

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 12-7-04

Submitted by: Chair of the Assembly
at the Request of the Mayor

Prepared by: Department of Law

For Reading: October 12, 2004

ANCHORAGE, ALASKA
AR NO. 2004-215(S) as amended

A RESOLUTION AMENDING ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTERS 21.10, 21.11 AND 21.12 TO ESTABLISH UNIFORM PROCEDURES FOR PLANNING AND ZONING COMMISSION, PLATTING BOARD, ZONING BOARD OF EXAMINERS AND APPEALS AND URBAN DESIGN COMMISSION FOR ISSUING DECISIONS AND MODIFYING PROCEDURES REGARDING ALLEGATIONS OF NEW EVIDENCE OR CHANGED CIRCUMSTANCES.

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. Anchorage Municipal Code of Regulations section 21.10.206 (**Planning & Zoning Commission**) is hereby amended to read as follows:

21.10.206 **Resolutions.**

All recommendations and decisions by the commission [TO THE ANCHORAGE ASSEMBLY] shall be made by written resolution and shall include the precise findings and conclusions made [THE SECRETARY SHALL PREPARE THE RESOLUTION, AND IT SHALL BE SIGNED BY THE CHAIR AND THE SECRETARY]. Resolutions shall be numbered consecutively within each year, according to sequence of approval, and shall be signed by the chair and the secretary. The minutes of the meeting at which the resolution is adopted shall show the vote of each member.

(AR No. 77-80; AO No. 80-79; AR No. 82-258; AR No. 86-39)

Section 2. Anchorage Municipal Code of Regulations section 21.10.304 (**Planning & Zoning Commission**) is hereby amended to read as follows:

21.10.304 **Decision.**

A. **Every decision made by the commission shall be based on and include findings of fact and conclusions. Every finding of fact shall be supported in the record of the proceedings. The findings shall be sufficient to provide a reasonable basis for understanding the reasons for the decision. In considering and applying any applicable approval criteria, the commission shall make specific findings as to why the criteria have or have not been met.**

~~**Unless otherwise specified, every decision made by the commission shall be by written resolution and shall be based on and include findings of fact and conclusions. Every finding of fact shall be supported in the record of the proceedings. The findings shall be sufficient to provide a reasonable basis**~~

1 for understanding the reasons for the decision. In considering and applying
2 any applicable approval criteria the commission shall make specific findings
3 as to why the criteria have or have not been met.]
4

5 [ANY DECISION APPROVING OR DENYING AN APPLICATION BEFORE
6 THE COMMISSION SHALL BE SUPPORTED BY THE STATEMENTS AND
7 CONCLUSIONS OF THE MEMBERS OF THE COMMISSION, WHICH
8 SHALL BE SUFFICIENT TO PROVIDE A REASONABLE BASIS FOR
9 UNDERSTANDING THE REASONS FOR THE DECISION. WHERE A
10 MEMBER RELIES ON HIS/HER PERSONAL KNOWLEDGE OR A
11 PERSONAL INSPECTION OF THE SITE IN MAKING HIS/HER DECISION,
12 THE PARTICULAR KNOWLEDGE ON WHICH HE/SHE RELIES SHALL BE
13 STATED ON THE RECORD.]
14

15 B. The findings of fact and decision of the commission at the scheduled hearing
16 shall become final seven (7) calendar days after the date the decision is made
17 on the record, unless:
18

19 1. Prior to the expiration of the seventh day, a written request is
20 received by the secretary to:
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- 22 a. Prepare a written decision based upon the record made at the
23 hearing; and
24 b. The request is accompanied by a written notice of intent to
25 appeal.
26

