1985	AO 1987-4; 2-17-1987
	Areawide Library Facilities Plan	AR 1984-83; 4-10-1984	
	Updated Far North Bicentennial Park Plan	AR 1985-87; 5-14-1985	AO 2002-165; 12-10-2002
	Campbell Creek Park System Acquisition and Development Plan	GAAB Resolution No. R1986-72	
	Rabbit Creek Greenbelt Plan	AR 1987-16; 3-31-1987	
	Chester Creek Greenbelt	AR 11-1975; October 1975	
Historic Preservation	Historic Preservation Plan for Anchorage's Original four Neighborhoods	AO 2013-12; 2-12-2013	

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1 **B. Special Limitations**

- 2 1. If a provision of this title conflicts with a special limitation of a zoning district, the more
3 restrictive provision or limitation shall apply.
- 4 2. If any special limitation becomes unnecessary or void as a result of any provision of this
5 title, other remaining special limitations of the zoning district shall still apply.

6 **C. Uses, Characteristics of Use, Structures, and Lots Rendered Lawful**

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

10 **D. Uses, Structures, and Lots Rendered Nonconforming**

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

17 **E. Processing of Applications Commenced or Approved Under Previous Ordinances**

18 **1. Pending Applications**

- 19 a. Any complete application that has been submitted for approval, but upon which
20 no final action has been taken by the appropriate decision-making body prior to
21 the effective date of this title, shall, within twelve months of the date of
22 acceptance for completeness, be reviewed in accordance with the provisions of
23 the ordinance in effect on the date the application was deemed complete.
24 However, in such cases, if the applicant fails to comply with any applicable
25 required period for submittal or other procedural requirements, the application
26 shall expire and subsequent applications shall be subject to the requirements of
27 this title. Any re-application for an expired project approval shall meet the
28 standards in effect at the time of re-application.

29 [FOR MULTI-PHASE PROJECTS, THIS SUBSECTION SHALL APPLY ONLY
30 TO THOSE PHASES FOR WHICH COMPLETE APPLICATIONS HAVE BEEN
31 SUBMITTED FOR APPROVAL BUT UPON WHICH NO FINAL ACTION HAS
32 BEEN TAKEN BY THE APPROPRIATE DECISION-MAKING BODY PRIOR TO
33 THE EFFECTIVE DATE OF THIS TITLE.]

- 34 b. An applicant with an approved pending application may waive review available
35 under prior ordinances through a written letter to the director and request for
36 review under this title.

37 **2. Preliminary Plats**

- 38 a. Any complete preliminary plat application that has been submitted for approval,
39 but upon which no final action has been taken by the appropriate decision-
40 making body prior to **January 1, 2015** [THE EFFECTIVE DATE OF THIS TITLE],
41 shall, within twelve months of the date of acceptance for completeness, be
42 reviewed in accordance with the provisions of the ordinance in effect on the date
43 the application was deemed complete. Subsequently, the final plat for such
44 subdivision applications also shall be processed and reviewed according to the

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- 1 provisions of the ordinance applicable at the time of submission of the complete
2 application for preliminary plat.
- 3 b. An application for which preliminary approval of a plat was granted prior to the
4 effective date of this title may be processed for a final decision in accordance
5 with the preliminary approval, applicable terms of the ordinance in place at the
6 time of preliminary approval, and any other approved permits and conditions,
7 even if the application does not comply with one or more requirements set forth
8 in this title. Preliminary approvals granted under the previous title 21 may be
9 extended no more than once, and for no longer than 24 months (12 months for
10 abbreviated plats), pursuant to the extension procedures applicable under the
11 previous ordinance.
- 12 **3. Approved Projects**
- 13 a. Conditional use permits, subdivision plats, site plan approvals, grading permits,
14 building permits, land use permits, sign permits, and variances, any of which are
15 valid on January 1, 2015 [2014] shall remain valid until their expiration date.
16 Projects with valid approvals or permits may be carried out with the development
17 standards in effect at the time of approval, provided that the permit or approval is
18 valid and has not lapsed.
- 19 b. Any building or development for which a building permit or land use permit was
20 granted prior to January 1, 2015 [THE EFFECTIVE DATE OF THIS TITLE] shall
21 be permitted to proceed to construction even if such building or development
22 does not conform to the provisions of this title.
- 23 c. If the development for which the building permit or land use permit is issued prior
24 to January 1, 2015 [THE EFFECTIVE DATE OF THIS TITLE] fails to comply with
25 the time frames for development established for the permit, including any
26 approved extensions, the building or land use permit shall expire and future
27 development shall be subject to the requirements of this title.
- 28 d. For multi-phase projects, the phases of the project may be developed in
29 accordance with the approved master phasing plan, subject to the approval
30 period and time extensions provisions provided in subsection 21.03.200C.7.e. or
31 in the approval decision.
- 32 **4. Remanded Cases**
- 33 If the board of adjustment remands a case to another decision-making body, that body
34 shall process the case under the rules applicable at the time the original complete
35 application was submitted for approval, unless the applicant has waived review under
36 previous ordinances pursuant to subsection D.1.c. above.
- 37 **5. Future Amendments**
- 38 The transitional provisions described in this section shall apply to any future amendment
39 to this title, with the referenced effective date meaning the effective date of the
40 amendment that impacts any particular application.
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CHAPTER 21.02: BOARDS, COMMISSIONS, AND MUNICIPAL ADMINISTRATION

21.02.010 PURPOSE

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

21.02.020 TABLE OF DECISION AND REVIEW AUTHORITY

- A. Table 21.02-1 summarizes the major review and decision-making responsibilities of the assembly, the municipal staff, and the other entities that have roles in the procedures set forth in chapter 21.03, *Review and Approval Procedures*. Such other entities are referred to as the “land use boards and commissions” and include: the planning and zoning commission, the platting board; the zoning board of examiners and appeals; the board of adjustment, the urban design commission; and the geotechnical advisory commission.
- B. Table 21.02-1 is a summary tool and includes many, but not all, duties of these entities. Other duties and responsibilities are set forth in subsequent sections of this chapter and this title and other parts of the municipal code. Some other duties and responsibilities not listed in the table may require public hearings.
- C. The referenced notes are set forth immediately below the table.
- D. Even though not referenced in this chapter, the applicant, boards, commissions, or municipal administration may request that other boards, commissions, government agencies, and non-governmental agencies review some applications, including, but not limited to, rezonings, site plans, design reviews, and subdivisions. Title 21 matters referred to other agencies will follow the procedures established in chapter 21.03, *Review and Approval Procedures*.

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

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

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

	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Alcohol—Special Land Use Permit	21.03.040	D-H/A ¹						R/D ¹
Certificates of Zoning Compliance	21.03.060					A		D
Comprehensive Plan Amendments	21.03.070 C.	D-H ²	R-H ²					R
Conditional Uses	21.03.080		D-H				A	R
Flood Hazard Permits	21.03.090					A		D
Land Use Permits	21.03.100				A ³	A ³		D
Master Plan, Institutional	21.03.110 A.	D-H	R-H					R
Minor Modifications	21.03.120		D ⁴	D ⁴		A ⁵	A ⁵	D ⁴
Neighborhood or District Plans	21.03.130	D-H	R-H					R

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Chapter 21.02: Boards, Commissions, and Municipal Administration
Sec.21.02.020 Table of Decision and Review Authority

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p style="margin: 0;"><i>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03.</i></p> <p style="margin: 0;"><i>Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</i></p> <p style="margin: 0;">A = APPEAL = Authority to Hear and Decide Appeals</p> <p style="margin: 0;">D = DECISION = Responsible for Review and Final Decision</p> <p style="margin: 0;">H = HEARING = Public Hearing Required</p> <p style="margin: 0;">R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Public Facility Site Selection	21.03.140	D-H/ A-H ⁶	R-H/ D-H ⁶					R
Rezoning (Map Amendments)	21.03.160	D-H	R-H					R
Sign Permits	21.03.170					A		D
Site Plan Review, Administrative	21.03.180C.			A				D
Site Plan Review, Major	21.03.180D.		D-H ⁷	D-H ⁷			A	R
Street Review	21.03.190B.		R ⁸ /D	R ⁹ /D				R
Trail Review	21.03.190C.			R/D				R
Preliminary Plat	21.03.200C.5.		D-H ⁹	D-H ⁹	D-H ⁹		A	R
Abbreviated Plat	21.03.200D.				A-H			D
Commercial Tract Plat	21.03.200E.		D-H ¹⁰	D-H ¹⁰	D-H ¹⁰			R
Title 21, Text Amendments	21.03.210	D-H	R-H		R-H ¹¹			R
Vacation of Public and Private Interest in Land	21.03.230				D or A ¹²		A ¹²	R or D ¹²
Variances from the provisions of [CHAPTER] <u>21.05.040K., Telecommunication Facilities;</u> 21.06, <i>Dimensional Standards and Measurements;</i> <u>21.07.050, Utility Distribution Facilities;</u> <u>21.09.060, Dimensional Standards;</u> <u>21.09.070J., Utilities and Utility Equipment Standards;</u> <u>21.10.060, Dimensional Standards;</u>	21.03.240					D-H		R
Variances from the provisions of [SUBSECTIONS] 21.07.020C., <i>Steep Slope Development;</i> 21.07.060, <i>Transportation and Connectivity;</i> [AND PEDESTRIAN FACILITIES]; [ANDCHAPTER] 21.08, <i>Subdivision Standards;</i> <u>21.09.070C., Hazard Areas;</u> <u>21.09.070D., Grading and Drainage;</u> <u>21.09.070F., Transportation and Connectivity;</u> <u>21.09.070G.1., Street and Trail Lighting Standards;</u> <u>21.09.070H., Pedestrian Circulation;</u> <u>21.09.070N., Driveway Standards;</u> <u>21.10.070B., Transportation and Connectivity</u>	21.03.240		D-H ¹³	D-H ¹³	D-H		A	R

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Chapter 21.02: Boards, Commissions, and Municipal Administration
Sec.21.02.020 Table of Decision and Review Authority

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

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

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

	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
<p>Variances from the district-specific standards of [CHAPTER] 21.04, <u>Zoning Districts</u>; <u>21.09.040, Zoning Districts</u>; <u>21.10.040, Zoning Districts</u>;</p> <p>the use-specific standards of [CHAPTER] 21.05, <u>Use Regulations</u>; <u>21.09.050, Use Regulations</u>; <u>21.10.050, Use Regulations</u>;</p> <p>[AND THE PROVISIONS OF CHAPTER] 21.07, <u>Development and Design Standards</u> (except 21.07.020C., <u>Steep Slope Development</u>, 21.07.050, <u>Utility Distribution Facilities</u>, and 21.07.060, <u>Transportation and Connectivity</u>);</p> <p><u>21.09.070E., Landscaping, Vegetation, and Tree Retention</u>;</p> <p><u>21.09.070G.2., Exterior Site Lighting</u>;</p> <p><u>21.09.070I., Fences and Walls</u>;</p> <p><u>21.09.070K., Snow Management</u>;</p> <p><u>21.09.070L., Off-Street Parking Standards</u>;</p> <p><u>21.09.070M., Signage</u>;</p> <p><u>21.09.070O., Trash Management in Multifamily, Commercial, Industrial, and Resort Districts</u>;</p> <p><u>21.09.080, Building Design Standards</u>;</p> <p><u>21.10.070C., Landscaping, Screening, and Fences</u>;</p> <p><u>21.10.070D., Off-Street Parking and Loading</u>;</p> <p><u>21.10.070E., Exterior Lighting</u>;</p> <p><u>21.10.070F., Large Establishments</u>;</p> <p>[AND CHAPTER] 21.11, <u>Signs</u></p>	21.03.240			D-H			A	R
<p>[VARIANCES FROM THE PROVISIONS OF SUBSECTIONS 21.07.050, <u>UTILITY DISTRIBUTION FACILITIES</u>, AND 21.05.040K., <u>TELECOMMUNICATION FACILITIES</u>]</p>	[21.03.240 D.2.B.]					[D-H]		[R]
Administrative Variances	21.03.240 J.					A		D
Verification of Nonconforming Status	21.03.250					A		D

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

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

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

Section ASBLY PZC UDC PB ZBEA BOA MS

NOTES:

¹ See section 21.03.040, *Alcohol-Special Land Use Permit*, to determine whether the Assembly or the director is the decision-making body.

² Only substantive comprehensive plan amendments require a public hearing. See section 21.03.070, *Comprehensive Plan Amendments*.

³ The appeal body for subsection 21.03.100E., *Improvements Associated with Land Use Permits*, is the platting board. Appeals related to provisions in title 23 are made to the building board of examiners and appeals.

⁴ An applicant may request application of the minor modification process only once during the review process.

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

⁶ Site selection for municipal facilities is approved by the assembly. See section 21.03.140.

⁷ See section 21.03.180D. for the division of major site plan review decision-making authority.

⁸ See section 21.03.190, *Street and Trail Review*.

⁹ The planning and zoning commission may act as the platting authority for conditional uses that create a subdivision. The planning and zoning commission or the urban design commission may act as the platting authority for major site plan reviews that create a subdivision.

¹⁰ The planning and zoning commission or the urban design commission (whichever is the decision-making authority—see section 21.03.180) shall act as the platting authority for a commercial tract whose site plan includes a large retail establishment. The platting board shall be the platting authority for all other commercial tracts.

¹¹ Code amendments relating to chapter 21.08, *Subdivision Standards*, require a hearing by the platting board. All code amendments require a hearing by the planning and zoning commission.

¹² See section 21.03.230, *Vacation of Public and Private Interest in Lands*.

¹³ When the planning and zoning commission or the urban design commission acts as the platting authority, they shall have variance authority over these sections as well.

KEY TO ABBREVIATIONS:

ASBLY = Anchorage Assembly
PZC = Planning and Zoning Commission
PB = Platting Board

ZBEA = Zoning Board of Examiners and Appeals
BOA = Board of Adjustment
UDC = Urban Design Commission
MS = Municipal Staff

1

2 **21.02.030 PLANNING AND ZONING COMMISSION**

3 **A. Recommendation to the Assembly**

4 The planning and zoning commission shall make a recommendation to the assembly on the
5 following:

- 6 1. Comprehensive plan amendments (21.03.070);
7 2. Institutional master plans (21.03.110);
8 3. Neighborhood or district plans (21.03.130);
9 4. Public facility site selection for municipal facilities (21.03.140);
10 5. Rezoning (zoning map amendments), to include overlay districts (21.03.160); and
11 6. Title 21 text amendments (21.03.210).

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B. Decision-Making Authority

The planning and zoning commission has decision-making authority over the following:

1. Conditional uses (21.03.080);
2. Preliminary plats, when a conditional use creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the conditional use approval that it shall act as the platting authority (21.03.080F.);
3. Public facility site selections, except for municipal facilities (21.03.140);
4. Appeals from the director's decision regarding consistency with an institutional master plan (21.03.110F.);
5. Major site plan reviews for non-residential development with a gross floor area of 100,000 square feet or more, and for residential development of 140 units or more (21.03.180D.);
6. Preliminary plats, when a major site plan under the authority of the planning and zoning commission creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the major site plan approval that it shall act as the platting authority (21.03.180F.);
7. Draft design study report for new construction and reconstruction of streets of collector class or greater in the *Official Streets and Highways Plan* (21.03.190); and
8. Commercial tract plats, where the site plan includes a large commercial establishment under the authority of the planning and zoning commission (21.03.200E.); and

C. Other Powers and Duties

The planning and zoning commission shall:

1. Develop, review, and make recommendations to the assembly regarding policies, plans, and ordinances to implement the municipal function of planning for the economic, social, and land use needs of the community.
2. Review and make recommendations to the assembly and school board regarding the annual capital improvement program of the municipality and school district.
3. Review and make recommendations to the mayor regarding the annual work program of the department.
4. Promulgate regulations to implement or make specific the provisions of this title, except provisions of chapter 21.08, *Subdivision Standards*, which are reserved to the platting board.
5. Exercise such other powers, and perform such other duties, as are provided by law.

21.02.040 URBAN DESIGN COMMISSION

A. Decision-Making Authority

The urban design commission has decision-making authority over the following:

1. Appeals of administrative site plan reviews (21.03.180C.);
2. Major site plan reviews for non-residential development with a gross floor area of less than 100,000 square feet, and for residential development of fewer than 140 units (21.03.180D.);

EXHIBIT A

- 1 3. Preliminary plats, when a major site plan review under the authority of the urban design
2 commission creates a subdivision or requires the vacation of a dedicated public area, and
3 the commission directs in the major site plan approval that it shall act as the platting
4 authority (21.03.180F.);
- 5 4. Plans in hand design drawings review for new construction and reconstruction of streets
6 of collector classification or greater on the *Official Streets and Highways Plan*
7 (21.03.190);
- 8 5. Commercial tract plats, where the site plan includes a large commercial establishment
9 under the authority of the urban design commission (21.03.200E.);
- 10 6. Variances from the district-specific standards of chapter 21.04, *Zoning Districts*, section
11 21.09.040, Zoning Districts, and section 21.10.040, Zoning Districts; the use-specific
12 standards of chapter 21.05, *Use Regulations*, section 21.09.050, Use Regulations, and
13 section 21.10.050, Use Regulations; [AND] the provisions of chapter 21.07, *Development*
14 and Design Standards; the provisions of subsections 21.09.070E., Landscaping,
15 Vegetation, and Tree Retention, 21.09.070G.2., Exterior Site Lighting, 21.09.070I.,
16 Fences and Walls, 21.09.070K., Snow Management, 21.09.070L., Off-Street Parking
17 Standards, 21.09.070M., Signage, 21.09.070O., Trash Management in Multifamily,
18 Commercial, Industrial, and Resort Districts, and 21.09.080, Building Design Standards;
19 the provisions of subsections 21.10.070C., Landscaping, Screening, and Fences,
20 21.10.070D., Off-Street Parking and Loading, 21.10.070E., Exterior Lighting, and
21 21.10.070F., Large Establishments; and chapter 21.11, *Signs*; and
- 22 7. Appeals of the director's decision regarding subsection 21.12.060B., *Bringing*
23 *Characteristics Into Compliance*.

24 B. Other Powers and Duties

25 The urban design commission shall:

- 26 1. Advise the mayor, assembly, and planning and zoning commission regarding urban
27 design, northern climate design, and winter city design matters, including design-related
28 amendments to the comprehensive plan and title 21.
- 29 2. Review and make recommendations regarding any entitlement requests, in accordance
30 with authority delegated by the planning and zoning commission or platting board under
31 this title.
- 32 3. Perform those duties stated in title 7, relating to the art funding requirements for public
33 buildings and facilities.
- 34 4. Designate historic signs pursuant to subsection 21.12.070F.
- 35 5. Exercise such other powers, and perform such other duties, as are provided by law.

36 21.02.050 PLATTING BOARD

37 A. Decision-Making Authority

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

- 39 1. Preliminary plats (except in those situations where a different board or commission acts
40 as the platting authority—see subsections 21.03.080F., *Platting for Conditional Uses*, and
41 21.03.180F., *Platting for Site Plans*);
- 42 2. Commercial tract plats, when not included in a large commercial establishment site plan
43 review (21.03.200E.);

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[VARIANCES FROM THE PROVISIONS OF SUBSECTION 21.05.040K., TELECOMMUNICATION FACILITIES, AND SECTION 21.07.050, UTILITY DISTRIBUTION FACILITIES (21.03.240).]

3. Overcoming presumption of abandonment pursuant to subsection 21.12.030E.; and

4. Time extensions for amortized signs, pursuant to subsection 21.12.070G.

B. Other Powers and Duties

The zoning board of examiners and appeals shall:

1. Adopt general rules or make findings in specific cases regarding proposed changes of nonconforming uses, pursuant to section 21.12.030B., *Change of Use*.

[INTERPRET OR MAKE SPECIFIC THE PROVISIONS OF THIS TITLE, EXCEPT PROVISIONS OF CHAPTER 21.08, SUBDIVISION STANDARDS.]

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

C. Subpoenas

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

21.02.070 BOARD OF ADJUSTMENT

A. Powers and Duties

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

B. Subpoenas

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

21.02.080 GEOTECHNICAL ADVISORY COMMISSION

A. Powers and Duties

1. The geotechnical advisory commission shall serve as a technical advisory board in the municipality.

2. The commission shall act in an advisory capacity to the assembly, the mayor, boards, commissions, and heads of municipal departments and agencies, and shall have the following responsibilities:

a. To make recommendations and give advice on geotechnical engineering issues and natural hazards risk mitigation.

b. To recommend and review special studies relating to geotechnical engineering and natural hazards risk mitigation issues.

c. To act in an advisory capacity regarding proposed development located in high or moderate snow avalanche hazard zones, in areas designated with high or very high susceptibility to seismically induced ground failure, and in areas susceptible to other natural hazards.

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21.02.090 ASSEMBLY

A. Decision-Making Authority

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

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

B. Land Use Procedure

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

21.02.100 MUNICIPAL STAFF

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

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CHAPTER 21.03: REVIEW AND APPROVAL PROCEDURES

21.03.010 PURPOSE AND STRUCTURE OF THIS CHAPTER

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

21.03.020 COMMON PROCEDURES

A. Applicability

The common procedures of this section 21.03.020 shall apply to all applications for development activity under this title unless otherwise stated.

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. Abbreviated plats (section 21.03.200) or administrative site plan reviews (subsection 21.03.180C.) which include [PROJECTS INCLUDING] Class A or B wetlands within or adjacent to the application area.

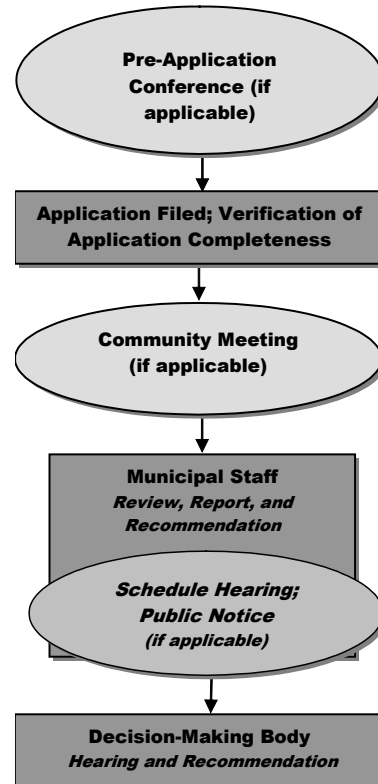


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- 1 No application for these types of approvals shall be accepted until after the pre-
2 application conference is completed and the applicant receives written
3 notification of the conclusions.
- 4 **b. *Exception for Some Changes to Already-Approved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

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- 1 requirements to mitigate those impacts, including but not limited to traffic
2 impact analyses.
- 3 vi. Any concerns related to neighborhood impacts, land use, landscaping
4 concepts, and overall project design.
- 5 vii. Possible alternatives or modifications related to the proposed application.
- 6 viii. Procedures that will need to be completed to review and act on the
7 proposed application.
- 8 e. A checklist of discussion items indicating topics discussed at the pre-application
9 conference shall be **provided** [MAILED] to the applicant within ten days of the
10 conference. The checklist shall be considered proprietary information until an
11 application has been submitted.

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

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

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

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

25 **C. Community Meetings**

26 **1. Purpose**

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

32 **2. Applicability**

33 **a. Types of Applications**

34 The applicant shall hold a community meeting for any of the following types of
35 applications.

- 36 i. Rezoning (zoning map amendments);
- 37 ii. Subdivisions, except for abbreviated plats;
- 38 iii. Conditional uses;
- 39 iv. Institutional master plans;
- 40 v. Major site plan review; and
- 41 vi. Public facility site selection.

42 **b. Community Councils**

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1 The applicant shall use as its first choice the community council(s) meeting of the
2 project area as the community meeting when the community council(s) meeting
3 is available. If an applicant chooses not to use the community council for the
4 community meeting, the applicant shall provide a written explanation to the
5 director outlining the reasons for this decision. The explanation shall be available
6 to the appropriate board or commission at the time of authorization review. If the
7 community council(s) meeting for the project area is not scheduled in a timely
8 manner, the applicant shall organize a community meeting. If the project area
9 spans more than one community council and the applicant chooses to attend
10 community council meetings, the applicant shall attend the community council
11 meetings of all applicable community councils.

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

15 **4. Notice of Community Meeting**
16 The applicant shall provide written (mailed) notice of the community meeting in
17 accordance with subsection H.3. below, at least 21 days prior to the community meeting.

18 **5. Attendance at Community Meeting**
19 **a.** If a community meeting is required, the applicant or applicant's representative
20 shall attend the community meeting. The applicant shall be responsible for
21 scheduling the community meeting, coordinating the community meeting, and for
22 retaining an independent facilitator if the applicant determines one is needed.

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

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

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

33 **b.** Content and dates of mailing, and number of mailings, including letters, meeting
34 notices, and any other written material;

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

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

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

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

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

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- 1 **D. Authority to File Applications**
- 2 1. When an authorized agent files an application under this title on behalf of a property
- 3 owner, the agent shall provide the municipality with written documentation that the owner
- 4 of the property has authorized the filing of the application.
- 5 2. When a review or decision-making body initiates action under this title, it does so without
- 6 prejudice toward the outcome.
- 7 **E. Application Contents, Submittal Schedule, and Fees**
- 8 1. **Title 21 User's Guide**
- 9 The director shall compile the requirements for application contents, forms, fees, and the
- 10 submittal and review schedule (including typical time frames for review) in a user's guide,
- 11 which shall be made available to the public. The director, after seeking the
- 12 recommendation of the planning and zoning commission, may amend and update the
- 13 user's guide from time to time. See subsection 21.14.020F. for more information about
- 14 the user's guide.
- 15 2. **Form of Application**
- 16 Applications required under this chapter shall be submitted in a form and in such number
- 17 as required in the user's guide.
- 18 3. **Processing Fees**
- 19 Applications shall be accompanied by the fee amount established by the assembly and
- 20 listed in the user's guide. Fees are not subject to waivers except as specifically allowed
- 21 by this title.
- 22 4. **Waivers**
- 23 The director may waive certain submittal requirements in order to reduce the burden on
- 24 the applicant and to tailor the requirements to the information necessary to review a
- 25 particular application. The director may waive such requirements where he or she finds
- 26 that the projected size, complexity, anticipated impacts, or other factors associated with
- 27 the proposed development clearly, in his or her opinion, support such waiver. The waiver
- 28 shall be made in writing and shall become a part of the case record for the application.
- 29 **F. Verification of Application Completeness**
- 30 1. The director shall only initiate the review and processing of an application if such
- 31 application is complete. The director shall make a determination of application
- 32 completeness and notify the applicant in writing within 15 days of application filing. If the
- 33 application is determined to be complete, the application shall then be processed
- 34 according to this title. If an application is determined to be incomplete, the director shall
- 35 provide an explanation of the application's deficiencies. No further processing of an
- 36 incomplete application shall occur until the deficiencies are corrected.
- 37 2. An application shall be considered complete if it is submitted in the required form,
- 38 includes all mandatory information, including all supporting materials specified in the title
- 39 21 user's guide, and is accompanied by the applicable fee. A pre-application conference
- 40 shall have been held, if required, pursuant to subsection 21.03.020B, *Pre-Application*
- 41 *Conferences*.
- 42 3. As a consequence for any false or misleading information submitted or supplied by an
- 43 applicant on an application, that application shall be deemed incomplete.
- 44 **G. Additional Information**
- 45 1. **Requested Information**
- 46 Nothing in this section prohibits the department or the decision-making body on the
- 47 application from requesting additional information deemed necessary for review, after the

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1 application is complete. Any supplemental technical reports, special studies, and/or
2 revised application materials that are requested following the original application must be
3 received at least thirty days prior to a public hearing. The municipality may postpone and
4 reschedule a public hearing or approval deadline if such reports and studies are
5 submitted less than thirty days prior to a public hearing, unless the applicable board or
6 commission waives this time limit in a specific case for cause. Copies of such additional
7 materials shall be delivered to all reviewers who received the original application packet.

8 2. Voluntary Information

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

16 H. Notice

17 1. Content of Notices

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

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

26 2. Summary of Notice Requirements

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

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			
		Written (Mailed)	Published	Posted	Community Council
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-	-
Appeal of an Enforcement Order	21.13	-	-	✓	-
Appeals to ZBEA	21.03.050B.	✓	✓	-	✓
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-	✓
Conditional Uses	21.03.080	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓

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Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Master Plan, Development	21.09.030F.	✓	✓	✓	✓
Master Plan, Institutional	21.03.110	✓	✓	✓	✓
Neighborhood or District Plans	21.03.130	-	✓	-	✓
Nonconforming Uses of Land or Structures, Replication of	21.12.030C.	✓	✓	✓	✓
Nonconforming Structures, Replication of	21.12.040D.	✓	✓	✓	✓
Public Facility Site Selection	21.03.140	✓	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓	✓
Site Plan Review, 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 and Residents/Occupants**

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

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1 owners of the 50 parcels nearest to the outer boundary of the land subject to the
2 application, whichever is the greater number of parcels, at the mailing addresses
3 of such persons in the records of the municipal assessor; and all
4 residents/occupants of land in the same area as required above, at the property
5 addresses. Any mailing to the 50 nearest parcels shall not include parcels that
6 are entirely located more than a mile from the land subject to the application,
7 which may reduce the number of mailings.

8 **c. Joint Base Elmendorf-Richardson**

9 The commander of Joint Base Elmendorf-Richardson (JBER) when the subject
10 parcel is within 500 feet of JBER or within 500 feet of the boundary of a safety
11 zone or noise contour that emanates from JBER and has been shared with and
12 accepted by the [COMMUNITY DEVELOPMENT] department.

13 **d. Additional Persons**

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

15 **4. Published Notice**

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

21 **5. Posted Notice**

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

34 **6. Community Councils**

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

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

48 **b.** If the subject parcel is a branch public facility that serves a specific delineated
49 area, such as a public school or fire station, then any community council whose
50 boundaries lie within the delineated district of service of a branch public facility

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1 shall receive written notice. This requirement shall only take effect after the
2 municipality has established maps delineating areas of service for the type of
3 branch facility, and has adopted procedures and responsibilities for updating
4 service area boundaries.

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

10 d. Any community council within the impact area of a street or trail project, a
11 neighborhood or district plan, or other area-specific element of the
12 comprehensive plan, shall receive written notice. The impact area shall, at a
13 minimum, include all community councils within 1,000 feet of the project/plan
14 boundaries. The impact area shall include additional community councils if the
15 recommendations in the project/plan affect specific public lands or facilities as
16 provided in subsections 6.a. or 6.b. above, or are likely to impact residents
17 beyond the minimum impact area, as provided in subsection 6.c. above.

