

Submitted by: Chair of the Assembly at
the request of the Mayor
Prepared by: Planning Department
For reading: November 22, 2005

CLERK'S OFFICE
ANCHORAGE, ALASKA
Date: 1-18-06 AO 2005-175

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, 21.45
AND 21.50 TO DELETE ZONING AND CONDITIONAL USE PROVISIONS RELATED TO
ROOF-MOUNTED SATELLITE DISHES.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 21.40.030 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out.):

21.40.030 R-1 and R-1A single-family residential districts.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** **

12[13]. Snow disposal site. [ROOF MOUNTED SATELLITE DISHES GREATER
THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR
STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT
SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE
USED UNTIL DECEMBER 31, 2002.)]

13[14]. Community interest and local interest towers that do not meet the
supplementary district regulations.

*** **

(GAAB 21.05.050.B; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54;
AO No. 83-216; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 86-
90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 98-
53(S), § 1, 6-9-98; AO No. 99-49, § 1, 3-23-99; AO No. 99-62, § 4, 5-11-99; AO No 2002-
109, § 3, 9-10-02)

Section 2. Anchorage Municipal Code section 21.40.040 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out.):

**21.40.040 R-2A two-family residential district (large lot); R-2D two-family
residential district.**

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** **

12[13]. Snow disposal sites. [ROOF MOUNTED SATELLITE DISHES
GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL
STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL
USE [(EXCEPT SATELLITE DISHES UP TO TWO METERS IN
DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

13[14]. Community interest and local interest towers that do not meet the
supplementary district regulations.

*** **

(GAAB 21.05.050.C; AO No. 77-355; AO No. 79-13; AO No. 80-27; AO No. 80-42; AO
No. 81-67(S); AO No. 82-54; AO No. 83-217; AO No. 84-52; AO No. 85-18; AO No. 85-
21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 85-163;
AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-
147(S-2); AO No. 92-114; AO No. 98-53(S), § 2, 6-9-98; AO No. 99-49, § 2, 3-23-99; AO
No. 99-62, § 5, 5-11-99)

Section 3. Anchorage Municipal Code section 21.40.045 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.045 R-2M multiple-family residential district.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

14[15]. Snow disposal sites.
[ROOF MOUNTED SATELLITE DISHES GREATER THAN ONE
METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR
STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT
SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE
USED UNTIL DECEMBER 31, 2002).]

15[16]. Community interest and local interest towers that do not meet the
supplementary district regulations.

*** **

(GAAB 21.05.050.C; AO No. 77-355; AO No. 79-13; AO No. 80-27; AO No. 80-42; AO
No. 81-67(S); AO No. 82-54; AO No. 83-217; AO No. 84-52; AO No. 85-18; AO No. 85-
21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 85-163;
AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-
147(S-2); AO No. 92-114; AO No. 98-53(S), § 3, 6-9-98; AO No. 99-49, § 3, 3-23-99; AO
No. 99-62, § 6, 5-11-99)

Section 4. Anchorage Municipal Code section 21.40.050 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.050 **R-3 multiple-family residential district.**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

15[16]. Snow disposal sites.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

16[17]. Computer aided learning center maximum useable area of 1,000 square feet operated or sponsored by a governmental agency for economically disadvantaged individuals.

17[18]. Family self sufficiency service office maximum usable area of 1,500 square feet.

18[19]. Community interest and local interest towers that do not meet the supplementary district regulations.

*** *** ***

(GAAB 21.05.050.D; AO No. 77-355; AO No. 80-27; AO No. 80-42; AO No. 81-67(S); AO No. 82-54; AO No. 83-218; AO No. 84-52; AO No. 85-18; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 85-163; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 96-131(S), § 2, 10-22-96; AO No. 99-62, § 7, 5-11-99)

Section 5. Anchorage Municipal Code section 21.40.060 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.060 **R-4 multiple-family residential district.**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

14[15]. Snow disposal sites.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

15[16]. Computer aided learning center maximum useable area of 1,000 square feet

- operated or sponsored by a governmental agency for economically disadvantaged individuals.
- 16[17]. Family self sufficiency service office maximum usable area of 1,500 square feet.
- 17[18]. Community interest and local interest towers that do not meet the supplementary district regulations.

*** *** ***

(GAAB 21.05.050.E; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 85-18; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 96-131(S), § 2, 10-22-96; AO No. 99-62, § 8, 5-11-99; AO No. 2003-124(S), § 2, 1-20-04)

Section 6. Anchorage Municipal Code section 21.40.070 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.070 R-5 rural residential district; R-5A, rural residential district (large lot).

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

12[13]. Snow disposal sites

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002)].

13[14]. Community interest and local interest towers that do not meet the supplementary district regulations.

14[15]. Off-street parking spaces or structures so long as the property is contiguous and abuts a commercially or industrially zoned property and the properties are not separated by a right-of-way or constructed street.

*** *** ***

(GAAB 21.05.050.F; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 83-52; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 99-62, § 9, 5-11-99; AO No. 2002-63(S), § 1, 5-21-02)

Section 7. Anchorage Municipal Code section 21.40.080 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.080 **R-6 suburban residential district (large lot).**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

10[11]. Snow disposal sites

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002)].

11[12]. Commercial greenhouses.

12[13]. Community interest and local interest towers that do not meet the
supplementary district regulations.

*** *** ***

(GAAB 21.05.050.G; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54;
AO No. 85-18; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-
91, 10-1-85; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No.
92-114; AO No. 99-27, § 1, 2-23-99; AO No. 99-62, § 10, 5-11-99)

Section 8. Anchorage Municipal Code section 21.40.090 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.090 **R-7 intermediate rural residential district.**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

11[12]. Snow disposal sites.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002).]

12[13]. Community interest and local interest towers that do not meet the
supplementary district regulations.

[14. COMMUNITY INTEREST AND LOCAL INTEREST TOWERS THAT
DO NOT MEET THE SUPPLEMENTARY DISTRICT REGULATIONS.]

(GAAB 21.05.050.H; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 83-219; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 99-62, § 11, 5-11-99)

Section 9. Anchorage Municipal Code section 21.40.100 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.100 **R-8 rural residential district (large lot).**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

9 [10]. Community interest and local interest towers that do not meet the supplementary district regulations
[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002)].

*** *** ***

(GAAB 21.05.050.U; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 98-53(S), § 4, 6-9-98; AO No. 99-62, § 12, 5-11-99)

Section 10. Anchorage Municipal Code section 21.40.110 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.110 **R-9 rural residential district.**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

9[10]. Community interest and local interest towers that do not meet the supplementary district regulations.
[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL

DECEMBER 31, 2002)].

*** *** ***

(GAAB 21.05.050.V; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54;
AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 86-90; AO No. 88-
171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 98-53(S), § 5, 6-9-98; AO No. 99-62, §
13, 5-11-99)

Section 11. Anchorage Municipal Code section 21.40.115 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.115 R-10 residential alpine/slope district.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** *** ***

- 5 [6]. Community interest and local interest towers that do not meet the
supplementary district regulations.
[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002).]

*** *** ***

(AO No. 81-97; AO No. 81-217; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No.
86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 98-53(S), § 6, 6-9-98;
AO No. 99-49, § 1, 3-23-99; AO No. 99-62, § 14, 5-11-99)

Section 12. Anchorage Municipal Code section 21.40.117 is hereby amended to add new
subsections to read as follows (the remainder of the section is not affected and therefore is not set
out):

21.40.117 R-11 Turnagain Arm district.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** *** ***

11. Type 1, 2 and 3 community interest and local interest towers that do not
meet the supplementary district regulations for a permitted or accessory use[;
ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE

DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002)].

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(AO No. 82-162; AO No. 84-34; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85;
AO No. 86-122; AO No. 86-182; AO No. 88-143; AO No. 88-144, 11-26-88; AO No. 88-
171(S-1), 12-31-88; AO No. 94-120, § 1, 8-23-94; AO No. 94-238(S), § 3, 2-28-94; AO
No. 94-239, § 1, 2-14-95; AO No. 96-118, § 1, 8-22-96; AO No. 96-118, § 1, 8-13-96; AO
No. 99-62, § 15, 5-11-99; AO No. 2001-88, § 1, 6-5-01)

Section 13. Anchorage Municipal Code section 21.40.130 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.130 R-O residential-office district.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** **

8. Type 1, 2 and 3 local interest towers that do not meet the supplementary
district regulations for a permitted or accessory use[; ROOF MOUNTED
SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON
RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A
RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO
METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31,
2002)].

*** **

(GAAB 21.05.050.I; AO No. 77-219; AO No. 77-355; AO No. 78-199; AO No. 80-57; AO
No. 81-67(S); AO No. 83-226; AO No. 85-18; AO No. 85-23; AO No. 85-69; AO No. 85-
91, 10-1-85; AO No. 86-90; AO No. 86-171; AO No. 88-171(S-1), 12-31-88; AO No. 88-
147(S-2); AO No. 91-97; AO No. 92-114; AO No. 96-131(S), § 3, 10-22-96; AO No. 99-
62, § 16, 5-11-99; AO No. 2003-124(S), § 3, 1-20-04)

Section 14. Anchorage Municipal Code section 21.50.285 is hereby deleted in its entirety:

**21.50.285 [CONDITIONAL USE STANDARDS--ROOF MOUNT SATELLITE
DISHES IN RESIDENTIAL DISTRICTS.]**

[A. GENERAL. THE FOLLOWING PROVISIONS SHALL GOVERN THE
ISSUANCE OF CONDITIONAL USE PERMITS FOR ROOF MOUNTED
SATELLITE DISHES BY THE PLANNING AND ZONING COMMISSION:

1. APPLICATIONS FOR CONDITIONAL USE PERMITS UNDER THIS
SECTION SHALL BE SUBJECT TO THE CONDITIONAL USE
PROCEDURES AND GENERAL STANDARDS, EXCEPT AS

MODIFIED IN THIS SECTION.

2. IN GRANTING A CONDITIONAL USE PERMIT, THE PLANNING AND ZONING COMMISSION MAY IMPOSE CONDITIONS TO THE EXTENT THE PLANNING AND ZONING COMMISSION CONCLUDES SUCH CONDITIONS ARE NECESSARY TO MINIMIZE ANY ADVERSE EFFECT OF THE PROPOSED ANTENNA ON ADJOINING PROPERTIES.
3. ANY INFORMATION OF AN ENGINEERING NATURE THAT THE APPLICANT SUBMITS, WHETHER CIVIL, MECHANICAL, OR ELECTRICAL, SHALL BE CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER.
4. AN APPLICANT FOR A CONDITIONAL USE PERMIT SHALL SUBMIT THE INFORMATION DESCRIBED IN THIS SECTION AND A NON-REFUNDABLE FEE TO REIMBURSE THE MUNICIPALITY FOR THE COSTS OF REVIEWING THE APPLICATION.

B. INFORMATION REQUIRED. APPLICANTS FOR A CONDITIONAL USE PERMIT FOR A PROPOSED ROOF MOUNTED SATELLITE DISH SHALL SUBMIT THE FOLLOWING INFORMATION:

1. A SCALED SITE PLAN CLEARLY INDICATING THE LOCATION, TYPE AND HEIGHT OF THE PROPOSED ROOF MOUNTED SATELLITE DISH, ON-SITE LAND USES, ADJACENT LAND USES AND ZONING, ADJACENT ROADWAYS, SETBACKS FROM PROPERTY LINES, ELEVATION DRAWINGS OF THE PROPOSED TOWER AND ANY OTHER STRUCTURES, TOPOGRAPHY, AND OTHER INFORMATION DEEMED BY THE DIRECTOR OF COMMUNITY PLANNING AND DEVELOPMENT TO BE NECESSARY TO ASSESS COMPLIANCE WITH THE STANDARDS.
2. RENDERINGS OR PHOTOGRAPHS DEPICTING THE ANTENNA OR TOWER STRUCTURE IN PLACE SUFFICIENT TO ASSESS THE VISUAL IMPACT ON THE SURROUNDING NEIGHBORHOOD.
3. THE DISTANCE BETWEEN THE PROPOSED SATELLITE DISH AND THE NEAREST RESIDENTIAL UNIT.
4. EVIDENCE THE APPLICANT APPEARED BEFORE THE COMMUNITY COUNCIL REPRESENTING THE SITE.

C. FACTORS CONSIDERED IN GRANTING A CONDITIONAL USE PERMIT FOR A ROOF MOUNTED SATELLITE DISH. IN ADDITION TO THE GENERAL STANDARDS FOR A CONDITIONAL USE, THE PLANNING AND ZONING COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING WHETHER TO ISSUE A CONDITIONAL USE PERMIT, ALTHOUGH THE PLANNING AND ZONING COMMISSION MAY WAIVE OR REDUCE THE BURDEN ON THE APPLICANT OF ONE OR MORE OF THESE CRITERIA IF THE PLANNING AND ZONING COMMISSION CONCLUDES THAT THE GOALS OF THIS ORDINANCE ARE BETTER SERVED THEREBY:

1. HEIGHT OF THE PROPOSED SATELLITE DISH AND TOWER STRUCTURE;

2. PROXIMITY OF THE TOWER STRUCTURE TO RESIDENTIAL STRUCTURES;
3. NATURE OF USES ON ADJACENT AND NEARBY PROPERTIES;
4. SURROUNDING TOPOGRAPHY;
5. SURROUNDING TREE COVERAGE AND FOLIAGE; AND DESIGN OF THE SATELLITE DISH AND TOWER STRUCTURE, WITH PARTICULAR REFERENCE TO DESIGN CHARACTERISTICS THAT HAVE THE EFFECT OF REDUCING OR ELIMINATING VISUAL OBTRUSIVENESS.]

(AO No. 99-62, § 35, 5-11-99)

Section 15. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 10th day of January, ~~2007~~ 2006

Anna L. Fairclough
Chair

ATTEST:

Beth S. Gmelin
Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2005- 175

Title: Planning and Zoning Commission Case 2003-143;
recommendation of approval for an ordinance removing roof-
mounted satellite dishes as conditional uses and their
standards.

Sponsor:

Preparing Agency:

Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)			
	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	
REVENUES:					
CAPITAL:					
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:

Approval of this ordinance should have no significant impact on the public sector. It removes requirements regarding roof-mounted satellite dish provisions which are contrary to federal law.

PRIVATE SECTOR ECONOMIC EFFECTS:

Approval of this ordinance should have no significant economic impact on the private sector. It removes requirements regarding roof-mounted satellite dish provisions which are contrary to federal law.

Prepared by:	<u>Jerry T. Weaver Jr., Zoning Administrator</u>	Telephone: <u>343-7939</u>
Validated by OMB:	<u></u>	Date: <u></u>
Approved by:	<u></u> (Director, Preparing Agency)	Date: <u></u>
Concurred by:	<u></u> (Director, Impacted Agency)	Date: <u></u>
Approved by:	<u></u> (Municipal Manager)	Date: <u></u>



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 845 -2005

Meeting Date: November 22, 2005

1 **From:** MAYOR

2
3 **Subject:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
4 CHAPTERS 21.40, 21.45 AND 21.50 TO DELETE ZONING AND
5 CONDITIONAL USE PROVISIONS RELATED TO ROOF-MOUNTED
6 SATELLITE DISHES.
7

8 During the last year, it was brought to our attention by the Law Department that the roof-
9 mounted satellite dish provisions are contrary to federal law and, as currently written,
10 unenforceable. The Department of Law recommended that the zoning and conditional use
11 provisions for these dishes be deleted at this time.

12 Presently, the code requires a conditional use for roof-mounted satellite dishes greater than one
13 meter in diameter on residential structures, or structures accessory to a residential use. Federal
14 law has no size limitation on satellite dishes in Alaska.