27 [THE DECISION SHALL BE FINAL] [~~as of the date it is signed~~] [UPON
28 THE RECORDING OF THE DECISION ON THE RECORD AT THE PUBLIC
29 HEARING.] [~~The decision shall be mailed or otherwise distributed to the~~
30 ~~applicant and any other parties who have made written request for notice of~~
31 ~~the decision. As to those parties, the time for appeal or reconsideration shall~~
32 ~~begin to run from the date the decision is mailed or otherwise distributed to~~
33 ~~them. For all other parties the time for appeal or reconsideration shall begin~~
34 ~~to run from the date the decision is signed.] [WRITTEN NOTICE OF THE
35 DECISION SHALL BE SENT TO THE APPLICANT WITHIN SEVEN DAYS
36 OF THE DECISION. FAILURE TO SEND WRITTEN NOTICE SHALL NOT
37 AFFECT THE VALIDITY OF THE DECISION OR THE RUNNING TIME
38 FOR APPEAL OR RECONSIDERATION.]
39~~

40 C. If a written request is received within seven (7) calendar days of the
41 commission's decision on the record, the secretary shall prepare written
42 findings of fact and decision for review by the commission at its next
43 regularly scheduled meeting, or as soon thereafter as feasible.
44

1 [ONLY THOSE MEMBERS SHALL PARTICIPATE IN THE DECISION
2 WHO HAVE BEEN PRESENT AT ALL PUBLIC HEARINGS ON THE
3 MATTER BEFORE THE COMMISSION OR WHO STATE ON THE
4 RECORD THAT THEY HAVE REVIEWED THE AVAILABLE
5 RECORDS AND ARE SUFFICIENTLY FAMILIAR WITH THE
6 TESTIMONY AND MATERIALS PRESENTED AT ANY MISSED
7 HEARING TO MAKE AN INFORMED DECISION.]
8

9 **D. Commission review of the written findings of fact and decision shall have**
10 **priority over regular agenda items, and shall be approved, as amended by**
11 **the commission if necessary, and become the final appealable decision of the**
12 **commission.**
13

14 **E. Within fifteen (15) days of the of approval of the final appealable decision**
15 **pursuant to subsection D. above, an applicant or other interested person**
16 **must file with the municipal clerk either:**
17

- 18 1. **A written motion alleging new evidence or changed circumstances,**
19 **pursuant to section 21.10.503; or**
- 20 2. **An appeal of the commission's final appealable decision, pursuant to**
21 **municipal code chapter 21.30.**
22

23 **F. If a motion alleging new evidence or changed circumstances is timely filed**
24 **with the municipal clerk pursuant to subsection E.1. above, the time for**
25 **appeal is stayed pending a decision on the motion. In the event the**
26 **commission determines to reopen and/or rehear new evidence or changed**
27 **circumstances, time for appeal is stayed pending a decision on rehearing.**
28

- 29 1. **A decision by the commission on a motion, with or without rehearing,**
30 **is not a final appealable decision for purposes of a subsequent motion**
31 **alleging new evidence or changed circumstances. A subsequent**
32 **motion alleging new evidence or changed circumstances shall be**
33 **automatically rejected by the municipal clerk without hearing or**
34 **reconsideration by the commission.**
35

36 **G. After a decision by the commission on a timely filed motion alleging new**
37 **evidence or changed circumstances, the time for appeal shall begin to run.**
38 **An applicant or other interested person must file an appeal within ten (10)**
39 **days after the date of the commission's decision, or the initial decision of the**
40 **commission shall become final.**
41

42 (AR No. 82-258; AR No. 86-39)

43
44 **Section 3.** Anchorage Municipal Code of Regulations section 21.10.503 (Planning & Zoning
45 **Commission)** is hereby amended to read as follows:

1
2 **21.10.503** **New evidence—Changed circumstances.**
3

4 A. [IN AN APPEAL TO THE BOARD OF ADJUSTMENT, A] An allegation of
5 new evidence or changed circumstances may be the basis for reopening the public
6 hearing or a rehearing of a matter previously decided by the commission. Any
7 such allegations shall be raised by written motion for rehearing or reopening the
8 hearing, and shall be filed with the municipal clerk no later than twenty (20) [30]
9 days after the [date of mailing or other distribution of the] commission's initial
10 [written] decision becomes final pursuant to section 21.10.304D.
11