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

21 7. Constructive Notice

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

32 8. Presumption of Notice

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

36 I. Departmental Report

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

43 J. Referrals

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

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- 1 **K. Concurrent Processing**
- 2 1. Where possible without creating an undue administrative burden on the municipality's
- 3 decision-making bodies and staff, this title intends to accommodate the simultaneous
- 4 processing of applications for different permits and approvals that may be required for the
- 5 same development project in order to expedite the overall review process. Review and
- 6 decision-making bodies considering applications submitted simultaneously shall render
- 7 separate reports, recommendations, and decisions on each application based on the
- 8 specific standards applicable to each approval.
- 9 2. Some forms of approval depend on the applicant having previously received another form
- 10 of approval, or require the applicant to take particular action within some time period
- 11 following the approval in order to avoid having the approval lapse. Therefore, even
- 12 though this title intends to accommodate simultaneous processing, applicants should
- 13 note that each of the permits and approvals set forth in this title has its own timing and
- 14 review sequence.
- 15 3. The expected time frame and approval process for a consolidated application shall follow
- 16 the longest time frame and approval process required from among the joined application
- 17 types.
- 18 **L. Postponements**
- 19 1. If only five or fewer board or commission members are in attendance at the hearing, the
- 20 applicant may request a postponement of his or her case, and the fee for the first
- 21 postponement request shall be waived.
- 22 2. The applicant may request a postponement of his or her case for any other reason, which
- 23 he or she shall state to the decision-making body. If the decision-making body grants the
- 24 postponement request, the applicant shall pay the postponement fee listed in the user's
- 25 guide, and a new hearing date shall be determined by the department.
- 26 a. If public notice pursuant to subsection H. above has not been given, the director
- 27 is the decision-making body for the purpose of granting a postponement.
- 28 b. If public notice pursuant to subsection H. above has been given, the decision-
- 29 making body is the board or commission identified in this chapter for the
- 30 entitlement requested.
- 31 3. Re-notice of the new time for hearing is only required if the postponement is for more
- 32 than 30 days, or if no date certain is set for the hearing at the time of postponement.
- 33 **M. Conditions of Approval**
- 34 1. The decision-making body is authorized to impose such conditions upon the entitlement
- 35 as may be necessary to conform to the standards of this title, reduce or minimize any
- 36 potential adverse impact upon other property in the area, or to carry out the general
- 37 purpose and intent of the comprehensive plan and this title. In such cases, any
- 38 conditions attached to approvals shall be directly related to the impacts of the proposed
- 39 use or development and shall be roughly proportional in both extent and amount to the
- 40 anticipated impacts of the proposed use or development.
- 41 2. No conditions of approval, except for those attached to variance approvals, shall be less
- 42 restrictive than the requirements of this title or applicable special limitations.
- 43 3. Unless there is a time schedule stated as part of the **approval or conditions of approval**,
- 44 all conditions of approval shall be met within one year of the date of approval (unless the
- 45 condition is ongoing, such as a specification of hours of operation).

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1 **N. Decision**

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

3 **O. Lapse of Approval**

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

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

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

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

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

12 **P. New Application Required**

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

15 **21.03.030 ADMINISTRATIVE PERMITS**

16 **A. Applicability**

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

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

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

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

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

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

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

26 **B. Administrative Permits**

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

33 **C. Regulations**

34 The director may promulgate regulations to implement this section, as provided in AMC chapter
35 3.40. Permits shall be issued and renewed as outlined in the title 21 user's guide.

36 **D. Appeals**

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

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21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT

A. Applicability

1. Any use that includes the retail sale of alcoholic beverages is subject to the review process set forth in this section. This process shall apply to such a use regardless of whether it is listed in the use table in section 21.05.010 as being permitted as a matter of right or subject to site plan review or the conditional use process. The applicant shall be required to obtain approval through both the process in this section and the separate process referenced in the use table.
2. Notwithstanding A.1. above, catering and special event permits issued by the state alcoholic beverage control board are exempt from these approval requirements, but shall meet AMC title 10 requirements and the following:
 - a. When multiple permits are issued for the same location, the permits shall be for discreet events, and shall not be used to avoid the special land use permit process; and
 - b. The catering and special event permit shall be reviewed by the chief of police in order to address any recurring problems at the site that have involved the police.
3. No modification of an existing special land use permit for alcohol shall be required for the first duplicate liquor license provided:
 - a. There is no increase in the square footage of the premise licensed for the retail sale or dispensing of alcoholic beverages; or
 - b. If there is an increase in the square footage of the licensed premise, such increase is five hundred square feet or less, whether or not the area of increase is used year-round. In such case the licensed business shall request a minor modification to their approval by submitting a site plan for department review, along with the fee specified in the user's guide. The department shall review the site plan for potential impacts including, but not limited to, parking, lighting, noise, and traffic.

B. General Standards

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

C. Application and Review Procedure

1. Application Submittal

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

2. Departmental Review

The department shall prepare and submit a report and a list of all licenses located within a minimum of 1,000 feet of the proposed use to the assembly, and shall address the conformity of the proposed application with this title and AMC chapter 10.50. The

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1 department shall also submit a proposed resolution for assembly consideration in
2 connection with liquor license applications.

3 **3. Public Notice**

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

5 **4. Action**

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

15 **b.** The special land use permit for alcohol for a restaurant or eating place that sells
16 beer and wine for consumption only on the licensed premises, shall be
17 considered by the director. In considering whether to approve, approve
18 conditionally, or deny the application, the director shall apply the criteria set forth
19 in this title for conditional uses in section 21.03.080D., *Approval Criteria*. The
20 director shall not take into consideration the sum paid by any person to acquire
21 the license for which a permit is requested. The director's decision may be
22 appealed to the assembly.

23 **5. Conditions of Approval**

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

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

32 **c.** The assembly may, at its discretion, modify the conditions of approval of a
33 special land use permit for alcohol, when the assembly finds this is warranted by
34 public safety concerns or negative impacts on surrounding properties. Before the
35 assembly acts to modify the conditions of approval on a special land use permit
36 for alcohol, notice shall be provided to the permit holder and in accordance with
37 subsection 21.03.020H., and a public hearing shall be held.

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

41 **6. Effect of Denial**

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

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1 **7. Expiration**

2 An approval granted under this section shall expire:

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

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

22 **21.03.050 APPEALS**

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

24 **1. Jurisdiction of Board**

25 The board of adjustment shall decide appeals:

- 26 **a.** From decisions regarding the approval or denial of a preliminary plat (subsection
27 21.03.200C.);
- 28 **b.** From decisions regarding the approval or denial of a variance from the all of the
29 provisions of this title with the exception of subsection 21.05.040K.,
30 *Telecommunication Facilities*; chapter 21.06, *Dimensional Standards and*
31 *Measurements*; and section 21.07.050, *Utility Distribution Facilities*;
- 32 **c.** From decisions regarding the approval or denial of vacations of public and
33 private interest in land where the platting board is the platting authority (section
34 21.03.230);
- 35 **d.** From decisions regarding the approval or denial of a development master plan
36 (subsection 21.09.030F.);
- 37 **e.** From decisions regarding the approval or denial of applications for conditional
38 uses (section 21.03.080); and
- 39 **f.** From decisions regarding the approval or denial of applications for major site
40 plan reviews (subsection 21.03.180C.).

41 **2. Appellants Before Board**

42 Decisions may be appealed to the board of adjustment by:

- 43 **a.** Any municipal agency; or

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- 1 b. Any party of interest for the application, as defined in chapter 21.14.
- 2 3. **Appellees Before Board**
- 3 a. Appellees before the board may be:
- 4 i. The party in whose favor the lower administrative body's decision was
- 5 rendered.
- 6 ii. Any municipal agency.
- 7 iii. Any party of interest for the application, as defined in chapter 21.14.
- 8 b. An appellee shall file a notice of intent to file a brief with the municipal clerk's
- 9 office on a form prescribed by the municipal clerk, within 10 days after the
- 10 deadline for filing an appeal. The municipal clerk shall serve notice to such
- 11 appellees in writing of the date the record is available and of the date the
- 12 appellant's brief is filed.
- 13 4. **Perfection of Appeal; Notice of Appeal; Appeal Fee**
- 14 a. Except as indicated in subsection 4.d. below for appeals regarding preliminary
- 15 plats, a [A]n appeal to the board of adjustment must be perfected by the appellant
- 16 within 20 days after the date of service of the decision. The appeal is perfected
- 17 by the filing of a notice of appeal, appeal fee, and cost bond in accordance with
- 18 this section.
- 19 b. The notice of appeal must be filed with the municipal clerk on a form prescribed
- 20 by the municipality and must contain detailed and specific allegations of error. If
- 21 the appellant is not the applicant, the appellant's notice of appeal shall include
- 22 certificate of service on the applicant.
- 23 c. The appellant shall pay the current appeal fee. In addition, the appellant shall file
- 24 a cost bond equal to the estimated cost of preparation of the record. Following
- 25 completion of the record, the actual cost thereof shall be paid by the appellant.
- 26 All costs and fees shall be returned to the appellant if the decision of the lower
- 27 body is reversed in whole or in part.
- 28 d. To appeal a platting board decision regarding the approval or denial of a
- 29 preliminary plat:
- 30 i. Any party of interest shall first file with the director, within seven days of
- 31 the platting board's decision on the preliminary plat, a written notice of
- 32 intent to appeal and a request for a written decision based upon the
- 33 record made at the hearing.
- 34 ii. If such request is received in the stated time, the director shall prepare
- 35 proposed written findings of fact and decision to submit to the platting
- 36 board at its next regularly scheduled meeting, or as soon thereafter as
- 37 possible.
- 38 iii. Platting board review of the written findings of fact and decision shall
- 39 have priority over regular agenda items, and shall be approved, as
- 40 amended by the board if necessary, and become the final appealable
- 41 decision of the board.
- 42 iv. Once the final appealable decision of the platting board is adopted, any
- 43 party of interest may, within 20 days, file an appeal or allege new
- 44 evidence or changed circumstances. The appeal is perfected by the

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1 filing of a notice of appeal, appeal fee, and cost bond in accordance with
2 this section.

3 5. New Evidence or Changed Circumstances

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

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

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

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

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

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

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

26 c. After a decision by the lower administrative body on alleged new evidence or
27 changed circumstances, the time for appeal shall begin to run. Any party of
28 interest may file an appeal within ten days after the date of service of the
29 decision.

30 6. Appeal Record

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

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

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

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

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

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- 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***

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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

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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.

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- 1 d. Interpretation of whether a conditional use amendment is major or minor under
2 subsection 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 subsection 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 subsection 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 **area**
17 **[OVERLAY DISTRICT]** under subsection **21.07.020E**, **[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 subsection 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

EXHIBIT A

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.

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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

EXHIBIT A

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*

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

4 **b. Public Notice**

- 5 i. Notice shall be provided in accordance with section 21.03.020H.
- 6 ii. Substantive amendments to be considered by the planning and zoning
7 commission shall be available for public review at least 21 days in
8 advance of the public hearing.

9 **c. Departmental Review**

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

17 **d. Planning and Zoning Commission Action**

18 The planning and zoning commission shall hold a public hearing on the proposed
19 amendment. Based on testimony received, the department's report, and the
20 approval criteria in subsection C.2. below, the commission shall recommend that
21 the assembly approve, approve with modifications, or deny the proposed
22 amendment.

23 **e. Assembly Action**

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

- 29 i. Approve the amendment by
30 ordinance, either as submitted or
31 with modifications suggested by
32 staff, the planning and zoning
33 commission, or the assembly;
- 34 ii. Reject the proposed amendment; or
- 35 iii. Refer the proposed amendment,
36 and/or any substantial modifications
37 proposed by the assembly, back to
38 the planning and zoning commission
39 or to a committee of the assembly
40 for further consideration.

41 **2. Approval Criteria**

42 The planning and zoning commission may submit a
43 recommendation for approval, and the assembly may
44 approve an amendment if, in the judgment of the
45 commission or the assembly, the amendment meets
46 the following approval criteria:

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

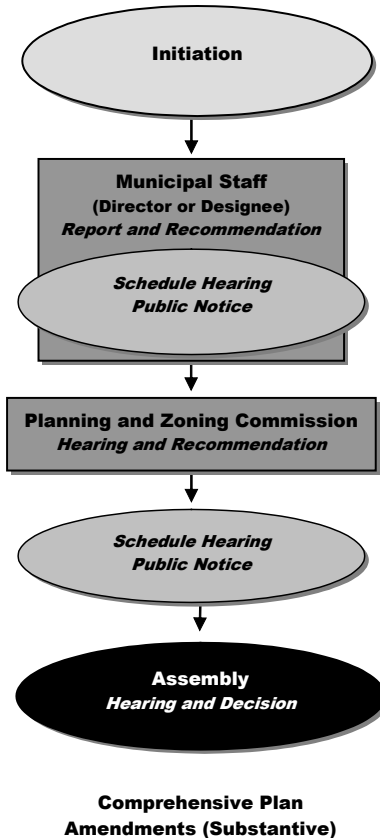


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- 1 i. A change in projections or assumptions from those on which the
2 comprehensive plan is based;
- 3 ii. Identification of new issues, needs, or opportunities that are not
4 adequately addressed in the comprehensive plan;
- 5 iii. A change in the 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.

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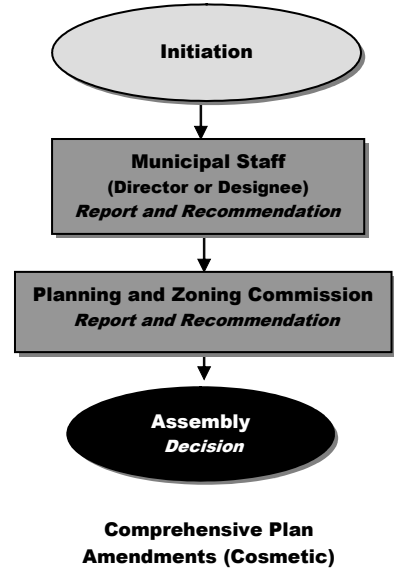
1 **3. Planning and Zoning Commission Action**

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

5 **4. Assembly Action**

6 The assembly shall consider the reports and
7 recommendations of the planning and zoning
8 commission and the director at a regularly scheduled
9 assembly meeting, and will take action to either:

- 10 a. Approve or deny the amendment;
- 11 b. Approve the amendment with modifications; or
- 12 c. Refer the matter back to the planning and zoning
13 commission for further consideration.



14 **21.03.080 CONDITIONAL USES**

15 **A. Purpose**

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

25 **B. Applicability**

- 26 1. Land uses requiring conditional use approval are identified in table 21.05-1, *Table of*
27 *Allowed Uses*, table 21.05-3, *Table of Allowed Accessory Uses*, [AND] table 21.09-1,
28 *Table of Allowed Uses (Girdwood)*, table 21.09-2, *Table of Accessory Uses (Girdwood)*,
29 table 21.10-4, *Table of Allowed Uses (Chugiak-Eagle River)*, and table 21.10-5, *Table of*
30 *Accessory Uses (Chugiak-Eagle River)*.
- 31 2. This section shall not apply to remodeling, renovation, or repair to interior portions of
32 structures that are subject to conditional use approval under this title, except those
33 interior areas that affect conformity to the approval criteria for conditional use approval or
34 the development and design requirements of this title.

35 **C. Procedure**

36 **1. Initiation**

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

39 **2. Pre-Application Conference**

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

42 **3. Community Meeting**

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

44 **4. Application Submittal**

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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.

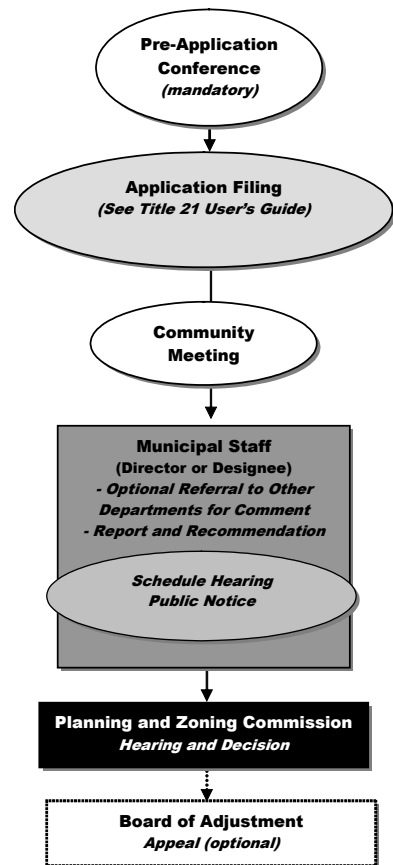
16 **8. Appeal**

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

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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.

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- 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, **general**
- 30 **[LIGHT]**; warehouse **or;** wholesale establishment, **general**.
- 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.

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- 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
21 office, business or professional, shall not exceed 5,000 square feet.
- 22 i. Individual tenancies for government administration and civic facilities and
23 religious assembly shall not exceed 15,000 square feet.
- 24 j. Individual tenancies for instructional services and uses in the retail sales use
25 category shall not exceed 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**

EXHIBIT A

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

EXHIBIT A

- 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:

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.
- 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**

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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.

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21.03.090 FLOOD HAZARD PERMITS

A. Applicability

Any use, structure, or activity listed in the floodplain regulations (section 21.07.020E., [21.04.060D.], Flood Hazard Area Regulations [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 21.07.020E.7. [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;

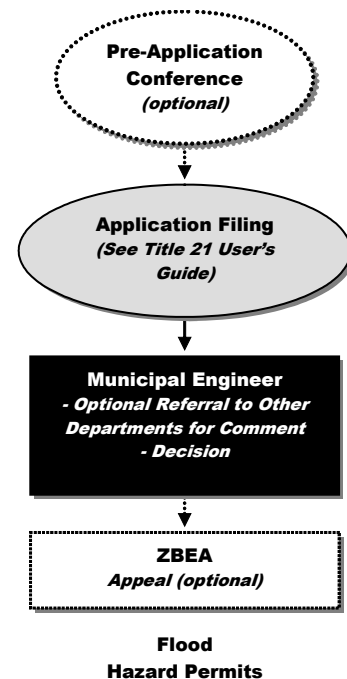


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- 1 2. The proposed water supply and sanitation systems and the ability of these systems to
2 prevent disease, contamination, and unsanitary conditions will not be impaired by
3 flooding;
- 4 3. The susceptibility of the proposed facility and its contents 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 **area** [DISTRICT], a note shall
16 be placed on the plat that reads as follows: "Portions of this subdivision are situated within the
17 flood hazard **area** [DISTRICT] as it exists on the date hereof. The boundaries of the flood hazard
18 **area** [DISTRICT] may be altered from time to time in accordance with the provisions of section
19 **21.07.020E4.** [21.04.060D.3.], *Creation of Flood Hazard **Area** [OVERLAY DISTRICT]; Official*
20 *Flood Hazard Reports and Maps.* All construction activities and any land use within the flood
21 hazard **area** [DISTRICT] shall conform to the requirements of **subsection 21.07.020E.**,
22 [21.04.060D.,] *Flood Hazard **Area Regulations** [OVERLAY DISTRICT]."*

23 G. Appeals

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

26 **21.03.100 LAND USE PERMITS**

27 A. Purpose

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

32 B. Applicability

33 1. In the Municipality

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

- 35 a. **Construction of any structure placed on a permanent foundation or any addition**
36 **to an existing structure that alters the footprint or height of the structure;**
- 37 b. Construction or placement of **any** building **not on a permanent foundation** [OR
38 **ADDITION TO AN EXISTING BUILDING]** whose floor area is **150** [120] square
39 feet or greater;
- 40 c. Changing the principal use of a building, as defined by "change of use" in chapter
41 21.14;
- 42 d. Installation of telecommunication towers **and associated equipment;**

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- 1 e. Construction of a fence over eight feet in height;
- 2 f. Excavation of more than 50 cubic yards on any lot or tract;
- 3 g. Filling or grading more than 50 cubic yards on any lot or tract; or
- 4 h. Mechanized land clearing of more than one contiguous acre (chainsaws
- 5 excluded).
- 6 **2. Inside Building Safety Service Area**
- 7 Inside the building safety service area, a building permit shall be considered the land use
- 8 permit and shall be required in accordance with B.1. above and title 23. The issuance of
- 9 a building permit may also be subject to the improvement requirements referenced in
- 10 subsection E. below.
- 11 **C. Procedures**
- 12 **1. Application Submittal**
- 13 Applications for land use permits shall be submitted to the building official on the form
- 14 provided.
- 15 **2. Approval Procedure**
- 16 a. The building official shall review each application for a land use permit.
- 17 b. The building official shall determine whether the application complies with all
- 18 requirements of title 23. The director shall determine whether the application
- 19 complies with all requirements of title 21, and shall inform the building official of
- 20 his or her determination.
- 21 c. The building official shall issue a land use permit upon finding that the application
- 22 and the proposed work complies with the approval criteria of subsection D.
- 23 below.
- 24 d. A land use permit shall become null and void unless the work approved by the
- 25 permit is commenced (see “start of construction” in chapter 21.14) within 12
- 26 months after the date of issuance. If after start of construction the work is
- 27 discontinued for a period of 12 months, the permit therefore shall immediately
- 28 expire. No work authorized by any permit that has expired shall thereafter be
- 29 performed until a permit has been reinstated, or until a new permit has been
- 30 secured.
- 31 **3. Changes to Approved Permits**
- 32 a. After a land use permit has been issued, no substantial changes or deviations
- 33 from the terms of the permit or the application and accompanying plans and
- 34 specifications shall be made without the specific written approval of such
- 35 changes or deviations by the building official.
- 36 b. An amendment to a land use permit that requires payment of an additional fee,
- 37 either because of an increase in the size of the buildings, a change in the scope
- 38 of work, or an increase in the estimated cost of the proposed work, shall not be
- 39 approved until the applicant has paid the additional fees and the amendment has
- 40 been properly reviewed and approved for conformance with applicable codes.
- 41 **4. Revocation of Land Use Permit**
- 42 The issuing department may revoke and require the return of any land use permit by
- 43 notifying the permit holder in writing, stating the reason for such revocation. The issuing
- 44 department shall revoke land use permits for any of the following reasons:
- 45 a. Any material departure from the approved application, plans, or specifications;

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- 1 b. Refusal or failure to comply with the requirements of this title or any other
2 applicable state or local laws;
- 3 c. False statements or misrepresentations made in securing such permit.
- 4 **5. Appeals**
- 5 a. Denials or revocations of a land use permit relating to title 21 compliance, with
6 the exception of those relating to subsection 21.03.100E, may be appealed to the
7 zoning board of examiners and appeals in accordance with subsection
8 21.03.050B.
- 9 b. Denials or revocations of a land use permit relating to title 23 compliance may be
10 appealed to the building board of examiners and appeals.
- 11 **D. Approval Criteria**
- 12 No land use permit shall be issued unless the building official determines that all required
13 approvals have been granted and the plans comply with all applicable provisions of title 23, and
14 the director determines the plans comply with all applicable provisions of this title.
- 15 **E. Improvements Associated with Land Use Permits**
- 16 **1. Purpose**
- 17 The purpose of this section is to determine what off-site public infrastructure
18 improvements are reasonably necessary to serve a development, determine the portion
19 of the demand for off-site public infrastructure improvement which is created by a
20 development, and provide for dedications or improvements which are directly proportional
21 to the development's demand for the public infrastructure improvements.
- 22 **2. Improvements Required**
- 23 The issuance of a land use permit under this section for the construction of a residential,
24 commercial, or industrial structure on a lot, shall be subject to the permit applicant
25 providing the easements, dedications, and improvements required for a subdivision in the
26 same improvement area under chapter 21.08, *Subdivision Standards*. In applying the
27 provisions of chapter 21.08, *Subdivision Standards*, under this section, the term "lot" shall
28 be substituted for the term "subdivision," the term "permit applicant" shall be substituted
29 for the term "subdivider," and the term "building official" shall be substituted for the term
30 "platting authority."
- 31 **3. Exceptions**
- 32 The requirements in subsection E.1. above shall not apply to a land use permit to the
33 extent that:
- 34 a. All construction associated with a single dwelling unit is located on a single lot,
35 tract, or parcel, regardless of zoning district;
- 36 b. The traffic engineer determines that a street dedication or improvement is not
37 required for traffic circulation;
- 38 c. A dedication or improvement has been provided to the applicable standard of
39 chapter 21.08, *Subdivision Standards*;
- 40 d. A dedication or improvement will be provided under a subdivision agreement that
41 has been entered into under section 21.08.060, *Subdivision Agreements*, or
42 under an established assessment district;
- 43 e. The municipality has already appropriated funds to construct an improvement; or

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

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

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

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

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

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

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

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

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

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

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

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- 1 eliminate required improvements as necessary to make the relationship between
2 such costs reasonable.
- 3 d. The building official shall consider the potential development of all adjacent
4 parcels, lots, or tracts under common ownership, in addition to the lot, parcel, or
5 tract that is the subject of the permit application, and the impacts associated
6 therewith, in applying the standards in this subsection.
- 7 e. The building official may approve adjustments to the improvement requirements
8 under this section to the extent that compliance with the standards would result in
9 an adverse impact on natural features such as wetlands, steep slopes, or
10 existing mature vegetation; existing development; or public safety.
- 11 **5. Phasing of Installation**
12 Except as provided in this section, all required improvements shall be constructed and
13 accepted by the municipality before any certificate of zoning compliance is issued for the
14 permitted construction. If the building official determines that it is not reasonable to
15 require compliance with the preceding sentence, no permit may be issued until the
16 applicant enters into an agreement for construction of the required improvements, with
17 performance guarantees, in the form required for subdivision improvements under
18 section 21.08.050, *Improvements*.
- 19 **6. Warranty**
20 All improvements required under this section shall be subject to the warranty and
21 guarantee of warranty requirements provided for subdivision improvements in section
22 21.08.050, *Improvements*.
- 23 **7. Oversizing**
24 If an improvement exceeding the requirements of this section is requested by the
25 municipality and is necessary for the adequate and efficient development of surrounding
26 areas, the municipality may require the applicant to install or accommodate oversizing.
27 Inside the Anchorage road and drainage service area, the municipality shall reimburse
28 the applicant for the cost of the oversizing at least as soon as budgeted funds are
29 available after completion and acceptance of the improvements. This subsection shall
30 not be a limitation on the municipality's ability to require a utility to oversize its facilities or
31 a limitation on the manner in which the municipality may pay its proportionate share of
32 the costs of oversizing.
- 33 **8. Fee in Lieu**
34 A fee in lieu of the required improvements may be accepted if the building official
35 determines:
- 36 a. That the improvements or construction activities associated therewith would
37 create a potential undue safety hazard to motorists or pedestrians; or
- 38 b. Due to the nature of existing development on adjacent properties it is unlikely
39 that improvements would be extended in the foreseeable future and the
40 improvements associated with the development under review do not, by
41 themselves, provide a sufficient improvement to safety or capacity or a sufficient
42 benefit to the property to be developed under the building or land use permit to
43 warrant construction.
- 44 c. Any fee paid pursuant to this section shall be accounted for separately, and the
45 fee paid shall be dedicated and used only for the purpose of constructing the
46 public facilities which were identified by the building official and for which the fee
47 was paid.

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1 **9. Fee Amount**

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

7 **10. Appeals of Improvement Standards**

8 **a. Administrative Appeal**

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

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

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

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

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

37 **d. Judicial Review**

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

41 **21.03.110 MASTER PLANNING, INSTITUTIONAL**

42 **A. Purpose**

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

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

11 B. Applicability

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

20 C. Institutional Master Plan Requirements

21 1. Planning Area

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

25 2. Submittal Requirements

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

31 a. Boundaries

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

36 b. Mission and Objectives

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

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1 c. **Existing Property and Uses**

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

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

15 d. **Needs of the Institution**

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

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

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

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

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

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- 1 vii. *Timing*
2 A conceptual development schedule and phasing plan.
- 3 g. **Twenty Year Development Areas**
4 The institutional master plan shall include written and graphic materials
5 identifying future development areas beyond those noted in the 10-year
6 development description. This information shall include, at a minimum, the
7 general location and approximate scale of anticipated development that may
8 occur within a 20 year period.
- 9 **D. Procedures for Master Plan Approval**
- 10 1. **Initiation**
11 An application for approval of an institutional master plan shall be initiated by the owner
12 or managing agent of the subject property.
- 13 2. **Pre-Application Conference**
14 Before filing an application, an applicant shall request a pre-application conference with
15 the director. See section 21.03.020B.
- 16 3. **Community Meeting**
17 A community meeting is required in accordance with subsection 21.03.020C.
- 18 4. **Application Submittal**
19 Applications for institutional master plan approval shall contain all information and
20 supporting materials specified in the title 21 user's guide and in subsection C.2. above,
21 and shall be submitted to the director on a form provided by the department. The director
22 may require the submittal of such other information as may be necessary to permit the
23 informed exercise of judgment under the criteria for the review of the plan, as set out in
24 subsection E. below.
- 25 5. **Departmental Review**
26 The department shall review the proposed institutional master plan in light of the approval
27 criteria set forth in subsection E. below, and shall distribute the application to other
28 reviewers as deemed necessary. Based on the results of those reviews, the department
29 shall provide a report to the planning and zoning commission.
- 30 6. **Public Notice**
31 a. Notice shall be provided in accordance with section 21.03.020H.
- 32 b. Draft institutional master plans shall be available for public review at least 21
33 days in advance of the planning and zoning commission's public hearing.
- 34 7. **Planning and Zoning Commission Action**
35 a. The planning and zoning commission shall hold a public hearing on the proposed
36 institutional master plan and, at the close of the hearing, recommend that the
37 assembly approve the plan as submitted, approve the plan subject to conditions
38 or modifications, or deny the plan, based on the approval criteria of subsection E.
39 below.
- 40 b. If the planning and zoning commission recommends that the assembly approve a
41 plan as submitted or with conditions or modifications, within 60 days of the
42 commission's action the director shall forward the recommendation to the
43 assembly.
- 44 c. If the planning and zoning commission recommends denial of a plan, that action
45 is final unless, within 20 days of the commission's action, the applicant files a

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1 written statement with the municipal clerk requesting that the proposed
2 institutional master plan be submitted to the assembly.

3 **8. Assembly Action**

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

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

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

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

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

23 **E. Approval Criteria**

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

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

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

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

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

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

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

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

42 2. Before a building permit or land use permit is issued for any project within an area
43 covered by an approved institutional master plan, the director shall certify that the
44 proposed project is consistent with the approved institutional master plan. The applicant

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

28 G. Modifications to Approved Institutional Master Plans

29 1. Minor Amendments

30 The director may administratively approve minor amendments to an approved
31 institutional master plan upon written application. Minor amendments are defined
32 generally as modifications to approved plans that do not affect land use or density in
33 ways that would have significant adverse impacts on public facilities, utilities, traffic
34 circulation, or other major infrastructure systems; or on surrounding neighborhoods or
35 development.