15 The Planning and Zoning Commission reviewed this ordinance amendment as part of a larger
16 ordinance which included amendments to residential care and health care facilities, child care
17 facilities and roof-mounted satellite dishes. As roof-mounted satellite dishes are included in
18 many zoning districts, this one issue was separated from the larger original ordinance to avoid
19 confusion. This ordinance only makes changes for satellite dishes and associated standards.
20

21 The Planning and Zoning Commission recommended approval of the ordinance changes.
22

23 THE ADMINISTRATION RECOMMENDS APPROVAL OF THE ORDINANCE
24 AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, 21.45 AND 21.50, AS
25 APPROVED BY THE PLANNING AND ZONING COMMISSION.
26

27 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department
28 Concur: Tom Nelson, Director, Planning Department
29 Concur: Mary Jane Michaels, Executive Director,
30 Office of Economic and Community Development
31 Concur: Denis C. LeBlanc, Municipal Manager
32 Respectfully submitted, Mark Begich, Mayor
33

MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2005-016

A RESOLUTION RECOMMENDING APPROVAL TO THE ASSEMBLY OF AN ORDINANCE AMENDING CHAPTERS 21.35, 21.40, 21.45 AND 21.50 OF THE ANCHORAGE MUNICIPAL CODE REGARDING AND CLARIFYING ADMINISTRATIVE PROCEDURES AND PROVIDING DEFINITIONS FOR ADULT CARE FACILITIES, RESIDENTIAL CARE FACILITIES, ASSISTED LIVING FOR DISABILITY OR HANDICAP, HOSPITALS, NURSING FACILITIES, NURSING HOMES, TRANSITIONAL LIVING, HEALTH CARE FACILITIES, HEALTH SERVICES, CHILD CARE FACILITIES, QUASI-INSTITUTIONAL USES, LARGE AND SMALL RESIDENTIAL CARE FACILITIES, TRANSITIONAL LIVING FACILITIES, AMENDING ZONING DISTRICTS, SUPPLEMENTARY DISTRICT STANDARDS, AND STANDARDS FOR CONDITIONAL USES AND SITE PLANS, DELETING ZONING AND CONDITIONAL USE PROVISIONS RELATED TO ROOF-MOUNTED SATELLITE DISHES, AMENDING ANCHORAGE MUNICIPAL CODE SECTION 14.60.030 TO ADD VARIOUS CARE FACILITIES VIOLATIONS TO THE FINE SCHEDULE, AND OTHER RELATED MATTERS.

(Case 2003-143)

WHEREAS, a request has been received from the Municipality to address residential care facilities, and related housing, health services and facilities, and

WHEREAS, a public hearing was held on April 4, 2005.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Planning and Zoning Commission that:

A. The Commission makes the following findings of fact:

1. Over the past four years, there has been an increased interest in developing new, smaller residential care facilities due to demand and various State programs. The Department has identified approximately 200 such facilities. Maps of identified sites are attached in the staff packet. These facilities are generally located in single-family residences throughout the community. There has also been a rise in the number of complaints regarding some of these facilities in residential areas. This revised ordinance recognizes these smaller facilities, and brings the land use code up to date with changes in State and Federal regulations for Fair Housing, child care, and other residentially-based health care facilities.
2. In 2001, a task force was appointed by the Municipality to respond to the land use issues surrounding adult residential care (assisted living) facilities. Staff from the Departments of Planning, Development Services, Health and Human Services, and the Municipal Attorney's Office, met with representatives from the State Department of Health and Social Services to review areas of concern and to work towards a consensus on changes to Municipal Code regarding this land use. The Departments of Planning, Health and Human Services, the Municipal Attorney's Office and the assisted living providers have since worked together to produce this draft ordinance.

3. The original draft ordinance was heard by the Commission on February 2, 2004. In response to testimony by the public, most of which was in regard to changes to the child care regulations, the Commission closed the hearing at the end of testimony and requested staff to arrange for a work session prior to bringing the ordinance back to them under old business. The Commission directed staff to also identify and outline the major concerns presented during the hearing for that work session. Since that time, the Planning Department has worked with DHHS and the Fire Department, and has met with assisted living providers and other interested parties regarding both this ordinance and assisted living issues in general. The major issues presented, regarding child care amendments were: uses in mobile homes, lot size requirements, landscaping, and the number of children allowed in residential districts in a child-care facility as a by-right use. All of the child care issues have been resolved with DHHS.
4. In response to the child care concerns, the Department has taken the following action:
 - Collaboration with DHHS Child and Adult Care Division to ensure that the ordinance dovetails with Title 16 and State requirements, and current licensing regulations.
5. The major issue regarding residential care is whether or not the proposed ordinance impacted groups currently considered "families." Other issues were facilities such as Oxford House, families as defined by the Fair Housing Act, related code definitions, the number of beds in a residential care facility that would be allowed as a by-right and conditional uses in residential districts, and the requirement for biennial permits and related fire/building inspections for by-right uses.
6. In response to these concerns expressed by the assisted living providers and regulators, the ordinance has been revised with input from the following:
 - Review by the Municipal Attorney's Office regarding the ordinance, and especially definitions and use requirements, to ensure compliance with the Fair Housing Act and other Federal and State regulations and interpretations.
 - Meetings with assisted living care providers, emergency personnel, and community members, who provided input with their concerns in relation to the Fair Housing Act.
 - In the original meetings with care providers, the Fire Department and Building Safety suggested the requirement for biennial permits. The users objected to the original language for biennial permits as being overly intrusive. These smaller facilities are not proposed to be regulated by this ordinance, other than the requirement to comply with Fire codes. All structures must comply with fire regulations, regardless of occupancy type. These smaller facilities are permitted as a by-right use in residential zoning districts with an occupancy of up to 8 residents.

7. The ordinance has been restructured to allow "small residential care facilities," with occupancy of 8 and under, as a permitted use in all residential districts, with allowance for use in multi-family settings, as well. Larger facilities will be permitted as a conditional uses in the lower density districts, where health care facilities and similar uses are allowed, and as permitted uses in the higher density zoning districts.
8. This final draft AO has undergone intensive scrutiny and collaboration and is now structured to ensure the draft ordinance will be able to effectively meet the needs of the various providers and be in compliance with the Fair Housing Act, while providing protections for residents of the facilities and for neighborhoods where facilities may operate.
9. Other changes to the ordinance include amended definitions and new definitions which will help clarify existing conflicts in the code and provide new definitions where needed to bring the code up to date. Additionally, in response to the Transitional Living Facilities providers, which are very similar to purely residential uses and not considered true quasi-institutional uses, the ordinance has been amended to allow these facilities in the R-3 and R-4 zoning districts as conditional uses and as by-right uses in the R-O, B-2A, B-2B, B-2C and B-3 zoning districts.
10. Over the last year it was noted that the roof-mounted satellite dish provisions were contrary to federal law and currently unenforceable. This provision requires conditional use approval of roof mounted satellite dishes greater than one meter in diameter on residential structures or structures accessory to a residential use. As this ordinance is addressing all zoning districts, the Legal Department recommended the zoning and conditional use provisions for these dishes be deleted at this time.
11. During the public hearing, several amendments were requested to the ordinance, three by the Planning Department, and two from the public. The Department noted that DHHS Childcare has offered comments that have been provided to the Commission this evening to amend the definition of child care to ensure that providers realize this cannot be considered a home occupation under the zoning regulations; and to include a requirement for outdoor yard area for small childcare facilities. The Department also noted that the parking standards contained in Section 30, which are the regulations for large residential care facilities, would result in a very high number of parking spaces. Staff is recommending changing this section to that similar for elderly and disabled, which would currently be used for these facilities.
12. Amendments recommended by the public, who were members of the subcommittee, were to Sections 12 and 13 to include large residential care facilities as conditional uses in the R-6 and R-7 districts. Many members of the subcommittee would like these to be conditional uses in the R-6 and R-7 zoning districts and allow the Commission to review proposals on a case-by-case basis. The second request was to amend Section 33, 21.45.310 to eliminate D3a, the 15,000 square foot minimum lot size for adult care facility or large residential care facility with populations of 9-16 persons. It was felt by some subcommittee members that it was an arbitrary number, and that

other requirements of the code for site improvements will determine the size of the lot.

13. Testimony was received from a Community Council representative primarily regarding concerns that the number of residents allowed as a permitted use in residential districts was too high and not based on average neighborhood household density, and voiced concerns regarding on-site systems, especially septic systems, with the allowance for up to 8 residents as a permitted use.
14. The Commission, after closing the public hearing, entertained several motions, along with the main motion for approval of the ordinance. Several amendments were proposed, which failed. These were to require waste containment either in inside secure indoor storage or in a dumpster; to change the definition of "small residential care" from the current "8 or fewer" to "5 or fewer total residents and staff" in those residential zones where there was a primary concern with on-site systems and the terrain and the ability, therefore, of those sites to accommodate the larger wastewater generated; and to require an annual field inspection verification of on-site septic to ensure capacity based on the maximum number of residents and caregivers and factoring in the 24-hour use as a healthcare facility. Another failed amendment was to allow residential care facilities only on sites served by on-site sewer and water and publicly maintained roads, but that amendment died due to lack of a second. The purpose of these amendments were to ensure that waste does not become an attractive nuisance for wildlife, and regarding the number of residents and on-site reviews, the finding was that the capacity of 8 residents is arbitrary and not based on the health concern of septic systems, and that this is a concern for those who depend on groundwater due to potential contamination without follow-up on-site inspections of the systems.
15. The Commission found, regarding the failed amendments, that the author of the code was not trying to reach a statistical average in terms of the number of beds, they were trying to meet the requirements to not discriminate and to arrive at a number that did not, on its surface, impact neighborhoods, and found that the figure of 8 was a consensus as opposed to a statistical average. The Commission further found that on-site systems is a programmatic issue. There may be administrative regulations necessary to enforce 15.65, but this body is charged with dealing with land use issues. The Commission also found that hazardous trash can result from any number of residential or non-residential uses, and that it is a programmatic issue dealt with by the licensing agency, and is inappropriately addressed through land use provisions.
16. The Commission entertained further motions for amendments, which were approved. These were regarding those requested by DHHS regarding childcare for the definition and regarding outdoor play area, those requested by the Department regarding parking requirements, an amendment to remove the minimum lot size for residential care facilities with 9-16 persons, to require an annual field inspection and verification of on-site septic for large residential

care facilities, and to allow large residential care facilities as a conditional use in the R-6 and R-7 zoning districts.

17. The Commission finds that the DHHS amendments are self-explanatory and referenced staff's explanation of the parking requirement as appropriate.
18. The Commission's findings incorporated the comments made during the hearing that the other requirements in the code, such as those for parking, lot coverage, setbacks, etc. will determine the size of the lot, and that the 15,000 square foot figure for residential care facilities of 9-16 persons is relatively arbitrary.
19. The Commission finds that on-site systems are a programmatic issue, and that there may be administrative regulations necessary to enforce 15.65, but this body is charged with dealing with land use issues.
20. The Commission finds that there is a recognition of the concern behind the earlier motion for annual on-site inspections of septic systems for all residential care facilities, and thought there were areas in the ordinance where a compromise could be reached to address these concerns. The Commission noted that there are no requirements in Title 21 dealing with annual septic system inspections. The Commission finds that if there is a problem with on-site systems, it should be addressed more globally, but finds that for the larger facilities permitted by conditional use should have an annual inspection if they have on-site septic.
21. The Commission finds that this ordinance is about people living in houses, not institutions. The Commission noted there are less than 300 assisted living homes in the municipality at this time, and did not see that there would be a large concentration in any one area or that there would be a greater number of these facilities built if this ordinance is adopted. The Commission further finds with regard to water usage, which could be substantial usage by a typical family, and finds that ADEC should be allowed to do their job with on-site system reviews. The Commission further finds that the protection that exists with respect to assisted living homes is the programmatic oversight, which does not exist for typical residential uses.
22. The Commission finds that it has a strong concern with the Municipality running afoul of the Fair Housing Act by imposing additional requirements on assisted living facilities that would not be imposed on other single-family homes.
23. The Commission finds that the shift from 5 residents in the previous ordinance that came to the Commission to 8 residents that is recommended now had a legal basis in terms of the Federal Fair Housing Act requirements. The Commission finds that comments about running afoul of the Act is being seriously considered by the Commission. The Commission further finds that this ordinance addresses planning issues as well as legal and societal requirements that impose the principal duty not to discriminate against people based upon their needs.

24. The Commission finds that the issue of septic overburdening or well water contamination does not have to be a broad problem to be an issue, and that the issue of septic overburdening does not need to be widespread to be a concern of the Commission. In regards to requiring on-site system reviews for larger facilities, the Commission finds that if wells in the area are affected or an assisted living facility with 8 people has to be shut down because there are no alternative septic sites, which is a human impact for which the Commission is responsible. Secondly, with regard to the Federal Fair Housing Act, Staff did not say there is a fixed number the Act falls back on in terms of facility size. Staff indicated that cities across the country either have no average density or that it is varied, but that Municipal staff believes 8 is legally defensible; some members of the committee have indicated the number is 12 set and there is a Supreme Court case regarding that. The municipal Department of Law feels there is some flexibility, so the number has been set at 8.
25. The Commission findings included comments that one Commissioner was raised in a house with 7 children and 2 adults in a location where parking was scarce and traffic is high, and that a family member still lives in that home and has medical issues that require an ambulance to come to that house approximately monthly. The Commission noted it could imagine that neighbors on that street might have objected to a family of that size and composition living in that house with the strain it put on the street, and that, on a human level, putting the issue in this perspective might help provide an example of the Commission's findings regarding capacity for a residential care home.
26. The Commission finds that it has concerns about water quality throughout the community, not just in large lot zoning districts. The Commission further finds that there were adequate mechanisms and agencies in place to monitor on-site related issues.
27. The Commission finds that any concern about septic and wells would be considered on a case-by-case basis and on a land use basis, which makes more sense given the unique balancing of land use issues with the rights of persons with disabilities. The Commission finds that concerns that might arise by the lack of specific requirements with respect to on-site systems should be allayed by the fact there will be a reviewing body, as the requirements recommended by the Commission is for annual on-site system reviews for large facilities, which require a conditional use approval in most single-family oriented residential districts.
28. The Commission further finds that a conditional use is not a by-right use. Each application will need to stand on its own merits and prove it will not pose harm to the community. The Commission has great power in terms of what it can require the petitioner provide to demonstrate that.
29. The Commission finds that the Commission often talks about balancing impacts and "impacts" often becomes code for the word "nuisance." The Commission finds that people who live in assisted living homes are simply people living in homes. The Commission supported the opportunity to

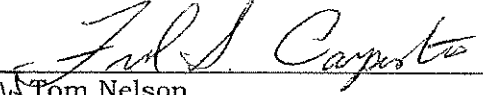
embrace this ordinance and was glad to hear that Anchorage is considered progressive in this effort.