12 B. Upon the filing of a motion under this [sub]section [UPON REMAND TO THE
13 COMMISSION BY THE MUNICIPAL CLERK], the commission shall expedite
14 its consideration of the motion and shall determine whether to rehear or reopen
15 the matter. [In the event a timely motion for rehearing is filed with the
16 commission in a case that is on appeal to the board of adjustment, the
17 commission shall promptly notify the board of adjustment of said filing.] The
18 commission [A REHEARING] shall reopen the public hearing or rehear the
19 matter previously decided [BE HELD] if the commission determines:
20

- 21 1. If true, that the alleged new evidence or changed circumstances would
22 substantially change the decision of the commission; and that
23 2. The person alleging the new evidence or changed circumstances acted
24 promptly and with diligence in bringing the information to the
25 commission's attention.
26

27 C [B]. If the commission holds a rehearing, it shall determine the extent of the subject
28 matter to be presented and shall indicate the limitations on the public hearing.
29

30 D. **A decision made by the commission, as the result of a motion or rehearing**
31 **under this section, is not an initial decision pursuant to subsection A. above;**
32 **subsequent motions alleging new evidence or changed circumstances shall be**
33 **automatically rejected by the municipal clerk without hearing or**
34 **reconsideration by the commission.**
35

36 (AR No. 82-258; AR No. 86-39)
37

38 **Section 4.** Anchorage Municipal Code of Regulations section 21.11.206 (Platting Board) is
39 hereby amended to read as follows:
40

41 **21.11.206 Resolutions.**
42

43 All recommendations and decisions by the board [TO THE ANCHORAGE ASSEMBLY
44 OR PLANNING AND ZONING COMMISSION] shall be made by written resolution
45 and shall include the precise findings and conclusions made. Resolutions shall be

1 numbered consecutively within each year, according to sequence of approval and shall be
2 signed by the chair[MAN] and the secretary. The minutes of the meeting at which
3 [MOTION ADOPTING] the resolution is adopted shall show the vote of each member.
4

5 (AR No. 78-17; AO No. 80-79; AR No. 80-131; AR No. 81-6; AR No. 83-126)

6 **Authority** - Anchorage Municipal Code 3.40, 4.05.120, 21.10.035
7

8 **Section 5.** Anchorage Municipal Code of Regulations section 21.11.304 (**Platting Board**) is
9 hereby amended to read as follows:
10

11 **21.11.304 Decision.**

12
13 A. **Every decision made by the board shall be based on and include findings of**
14 **fact and conclusions. Every finding of fact shall be supported in the record**
15 **of the proceedings. The findings shall be sufficient to provide a reasonable**
16 **basis for understanding the reasons for the decision. In considering and**
17 **applying any applicable approval criteria, the board shall make specific**
18 **findings as to why the criteria have or have not been met.**
19

20 ~~**[Unless otherwise specified, every decision made by the board shall be by**~~
21 ~~**written resolution, and shall be based on and include findings of fact and**~~
22 ~~**conclusions. Every finding of fact shall be supported in the record of the**~~
23 ~~**proceedings. The findings shall be sufficient to provide a reasonable basis**~~
24 ~~**for understanding the reasons for the decision. In considering and applying**~~
25 ~~**any applicable approval criteria the board shall make specific findings as to**~~
26 ~~**why the criteria have or have not been met.]**~~
27