36 2. Major Amendments

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

39 21.03.120 MINOR MODIFICATIONS

40 A. Purpose and Scope

41 This section sets out the required review and approval procedures for "minor modifications,"
42 which are minor deviations from otherwise applicable standards that may be approved by the
43 director, the planning and zoning commission, or the urban design commission. Minor
44 modifications are to be used when the small size of the modification requested, and the

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1 unlikelihood of any adverse effects on nearby properties or the neighborhood, make it
2 unnecessary to complete a formal variance process.

3 **B. Applicability**

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

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

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

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

15 c. The dimensional standards, site development and design standards, and building
16 design standards set forth in chapter 21.09, *Girdwood Land Use Regulations*
17 (sections 21.09.060, 21.09.070, and 21.09.080) **and in chapter 21.10, *Chugiak-***
18 ***Eagle River* (sections 21.10.060 and 21.10.070).**

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

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

22 a. An increase in overall project density;

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

24 c. A deviation from the district-specific standards set forth in chapter 21.04, *Zoning*
25 *Districts*, **section 21.09.040, *Zoning Districts (Girdwood)*, and section 21.10.040,**
26 ***Zoning Districts (Chugiak-Eagle River)*, or the use-specific standards set forth in**
27 **chapter 21.05, *Use Regulations*, section 21.09.050, *Use Regulations (Girdwood)***
28 ***and section 21.10.050, *Use Regulations (Chugiak-Eagle River)**; or**

29 d. A change in conditions attached to the approval of any subdivision plan (section
30 21.03.200), site plan (section 21.03.180), conditional use (section 21.03.080), or
31 rezone (special limitation) (section 21.03.160).

32 **C. Procedure**

33 **1. Limitation on Minor Modifications**

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

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

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

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

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

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

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

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

10 **5. Appeals**

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

16 **D. Approval Criteria**

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

- 19 1. The requested modification is consistent with the comprehensive plan and the stated
20 purpose of this title;
- 21 2. The requested modification meets all other applicable building and safety codes;
- 22 3. The requested modification does not encroach into a recorded easement;
- 23 4. The requested modification will have no significant adverse impact on the health, safety,
24 or general welfare of surrounding property owners or the general public, or such impacts
25 will be substantially mitigated; and
- 26 5. The requested modification is necessary to either: (a) compensate for some practical
27 difficulty or some unusual aspect of the site of the proposed development not shared by
28 landowners in general; or (b) accommodate an alternative or innovative design practice
29 that achieves to the same or better degree the objective of the existing design standard
30 to be modified. In determining if “practical difficulty” exists, the factors set forth in section
31 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

32 **21.03.130 NEIGHBORHOOD OR DISTRICT PLANS**

33 **A. Purpose and Authority**

34 **1. Purpose**

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

40 b. Neighborhood or district plans shall be guided by the elements of the
41 comprehensive plan, as defined in section 21.01.080. Neighborhood or district
42 plans should give specificity to the goals, objectives, policies, and strategies of
43 the comprehensive plan. These plans shall supplement and elaborate on the
44 comprehensive plan. The goal of a neighborhood or district plan is to protect and
45 promote the positive elements of neighborhood or district character and identity,

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1 while promoting the orderly growth, improvement, and future development of the
2 neighborhood, community, or municipality.

3 **2. Authority**

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

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

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

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

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

23 **3. Policy Guidance**

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

35 **B. Plan Submittal**

36 **1. Initiation Meeting**

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

42 **2. Work Program**

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

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- 1 **3. Submittal**
2 Twenty-two printed copies along with an electronic version of all proposed plans shall be
3 submitted to the department. The submittal shall include the name(s) and address(es) of
4 the person(s) designated by the sponsor to be its representative(s) in any discussions of
5 the plan.
- 6 **C. Threshold Review and Determination**
- 7 **1. Department Review and Determination**
8 Within 90 days of the submittal of a plan, the department shall review the plan and
9 determine whether the plan meets the standards for form, content, and for consistency
10 with sound planning, as set forth in subsection D. below.
- 11 **a.** If the department determines that the plan does meet the threshold standards of
12 subsection D., the department shall distribute the plan for public review and
13 commission public hearing as described in subsection E.
- 14 **b.** If the department determines the plan does not meet the threshold standards of
15 subsection D., the staff shall provide written notification to the sponsor of all
16 deficiencies with respect to form, content, process, and any changes, additions,
17 or deletions which, in the opinion of staff, may correct such deficiencies.
- 18 **2. Coordination of Plan Review**
19 The department may determine, despite a finding of appropriate form, content, and sound
20 planning policy, a proposed plan should not immediately proceed, due to other municipal
21 planning efforts underway which should be coordinated with the plan. In such a case, the
22 department shall develop an appropriate timetable for distributing the plan for public
23 review and commission public hearings.
- 24 **D. Standards**
- 25 **1. Form and Content**
26 The form and content of all proposed plans shall be consistent with the following:
- 27 **a.** The plan shall state its sponsoring entity or entities and the names of the
28 individuals who participated in the development of the plan.
- 29 **b.** A plan shall enhance or implement goals, objectives, policies, and/or strategies
30 of the comprehensive plan and provide further detail and specificity. A plan may
31 take the form of a master plan or targeted plan.
- 32 **i.** A master plan for a neighborhood, district, or other geographic area of
33 the municipality may combine elements related to housing, industrial and
34 commercial uses, transportation, land use regulation, open space,
35 recreation, cultural features, health, economic vitality, community
36 facilities, and other infrastructure.
- 37 **ii.** A targeted plan may consider one or a small number of elements of
38 neighborhood, district, or municipal-wide problems or needs, and shall
39 focus on issues related to the use, development, and improvement of
40 land within the plan study area.
- 41 **c.** A plan shall not be limited to a single zoning district or a specific parcel in private
42 ownership. A plan shall cover an identifiable, cohesive geographic area or
43 neighborhood.
- 44 **d.** Plans shall be presented in clear language and coherent form with elements,
45 chapters, or sections organized in logical sequence.

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

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

4 **E. Plan Distribution and Review**

5 **1. Plan Distribution**

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

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

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

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

18 **3. Department Review**

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

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

26 **1. Schedule for Review**

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

29 **2. Public Notice**

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

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

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

42 **4. Commission Findings**

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

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1 **G. Assembly Adoption**

2 **1. Transmission to Assembly**

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

6 **2. Public Notice**

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

8 **3. Assembly Action**

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

- 10 **a.** Adopt the plan;
- 11 **b.** Adopt the plan with modifications;
- 12 **c.** Remand the plan to the commission; or
- 13 **d.** Not adopt the plan.

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

18 **H. Review and Revision**

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

25 **21.03.140 PUBLIC FACILITY SITE SELECTION**

26 **A. Purpose**

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

30 **B. Applicability**

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

- 33 **a.** Any newly constructed building or buildings and any existing building acquired by
34 purchase or lease, in which government operations or activities occupy more
35 than a total of 50,000 square feet of gross floor area;
- 36 **b.** Any use of land over 20 acres in area (not including projects covered under
37 section 21.03.190, *Street and Trail Review*);
- 38 **c.** Public schools;
- 39 **d.** Fire stations, unless such station is determined by the director not to have
40 impacts on the surrounding neighborhood;

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- 1 e. Any sports, entertainment, or civic center designed for more than 1,500
2 spectators;
- 3 f. Any public snow disposal or landfill site; and
- 4 g. A facility that, in the judgment of the director, warrants a public process for site
5 selection due to the potential for significant impacts on surrounding properties.
- 6 2. This section shall not apply to the following:
- 7 a. Any site that is:
- 8 i. Designated for the subject use on a municipal plan adopted by the
9 assembly;
- 10 ii. Part of an area, development, or institutional master plan;
- 11 iii. Determined by a dedication to the municipality on a final plat approved
12 and recorded in accordance with this title; or
- 13 iv. Subject to approval of a conditional use under this title.
- 14 b. Any facility site selection reviewed by the commission or approved by the
15 assembly before January 1, 2014;
- 16 c. Any facility site selection for which over \$500,000 has been expended for design
17 or construction before January 1, 2014.
- 18 **B. Community Meeting**
- 19 A community meeting is required in accordance with subsection 21.03.020C.
- 20 **C. Required Information**
- 21 The agency proposing a site selection shall submit to the commission all information identified in
22 the user's guide. This information shall include, but need not be limited to, an evaluation of
23 alternative sites, or an explanation why no alternative sites were considered.
- 24 **D. Public Notice**
- 25 Notice shall be provided in accordance with subsection 21.03.020H.
- 26 **E. Departmental Review**
- 27 1. The department shall review each proposed site selection application in light of the
28 approval criteria set forth in subsection I. below, and distribute the application to other
29 reviewers as deemed necessary.
- 30 2. Based on the results of those reviews, the department shall provide a report to the
31 planning and zoning commission.
- 32 3. For school site sections, the department shall also provide the report to the Anchorage
33 school board for its review and recommendation.
- 34 **F. Planning and Zoning Commission**
- 35 1. The commission shall review the RFP criteria (or similar guidelines) or the site
36 alternatives for any applicable facility.
- 37 2. The commission shall hold a public hearing.

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- 1 3. For school site selections, the school board and the commission may meet in a joint
2 public hearing; however, the school board and the commission shall separately consider
3 and make recommendations to the assembly. Both recommendations shall then be
4 forwarded as a package to the assembly for approval.
- 5 4. For site selections of municipal facilities, the commission shall make a recommendation
6 to the assembly, based on the approval criteria of subsection I. below.
- 7 5. For all other site selections, the commission shall decide on the proposed site based on
8 the approval criteria of subsection H. below.

9 **G. Assembly Action**

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

- 13 1. Approve a specific recommended site;
- 14 2. Approve a specific evaluated site;
- 15 3. Reject some or all recommended sites; or
- 16 4. Remand the evaluated and recommended sites to the commission (and the school board
17 if applicable) for further investigation, review, and evaluation.

18 **H. Approval Criteria**

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

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

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I. Request for Assembly Hearing

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

21.03.150 RECORD OF SURVEY MAPS

A. Purpose and Authorization

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

B. Use of Record of Survey Maps

1. A record of survey map is a map depicting the exterior boundaries of a legally created lot, parcel, or tract, and includes a correction to a record of survey map.
2. A record of survey map shall not be used to depict the boundaries of a lot, parcel, or tract, which lot, parcel, or tract was created or subdivided contrary to law. A record of survey map shall not subdivide property or 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

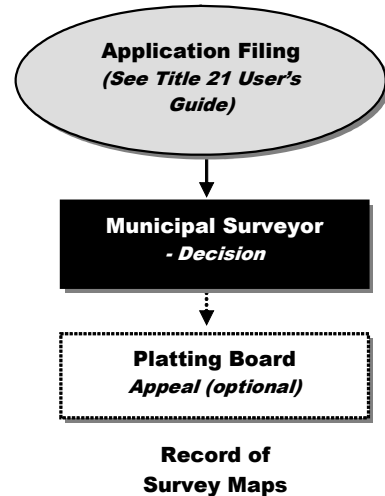
Monuments set for the survey shall conform to the standards of the public works department.

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

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legitimize nonconforming uses or structures, and should not be used when a conditional use, variance, or minor modification could be used to achieve the same result.

B. Minimum Area Requirements

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

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

C. When a Comprehensive Plan Map Amendment is Required

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

D. General Procedure

1. Initiation

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

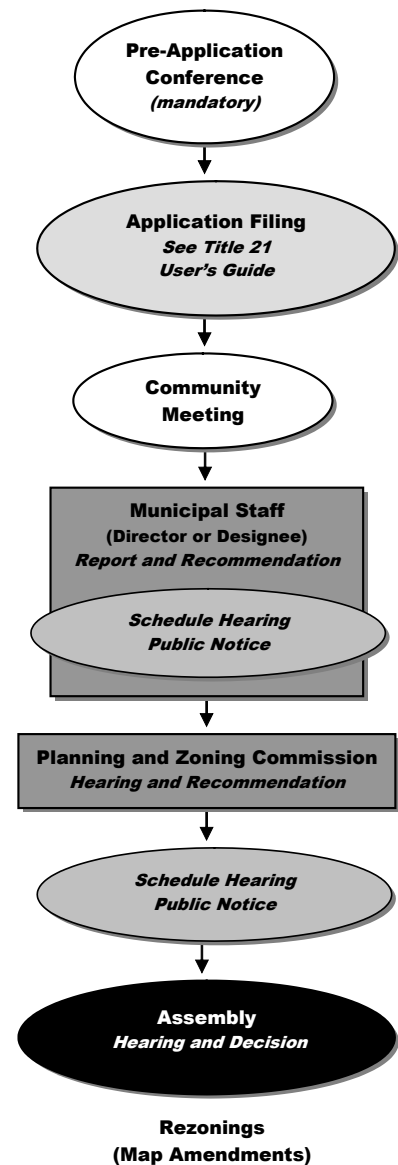


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- 1 **2. Pre-Application Conference**
2 Before filing an application, a private-party applicant shall request a pre-application
3 conference with the director, in accordance with subsection 21.03.020B.
- 4 **3. Community Meeting**
5 A community meeting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

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

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

22 **F. Flexibility of Interpretation**

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

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

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1 **G. Rezoning with Special Limitations**

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

5 **1. Purposes**

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

7 **a.** To prohibit structures, or uses of land or structures, that would adversely affect
8 the surrounding neighborhood or conflict with the comprehensive plan.

9 **b.** To conform the zoning map amendment to the comprehensive plan, or to further
10 the goals and policies of the comprehensive plan.

11 **c.** To conform development under the zoning map amendment to existing patterns
12 of development in the surrounding neighborhood.

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

16 **2. Types of Limitations**

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

18 **a.** Limit residential density; or prohibit structures, or uses of land or structures,
19 otherwise permitted in a zoning district.

20 **b.** Require compliance with design standards for structures and other site features.

21 **c.** Require compliance with a site plan approved under this title.

22 **d.** Require the construction and installation of improvements, including public
23 improvements.

24 **e.** Impose time limits for taking subsequent development actions.

25 **3. Effect of Approval**

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

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

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

32 **1. Purpose and Applicability**

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

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

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

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- 1 c. Require new development or attributes of new development to conform to a
2 specific architectural or design theme;
- 3 d. Require a design review approval process; and/or
- 4 e. Alter the development standards of the underlying district by decreasing or
5 increasing the requirements with regard to building height, setbacks, lot area, lot
6 width, lot coverage, and lot densities of the underlying district.

7 **2. Minimum Area Requirements**

- 8 a. No overlay district zoning map amendment shall be considered or approved that
9 applies an overlay district to an area less than 1.75 acres, excluding rights-of-
10 way, except for an amendment extending the boundaries of an existing overlay
11 district.
- 12 b. Overlay districts shall not be created to apply to property owned by a single
13 person, unless the property is at least 30 acres.

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

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

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

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

- 21 i. The name of the overlay district that the ordinance applies;
- 22 ii. The legal description of the land within the overlay district applied by the
23 ordinance; and
- 24 iii. All standards of development to be governed by the overlay district.

25 b. ***Effect of Approval***

- 26 i. Where a specification in an overlay zoning map amendment conflicts
27 with any provision of this title, the overlay zoning map amendment shall
28 govern.
- 29 ii. An overlay district adopted in the same manner as the original ordinance
30 remains effective until repealed or amended. The assembly may set a
31 time for the overlay district to expire if it finds the planning objectives will
32 be met or completed within a specific time period.

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

- 34 i. Each overlay district shall be annotated on the zoning map with a symbol
35 unique to the overlay district and shall be identified on the zoning map by
36 the suffix "OV" and the number of the ordinance applying the overlay
37 district shall be printed on the zoning map within the boundaries of the
38 overlay district.
- 39 ii. The department shall maintain, for inspection by the public, maps
40 showing the location of the overlay districts and records of the
41 assembly's purpose and intent in establishing each district.

42 **4. [ESTABLISHMENT OR MODIFICATION OF AIRPORT HEIGHT OVERLAY DISTRICTS**
43 **IN ADDITION TO THE STANDARD SUBMITTALS REQUIRED TO INITIATE AN**
44 **OVERLAY MAP AMENDMENT, ESTABLISHMENT OF AN AIRPORT HEIGHT**

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1 OVERLAY DISTRICT ALSO SHALL REQUIRE PREPARATION OF AN AIRPORT
2 HEIGHT MAP AS SET FORTH IN SECTION 21.04.060C.]

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

4 **1. Purpose**

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

13 **2. Procedure**

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

16 **3. Minimum Area Requirements**

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

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

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

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

- 25 **i.** Chapter 21.05, *Use Regulations*;
- 26 **ii.** Chapter 21.06, *Dimensional Standards*;
- 27 **iii.** Subsection 21.07.020C., *Steep Slope Development*;
- 28 **iv.** Section 21.07.030, *Open Space*;
- 29 **v.** Section 21.07.060, *Transportation and Connectivity*;
- 30 **vi.** Section 21.07.080, *Landscaping, Screening, and Fencing*;
- 31 **vii.** Section 21.07.090, *Off-Street Parking and Loading*;
- 32 **viii.** Section 21.07.100, *Exterior Lighting*;
- 33 **ix.** Section 21.07.110, *Residential Design Standards*;
- 34 **x.** Section 21.07.120, *Large Establishments*; and
- 35 **xi.** Subsection 21.08.050D., *Interior Streets*.

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

- 39 **i.** Clear specification of the proposed in-lieu standards, and the title 21
40 standards for which the proposed in-lieu standards are a substitute. Any

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

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1 **6. Relationship to Other Requirements**

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

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

6 **a. Approval by Assembly**

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

- 9 i. Any increase in the total number of authorized dwelling units;
- 10 ii. Any decrease in the total open space acreage;
- 11 iii. Any increase in the total gross building area of commercial or industrial
12 structures;
- 13 iv. Any addition or deletion of any permitted principal use, conditional use,
14 or accessory use;
- 15 v. Any changes in the development standards;
- 16 vi. Any density transfer between development areas that will result in a 25
17 percent or greater cumulative increase or decrease in the number of
18 dwelling units in any development area; or
- 19 vii. Any change in the acreage of a development area equal to or more than
20 25 percent of the total acreage of the development area.

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

22 Approval by the planning and zoning commission is required for the following
23 amendments to the PCD district:

- 24 i. Any density transfer between development areas that will result in a
25 cumulative increase or decrease of more than 10 percent but less than
26 25 percent in the number of dwelling units in any development area; or
- 27 ii. Any change in the acreage of a development area of more than 10
28 percent but less than 25 percent of the total acreage of the development
29 area.

30 **c. Approval by the Director**

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

- 33 i. Any density transfer between development areas that will result in a
34 cumulative increase or decrease of 10 percent or less in the number of
35 dwelling units in any development area; or
- 36 ii. Any change in the acreage of a development area of 10 percent or less
37 of the total acreage of the development area.

38 **21.03.170 SIGN PERMITS**

39 **A. Applicability**

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

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1 **B. Approval Requirements for Signs**

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

TABLE 21.03-3: SIGN PERMIT REQUIREMENTS		
	Permit required by Title 21	No permit required by Title 21; permit may be required by Title 23
Sign Plate		X
Permanent Building Sign	X	
Permanent Freestanding Sign	X	
Entrance/Exit		X
Instructional		X
Temporary – on a parcel		X
Temporary – for a business		X
Construction signs		X
Temporary for any Residential Unit		X

4
5 **C. Application Submittal**

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

9 **D. Review and Approval**

10 Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in
11 21.03.100C.2, *Approval Procedure (for Land Use Permits)*.

12 **E. Appeals**

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

17 **21.03.180 SITE PLAN REVIEW**

18 **A. Purpose**

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

25 **B. General Applicability**

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

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1 **C. Administrative Site Plan Review**

2 **1. Applicability**

3 Land uses requiring administrative site plan review are identified in table 21.05-1, *Table*
4 *of Allowed Uses*, table 21.05-3, *Table of Allowed Accessory Uses*, [AND] table 21.09-1,
5 *Table of Allowed Uses (Girdwood)*, table 21.09-2, *Table of Accessory Uses (Girdwood)*,
6 *table 21.10-4, Table of Allowed Uses (Chugiak-Eagle River)*, and table 21.10-5, *Table of*
7 *Accessory Uses (Chugiak-Eagle River)*.

8 **2. Procedure**

9 **a. Application Submittal**

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

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

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

21 **c. Appeals**

22 **Decisions on [DENIAL OF AN]** administrative site plans may be appealed to the
23 urban design commission, in which case it shall be treated as a major site plan
24 review application under subsection D. below.

25 **D. Major Site Plan Review**

26 **1. Applicability**

27 Land uses requiring major site plan review are identified in table 21.05-1, *Table of*
28 *Allowed Uses*, [AND] table 21.09-1, *Table of Allowed Uses (Girdwood)*, and table 21.10-
29 *4, Table of Allowed Uses (Chugiak-Eagle River)*.

30 **2. Decision-Making Authority**

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

35 **3. Procedure**

36 **a. Pre-Application Conference**

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

39 **b. Community Meeting**

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

41 **c. Application Submittal**

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

45 **d. Public Notice**

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

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- 1 e. **Departmental Review**
2 The department shall review each proposed major site plan application in light of
3 the approval criteria of subsection F. below and distribute the application to other
4 reviewers as deemed necessary. Based on the results of those reviews, the
5 department shall provide a report to the applicable commission.
- 6 f. **Commission Action**
7 The applicable commission shall hold a public hearing on the proposed
8 application and, taking into account the recommendations of the department and
9 public input, shall act to approve, approve with conditions, or deny the proposed
10 major site plan, based on the approval criteria of subsection E. below.
- 11 g. **Appeals**
12 **Decisions on [DENIAL OF A]** major site plans may be appealed to the board of
13 adjustment in accordance with subsection 21.03.050A.

14 E. **Expiration**

- 15 1. **General**
16 A site plan approval shall automatically expire at the end of 24 months after the effective
17 date unless a building or land use permit for at least one building in the development
18 proposed in the site plan is approved and construction has begun (see the definition of
19 "start of construction" in chapter 21.14). A change in ownership of the property does not
20 affect this time frame.
- 21 2. **Extension**
- 22 a. **First Extension**
23 Upon written application submitted by the applicant at least 30 days prior to the
24 expiration of the permit period and upon a showing of good cause, the director
25 may grant one extension not to exceed 12 months. The approval shall be
26 deemed extended until the director has acted upon the request for extension.
27 Failure to submit an application for an extension within the time limits established
28 by this section shall render the site plan approval void.
- 29 b. **Further Extensions**
30 Upon written application submitted at least 30 days prior to the expiration of the
31 previous extensions and upon a showing of good cause, the urban design
32 commission, without a public hearing, may grant additional extensions, each one
33 not to exceed 12 months. The approval shall be deemed extended until the
34 commission has acted upon the request for extension.

35 F. **Approval Criteria**

- 36 An application for administrative or major site plan review shall be approved upon a finding that
37 the site plan meets all of the following criteria:
- 38 1. The site plan is consistent with any previously approved subdivision plat, planned
39 development master plan, or any other precedent plan or land use approval;
- 40 2. The site plan complies with all applicable development and design standards set forth in
41 this title, including but not limited to the provisions in chapter 21.04, *Zoning Districts*,
42 chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional Standards and*
43 *Measurements*, and chapter 21.07, *Development and Design Standards*;
- 44 3. The site plan addresses any significant adverse impacts that can reasonably be
45 anticipated to result from the use, by mitigating or offsetting those impacts to the
46 maximum extent feasible; and

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

3 **G. Platting for Site Plans**

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

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

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

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

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

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

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

21 a. **Procedure**

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

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

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

31 (B) Attach a form stating the nature of the modification, date of
32 approval, and bearing the signature of the director to the site
33 plan on file in the department.

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

36 b. **Types of Minor Amendments**

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

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

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

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

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

21.03.190 STREET AND TRAIL REVIEW

A. Purpose

5 Streets are a significant investment in the municipality's infrastructure and establish long-term
6 land use impacts on nearby properties and the community at large. Streets and trails are not only
7 utilitarian, but also add lasting value to the community and convey the image of the municipality to
8 all users. These important parts of the municipality's fabric benefit by oversight and concurrence
9 in the design decisions by citizen bodies that are represented by the planning and zoning
10 commission and the urban design commission. All transportation projects are required to identify
11 functional and design issues early in the process and include public input at various stages of the
12 project. In addition, projects meeting certain thresholds are required to include the planning and
13 zoning commission and urban design commission in the review and approval process.

B. Street Review

1. Applicability and Overview

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

- 21 a. The concept report or equivalent, distributed to the planning and zoning
22 commission as an information item;
- 23 b. The draft design study report, reviewed by the planning and zoning commission;
24 and
- 25 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

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

b. Community Meeting

31 Public outreach is an essential part of context-sensitive solutions (CSS), and is
32 expected to have been conducted prior to submitting an application. Depending
33 on the project, a community meeting may also be held at the application stage; if
34 so, it shall be in accordance with subsection 21.03.020C.
35

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

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

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

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21.03.200 SUBDIVISIONS

A. Purpose

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

B. Applicability

1. General

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

2. Abbreviated Plat

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

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

- i. Result in an increase in the permitted density of residential units within the area being subdivided or resubdivided, unless the platting over issues a written determination that a public hearing is not warranted.
- ii. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
- iii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.

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

- i. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
- ii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
- iii. Divide a tract, parcel or lot:
 - (A) Created within the previous 48 months pursuant to the approval of a preliminary plat under this section;
 - (B) Contiguous to or having an owner either in an individual capacity or as an owner of a corporation, partnership, or other legal entity of a preliminary plat approved within the previous 48 months; or
 - (C) That is 10 acres or more in the R-6, R-7, R-8, R-9, and R-10 zoning districts or that is governed by AO 84-21 (G-5 areawide rezoning).

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

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- 1 d. Subdivision of a cemetery into burial plots.
- 2 e. A plat required by section 21.03.080F. for approval of a conditional use, or
- 3 section 21.03.180F. for approval of a site plan.
- 4 f. A plat depicting the creation of two attached
- 5 single-family lots.

3. Subdivision Approval is Prerequisite to Other Approvals

- 6 a. No building permit, land use permit, certificate of
- 7 zoning compliance, or certificate of occupancy
- 8 may be issued for any building, structure, or
- 9 improvement located within a subdivision, and no
- 10 plat for a subdivision may be recorded with the
- 11 state of Alaska, until all required dedications of
- 12 land have been made, and all required
- 13 improvements have been installed in accordance
- 14 with the procedures and requirements of this
- 15 section, or an approved subdivision agreement is
- 16 in place pursuant to section 21.08.060,
- 17 *Subdivision Agreements*.
- 18
- 19
- 20 b. The municipality shall not accept or maintain any
- 21 street, and shall not extend or connect any street
- 22 lighting, water service, or sanitary sewer service
- 23 to any subdivision of land, until and unless a plat
- 24 for the subdivision has been approved and
- 25 recorded in accordance with the requirements
- 26 set forth in this section.

4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat

27 Any person who transfers or sells any land located within

28 the municipality by reference to a plat that has not been

29 approved by the municipality and recorded by the state of

30 Alaska shall be guilty of a violation of this title. The

31 description by metes and bounds in the instrument of

32 transfer or other document used in the process of selling

33 or transferring shall not exempt the transaction from such

34 penalties. The municipality also may enjoin such transfer

35 or sale by filing an action for an injunction.

36

37

5. Existing Lots of Record

38 No provision of chapter 21.08, *Subdivision Standards*,

39 applies to any lot of record in a subdivision legally

40 created and filed before the effective date of this title,

41 unless the lot is further subdivided or resubdivided.

42

C. Review and Approval of Subdivision Plans

1. Applicability

43 This section shall apply to all subdivisions not meeting the eligibility criteria for the

44 abbreviated plat procedure.

45

46

2. Pre-Application Conference

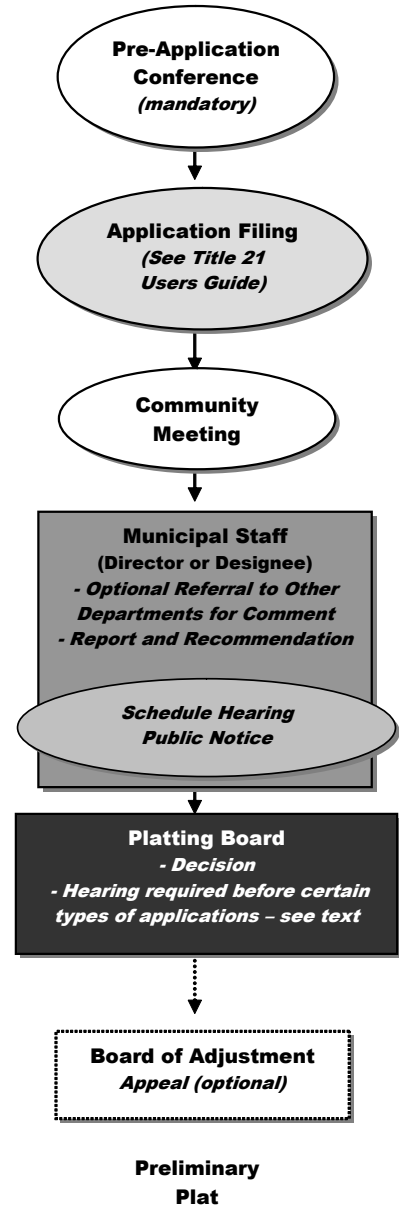


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1 Before filing an application for a new subdivision or a modification of an already-approved
2 subdivision, the applicant shall request a pre-application conference with the platting
3 officer, in accordance with subsection 21.03.020B.

4 **3. Community Meeting**

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

6 **4. Application Submittal**

7 **a.** Unless waived by the platting officer, a preliminary plat shall include all land
8 under contiguous ownership, unless separate legal descriptions exist as a matter
9 of record. If only a portion of the land is intended for immediate development, the
10 remaining portion shall be given a tract number and shall be part of the
11 preliminary and final plat. Requirements for surveying this remaining tract may
12 be waived at the discretion of the municipal surveyor. By plat note, development
13 shall not be allowed on the remaining tract until approved under this section.

14 **b.** Applications for a preliminary plat shall contain the information specified in the
15 title 21 user's guide, and shall be submitted to the platting officer on a form
16 provided by the department.

17 **c.** For subdivision plats that have A or B wetlands, the applicant shall have initiated
18 corps of engineers wetland permitting prior to submitting the preliminary plat.