30. The Commission finds that the modifications made to the ordinance have clarified intent and support the rights of persons with disabilities.
31. The Commission finds that the ordinance would bring the Municipality in compliance with the Federal Fair Housing Act and it has the support of Policies #61 and #62 of Anchorage 2020, which are requirements to promote the availability of supportive housing opportunities for the homeless and for persons with special needs, as well as distributing throughout the Municipality residential facilities that are supported by government agencies and operated for health, social services, and correctional purposes.
32. The Commission finds that this ordinance becomes a framework to protect many interests. The Commission sometimes sees certain groups exploit absences in ordinances and others use words in the ordinances as weapons; the subtext is sometimes left unsaid. The Commission incorporates in its findings a statement said during public testimony about people raising what appear to be land use issues when in fact the issue has more to do with who they want to be their neighbors. The Commission finds that this ordinance protects people's right to live where they want to live as a family.
33. The Commission thanked those who testified on this ordinance and the subcommittee that has been working for 1.5 years to develop a reasonable and well-rounded ordinance.
34. The Commission finds that the ordinance is well thought out, it has enjoyed the participation of the relevant parties, and all parties have expressed their issues and concerns, which were embodied in the final document before the Commission. The Commission noted that, although the Commission is charged with addressing land use issues, it is sometimes difficult to separate land use issues from programmatic issues. The Commission further finds that the ordinance also supports the programmatic efforts that are necessary to ensure that assisted living homes operate properly for their residents.
35. Opposition finds that it was not indicating there are undesirable impacts other than septic overflow and well water contamination. Opposition clarified that it was not characterizing assisted living or healthcare facilities as a nuisance use, and finds it was wonderful that people have the ability to live with families and to choose from a variety of neighborhoods. Opposition finds, however, that the Commission has the responsibility to ensure sustainable, efficient, long-term land uses that do not create a negative environmental impact, particularly one that affects human health or property value.
36. Opposition finds that the Staff analysis states that if a use is institutional or commercial in nature, as with childcare and healthcare facilities, the capacity rates are calculated much differently and require more capacity. State licensing has indicated that the State uses a per bedroom figure, and had not heard from Staff that the concern with higher septic generated has been adequately addressed. Opposition finds that it was unlikely that most septic


systems in traditional residential uses support 8 full-time 24-hour residents, and finds that was not intuitive. Opposition noted that Staff has acknowledged that traffic patterns are different in a standard residential home with teenagers coming and going, so they are not at the residence all the time using the septic in the same way as full-time residents who have less mobility and may be at the residence more often.

37. Opposition finds that the language, as proposed would create a loophole that makes vulnerable neighborhoods where septic systems are used and where groundwater is drawn from lower strata than the septic systems. Opposition further finds that there is a pattern of septic system failure across the Hillside, and that there is also a pattern of higher nitrate levels in well water across the Hillside. Opposition noted that some areas will eventually have public water and sewer and, at that time, they could quite easily accommodate higher density residential care facilities, and finds that the Commission has the responsibility to ensure the land use does not adversely impact adjoining land uses, property value, and health.
38. The Planning and Zoning Commission recommends approval to the Assembly of the above referenced ordinance, with a vote of 7 in favor, 1 against.

PASSED AND APPROVED by the Municipal Planning and Zoning Commission this 4th day of April, 2005.



Tom Nelson
Director



Don Poulton
Chair

(Case 2003-143)

ac

MUNICIPALITY OF ANCHORAGE
MEMORANDUM
Planning Department

DATE: April 4, 2005
 TO: Planning and Zoning Commission
 THRU: *TN* Tom Nelson, Director
 THRU: Jerry T. Weaver, Jr., Zoning Division Administrator *Director for J. Weaver*
 FROM: *ac* Angela C. Chambers, AICP, Senior Planner
 SUBJECT: Health Care Ordinance Update (PZC Case 2003-143)

Over the past four years, there has been an increased interest in developing new, smaller residential care facilities due to demand and various State programs. The Department has identified approximately 200 such facilities. Maps of identified sites are attached in the staff packet. These facilities are generally located in single-family residences throughout the community. There has also been a rise in the number of complaints regarding some of these facilities in residential areas. This revised ordinance recognizes these smaller facilities, and brings the land use code up to date with changes in State and Federal regulations for Fair Housing, child care, and other residentially-based health care facilities.

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number of children allowed in residential districts in a child-care facility as a by-right use. All of the child care issues have been resolved with DHHS.

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the purpose of discussing the possibility of making a gift, donation or bequest to the Commission shall immediately refer such person or persons to the Commission's designated agency ethics official. The designated agency ethics official shall, in consultation with other agency ethics officials, make a determination concerning whether acceptance of such offers would create a conflict of interest or the appearance of a conflict of interest. Agency ethics officials may also advise potential donors and their representatives of the types of equipment, property or services that may be of use to the Commission and the procedures for effectuating gifts set forth in this subpart. The Commission may, in its discretion, afford public notice before accepting any gift under authority of this subpart.

§ 1.3003 Mandatory factors for evaluating conflicts of interest.

No gift shall be accepted under this subpart unless a determination is made that its acceptance would not create a conflict of interest or the appearance of a conflict of interest. In making conflict of interest determinations, designated agency ethics officials shall consider the following factors:

(a) Whether the benefits of the intended gift will accrue to an individual employee and, if so—

(1) Whether the employee is responsible for matters affecting the potential donor that are currently before the agency; and

(2) The significance of the employee's role in any such matters;

(b) The nature and sensitivity of any matters pending at the Commission affecting the intended donor;

(c) The timing of the intended gift;

(d) The market value of the intended gift;

(e) The frequency of other gifts made by the same donor; and

(f) The reason underlying the intended gift given in a written statement from the proposed donor.

§ 1.3004 Public disclosure and reporting requirements.

(a) *Public disclosure of gifts accepted from prohibited sources.* The Commission's Security Operations Office, Office of the Managing Director, shall

maintain a written record of gifts accepted from prohibited sources by the Commission pursuant to section 4(g)(3) authority, which will include:

(1) The identity of the prohibited source;

(2) A description of the gift;

(3) The market value of the gift;

(4) Documentation concerning the prohibited source's reason for the gift as required in § 1.3003(f);

(5) A signed statement of verification from the prohibited source that the gift is unconditional and is not contingent on any promise or expectation that the Commission's receipt of the gift will benefit the proposed donor in any regulatory matter; and

(6) The date the gift is accepted by the Commission.

(b) *Reporting Requirements for all gifts.* The Commission shall file a semi-annual report to Congress listing the gift, donor and value of all gifts accepted from any donor under this subpart.

Subpart S—Preemption of Restrictions That "Impair" the Ability to Receive Television Broadcast Signals, Direct Broadcast Satellite Services, or Multichannel Multipoint Distribution Services or the Ability To Receive or Transmit Fixed Wireless Communications Signals

SOURCE: 66 FR 2333, Jan. 11, 2001, unless otherwise noted.

§ 1.4000 Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

(a)(1) Any restriction, including but not limited to any state or local law or regulation, including zoning, land-use, or building regulations, or any private covenant, contract provision, lease provision, homeowners' association rule or similar restriction, on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership or leasehold interest in the property that impairs the installation, maintenance, or use of:

(i) An antenna that is:

(A) Used to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, and

(B) One meter or less in diameter or is located in Alaska;

(i) An antenna that is:

(A) Used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite, and

(B) That is one meter or less in diameter or diagonal measurement;

(iii) An antenna that is used to receive television broadcast signals; or

(iv) A mast supporting an antenna described in paragraphs (a)(1)(i), (a)(1)(ii), or (a)(1)(iii) of this section; is prohibited to the extent it so impairs, subject to paragraph (b) of this section.

(2) For purposes of this section, "fixed wireless signals" means any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Fixed wireless signals do not include, among other things, AM radio, FM radio, amateur ("HAM") radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.

(3) For purposes of this section, a law, regulation, or restriction impairs installation, maintenance, or use of an antenna if it:

(i) Unreasonably delays or prevents installation, maintenance, or use;

(ii) Unreasonably increases the cost of installation, maintenance, or use; or

(iii) Precludes reception or transmission of an acceptable quality signal.

(4) Any fee or cost imposed on a user by a rule, law, regulation or restriction must be reasonable in light of the cost of the equipment or services and the rule, law, regulation or restriction's treatment of comparable devices. No civil, criminal, administrative, or other legal action of any kind shall be taken to enforce any restriction or regulation prohibited by this section except pursuant to paragraph (d) or (e) of

this section. In addition, except with respect to restrictions pertaining to safety and historic preservation as described in paragraph (b) of this section, if a proceeding is initiated pursuant to paragraph (d) or (e) of this section, the entity seeking to enforce the antenna restrictions in question must suspend all enforcement efforts pending completion of review. No attorney's fees shall be collected or assessed and no fine or other penalties shall accrue against an antenna user while a proceeding is pending to determine the validity of any restriction. If a ruling is issued adverse to a user, the user shall be granted at least a 21-day grace period in which to comply with the adverse ruling; and neither a fine nor a penalty may be collected from the user if the user complies with the adverse ruling during this grace period, unless the proponent of the restriction demonstrates, in the same proceeding which resulted in the adverse ruling, that the user's claim in the proceeding was frivolous.

(b) Any restriction otherwise prohibited by paragraph (a) of this section is permitted if:

(1) It is necessary to accomplish a clearly defined, legitimate safety objective that is either stated in the text, preamble, or legislative history of the restriction or described as applying to that restriction in a document that is readily available to antenna users, and would be applied to the extent practicable in a non-discriminatory manner to other appurtenances, devices, or fixtures that are comparable in size and weight and pose a similar or greater safety risk as these antennas and to which local regulation would normally apply; or

(2) It is necessary to preserve a prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places, as set forth in the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, and imposes no greater restrictions on antennas covered by this rule than are imposed on the installation, maintenance, or use of other modern appurtenances, devices, or fixtures that are comparable in size, weight, and appearance to these antennas; and

(3) It is no more burdensome to affected antenna users than is necessary to achieve the objectives described in paragraphs (b)(1) or (b)(2) of this section.

(c) In the case of an antenna that is used to transmit fixed wireless signals, the provisions of this section shall apply only if a label is affixed to the antenna that:

(1) Provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and

(2) References the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310 of this chapter.

(d) Local governments or associations may apply to the Commission for a waiver of this section under § 1.3 of this chapter. Waiver requests must comply with the procedures in paragraphs (f) and (h) of this section and will be put on public notice. The Commission may grant a waiver upon a showing by the applicant of local concerns of a highly specialized or unusual nature. No petition for waiver shall be considered unless it specifies the restriction at issue. Waivers granted in accordance with this section shall not apply to restrictions amended or enacted after the waiver is granted. Any responsive pleadings must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies must be filed within 15 days thereafter.

(e) Parties may petition the Commission for a declaratory ruling under § 1.2 of this chapter, or a court of competent jurisdiction, to determine whether a particular restriction is permissible or prohibited under this section. Petitions to the Commission must comply with the procedures in paragraphs (f) and (h) of this section and will be put on public notice. Any responsive pleadings in a Commission proceeding must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies in a Commission proceeding must be served on all parties and filed within 15 days thereafter.

(f) Copies of petitions for declaratory rulings and waivers must be served on interested parties, including parties against whom the petitioner seeks to enforce the restriction or parties whose restrictions the petitioner seeks to prohibit. A certificate of service stating on whom the petition was served must be filed with the petition. In addition, in a Commission proceeding brought by an association or a local government, constructive notice of the proceeding must be given to members of the association or to the citizens under the local government's jurisdiction. In a court proceeding brought by an association, an association must give constructive notice of the proceeding to its members. Where constructive notice is required, the petitioner or plaintiff must file with the Commission or the court overseeing the proceeding a copy of the constructive notice with a statement explaining where the notice was placed and why such placement was reasonable.

(g) In any proceeding regarding the scope or interpretation of any provision of this section, the burden of demonstrating that a particular governmental or nongovernmental restriction complies with this section and does not impair the installation, maintenance, or use of devices used for over-the-air reception of video programming services or devices used to receive or transmit fixed wireless signals shall be on the party that seeks to impose or maintain the restriction.

(h) All allegations of fact contained in petitions and related pleadings before the Commission must be supported by affidavit of a person or persons with actual knowledge thereof. An original and two copies of all petitions and pleadings should be addressed to the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Copies of the petitions and related pleadings will be available for public inspection in the Reference Information Center, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Copies will be available for purchase from the Commission's contract copy center, and the

§ 1.5000

Commission decisions will be available on the Internet.

[66 FR 2333, Jan. 11, 2001, as amended at 67 FR 13224, Mar. 21, 2002]

Subpart T—Exempt Telecommunications Companies

§ 1.5000 Purpose.

The purpose of part 1, subpart S, is to implement Section 34(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79 et seq., as added by Section 103 of the Telecommunications Act of 1996, Public Law No. 104-104, 110 Stat. 56 (1996).

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

§ 1.5001 Definitions.

(a) For the purpose of this part, the terms *telecommunications services* and *information services* shall have the same meanings as provided in the Communications Act of 1934, as amended;

(b) Commission shall be defined as the Federal Communications Commission; and

(c) ETC shall be defined as an exempt telecommunications company.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

§ 1.5002 Contents of application and procedure for filing.

(a) A person seeking status as an exempt telecommunications company (applicant) must file with the Commission with respect to the company or companies which are eligible companies owned or operated by the applicant, and serve on the Securities and Exchange Commission and any affected State commission, the following:

(1) A brief description of the planned activities of the company or companies which are or will be eligible companies owned and/or operated by the applicant;

(2) A sworn statement, by a representative legally authorized to bind the applicant, attesting to any facts or representations presented to demonstrate eligibility for ETC status, including a representation that the applicant is engaged directly, or indirectly, wherever located, through one or more affiliates (as defined in Section

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2(a)(11)(B) of the Public Utility Holding Company Act of 1935), and exclusively in the business of providing:

(i) Telecommunications services;

(ii) Information services;

(iii) Other services or products subject to the jurisdiction of the Commission; or

(iv) Products or services that are related or incidental to the provision of a product or service described in paragraph (a)(1)(i), (a)(1)(ii), or (a)(1)(iii); and

(3) A sworn statement, by a representative legally authorized to bind the applicant, certifying that the applicant satisfies part 1, subpart P, of the Commission's regulations, 47 CFR 1.2001 through 1.2003, regarding implementation of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

§ 1.5003 Effect of filing.

A person applying in good faith for a Commission determination of exempt telecommunications company status will be deemed to be an exempt telecommunications company from the date of receipt of the application until the date of Commission action pursuant to § 1.5004.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

§ 1.5004 Commission action.

If the Commission has not issued an order granting or denying an application within 60 days of receipt of the application, the application will be deemed to have been granted as a matter of law.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

§ 1.5005 Notification of Commission action to the Securities and Exchange Commission.

The Secretary of the Commission will notify the Securities and Exchange Commission whenever a person is determined to be an exempt telecommunications company.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]



FEDERAL COMMUNICATIONS COMMISSION

FACT SHEET

May 2001

Over-the-Air Reception Devices Rule

Preemption of Restrictions on Placement of Direct Broadcast Satellite, Multichannel Multipoint Distribution Service, and Television Broadcast Antennas

Quick Links to Document Sections Below

- [Questions and Answers](#)
- [Links to Relevant Orders and the Rule](#)
- [Guidance on Filing a Petition](#)
- [Where to Call for More Information](#)

As directed by Congress in Section 207 of the Telecommunications Act of 1996, the Federal Communications Commission adopted the Over-the-Air Reception Devices Rule concerning governmental and nongovernmental restrictions on viewers' ability to receive video programming signals from direct broadcast satellites ("DBS"), multichannel multipoint distribution (wireless cable) providers ("MMDS"), and television broadcast stations ("TVBS").

The rule is cited as 47 C.F.R. Section 1.4000 and has been in effect since October 14, 1996. It prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The rule prohibits most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.

Effective January 22, 1999, the Commission amended the rule so that it also applies to rental property where the renter has an exclusive use area, such as a balcony or patio.

On October 25, 2000, the Commission further amended the rule so that it applies to customer-end antennas that receive and transmit fixed wireless signals. This amendment became effective on May 25, 2001.

The rule applies to viewers who place antennas that meet size limitations on property that they own or rent and that is within their exclusive use or control, including condominium owners and cooperative owners, and tenants who have an area where they have exclusive use, such as a balcony or patio, in which to install the antenna. The rule applies to townhomes and manufactured homes, as well as to single family homes.