28 [ANY DECISION APPROVING OR DENYING AN APPLICATION BEFORE
29 THE BOARD SHALL BE SUPPORTED BY THE STATEMENTS AND
30 CONCLUSIONS OF THE MEMBERS OF THE BOARD, WHICH SHALL BE
31 SUFFICIENT TO PROVIDE A REASONABLE BASIS FOR
32 UNDERSTANDING THE REASONS FOR THE DECISION. WHERE A
33 MEMBER RELIES ON HIS/HER PERSONAL KNOWLEDGE OR A
34 PERSONAL INSPECTION OF THE SITE IN MAKING A DECISION, THE
35 PARTICULAR KNOWLEDGE ON WHICH THE MEMBER RELIES SHALL
36 BE STATED ON THE RECORD. UPON THE REQUEST OF ANY PERSON
37 MADE WITHIN SEVEN DAYS AFTER THE BOARD ACTS ON AN
38 APPLICATION, THE BOARD SHALL, AT THE NEXT REGULAR
39 MEETING, ADOPT WRITTEN FINDINGS AND CONCLUSIONS ON THE
40 APPLICATION. A WRITTEN DECISION UNDER THIS SUBSECTION IS
41 THE DECISION OF THE BOARD FOR THE PURPOSE OF COMPUTING
42 THE TIME FOR APPEALING THE DECISION.]
43

1 B. The findings of fact and decision of the board at the scheduled hearing shall
2 become final seven (7) calendar days after the date the decision is made on
3 the record, unless:

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5 1. Prior to the expiration of the seventh day, a written request is
6 received by the secretary to:

7
8 a. Prepare a written decision based upon the record made at the
9 hearing; and

10 b. The request is accompanied by a written notice of intent to
11 appeal.

12
13 [THE DECISION SHALL BE FINAL] [~~as of the date it is signed~~] [UPON
14 THE RECORDING OF THE DECISION ON THE RECORD AT THE PUBLIC
15 HEARING]. [~~The decision shall be mailed or otherwise distributed to the~~
16 applicant and any other parties who have made written request for notice of
17 the decision. As to those parties the time for appeal or reconsideration shall
18 begin to run from the date the decision is mailed or otherwise distributed to
19 them. For all other parties the time for appeal or reconsideration shall begin
20 to run from the date the decision is signed.] [WRITTEN NOTICE OF THE
21 DECISION SHALL BE SENT TO THE APPLICANT WITHIN SEVEN DAYS
22 OF THE DECISION. FAILURE TO SEND WRITTEN NOTICE SHALL NOT
23 AFFECT THE VALIDITY OF THE DECISION OR THE RUNNING TIME
24 FOR APPEAL OR RECONSIDERATION.]

25
26 C. If a written request is received within seven (7) calendar days of the board's
27 decision on the record, the secretary shall prepare proposed written findings
28 of fact and decision to submit to the board at its next regularly scheduled
29 meeting, or as soon thereafter as feasible.

30
31 [ONLY THOSE MEMBERS SHALL PARTICIPATE IN THE DECISION
32 WHO HAVE BEEN PRESENT AT ALL PUBLIC HEARINGS ON THE
33 MATTER BEFORE THE BOARD OR WHO STATE ON THE RECORD
34 THAT THEY HAVE REVIEWED THE AVAILABLE RECORDS AND
35 ARE SUFFICIENTLY FAMILIAR WITH THE TESTIMONY AND
36 MATERIALS PRESENTED AT ANY MISSED HEARING TO MAKE AN
37 INFORMED DECISION.]

38
39 D. Board review of the written findings of fact and decision shall have priority
40 over regular agenda items, and shall be approved, as amended by the board
41 if necessary, and become the final appealable decision of the board.

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43 E. Within ten (10) days of the of approval of the final appealable decision
44 pursuant to subsection D. above, an applicant or other interested person
45 must file with the municipal clerk either:

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1. A written motion alleging new evidence or changed circumstances, pursuant to section 21.11.503; or
 2. An appeal of the board's final appealable decision, pursuant to municipal code chapter 21.30.

F. If a motion alleging new evidence or changed circumstances is timely filed pursuant to subsection E.1. above, the time for appeal is stayed pending a decision on the motion. In the event the board determines to reopen and/or rehear new evidence or changed circumstances, time for appeal is stayed pending a decision on rehearing.