19 **5. Public Notice**

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

21 **6. Departmental Review**

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

26 **7. Action on Preliminary Plat**

27 **a. *Platting Authority***

28 The platting board is the platting authority for preliminary plats, except as
29 provided in subsection 21.03.080F. for conditional uses, and subsection
30 21.03.180F. for site plans.

31 **b. *Action by Platting Authority***

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

37 **c. *Referral to Other Agency***

38 If the platting authority finds that:

39 **i.** It cannot determine whether a preliminary plat conforms to the approval
40 criteria of subsection C.9. below, because a specific controlling land use,
41 public facility, or other public policy issue has not been resolved; and

42 **ii.** An official board, commission or legislative body of the municipality or
43 another government has been identified as being responsible for
44 resolving that issue;

45 then, upon a majority vote, the platting authority may refer the issue to the
46 responsible official, board, commission, or legislative body and postpone action

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1 on the plat for a period not exceeding 90 days or to its next regular meeting after
2 the responsible official, board, commission, or legislative body responds to the
3 referral, whichever occurs first.

4 **d. Public Hearing**

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

- 7 i. Approval of a preliminary plat, except applications allowed to use the
8 abbreviated plat procedure;
- 9 ii. Approval of a final plat that differs from the preliminary plat (see section
10 21.03.200C.8.b.);
- 11 iii. Modification or deletion of a condition of plat approval;
- 12 iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision*
13 *Standards*; and
- 14 v. Vacation of dedicated right-of-way; BLM and section line easements; or
15 platted landscape, drainage, slope, or protective well radii easements.

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

- 17 i. Notwithstanding any subsequent change in the subdivision regulations,
18 zoning regulations, and zoning districts, the approval of the preliminary
19 plat shall be effective:
- 20 (A) For at least 24 months and up to 60 months from the date of
21 approval, when it pertains to a development of no less than 10
22 acres and includes a phasing plan. The length of the approval
23 period shall be based upon the platting board's evaluation of the
24 size, complexity, and phasing elements of the development.
- 25 (B) For 24 months from the date of approval when it pertains to a
26 development of less than 10 acres or does not include a phasing
27 plan.
- 28 ii. The preliminary plat shall become null and void after the approval period
29 unless an extension of time is granted by the platting authority. A
30 request for a time extension must be made in writing by the subdivider.
31 The extension request must be received by the platting officer prior to the
32 expiration of the preliminary plat to be eligible for consideration by the
33 platting authority.
- 34 iii. Such a time extension shall be granted only if the authority finds that
35 current conditions are substantially the same as those that existed when
36 the preliminary plat was originally approved. The platting officer shall
37 conduct the reevaluation for every extension request that does not raise
38 the total time of extension for a particular plat beyond 24 months and
39 present his or her findings to the authority. Every extension request that
40 raises the total time of extension for a particular plat beyond 24 months
41 shall be evaluated in the same manner as an original plat application,
42 including payment of the applicable fee.
- 43 iv. Only two time extensions may be approved for a preliminary plat
44 approved by the platting authority. Approval of the second extension
45 shall require a noticed public hearing.

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- 1 v. Preliminary plats being finalized in portions or phases shall not be
2 construed to automatically extend the original approval period.
3 Notwithstanding subsection e.iii. above, preliminary plats that include a
4 phasing plan and a full layout plan may be approved for up to 60 months,
5 with the option of one 60 month extension by the platting board (on the
6 consent agenda) and an additional 60 month extension by the platting
7 board (with a public hearing in accordance with subsection e.iv. above).
8 Such extensions shall be granted only if the authority finds that current
9 conditions are substantially the same as those that existed when the
10 preliminary plat was originally approved.
- 11 f. **Appeals**
12 All decisions as to approval or denial of a preliminary plat by the platting authority
13 shall be final unless appealed to the board of adjustment.
- 14 g. **Resubmittal Following Denial**
15 No new application for the same or substantially the same preliminary plat shall
16 be accepted by the platting authority within one year of denial of the original
17 application. The waiting period required by this section may be waived in an
18 individual case, based upon new evidence or changed circumstances, by the
19 affirmative vote of a majority of the platting authority.
- 20 8. **Final Plat**
- 21 a. **Procedure When Final Plat Corresponds to Preliminary Plat as Approved**
- 22 i. A hearing on the final plat shall not be required when such plat
23 essentially conforms to the preliminary plat approved by the platting
24 board. The final plat shall, in addition, meet all conditions imposed by
25 the board in approving the preliminary plat.
- 26 ii. The final plat map shall constitute only that portion of the approved
27 preliminary plat that is proposed to be recorded and developed at the
28 time. If only a portion of the approved preliminary plat is proposed for
29 final plat approval, such portions shall conform to all requirements of this
30 section and chapter 21.08, *Subdivision Standards*.
- 31 iii. The following procedure shall be followed for the final plat:
- 32 (A) The final plat shall be submitted to the platting officer for
33 examination as to compliance with all terms of the preliminary
34 plat as approved by the platting authority. If all conditions have
35 been met, a statement to that effect, appearing on the final plat,
36 shall be signed by the platting authority. The final plat shall not
37 be signed until the documents described in paragraph a.iv. and
38 a.v. below have been received.
- 39 (B) Upon acceptance of the final plat, the department shall forward
40 the final plat to the public works department for final checking
41 and inspection before final approval is given. If requested, a
42 subdivision survey shall be submitted to the public works
43 department with a complete set of field and computation notes
44 showing the original or reestablished corners of the plat and of
45 lots within the plat. Traverse sheets and work sheets showing
46 the closure within the allowable limits of error of the exterior
47 boundaries of each irregular block and lot of the subdivision may
48 also be required. Final approval by the public works department
49 shall be indicated by a statement appearing on the plat.

EXHIBIT A

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- iv. Final approval by the platting board shall be dependent upon receipt of the following material:
 - (A) A statement from the development services department stating that all conditions imposed by the department on the preliminary plat and approved by the platting board have been met. This approval by the development services department shall not affect any subsequent requirements relating to sewage disposal and water supply as they apply to any lots within the plat.
 - (B) A certificate from the tax collecting official or a note on the face of the plat stating that all municipal real property taxes levied against the property are paid in full, or, if approval is sought between January 1 and the tax due date, that there is on deposit with the chief fiscal officer an amount sufficient to pay estimated real property tax for the current year.
 - (C) A certificate to plat showing the legal and equitable owners, including mortgagees, contract purchasers and fee owners, of the land to be platted, plus all grants, reservations, covenants, deed restrictions, and easements of record which may condition the use of the property.
 - v. If the subdivision is to be served by a community water or sewer system, the development services department may require the subdivider to provide the following before the platting board finally approves the plat:
 - (A) Any approvals or certificates required by the state departments of environmental conservation and natural resources.
 - (B) An agreement under the standards and procedures set out in section 21.08.060, *Subdivision Agreements*, to ensure that the system installed will be compatible with existing public water and sewer systems.
 - (C) Approval of the plans, specifications, and installation and operating procedures for the system by the municipal water and wastewater utility pursuant to chapter 21.08, *Subdivision Standards*, and regulations promulgated thereunder.
 - vi. Final plats affecting land neither supplied, nor under subdivision agreement to be supplied, both with public water and public sewer, shall be submitted to the development services department for a determination that all lots and proposed water and wastewater facilities conform to AMC chapter 15.65 at the time of determination.
- b. ***Procedure When Final Plat Differs from Preliminary Plat***
When the final plat differs from the preliminary plat, the plat shall be considered a new application for preliminary plat approval under this subsection C., except that all decisions as to approval or denial of this plat by the platting board as submitted under this section shall be final unless appealed to superior court.

EXHIBIT A

- 1 c. **Requirements for Final Plat**
2 The final plat shall be prepared to the technical specifications, and shall be
3 accompanied by appropriate supporting materials, as specified in the title 21
4 user's guide.
- 5 d. **Subdivision Agreements and Cost Estimates**
6 All final plats requiring public improvements, except those requiring
7 monumentation only, shall be accompanied by a subdivision agreement between
8 the subdivider and the municipality and an engineer's estimate of the cost of all
9 required public improvements. Requirements for such an agreement are further
10 described in section 21.08.060, *Subdivision Agreements*.
- 11 e. **Notes, Restrictions, and Covenants**
12 The platting board may place such conditions upon granting of final plat approval
13 as are necessary to preserve the public welfare in accordance with the
14 subdivision regulations. (See section 21.03.020M.) When such a condition of
15 approval entails a restriction upon the use of all or part of the property being
16 subdivided, a note specifying such restrictions shall be placed on the face of the
17 plat. Such note shall constitute a restrictive covenant in favor of the municipality
18 and the public and shall run with the land, enforceable against all subsequent
19 owners. Any such restrictive covenant may be enforced against the subdivider or
20 any subsequent owner by the municipality or by any specifically affected member
21 of the public.
- 22 9. **Approval Criteria**
23 The platting board may approve a preliminary or final plat only if it finds that the plat
24 conforms to **the applicable dimensional standards and measurements,** chapters [21.06,
25 *DIMENSIONAL STANDARDS AND MEASUREMENTS,*] 21.07, *Development and Design*
26 *Standards*[,] and 21.08, *Subdivision Standards*, and, to the maximum extent feasible:
- 27 a. Promotes the public health, safety, and welfare;
- 28 b. Mitigates the effects of incompatibilities between the land uses or residential
29 densities in the subdivision and the land uses and residential densities in the
30 surrounding neighborhood, including but not limited to visual, noise, traffic, and
31 environmental effects;
- 32 c. Provides for the proper arrangement of streets in relation to existing or proposed
33 streets;
- 34 d. Provides for adequate and convenient open space;
- 35 e. Provides for the efficient movement of vehicular and pedestrian traffic;
- 36 f. Ensures adequate and properly placed utilities;
- 37 g. Provides access for firefighting apparatus;
- 38 h. Provides opportunities for recreation, light, and air, and avoids congestion;
- 39 i. Facilitates the orderly and efficient layout and use of the land;
- 40 j. Does not create a split-zoned lot; and
- 41 k. Furthers the goals and policies of the comprehensive plan and conforms to the
42 comprehensive plan in the manner required by section 21.01.080,
43 *Comprehensive Plan*.

EXHIBIT A

D. Abbreviated Plat Procedure

1. Authorization

Except for preliminary plats where the applicant is an agency of the municipal, state, or federal governments, the preliminary plats described in subsection B.2.b. above are subject to approval under the abbreviated procedure in this subsection instead of the procedure in subsection C. above. Preliminary plats described in B.2.b., where the applicant is an agency of the municipal, state, or federal governments, are subject to approval under the procedure in subsection C. above.

2. Application Submittal

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

3. Public Notice

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

4. Action on Plat

a. *Platting Authority*

The platting officer is the platting authority for abbreviated plats, except as provided in section 21.03.230 for vacation or relocation of certain dedicated public areas. The platting officer may refer any application to the platting board that he or she deems may need further or more extensive analysis and public comment concerning access into adjacent property.

b. *Review and Decision*

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

c. *Variances*

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

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

d. *Duration of Preliminary Approval*

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

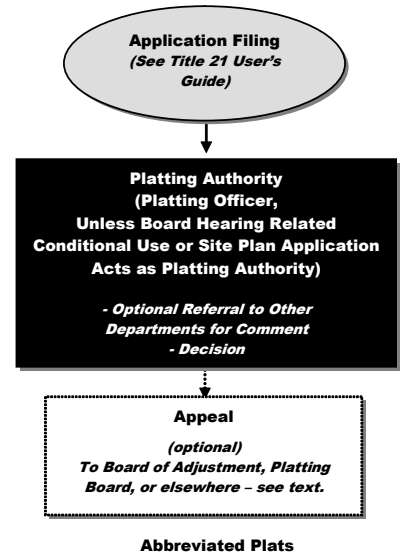


EXHIBIT A

- 1 e. **Time Extensions**
2 The abbreviated plat shall become null and void after the preliminary approval
3 period unless an extension of time is granted by the platting officer. A request for
4 a time extension must be made in writing by the subdivider. Such a time
5 extension shall be granted only if the platting officer finds that current conditions
6 are substantially the same as those that existed when the preliminary plat was
7 approved. Only one extension of no more than 24 months may be approved.
- 8 f. **Appeals**
9 Decisions of the platting officer under this section are final unless appealed within
10 15 days to the platting board, in which case the appeal shall be treated as an
11 application for preliminary plat approval pursuant to subsection 21.03.200C.
- 12 g. **Approval of Final Plat**
13 A final plat submitted pursuant to the approval of an abbreviated plat under this
14 section is subject to approval in accordance with subsection C.8. above, provided
15 that the municipal surveyor may waive a field survey for a final plat that merely
16 eliminates interior lot lines.
- 17 **E. Commercial Tract Plats**
- 18 1. **Applicability**
19 A commercial tract may be created and divided into fragment lots in order to facilitate
20 construction of commercial developments requiring multiple phases of construction.
21 Designation of commercial tracts shall be allowed only in the B-3, RO, I-1, I-2, PCD, MC,
22 MI, GC-1 through GC-10, GI-1, GI-2, GRST-1, and GRST-2 zoning districts.
- 23 2. **Platting Authority**
24 The planning and zoning commission or the urban design commission shall be the
25 platting authority for a commercial tract whose site plan includes a large commercial
26 establishment (see section 21.03.180C. for applicable commission). **The planning and**
27 **zoning commission shall be the platting authority for a commercial tract whose site plan**
28 **includes a mixed-use development.** The platting board shall be the platting authority for
29 all other commercial tracts.
- 30 3. **Review, Approval, and Modification of Commercial Tract Plats**
- 31 a. **Application Submittal**
32 Applications for a commercial tract plat shall contain the information specified in
33 the title 21 user's guide, and shall be submitted to the platting officer on a form
34 provided by the department. An application for approval of a commercial tract
35 shall be signed by the owners of the property involved.
- 36 b. **Action by Platting Authority**
- 37 i. The platting authority shall act upon the application for approval of a
38 commercial tract whose site plan includes a large commercial
39 establishment as part of the major site plan review for the large
40 commercial establishment under subsection 21.03.180C.
- 41 ii. Except as provided in E.3.b.i. above, the platting authority shall act upon
42 the application for commercial tract approval following the review and
43 approval procedures of a preliminary plat in accordance with subsection
44 21.03.200C.7.
- 45 c. **Recording of Site Plan**
46 Upon approval of a commercial tract under subsection E.3.b. above, the platting
47 officer shall, after notice to the petitioner, record the commercial tract site plan as
48 approved, together with any declarations, covenants, and restrictions, with the
49 district recorder's office.

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

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- 1 c. **Appeals**
2 All decisions of the platting officer under this section shall be final unless
3 appealed to the platting board within 15 days. An appeal under this subsection
4 shall be treated as an application for preliminary plat approval pursuant to section
5 21.03.200C.
- 6 5. **Requirements for Final Plat**
7 Requirements for final right-of-way acquisition plats shall be established by agreement
8 between the director and the government agency applying for plat approval, or, if there is
9 no such agreement, by the provisions of this title.
- 10 G. **Modification or Removal of Plat Notes**
- 11 1. **Purpose**
12 This section sets forth a process by which the platting board may modify or remove plat
13 notes from recorded plats.
- 14 2. **Initiation**
15 Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of
16 land encumbered by the plat note. If the applicable plat note encumbers more than one
17 lot, the owners of all encumbered lots shall be a party to the application.
- 18 3. **Application**
19 Applications for modifying or removing a plat note(s) shall contain the information
20 specified in the title 21 user's guide, and shall be submitted to the platting officer on a
21 form provided by the department.
- 22 4. **Public Notice**
23 Notice shall be provided in accordance with section 21.03.020H.
- 24 5. **Departmental Review**
25 The department shall review the proposed modification or removal of a plat note(s) in
26 light of the approval criteria of subsection G.9. below and distribute to other reviewers as
27 deemed necessary. Based on the results of those reviews, the department shall provide
28 a report to the platting board.
- 29 6. **Action by the Platting Board**
30 The platting board shall hold a public hearing on the proposed application and act to
31 approve, approve with alterations, or deny the proposed modification or removal of a plat
32 note(s), based on the approval criteria of subsection G.9. below.
- 33 7. **Recordation**
34 Once approved by the platting board, a plat with modified or deleted plat notes shall be
35 re-recorded in accordance with the procedures of the district recorder's office.
- 36 8. **Appeal**
37 Decisions on modifying or removing a plat note(s) may be appealed to the board of
38 adjustment in accordance with subsection 21.03.050A.
- 39 9. **Approval Criteria**
40 Plat note modifications or deletions may be approved if the platting board finds that all of
41 the following approval criteria have been met:
- 42 a. Conditions that required the plat note(s) on the original plat have changed and
43 the need for the plat note has been negated;
- 44 b. Modification or removal of the plat note(s) will not have a negative impact on
45 adjacent or nearby properties; and

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

21.03.210 TITLE 21 – TEXT AMENDMENTS

4 A. Purpose and Scope

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

10 B. Procedure

11 1. Initiation

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

14 2. Application Submittal

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

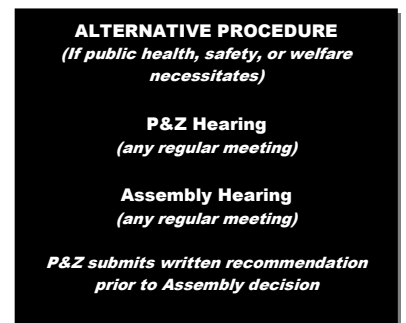
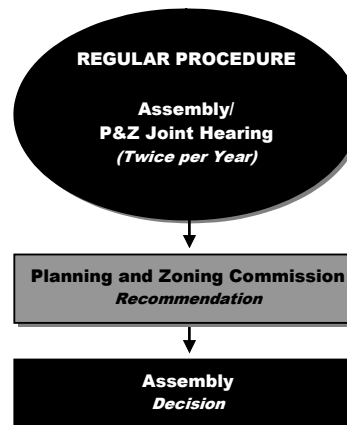
17 3. Departmental Review

18 The department shall review each proposed text amendment in light of the approval
19 criteria of subsection C. below
20 and distribute the application to
21 other reviewers as deemed
22 necessary. Based on the results of
23 those reviews, the department
24 shall provide a report to the
25 planning and zoning
26 commission. A positive
27 recommendation shall be
28 accompanied by a draft
29 ordinance reflecting the
30 recommendation.



31 4. Review by Other Boards or 32 Commissions

- 33 a. Any text amendments
34 proposed that amend
35 the powers and duties of
36 any board or
37 commission shall be
38 reviewed by that board
39 or commission, which
40 shall forward a
41 recommendation to the
42 assembly.



- 43 b. In addition, if any text
44 amendments are
45 proposed in chapter
46 21.08, *Subdivision*
47 *Standards*, the platting
48 board shall review such proposed amendments and forward a recommendation
49 to the planning and zoning commission and the assembly.

Amendments to Text of Title 21

EXHIBIT A

- 1 **5. Notice and Frequency of Amendments**
2 **a.** Notice shall be provided in accordance with section 21.03.020H.
- 3 **b.** Title 21 text amendments to be considered by the planning and zoning
4 commission shall be available for public review at least 21 days in advance of the
5 public hearing.
- 6 **c.** Starting on January 1, 2017, text amendments shall be considered no more than
7 two times per year. However, where the assembly determines by a majority vote
8 that the public health, safety, or welfare necessitates, text amendments may be
9 considered at any regularly scheduled meeting of the assembly, provided that the
10 assembly holds a public hearing on the proposed amendment and the planning
11 and zoning commission holds a public hearing and provides a written report and
12 recommendation on the proposed amendment prior to the assembly's decision.
- 13 **d.** If, during the first three years after January 1, 2014, the director determines that
14 a technical amendment to title 21 is needed to address conflicting provisions,
15 inconsistencies, or unintended consequences associated with the Title 21
16 Rewrite Project (2002-2012), the director may forward a corrective amendment to
17 the assembly, which may adopt the amendment without planning and zoning
18 commission review; provided, however, that the director shall notify the
19 commission at the time the proposed amendment is submitted to the assembly,
20 so that the commission can forward its opinion on the proposed change to the
21 assembly for consideration. All other amendments shall be processed through
22 the planning and zoning commission for review and recommendation to the
23 assembly.
- 24 **6. Planning and Zoning Commission Action**
25 **a.** As soon as possible after the public hearing, but no later than 60 days, the
26 planning and zoning commission shall make a recommendation to the assembly
27 to approve or deny the text amendment based on the approval criteria of
28 subsection C. below.
- 29 **b.** If the commission recommends approval of the amendment, the director shall
30 submit the draft ordinance to the assembly.
- 31 **c.** If no recommendation is made within 60 days, then the planning and zoning
32 commission may request an extension of time from the assembly. If no
33 recommendation is made and no extension is granted, then the assembly may
34 act on the proposed amendment without a recommendation from the planning
35 and zoning commission.
- 36 **7. Assembly Action**
37 After a public hearing and reviewing the reports and recommendations of the director and
38 the planning and zoning commission, the assembly shall vote to approve, approve with
39 amendments, or deny the proposed amendment, based on the approval criteria of
40 subsection C. below. The assembly also may refer the proposed amendment back to the
41 planning and zoning commission or to a committee of the assembly for further
42 consideration. Text amendments shall be approved in the form of ordinances.
- 43 **C. Approval Criteria**
44 Text amendments may be approved if the assembly finds that all of the following approval criteria
45 have been met:
- 46 **1.** The proposed amendment will promote the public health, safety, and general welfare;

EXHIBIT A

- 1 2. The proposed amendment is consistent with the comprehensive plan and the stated
2 purposes of this title; and
- 3 3. The proposed amendment is necessary or desirable because of changing conditions,
4 new planning concepts, or other social or economic conditions.

21.03.220 USE CLASSIFICATION REQUESTS

A. Purpose and Applicability

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

B. Procedures for Use Classification Request

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

1. Application Submittal and Action

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

2. Appeals

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

3. Form of Determination

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

C. Standards for Review

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

- 37 1. The primary activity of the establishment and its relationship to existing use categories
38 and use types. The primary activity may be the principal product or group of products
39 produced or distributed, or services rendered. It may be the share of production costs,
40 capital investment, revenue, shipments, or employment, if evaluating the relative
41 significance of multiple activities.
- 42 2. The volume and type of sales (retail or wholesale) on the premises, and the size and type
43 of items sold and nature of inventory on the premises.
- 44 3. Any processing done on the premises, including assembly, manufacturing, final
45 production, warehousing, shipping, and distribution.

EXHIBIT A

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

23 D. Effects of Findings by the Director

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

37 E. Official Record of Use Classification Determinations

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

41 **21.03.230 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS**

42 A. Authority

43 The platting authority shall consider the merits of each vacation request, and in all cases the
44 platting authority shall deem the area being vacated to be of value to the municipality unless

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1 proven otherwise. The burden of proof shall lie entirely with the petitioner. The presumption
2 contained herein does not apply to vacations of private easements where the beneficiaries have
3 provided written concurrence.

4 B. Application Submittal

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

7 C. Decision-Making Responsibilities for Vacations

8 1. The platting officer is the platting authority for applications to vacate the following platted
9 interests:

10 a. Drainage easements granted under section 21.08.050L.

11 b. Zero lot line maintenance easements.

12 c. Public utility easements.

13 d. Private easements, but only upon
14 the written concurrence of the
15 beneficiaries.

16 e. Relocation of any of the above-
17 described interests.

18 2. The platting board is the platting authority for
19 all other applications to vacate a dedicated
20 public area.

21 D. Action

22 The platting officer or platting board shall take action
23 on the vacation application within 60 days after the
24 submittal date. The reasons for the approval of the
25 vacation shall be stated upon the case record.

26 E. Approval Period

27 The approval of a vacation expires 24 months after
28 the date of approval unless, before its approval
29 expires, a conveyance of the vacated interest is
30 approved in accordance with law and a final plat
31 depicting the vacation is approved and filed in
32 accordance with this title. A street right-of-way or
33 easement whose vacation is finally approved under
34 this section is a right-of-way or easement without
35 substantial value to the municipality and is conveyed upon the filing of a final plat depicting the
36 vacation.

37 F. Appeals

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

41 G. Title to Vacated Area

42 1. The title to the street or other public right-of-way vacated on a plat attaches to the lot or
43 lands bordering on the area in equal proportions, except that, if the area was originally

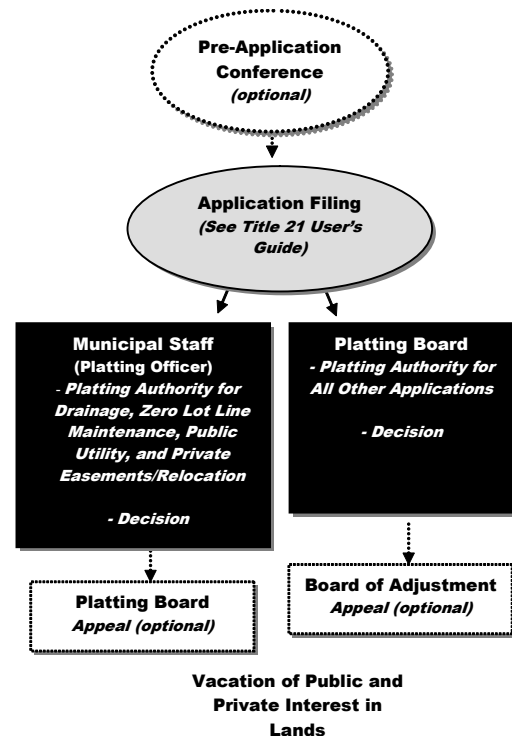


EXHIBIT A

1 dedicated by different persons, original boundary lines shall be adhered to so that the
2 street area which lies on one side of the boundary line shall attach to the abutting
3 property on that side, and the street area which lies on the other side of the boundary line
4 shall attach to the property on that side. The portion of a vacated street that lies within
5 the limits of a platted addition attaches to the lots of the platted addition bordering on the
6 area. If a public square is vacated, the title to it vests in the municipality.

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

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

21.03.240 VARIANCES

A. Purpose and Scope

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

B. Decision-Making Bodies **for [AUTHORIZED TO CONSIDER] Variance Requests**

27 1. The platting authority shall be authorized to review and **decide [CONSIDER]** all requests
28 for variances to standards of the following sections:

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

30 b. Section 21.07.060, *Transportation and[,] Connectivity[, AND PEDESTRIAN*
31 *FACILITIES]; [AND]*

32 c. Chapter 21.08, *Subdivision Standards*;

33 d. The following subsections of chapter 21.09, *Girdwood Land Use Regulations*:
34 21.09.070C., *Hazard Areas*, 21.09.070D., *Grading and Drainage*, 21.09.070F.,
35 *Transportation and Connectivity*, 21.09.070G.1., *Street and Trail Lighting*
36 *Standards*, 21.09.070H., *Pedestrian Circulation*, 21.09.070N., *Driveway*
37 *Standards*; and

38 e. Subsection 21.10.070B., *Transportation and Connectivity (Chugiak-Eagle River)*.

39 2. Requests for variances from the airport height **[ZONING]** regulations set forth in section
40 **21.06.030D.9.** **[21.04.060C.]** shall be referred to the Federal Aviation Administration.

41 3. The urban design commission shall be authorized to review and **decide [CONSIDER]** all
42 requests for variances to standards of the following sections:

43 a. District-specific standards of chapter 21.04, *Zoning Districts*, section 21.09.040,
44 *Zoning Districts (Girdwood)*, and section 21.10.040, *Zoning Districts (Chugiak-*
45 *Eagle River)*;

EXHIBIT A

- 1 b. Use-specific standards of chapter 21.05, *Use Regulations*, section 21.09.050,
2 *Use Regulations (Girdwood)*, and section 21.10.050, *Use Regulations (Chugiak-*
3 *Eagle River)*;
- 4 c. Chapter 21.07, *Development and Design Standards* (with the exception of
5 subsections 21.07.020C., *Steep Slope Development*, 21.07.050, *Utility*
6 *Distribution Facilities*, and 21.07.060, *Transportation and Connectivity*);
- 7 d. The following subsections of chapter 21.09, *Girdwood Land Use Regulations*:
8 21.09.070E., *Landscaping, Vegetation, and Tree Retention*, 21.09.070G.2.,
9 *Exterior Site Lighting*, 21.09.070I., *Fences and Walls*, 21.09.070K., *Snow*
10 *Management*, 21.09.070L., *Off-Street Parking Standards*, 21.09.070M., *Signage*,
11 21.09.070O., *Trash Management in Multifamily, Commercial, Industrial, and*
12 *Resort Districts*, and [21.09.040, *ZONING DISTRICTS*; 21.09.050, *USE*
13 *REGULATIONS*; 21.09.070, *SITE DEVELOPMENT AND DESIGN*
14 *STANDARDS*;] 21.09.080, *Building Design Standards*;
- 15 e. The following subsections of section 21.10.070, *Design and Development*
16 *Standards (Chugiak-Eagle River)*: 21.10.070C., *Landscaping, Screening, and*
17 *Fences*, 21.10.070D., *Off-Street Parking and Loading*, 21.10.070E., *Exterior*
18 *Lighting*, and 21.10.070F., *Large Establishments*; and
- 19 f. Chapter 21.11, *Signs*, including the maximum sign area, the maximum sign
20 height, the location of the sign, and the number of signs on the parcel. In
21 evaluation the request for a variance to the maximum sign height, the urban
22 design commission may consider whether there are special topographic
23 circumstances that would result in a material impairment of visibility of the sign
24 from the adjacent roadway which significantly diminishes the owner's or user's
25 ability to continue to communicate adequately and effectively with the public
26 through the use of the sign.
- 27 4. The zoning board of examiners and appeals shall be authorized to review and **decide**
28 [CONSIDER] variance requests from:
- 29 a. Subsection 21.05.040K., *Telecommunication Facilities*;
- 30 b. Chapter 21.06, *Dimensional Standards and Measurements* (with the exception of
31 subsubsection 21.06.030D.9., *Airport Height Regulations*);
- 32 c. Subsection 21.07.050, *Utility Distribution Facilities*; [AND]
- 33 d. Section 21.09.060, *Dimensional Standards (Girdwood)*;
- 34 e. Subsection 21.09.070J., *Utilities and Utility Equipment Standards (Girdwood)*;
35 and
- 36 f. Section 21.10.060, *Dimensional Standards (Chugiak-Eagle River)*.