The rule allows local governments, community associations and landlords to enforce restrictions that do not impair the installation, maintenance or use of the types of antennas described above, as well as restrictions needed for safety or historic preservation. In addition, under some circumstances, the

availability of a central or common antenna can be used by a community association or landlord to restrict the installation of individual antennas. In addition, the rule does not apply to common areas that are owned by a landlord, a community association, or jointly by condominium or cooperative owners. Such common areas may include the roof or exterior wall of a multiple dwelling unit. Therefore, restrictions on antennas installed in or on such common areas are enforceable.

This fact sheet provides general answers to questions that may arise about the implementation of the rule, but is not the rule itself. For further information or a copy of the rule, call the Federal Communications Commission at 888-CALLFCC (toll free) or (202) 418-7096. The rule is also available via the Internet by going to [links to relevant Orders and the rule](#).

Q: What types of antennas are covered by the rule?

A: The rule applies to the following types of video antennas:

- (1) A "dish" antenna that is one meter (39.37") or less in diameter (or any size dish if located in Alaska) and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.
- (2) An antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via MMDS (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.
- (3) An antenna that is designed to receive local television broadcast signals. Masts higher than 12 feet above the roofline may be subject to local permitting requirements.

In addition, antennas covered by the rule may be mounted on "masts" to reach the height needed to receive or transmit an acceptable quality signal (e.g. maintain line-of-sight contact with the transmitter or view the satellite). Masts higher than 12 feet above the roofline may be subject to local permitting requirements for safety purposes. Further, masts that extend beyond an exclusive use area may not be covered by this rule.

Q: What are "fixed wireless signals"?

A: "Fixed wireless signals" are any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Examples include wireless signals used to provide telephone service or high-speed Internet access to a fixed location. This definition does **not** include, among other things, AM/FM radio, amateur ("HAM") radio, Citizens Band ("CB") radio, and Digital Audio Radio Services ("DARS") signals.

Q: Does the rule apply to hub or relay antennas?

A: The rule applies to "customer-end antennas" which are antennas placed at a customer location for the purpose of providing service to customers at that location. The rule does not cover antennas used to transmit signals to and/or receive signals from multiple customer locations.

Q: What types of restrictions are prohibited?

A: The rule prohibits restrictions that impair a person's ability to install, maintain, or use an antenna covered by the rule. The rule applies to state or local laws or regulations, including zoning, land-use or

building regulations, private covenants, homeowners' association rules, condominium or cooperative association restrictions, lease restrictions, or similar restrictions on property within the exclusive use or control of the antenna user where the user has an ownership or leasehold interest in the property. A restriction impairs if it: (1) unreasonably delays or prevents use of; (2) unreasonably increases the cost of; or (3) precludes a person from receiving or transmitting an acceptable quality signal from an antenna covered under the rule. The rule does not prohibit legitimate safety restrictions or restrictions designed to preserve designated or eligible historic or prehistoric properties, provided the restriction is no more burdensome than necessary to accomplish the safety or preservation purpose.

Q: What types of restrictions unreasonably delay or prevent viewers from using an antenna?

A: A local restriction that prohibits all antennas would prevent viewers from receiving signals, and is prohibited by the Commission's rule. Procedural requirements can also unreasonably delay installation, maintenance or use of an antenna covered by this rule. For example, local regulations that require a person to obtain a permit or approval prior to installation create unreasonable delay and are generally prohibited. Permits or prior approval necessary to serve a legitimate safety or historic preservation purpose may be permissible.

Q: What is an unreasonable expense?

A: Any requirement to pay a fee to the local authority for a permit to be allowed to install an antenna would be unreasonable because such permits are generally prohibited. It may also be unreasonable for a local government, community association or landlord to require a viewer to incur additional costs associated with installation. Things to consider in determining the reasonableness of any costs imposed include: (1) the cost of the equipment and services, and (2) whether there are similar requirements for comparable objects, such as air conditioning units or trash receptacles. For example, restrictions cannot require that expensive landscaping screen relatively unobtrusive DBS antennas. A requirement to paint an antenna so that it blends into the background against which it is mounted would likely be acceptable, provided it will not interfere with reception or impose unreasonable costs.

Q: What restrictions prevent a viewer from receiving an acceptable quality signal?

A: For antennas designed to receive analog signals, such as TVBS, a requirement that an antenna be located where reception would be impossible or substantially degraded is prohibited by the rule. However, a regulation requiring that antennas be placed where they are not visible from the street would be permissible if this placement does not prevent reception of an acceptable quality signal or impose unreasonable expense or delay. For example, if installing an antenna in the rear of the house costs significantly more than installation on the side of the house, then such a requirement would be prohibited. If, however, installation in the rear of the house does not impose unreasonable expense or delay or preclude reception of an acceptable quality signal, then the restriction is permissible and the viewer must comply.

The acceptable quality signal standard is different for devices designed to receive digital signals, such as DBS antennas, digital MMDS antennas, digital television ("DTV") antennas, and digital fixed wireless antennas. For a digital antenna to receive or transmit an acceptable quality signal, the antenna must be installed where it has an unobstructed, direct view of the satellite or other device from which signals are received or to which signals are to be transmitted. Unlike analog antennas, digital antennas, even in the presence of sufficient over-the-air signal strength, will at times provide no picture or sound unless they are placed and oriented properly.

Q: Are all restrictions prohibited?

A: No, many restrictions are permitted. Clearly-defined, legitimate safety restrictions are permitted even if they impair installation, maintenance or use provided they are necessary to protect public safety and are no more burdensome than necessary to ensure safety. Examples of valid safety restrictions include fire codes preventing people from installing antennas on fire escapes; restrictions requiring that a person not place an antenna within a certain distance from a power line; and installation requirements that describe the proper method to secure an antenna. The safety reason for the restriction must be written in the text, preamble or legislative history of the restriction, or in a document that is readily available to antenna users, so that a person wanting to install an antenna knows what restrictions apply. Safety restrictions cannot discriminate between objects that are comparable in size and weight and pose the same or a similar safety risk as the antenna that is being restricted.

Restrictions necessary for historic preservation may also be permitted even if they impair installation, maintenance or use of the antenna. To qualify for this exemption, the property may be any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places. In addition, restrictions necessary for historic preservation must be no more burdensome than necessary to accomplish the historic preservation goal. They must also be imposed and enforced in a non-discriminatory manner, as compared to other modern structures that are comparable in size and weight and to which local regulation would normally apply.

Q: How does the rule apply to restrictions on radiofrequency (RF) exposure from antennas that have the capability to transmit signals?

A: All transmitters regulated by the Commission, including the customer-end fixed wireless antennas (either satellite or terrestrial) covered under the amended rule, are required to meet the applicable Commission guidelines regarding RF exposure limits. The limits established in the guidelines are designed to protect the public health with a large margin of safety. These limits have been endorsed by federal health and safety agencies, such as the Environmental Protection Agency and the Food and Drug Administration. The Commission requires that providers of fixed wireless service exercise reasonable care to protect users and the public from RF exposure in excess of the Commission's limits. In addition, as a condition of invoking protection under the rule from government, landlord, and association restrictions, a provider of fixed wireless service must ensure that customer-end antennas are labeled to give notice of potential RF safety hazards posed by these antennas.

It is recommended that antennas that both receive and transmit signals be installed by professional personnel to maximize effectiveness and minimize the possibility that the antenna will be placed in a location that is likely to expose subscribers or other persons to the transmit signal at close proximity and for an extended period of time. In general, associations, landlords, local governments and other restricting entities may not require professional installation for receive-only antennas, such as one-way DBS satellite dishes. However, local governments, associations, and property owners may require professional installation for **transmitting** antennas based on the safety exception to the rule. Such safety requirements must be: (1) clearly defined; (2) based on a legitimate safety objective (such as bona fide concerns about RF radiation) which is articulated in the restriction or readily available to antenna users; (3) applied in a non-discriminatory manner; and (4) no more burdensome than necessary to achieve the articulated objectives.

For additional information about the Commission's RF exposure limits, please visit <http://www.fcc.gov/oet/rfsafety> or call the RF Safety Information Line at 202-418-2464.

Q: Whose antenna restrictions are prohibited?

A: The rule applies to restrictions imposed by local governments, including zoning, land-use or building regulations; by homeowner, townhome, condominium or cooperative association rules, including deed restrictions, covenants, by-laws and similar restrictions; and by manufactured housing (mobile home) park owners and landlords, including lease restrictions. The rule only applies to restrictions on property where the viewer has an ownership or leasehold interest and exclusive use or control.

Q: If I live in a condominium or an apartment building, does this rule apply to me?

A: The rule applies to antenna users who live in a multiple dwelling unit building, such as a condominium or apartment building, if the antenna user has an exclusive use area in which to install the antenna. "Exclusive use" means an area of the property that only you, and persons you permit, may enter and use to the exclusion of other residents. For example, your condominium or apartment may include a balcony, terrace, deck or patio that only you can use, and the rule applies to these areas. The rule does not apply to common areas, such as the roof, the hallways, the walkways or the exterior walls of a condominium or apartment building. Restrictions on antennas installed in these common areas are not covered by the Commission's rule. For example, the rule would **not** apply to prohibit restrictions that prevent drilling through the exterior wall of a condominium or rental unit.

Q: Does the rule apply to condominiums or apartment buildings if the antenna is installed so that it hangs over or protrudes beyond the balcony railing or patio wall?

A: No. The rule does not prohibit restrictions on antennas installed beyond the balcony or patio of a condominium or apartment unit if such installation is in, on, or over a common area. An antenna that extends out beyond the balcony or patio is usually considered to be in a common area that is not within the scope of the rule. Therefore, the rule does not apply to a condominium or rental apartment unit unless the antenna is installed wholly within the exclusive use area, such as the balcony or patio.

Q: Does the fact that management or the association has the right to enter these areas mean that the resident does not have exclusive use?

A: No. The fact that the building management or the association may enter an area for the purpose of inspection and/or repair does not mean that the resident does not have exclusive use of that area. Likewise, if the landlord or association regulates other uses of the exclusive use area (e.g., banning grills on balconies), that does not affect the viewer's rights under the Commission's rule. This rule permits persons to install antennas on property over which the person has *either* exclusive use *or* exclusive control. Note, too, that nothing in this rule changes the landlord's or association's right to regulate use of exclusive use areas for other purposes. For example, if the lease prohibits antennas and flags on balconies, only the prohibition of antennas is eliminated by this rule; flags would still be prohibited.

Q: Does the rule apply to residents of rental property?

A: Yes. Effective January 22, 1999, renters may install antennas within their leasehold, which means inside the dwelling or on outdoor areas that are part of the tenant's leased space and which are under the exclusive use or control of the tenant. Typically, for apartments, these areas include balconies, balcony railings, and terraces. For rented single family homes or manufactured homes which sit on rented property, these areas include the home itself and patios, yards, gardens or other similar areas. If renters do not have access to these outside areas, the tenant may install the antenna inside the rental unit. Renters are not required to obtain the consent of the landlord prior to installing an antenna in these areas.

The rule does not apply to common areas, such as the roof or the exterior walls of an apartment building. Generally, balconies or patios that are shared with other people or are accessible from other units are not considered to be exclusive use areas.

Q: Are there restrictions that may be placed on residents of rental property?

A: Yes. A restriction necessary to prevent damage to leased property may be reasonable. For example, tenants could be prohibited from drilling holes through exterior walls or through the roof. However, a restriction designed to prevent ordinary wear and tear (*e.g.*, marks, scratches, and minor damage to carpets, walls and draperies) would likely not be reasonable provided the antenna is installed wholly within the antenna user's own exclusive use area.

In addition, rental property is subject to the same protection and exceptions to the rule as owned property. Thus, a landlord may impose other types of restrictions that do not impair installation, maintenance or use under the rule. The landlord may also impose restrictions necessary for safety or historic preservation.

Q: If I live in a condominium, cooperative, or other type of residence where certain areas have been designated as "common," do these rules apply to me?

A: The rules apply to residents of these types of buildings, but the rules do not permit you to install an antenna on a common area, such as a walkway, hallway, community garden, exterior wall or the roof. However, you may install the antenna wholly within a balcony, deck, patio, or other area where you have exclusive use.

Drilling through an exterior wall, *e.g.* to run the cable from the patio into the unit, is generally not within the protection of the rule because the exterior wall is generally a common element. You may wish to check with your retailer or installer for advice on how to install the antenna without drilling a hole. Alternatively, your landlord or association may grant permission for you to drill such a hole. The Commission's rules generally do not cover installations if you drill through a common element.

Q: If my association, building management, landlord, or property owner provides a central antenna, may I install an individual antenna?

A: Generally, the availability of a central antenna may allow the association, landlord, property owner, or other management entity to restrict the installation by individuals of antennas otherwise protected by the rule. Restrictions based on the availability of a central antenna will generally be permissible provided that: (1) the person receives the particular video programming or fixed wireless service that the person desires and could receive with an individual antenna covered under the rule (*e.g.*, the person would be entitled to receive service from a specific provider, not simply a provider selected by the association); (2) the signal quality of transmission to and from the person's home using the central antenna is as good as, or better than, than the quality the person could receive or transmit with an individual antenna covered by the rule; (3) the costs associated with the use of the central antenna are not greater than the costs of installation, maintenance and use of an individual antenna covered under the rule; and (4) the requirement to use the central antenna instead of an individual antenna does not unreasonably delay the viewer's ability to receive video programming or fixed wireless services.

Q: May the association, landlord, building management or property owner restrict the installation of an individual antenna because a central antenna will be available in the future?

A: It is not the intent of the Commission to deter or unreasonably delay the installation of individual antennas because a central antenna may become available. However, persons could be required to remove individual antennas once a central antenna is available if the cost of removal is paid by the landlord or association and the user is reimbursed for the value of the antenna. Further, an individual who wants video programming or fixed wireless services other than what is available through the central antenna should not be unreasonably delayed in obtaining the desired programming or services either through modifications to the central antenna, installation of an additional central antenna, or by using an individual antenna.

Q: I live in a townhome community. Am I covered by the FCC rule?

A: Yes. If you own the whole townhouse, including the walls and the roof and the land under the building, then the rule applies just as it does for a single family home, and you may be able to put the antenna on the roof, the exterior wall, the backyard or any other place that is part of what you own. If the townhouse is a condominium, then the rule applies as it does for any other type of condominium, which means it applies only where you have an exclusive use area. If it is a condominium townhouse, you probably cannot use the roof, the chimney, or the exterior walls unless the condominium association gives you permission. You may want to check your ownership documents to determine what areas are owned by you or are reserved for your exclusive use.

Q: I live in a condominium with a balcony, but I cannot receive a signal from the satellite because my balcony faces north. Can I use the roof?

A: No. The roof of a condominium is generally a common area, not an area reserved for an individual's exclusive use. If the roof is a common area, you may not use it unless the condominium association gives you permission. The condominium is not obligated to provide a place for you to install an antenna if you do not have an exclusive use area.

Q: I live in a mobile home that I own but it is located in a park where I rent the lot. Am I covered by the FCC rule?

A: Yes. The rule applies if you install the antenna anywhere on the mobile or manufactured home that is owned by you. The rule also applies to antennas installed on the lot or pad that you rent, as well as to other areas that are under your exclusive use and control. However, the rule does not apply if you want to install the antenna in a common area or other area outside of what you rent.

Q: I want a conventional "stick" antenna to receive a distant over-the air television signal. Does the rule apply to me?

A: No. The rule does not apply to television antennas used to receive a distant signal.

Q: I want to install an antenna for broadcast radio or amateur radio. Does the rule apply to me?