1. A board decision on a motion, with or without rehearing, is not a final appealable decision for purposes of a subsequent motion alleging new evidence or changed circumstances. A subsequent motion alleging new evidence or changed circumstances shall be automatically rejected by the municipal clerk without hearing or reconsideration by the board.

G. After a decision by the board on a timely filed motion alleging new evidence or changed circumstances, the time for appeal shall begin to run. An applicant or other interested person must file an appeal within ten (10) days after the date of the board's decision, or the initial decision of the board shall become final.

(AR No. 81-6; AR No. 83-126; AR No. 84-227)

Section 6. Anchorage Municipal Code of Regulations section 21.11.503 (**Platting Board**) is hereby amended to read as follows:

21.11.503 New evidence—Changed circumstances.

A. An allegation of new evidence or changed circumstances may be the basis for reopening the public hearing [~~where a decision has not yet been made by the board~~] or for rehearing a matter previously decided by the board. Any such allegations shall be raised by written motion for rehearing or reopening the hearing, and shall be filed with the municipal clerk no later than twenty (20) [30] days after the [date of mailing or other distribution of the] board's initial [written] decision becomes final pursuant to section 21.11.304D.

B. Upon the filing of a motion under this [sub]section, the board shall expedite its consideration of the motion and shall determine whether to rehear or reopen the matter. [In the event a timely motion for rehearing is filed with the board in a case that is on appeal to the board of adjustment, the board shall promptly notify the board of adjustment of said filing.] The board shall [MAY, UPON

1 ITS OWN MOTION,] reopen a public hearing or rehear the matter previously
2 decided if **the board** [it] determines that:

- 3
4 1. If true, that the alleged new evidence or changed circumstances would
5 substantially change the decision of the board; and that
6 2. The person alleging the new evidence or changed circumstances acted
7 promptly and with diligence in bringing the information to the board's
8 attention.
9

10 **C [B].** If the board determines to reopen a public hearing or rehear a matter previously
11 decided, it shall also determine the extent of the subject matter to be heard and
12 indicate that in the public notice of the hearing.
13

14 **D.** **A decision made by the board, as the result of rehearing under this section, is**
15 **not an initial decision pursuant to subsection A. above; subsequent motions**
16 **alleging new evidence or changed circumstances shall be automatically**
17 **rejected by the municipal clerk without hearing or reconsideration by the**
18 **board.**
19

20 (AR No. 81-6; AR No. 83-126)
21

22 **Section 7.** Anchorage Municipal Code of Regulations section 21.12.260 (**Zoning Board of**
23 **Examiners and Appeals)** is hereby amended to read:
24

25 **21.12.260 Resolutions.**
26

27 All decisions [OF THE BOARD ON VARIANCES, APPEALS] and recommendations
28 by the board [TO THE ANCHORAGE ASSEMBLY OR THE PLANNING AND
29 ZONING COMMISSION] shall be made by written resolution and shall include precise
30 **written** findings **of fact** and conclusions[**made**]. Resolutions shall be numbered
31 consecutively within each year, according to sequence of approval and shall be signed by
32 the chair and the secretary. The minutes of the meeting at which [MOTION
33 ADOPTING] the resolution is adopted shall show the vote of each member.
34

35 (AR No. 96-26(S), § 1, 3-12-96)
36

37 **Section 8.** Anchorage Municipal Code of regulations section 21.12.340 (**Zoning Board of**
38 **Examiners and Appeals)** is hereby amended to read as follows:
39

40 **21.12.340 Decision.**
41

42 A. **Every decision made by the board shall be based on and include written**
43 **findings of fact and conclusions. Every finding of fact shall be supported in**
44 **the record of the proceedings. The findings shall be sufficient to provide a**
45 **reasonable basis for understanding the reasons for the decision. In**

1 considering and applying any applicable approval criteria, the board shall
2 make specific findings as to why the criteria have or have not been met.
3