EXHIBIT A

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

EXHIBIT A

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1. **Variances from the District-Specific Standards of Chapter 21.04, *Zoning Districts*, Section 21.09.040, *Zoning Districts (Girdwood)*, and Section 21.10.040, *Zoning Districts (Chugiak-Eagle River)*; the Use-Specific Standards of Chapter 21.05, *Use Regulations*, Section 21.09.050, *Use Regulations (Girdwood)*, and Section 21.10.050, *Use Regulations (Chugiak-Eagle River)*; Chapter 21.07, *Development And Design Standards (except for subsections 21.07.020C., Steep Slope Development; subsection 21.07.050, Utility Distribution Facilities; and subsection 21.07.060, Transportation and Connectivity)*; Subsections 21.09.070E., G.2., I, K, L, M, O, and 21.09.080 (Girdwood); Subsections 21.10.070C., D., E., and F. (Chugiak-Eagle River); [SECTION 21.09.040, SECTION 21.09.050, SECTION 21.09.070, SECTION 21.09.080,] and Chapter 21.11, *Signs***
 - a. The proposed alternative achieves the intent of the subject design standard to the same or better degree than the subject standard;
 - b. The proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;
 - c. The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard;
 - d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;
 - e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;
 - f. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation; and
 - g. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality.

 2. **Variances from Subsection 21.05.040K., *Telecommunication Facilities*; Chapter 21.06, *Dimensional Standards and Measurements*; Section 21.07.050, *Utility Distribution Facilities*; Section 21.09.060, *Dimensional Standards (Girdwood)*; Subsection 21.09.070J., *Utilities and Utility Equipment Standards (Girdwood)*; and Section 21.10.060, *Dimensional Standards (Chugiak-Eagle River)* [AND FROM SECTION 21.09.060 (GIRDWOOD)]**
 - a. There exist exceptional or extraordinary physical circumstances of the subject property including, but not limited to, streams, wetlands, or slope, and those circumstances are not applicable to other land in the same zoning district;
 - b. Because of these physical circumstances, the strict application of the code creates an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance;
 - c. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience;
 - d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;
 - e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;

EXHIBIT A

- 1 f. The variance, if granted, does not adversely affect the health, safety, and welfare
2 of the people of the municipality;
- 3 g. Persons with disabilities are provided with access as required by the Americans
4 with Disabilities Act (ADA) and reasonable accommodation; and
- 5 h. The variance granted is the minimum variance that will make possible a
6 reasonable use of the land.
- 7 3. Variances from **Subsection 21.07.020C., Steep Slope Development; Section**
8 **21.07.060, Transportation and Connectivity; Chapter 21.08, Subdivision Standards;**
9 **Subsections 21.09.070C., D., F., G.1., H., and N. (Girdwood); and Subsection**
10 **21.10.070B., Transportation and Connectivity (Chugiak-Eagle River)**
- 11 a. There are special circumstances or conditions affecting the property such that
12 the strict application of the provisions of the subdivision regulations would clearly
13 be impractical, unreasonable, or undesirable to the general public;
- 14 b. The granting of the specific variance will not be detrimental to the public welfare
15 or injurious to other property in the area in which such property is situated;
- 16 c. Such variance will not have the effect of nullifying the intent and purpose of the
17 subdivision regulations or the comprehensive plan of the municipality; and
- 18 d. Undue hardship would result from strict compliance with specific provisions or
19 requirements of the subdivision regulations. The applicant may supplement the
20 form with supporting documents.
- 21 4. Variances from Airport Height **[ZONING]** Regulations
22 The Federal Aviation Administration shall complete an airspace determination that
23 concludes that the proposed variance would not create a hazard.
- 24 H. Lapse of Approval
25 Any variance granted shall become null and void if:
- 26 1. The variance is not exercised within one year of the date it is granted or as otherwise
27 conditioned, or
- 28 2. Any building, structure, or characteristic of use permitted by variance is moved or altered
29 so as to enlarge the variance or discontinue it.
- 30 I. Appeals
- 31 1. An appeal from a decision of the platting **authority [BOARD]** or the urban design
32 commission shall be brought to the board of adjustment in accordance with sections
33 21.03.050A.
- 34 2. An appeal from a decision of **[THE PLANNING AND ZONING COMMISSION OR]** the
35 zoning board of examiners and appeals shall be brought in accordance with section
36 21.03.050D.
- 37 J. Administrative Variances
- 38 1. Process
- 39 a. **Application Submittal**
40 Applications for an administrative variance shall contain the information specified
41 in the title 21 user's guide, and shall be submitted to the director on a form
42 provided by the department.
- 43 b. **Notice**

EXHIBIT A

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

2 **c. Time For Approval**

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

8 **d. Appeals**

9 If the request for an administrative variance is denied, the applicant may apply for
10 a public hearing variance before the urban design commission under this section
11 21.03.240. Additionally, denial of requests for administrative variance from
12 occupancy limits for assisted living facilities may be appealed by any person with
13 standing to request reasonable accommodation under the Fair Housing Act, 42
14 U.S.C. § 3604(f).

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

16 **a. Intent**

17 The intent of this section is to provide a procedure to allow persons with
18 disabilities and assisted living providers to request reasonable accommodation
19 from the department when access to decent safe, accessible and affordable
20 housing with assisted living would not be available absent a reasonable
21 accommodation. This administrative variance procedure is available to address
22 application for minor variance in dimensional and setback requirements to
23 accommodate special needs of persons with disabilities and to address
24 application for variance in occupancy limits of no more than three persons.

25 **b. Standards**

26 In deciding to approve or deny an application, the department shall review the
27 application and written comments addressing factors relevant to the request for
28 reasonable accommodation, including but not limited to, the extent to which the
29 application demonstrates the following, as related to the particular request of the
30 applicant:

31 **i.** For administrative variance applications to increase occupancy limits in
32 R-1, R-1A, R-2A and R-2D districts, the extent to which the
33 accommodation and the assisted living provider seek to protect and
34 preserve the primarily residential character of the district. Factors may
35 include traffic patterns, on-street parking patterns, the control exercised
36 by the assisted living provider to mitigate environmental disturbance
37 associated with ingress and egress of facility staff workers at shift
38 change, and any other measures taken by the assisted living provider to
39 ensure the commercial aspects of the facility do not detract from its
40 residential purpose and the primarily residential character of the district.
41 An example of a commercial aspect is if residential trash containers were
42 standard in the neighborhood and the assisted living provider used one
43 or more dumpsters due to volume. An example of a mitigation measure
44 for this aspect the assisted living provider might take is to screen the
45 dumpster.

46 **ii.** For administrative variance applications to increase occupancy limits,
47 economic hardship on the intended occupants if the variance is denied.
48 Cost and availability of other housing alternatives may be addressed in
49 preparation and review of the application.

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- 1 iii. Whether the requested accommodation and the assisted living provider
2 are implementing accident prevention and safety measures specific to
3 the needs of the residents, including but not limited to safety measures in
4 state law and regulation, and in municipal fire code adopted under title
5 23.
- 6 iv. Whether the accommodation requested is advancing housing
7 opportunities for disabled individuals in a residential community without
8 jeopardizing residential aspects of the neighborhood with commercial
9 aspects of operation.
- 10 v. For administrative variance applications to increase occupancy limits,
11 whether the proposed size of the facility is necessary for the facility's
12 financial viability.
- 13 vi. External characteristics and impacts of the proposed facility, including
14 without limitation appearance, projected contribution to traffic volumes
15 and on-street parking within the neighborhood, available street lighting
16 and sidewalks.
- 17 vii. Quantifiable risks to the health, safety, and quality of life of area
18 residents and users.
- 19 viii. Administrative and economic burden on the municipality, in either
20 approval or denial of the variance.
- 21 ix. Other factors deemed relevant to the applicant or the department in
22 review of the application.
- 23 c. **Conditions**
24 In approving a variance, the department may impose reasonable conditions
25 designed to address the standards in subsection J.5. or mitigate impacts created
26 by the variance.
- 27 3. **For Signs**
28 The director may grant an administrative variance from the height restrictions and/or
29 setback requirements for freestanding signs, provided:
- 30 a. Special topographic circumstances exist that would result in a material
31 impairment of visibility of a conforming sign from the adjacent roadway;
- 32 b. There is no reasonable conforming alternative to the variance; **and**
- 33 c. Any setback variance does not result in an encroachment into a public right-of-
34 way. **]; AND**
- 35 d. **A FEE HAS BEEN RECEIVED.]**
- 36 4. **For Large Domestic Animal Facility**
37 Application for administrative approval of deviation in minimum lot size of 40,000 square
38 feet may be made to the department. The director may approve deviation of site area
39 square footage, not to exceed 10 percent, upon consultation with the department of
40 health and human services.
- 41 5. **For Refuse Receptacle Location and Screening**
42 a. The director shall seek and document comments from the applicable refuse
43 service providers.

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1 b. Approval criteria for this administrative variance is listed in subsection
2 21.07.080G.2.h.

21.03.250 VERIFICATION OF NONCONFORMING STATUS

A. Process

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

- 9 1. The application shall be accompanied by documentation that establishes the approximate
10 date that the lot, use, or structure was established; proof that the lot, use, or structure
11 was lawfully established at the time it became nonconforming; and proof that the use has
12 not been discontinued or abandoned, except as provided in subsection B. below. The
13 director shall require additional information if deemed necessary to permit an accurate
14 determination.
- 15 2. Such verifications shall run with the land, and their status shall not be affected by
16 changes of tenancy, ownership, or management.
- 17 3. A verification of nonconforming status shall not be required for continued daily operation
18 or maintenance of a nonconforming lot, use, or structure.

B. Exceptions

19 Notwithstanding subsection A. above:

- 21 1. Where the contention for nonconforming use is raised in a court in any action brought to
22 enforce this title before an application for determination has been filed under this section,
23 this section shall not be applicable and the court shall have jurisdiction to determine the
24 issue.
- 25 2. Nothing in this section shall be construed to deprive the director the right to make a
26 decision regarding a claimed nonconforming use or nonconforming status as incident to a
27 valid pending application for a land use permit.

C. Appeals

29 [DENIAL OF T]he director's decision on nonconforming status may be appealed to the zoning
30 board of examiners and appeals pursuant to subsection 21.03.050B.

EXHIBIT A

1 CHAPTER 21.04: ZONING DISTRICTS

2 **21.04.010 GENERAL PROVISIONS**

3 This chapter establishes the zoning districts and contains basic information pertaining to zoning districts,
 4 including statements of purpose and district-specific regulations. The following chapters 21.05 and 21.06
 5 set forth the uses allowed within the districts and the dimensional standards applying to development in
 6 the districts, respectively.

7 **A. Districts Established; Zoning Map**

8 **1. Purpose**

9 The municipality is divided into zoning districts in order to achieve the purposes of this
 10 title established in chapter 21.01, which include implementation of the comprehensive
 11 plan, and its land use plan map.

12 **2. Zoning Districts Established**

13 The following zoning districts are established:

**TABLE 21.04-1:
ZONING DISTRICTS ESTABLISHED**

District Type	Abbreviation	District Name
Residential Districts	R-1	Single-Family Residential
	R-1A	Single-Family Residential (larger lot)
	R-2A	Two-Family Residential (larger lot)
	R-2D	Two-Family Residential
	R-2M	Mixed Residential
	R-3	Mixed Residential
	R-4	Multifamily Residential
	R-4A	Multifamily Residential Mixed-Use
	R-5	Low-Density Residential
	R-6	Low-Density Residential (1 acre)
	R-7	Single-Family Residential (20K)
	R-8	Low-Density Residential (4 acres)
	R-9	Low-Density Residential (2 acres)
R-10	Low-Density Residential, Alpine/Slope	
Commercial Districts	B-1A	Local and Neighborhood Business
	B-1B	Community Business
	B-3	General Business
	DT-1	Downtown Core
	DT-2	Downtown Mixed-Use
	DT-3	Downtown Mixed-Use Residential
	RO	Residential Office
	MC	Marine Commercial
Industrial Districts	I-1	Light Industrial
	I-2	Heavy Industrial
	MI	Marine Industrial

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TABLE 21.04-1: ZONING DISTRICTS ESTABLISHED		
District Type	Abbreviation	District Name
Other Districts	A	Airport
	AF	Antenna Farm
	DR	Development Reserve
	PCD	Planned Community Development
	PLI	Public Lands and Institutions
	PR	Parks and Recreation
	TA	Turnagain Arm
	TR	Transition
	WS	Watershed
Overlay Zoning Districts	[AHO]	AIRPORT HEIGHT OVERLAY]
	CCO	Commercial Center Overlay
	[FHO]	FLOOD HAZARD OVERLAY]
Girdwood Districts	Girdwood districts are set forth in chapter 21.09, <i>Girdwood</i> .	
Chugiak-Eagle River Districts	Chugiak-Eagle River districts are set forth in chapter 21.10, <i>Chugiak-Eagle River</i> .	

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3. Zoning Map

The zoning districts are shown on the official zoning map (see section 21.01.050). Procedures for amending the zoning map are in section 21.03.160, *Rezoning (Zoning Map Amendments)*.

B. Relationship to Overlay Districts

All lands within the municipality shall be designated as one of the base zoning districts set forth in sections 21.04.020 through 21.04.060. In addition, some lands may be designated as one or more of the overlay districts set forth in section 21.04.070. Where the property is designated as an overlay district as well as a base zoning district, the regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base district. In the event of an express conflict between the two sets of standards, the standards for the overlay district shall control.

21.04.020 RESIDENTIAL DISTRICTS

A. General Purpose/Intent

The residential zoning districts established in this section generally are intended to:

1. Provide appropriately located areas for residential development that are consistent with the comprehensive plan and with standards established by this code;
2. Designate areas for residential living that offer a broad range of lot sizes, dwelling types, densities, and housing choices, and that offer a range of living environments;
3. Conserve residential lands for housing by limiting conversion of the residential land base to non-residential uses;

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- 1 4. Allow for a variety of housing types that meet the diverse economic and social needs of
2 residents;
- 3 5. Where appropriate protect the scale and character and unique appeal of existing
4 residential neighborhoods and of community areas generally;
- 5 6. Promote new development that is compatible with surrounding development, and protect
6 residential property from excessive noise, glare, and light pollution; traffic congestion; and
7 other significant adverse effects of incompatible uses;
- 8 7. Protect residential areas from commercial and industrial hazards such as fires,
9 explosions, and toxic fumes and substances;
- 10 8. Where appropriate, minimize the location of residences in high natural hazard areas, and
11 mitigate the risk in those areas where development may be allowed;
- 12 9. Allow for appropriate public and institutional services and facilities, such as schools,
13 parks and recreation uses, religious assembly, utility substations, and
14 telecommunications and transportation infrastructure, while maintaining the residential
15 character of the district; and
- 16 10. Designate areas for residential living that support neighborhood identity and economic
17 vitality and thus give predictability to residential settings and encourage investments and
18 enhancements.

19 **B. R-1: Single-Family Residential District**

- 20 1. **Purpose**
21 The R-1 district is intended primarily for detached single-family residential areas with
22 gross densities up to five dwelling units per acre. These areas generally are intended to
23 have well-developed infrastructure, and municipal services generally are intended to be
24 provided.

25 **C. R-1A: Single-Family Residential District (larger lot)**

- 26 1. **Purpose**
27 The R-1A district is intended primarily for detached single-family residential areas with
28 gross densities up to four dwelling units per acre. The minimum lot size is slightly larger
29 than the R-1 district. These areas generally are intended to have well-developed
30 infrastructure, and municipal services generally are intended to be provided.

31 **D. R-2A: Two-Family Residential District (larger lot)**

- 32 1. **Purpose**
33 The R-2A district is intended primarily for single- and two-family residential areas with
34 gross densities between five and seven dwelling units per acre. The minimum lot size is
35 slightly larger than the R-2D district. These areas generally are intended to have well-
36 developed infrastructure, and municipal services generally are intended to be provided.

37 **E. R-2D: Two-Family Residential District**

- 38 1. **Purpose**
39 The R-2D district is intended primarily for single- and two-family residential areas with
40 gross densities between five and eight dwelling units per acre. These areas generally
41 are intended to have well-developed infrastructure, and municipal services generally are
42 intended to be provided.

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- 1 **F. R-2M: Mixed Residential District**
- 2 **1. Purpose**
- 3 The R-2M district is intended primarily for residential areas that allow for a variety of
4 single-family, two-family, and multifamily dwellings, with gross densities between five and
5 15 dwelling units per acre. The R-2M district provides residential neighborhoods with a
6 greater diversity of housing by allowing a mix of both detached and a variety of attached
7 dwelling types in close proximity to each other, rather than separated into different zoning
8 districts. The R-2M district is to be located in established or redeveloping residential
9 neighborhoods or is to create a transition between single-family, two-family, and higher
10 density multifamily and mixed-use areas. The design of new development, such as
11 building scale and setbacks, parking facility size and location, and yard landscaping,
12 should be complementary to the existing neighborhood and mix of dwelling types.
- 13 **2. District-Specific Standards**
- 14 **a.** Multifamily buildings shall contain no more than eight dwelling units.
- 15 **b.** On lots where more than one principal structure is allowed (see table 21.06-1),
16 the development of more than one principal structure on a lot requires an
17 administrative site plan review.
- 18 **c.** Multifamily buildings with four or fewer units may comply with the single-family
19 primary entrance requirements of 21.07.110E.3. in lieu of meeting the multifamily
20 primary entrance treatment requirements of 21.07.110C.8.
- 21 **G. R-3: Mixed Residential District**
- 22 **1. Purpose**
- 23 The R-3 district is a multifamily residential district with gross densities between 15 and 40
24 dwelling units per acre, provided, however, that housing allowed in the R-1, R-1A, R-2A,
25 and R-2D are a permitted use. It is intended primarily for multifamily and townhouse
26 dwellings characterized by low-rise multistory buildings. It allows a higher percentage of
27 lot coverage than the R-2M zone, while also maintaining the residential living
28 environment with landscaping, private/common open spaces, and other amenities for
29 residents. This district provides greater housing opportunities and efficient use of
30 residential land near commercial, community activity centers, town centers, and areas
31 well served by transit.
- 32 **H. R-4: Multifamily Residential District**
- 33 **1. Purpose**
- 34 The R-4 district is a multifamily medium to high density residential district. It is intended
35 primarily for multifamily and multi-story residential buildings, but also allows single-family,
36 duplex, and townhouse residential development. For multi-story buildings, the maximum
37 size of buildings and intensity of use is regulated by floor area ratio (FAR) and other site
38 development standards. Multi-story development is intended to be applied in areas well
39 served by transit and/or arterial streets, and by supportive commercial services near the
40 major commercial and employment centers in downtown and midtown. Although some
41 commercial development is allowed within a residential development, the district is
42 intended to be primarily residential. For multi-story buildings, development is intended to
43 be oriented to the sidewalk with windows, entrances, and walkways to provide strong
44 pedestrian connections to nearby services.
- 45 **2. District-Specific Standards**
- 46 **a. *Allowed Commercial Uses***
- 47 The commercial uses listed below are allowed through the approval process
48 shown in table 21.05-1, shall only be developed in conjunction with multifamily or
49 mixed use dwellings, and are limited to five percent of the gross floor area of the
50 development on a site, or 1,500 square feet, whichever is less.

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- 1 i. Fitness and recreational sports center;
- 2 ii. Restaurant;
- 3 iii. Convenience store;
- 4 iv. Grocery or food store.
- 5 **b. *Alcohol Sales Prohibited***
6 Special land use permits for alcohol shall not be authorized for uses in the R-4
7 district.
- 8 **c. *Floor Area Ratio (FAR)***
9 The maximum floor area ratio (FAR) in the R-4 district is 1.0, but may be
10 increased through the bonus provisions in subsection 21.04.020I.2.c. below.
- 11 **d. *Building Height Increase***
12 Buildings in the R-4 district may exceed the maximum height established in table
13 21.06-1, up to a maximum total height of 60 feet (or slightly more—see
14 subsection d.iv. below), subject to all of the following requirements to encourage
15 the provision of light and air at the ground level, and active uses on the ground
16 floor facing the street:
- 17 i. The development shall participate in the FAR incentives provided in
18 subsection 21.04.020I.2.c. below;
- 19 ii. The ground floor of the building shall be residential or other permitted
20 non-parking use, for at least 25 feet of depth facing the street for the full
21 length of the street facing building elevation, except for vehicle entrances
22 and exits. Where the site has two or more frontages, the standard shall
23 be met on two frontages;
- 24 iii. The height increase shall adhere to the height transitions provisions of
25 subsection 21.06.030D.8.; and
- 26 iv. A pitched roof form may extend above the 60-foot height limit, provided
27 that all parts of the roof (including any dormer features) above the height
28 limit have a slope of at least 1:2, it is not a shed or butterfly roof, and the
29 finished ceiling of the highest habitable floor area does not exceed 60
30 feet in height; and
- 31 v. Development requesting the height increase shall be subject to
32 administrative site plan review, unless a higher level of review is already
33 required.

34 **I. R-4A: Multifamily Residential Mixed-Use District**

35 **1. Purpose**

36 The R-4A district is a primarily residential district intended for high-density multifamily
37 dwellings, with gross densities intended to be greater than 35 dwelling units per acre.
38 Commercial retail, services, and office uses are also allowed in combination with housing
39 to create a truly mixed-use neighborhood environment, although a majority of the gross
40 floor area of the development shall be a residential use. This district is to be applied in
41 areas near downtown and midtown, in order to provide housing densities which support
42 these city centers, efficient use of residential land, and residential living opportunities
43 near employment and services. By providing the flexibility for integrated mixed-use site
44 development, the R-4A district facilitates reinvestment and revitalization within areas in
45 transition. New mixed-use development should facilitate strong pedestrian and bicycle
46 connections with nearby neighborhoods and city centers.

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1 **2. District-Specific Standards**

2 **a. *Mixed-Use Development Standards***

3 Development in the R-4A district shall comply with the mixed-use development
4 standards in subsection 21.04.030G.6. and G.7. regarding enhanced sidewalk
5 option and building placement and orientation.

6 **b. *Maintaining Residential Character***

7 Development shall be primarily residential. The following standards and
8 exceptions apply:

9 i. Non-residential uses allowed in the R-4A district shall be mixed with
10 residential according to the provisions that follow. (The uses “park,
11 public or private,” “community garden,” “utility substation,”
12 telecommunications towers, “parking lot, principal use,” and “parking
13 structure, principal use” are exempt from the mixed-use requirement.)

14 **(A)** If residential uses occupy at least 90 percent of the gross floor
15 area depicted on a site plan, no review beyond that required by
16 table 21.05-1 is required.

17 **(B)** A major site plan review is required for non-residential uses
18 proposed to occupy greater than 10 and less than or equal to 20
19 percent of the gross floor area of the development as depicted
20 on a site plan.

21 **(C)** A conditional use permit is required for non-residential uses
22 proposed to occupy greater than 20 and less than or equal to 49
23 percent of the gross floor area of the development as depicted
24 on a site plan.

25 **(D)** Major site plan reviews or conditional use reviews under b.i.(B).
26 and b.i.(C). shall meet the following criteria. This shall be in
27 addition to the general site plan approval criteria (21.03.180F.)
28 and conditional use approval criteria (21.03.080D.).

29 **(1)** The development shall result in a net increase in
30 dwelling units over pre-development density, or shall be
31 at least 20 dwelling units per acre, whichever is greater.
32 The total gross floor area of household living uses shall
33 be equal to or greater than any prior residential
34 development.

35 **(2)** Stipulations may be imposed relating to building design,
36 traffic, privacy, floor area restrictions, restrictions against
37 commercial above the ground floor, and other conditions
38 necessary to maintain a residential character and
39 compatibility with adjacent residential districts.

40 ii. The non-residential portion of the development shall not be given a
41 certificate of zoning compliance or a conditional certificate of zoning
42 compliance until all of the residential portion of the development is given
43 a certificate of zoning compliance.

44 iii. Ground floor building facades facing and within 100 feet of public streets,
45 primary circulation drives, or primary pedestrian walkways shall meet the
46 following window standards on those facades:

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- 1 (A) Non-residential uses: At least 50 percent of the length and 25
2 percent of the area of ground-level walls shall be windows
3 providing visual access to the interior of the building.
- 4 (B) Residential uses: At least 25 percent of the length and 12
5 percent of the area of ground-level walls shall be windows.
- 6 (C) All uses: Blank walls shall not exceed 30 feet in length.
- 7 iv. All commercial uses shall be conducted entirely within a completely
8 enclosed building except for parking and loading facilities and outdoor
9 restaurant seating. Outdoor storage of goods accessory to a commercial
10 use is prohibited.
- 11 c. **Floor Area Ratio (FAR) Incentives for the R-4 and R-4A Districts**
12 The maximum floor area ratio (FAR) within the R-4 and R-4A districts is 1.0 FAR,
13 but may be increased up to a maximum total FAR of 2.0 in the R-4 district and
14 3.0 in the R-4A district through the following bonus provisions, subject to section
15 21.06.030E. These incentives provide for an incremental increase in the floor
16 area of a development in exchange for incremental increases in any of the
17 following special features deemed of benefit to the community. Increases in the
18 FAR may be achieved through the use of one or more of the following:
- 19 i. **Bonus for Open Space**
20 One square foot of additional floor area is allowed per square foot of
21 additional open space area. This space shall meet the standards of
22 21.07.030D. and be in addition to any open space required by section
23 21.07.030. The floor area bonus increases to two square feet for open
24 space that meets the standards for high quality spaces in 21.07.030D.6.
- 25 ii. **Bonus for Below Grade Parking**
26 Two square feet of additional floor area is allowed per gross square foot
27 of covered below grade parking floor area, up to a maximum increase of
28 1.0 FAR. The floor area bonus increases to three square feet on the
29 second parking level below grade.
- 30 iii. **Bonus for Affordable Housing**
31 Three square feet of additional floor area is allowed per square foot of
32 affordable housing unit floor area, up to a maximum increase of 0.5 FAR.
33 The affordable housing units shall be consistent with the standards of
34 21.07.110H., *Affordable Housing*.
- 35 iv. **Bonus for Sidewalk/Walkway Widening**
36 One square foot of additional floor area is allowed per square foot of
37 area provided as part of a primary pedestrian walkway that meets the
38 requirements of 21.07.060F.4.
- 39 v. **Bonus for Upper Level Setbacks/Step Backs for Sunlight Access**
40 A floor area bonus is allowed equal to one-third of the sum of step back
41 areas on each upper floor where the step back is at least 16 feet from
42 the face of the building at the floor immediately below, such that the
43 floor's existence does not increase the amount of shadowing on
44 surrounding residences, private open spaces, sidewalks, schools, or
45 parks on March/September 21, from 9:00 a.m. to 3:00 p.m. solar time.
- 46 vi. **Bonus for Ambient Daylight for Residences**
47 A floor area bonus equal to 10 percent of the lot area (0.10 FAR) but not
48 to exceed 4,000 square feet is allowed for preservation of daylight for all

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- 1 dwellings in the development and facing the development, using the
2 standards of 21.07.110C.9.g. To receive credit, the building shall not
3 exceed a daylight plane rising up over the building at an angle of five feet
4 of run for every three feet of rise, and starting from a height of five feet
5 above finished grade at the foundation of surrounding residential
6 buildings.
- 7 **vii. Bonus for Pedestrian-Interactive Use**
8 Three square feet of additional floor area is allowed per each square foot
9 of ground-floor space which is to be occupied by a pedestrian-interactive
10 use that meets the standards of 21.07.060F.16.
- 11 **d. Reduced Parking Ratios**
12 Development in the R-4A district shall be eligible for a reduction of the minimum
13 number of parking spaces, as provided in 21.07.090F.6.
- 14 **e. Building Height Increase**
15 Buildings in the R-4A district may exceed the maximum height established in
16 table 21.06-1, up to a maximum total height of 90 feet, subject to all of the
17 following conditions. These conditions encourage slender towers with
18 condensed floor plates, light and air at the pedestrian level, and active uses on
19 the ground floor facing the street:
- 20 **i.** The development shall participate in the FAR incentives provided for the
21 R-4A district in subsection 21.04.020I.2.c. above;
- 22 **ii.** The ground floor of the building shall be residential or other permitted
23 non-parking use for at least 25 feet of depth facing the street for the full
24 length of the building, except for vehicle entrances and exits. Where the
25 site has two or more frontages, the standard shall be met on two
26 frontages;
- 27 **iii.** All floor area provided by the height increase shall be for residential
28 uses;
- 29 **iv.** The height increase shall adhere to the height transitions of subsection
30 21.06.030D.8.;
- 31 **v.** The height increase shall adhere to the applicable design standards for
32 tall buildings in subsection 21.07.120C.; and
- 33 **vi.** Unless a major site plan review or a conditional use is required by other
34 parts of this section, all developments requesting the height increase
35 shall be subject to administrative site plan review.
- 36 **3. District Location Requirement**
37 It is essential that this district be limited in extent to particular strategic locations. The
38 subject property shall be:
- 39 **a.** In an area designated in the comprehensive plan for residential city center
40 intensity or redevelopment/mixed-use, or similar designation in a neighborhood
41 or district plan; and
- 42 **b.** Adjacent to or within a designated major employment center or major city center,
43 or on a designated transit supportive development corridor or transit route with
44 15-minute bus service headways; and

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- 1 c. Concentrated as a node near the intersection of an arterial street and another
2 street of collector classification or greater, in a compact form limited in extent to
3 no more than a quarter mile between any two points on the district boundary,
4 unless specifically designated otherwise in an adopted neighborhood or district
5 plan.
- 6 **J. R-5: Low Density Residential District**
- 7 **1. Purpose**
8 The R-5 district is intended primarily for single- and two-family residential areas with
9 gross densities up to five dwelling units per acre. Mobile homes on individual lots are
10 allowed in this district.
- 11 **K. R-6: Low-Density Residential (1 acre) District**
- 12 **1. Purpose**
13 The R-6 district is intended primarily for single- and two-family large-lot residential areas,
14 with gross densities of up to one dwelling unit per acre. The R-6 is designed to
15 encourage low-density residential development. This district is intended to protect and
16 enhance those physical and environmental features that add to the desirability of large-lot
17 residential living. The availability of infrastructure and municipal services is varied.
- 18 **L. R-7: Single-Family Residential (20K) District**
- 19 **1. Purpose**
20 The R-7 district is intended primarily for single- and two-family residential areas with
21 gross densities between one and two dwelling units per acre. This district may also be
22 applied to areas between larger lot districts and higher density districts.
- 23 **M. R-8: Low-Density Residential (4 acres) District**
- 24 **1. Purpose**
25 The R-8 district is intended primarily for single- and two-family large-lot residential areas
26 with gross densities less than one dwelling unit per four acres, where topographic or
27 other natural conditions are such that higher-density development would be unfeasible.
28 In addition to topography, some of the natural conditions which could exist to render land
29 desirable for the densities proposed in this zone are wind hazards, marginal soils,
30 landslide susceptibility, potential for groundwater pollution, and groundwater availability.
- 31 **N. R-9: Low-Density Residential (2 acres) District**
- 32 **1. Purpose**
33 The R-9 district is intended primarily for single- and two-family large lot residential areas
34 with gross densities less than one dwelling unit per two acres, where public sewer and
35 water are unlikely to be provided or where topographic or other natural conditions are
36 such that higher-density development would be unfeasible. Where public facilities may
37 be provided in the distant future, the regulations are intended to ensure that development
38 during the interim period does not exceed geological and hydrological capacities for safe
39 and healthful maintenance of human habitation.
- 40 **O. R-10: Low-Density Residential, Alpine/Slope District**
- 41 **1. Purpose**
42 The R-10 district is intended for use in those areas where natural physical features and
43 environmental factors such as slopes, alpine and forest vegetation, soils, slope stability,
44 and geologic hazards require unique and creative design for development. Creative site
45 design and site engineering are essential to ensure that the development of these lands
46 will:

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- 1 a. Protect natural features such as ponds, streams, wetlands, and springs, and
- 2 incorporate such features into the development of the site design;
- 3 b. Ensure the use of site design techniques that take into consideration topographic
- 4 constraints and other physical features;
- 5 c. Avoid natural hazards including snow avalanche and mass wasting areas;
- 6 d. Retain the natural flow and storage capacity of any watercourse and wetland, to
- 7 minimize the possibility of flooding or alteration of water boundaries;
- 8 e. Assure that soil and subsoil conditions are suitable for excavations, site
- 9 preparation, and on-site waste water disposal;
- 10 f. Provide adequate site drainage to avoid erosion and to control the surface runoff
- 11 in compliance with the federal clean water act;
- 12 g. Assure an adequate supply of potable water for the site development; and
- 13 h. Minimize the grading operations, including cut and fill, consistent with the
- 14 retention of the natural character of the site.