A: No. The rule does not apply to antennas used for AM/FM radio, amateur ("ham") radio, Citizen's Band ("CB") radio or Digital Audio Radio Services ("DARS").

Q: I want to install an antenna to access the Internet. Does the rule apply to me?

A: Yes. Antennas designed to receive and/or transmit data services, including Internet access, are included in the rule.

Q: Does this mean that I can install an antenna that will be used for voice and data services even though it does not provide video transmissions?

A: Yes. The most recent amendment expands the rule and permits you to install an antenna that will be used to transmit and/or receive voice and data services, except as noted above. The rule will also continue to cover antennas used to receive video programming.

Q: I have already installed an antenna that is used solely for the purpose of receiving video programming. Am I affected by this amendment?

A: Persons who have already installed, or who plan to install, an antenna designed to receive only video programming are not affected by this amendment. The purpose of the amendment is to permit persons to install antennas that may be used for voice and data services, as well as for video programming services. The rules concerning restrictions on the placement of video antennas will apply equally to antennas that are used for voice and data services.

Q: I'm a board member of a homeowners' association, and we want to revise our restrictions so that they will comply with the FCC rule. Do you have guidelines you can send me?

A: We do not have sample guidelines because every community is different. We can send you the rule and the relevant orders, which will give you general guidance. (See list of documents at the [end of this factsheet](#). Some communities have written restrictions that provide a prioritized list of placement preferences so that residents can see where the association wants them to install the antenna. The residents should comply with the placement preferences provided the preferred placement does not impose unreasonable delay or expense or preclude reception of an acceptable quality signal.

Q: What restrictions are permitted if the antenna must be on a very tall mast to get a signal?

A: If you have an exclusive use area that is covered by the rule and need to put your antenna on a mast, the local government, community association or landlord may require you to apply for a permit for safety reasons if the mast extends more than 12 feet above the roofline. If you meet the safety requirements, the permit should be granted. Note that the Commission's rule only applies to antennas and masts installed wholly within the antenna user's exclusive use area. Masts that extend beyond the exclusive use area are outside the scope of the rule. For installations on single family homes, the "exclusive use area" generally would be anywhere on the home or lot and the mast height provision is usually most relevant in these situations. For example, if a homeowner needs to install an antenna on a mast that is more than 12 feet taller than the roof of the home, the homeowners' association or local zoning authority may require a permit to ensure the safety of such an installation, but may not prohibit the installation unless there is no way to install it safely. On the other hand, if the owner of a condominium in a building with multiple dwelling units needs to put the antenna on a mast that extends beyond the balcony boundaries, such installation would generally be outside the scope and protection of the rule, and the condominium association may impose any restrictions it wishes (including an outright prohibition) because the Commission rule does not apply in this situation.

Q: Does the rule apply to commercial property or only residential property?

A: Nothing in the rule excludes antennas installed on commercial property. The rule applies to property used for commercial purposes in the same way it applies to residential property.

Q: What can a local government, association, or consumer do if there is a dispute over whether a

particular restriction is valid?

A: Restrictions that impair installation, maintenance or use of the antennas covered by the rule are preempted (unenforceable) unless they are no more burdensome than necessary for the articulated legitimate safety purpose or for preservation of a designated or eligible historic site or district. If a person believes a restriction is preempted, but the local government, community association, or landlord disagrees, either the person or the restricting entity may file a Petition for Declaratory Ruling with the FCC or a court of competent jurisdiction. We encourage parties to attempt to resolve disputes prior to filing a petition. Often calling the FCC for information about how the rule works and applies in a particular situation can help to resolve the dispute. If a local government, community association, or landlord acknowledges that its restriction impairs installation, maintenance, or use and is preempted under the rule but believes it can demonstrate "highly specialized or unusual" concerns, the restricting entity may apply to the Commission for a waiver of the rule.

Q: What is the procedure for filing a petition or requesting a waiver at the Commission?

A: There is no special form for a petition. You may simply describe the facts, including the specific restriction(s) that you wish to challenge. If possible, attach a copy of the restriction(s) and any relevant correspondence. If this is not possible, be sure to include the exact language of the restriction in question with the petition. General or hypothetical questions about the application or interpretation of the rule cannot be accepted as petitions.

Petitions for declaratory rulings and waivers must be served on all interested parties. For example, if a homeowners' association files a petition seeking a declaratory ruling that its restriction is not preempted and is seeking to enforce the restriction against a specific resident, service must be made on that specific resident. The homeowners' association will not be required to serve all other members of the association, but must provide reasonable, constructive notice of the proceeding to other residents whose interests foreseeably may be affected. This may be accomplished, for example, by placing notices in residents' mailboxes, by placing a notice on a community bulletin board, or by placing the notice in an association newsletter. If a local government seeks a declaratory ruling or a waiver from the Commission, the local government must take steps to afford reasonable, constructive notice to residents in its jurisdiction (e.g., by placing a notice in a local newspaper of general circulation). Proof of constructive notice must be provided with a petition. In this regard, the petitioner should provide a copy of the notice and an explanation of where the notice was placed and how many people the notice reasonably might have reached.

Finally, if a person files a petition or lawsuit challenging a local government's ordinance, an association's restriction, or a landlord's lease, the person must serve the local government, association or landlord, as appropriate. You must include a "proof of service" with your petition. Generally, the "proof of service" is a statement indicating that on the same day that your petition was sent to the Commission, you provided a copy of your petition (and any attachments) to the person or entity that is seeking to enforce the antenna restriction. The proof of service should give the name and address of the parties served, the date served, and the method of service used (e.g., regular mail, personal service, certified mail).

All allegations of fact contained in petitions and related pleadings before the Commission must be supported by an affidavit signed by one or more persons who have actual knowledge of such facts. You must send an original and two copies of the petition and all attachments to: Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, Attention: Media Bureau.

Q: Can I continue to use my antenna while the petition or waiver request is pending?

A: Yes, unless the restriction being challenged or for which a waiver is sought is necessary for reasons of safety or historic preservation. Otherwise, the restriction cannot be enforced while the petition is pending.

Q: Who is responsible for showing that a restriction is enforceable?

A: When a conflict arises about whether a restriction is valid, the local government, community association, property owner, or management entity that is trying to enforce the restriction has the burden of proving that the restriction is valid. This means that no matter who questions the validity of the restriction, the burden will always be on the entity seeking to enforce the restriction to prove that the restriction is permitted under the rule or that it qualifies for a waiver.

Q: Can I be fined and required to remove my antenna immediately if the Commission determines that a restriction is valid?

A: If the Commission determines that the restriction is valid, you will have a minimum of 21 days to comply with this ruling. If you remove your antenna during this period, in most cases you cannot be fined. However, this 21-day grace period does not apply if the FCC rule does not apply to your installation (for example, if the antenna is installed on a condominium general common element or hanging outside beyond an apartment balcony. If the FCC rule does not apply at all in your case, the 21-day grace period does not apply.

Q: Who do I call if my town, community association or landlord is enforcing an invalid restriction?

A: Call the Federal Communications Commission at (888) CALLFCC (888-225-5322), which is a toll-free number, or 202-418-7096, which is not toll-free. Some assistance may also be available from the direct broadcast satellite company, multichannel multipoint distribution service, television broadcast station, or fixed wireless company whose service is desired.

Links to Relevant Orders and the Rule

- (First) Report and Order, FCC 96-328, released August 6, 1996: [[Text Version](#) | [WordPerfect Version](#)]
- Declaratory Ruling, Star Lambert, DA 97-1554, released July 27, 1997: [[Text](#)]
- Declaratory Ruling, Jay Lubliner, DA 97-2188, released October 14, 1997: [[Text](#)]
- Declaratory Ruling, Michael MacDonald, DA 97-2189, released October 14, 1997: [[Text](#)]
- Declaratory Ruling, Omnivision, DA 97-2187, released October 14, 1997: [[Text](#)]
- Declaratory Ruling, Wireless Broadcasting Systems (WBSS), DA 97-2506, released November 28, 1997: [[WordPerfect](#) | [Text](#)]
- Declaratory Ruling, Victor Frankfurt, DA 97-2305, released December 31, 1997: [[Text](#)]
- Declaratory Ruling, Jason Peterson, DA 98-0188, released February 4, 1998: [[Text](#)]
- Declaratory Ruling, Jordan Lourie, DA 98-1170, released June 17, 1998: [[WordPerfect](#) | [Text](#)]
- Declaratory Ruling, James Sadler, DA 98-1284, released July 1, 1998: [[WordPerfect](#) | [Text](#)]
- Memorandum Opinion and Order, Denial of Application of Review of Declaratory Ruling for Jay Lubliner (above), FCC 98-201, released August 21, 1998: [[WordPerfect](#) | [Text](#)]

- Order on Reconsideration, FCC 98-214, released September 25, 1998: [[WordPerfect](#) | [Text](#)]
- Second Report and Order, FCC 98-273, released November 20, 1998: [[Text](#) | [WordPerfect](#) | [Acrobat](#) | [News Release and Statements](#)]
- Declaratory Ruling, Stanley and Vera Holliday, DA 99-2132, released October 8, 1999: [[MSWord](#) | [Acrobat](#)]
- Second Order on Reconsideration, FCC 99-360, released November 24, 1999: [[Text](#) | [MSWord](#)]
- Declaratory Ruling, Bell Atlantic Video, DA 00-927, released April 26, 2000: [[MSWord](#) | [Acrobat](#)]
- Competitive Networks Report and Order, FCC 00-366, released October 25, 2000: [[Text](#) | [MSWord](#) | [Acrobat](#) | [News Release and Statements](#)]
- Declaratory Ruling, Victor Frankfurt, DA 01-0153, released February 7, 2001: [[MSWord](#) | [Acrobat](#)]
- Declaratory Ruling, Corey Roberts, DA 01-1276, released May 24, 2001: [[MSWord](#) | [Acrobat](#)]
- Memorandum Opinion and Order, Denial of Application of Review of Declaratory Ruling for Victor Frankfurt (above), FCC 03-210, released August 27, 2003 : [[MSWord](#) | [Acrobat](#)]
- Memorandum Opinion and Order, Philip Wojcikewicz, DA 03-2971, released September 29, 2003: [[MSWord](#) | [Acrobat](#)]
- Declaratory Ruling, Michael and Alexandra Pinter, DA 04-2839, released September 1, 2004: [[MSWord](#) | [Acrobat](#)]
- [OTARD Rule, 47 C.F.R. Section 1.4000.](#)

GUIDANCE ON FILING A PETITION

Q: What are the procedural requirements for filing a Petition for Declaratory Ruling or Waiver with the Commission?

A: There is no special form for a petition. You may simply describe the facts, including the specific restriction(s) that you wish to challenge. If possible, attach a copy of the restriction(s) and any relevant correspondence. If this is not possible, be sure to include the exact language of the restriction in question with the petition. General or hypothetical questions about the application or interpretation of the rule cannot be accepted as petitions.

Petitions for declaratory rulings and waivers must be served on all interested parties. An entity seeking to impose or maintain a restriction must include with its petition a proof of service that it has served the affected residents. Similarly, an antenna user seeking to challenge the permissibility of a restriction must include with the petition a proof of service that the antenna user has served the restricting entity with a copy of the Petition.

If you are an antenna user, you must serve a copy of the Petition on the entity seeking to enforce the restriction (*i.e.*, the local government, community association or landlord). If you are a local government, community association or landlord, you must serve a copy of the Petition on the residents in the community who currently have or wish to install antennas that will be affected by the restriction your Petition seeks to maintain. For example, if a homeowners' association files a petition seeking a declaratory ruling that its restriction is not preempted and is seeking to enforce the restriction against a specific resident, service must be made on that specific resident. The homeowners' association will not be required to serve all other members of the association, but must provide reasonable, constructive notice of the proceeding to other residents whose interests may foreseeably be affected. This may be accomplished, for example, by placing notices in residents' mailboxes, by placing a notice on a community bulletin board, or by placing the notice in an association newsletter. If a local government

seeks a declaratory ruling or a waiver from the Commission, the local government must take steps to afford reasonable, constructive notice to residents in its jurisdiction (*e.g.*, by placing a notice in a local newspaper of general circulation). Proof of constructive notice must be provided with a petition. In this regard, the petitioner should provide a copy of the notice and an explanation of where the notice was placed and how many people the notice might reasonably have reached.

Finally, if a person files a petition or lawsuit challenging a local government's ordinance, an association's restriction, or a landlord's lease, the person must serve the local government, association or landlord, as appropriate. You must include a "proof of service" with your petition. Generally, the "proof of service" is a statement indicating that on the same day that your petition was sent to the Commission, you provided a copy of your petition (and any attachments) to the person or entity that is seeking to enforce the antenna restriction. The proof of service should give the name and address of the parties served, the date served, and the method of service used (*e.g.*, regular mail, personal service, certified mail).

If you wish to file either a Petition for Declaratory Ruling or a Petition for Waiver pursuant to the Commission's Over-the-Air Reception Devices Rule (47 CFR Section 1.4000), you must file an original and two copies of your Petition on the following address:

**Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
Attn: Media Bureau**

Q: What are the substantive requirements for filing a petition for waiver or declaratory ruling?

A: To file a Petition for Waiver, follow the requirements in Section 1.4000(c) of the rule. The local government, community association or landlord requesting the waiver must demonstrate "local concerns of a highly specialized or unusual nature." The petition must also specify the restriction for which the waiver is sought, or the petition will not be considered.

To file a Petition for Declaratory Ruling, follow the requirements set forth in Section 1.4000(d) of the rule. Set out the restriction in question so that we can determine whether it is permissible or prohibited under the rule. In a Petition for Declaratory Ruling, the burden of demonstrating that a particular restriction complies with the rule is on the entity seeking to impose the restriction (*e.g.*, the local government, community association or landlord).

We recommend that you include the language of the restriction in question, as well as a daytime telephone number, with your petition.

While a petition for declaratory ruling or waiver is pending with the Commission or a court, the restriction in question may not be enforced unless it is necessary for safety or historic preservation. No fines or penalties, including attorneys fees, may be imposed by the restricting entity while a petition is pending. If the restriction is found to be permissible, the antenna users subject to the ruling will generally have at least 21 days in which to comply before a fine or penalty is imposed.

- FCC -

3. **Site/Landscape Plan Approval**
4. **Time Extensions/Expedited Public Hearings; Minor Conditional Use Amendments**
5. **Other**

COMMISSIONER T. JONES moved for approval of the Consent Agenda.

COMMISSIONER G. JONES seconded.

AYE: Pease, T. Jones, Isham, Gibbons, Poulton, G. Jones, Simonian,
Lottsfeldt

NAY: None

PASSED

COMMISSIONERS G. JONES and LOTTSFELDT abstained in Resolution 2005-008.