4 ~~[Unless otherwise specified, every decision made by the board shall be by~~
5 ~~written resolution, and shall be based on and include findings of fact and~~
6 ~~conclusions. Every finding of fact shall be supported in the record of the~~
7 ~~proceedings. The findings shall be sufficient to provide a reasonable basis~~
8 ~~for understanding the reasons for the decision. In considering and applying~~
9 ~~any applicable approval criteria the board shall make specific findings as to~~
10 ~~why the criteria have or have not been met.]~~
11

12 [ANY DECISION APPROVING OR DENYING AN APPLICATION FOR
13 VARIANCE OR APPEAL FROM AN ADMINISTRATIVE ORDER BY THE
14 BOARD SHALL BE SUPPORTED BY THE STATEMENTS AND
15 CONCLUSIONS OF THE MEMBERS OF THE BOARD, WHICH SHALL BE
16 SUFFICIENT TO PROVIDE A REASONABLE BASIS FOR
17 UNDERSTANDING THE REASONS FOR THE DECISION. WHERE A
18 MEMBER RELIES ON HIS/HER PERSONAL KNOWLEDGE OR A
19 PERSONAL INSPECTION OF THE SITE IN MAKING A DECISION, THE
20 PARTICULAR KNOWLEDGE ON WHICH THE MEMBER RELIES SHALL
21 BE STATED ON THE RECORD.]
22

- 23 B. Every final decision of the board shall clearly state on its face it is a final
24 decision with respect to all issues involved in the case, and that the parties
25 have thirty (30) days from the date of mailing, or other distribution of the
26 decision, to file an appeal to the superior court.
27

28 ~~[THE DECISION SHALL BE FINAL as of the date it is signed]~~ [UPON THE
29 RECORDING OF THE DECISION ON THE RECORD AT THE PUBLIC
30 HEARING]. ~~[The decision shall be mailed or otherwise distributed to the~~
31 ~~applicant and any other parties who have made written request for notice of~~
32 ~~the decision. As to those parties the time for appeal or reconsideration shall~~
33 ~~begin to run from the date the decision is mailed or otherwise distributed to~~
34 ~~the applicant. For all other parties the time for appeal or reconsideration~~
35 ~~shall begin to run from the date the decision is signed.]~~ [THE BOARD
36 SHALL ADOPT WRITTEN FINDINGS AND CONCLUSIONS ON THE
37 APPLICATION. A WRITTEN DECISION UNDER THIS SUBSECTION IS
38 THE DECISION OF THE BOARD FOR THE PURPOSES OF COMPUTING
39 THE TIME FOR APPEALING THE DECISION.]
40

- 41 C. Only those members shall participate in the decision who have been present at all
42 public hearings on the matter before the board or who state on the record that they
43 have reviewed available records and are sufficiently familiar with the testimony
44 and material presented at any missed hearings to make an informed decision.
45

(AR No. 96-26(S), § 1, 3-12-96)

Section 9. Anchorage Municipal Code of Regulations section 21.13.260 (**Urban Design Commission**) is hereby amended to read as follows:

21.13.260 Resolutions.

All recommendations and decisions by the commission [TO THE ANCHORAGE ASSEMBLY] shall be made by written resolution and shall include the precise findings and conclusions made [THE SECRETARY SHALL PREPARE THE RESOLUTION, AND IT SHALL BE SIGNED BY THE CHAIR AND THE SECRETARY]. Resolutions shall be numbered consecutively within each year, according to sequence of approval, and shall be signed by the chair and the secretary. The minutes of the meeting at which the resolution is adopted shall show the vote of each member.