15 **2. District-Specific Standards**

16 a. ***Lot and Site Requirements***

17 Table 21.04-2 provides the lot and site requirements for the R-10 district. This

18 table applies in addition to the dimensional standards stated in table 21.06-1.

TABLE 21.04-2: LOT AND SITE REQUIREMENTS FOR R-10 DISTRICT				
Average Slope of Lot (percent)	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Maximum Lot Coverage of All Buildings (percent)	Coverage Impervious Surfaces (percent)
More than 30.00	7.50	300	3	8
25.01--30.00	5.00	300	5	10
20.01--25.00	2.50	180	8	14
20.00 or less	1.25	100	10	20
Average slope is calculated by the following formula:				
$S = \frac{I * L}{A} * 0.0023$				
Where;				
S = Average slope of lot or tract in percent				
I = Contour interval (20 feet or less)				
L = Sum of length of all contours on lot or tract in feet				
A = Area of the lot or tract in acres				

19 b. ***Bedrock***

20 When one-third or more of required soils borings reveal bedrock at a depth of

21 less than 16 feet on the lot or tract, lot and site requirements shall be determined

22 as if the average slope were in the next steeper percentage range shown on the

23 table in this subsection. Any required soil boring that does not extend to a depth

24 of at least 16 feet shall be deemed for the purposes of this subsection to have

25 encountered bedrock.

26

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21.04.030 COMMERCIAL DISTRICTS

A. General Purpose/Intent of Commercial Districts

The commercial and office zoning districts established in this section generally are intended to:

1. Provide appropriately located areas consistent with the comprehensive plan that provide a full range of retail and service establishments and convenience and office uses needed by the municipality, and protect such uses from the adverse effects of incompatible uses;
2. Provide adequate area to meet the needs of future commercial development;
3. Encourage the redevelopment, conversion, and reuse of underused commercial areas, and discourage further geographic expansion of commercial areas not designated in the comprehensive plan;
4. Minimize vehicle miles traveled and promote alternative transportation choices through the concentration of commercial areas as designated in the comprehensive plan;
5. Promote the location of higher intensity commercial uses and traffic into those areas of the municipality that are best developed for traffic and access;
6. Strengthen the municipality's economic base and provide employment opportunities;
7. Provide for commercial land uses that meet the needs of and attract regional and statewide populations, in addition to local residents;
8. Allow and encourage residential development in conjunction with commercial development in order to provide more housing choices and more efficient use of land;
9. Minimize land use impacts of commercial development on adjacent residential districts;
10. Protect stream corridors, wetlands, and other important natural resources from the adverse impacts of commercial development; and
11. Provide sites for public and semi-public uses such as utilities and telecommunications infrastructure needed to complement commercial development.

B. B-1A: Local and Neighborhood Business District

1. Purpose

The B-1A district is intended for small, compact commercial sites or areas within or surrounded by residential areas. The district is applied to encourage the provision of small-scale retail, office, and service uses compatible in scale and character with adjacent residential uses, and providing services to the surrounding neighborhood. B-1A centers are between one-half and two acres in size. Continuous retail frontages, largely uninterrupted by driveways and parking, are encouraged. Uses are to be limited in intensity to promote their local orientation, promote pedestrian access, reduce vehicle trips, and limit adverse impacts on the surrounding area. Upper story residential uses are also allowed.

2. District-Specific Standards

a. Prohibitions

- i. Drive-throughs are allowed only on those lots with frontage on and access to an arterial street.
- ii. Outdoor storage is prohibited in the B-1A district.

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- 1 iii. Nonresidential development that does not have access from a street of
2 collector class or greater on the *Official Streets and Highways Plan* shall
3 not be open to the public between 10:00 p.m. and 7:00 a.m.
- 4 b. **Gross Floor Area Limitations**
- 5 i. The gross floor area of each allowed non-residential use is limited to
6 5,000 square feet per use, without any review beyond that required by
7 table 21.05-1.
- 8 ii. Gross floor area of allowed non-residential uses between 5,001 and
9 10,000 square feet may be requested through a major site plan review.
- 10 iii. Notwithstanding c.i. and c.ii., the maximum gross floor area of grocery or
11 food stores is 20,000 square feet without any review beyond that
12 required by table 21.05-1, provided that the overall site has a floor area
13 ratio of at least 0.35.
- 14 c. **Mixed-Use Development**
- 15 Mixed-use development in this district shall comply with the standards of
16 subsection G. below.
- 17 3. **District Location Requirements**
- 18 In addition to the general rezoning criteria, the following requirements shall apply in the
19 creation or expansion of the B-1A district:
- 20 a. The minimum contiguous area for a B-1A district shall be 11,500 square feet.
- 21 b. The maximum contiguous area for a B-1A district shall be 2.0 acres.
- 22 c. The subject property shall be in an established neighborhood commercial area or
23 an area designated in the comprehensive plan for neighborhood-scale
24 commercial.
- 25 C. **B-1B: Community Business District**
- 26 1. **Purpose**
- 27 The B-1B district is intended for consumer-oriented business uses which serve the needs
28 of the surrounding community. The district is intended for small, compact sites at or near
29 the intersection of streets designated for collector (industrial-commercial), arterial, or
30 greater capacity on the *Official Streets and Highways Plan*.
- 31 2. **District-Specific Standards**
- 32 a. **Prohibitions**
- 33 i. Drive-throughs are allowed only on those lots with frontage on and
34 access to an arterial street.
- 35 ii. Outdoor storage is prohibited in the B-1B district.
- 36 iii. Nonresidential development that does not have access from a street of
37 collector class or greater on the *Official Streets and Highways Plan* shall
38 not be open to the public between 10:00 p.m. and 7:00 a.m.
- 39 b. **Gross Floor Area Limitations**
- 40 i. The gross floor area of each allowed nonresidential use is limited to
41 10,000 square feet per use, without any review beyond that required by
42 table 21.05-1.

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- 1 ii. Gross floor area of allowed nonresidential uses between 5,001 and
2 20,000 square feet may be requested through an administrative site plan
3 review.
- 4 iii. Notwithstanding b.i. and b.ii., the maximum gross floor area of grocery or
5 food stores is 40,000 square feet without any review beyond that
6 required by table 21.05-1.
- 7 c. ***Mixed-Use Development***
8 Mixed-use development in this district shall comply with the standards of
9 subsection G. below.
- 10 d. ***Nursing Facilities***
11 Nursing facilities with up to 16 residents are a permitted use in the B-1B district.
12 Nursing facilities with more than 16 residents are allowed by conditional use
13 approval in the B-1B district.
- 14 3. **District Location Requirements**
15 In addition to the general rezoning criteria, the following requirements shall apply in the
16 creation or expansion of the B-1B district:
- 17 a. The minimum contiguous area for a B-1B district shall be two acres.
- 18 b. The maximum contiguous area for a B-1B district shall be 20 acres.
- 19 D. **B-3: General Business District**
- 20 1. **Purpose**
21 The B-3 district is intended primarily for general commercial uses in commercial centers
22 and areas exposed to heavy traffic. These commercial uses are intended to be located
23 on arterials, or within commercial centers of town, and to be provided with adequate
24 public services and facilities. They are subject to the public view and should provide an
25 attractive appearance with landscaping, sufficient parking, and controlled traffic
26 movement. Environmental impacts should be minimized. Abutting residential areas
27 should be protected from potentially negative impacts associated with commercial
28 activity. While B-3 district areas shall continue to meet the need for auto-related and
29 other auto-oriented uses, it is the municipality's intent that the B-3 district also shall
30 provide for safe and convenient personal mobility in other forms. Planning and design
31 shall accommodate pedestrians and bicyclists. In addition to a wide range of commercial
32 office, retail and commercial services, other use categories such as residential and
33 community uses, and mixed-use projects, are allowed.
- 34 2. **District-Specific Standards**
- 35 a. ***Residential in B-3***
36 Residential household living uses in the B-3 district shall be subject to the R-4
37 related FAR provisions in subsection 21.04.020I.2.c. The building height
38 increase of subsection 21.04.020H.2.d. is available to residential household living
39 uses in the B-3 district.
- 40 b. ***Height Increase Permitted***
41 Buildings in the B-3 district may exceed the maximum height established for
42 areas outside of Midtown in table 21.06-2, up to a maximum height of 60 feet,
43 subject to the following:
- 44 i. The development shall be within an area designated by the
45 comprehensive plan as a commercial center or other type of urban
46 center above the neighborhood scale.

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- 1 c. **Residential in RO**
2 Residential household living uses in the RO district shall be subject to the R-4
3 related FAR provisions in subsection 21.04.020I.2.c. The building height
4 increase of subsection 21.04.020H.2.d. is available to residential household living
5 uses in the RO district.
- 6 d. **Conditional Building Height Increase**
7 Buildings with nonresidential or group living uses in the RO district may exceed
8 the maximum height established in table 21.06-2, up to a maximum total height
9 of 65 feet, subject to a conditional use review and the following additional
10 approval criteria:
- 11 i. The property is located in a major employment center designated in the
12 comprehensive plan for Downtown, Midtown, or the U-Med District;
- 13 ii. The proposed building height, massing, and intensity of use is consistent
14 with the neighborhood- or district-specific comprehensive plan element
15 applicable to the area;
- 16 iii. The property is not adjacent to any residential district other than the R-4
17 or R-4A districts; and
- 18 iv. The property is not adjacent to any property designated for medium
19 density or lower density residential uses in the comprehensive plan.
- 20 3. **District Location Requirements**
21 In addition to the general rezoning approval criteria, the following requirements shall
22 apply to the creation or expansion of the RO district:
- 23 a. New RO zones shall be located in areas intended principally for low-intensity
24 office uses, or in locations where the development buffers residential
25 neighborhoods from heavy volumes of traffic or more intense commercial retail
26 activity.
- 27 b. Where a new or enlarged RO district is adjacent to existing residentially zoned
28 areas, adequate area shall be provided for buffering or other site design
29 requirements necessary to achieve compatibility.
- 30 c. The RO district shall not be located in or expand into areas that are designated
31 residential in the comprehensive plan.
- 32 F. **MC: Marine Commercial District**
- 33 1. **Purpose**
34 The MC district is intended primarily for commercial water-dependent uses and is located
35 as designated in the comprehensive plan. Water-related uses may be allowed as
36 conditional uses. Emphasis is on development flexibility of water-dependent and water-
37 related commercial uses and on public access to the waterfront and Ship Creek.
- 38 2. **District-Specific Standards**
39 Applicants for allowed uses as listed in table 21.05-1 shall demonstrate, to the
40 satisfaction of the director, that they are water-dependent and/or water-related, before
41 applying for any required permits or entitlements.
- 42 G. **Standards for Mixed-Use Development in the B-1A and B-1B Districts**
- 43 1. **Applicability**
44 This section applies to developments that create a mix of residential with commercial or
45 public/institutional primary uses in the B-1A and B-1B districts.

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- 1 **2. Maximum Residential Use**
2 An administrative site plan review is required if residential uses occupy greater than 50
3 percent of the gross floor area of the development as depicted on a site plan. In no event
4 shall the residential use occupy more than 65 percent in the B-1A district.
- 5 **3. Floor Area Ratio (FAR) Incentives**
6 Floor area ratio (FAR) incentives are offered to encourage residential development and
7 other features of benefit to the public in mixed-use development. Mixed-use
8 developments may have a floor area ratio of up to 0.5 in the B-1A and B-1B districts and
9 up to 1.0 in the B-3 district by-right. This may be increased by up to two times through the
10 following provisions, subject to section 21.06.030C. These incentives provide for an
11 incremental increase in the floor area of a development in exchange for increases in one
12 or more of the following special features:
- 13 **a. Bonus for Housing**
14 Two square feet of additional floor area is allowed per gross square foot of
15 housing unit floor area, up to a maximum increase of 0.5 far.
- 16 **b. Bonus for Open Space**
17 One square foot of additional floor area is allowed per square foot of additional
18 open space. This space shall meet the standards of subsection 21.07.030D. and
19 be in addition to any open space required by section 21.07.030. The floor area
20 bonus increases to two square feet for open space that meets the standards for
21 high quality spaces in subsection 21.07.030D.6.
- 22 **c. Bonus for Below Grade Parking**
23 Two square feet of additional floor area is allowed per gross square foot of below
24 grade parking floor area, up to a maximum increase of 0.5 FAR. The floor area
25 bonus increases to three square feet on the second parking level below grade.
- 26 **d. Bonus for Affordable Housing**
27 Three square feet of additional floor area is allowed per square foot of affordable
28 housing unit floor area, up to a maximum increase of 0.5 FAR. The affordable
29 housing units shall be consistent with the standards of 21.07.110H., *Affordable*
30 *Housing*. A housing unit receives this affordable housing bonus instead of the
31 housing bonus in subsection 3.a. above.
- 32 **e. Bonus for Sidewalk/Walkway Widening**
33 One square foot of additional floor area is allowed per square foot of area
34 provided as part of a primary pedestrian walkway that meets the requirements of
35 21.07.060F.4.
- 36 **f. Bonus for Pedestrian-Interactive Use**
37 Three square feet of additional floor area is allowed per each square foot of
38 ground-floor space which is to be occupied by a pedestrian-interactive use that
39 meets the standards of subsection 21.07.060F.16.
- 40 **g. Bonus for Upper Level Setbacks/Step Backs for Sunlight Access**
41 A floor area bonus equal to one-third of the sum of step back areas on each
42 upper floor where the step back is at least 16 feet from the face of the building at
43 the floor immediately below, such that the floor's existence does not increase the
44 amount of shadowing on surrounding residences, private open spaces,
45 sidewalks, schools, or parks on March/September 21, from 9:00 a.m. to 3:00
46 p.m. solar time.

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- 1 **4. Building Height Increase**
2 Buildings may exceed the district height limits established in table 21.06-2, up to a
3 maximum total height of 35 feet in the B-1A district and 45 feet in the B-1B district,
4 subject to the following:
- 5 a. The development shall participate in at least one of the FAR incentives provided
6 in subsection G.3. above;
- 7 b. The full length of the street facing building elevation shall be a residential or
8 commercial use with habitable floor area, except for vehicle and pedestrian
9 entrances and exits. If a site has more than two street frontages, this
10 requirement shall apply to building elevations on only two frontages;
- 11 c. The development shall be subject to administrative site plan review, unless a
12 higher level of review is already required;
- 13 d. All floor area provided by the height increase shall be for residential uses or for
14 uses that only serve the residents of the building; and
- 15 e. This height increase shall not be used in conjunction with section 21.06.030D.,
16 *Height Adjustments*, to achieve more than 35 feet of building height in the B-1A
17 district.
- 18 **5. Reduced Parking Ratios**
19 The development is eligible for a reduction of up to five percent of the minimum number
20 of parking spaces, as provided in section 21.07.090F.6.
- 21 **6. Enhanced Sidewalk Option**
22 An enhanced sidewalk environment may be provided in lieu of required sidewalks and
23 site perimeter landscaping, as provided in 21.07.060F.17.
- 24 **7. Building Placement and Orientation**
25 Buildings should be placed and oriented to the street, lining sidewalks and public spaces
26 with frequent shops, entrances, windows with interior views, and articulated ground-level
27 facades. The following standards apply:
- 28 a. Buildings shall have visual access windows and/or primary entrances on street-
29 facing building elevations (up to a maximum of two elevations) for at least 35
30 percent of the length and 50 percent of the ground floor wall area. Qualifying
31 windows shall be no more than four feet above finished grade. If there is more
32 than one story, on the upper floors provide windows or spandrel glass (fake
33 windows) on each building elevation facing an abutting street or having a primary
34 entrance for customers or visitors. Windows shall comprise an average of 35
35 percent or more of the length and 34 percent of the area of each upper floor
36 building elevation. Exterior wall areas of building mechanical rooms are exempt.
37 An elevation that is more than 150 feet away from the facing street shall be
38 exempt, unless it is the only applicable elevation. [BUILDINGS SHALL COMPLY
39 WITH THE ADDITIONAL WINDOW AREA BUILDING ORIENTATION MENU
40 CHOICE IN SECTION 21.07.120E.4.B.VII.;]
- 41 b. Either:
- 42 i. Provide at least on primary entrance within 60 feet of a street sidewalk,
43 or 90 feet for buildings over 25,000 square feet of gross floor area, and
44 connected to the street by a clear and direct walkway; or

EXHIBIT A

- 1 ii. Provide a prominent and inviting primary entrance that is visible from the
2 street, connected by a direct walkway to the street, and highlighted by
3 two of the following:
- 4 (A) Portico, overhang, canopy, or similar permanent feature
5 projecting from the wall;
- 6 (B) Recessed and/or projected entrance that covers at least 80
7 square feet;
- 8 (C) Arches, peaked roof forms, terracing parapets, or other change
9 of building roofline;
- 10 (D) Changes in siding material, or detail features such as tilework, to
11 signify the entrance; or
- 12 (E) Entrance plaza, patio, or similar common private open space.
13 [BUILDING PRIMARY ENTRANCES SHALL BE VISIBLE FROM
14 THE STREET, OR COMPLY WITH THE STREET ORIENTED
15 ENTRANCES OR PROMINENT ENTRANCE FEATURE
16 BUILDING ORIENTATION MENU CHOICES OF SECTION
17 21.07.120E.4.B.; AND]
- 18 c. Buildings shall comply with the maximum setbacks established in 21.06.020,
19 *Tables of Dimensional Standards*, and 21.06.030C.5.

20 **H. Standards for Mixed-Use Development in the B-3 District**

- 21 1. **Applicability**
22 This section applies to developments that create a mix of residential with commercial or
23 public/institutional primary uses in the B-3 district.
- 24 2. **Floor Area Ratio (FAR) Incentives**
25 a. The floor area ratio (FAR) and bonus provisions set out in subsection G.3. above
26 apply.
- 27 b. In addition to the bonus features available in subsection G.3. above, a floor area
28 bonus equal to ten percent of the lot area (0.10 FAR), but in no case to exceed
29 10,000 square feet, is allowed if a wind tunnel test is performed and the wind
30 speed criteria meeting the specifications of subsection 21.07.120C. are
31 incorporated into the design of a multistory building development to improve
32 microclimatic conditions.
- 33 3. **Building Placement and Orientation**
34 Buildings are subject to the building placement and orientation standards for mixed-use
35 development in the B-1A/B-1B districts in section 21.04.030G.7. above.
- 36 4. **Reduced Parking Ratios**
37 The development is eligible for a reduction of up to five percent of the minimum number
38 of parking spaces, as provided in section 21.07.090F.6.
- 39 5. **Enhanced Sidewalk Option**
40 An enhanced sidewalk environment may be provided in lieu of required sidewalks and
41 site perimeter landscaping, as provided in 21.07.060F.17.

42 **21.04.040 DOWNTOWN DISTRICTS**

43 New downtown districts will be adopted separately through the preparation of updated land use
44 regulations specific to downtown, as indicated in the *Anchorage Downtown Comprehensive Plan*. Until

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1 the new downtown districts are implemented, all areas located in the B-2A, B-2B, and B-2C districts shall
2 remain subject to the title 21 land use regulations that existed prior to the implementation of the Title 21
3 Rewrite Project (2002-2012) and were current as of December 31, 2013.

4 **A. DT-1: Downtown Core**

5 [RESERVED]

6 **B. DT-2: Downtown Mixed-Use**

7 [RESERVED]

8 **C. DT-3: Downtown Mixed-Use Residential**

9 [RESERVED]

10 **21.04.050 INDUSTRIAL DISTRICTS**

11 **A. General Purpose/Intent**

12 The industrial zoning districts established in this section generally are intended to:

- 13 1. Create suitable environments for various types of industrial uses;
- 14 2. Reserve appropriately located areas for industrial purposes, and limit non-industrial uses
15 that may erode the supply of industrial lands;
- 16 3. Provide adequate space to meet the needs of future industrial development, including off-
17 street parking and loading;
- 18 4. Strengthen and diversify the municipality's economic industrial base and provide
19 employment opportunities;
- 20 5. Minimize land use impacts of industrial development on abutting non-industrial districts;
21 and
- 22 6. Protect stream corridors, wetlands, and other important natural resources from the
23 adverse impacts of industrial development.

24 **B. I-1: Light Industrial District**

25 **1. Purpose**

26 The I-1 district is intended primarily for public and private light **and general**
27 manufacturing, processing, service, storage, wholesale, and distribution operations along
28 with other uses that support and/or are compatible with industrial uses. Business-
29 industrial parks and single-commodity bulk retail sales and building supply stores and
30 services are allowed. Many commercial uses are also permitted and/or conditionally
31 allowed, with some limitations on the more intensive customer retail, community service,
32 and commercial employment establishments, to reduce land use and traffic conflicts,
33 promote efficient use of industrial lands, and encourage the location of intensive
34 commercial activities in commercial centers. This district is applied in areas designated
35 as industrial/commercial by the comprehensive plan.

36 **C. I-2: Heavy Industrial District**

37 **1. Purpose**

38 The I-2 district is intended primarily as an industrial activity area and reserve for public
39 and private heavy manufacturing, warehousing and distribution, equipment and materials
40 storage, vehicle and equipment repair, major freight terminals, waste and salvage,
41 resource extraction and processing, and other related uses. Some commercial uses, that
42 support or are compatible with industrial uses, are also permitted or conditionally allowed.

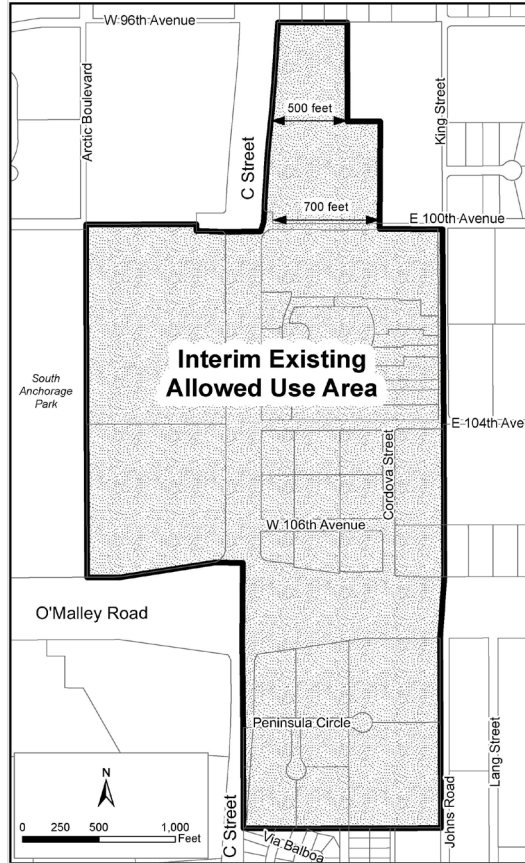
EXHIBIT A

1 Non-industrial uses are more limited than in other districts, to prevent land use and traffic
2 conflicts, retain a preserve of activities that is supportive of industrial establishments, and
3 to maintain and protect the supply of industrial lands within the municipality. This district
4 is applied to areas designated as industrial/industrial reserve by the comprehensive plan.

5 **2. District-Specific Standards**

6 **a.** I-2 zoned lands along the C Street
7 corridor right-of-way south of 96th
8 Avenue, which are located in the
9 “interim existing allowed use area”
10 depicted in the “interim existing
11 allowed use area” map [FIGURE 1],
12 shall remain, with regard to what uses
13 are allowed, subject to the title 21
14 use regulations that existed prior to
15 the implementation of the Title 21
16 Rewrite Project (2002-2012) and were
17 current as of December 31, 2013, until
18 the updated Anchorage Bowl Land
19 Use Plan Map or an area-specific land
20 use plan is adopted which reclassifies
21 areas which are appropriate for
22 rezoning to a commercial district.

23 [FIGURE 21.04-1]



24 **b.** Notwithstanding the allowed uses in
25 the I-2 district in table 21.05-1, all
26 commercial and community uses that
27 are permitted in the I-1 district in table
28 21.05-1 shall also be permitted in the
29 I-2 district, by the same approval
30 method, until the updated Anchorage
31 Bowl Land Use Plan Map or an area-
32 specific land use plan is adopted
33 which examines industrial land use designations.

34 **D. MI: Marine Industrial District**

35 **1. Purpose**

36 The MI district is intended primarily for a mix of marine commercial and industrial
37 manufacturing, processing, storage, wholesale, and distribution operations that are
38 water-dependent and/or water-related.

39 **2. District-Specific Standards**

40 Applicants for allowed uses as listed in table 21.05-1 shall demonstrate, to the
41 satisfaction of the director, that they are water-dependent and/or water-related, before
42 applying for any required permits or entitlements.

43 **21.04.060 OTHER DISTRICTS**

44 **A. A: Airport District**

45 An airport zoning district will be adopted separately through the preparation of updated land use
46 regulations specific to airport lands and development, as indicated in the *West Anchorage District*
47 *Plan*. Until an airport district is implemented and airport lands rezoned, all areas within the
48 property boundaries of the Ted Stevens Anchorage International Airport shall remain subject to
49 the title 21 land use regulations that existed prior to the implementation of the Title 21 Rewrite
50 Project (2002-2012) and were current as of December 31, 2013.

EXHIBIT A

- 1 **B. AF: Antenna Farm District**
- 2 **1. Purpose**
- 3 The AF district is intended to create areas dedicated to the erection and maintenance of
- 4 communication equipment at reasonable cost and to encourage the concentration of
- 5 such equipment in a few sites throughout the municipality.
- 6 **2. District-Specific Standards**
- 7 The planning and zoning commission and the assembly shall consider the following
- 8 factors when deciding on a request to rezone to the AF district:
- 9 **a.** Compatibility with surrounding land uses;
- 10 **b.** Potential adverse impacts on environmentally sensitive areas and wildlife
- 11 corridors;
- 12 **c.** Visual impacts on views, particularly with regard to ridgelines;
- 13 **d.** Availability of alternative sites and alternative towers (collocation); and
- 14 **e.** Potential noise impacts on neighboring uses.
- 15 **C. DR: Development Reserve District**
- 16 **1. Purpose**
- 17 The DR district may be applied to lands intended for future development, undesignated
- 18 municipally owned lands, municipal and state tidelands and waters, and military lands.
- 19 Large-lot single-family residential is allowed by-right, along with limited public and
- 20 institutional uses; see the use tables in chapter 21.05 for specific allowed uses. Joint
- 21 Base Elmendorf-Richardson uses, activities, and developments are not subject to the
- 22 municipal land use regulations including the DR district use limitations.
- 23 **D. PCD: Planned Community Development District**
- 24 **1. Purpose**
- 25 The planned community development district (PCD) is intended to accommodate large-
- 26 scale acreage for residential, commercial, industrial, or other land use developments and
- 27 activities, including combinations of uses. It allows for flexibility under controlled
- 28 conditions not possible with the other defined districts. The flexibility permitted must
- 29 demonstrate that the final development will be compatible with the intents and purposes
- 30 of this title and the goals and policies of the comprehensive plan, and do not compromise
- 31 public health, safety, and welfare. A PCD should include design features to ensure that
- 32 the PCD is integrated with the surrounding neighborhood through features such as
- 33 transition densities, external boundary buffering, and pedestrian and street connectivity.
- 34 The PCD district is limited to unified, comprehensive planned developments which are of
- 35 substantial public benefit, consistent with the holding capacity of the land, and conform
- 36 with and enhance the policies of the comprehensive plan.
- 37 **2. Application**
- 38 The PCD district may be applied as described in subsection 21.03.160I.
- 39 **3. Record-Keeping**
- 40 The regulatory zoning provisions for each PCD district shall be kept on file in the
- 41 department.
- 42 **E. PLI: Public Lands and Institutions District**
- 43 **1. Purpose**
- 44 The PLI district is intended to include major public and quasi-public civic, administrative,
- 45 and institutional uses and activities.