E. UNFINISHED BUSINESS AND ACTIONS ON PUBLIC HEARINGS –
None

F. REGULAR AGENDA - None

G. PUBLIC HEARINGS

1. **2003-143** Municipality of Anchorage. An ordinance amending Title 21 of the Anchorage Municipal Code by adding and clarifying administrative variance procedures; adding definitions pertaining to adult care facilities, residential care facilities, assisted living, disability or handicap, hospital, nursing facilities, nursing homes and transitional living to Section 21.35.020b, Definitions and Rules of Construction; amending the definitions of Health Care Facilities, Health Services and Child Care Facilities in section 21.35.020b; amending the use name of Quasi-Institutional Use in Chapters 21.35, General Provisions and 21.40, Zoning Districts; adding Large and Small Residential Care Facilities and Transitional Living Facilities to Chapter 21.40, Zoning Districts; amending Child Care

Facilities and Health Care Facilities in Chapter 21.40, Zoning Districts; amending Chapters 21.45, Supplementary District Standards and 21.50, Standards for Conditional Uses and Site Plans, pertaining to Adult Care Facilities, Large and Small Residential Care Facilities, Child Care Facilities, and Health Care Facilities; and amending Anchorage Municipal Code of Regulations Section 14.60.030, Fine Schedule, by adding Child and Adult Care and Large Large and Small Residential Care Facilities and Transitional Living Facilities

Staff member ANGELA CHAMBERS stated this ordinance began in response to assisted living issues and developed into an ordinance that also deals with incongruities in the code and with regulations in Title 16, the Health and Human Services code, regarding childcare. Over the past four years there has been an increased interest in developing new small residential care assisted living facilities. The Department has identified approximately 200 such facilities. The facilities are generally located in single family residences throughout town; most have a capacity of 3-5 residents. There has also been a rise in complaints regarding facilities in residential areas. The revised ordinance recognizes these smaller facilities and brings the code up-to-date with changes in state and federal regulations for Fair Housing, childcare, and other residentially-based healthcare facilities. The ordinance began in 2001 with a task force appointed by the Municipality to respond to land use issues surrounding adult assisted living facilities. Staff from the departments of Planning, Development Services, Health and Human Services, and the municipal Attorney's Office met with representatives of the State Health and Social Services to review the areas of concern. To work toward a consensus on changes to municipal code regarding this use, the ordinance was brought before the Commission in February 2004. In response to testimony from the public, most of which was in regard to changes to the childcare regulations, at the end of the hearing, the Commission asked that Staff arrange a worksession and that Staff do additional work regarding the major concerns with the ordinance. Since that time, Staff has met with Health and Human Services, Fire Department, the State, assisted living providers, and others regarding both this ordinance and assisted living issues in general. The ordinance has been restructured to permit small residential care facilities with occupancy of 8 and under as a permitted use in all residential districts. There are allowances for the use in multi-family settings as well and larger facilities will be permitted as conditional use in the lower density districts where healthcare facilities and similar uses have been permitted in the past. The final draft of the ordinance has

undergone intensive and extensive scrutiny and collaboration and is now structured to ensure it will be able to effectively meet the needs of the various providers and be in compliance with the Fair Housing Act, as well as provide protection for residents and other facilities in the neighborhoods where these facilities may be located. The other changes in the ordinance are structural and are intended to ensure it dovetails with recent changes to Title 16. There is consensus on virtually the entire ordinance, except some particular issues. DHHS Childcare has offered comments that have been provided to the Commission this evening to amend the definition of child care to ensure that providers realize this cannot be considered a home occupation under the zoning regulations; and to include a requirement for outdoor yard area for small childcare facilities. There were also suggested amendments to Sections 12 and 13 to include large residential care facilities as conditional uses in the R-6 and R-7 districts. This is in response to concerns with on-site systems and potential issues with respect to emergency access. Many members of the subcommittee would like these to be conditional uses in the R-6 and R-7 zoning districts and allow the Commission to review proposals on a case-by-case basis. MS. CHAMBERS noted that it was brought to her attention that the parking standards contained in Section 30, which are the regulations for facilities for elderly and disabled, would result in a very high number of parking spaces. Staff is recommending changing this section, as will be offered during public testimony.

COMMISSIONER GIBBONS asked for discussion of the Fair Housing Act requirements that are complied with through this ordinance. MS. CHAMBERS responded that the Law Department has thoroughly reviewed this ordinance. The ordinance has been changed to reflect the fact that the residents of assisted living homes live in a home situation and that their treatment and/or assistance needs does not negate their right to live in a single-family neighborhood as a family. There are no demographic data for Anchorage with respect to the number of residents in a dwelling unit in a neighborhood. The city no longer has a demographer and the Census occurs every 10 years. The issue is what constitutes a family. In order to be enforceable, there was consideration of how many individuals could live in a dwelling unit, some of whom may receive services that come to the home, and when a use becomes an institution and has a significant impact on a neighborhood. The number of residents that do not result in a significant impact is 8 or fewer. The Law Department arrived at this number through significant research and working with the subcommittee.

COMMISSIONER PEASE noted the Staff analysis refers to a statistic of 8.25 vehicle trips per dwelling per day, which she assumed is based on some average family unit size. She asked if there is a basis for school

projections as well. MS. CHAMBERS replied that trip generators are used for certain calculations and those do not change frequently, but they do change over time; these are based on a national average. There are different situations that trigger different requirements, but none are based on the same demographic rationale. In a review of this ordinance, the Department believes these facilities operate at this size similarly to a single family home. She indicated that nearly every city she contacted that has a zoning code related to this type of use used a different figure. COMMISSIONER PEASE asked what is the range or average that other cities use for a by-right use of this type. MS. CHAMBERS replied that some are lower than 8 residents, some are higher, and some do not regulate based on numbers; there is no average number. She added that municipal regulations can not conflict Fair Housing Act requirements.

The public hearing was opened.

BARBARA KRAFT, representing her client, Hope Community Resources, asked that the ordinance be approved with four minor changes. She stated she has been working extensively with the subcommittee to develop an ordinance that addresses the needs of the varied assisted living providers. Hope provides homes for the developmentally disabled, all of which are licensed as assisted living homes under the state licensing regime. They typically have an occupancy of two to three developmentally disabled persons and a caregiver. The intent of Hope is to provide a normal family lifestyle for the residents of these homes. MS. KRAFT noted that the ordinance originally came before the Commission in the Fall of 2003 and she became aware of it shortly thereafter. In the 2003 version of the ordinance the needs of the handicapped, as defined by federal law, were not addressed. In the original version violated the Federal Fair Housing Act by relegating homes for the handicapped to business districts. The Federal Fair Housing Act makes it illegal to discriminate against any person on the basis of handicap, and other categories, in the sale or rental of housing. Moreover, a reasonable accommodation in policies as necessary to allow protected classes to use a dwelling is prohibited. This is why the ordinance has a provision for variance application. Case law has extended violations of the Federal Fair Housing Act to include adoption of zoning ordinances that violate the act. Federal law mandates that the rights of these classes of protected persons include their right to choose where they want to live. This is the same right as that held by a non-handicapped person to choose a dwelling and a neighborhood in which to reside. The focus is not on who owns the building, but rather on who is residing in the building. When this ordinance was brought to the attention of the many entities who provide services to this protected classes of persons, a work group was formed with the intent of bringing the issue to the attention of the Planning Staff and the Administration and help create an ordinance that would comply with the law. Over the past years various providers of services to groups protected by the Federal Fair Housing Act have worked

closely with the Staff at the Planning Department to develop the ordinance. There has been broad participation, but not every provider in town has been involved. With four exceptions arising in Sections 12, 13, 30 and 33, this ordinance meets the needs and desires of the providers in town. Under the current law, the Planning Department had little or no guidance on how to deal with assisted living homes. The revised ordinance provides that guidance. Generally, it enhances the quality of life for Anchorage residents by allowing life in assisted living homes with 8 or fewer residents in zoning districts where single-family homes are allowed; case law under the Federal Fair Housing Act would take that number as high as 12. This allows integration of neighborhoods. A person with a family member who is handicapped, elderly, or otherwise needs care can place that person in a facility that is close to their home, allowing for frequent contact between family members. Further, the revised ordinance restricts licensed assisted living homes with 9 or more residents to locations where similarly dense residences are allowed. A facility of this size may begin to look more like an apartment building or duplex and thus is allowed in those zoning districts. In addition, the revised ordinance promotes family values of safety not only for the other residents in the neighborhood because assisted living homes serve as a kind of Neighborhood Watch, but also for the residents because unlicensed homes are not allowed.

COMMISSIONER SIMONIAN asked if the four exceptions mentioned by Ms. Kraft are encompassed in the amendments produced by Staff. MS. KRAFT indicated the first issue respects parking and she had crafted some language to address that, which she distributed. The next issue addresses Section 12 to include large residential facilities in R-6 neighborhoods as a conditional use. The thought is that an impact on an R-6 neighborhood is very similar to habilitative care facility, which is a conditional use in the R-6 district. The change to Section 13 is the same issue. Section 30 now includes a sentence that states, "Large residential facilities shall meet the requirements of G.3, above" which is the requirement of one parking space for every four beds. She also added a lead-in phrase of "For adult care facilities," to Section 30 and inserted the language of the third sentence of Section 30 to clarify that 080B and 080W.6 apply to both large residential and adult care facilities. The fourth change is to delete the language in to Section 33 that requires large residential care facilities with 9-16 residents to have 15,000 square feet. There are homes operating with this number of residents and the operators, who will testify, can be asked about necessary square footage.

MS. KRAFT indicated a map had been displayed showing the approximately 270 assisted living homes operating in Anchorage.

MS. CHAMBERS stated the Department recommends adopting the changes proposed by DHHS and the change to Section 30. Regarding the changes to Sections 12 and 13 she understood the Department still had concerns with

respect to on-site systems. She indicated that the lot sizes shown in Section 33 are taken from the existing standards for nursing homes. She thought there would be some homes that would not want to go through the administrative variance process. She thought that a slight reduction in the 15,000 square foot requirement would be agreeable to the Department, but she did not believe the Department would agree to eliminate it entirely. She noted that lot coverage and height limitations might address this issue in any case. The intent is to have a larger than 6,000 square foot lot size.

COMMISSIONER PEASE asked the citation number for Section 33. MS. CHAMBERS indicated that Section 33 is an amendment to 21.45.310.D3a.

COMMISSIONER SIMONIAN asked if the administrative variance process would satisfy Ms. Kraft's concern. MS. KRAFT felt that there could be agreement to a lesser size requirement, such as 10,000 square feet. The problem with the variance process is that it creates an opportunity for people not to complain about a particular issue, but to protest the concept of someone living near them that is old, handicapped, or has some other care issue. In the past some requests were denied perhaps based on that sentiments expressed by people who are not open to the concept of having someone different living next door. COMMISSIONER SIMONIAN noted that the variance process has definite standards and, if a request is denied, an appeal process is available. MS. KRAFT indicated she would leave it to the operators of a 9-16 bed facility to address this issue.

COMMISSIONER ISHAM felt that people should have an opportunity to express their concerns about who is living next to them. MS. KRAFT stated that logic only follows to a certain point; the Federal Fair Housing Act protects certain categories of persons. COMMISSIONER ISHAM noted that people should have the right to express other concerns, if they have them. MS. KRAFT indicated this could be done as a part of the conditional use process.

ALLEN WARD, local realtor, stated he is currently a landlord and a neighbor and he has bought and sold properties in the same neighborhood as assisted living homes. He has lived in the same area for nearly 15 years, purchasing his first single family home and then buying a larger home down the street. He turned the previous home into a rental property and one of his best tenants was Hope Community Resources. He found them to be professional and had no greater impact on the area than any other tenant. He then bought a duplex near the facility he rented to Hope and rented that to people with an extended family and then later to an assisted living home operator. Last summer he sold the rental house with no negative ramifications with respect to marketability or any other concerns he might have as a realtor. He stated there is less traffic with an assisted living home than with a large family with teenagers. As a landlord he has no more or less problems than with other tenants, as a neighbor he has had

no more or less concerns than with other neighbors, and as a realtor he has had no problems marketing a property adjacent to an assisted living home.

RICHARD SEVILLE, acting Assisted Living Home Licensing Manager for the State of Alaska, stated that 277 assisted living homes are within the Municipality of Anchorage. Those homes represent 1,490 resident beds. The age of residents varies from 18 to 100 or older. In 1995, AS 47.33 became effective. The State program promotes the establishment of homes that assist adults in becoming integral parts of their community and reaching their highest level of functioning. In addition, the program identifies the services that meet the residents' reasonable wants and needs and provides them with the opportunity to participate, to the fullest extent possible, in the design and implementation of these services. His office is responsible for the monitoring of all licensed homes for compliance with all applicable state regulations and statutes. An annual visit is required to ensure compliance with health and safety standards, including but not limited to currently inspected fire extinguishers, functioning smoke alarms, an appropriate disaster plan including evacuation plans and fire drills, hot water temperature and minimum size requirements for bedrooms, and egress windows. Homes licensed for 6 or more residents must also undergo DEC and fire inspections annually and these inspections can be required for any other home, if found necessary. Homes are required to keep documentation on all employees, which must include a current background check from the State Troopers, current State and FBI fingerprint results, and a current TB test. Homes must also document that their staff have had orientation to the home's policies and emergency procedures, fire safety, residents' rights, universal precautions, biohazards, state regulations and statutes, sanitation, staff duties and responsibilities, medication management and security, physical plant layout, reporting responsibilities, as well as any other policies and procedures of the home. His office is responsible for investigating complaints as well. If a complaint is substantiated, AS 47 allows the home to be sanctioned. Sanctions range from a letter requiring correction to administrative fine up to \$5,000 per violation or revocation of the assisted living home license. He stated that, as a licensing agency, his office consistently sees the assisted living home industry as being good for the community. They provide a safe, home-like environment that fosters independence and individuality. They offer a choice of care and lifestyle often in the community where they have always lived, which allows them easier access to their families.

COMMISSIONER PEASE asked what is DEC's role in inspecting the capacity of on-site water and sewer systems. MR. SEVILLE stated that the statutes require if the home is not on city water or sewer, the septic system must be inspected by an engineer to ensure it meets municipal standards and annual water tests are required if the home uses a well. COMMISSIONER PEASE asked if the statutes require the septic system inspection only if a facility is newly constructed or at the time that a residence is converted to an assisted living use and is that a one-time

or an annual inspection of septic capacity. MR. SEVILLE replied that a one-time engineer's inspection of the septic system is required for all facilities when they are licensed. COMMISSIONER PEASE asked if the septic capacity is calculated any differently for a 24-hour residential use as opposed to the use of a typical group of people who come and go a lot. MR. SEVILLE replied that the septic capacity standards are based on bedroom size.

COMMISSIONER T. JONES asked if part of the staff training is proper procedures for disposing of biomedical waste or is there a requirement for a policy or a plan for that. MR. SEVILLE replied that staff is required to be trained in biohazard disposal and safety. COMMISSIONER PEASE asked if this includes specific requirements for biohazard storage in a secure location within or outside of the building. MR. SEVILLE replied that requirements are based on each individual home's needs. COMMISSIONER PEASE noted that in some areas of the community there are problems with animals disturbing trash stored outside buildings, so she posed this question because biohazard waste is likely to be at these facilities. She asked if there is a requirement to ensure the outside facility is secure. MR. SEVILLE replied that if a home has biomedical waste, there is a requirement that it be disposed of properly.

COMMISSIONER SIMONIAN understood that Ms. Chambers had indicated during this evening's worksession that the licensing entity would send an applicant to Building Safety in order to ensure that municipal policies are being fulfilled. MR. SEVILLE stated that, to his knowledge, his office does not send people to Building Safety.

MS. CHAMBERS explained that people who want to open a new assisted living facility are referred to her and have told her they went through state licensing and were advised to go to the Municipality to ensure they are in conformance. They have also mentioned fire code, so she sends them to Building Safety.

BONNIE MCGREW, client of Hope Community Resources, stated she loves living in her home and in the community. She has a cat and a roommate of whom she is quite fond. She lives with another individual, her caregiver, and her caregiver's husband. She stated that children in the neighborhood are nice to her, they do things for her and she does things for them. She loves living in her home because it is like a real family. Her caregivers always advise her on her safety. There are fire drills and the water temperature is checked when she takes a shower. She is a diabetic and has to give herself shots and her caregivers take her "sharp containers" to a special place for disposal. She stated that without Hope it would be very hard and sad for her. She stated she speaks for herself and she knows other individuals who live in their homes and like them.