(AR No. 2003-342, § 1, 1-6-04)

Section 10. Anchorage Municipal Code of Regulations section 21.13.340 (**Urban Design Commission**) is hereby amended to read as follows:

21.13.340 Decision.

A. **Every decision made by the commission shall be based on and include findings of fact and conclusions. Every finding of fact shall be supported in the record of the proceedings. The findings shall be sufficient to provide a reasonable basis for understanding the reasons for the decision. In considering and applying any applicable approval criteria, the commission shall make specific findings as to why the criteria have or have not been met.**

~~**Unless otherwise specified, every decision made by the commission shall be by written resolution and shall be based on and include findings of fact and conclusions. Every finding of fact shall be supported in the record of the proceedings. The findings shall be sufficient to provide a reasonable basis for understanding the reasons for the decision. In considering and applying any applicable approval criteria the commission shall make specific findings as to why the criteria have or have not been met.**~~

[ANY DECISION APPROVING OR DENYING AN APPLICATION BEFORE THE COMMISSION SHALL BE SUPPORTED BY THE STATEMENTS AND CONCLUSIONS OF THE MEMBERS OF THE COMMISSION, WHICH SHALL BE SUFFICIENT TO PROVIDE A REASONABLE BASIS FOR UNDERSTANDING THE REASONS FOR THE DECISION. WHERE A MEMBER RELIES ON HIS/HER PERSONAL KNOWLEDGE OR A PERSONAL INSPECTION OF THE SITE IN MAKING HIS/HER DECISION,

1 THE PARTICULAR KNOWLEDGE ON WHICH HE/SHE RELIES SHALL BE
2 STATED ON THE RECORD.]

3
4 B. The findings of fact and decision of the commission at the scheduled hearing
5 shall become final seven (7) calendar days after the date the decision is made
6 on the record, unless:

7
8 1. Prior to the expiration of the seventh day, a written request is
9 received by the secretary to:

10
11 a. Prepare a written decision based upon the record made at the
12 hearing; and

13 b. The request is accompanied by a written notice of intent to
14 appeal.

15
16 [THE DECISION SHALL BE FINAL] [~~as of the date it is signed~~] [, AND
17 TIME FOR APPEAL SHALL BEGIN TO RUN, UPON THE RECORDING OF
18 THE DECISION ON THE RECORD AT THE PUBLIC HEARING]. [~~The~~
19 ~~decision shall be mailed or otherwise distributed to the applicant and any~~
20 ~~other parties who have made written request for notice of the decision. As to~~
21 ~~those parties, the time for appeal or reconsideration shall begin to run from~~
22 ~~the date the decision is mailed or otherwise distributed to them. For all other~~
23 ~~parties the time for appeal or reconsideration shall begin to run from the~~
24 ~~date the decision is signed.] [WRITTEN NOTICE OF THE DECISION SHALL
25 BE SENT TO THE APPLICANT WITHIN SEVEN DAYS OF THE DECISION.
26 FAILURE TO SEND WRITTEN NOTICE SHALL NOT AFFECT THE
27 VALIDITY OF THE DECISION OR THE RUNNING TIME FOR APPEAL OR
28 RECONSIDERATION.]~~

29
30 C. If a written request is received within seven (7) calendar days of the
31 commission's decision on the record, the secretary shall prepare proposed
32 written findings of fact and decision to submit to the commission at its next
33 regularly scheduled meeting, or as soon thereafter as feasible.

34
35 [ONLY THOSE MEMBERS SHALL PARTICIPATE IN THE DECISION
36 WHO WERE PRESENT AT ALL PUBLIC HEARINGS ON THE
37 MATTER BEFORE THE COMMISSION, OR WHO STATE ON THE
38 RECORD THEY HAVE REVIEWED THE AVAILABLE RECORDS, AND
39 ARE SUFFICIENTLY FAMILIAR WITH THE TESTIMONY AND
40 MATERIALS PRESENTED AT ANY MISSED HEARING TO MAKE AN
41 INFORMED DECISION.]

42
43 D. Commission review of the written findings of fact and decision shall have
44 priority over regular agenda items, and shall be approved, as amended by

1 the commission if necessary, and become the final appealable decision of the
2 commission.

3
4 E. Within ten (10) days of the approval of the final appealable decision
5 pursuant to subsection D. above, an applicant or other interested person
6 must file with the municipal clerk either:

- 7
8 1. A written motion alleging new evidence or changed circumstances,
9 pursuant to section 21.13.530; or
10 2. An appeal of the commission's final appealable decision, pursuant to
11 code chapter 21.30.