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- 1 **F. PR: Parks and Recreation District**
- 2 **1. Purpose**
- 3 The PR district is intended to include municipal lands dedicated by the assembly as parks
- 4 in accordance with AMC 25.10.080.
- 5 **2. District-Specific Standards**
- 6 Recreational areas developed for spectator sports, such as soccer and softball fields,
- 7 shall have L2 buffer landscaping between such areas and abutting residential uses.
- 8 **G. TA: Turnagain Arm District**
- 9 **1. Purpose**
- 10 The TA district is intended to govern the land uses for the area known as Turnagain Arm
- 11 south of Potter Marsh, including but not limited to Rainbow, Indian, Bird Creek, and
- 12 Portage/Twenty Mile River. Areas within Girdwood are not included in the TA district and
- 13 are covered by chapter 21.09, *Girdwood*. The permitted uses and densities within the TA
- 14 district are to conform to the land use plan map, policies, land use definitions, and
- 15 residential densities of the adopted *Turnagain Arm Comprehensive Plan*. The TA district
- 16 regulations employ the conditional use process to provide review for major development
- 17 activities. By providing a public review process and by requiring submission of detailed
- 18 site plans, greater compatibility between the proposed uses and adjacent existing uses
- 19 can be obtained.
- 20 **2. District-Specific Standards**
- 21 **a. Permitted Uses**
- 22 i. Residential and accessory uses and structures that conform to the
- 23 *Turnagain Arm Comprehensive Plan*.
- 24 ii. Commercial structures under 4,000 square feet in gross building area in
- 25 areas designated "Turnagain mixed use" in the *Turnagain Arm*
- 26 *Comprehensive Plan*.
- 27 iii. Non-structural commercial uses occupying an area of 14,400 square feet
- 28 or less in areas designated "Turnagain mixed use" in the *Turnagain Arm*
- 29 *Comprehensive Area Plan*.
- 30 iv. Industrial uses and structures in areas designated "industrial" in the
- 31 *Turnagain Arm Comprehensive Plan*.
- 32 v. Institutional uses and structures under 4,000 square feet in gross
- 33 building area in areas designated "community facility" in the *Turnagain*
- 34 *Arm Comprehensive Plan*.
- 35 vi. Traditional homestead uses and activities in areas designated "rural
- 36 homestead" in the *Turnagain Arm Comprehensive Plan*.
- 37 **b. Conditional Uses**
- 38 Any use or structure that does not meet the requirements for a permitted use
- 39 above, may be allowed through the issuance of a conditional use approval
- 40 subject to the requirements of section 21.03.080, *Conditional Uses*, and the
- 41 following additional approval criteria:
- 42 i. Conforms to the goals and policies of the *Turnagain Arm Comprehensive*
- 43 *Plan*;
- 44 ii. Protects the unique scenic and environmental features of the area; and

EXHIBIT A

1 iii. Minimizes impacts to adjacent properties, particularly those adjacent
2 properties in a different land use category.

3 c. **Number of Structures Allowed**
4 Only one principal structure is allowed per lot, unless a conditional use approval
5 is obtained for additional principal structures.

6 **H. TR: Transition District**

7 The transition district, developed in the 1960s as the unrestricted district (U), was originally
8 intended for areas that were not expected to develop in the immediate future, and as
9 development patterns occurred, were intended to be rezoned to more restrictive zoning
10 classifications.

11 Parcels zoned transition (T) as of January 1, 2014 shall continue under the transition zoning
12 provisions of the title 21 land use regulations that existed prior to the implementation of the Title
13 21 Rewrite Project (2002-2012) and were current as of December 31, 2013, until such time as
14 they are rezoned to a more appropriate classification.

15 Where the transition-zoned areas are identified in the comprehensive plan as “Development
16 Reserve” or some similar holding classification, the intent of this code is that such areas be
17 rezoned into the development reserve district (DR).

18 **I. WS: Watershed District**

19 1. **Purpose**
20 The WS district is intended to preserve and protect the potable water reserves available
21 to the municipality in the Chugach range. The major responsibility in the management of
22 watershed areas is the control of factors that may contaminate or pollute the water.
23 Agricultural, residential, commercial, industrial, or other urban land uses are incompatible
24 with the concept of watershed conservation.

25 2. **District-Specific Standard**
26 All uses of land within the watershed district permitted by table 21.05-1 shall be subject to
27 the provisions of section 21.07.040, *Drainage, Storm Water Treatment, Erosion Control,*
28 *and Prohibited Discharges.*

29 **21.04.070 OVERLAY ZONING DISTRICTS**

30 **A. General Purpose/Intent**

31 As noted in subsection 21.04.010B., the overlay zoning districts of this section apply in
32 combination with the underlying base zoning districts and impose regulations and standards for
33 specific areas in addition to what is required by the base districts. The requirements of an overlay
34 district shall apply whenever they are in conflict with those in the base district. The following
35 overlay district[S ARE] is established:

- 36 1. [AIRPORT HEIGHT OVERLAY DISTRICT;]
37 2. Commercial center overlay district[; AND
38 3. FLOOD HAZARD OVERLAY DISTRICT].

EXHIBIT A

1 **B. Creation, Alteration, or Elimination of Overlay Districts**

2 The creation, alteration, or elimination of an overlay district is a rezoning and is governed by the
3 provisions of section 21.03.160H., *Rezoning to Create, Alter, or Eliminate Overlay Districts*.

4 **[AHO: AIRPORT HEIGHT OVERLAY DISTRICT]**

5 **1. PURPOSE**

6 THE PURPOSE OF THE AIRPORT HEIGHT OVERLAY DISTRICT IS TO REGULATE
7 THE HEIGHT OF BUILDINGS AND STRUCTURES TO PREVENT INTERFERENCE
8 BETWEEN LAND USES AND AIR TRAFFIC. IT IS INTENDED TO BE IN
9 ACCORDANCE WITH THE FEDERAL AVIATION REGULATIONS (FAR).

10 **2. SPECIFIC AIRPORT HEIGHT MAPS ADOPTED**

11 THE FOLLOWING AIRPORT HEIGHT ZONE MAPS ARE ADOPTED AND THUS THE
12 REFERENCED AREAS ARE LOCATED WITHIN THE AIRPORT HEIGHT OVERLAY
13 DISTRICT:

14 **a.** THE AIRPORT HEIGHT ZONING MAP PREPARED FOR THE BIRCHWOOD
15 AIRPORT IN THE MUNICIPALITY (MOST RECENTLY ADOPTED VERSION).

16 **b.** THE AIRPORT HEIGHT ZONING MAP PREPARED FOR THE GIRDWOOD
17 AIRPORT IN THE MUNICIPALITY (MOST RECENTLY ADOPTED VERSION).

18 **c.** THE AIRPORT HEIGHT ZONING MAP PREPARED FOR THE TED STEVENS
19 ANCHORAGE INTERNATIONAL AIRPORT IN THE MUNICIPALITY (MOST
20 RECENTLY ADOPTED VERSION).

21 **d.** THE AIRPORT HEIGHT ZONING MAP PREPARED FOR THE MERRILL FIELD
22 AIRPORT IN THE MUNICIPALITY (MOST RECENTLY ADOPTED VERSION).

23 **3. ESTABLISHMENT OR MODIFICATION**

24 IN ADDITION TO THE STANDARD SUBMITTALS REQUIRED TO INITIATE AN
25 OVERLAY MAP AMENDMENT PURSUANT TO SECTION 21.03.160H.,
26 ESTABLISHMENT OF AN AIRPORT HEIGHT OVERLAY DISTRICT ALSO SHALL
27 REQUIRE PREPARATION OF AN AIRPORT HEIGHT MAP AS SET FORTH IN THIS
28 SECTION:

29 **a.** THE OWNER OR MANAGER OF ANY AIRPORT MAY PREPARE AN AIRPORT
30 HEIGHT MAP IN ACCORDANCE WITH THE PROVISIONS OF THIS
31 SUBSECTION AND THE STIPULATIONS OF FAR PART 77, SUBPART C,
32 PARAGRAPH 77.23(A)(2), 77.23(A)(3) OR 77.25. THE OWNER OR MANAGER
33 OF A GOVERNMENTALLY OPERATED AIRPORT SHALL PREPARE AND
34 MAINTAIN AN AIRPORT HEIGHT MAP IN ACCORDANCE WITH FAR PART
35 77, SUBPART C, PARAGRAPH 77.25. THE MAP SHALL BE FILED WITH THE
36 DEPARTMENT.

37 **b.** THE MAP SHALL BE TO SCALE AND SHALL ACCURATELY REFERENCE
38 THE FOLLOWING:

39 **i.** EXISTING SUBDIVISIONS.

40 **ii.** CURRENT ZONING DISTRICTS.

41 **iii.** MAJOR REFERENCE POINTS IN THE VICINITY OF THE AIRSTRIP
42 OR AIRPORT.

43 **iv.** EXISTING TOPOGRAPHY, IF AVAILABLE.

EXHIBIT A

- 1 v. THE AIRPORT ELEVATION THAT SHALL BE THE OFFICIAL
2 ELEVATION OF THE AIRPORT OR AIRSTRIP UPON APPROVAL OF
3 THE MAP.
- 4 c. THE MAP REQUIRED BY PARAGRAPH A. ABOVE, SHALL ACCURATELY
5 DEPICT AIRSPACE ZONES AS PROVIDED IN FAR PART 77, SUBPART C,
6 PARAGRAPH 77.25, IN TEN-FOOT CONICAL INCREMENTS. BEFORE
7 SUBMISSION TO THE DEPARTMENT THE MAP SHALL BE CERTIFIED BY
8 THE FEDERAL AVIATION ADMINISTRATION THAT IT DEPICTS THE
9 REQUIREMENTS OF FAR PART 77, SUBPART C, PARAGRAPH 77.25. IF,
10 FOR SAFETY REASONS, ZONE SURFACES DEVIATE IN ANY WAY FROM
11 THE REQUIREMENTS OF THE FAR, EACH SUCH DEVIATION SHALL BE
12 INDICATED IN WRITING ON THE MAP AND SHALL BE ACCOMPANIED BY A
13 LETTER OF NONOBJECTION BY THE FEDERAL AVIATION
14 ADMINISTRATION. ANY SUCH DEVIATION IS SUBJECT TO APPROVAL OF
15 THE DEPARTMENT.
- 16 d. BEFORE SUBMISSION TO THE DEPARTMENT ANY OPTIONAL MAP
17 DEPICTING AIRSPACE ZONES PROVIDED IN FAR PART 77, SUBPART C,
18 PARAGRAPH 77.23(A)(2) OR 77.23(A)(3), MUST BE CERTIFIED BY THE
19 FEDERAL AVIATION ADMINISTRATION INDICATING THAT IT ACCURATELY
20 DEPICTS THE REQUIREMENTS OF FAR PART 77, SUBPART C,
21 SUBSECTION 77.23(A)(2) OR 77.23(A)(3).
- 22 **4. ADDITIONAL HEIGHT LIMITATIONS IN AIRPORT HEIGHT OVERLAY DISTRICT**
23 NOTWITHSTANDING THE HEIGHT LIMITATIONS IN SECTION 21.06.020,
24 *DIMENSIONAL STANDARDS TABLES*, AND IN SECTION 21.09.060B., *DIMENSIONAL*
25 *STANDARDS TABLES* (GIRDWOOD), ALL DEVELOPMENT WITHIN THE AIRPORT
26 HEIGHT OVERLAY DISTRICT SHALL COMPLY WITH THE FOLLOWING HEIGHT
27 LIMITATIONS:
- 28 a. NO STRUCTURE SHALL BE CONSTRUCTED OR MAINTAINED SO THAT IT
29 EXCEEDS THE GREATER OF:
- 30 i. THIRTY-FIVE FEET ABOVE GROUND ELEVATION; OR
- 31 ii. THE MAXIMUM HEIGHT PERMITTED UNDER FAR PART 77,
32 SUBPART C, AS DEPICTED ON ANY AIRPORT HEIGHT ZONE MAP
33 ADOPTED UNDER SECTION 21.04.080.C., *AIRPORT HEIGHT*
34 *OVERLAY DISTRICT*.
- 35 b. ANY STRUCTURE WITHIN THREE NAUTICAL MILES OF AN AIRPORT
36 REFERENCE POINT ESTABLISHED BY FEDERAL REGULATION, THE
37 HEIGHT OF WHICH EXCEEDS THE LEVEL OF THAT REFERENCE POINT BY
38 MORE THAN 200 FEET, SHALL PRESENT TO THE BUILDING OFFICIAL THE
39 RESULTS OF AN AIRSPACE DETERMINATION CONDUCTED BY THE
40 FEDERAL AVIATION ADMINISTRATION PURSUANT TO ITS REGULATIONS.
- 41 c. THE HEIGHT RESTRICTIONS OF THIS DISTRICT DO NOT APPLY TO
42 BUILDINGS FOR WHICH BUILDING OR LAND USE PERMITS WERE ISSUED
43 PRIOR TO JUNE 17, 1986.
- 44 d. VEGETATION SHALL NOT BE AFFECTED BY THE HEIGHT LIMITATION OF
45 THIS SECTION.]

C. Commercial Center Overlay

1. Purpose

This is a zoning tool to make the provisions and incentives of sections 21.04.030G. and H. available to all uses and establishments within a participating commercial area in the B-1A, B-1B, and B-3 districts. This tool increases the variety of development opportunities by enabling different uses, functions, and scales of development to interact together, through a shared set of standards that encourage improvements towards a more vibrant, cohesive center.

This overlay is to be applied only in commercial centers identified in the comprehensive plan, such as in a neighborhood or district plan identifying a neighborhood center or larger center. An organization or group of property owners **may** choose to take advantage of these provisions.

Making these incentives available to all uses within a defined area strengthens the city's economic base by encouraging more commercial growth and efficient use of existing infrastructure and land supply, in specified urban centers. It provides employment opportunities and services closer to home and reduces vehicle miles travelled in the surrounding area; and encourages enhanced connections and access among different uses and to adjacent neighborhoods.

2. Applicability

a. This section applies to all uses in a B-1A, B-1B, or B-3 district that are within boundaries of the commercial center overlay.

b. Uses in the I-1 or I-2 district located in commercial centers identified in the comprehensive plan may also be a part of a commercial center overlay, under the conditions that apply to the B-3 district. I-1 and I-2 properties in the commercial center overlay are subject to the land use regulations applicable to the B-3 district, including for example allowed uses and dimensional and development standards, except where in conflict with the provisions of this overlay.

3. Provisions of Sections 21.04.030G. and H. Apply Generally

The commercial center overlay district does not require developments to be mixed-use or include residences. The provisions of sections 21.04.030G. and H. apply generally to all uses in their respective B-1A, B-1B, or B-3 districts, except as provided otherwise below.

4. Reduced Parking Ratios

Instead of the five percent reduction provided in sections 21.04.030G. and H., any use is eligible for a reduction of up to 10 percent of the minimum number of parking spaces, as provided in section 21.07.090F.6.

5. Uses Prohibited

Notwithstanding table 21.05-1, the following uses are prohibited: self-storage facilities, vehicle sales and rentals, major vehicle service and repair, data processing facilities; commercial food production, and snow disposal sites.

6. Dimensional Standards

a. The minimum front setback is reduced to five feet for building elevations that comply with 21.04.030G.7., *Building Placement and Orientation*.

b. Uses in the B-1B district are exempt from the gross floor area limitations of section 21.04.030C.2.b., provided that an individual use occupies no more than 60,000 square feet of gross floor area.

EXHIBIT A

1 **7. Building Entrances**

2 **a.** Buildings located at or within the maximum setback line shall have at least one
3 primary entrance located within 20 feet of the maximum setback line.

4 **b.** Buildings not located at the maximum setback line shall have at least one
5 primary entrance located within 20 feet of a public right-of-way, a primary
6 circulation drive, or a primary pedestrian walkway.

7 **8. Sidewalks and Walkways**

8 Sidewalks and walkways extending along public streets, primary circulation drives, or
9 commercial building storefronts shall have an unobstructed clear width of at least six feet.

10 **D. [FHO: FLOOD HAZARD OVERLAY DISTRICT]**

11 **1. PURPOSE AND INTENT**

12 THE PURPOSE OF THE FLOOD HAZARD OVERLAY DISTRICT IS TO PROMOTE
13 THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE, AND TO MINIMIZE LOSS
14 DUE TO FLOOD. THE PROVISIONS OF THIS SECTION ARE INTENDED TO BE AN
15 ADDITION TO ALL OTHER LAND USE REGULATIONS AND TO:

16 **a.** RESTRICT OR PROHIBIT USES AND STRUCTURES THAT ARE
17 DANGEROUS TO HEALTH, SAFETY, OR PROPERTY IN TIME OF FLOOD,
18 OR THAT CAUSE INCREASED FLOOD HEIGHTS OR VELOCITIES;

19 **b.** REQUIRE THAT USES VULNERABLE TO FLOODS, INCLUDING PUBLIC
20 FACILITIES THAT SERVE SUCH USES, BE PROVIDED WITH FLOOD
21 PROTECTION OR FLOOD PROOFING AT THE TIME OF INITIAL
22 CONSTRUCTION;

23 **c.** MINIMIZE THE NEED FOR RESCUE AND RELIEF EFFORTS ASSOCIATED
24 WITH FLOODING AND GENERALLY UNDERTAKEN AT THE EXPENSE OF
25 THE GENERAL PUBLIC;

26 **d.** MINIMIZE PROLONGED BUSINESS INTERRUPTIONS;

27 **e.** MINIMIZE DAMAGES TO PUBLIC FACILITIES AND UTILITIES SUCH AS
28 WATER AND GAS MAINS, ELECTRIC, TELEPHONE AND SEWER LINES,
29 STREETS AND BRIDGES LOCATED IN AREAS OF FLOOD HAZARD;

30 **f.** HELP MAINTAIN A STABLE TAX BASE BY PROVIDING FOR THE SOUND
31 USE AND DEVELOPMENT OF AREAS OF FLOOD HAZARD SO AS TO
32 MINIMIZE FUTURE FLOOD BLIGHT AREAS;

33 **g.** ENSURE THAT POTENTIAL BUYERS ARE NOTIFIED THAT PROPERTY IS IN
34 AN AREA OF FLOOD HAZARD; AND

35 **h.** ENSURE THAT THOSE WHO OCCUPY THE AREAS OF FLOOD HAZARD
36 ASSUME RESPONSIBILITY FOR THEIR ACTIONS.

37 **2. NOTICE**

38 PROPERTY OWNERS AFFECTED BY CHANGES TO THE BOUNDARIES OF THE
39 FLOOD HAZARD AREA OR BY CHANGES IN THE BASE FLOOD ELEVATIONS
40 SHALL BE NOTICED BY MAIL.

41 **3. INTERPRETATION OF SECTION; DISCLAIMER OF LIABILITY**

42 **a.** IN THE INTERPRETATION AND APPLICATION OF THIS SECTION, ALL
43 PROVISIONS SHALL BE:

44 **i.** CONSIDERED AS MINIMUM REQUIREMENTS;

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- 1 ii. LIBERALLY CONSTRUED IN FAVOR OF THE GOVERNING BODY;
2 AND
- 3 iii. DEEMED NEITHER TO LIMIT NOR REPEAL ANY OTHER POWERS
4 GRANTED UNDER STATE STATUTES.
- 5 b. THE DEGREE OF FLOOD PROTECTION REQUIRED BY THIS SECTION IS
6 CONSIDERED REASONABLE FOR REGULATORY PURPOSES AND IS
7 BASED ON SCIENTIFIC AND ENGINEERING CONSIDERATIONS. LARGER
8 FLOODS CAN AND WILL OCCUR ON RARE OCCASIONS. FLOOD HEIGHTS
9 MAY BE INCREASED BY MANMADE OR NATURAL CAUSES. THIS SECTION
10 DOES NOT IMPLY THAT LAND OUTSIDE THE AREAS OF FLOOD HAZARD
11 OR USES PERMITTED WITHIN SUCH AREA WILL BE FREE FROM
12 FLOODING OR FLOOD DAMAGES. THIS SECTION SHALL NOT CREATE
13 LIABILITY ON THE PART OF THE MUNICIPALITY, ANY OFFICER OR
14 EMPLOYEE THEREOF, OR THE FEDERAL INSURANCE ADMINISTRATION
15 FOR ANY FLOOD DAMAGES THAT RESULT FROM RELIANCE ON THIS
16 SECTION OR ANY ADMINISTRATIVE DECISION LAWFULLY MADE
17 THEREUNDER.
- 18 4. **CREATION OF FLOOD HAZARD OVERLAY DISTRICT; OFFICIAL FLOOD HAZARD**
19 **REPORTS AND MAPS**
- 20 a. **CREATION OF DISTRICT; ADOPTION OF REPORTS AND MAPS**
- 21 THERE IS HEREBY CREATED A FLOOD HAZARD OVERLAY DISTRICT.
22 THIS DISTRICT SHALL BE DEFINED IN ITS TERRITORIAL EXTENT BY THE
23 FOLLOWING REPORTS AND MAPS:
- 24 i. FLOOD INSURANCE STUDY FOR THE MUNICIPALITY OF
25 ANCHORAGE, PREPARED BY THE FEDERAL INSURANCE
26 ADMINISTRATION, FEDERAL EMERGENCY MANAGEMENT AGENCY
27 (FEMA).
- 28 ii. FLOOD INSURANCE RATE MAP (FIRM) PREPARED BY THE
29 FEDERAL INSURANCE ADMINISTRATION, FEMA, INCLUDING THE
30 CURRENT DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)
31 PREPARED BY THE FEDERAL INSURANCE ADMINISTRATION.
- 32 iii. FLOOD BOUNDARY AND FLOODWAY MAP, PREPARED BY THE
33 FEDERAL INSURANCE ADMINISTRATION, FEMA, INCLUDING THE
34 CURRENT DIGITAL FLOOD BOUNDARY AND FLOODWAY MAP
35 PREPARED BY THE FEDERAL INSURANCE ADMINISTRATION.
- 36 iv. FLOOD HAZARD BOUNDARY MAP (FHBM), PREPARED BY THE
37 FEDERAL INSURANCE ADMINISTRATION, FEMA, INCLUDING THE
38 CURRENT DIGITAL FLOOD HAZARD BOUNDARY MAP (DFHBM)
39 PREPARED BY THE FEDERAL INSURANCE ADMINISTRATION.
- 40 THE CURRENT EDITIONS OF EACH OF THE MAPS AND REPORTS LISTED
41 IN THIS SUBSECTION ARE MADE A PART OF THIS SECTION.
42 SUBSEQUENT MAPS AND REPORTS PREPARED BY THE FEDERAL
43 INSURANCE ADMINISTRATION OR THE MUNICIPALITY DELINEATING THE
44 FLOOD HAZARD OVERLAY DISTRICT, FLOODWAY AND FLOODPLAIN
45 AREAS WITHIN THE MUNICIPALITY SHALL BECOME PART OF THIS
46 CHAPTER UPON PUBLICATION. A COPY OF THE REPORTS AND MAPS
47 CITED IN THIS SUBSECTION SHALL BE ON FILE IN THE DEPARTMENT.
48 DEFINITIONS OF TERMS APPEARING ON THE MAPS AND REPORTS
49 APPEAR IN 41 CFR 19.09.1.

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1 **b. FLOOD HAZARD AREAS**

2 WITHIN THE FLOOD HAZARD OVERLAY DISTRICT, AREAS AT A HAZARD
3 FOR FLOODING INCLUDE:

4 i. AREAS WITHIN THE LIMIT OF THE BOUNDARY OF THE BASE
5 FLOOD;

6 ii. AREAS WITHIN THE HIGHEST EXTREME TIDE;

7 iii. AREAS COVERED IN FLOOD HAZARD STUDIES PREPARED FOR
8 THE PUBLIC WORKS DEPARTMENT THAT SUPPLEMENT THE
9 INFORMATION PREPARED BY FEMA; AND

10 iv. THE STREAM SETBACK AREA DEFINED IN SUBSECTION
11 21.07.020B.4.

12 **c. REVIEW OF MAPS**

13 AS NECESSITATED BY FEMA OR THE MUNICIPAL ENGINEER, THE FLOOD
14 HAZARD DISTRICT MAPS WILL BE REVIEWED. THE REVIEW MAY BE
15 CONDUCTED BY THE MUNICIPALITY, THE U.S. CORPS OF ENGINEERS,
16 OR THE FEDERAL INSURANCE ADMINISTRATION, AND ANY NEW MAP
17 PANELS OR RESTUDIES AFFECTING THE BOUNDARIES OF THE FLOOD
18 HAZARD DISTRICT, FLOODWAY, OR FLOODWAY FRINGE AREA SHALL
19 THEN BE SUBMITTED TO THE PLANNING AND ZONING COMMISSION FOR
20 A RECOMMENDATION AND ASSEMBLY FOR FINAL ADOPTION AS PART OF
21 THIS CHAPTER.

22 **d. RULES FOR INTERPRETATION OF FLOOD HAZARD AREA BOUNDARIES**

23 THE BOUNDARIES OF THE FLOOD HAZARD AREAS ESTABLISHED BY THIS
24 CHAPTER SHALL BE DETERMINED FROM THE CITED MAPS AND
25 REPORTS. WHERE INTERPRETATION IS NEEDED AS TO THE EXACT
26 LOCATION OF THE BOUNDARIES, THE PUBLIC WORKS DEPARTMENT,
27 UPON ADVICE FROM THE U.S. CORPS OF ENGINEERS OR FEMA, SHALL
28 MAKE THE NECESSARY INTERPRETATION.

29 **5. REGULATIONS APPLICABLE TO FLOOD HAZARD OVERLAY DISTRICT**

30 **a. APPLICABILITY**

31 THE REGULATIONS WITHIN THIS SECTION SHALL APPLY TO ALL AREAS
32 OF THE FLOOD HAZARD OVERLAY DISTRICT.

33 **b. PROHIBITED DEVELOPMENT**

34 i. ANY ENCROACHMENTS, NEW CONSTRUCTION, FILL,
35 OBSTRUCTIONS, SUBSTANTIAL IMPROVEMENTS AND OTHER
36 DEVELOPMENT OR ACTION WITHIN THE REGULATORY
37 FLOODWAY THAT WOULD RESULT IN ANY INCREASE IN FLOOD
38 LEVELS DURING THE OCCURRENCE OF A BASE FLOOD ARE
39 PROHIBITED.

40 ii. CRITICAL FACILITIES SHALL NOT BE LOCATED IN THE FLOOD
41 HAZARD AREA. FOR THE PURPOSES OF THIS SUBSECTION
42 ONLY, CRITICAL FACILITIES ARE DEFINED AS FIRE STATIONS,
43 POLICE STATIONS, HOSPITALS, EMERGENCY SHELTERS,
44 SCHOOLS, AND EMERGENCY OPERATIONS CENTERS.

45 **c. STANDARDS FOR ISSUANCE OF BUILDING OR LAND USE PERMIT**

46 NO BUILDING PERMITS, ENCROACHMENT PERMITS, MANUFACTURED
47 HOME PERMITS, OR OTHER LAND USE PERMITS SHALL BE ISSUED FOR
48 ANY DEVELOPMENT ACTIVITY WITHIN THE FLOOD HAZARD OVERLAY

EXHIBIT A

1 DISTRICT UNLESS THE PLANS SHOW THAT, IN ADDITION TO
2 COMPLIANCE WITH ALL OTHER ORDINANCES, REGULATIONS AND
3 PERMIT REQUIREMENTS, THE DEVELOPMENT SHALL MEET THE
4 FOLLOWING REQUIREMENTS:

5 i. PRIOR TO FINAL APPROVAL OF A PERMIT IT MUST BE
6 DEMONSTRATED THAT ALL NECESSARY PERMITS HAVE BEEN
7 RECEIVED FROM THOSE GOVERNMENTAL AGENCIES FROM
8 WHICH APPROVAL IS REQUIRED BY FEDERAL OR STATE LAW,
9 INCLUDING SECTION 404 OF THE FEDERAL WATER POLLUTION
10 CONTROL ACT AMENDMENTS OF 1972.

11 ii. IT MUST BE DEMONSTRATED THAT STRUCTURES WILL BE
12 REASONABLY SAFE FROM FLOODING. IF A PROPOSED BUILDING
13 SITE IS IN A FLOODPLAIN, ALL NEW CONSTRUCTION AND
14 IMPROVEMENTS SHALL BE DESIGNED AND ADEQUATELY
15 ANCHORED TO PREVENT FLOTATION, COLLAPSE OR LATERAL
16 MOVEMENT OF THE STRUCTURE, BE CONSTRUCTED WITH
17 MATERIALS AND UTILITY EQUIPMENT RESISTANT TO FLOOD
18 DAMAGE, AND BE CONSTRUCTED BY METHODS AND PRACTICES
19 THAT MINIMIZE FLOOD DAMAGE.

20 iii. THE APPROVAL OF A SUBDIVISION APPLICATION OR MULTI-UNIT
21 DEVELOPMENT SHALL REQUIRE PROOF THAT:

22 (A) THE PROPOSED CONSTRUCTION IS CONSISTENT WITH
23 THE NEED TO MINIMIZE FLOOD DAMAGE WITHIN THE
24 FLOODPLAIN;

25 (B) ALL PUBLIC UTILITIES AND FACILITIES SUCH AS SEWER,
26 GAS, ELECTRICAL AND WATER SYSTEMS ARE TO BE
27 LOCATED AND CONSTRUCTED TO MINIMIZE OR
28 ELIMINATE FLOOD DAMAGE;

29 (C) ADEQUATE DRAINAGE, AS REQUIRED BY THE *DESIGN*
30 *CRITERIA MANUAL* (CURRENT APPROVED EDITION), IS
31 PROVIDED TO REDUCE EXPOSURE TO FLOOD HAZARDS.
32 THE ACTIONS OF ONE PROJECT SHALL NOT ADVERSELY
33 IMPACT THE RECEIVING WATERS AND THE RIGHTS OF
34 OTHER PROPERTY OWNERS, AS MEASURED BY
35 INCREASED FLOOD PEAKS, FLOOD STAGE, FLOOD
36 EROSION, AND SEDIMENTATION THROUGH STORM
37 WATERS OR DRAINAGE SYSTEMS; AND

38 (D) BASE FLOOD ELEVATION DATA HAS BEEN PROVIDED FOR
39 SUBDIVISION PROPOSALS AND OTHER PROPOSED
40 DEVELOPMENT THAT CONTAINS AT LEAST 50 LOTS OR
41 FIVE ACRES, WHICHEVER IS FEWER.

42 iv. CONSTRUCTION WITHIN FLOODPLAINS SHALL REQUIRE THAT
43 NEW AND REPLACEMENT WATER SUPPLY SYSTEMS BE
44 DESIGNED TO MINIMIZE OR ELIMINATE INFILTRATION OF
45 FLOODWATERS INTO THE SYSTEMS.

46 v. CONSTRUCTION WITHIN FLOODPLAINS SHALL REQUIRE THAT:

47 (A) NEW AND REPLACEMENT SEWAGE SYSTEMS SHALL BE
48 DESIGNED TO MINIMIZE OR ELIMINATE INFILTRATION OF

EXHIBIT A

FLOODWATERS INTO THE SYSTEMS AND DISCHARGES FROM THE SYSTEMS INTO FLOODWATERS; AND

(B) ON-SITE WASTE DISPOSAL SYSTEMS TO BE LOCATED TO AVOID IMPAIRMENT TO THEM OR CONTAMINATION FROM THEM DURING FLOODING.

d. STORAGE OF MATERIALS OR EQUIPMENT IN THE FLOODPLAIN

THE STORAGE OR PROCESSING OF EQUIPMENT OR MATERIALS THAT ARE BUOYANT, FLAMMABLE, EXPLOSIVE OR INJURIOUS TO SAFETY, OR WHICH WOULD CAUSE A VIOLATION OF STATE WATER QUALITY STANDARDS UPON CONTACT WITH WATER, ARE PROHIBITED IN THE FLOODPLAIN.