CATHERINE CHALINGOK (sp), a native of North Carolina who came to Alaska in 1985, stated that since about 1994 she has received services through Hope

Community Resources. She has now moved into an assisted living home that is a positive situation. She explained to the Commission that if there were no more homes built for disabled individuals that would be a blatant denial of their constitutional rights. Moreover, she wanted all the members of the Commission to consider themselves in the position of someone such as she or others who utilize assisted living facilities. She stated that despite her neurophysical challenges, she is just like anyone else; she enjoys shopping, going to the movies, etc. She stated she received her GED in 1982 and graduated valedictorian of her class.

BRENDON HOPPI stated that he and his wife Mary live in an assisted living home together with caregivers. They help the caregivers with yard work and keeping the house clean and the caregivers help them to ensure their living area is clean. He stated that he and his wife sometimes get involved in arts and crafts and there are other stepping stones, such as employment. He stated his job is very close to where he lives, as are many of the programs used by his wife and him.

MARY HOPPI felt that disabled persons should be able to have jobs just like anybody else. She thought they should be helped to obtain employment. She also felt more arts and crafts should be available. She believes that her husband and she should have their own home, just like everyone else. She and her husband spoke with the caregivers who said that it would be unwise for them to live alone because of medical safety concerns. She felt she was being punished by not being able to have her own home and live on her own.

AMY ONY, owner of Momma's Assisted Living Homes, stated she operates four homes in South Anchorage, three of which overlook Campbell Lake and one in a new subdivision nearby. She stated these homes are a vital, important resource in the city. She stated she employs over 20 people in her four homes. The gross budget for all four homes is \$1.3 million, 90% of which is spent in Anchorage. She is licensed under the Division of Senior Disabilities. Residents of her homes range in age from 36 to 94. Three of her homes are in a quiet, well-established residential neighborhood. She has the support of her neighbors; in fact, three of her residents are a direct result of neighbors wanting to keep their family members in their neighborhoods. She stated there is a need for quality homes. The first three homes were multi-level, but the fourth is a ranch-style. However, just over one year ago she had to seek a variance for 8 beds because, although the home is fully to code according to the state, the lot size is 260 square feet shy of 15,000 square feet. At her hearing, she showed how the cul-de-sac affected the property and that the lot would have been nearly 1000 feet larger if the cul-de-sac had not been developed. The variance request was less than 2%. The neighbors testified against the existence of assisted living homes; they did not want the disabled in their neighborhood. She chose to not pursue the matter, knowing the assisted living ordinance process was occurring. She chose to be a

part of that process and work with the Municipality to eliminate the discrepancies and the discrimination.

COMMISSIONER ISHAM asked if the fourth home was built for eight residents. MS. ONY replied that she was denied a variance, so the license is for five. COMMISSIONER ISHAM asked if Ms. Ony agreed with the language in the proposed ordinance requiring 15,000 square feet for homes for 9-16 persons. MS. ONY replied that she would not agree with this language because the size of her lot is sufficiently large to accommodate parking and other needs if a second story was built to accommodate more residents. COMMISSIONER ISHAM asked what Ms. Ony would recommend. MS. ONY replied that the code already includes parking requirements, buffering and landscaping standards, and lot coverage requirements that should apply, which she felt was sufficient.

COMMISSIONER PEASE asked what are the staffing requirements in the homes operated by Ms. Ony. MS. ONY replied that she is required to have one person on at all times for five residents. She does have two staff on during daytime hours at two of her homes. MR. SEVILLE indicated that the State requires a staffing level that is adequate to meet the needs of the residents, based upon what their planning teams and important people in their lives feel is necessary; this is contained in an assisted living plan.

MS. CHAMBERS stated the issue with respect to Ms. Ony's variance request was lot size and noted that the use for which the variance was requested would be permitted under the proposed ordinance. She asked what are the ranges in existing assisted living homes that would still be illegal due to lot size issues. MS. ONY replied that there is a representative of two of the larger homes in attendance and she would prefer they respond.

COMMISSIONER SIMONIAN asked if an administrative variance would be required for an 8-bed facility on Ms. Ony's property. MS. CHAMBERS replied in the affirmative, explaining that the administrative variance gives relief from occupancy limits based on lot square footage. She noted that the Zoning Board of Examiners and Appeals is conservative in granting variances. She did not recommend eliminating a square footage requirement for 9-16 residents, but did not object to reducing it.

LESLIE WARBAUGH, owner of two 16-bed facilities, stated she was comfortable speaking for 7 large 16-bed assisted living homes and the smaller homes as past Executive Secretary of the Alaska Caregivers Association. She indicated that one of her homes would not comply with Section 33 that dictates lot size for up to 16 beds of 15,000 square feet. She explained that the clientele of her homes do not spend a lot of time outside. She stated there are four categories of homes and a home can have one or more of those categories, which are developmentally disabled, mentally ill, seniors, and adults with physical

disabilities. Some individuals may have a range of these issues. She stated she could not believe there is a discussion about these people not being able to choose to live where they want to live. She stated that in homes other than Hope Community Resources, there is not sufficient revenue to operate homes with huge amounts of parking and 15,000 square feet of play area. Planting and buffering can be done, but operators must be careful of their budgets. She noted that as the cost of living rises, the revenue of these homes is going down. She noted that the statute requires a 1:16 staff-to-client ratio and beyond that there are requirements for individual homes.

ALISON AFFERTY stated she is a friend of Cathy and her family group. She came to Anchorage and met this family and was very impressed by the fabulous care system in Anchorage. She was very thankful for these homes.

WILL AFFERTY stated he and his wife are new to the Anchorage area and he likes what he has seen Anchorage do with assisted living homes. He stated he and his wife visit Cathy and her family as neighbors. He would like to see the Lower 48 have as progressive a system as that Anchorage. He hoped the Commission would consider the needs of assisted living facilities and residents. The residents need a home where they can feel like a family. He hoped the Commission would adopt an ordinance in their favor.

JIM PARKER with the Office of Public Advocacy stated his office is guardian or conservator for 260-270 people in Anchorage. He thought the majority of these individuals live in assisted living homes and 50% have a guardian or a conservator. He wished to dispel the perception that assisted living homes are unmonitored. He stated his office is obligated, in a majority of cases, to find placement for clients and is charged with ensuring clients are safe, secure, and in an environment where their needs are met and emotional and habilitative needs are advanced. He stated state and federal law requires that clients be placed in situations that are least restrictive, which are primarily assisted living homes. He stated it is essential that no ordinance create a legal or logistical impediment to the proliferation of assisted living homes or to them existing in every neighborhood in the city. He stated his office has frequent contact with assisted living home operators and care coordinators. Many clients are on home and community-based Medicaid waivers that allow them to live in the community, if it is cheaper, even if they need a level of care equal to that provided by a nursing home. Many clients have a caregiver who is required to visit them. Aside from his office, there is Adult Protective Services, care coordinators, and many people have a family member who serves as guardian. Most individuals have a family member; his office is contacted only when a person does not have a family member to serve as guardian. He wanted to ensure that the Commission understands that assisted living homes are monitored and regulated.

CLAUDIA EVES, a care coordinator with Alaska Comprehensive Care, stated she has 23 clients in assisted living homes throughout Anchorage, Eagle River, and Wasilla. She is in the home of each client several times a month to ensure her clients are well groomed, fed properly, live in clean homes, and that their personal area is clean. Her visits are unannounced, often during mealtime so she can see what her clients are eating. She stated her clients are happy; the residents of a home become a family. Her clients participate in the Choice waiver program and, without an assisted living home option, they would be at Mary Conrad or Providence Extended Care. She stated she has a father with Alzheimer's and she would not hesitate to place him in an assisted living home in Anchorage. She stated her clients successfully make the transition to a home setting.

DON VAUGHN, owner/administrator of Anchor House, the largest assisted living home for severely mentally ill adults in the state of Alaska, stated this facility is licensed by the Department of Public Health for 63 adults, employs 25 staff, and has operated in midtown Spenard for 19 years. He noted there has been testimony this evening in support of the ordinance from a broad range of service providers, residents of assisted living homes, neighbors, family members, advocates for senior and disabled citizens, guardians and more. Assisted living homes are a major asset to the community. They provide safe, healthy homes for seniors and for physically and mentally disabled adults. These homes provide a better quality of life than that of a nursing home or institution. Many adults who reside in assisted living homes do not qualify for nursing or institutional care and families are unable to provide the level of care needed to maintain these adults in the family's home or in independent living. Nursing homes and institutions cost taxpayers an average of \$10,000 per month compared to \$2,100 a month for assisted living homes. Assisted living homes integrate seniors and disabled adults into the community, thereby ensuring personal dignity and a feeling of self-worth. Assisted living homes maximize independence by assisting residents with daily living skills rather than performing the tasks for them. Family members are comforted by the fact their loved one is given needed assistance. The Municipality contains 277 assisted living homes licensed by the State, 262 have 8 or fewer residents and 15 have 9 or more residents. There are 1,500 seniors and disabled adults living in assisted living homes; seniors occupy 106 homes and developmentally and mentally disabled adults occupy 171 homes. Anchorage Pioneer Home is the largest assisted living home in the state with more than 200 residents. Assisted living homes employ approximately 1,200 people, have combined annual payrolls of \$42.5 million, and annual budgets of more than \$84 million. Assisted living homes spend more than \$30 million annually with Anchorage businesses. Because assisted living homes have staff working 24 hours a day, crime rates are lower due to the effect of neighborhood watch. MR. VAUGHN asked for a show of support for this ordinance.

MS. CHAMBERS asked for a comment regarding lot size for facilities serving 9-16 individuals. MR. VAUGHN indicated he could not speak to a specific lot size, but thought possibly 10,000 square feet would be reasonable. His home has three levels and a 6,000 square foot base, or 18,000 square foot total. Having more than 16 residents, he has a lot size of 21,000 square feet.

DIANNE HOLMES, representing the Rabbit Creek Community Council, stated the Council discussed this ordinance in fall 2003 and again one year ago. She noted that comments from other councils made in previous hearings were contained in the case packet. The Council's concerns today are the same as previously expressed. These concerns include recognition of the limiting characteristics of some areas for these facilities, maintaining an average residential population, number of clients permitted outright, client safety for emergency response time in all seasons, adequate parking for staff and visitors, and protection of existing on-site utilities, and owner occupancy. While the intent of Section 3A is encouraging "occupation limits will not exceed the average of the neighborhood," the rest of the ordinance does not appear to support it. The Council believes Section 3D2 regarding economic hardship for the applicant is misplaced. This ordinance should be about the clients and existing neighborhoods. This is a loophole that would allow someone to buy a home for use for this venture and then claim financial harm if not granted a variance. These are very needed services in residential areas and the Council believes owner occupancy would best maintain a family atmosphere. The Council believes that 8 outright permitted clients without calculating staff not requiring a conditional use is too much for some neighborhoods and would exceed the average residential density in some zones. The Council advocates that a conditional use be required for facilities with 4 or more clients. Response time for emergency vehicles year-round should be considered; many locations have a 20-minute or greater response time, depending on the season. Medical response statistics are greater for certain types of facilities. There is also concern for wildfire access in some areas of the Municipality. Any facility should be required to be on a road maintained in ARDSA, LRDSA or some other formal, responsible entity. On-site parking for deliveries and visitors should be considered. Before an assisted living license or variance is granted, a facility on a septic and well should be upgraded to handle usage and be shown not to impact surrounding properties. A facility with 8 clients, staff, and the owner's family, is probably not appropriate where there are on-site utilities. The impact could triple the usage per home. The 2003 letter from the Council requested that the assisted living facilities have an evacuation plan approved by the Fire Marshal that would allow for reasonable emergency egress with staff assistance, but she did not see that item in this ordinance. Perhaps it is a State licensing requirement and is not in the ordinance for that reason. She felt the Fire Marshal should have a great deal to say about the use of a home as an assisted living facility. The Council's concerns are not to deny these facilities, but to be realistic

about where they belong, where they can be sited best for the client and for the limited infrastructure in certain areas of the Municipality.

COMMISSIONER PEASE asked if reference to economic hardship related to the variance criteria. MS. HOLMES stated Section 3.D.2 is a clause relating to economic hardship to the applicant. COMMISSIONER PEASE asked for clarification of Ms. Holmes's comments that the criteria of economic hardship could be used as a loophole. MS. HOLMES stated that economic hardship on an applicant if a variance is denied can be considered, per the ordinance. There was an instance in her neighborhood where someone purchased a home without getting a permit first, assuming they could secure a license. COMMISSIONER PEASE asked for clarification of Ms. Holmes's comment regarding a 20-minute response time. MS. HOLMES stated that certain parts of southeast Anchorage and Eagle River have very long response times.

COMMISSIONER SIMONIAN believed that the Council's concerns with respect to fire safety have been addressed in the ordinance. MR. SEVILLE replied that homes with 6 or more residents are required under State regulations to have an inspection every two years, but the Anchorage Fire Department requires an annual inspection, so that is done. COMMISSIONER SIMONIAN asked if this inspection includes an evacuation plan and/or an evaluation of response time. MR. SEVILLE replied that the fire inspector does a fire drill on-site at an unannounced visit. COMMISSIONER PEASE thought Ms. Holmes was concerned with emergency vehicle response time. She asked if that is considered in the decision whether or not a facility is safe in the event of an emergency. MR. SEVILLE replied that the time to get out of the building to a safe place is the focus of the fire evacuation drills.

COMMISSIONER T. JONES stated that many of the issues that have arisen are programmatic in nature, whereas the charge of the Commission is land use. She asked Ms. Kraft for comment on the Federal Fair Housing Act from a land use perspective. MS. KRAFT stated that people who are disabled are allowed to live wherever they want. There cannot be discrimination in the decision of where they can locate, but as part of making the decision, accommodations can be made. With respect to the concerns raised by Ms. Holmes, she noted that Hope is a corporation that has 50 homes, so owner occupancy could not be achieved. It would also be difficult to establish a "average residential population" of a neighborhood because the number of residents in homes varies and there are no restrictions of this sort in general. The ordinance allows assisted living homes with up to 8 persons by right, but those with 9 or more residents are subject to conditional use. The Federal Fair Housing Act states some accommodations can be made because there are some higher impacts, but the case law sets the threshold at 12 residents or greater. MS. KRAFT stated the Fire Marshal assesses whether the home is safe and people can evacuate, but they cannot require that every assisted living home have a certain number of sprinklers. The

issue of emergency vehicle response time is a program issue, not a zoning issue. She noted that the care coordinator is looking at this type of thing when placing an individual.

COMMISSIONER SIMONIAN asked if the standards for a variance under 21.15.13.B3 are derived from case law and the Fair Housing Act. MS. KRAFT stated the Legal Department provided input on that section, but she thought the criteria were designed to comport with the requirements under the Fair Housing Act to ensure there is accommodation. COMMISSIONER SIMONIAN thought that while Ms. Holmes thought Section 3 could be a potential loophole, it could also easily be an accommodation to ensure this ordinance complies with case law. MS. CHAMBERS stated that from her knowledge and understanding this language is based on case law and it addresses the economic hardship of the client more than the owner of the facility. COMMISSIONER SIMONIAN asked if the general requirement that there be accommodation in housing can be met through this ordinance provision. MS. CHAMBERS indicated this was correct.

COMMISSIONER PEASE asked if the issue of capacity of on-site septic is a land use issue as opposed to a programmatic issue. MS. CHAMBERS replied in the affirmative.