12
13 F. If a motion alleging new evidence or changed circumstances is timely filed
14 pursuant to subsection E.1. above, the time for appeal is stayed pending a
15 decision on the motion. In the event the commission determines to reopen
16 and/or rehear new evidence or changed circumstances, time for appeal is
17 stayed pending a decision on rehearing.

- 18
19 1. A commission decision on a motion, with or without rehearing, is not
20 a final appealable decision for purposes of a subsequent motion
21 alleging new evidence or changed circumstances. A subsequent
22 motion alleging new evidence or changed circumstances shall be
23 automatically rejected by the municipal clerk without hearing or
24 reconsideration by the commission.

25
26 G. After a decision by the commission on a timely filed motion alleging new
27 evidence or changed circumstances, the time for appeal shall begin to run.
28 An applicant or other interested person must file an appeal within ten (10)
29 days after the date of the commission's decision, or the initial decision of the
30 commission shall become final.

31
32 (AR No. 2003-342, § 1, 1-6-04)

33
34 **Section 11.** Anchorage Municipal Code of Regulations section 21.13.530 (**Urban Design**
35 **Commission)** is hereby amended to read as follows:

36
37 **21.13.530 New evidence—Changed circumstances.**

38
39 A. [IN AN APPEAL TO THE BOARD OF ADJUSTMENT, A] An allegation of
40 new evidence, or changed circumstances may be the basis for reopening the
41 public hearing, or a rehearing of a matter previously decided by the commission.
42 Any such allegations shall be raised by written motion for rehearing or reopening
43 the hearing, and shall be filed with the municipal clerk no later than twenty (20)
44 [30] days after the [~~date of mailing or other distribution of the~~] commission's
45 initial [~~written~~] decision becomes final pursuant to section 21.13.340D.

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2 **B.** Upon the filing of a motion under this ~~[sub]~~section [UPON REMAND TO THE
3 COMMISSION BY THE MUNICIPAL CLERK], the commission shall expedite
4 its consideration of the motion and shall determine whether to rehear or reopen
5 the matter. ~~[In the event a timely motion for rehearing is filed with the~~
6 ~~commission in a case that is on appeal to the board of adjustment, the~~
7 ~~commission shall promptly notify the board of adjustment of said filing.]~~ The
8 commission [A REHEARING] shall reopen the public hearing or rehear the
9 matter previously decided [BE HELD] if the commission determines:

- 10
11 1. If true, that the alleged new evidence, or changed circumstances would
12 substantially change the decision of the commission; and that
13 2. The person alleging the new evidence, or changed circumstances acted
14 promptly and with diligence in bringing the information to the
15 commission's attention.
16

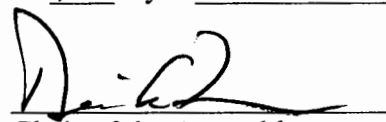
17 **C [B].** If the commission holds a rehearing, it shall determine the extent of the subject
18 matter to be presented, and shall indicate the limitations on the public hearing.
19

20 **D.** A decision made by the commission, as the result of rehearing under this
21 section, is not an initial decision pursuant to subsection A. above; subsequent
22 motions alleging new evidence or changed circumstances shall be
23 automatically rejected by the municipal clerk without hearing or
24 reconsideration by the commission.
25

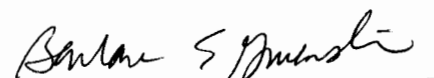
26 (AR No.2003-342, § 1, 1-6-04)
27

28 **Section 12.** This resolution shall take effect immediately upon passage and approval by the
29 Anchorage Assembly.
30

31 PASSED AND APPROVED by the Anchorage Assembly this 7th day of December, 2004.
32

33
34 
35 _____
36 Chair of the Assembly

36 ATTEST:
37

38 
39 _____
40 Municipal Clerk
41