6. REGULATIONS APPLICABLE TO SUBDISTRICTS

a. FLOODWAY AREA

SINCE THE FLOODWAY IS AN EXTREMELY HAZARDOUS AREA DUE TO THE VELOCITY OF FLOODWATERS, WHICH CARRY DEBRIS AND POTENTIAL PROJECTILES AND HAVE EROSION POTENTIAL, THE FOLLOWING PROVISIONS APPLY:

i. PERMITTED USES AND STRUCTURES ARE PARKS, PARKWAYS, GREENBELTS, LAND RESERVES, GOLF COURSES, PLAYGROUNDS, PLAYFIELDS, AND RELATED FACILITIES.

ii. PERMITTED ACCESSORY USES AND STRUCTURES ARE PICNIC TABLES, PLAYGROUND EQUIPMENT, OUTDOOR COOKING FACILITIES AND LIKE STRUCTURES.

iii. THE FOLLOWING STRUCTURES AND ACTIVITIES ARE PERMITTED ONLY BY FLOOD HAZARD PERMIT INCLUDING CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER DEMONSTRATING THAT SUCH ENCROACHMENTS SHALL NOT RESULT IN ANY INCREASE IN FLOOD LEVELS DURING THE OCCURRENCE OF THE BASE FLOOD DISCHARGE OR RESULT IN VIOLATION OF THE STATE WATER QUALITY STANDARDS: EXCAVATION OF SAND, GRAVEL AND OTHER NATURAL RESOURCES, RAILROAD AND TRAMWAY TRACKS, STREETS, BRIDGES, UTILITY INSTALLATIONS AND PIPELINES, STORAGE YARDS FOR EQUIPMENT AND MATERIALS, COMMERCIAL FARMING, AND LAND RECLAMATION.

iv. THE FOLLOWING USES ARE PROHIBITED: LANDFILLS, STORAGE YARDS CONTAINING HAZARDOUS MATERIALS (AS DEFINED BY THE EPA), ENCROACHMENTS NOT OTHERWISE EXCEPTED IN THIS SECTION, INCLUDING FILL, NEW CONSTRUCTION, SUBSTANTIAL IMPROVEMENTS AND OTHER DEVELOPMENT.

b. FLOODWAY FRINGE AREA

THE REGULATIONS LISTED IN THIS SUBSECTION ARE APPLICABLE TO THE FLOODWAY FRINGE AREA:

i. PERMITTED USES AND STRUCTURES ARE PARKS, PARKWAYS, GREENBELTS, LAND RESERVES, GOLF COURSES, PLAYGROUNDS, PLAYFIELDS AND RELATED FACILITIES.

ii. PERMITTED ACCESSORY USES AND STRUCTURES ARE PICNIC TABLES, PLAYGROUND EQUIPMENT, OUTDOOR COOKING FACILITIES AND LIKE STRUCTURES.

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1 iii. THE FOLLOWING USES, STRUCTURES AND ACTIVITIES ARE
2 PERMITTED ONLY BY FLOOD HAZARD PERMIT: ANY USE
3 PERMITTED BY FLOOD HAZARD PERMIT AS SET FORTH IN
4 SUBSECTION A. OF THIS SECTION, AND ALL OTHER USES,
5 STRUCTURES AND ACTIVITIES WHICH ARE IN ACCORDANCE
6 WITH ALL OTHER LAND USE REGULATIONS PROVIDED THEY ARE
7 ADEQUATELY FLOODPROOFED AS SET FORTH IN SUBSECTION
8 D.8. BELOW, *FLOOD HAZARD PERMIT*.

9 iv. THE FOLLOWING USES ARE PROHIBITED: USES, STRUCTURES
10 AND ACTIVITIES WHICH ARE NOT PERMITTED UNDER
11 SUBSECTIONS 6.B.I. THROUGH III. OF THIS SECTION OR WHICH
12 WOULD CAUSE VIOLATIONS OF STATE WATER QUALITY
13 STANDARDS.

14 7. CONSTRUCTION REQUIREMENTS

15 a. *GENERALLY*

16 ALL NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS IN AREAS
17 DESIGNATED ON THE FLOOD INSURANCE RATE MAP AS ZONES A, A1-30,
18 AE, AND AH SHALL MEET THE FOLLOWING CONDITIONS:

19 i. THE LOWEST FLOOR, INCLUDING BASEMENT OR CRAWL SPACE,
20 OF RESIDENTIAL STRUCTURES SHALL BE ELEVATED TO AT
21 LEAST ONE FOOT ABOVE THE BASE FLOOD LEVEL. WITHIN THE
22 STRUCTURE, ATTENDANT UTILITY AND SANITARY FACILITIES
23 SHALL BE ELEVATED TO AT LEAST ONE FOOT ABOVE THE BASE
24 FLOOD OR COMPLETELY FLOODPROOFED.

25 ii. THE LOWEST FLOOR, INCLUDING BASEMENT, OF
26 NONRESIDENTIAL STRUCTURES SHALL BE ELEVATED TO AT
27 LEAST ONE FOOT ABOVE THE BASE FLOOD LEVEL, UNLESS THE
28 STRUCTURE, WITH ALL UTILITY AND SANITARY FACILITIES, IS
29 DESIGNED SO THAT BELOW BASE FLOOD LEVEL THE
30 STRUCTURE IS WATERTIGHT WITH WALLS SUBSTANTIALLY
31 IMPERMEABLE TO THE PASSAGE OF WATER AND SO THAT IT IS
32 CAPABLE OF RESISTING HYDROSTATIC AND HYDRODYNAMIC
33 LOADS AND EFFECTS OF BUOYANCY.

34 iii. ALL FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR THAT
35 ARE USABLE SOLELY FOR PARKING, BUILDING ACCESS, OR
36 STORAGE IN AN AREA OTHER THAN A BASEMENT OR
37 CRAWLSPACE SHALL HAVE A MINIMUM OF TWO OPENINGS
38 HAVING A TOTAL NET AREA OF NOT LESS THAN ONE SQUARE
39 INCH FOR EVERY SQUARE FOOT OF ENCLOSED AREA
40 ACCORDING TO FEMA SPECIFICATIONS. THE BOTTOM OF ALL
41 OPENINGS SHALL BE NO HIGHER THAN ONE FOOT ABOVE
42 GRADE. OPENINGS MAY BE EQUIPPED WITH SCREENS,
43 LOUVERS OR OTHER COVERINGS OR DEVICES PROVIDED THAT
44 THEY PERMIT THE AUTOMATIC ENTRY AND EXIT OF
45 FLOODWATERS.

46 iv. WHERE FLOODPROOFING IS UTILIZED A REGISTERED
47 PROFESSIONAL ENGINEER OR ARCHITECT SHALL CERTIFY THAT
48 THE FLOODPROOFING METHODS ARE ADEQUATE.

49 v. FOR NEW MANUFACTURED HOME PARKS AND MANUFACTURED
50 HOME SUBDIVISIONS; FOR EXPANSIONS TO EXISTING

EXHIBIT A

- 1 MANUFACTURED HOME PARKS AND MANUFACTURED HOME
2 SUBDIVISIONS; FOR EXISTING MANUFACTURED HOME PARKS
3 AND MANUFACTURED HOME SUBDIVISIONS WHERE THE REPAIR,
4 RECONSTRUCTION OR IMPROVEMENT OF THE STREETS,
5 UTILITIES AND PADS EQUALS OR EXCEEDS 50 PERCENT OF
6 VALUE OF THE STREETS, UTILITIES AND PADS BEFORE THE
7 REPAIR, RECONSTRUCTION OR IMPROVEMENT HAS
8 COMMENCED; AND FOR MANUFACTURED HOMES NOT PLACED IN
9 A MANUFACTURED HOME PARK OR MANUFACTURED HOME
10 SUBDIVISION, REQUIRE THAT THE REPAIR, AND ON ALL
11 PROPERTY NOT WITHIN A MANUFACTURED HOME PARK OR
12 SUBDIVISION STANDS OR LOTS ARE ELEVATED ON COMPACTED
13 FILL OR ON PILINGS SO THAT:
- 14 (A) THE LOWEST FLOOR OF EACH MANUFACTURED HOME
15 MUST BE AT LEAST ONE FOOT ABOVE THE BASE FLOOD
16 LEVEL.
- 17 (B) ADEQUATE SURFACE DRAINAGE AND ACCESS FOR A
18 HAULER MUST BE PROVIDED.
- 19 (C) FOR MANUFACTURED HOMES PLACED ON PILINGS,
20 PILINGS MUST BE STABLE AND NO MORE THAN TEN FEET
21 APART AND REINFORCED IF MORE THAN SIX FEET ABOVE
22 THE GROUND LEVEL.
- 23 (D) LOTS MUST BE LARGE ENOUGH TO PERMIT STEPS.
- 24 vi. ALL MANUFACTURED HOMES TO BE PLACED OR SUBSTANTIALLY
25 IMPROVED SHALL BE ELEVATED ON A PERMANENT FOUNDATION
26 SUCH THAT THE LOWEST FLOOR OF THE MANUFACTURED HOME
27 IS AT LEAST ONE FOOT ABOVE THE BASE FLOOD ELEVATION,
28 AND BE SECURELY ANCHORED TO AN ADEQUATELY ANCHORED
29 FOUNDATION SYSTEM.
- 30 vii. ALL MANUFACTURED HOMES MUST LIKEWISE BE ANCHORED TO
31 PREVENT FLOTATION, COLLAPSE OR LATERAL MOVEMENT, AND
32 SHALL BE INSTALLED USING METHODS AND PRACTICES THAT
33 MINIMIZE FLOOD DAMAGE. ANCHORING METHODS MAY INCLUDE
34 BUT ARE NOT LIMITED TO USE OF OVER-THE-TOP OR FRAME
35 TIES TO GROUND ANCHORS.
- 36 b. **STANDARDS FOR SHALLOW FLOOD AREAS (AO ZONES)**
37 SHALLOW FLOODING AREAS APPEAR ON THE FLOOD INSURANCE RATE
38 MAPS AS AO ZONES WITH DEPTH DESIGNATIONS. THE BASE FLOOD
39 DEPTHS IN THESE ZONES RANGE FROM ONE TO THREE FEET WHERE A
40 CLEARLY DEFINED CHANNEL DOES NOT EXIST, OR WHERE THE PATH OF
41 FLOODING IS UNPREDICTABLE AND WHERE VELOCITY FLOW MAY BE
42 EVIDENT. SUCH FLOODING IS USUALLY CHARACTERIZED AS SHEET
43 FLOW. IN THESE AREAS, THE FOLLOWING PROVISIONS APPLY:
- 44 i. NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS OF
45 RESIDENTIAL STRUCTURES WITHIN AO ZONES SHALL HAVE THE
46 LOWEST FLOOR, INCLUDING BASEMENT OR CRAWL SPACE,
47 ELEVATED ABOVE THE HIGHEST ADJACENT GRADE OF THE
48 BUILDING SITE, TO AT LEAST ONE FOOT ABOVE THE DEPTH
49 NUMBER SPECIFIED ON THE FLOOD INSURANCE RATE MAP (AT
50 LEAST TWO FEET IF NO DEPTH NUMBER IS SPECIFIED).

EXHIBIT A

- 1 ii. NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS OF
2 NONRESIDENTIAL STRUCTURES WITHIN AO ZONES SHALL
3 EITHER:
- 4 (A) HAVE THE LOWEST FLOOR, INCLUDING BASEMENT,
5 ELEVATED ABOVE THE HIGHEST ADJACENT GRADE OF
6 THE BUILDING SITE, TO AT LEAST ONE FOOT ABOVE THE
7 DEPTH NUMBER SPECIFIED ON THE FLOOD INSURANCE
8 RATE MAP (AT LEAST TWO FEET IF NO DEPTH NUMBER IS
9 SPECIFIED); OR
- 10 (B) TOGETHER WITH ATTENDANT UTILITY AND SANITARY
11 FACILITIES, BE COMPLETELY FLOODPROOFED TO OR
12 ABOVE THAT LEVEL SO THAT ANY SPACE BELOW THAT
13 LEVEL IS WATERTIGHT WITH WALLS SUBSTANTIALLY
14 IMPERMEABLE TO THE PASSAGE OF WATER AND WITH
15 STRUCTURAL COMPONENTS HAVING THE CAPABILITY OF
16 RESISTING HYDROSTATIC AND HYDRODYNAMIC LOADS
17 AND EFFECTS OF BUOYANCY. IF THIS METHOD IS USED,
18 COMPLIANCE SHALL BE CERTIFIED BY A REGISTERED
19 PROFESSIONAL ENGINEER OR ARCHITECT.
- 20 iii. ADEQUATE DRAINAGE PATHS ARE REQUIRED AROUND
21 STRUCTURES ON SLOPES TO GUIDE FLOODWATERS AROUND
22 AND AWAY FROM PROPOSED STRUCTURES.
- 23 **8. FLOOD HAZARD PERMIT**
- 24 a. **REQUIRED**
- 25 NO PERSON SHALL ENGAGE IN DEVELOPMENT WITHIN THE FLOOD
26 HAZARD OVERLAY DISTRICT UNLESS A FLOOD HAZARD PERMIT IS FIRST
27 ISSUED, PURSUANT TO SECTION 21.03.090, *FLOOD HAZARD PERMITS*.
- 28 b. **CONDITIONS**
- 29 SPECIAL CONDITIONS MAY BE ATTACHED AS A CONDITION TO THE
30 ISSUANCE OF A FLOOD HAZARD PERMIT. CONDITIONS SHALL INCLUDE
31 ANY FLOODPROOFING MEASURES DEEMED NECESSARY BY THE
32 ISSUING OFFICIAL TO FURTHER THE PURPOSES OF THIS CHAPTER.
33 FLOODPROOFING MEASURES MAY INCLUDE REQUIREMENTS THAT:
- 34 i. THE FINISHED SURFACE OF THE FIRST OR MAIN FLOOR SHALL
35 BE AT LEAST ONE FOOT ABOVE THE LEVEL OF THE REGULATORY
36 FLOOD PROTECTION ELEVATION.
- 37 ii. STRUCTURES OR USES BELOW THE LEVEL OF THE REGULATORY
38 FLOOD SHALL BE RESTRICTED TO THOSE NOT INVOLVING
39 HABITUAL HUMAN HABITATION, SUCH AS WORKING SPACE,
40 LIVING SPACE, SLEEPING SPACE, ETC.
- 41 iii. THE ANCHORAGE SHALL BE SUITABLE TO RESIST FLOTATION
42 AND LATERAL MOVEMENT.
- 43 iv. FOR ALL CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS,
44 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR THAT ARE
45 SUBJECT TO FLOODING SHALL BE DESIGNED TO
46 AUTOMATICALLY EQUALIZE HYDROSTATIC FLOOD FORCES ON
47 EXTERIOR WALLS BY ALLOWING FOR THE ENTRY AND EXITS OF
48 FLOODWATERS. DESIGNS FOR MEETING THIS REQUIREMENT
49 MUST EITHER BE CERTIFIED BY A REGISTERED PROFESSIONAL

EXHIBIT A

1 ENGINEER OR ARCHITECT OR MUST MEET OR EXCEED THE
2 FOLLOWING MINIMUM CRITERIA: A MINIMUM OF TWO OPENINGS
3 HAVING A TOTAL NET AREA OF NOT LESS THAN ONE SQUARE
4 INCH FOR EVERY SQUARE FOOT OF ENCLOSED AREA SUBJECT
5 TO FLOODING SHALL BE PROVIDED TO FEMA SPECIFICATIONS.
6 THE BOTTOM OF ALL OPENINGS SHALL BE NO HIGHER THAN ONE
7 FOOT ABOVE GRADE. OPENINGS MAY BE EQUIPPED WITH
8 SCREENS, LOUVERS OR OTHER COVERINGS OR DEVICES
9 PROVIDED THAT THEY PERMIT THE AUTOMATIC ENTRY AND
10 EXITS OF FLOODWATERS.

11 v. ALL AREAS BELOW THE LEVEL OF THE REGULATORY FLOOD
12 PROTECTION LEVELS SHALL BE COATED WITH PAINT,
13 MEMBRANES, OR MORTARS SUBSTANTIALLY IMPERMEABLE TO
14 THE PASSAGE OF WATER.

15 vi. WATER SUPPLY AND WASTE TREATMENT SYSTEMS MUST
16 PREVENT INFILTRATION OF WATER.

17 vii. ALL INTERIOR DRAINS MUST BE CONNECTED TO THE SANITARY
18 SEWER SYSTEM.

19 9. NONCONFORMING USES

20 A STRUCTURE OR THE USE OF A STRUCTURE OR PREMISES LOCATED WITHIN
21 THE FLOOD HAZARD OVERLAY DISTRICT THAT WAS LAWFUL BEFORE THE
22 ORIGINAL PASSAGE OF APPLICABLE REGULATIONS, BUT THAT IS NOT IN
23 CONFORMITY OF THE PROVISIONS OF SUCH REGULATIONS, MAY BE
24 CONTINUED SUBJECT TO THE FOLLOWING CONDITIONS:

25 a. NO SUCH USE SHALL BE EXPANDED, CHANGED, ENLARGED, OR
26 ALTERED IN ANY WAY WHICH INCREASES ITS NONCONFORMITY WITH
27 RESPECT TO THE PROVISIONS OF THIS CHAPTER.

28 b. IF SUCH USE IS DISCONTINUED FOR 12 CONSECUTIVE MONTHS, ANY
29 FUTURE USE OF THE STRUCTURE OR PREMISES SHALL CONFORM TO
30 THIS CHAPTER.

31 c. USES OR ADJUNCTS THEREOF WHICH ARE OR HAVE BECOME
32 NUISANCES SHALL NOT BE ENTITLED TO CONTINUANCE AS
33 NONCONFORMING USES.

34 d. ANY PERMITTED ALTERATION, ADDITION, OR REPAIR TO ANY
35 NONCONFORMING STRUCTURE THE COST OF WHICH EQUALS OR
36 EXCEEDS 50 PERCENT OF THE FAIR MARKET VALUE OF THE
37 STRUCTURE WHICH WOULD RESULT IN SUBSTANTIALLY INCREASING
38 THE FLOOD DAMAGE POTENTIAL SHALL BE ADEQUATELY
39 FLOODPROOFED IN ACCORDANCE WITH SUBSECTION 8.B.

40 10. DUTIES OF THE DIRECTOR OF THE PUBLIC WORKS

41 a. THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL GRANT OR
42 DENY DEVELOPMENT PERMIT APPLICATIONS IN ACCORDANCE WITH
43 THE PROVISIONS OF THIS CHAPTER, EXCEPT THAT THE PLATTING
44 BOARD IS DIRECTED AND AUTHORIZED TO CONSIDER THIS CHAPTER IN
45 RELATION TO ANY MATTER BROUGHT BEFORE THAT BOARD.

46 b. THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL MAINTAIN
47 ALL RECORDS REQUIRED BY THE FEDERAL INSURANCE

EXHIBIT A

1 ADMINISTRATION AND SHALL FILE AN ANNUAL REPORT WITH THE
2 FEDERAL INSURANCE ADMINISTRATOR.

3 c. ADDITIONAL DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF THE
4 PUBLIC WORKS DEPARTMENT ARE AS FOLLOWS:

5 i. *PERMIT REVIEW*

6 THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL:

7 (A) REVIEW ALL FLOOD HAZARD PERMITS TO DETERMINE
8 THAT THE PERMIT REQUIREMENTS OF THIS CHAPTER
9 HAVE BEEN SATISFIED.

10 (B) REVIEW ALL FLOOD HAZARD PERMITS TO DETERMINE
11 THAT ALL NECESSARY PERMITS HAVE BEEN OBTAINED
12 FROM THOSE FEDERAL, STATE, OR LOCAL
13 GOVERNMENTAL AGENCIES FROM WHICH PRIOR
14 APPROVAL IS REQUIRED.

15 (C) REVIEW ALL FLOOD HAZARD PERMITS TO DETERMINE IF
16 THE PROPOSED DEVELOPMENT IS LOCATED IN THE
17 FLOODWAY, AND, IF LOCATED IN THE FLOODWAY,
18 ENSURE THAT THE ENCROACHMENT PROVISIONS OF
19 SUBSECTION 6.A. ABOVE ARE MET.

20 ii. *USE OF OTHER BASE FLOOD DATA*

21 WHEN BASE FLOOD ELEVATION DATA HAVE NOT BEEN
22 PROVIDED IN ACCORDANCE WITH SUBSECTION D.3. ABOVE, THE
23 DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL OBTAIN,
24 REVIEW AND REASONABLY UTILIZE ANY BASE FLOOD ELEVATION
25 DATA AVAILABLE FROM A FEDERAL, STATE OR OTHER SOURCE
26 IN ORDER TO ADMINISTER SUBSECTIONS D.6. THROUGH D.9.
27 ABOVE.

28 iii. *INFORMATION TO BE OBTAINED AND MAINTAINED*

29 THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL:

30 (A) OBTAIN AND RECORD THE ACTUAL ELEVATION, IN
31 RELATION TO MEAN SEA LEVEL, OF THE LOWEST
32 HABITABLE FLOOR, INCLUDING BASEMENT, OF ALL NEW
33 OR SUBSTANTIALLY IMPROVED STRUCTURES, AND
34 WHETHER OR NOT THE STRUCTURE CONTAINS A
35 BASEMENT.

36 (B) FOR ALL NEW OR SUBSTANTIALLY IMPROVED
37 FLOODPROOFED STRUCTURES:

38 (1) VERIFY AND RECORD THE ACTUAL ELEVATION, IN
39 RELATION TO MEAN SEA LEVEL; AND

40 (2) MAINTAIN THE FLOODPROOFING CERTIFICATIONS
41 REQUIRED IN SUBSECTION 7.A.IV. ABOVE.

42 (C) MAINTAIN FOR PUBLIC INSPECTION ALL RECORDS
43 PERTAINING TO THE PROVISIONS OF THIS SECTION.

44 iv. *DUTIES REGARDING ALTERATION OF WATERCOURSES*

45 THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL:

EXHIBIT A

1 (A) NOTIFY ADJACENT COMMUNITIES AND THE STATE
2 COORDINATING AGENCY PRIOR TO ANY ALTERATION OR
3 RELOCATION OF A WATERCOURSE AND SUBMIT
4 EVIDENCE OF SUCH NOTIFICATION TO THE FEDERAL
5 INSURANCE ADMINISTRATION.

6 (B) REQUIRE THAT MAINTENANCE IS PROVIDED WITHIN THE
7 ALTERED OR RELOCATED PORTION OF THE
8 WATERCOURSE SO THAT THE FLOOD-CARRYING
9 CAPACITY IS NOT DIMINISHED.

10 v. INTERPRETATION OF FIRM BOUNDARIES

11 THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL
12 MAKE INTERPRETATIONS, WHERE NEEDED, AS TO EXACT
13 LOCATION OF THE BOUNDARIES OF THE AREAS OF FLOOD
14 HAZARD, FOR EXAMPLE, WHERE THERE APPEARS TO BE A
15 CONFLICT BETWEEN A MAPPED BOUNDARY AND ACTUAL FIELD
16 CONDITIONS. THE PERSON CONTESTING THE LOCATION OF THE
17 BOUNDARY SHALL BE GIVEN A REASONABLE OPPORTUNITY TO
18 APPEAL THE INTERPRETATION AS PROVIDED IN SUBSECTION
19 D.11. BELOW.

20 11. APPEAL PROCEDURE

21 APPEALS ALLEGING ERROR BY THE DIRECTOR OF THE PUBLIC WORKS
22 DEPARTMENT CHARGED WITH THE ENFORCEMENT OR INTERPRETATION OF
23 THIS CHAPTER MAY BE TAKEN TO THE ZONING BOARD OF EXAMINERS AND
24 APPEALS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 21.03.050,
25 APPEALS.

26 12. STANDARDS AND CONDITIONS FOR VARIANCES AND APPEALS

27 a. IN PASSING UPON VARIANCES OR APPEALS, THE ZONING BOARD OF
28 EXAMINERS AND APPEALS SHALL CONSIDER ALL TECHNICAL
29 EVALUATIONS, ALL RELEVANT FACTORS, STANDARDS SPECIFIED IN
30 OTHER SECTIONS OF THIS SECTION AND:

31 i. THE DANGER THAT MATERIALS MAY BE SWEEPED ONTO OTHER
32 LANDS TO THE INJURY OF OTHERS;

33 ii. THE DANGER TO LIFE AND PROPERTY DUE TO FLOODING OR
34 EROSION DAMAGE;

35 iii. THE SUSCEPTIBILITY OF THE PROPOSED FACILITY AND ITS
36 CONTENTS TO FLOOD DAMAGE AND THE EFFECT OF SUCH
37 DAMAGE ON THE INDIVIDUAL OWNER;

38 iv. THE IMPORTANCE OF THE SERVICES PROVIDED BY THE
39 PROPOSED FACILITY TO THE COMMUNITY;

40 v. THE NECESSITY OF THE FACILITY OF A WATERFRONT LOCATION,
41 WHERE APPLICABLE;

42 vi. THE AVAILABILITY OF ALTERNATIVE LOCATIONS FOR THE
43 PROPOSED USE WHICH ARE NOT SUBJECT TO FLOODING OR
44 EROSION DAMAGE;

45 vii. THE COMPATIBILITY OF THE PROPOSED USE WITH EXISTING AND
46 ANTICIPATED DEVELOPMENT;

EXHIBIT A

- 1 viii. THE RELATIONSHIP OF THE PROPOSED USE TO THE
2 COMPREHENSIVE PLAN AND FLOODPLAIN MANAGEMENT
3 PROGRAM FOR THAT AREA;
- 4 ix. THE SAFETY OF ACCESS TO THE PROPERTY IN TIME OF FLOOD
5 FOR ORDINARY AND EMERGENCY VEHICLES;
- 6 x. THE EXPECTED HEIGHTS, VELOCITY, DURATION, RATE OF RISE
7 AND SEDIMENT TRANSPORT OF THE FLOODWATERS AND THE
8 EFFECTS OF WAVE ACTION, IF APPLICABLE, EXPECTED AT THE
9 SITE; AND
- 10 xi. THE COSTS OF PROVIDING GOVERNMENTAL SERVICES DURING
11 AND AFTER FLOOD CONDITIONS, INCLUDING MAINTENANCE AND
12 REPAIR OF PUBLIC UTILITIES AND FACILITIES SUCH AS SEWER,
13 GAS, ELECTRICAL AND WATER SYSTEMS AND STREETS AND
14 BRIDGES.
- 15 b. GENERALLY, VARIANCES MAY BE ISSUED FOR NEW CONSTRUCTION
16 AND SUBSTANTIAL IMPROVEMENTS TO BE ERECTED ON A LOT OF ONE-
17 HALF ACRE OR LESS IN SIZE CONTIGUOUS TO AND SURROUNDED BY
18 LOTS WITH EXISTING STRUCTURES CONSTRUCTED BELOW THE BASE
19 FLOOD LEVEL, PROVIDING THE ITEMS IN SUBSECTIONS 12.A.I. THROUGH
20 XI. OF THIS SECTION HAVE BEEN FULLY CONSIDERED. AS THE LOT SIZE
21 INCREASES BEYOND ONE-HALF ACRE, THE TECHNICAL JUSTIFICATION
22 REQUIRED FOR ISSUING THE VARIANCE INCREASES.
- 23 c. THE ZONING BOARD OF EXAMINERS AND APPEALS MAY ATTACH SUCH
24 CONDITIONS TO THE GRANTING OF VARIANCES OR APPEALS AS IT
25 DEEMS NECESSARY TO FURTHER THE PURPOSES OF THIS CHAPTER.
- 26 d. THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT SHALL MAINTAIN
27 THE RECORDS OF ALL VARIANCE AND APPEAL ACTIONS AND REPORT
28 ANY VARIANCES TO THE FEDERAL INSURANCE ADMINISTRATION UPON
29 REQUEST.
- 30 e. CONDITIONS FOR VARIANCES ARE AS FOLLOWS:
- 31 i. VARIANCES MAY BE ISSUED FOR THE RECONSTRUCTION,
32 REHABILITATION, OR RESTORATION OF STRUCTURES LISTED ON
33 THE NATIONAL REGISTER OF HISTORIC PLACES OR THE STATE
34 INVENTORY OF HISTORIC PLACES, WITHOUT REGARD TO THE
35 PROCEDURES SET FORTH IN THE REMAINDER OF THIS SECTION.
- 36 ii. VARIANCES SHALL NOT BE ISSUED WITHIN ANY DESIGNATED
37 FLOODWAY IF ANY INCREASE IN FLOOD LEVELS DURING THE
38 BASIC FLOOD DISCHARGE WOULD RESULT.
- 39 iii. VARIANCES SHALL ONLY BE ISSUED UPON A DETERMINATION
40 THAT THE VARIANCE IS THE MINIMUM NECESSARY,
41 CONSIDERING THE FLOOD HAZARD, TO AFFORD RELIEF.
- 42 iv. VARIANCES SHALL ONLY BE ISSUED UPON:
- 43 (A) A SHOWING OF GOOD AND SUFFICIENT CAUSE;
- 44 (B) A DETERMINATION THAT FAILURE TO GRANT THE
45 VARIANCE WOULD RESULT IN EXCEPTIONAL HARDSHIP
46 TO THE APPLICANT; AND

EXHIBIT A

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(C) A DETERMINATION THAT THE GRANTING OF A VARIANCE WILL NOT RESULT IN INCREASED FLOOD HEIGHTS, ADDITIONAL THREATS TO PUBLIC SAFETY, OR EXTRAORDINARY PUBLIC EXPENSE, CREATE NUISANCES, CAUSE FRAUD ON OR VICTIMIZATION OF THE PUBLIC, OR CONFLICT WITH EXISTING LOCAL LAWS OR ORDINANCES.

v. ANY APPLICANT TO WHOM A VARIANCE IS GRANTED SHALL BE GIVEN WRITTEN NOTICE THAT THE STRUCTURE WILL BE PERMITTED TO BE BUILT WITH A LOWEST FLOOR ELEVATION BELOW THE BASE FLOOD ELEVATION AND THAT THE COST OF FLOOD INSURANCE WILL BE COMMENSURATE WITH THE INCREASED RISK RESULTING FROM THE REDUCED LOWEST FLOOR ELEVATION.]