COMMISSIONER SIMONIAN asked what is the source of the 15,000 square foot requirement in Section 33 D3a. MS. CHAMBERS replied that the 15,000 square foot lot size is contained in existing hospital standards and nursing home standards. She stated this provision has been in the code for some time. The discussion was that, the larger the facility, the more problems arise with respect to lot coverage and impervious surfaces. She was not sure whether 15,000 square feet is appropriate, so during testimony she researched other zoning districts to see how lot sizes increase as use density increases. From this research, it appears that lot size requirements increase up to 8,400 square feet for similar capacity. She felt that a size of 8,400 to 10,000 square feet would be appropriate in this ordinance. Convalescent centers, nursing homes, universities, and churches have larger square footage requirements. She stated the 9-16 resident figure is a medium range, so the requirement for 15,000 square feet does appear to be high. The lot size in a multi-family district for a use greater than a duplex is 8,400 square feet.

The public hearing was closed.

COMMISSIONER PEASE moved for approval subject to incorporating the amendments proposed by DHSS regarding the definition of childcare and regarding the required outdoor space for non-licensed child care facilities; incorporating the change to 21.45.080 regarding parking requirements as recommended by Staff. Further: 1) to require waste containment either in inside secure indoor storage or in a dumpster; 2) to change the definition of "small

residential care" from the current "8 or fewer" to "5 or fewer total residents and staff" in those residential zones where, according to Staff analysis, there was a primary concern with on-site systems and the terrain and the ability, therefore, of those sites to accommodate the larger wastewater generated; and 3) to require an annual field inspection verification of on-site septic to ensure capacity based on the maximum number of residents and caregivers and factoring in the 24-hour use as a healthcare facility.

COMMISSIONER G. JONES seconded.

COMMISSIONER PEASE felt the DHHS amendments are self-explanatory. Staff explained the parking requirement as appropriate. Testimony has been given that biomedical waste is a concern that is taken into consideration during licensing, but it seemed those procedures are oriented toward handling; once waste is put outside, it becomes an attractive nuisance for wildlife. This is a health and public safety concern to the neighborhood as biomedical waste is more likely to be generated at a healthcare facility than at a private residence, although not in all instances. The Staff in its analysis provided lengthy discussion about the concern with septic capacity in certain districts and said that the primary concern with allowing over five persons in care for residential and adult care in districts R-5, R-8, R-6, R-7 and R-11 is the on-site systems. The analysis states, "With a use is commercial or institutional in nature, as with childcare and healthcare facilities, the capacity rates are calculated much differently, and require higher capacities." She understood that DEC uses a per-bedroom calculation and there is no consideration of 24-hour use versus less than 24-hour use that might be typical in a family home. There is currently no safeguard to ensure that the higher wastewater generated at these facilities can be handled. There was testimony about a one-time inspection when the facility is initially established. This is a concern for those who depend on groundwater because, once it is contaminated, it is hard to clean. She felt it could not be assumed that follow-up inspections would not be needed.

COMMISSIONER G. JONES asked if the provision for 5 or fewer residents would relate to all by right uses or only in certain districts. COMMISSIONER PEASE replied that it would apply in residential districts where lower density and on-site systems are more likely, which are the R-5, R-8, R-6, R-7, R-10 and R-11 districts. She did not understand why Staff changed its recommendation from 5 to 8 in considering what is a safe number in terms of septic capacity. She thought 8 was somewhat arbitrary and not based on the health concern of septic systems. COMMISSIONER G. JONES indicated he had several questions and intended to make motions to amend, which he could present separately, if the Chair desired. CHAIR POULTON indicated that, without knowing the nature of Commissioner Jones's proposals, he could not answer this question. COMMISSIONER SIMONIAN asked that Commissioner Jones address issues separately in order to develop a clear record of these proceedings.

COMMISSIONER G. JONES understood that other state and municipal agencies regulate the handling of biomedical waste. MS. CHAMBERS replied that the State handles the regulation of biomedical waste. COMMISSIONER G. JONES asked with respect to the DHHS amendments regarding childcare facilities not licensed whether it is envisioned that yard area could be used for other things, such as parking. MS. CHAMBERS replied that the yard area is useable yard area. COMMISSIONER G. JONES asked if there was consideration of including these provisions for other assisted living facilities. MS. CHAMBERS replied there has been substantial discussion in this regard. DHHS wanted this provision because it is an existing requirement; there are short-term childcare facilities, such as care provided in a grocery store, that do not need outdoor space. The issue in terms of assisted living facilities is a programmatic one.

COMMISSIONER G. JONES moved to amend Section 33, 21.45.310 to eliminate D3a, the 15,000 square foot minimum lot size for adult care facility or large residential care facility with populations of 9-16 persons. COMMISSIONER T. JONES seconded.

COMMISSIONER G. JONES agreed with comments made during the hearing that the other requirements in the code, such as those for parking, lot coverage, setbacks, etc. will determine the size of the lot. He felt the 15,000 square foot figure is relatively arbitrary.

Amendment

AYE: Pease, T. Jones, Isham, Gibbons, Poulton, G. Jones, Simonian,
Lottsfeldt

NAY: None

PASSED

COMMISSIONER G. JONES moved to amend to eliminate the reference to 5 or fewer in the definition of small residential care in the R-5, R-6, R-7, R-8, and R-11 zoning districts and restore it to 8 or fewer. COMMISSIONER GIBBONS seconded.

COMMISSIONER G. JONES did not believe the author of the code was trying to reach a statistical average in terms of the number of beds, they were trying to meet the requirements to not discriminate and to arrive at a number that did not, on its surface, impact neighborhoods. He thought the figure of 8 was a consensus as opposed to a statistical average.

COMMISSIONER ISHAM stated the reference to on-site system is in 21.45.310.O, which says 9 or more clients, not 8 or fewer. COMMISSIONER G. JONES explained his intent was to eliminate the limitation to 5 or fewer clients.

COMMISSIONER ISHAM stated subsection O speaks to Chapter 15.65 and he did not know what that code says respecting 9 or more clients. COMMISSIONER G. JONES explained that 15.65 is the DHHS regulations related to on-site systems. MS. CHAMBERS stated there is only one use that specifically requires on-site system review and it is a one-time review required for bed and breakfasts.

COMMISSIONER G. JONES stated that on-site systems is a programmatic issue. There may be administrative regulations necessary to enforce 15.65, but this body is charged with dealing with land use issues.

COMMISSIONER SIMONIAN stated support for the amendment, but she recognized the concern behind the main motion and thought there were areas in the ordinance where a compromise could be reached to address these concerns. She found it interesting that there are no requirements in Title 21 dealing with annual septic system inspections. She understood that the State requires an engineer to sign off on the septic system based on the number of bedrooms, but the process of Building Safety becoming involved does not occur as part of the ordinance. MS. CHAMBERS replied that the ordinance states that all assisted living homes have to comply with Title 23, which is the building and health code. A use must comply with on-site system requirements, regardless of whether or not that requirement is in this ordinance. COMMISSIONER SIMONIAN noted that 21.45.310.S states "the use shall meet the requirements of Title 23 for construction and life safety issues," and asked if there could be a requirement less onerous than the current motion requires and less onerous than an inspection, such as a triennial application or recertification of on-site septic or well. She stated well and septic are land use issues and the ordinance includes the requirement that life safety issues in Title 23 are addressed. She felt this was an issue that is not beyond the purview of the Commission. She thought that there could be more involvement from the City than might happen otherwise if there is not language in the ordinance. MS. CHAMBERS suggested amending 21.45.310.O to delete "one-time only," and insert the frequency desired.

COMMISSIONER T. JONES called for a point of order and it was explained that Commissioner Simonian was intending to propose an amendment to the amendment on the floor.

COMMISSIONER SIMONIAN moved to amend the amendment to include deleting the language in the main motion "to require an annual field inspection verification of on-site septic to ensure capacity based on the maximum number of residents and caregivers and factoring in the 24-hour use as a healthcare facility" and to add to 21.45.310.O to require an annual field inspection and verification of on-site septic. This was accepted as a friendly amendment.

MS. CHAMBERS noted that section O relates to facilities of 9 beds or more.

COMMISSIONER LOTTSFELDT supported the amendment, understanding the concern about septic systems, but indicating he did not hear evidence that assisted living homes are more likely to cause problems with on-site systems than any other land use. He felt that, if there is a problem with on-site systems, it should be addressed more globally.

COMMISSIONER PEASE noted that the Staff analysis states that if a use is institutional or commercial in nature, as with childcare and healthcare facilities, the capacity rates are calculated much differently and require more capacity. Mr. Seville has indicated that the State uses a per bedroom figure. She had not heard from Staff that the concern with higher septic generated has been adequately addressed. She thought it was unlikely that most septic systems in traditional residential uses support 8 full-time 24-hour residents. She felt that was not intuitive. She noted that Staff has acknowledged that traffic patterns are different in a standard residential home with teenagers coming and going, so they are not at the residence all the time using the septic in the same way as full-time residents who have less mobility and may be at the residence more often. She thought the language, as proposed would create a loophole that makes vulnerable neighborhoods where septic systems are used and where groundwater is drawn from lower strata than the septic systems. She stated there is a pattern of septic system failure across the Hillside. There is also a pattern of higher nitrate levels in well water across the Hillside. She stated that some areas will eventually have public water and sewer and, at that time, they could quite easily accommodate higher density residential care facilities. The Commission has the responsibility to ensure the land use does not adversely impact adjoining land uses, property value, and health.

COMMISSIONER T. JONES stated this discussion is about people living in houses, not institutions. She noted there are less than 300 assisted living homes in the municipality at this time, so she did not see that there would be a large concentration in any one area or that there would be a greater number of these facilities built if this ordinance is adopted. She stated with regard to water usage, that could be substantial usage by a typical family. She felt ADEC should be allowed to do their job. One protection that exists with respect to assisted living homes is the programmatic oversight, which does not exist for typical residential uses.

COMMISSIONER GIBBONS shared the comments made by his fellow commissioners in support of this amendment and added that he would be troubled with the Municipality running afoul of the Fair Housing Act by imposing additional requirements on assisted living facilities that would not be imposed on other single-family homes.

COMMISSIONER SIMONIAN stated the shift from 5 to 8 residents had a legal basis in terms of the Federal Fair Housing Act requirements. She felt Commissioner Gibbons's comments about running afoul of the Act should be seriously considered by the Commission. This ordinance addresses planning issues as well as legal and societal requirements that impose the principal duty not to discriminate against people based upon their needs.

COMMISSIONER PEASE stated the issue of septic overburdening or well water contamination does not have to be a broad problem to be an issue. The issue of septic overburdening does not need to be widespread to be a concern of the Commission. She stated that if wells in the area are affected or an assisted living facility with 8 people has to be shut down because there are no alternative septic sites, that is a human impact for which the Commission is responsible. Secondly, with regard to the Federal Fair Housing Act, Staff did not say there is a fixed number the Act falls back on in terms of facility size. Staff indicated that cities across the country either have no average density or that it is varied. She believed the number 8 was arbitrary. MS. CHAMBERS stated that Staff believes 8 is legally defensible; some members of the committee have indicated the number is 12 set and there is a Supreme Court case regarding that. The municipal Department of Law feels there is some flexibility, so the number has been set at 8.

COMMISSIONER SIMONIAN stated she was raised in a house with 7 children and 2 adults in a location where parking was scarce and traffic is high. Her mother still lives in that home and has medical issues that require an ambulance to come to that house approximately monthly. She stated she could imagine that neighbors on her street might have objected to a family of her size and composition living in that house with the strain it put on the street. She felt that, on a human level, putting the issue in this perspective might help the Commission in its thinking. She noted that there are strains on land that are not considered by the Commission and are not considered or excluded based on policy. This is important to consider when the Commission makes recommendations about these types of ordinances.

COMMISSIONER PEASE stated she was not indicating there are undesirable impacts other than septic overflow and well water contamination.

Amendment

AYE: T. Jones, Gibbons, Poulton, G. Jones, Simonian, Lottsfeldt, Isham

NAY: Pease

PASSED

COMMISSIONER G. JONES moved to amend to delete the provision requiring waste containment for household waste and biomedical waste ("to require waste

containment either in inside secure indoor storage or in a dumpster" in the main motion). COMMISSIONER LOTTSFELDT seconded.

COMMISSIONER G. JONES felt this was a programmatic issue that is inappropriately addressed through a land use provision. He believed there are regulations in place that govern this.

COMMISSIONER T. JONES supported the amendment noting that if this requirement is imposed on this type of housing, then she thought it should be placed on all those people who have biomedical daily waste. She felt it was not appropriate for the Commission to attempt to regulate this.

COMMISSIONER PEASE agreed this is an issue that is not unique to this type of facility; hazardous trash can result from any number of residential or non-residential uses. Therefore, she did not object to the amendment.

Amendment

AYE: T. Jones, Gibbons, Poulton, G. Jones, Simonian, Lottsfeldt, Isham,
Pease

NAY: None

PASSED

COMMISSIONER SIMONIAN moved to amend to include the amendments to Section 12 and 13 that would allow large residential care facilities as a conditional use in the R-6 and R-7 zoning districts. COMMISSIONER GIBBONS seconded.

COMMISSIONER PEASE moved to amend the amendment "only on sites served by on-site sewer and water and publicly maintained roads." The amendment *died due to lack of a second*.

COMMISSIONER SIMONIAN stated that any concern about septic and wells would be considered on a case-by-case basis and on a land use basis, which makes more sense given the unique balancing of land use issues with the rights of persons with disabilities. Any concerns that might arise by the lack of specific requirements with respect to on-site systems should be allayed by the fact there will be a reviewing body. MS. CHAMBERS noted that 21.45.310.O for on-site inspections is applicable to these situations.

COMMISSIONER T. JONES stated a conditional use is not a by-right use. Each application will need to stand on its own merits and prove it will not pose harm to the community. The Commission has great power in terms of what it can require the petitioner provide to demonstrate that.

Amendment

AYE: T. Jones, Gibbons, Poulton, G. Jones, Simonian, Lottsfeldt, Ishham

NAY: Pease

PASSED

COMMISSIONER LOTTSFELDT supported the main motion. He noted that the Commission often talks about balancing impacts and "impacts" often becomes code for the word "nuisance." He stated that people who live in assisted living homes are simply people living in homes. He supported the opportunity to embrace this ordinance and he was glad to hear that Anchorage is considered progressive in this effort.

COMMISSIONER ISHAM felt the modifications made to the ordinance have clarified intent and support the rights of persons with disabilities.

COMMISSIONER PEASE wanted to be clear that she would never characterize assisted living or healthcare facilities as a nuisance use. She felt it was wonderful that people have the ability to live with families and to choose from a variety of neighborhoods. She felt the Commission has the responsibility to ensure sustainable, efficient, long-term land uses that do not create a negative environmental impact, particularly one that affects human health or property value. She stated she would not support the main motion.

COMMISSIONER T. JONES supported the motion. She stated she has concerns about water quality throughout the community, not just in large lot zoning districts. She thought there were adequate mechanisms and agencies in place to monitor on-site related issues. She felt the ordinance would bring the Municipality in compliance with the Federal Fair Housing Act and it has the support of Policies #61 and #62 of Anchorage 2020, which are requirements to promote the availability of supportive housing opportunities for the homeless and for persons with special needs, as well as distributing throughout the Municipality residential facilities that are supported by government agencies and operated for health, social services, and correctional purposes.

COMMISSIONER GIBBONS supported the motion, believing the ordinance as amended addresses the issues that were raised throughout the process regarding the Federal Fair Housing Act. He also felt the ordinance encourages Anchorage 2020.

COMMISSIONER SIMONIAN supported the motion, stating she shares Commissioner Pease's concerns about water quality, but felt this ordinance becomes a framework to protect many interests. She stated the Commission sometimes sees certain groups exploit absences in ordinances and others use words in the ordinances as weapons; the subtext is sometimes left unsaid. She

took to heart what Ms. Kraft said about people raising what appear to be land use issues when in fact the issue has more to do with who they want to be their neighbors. She felt this ordinance protects people's right to live where they want to live as a family.

COMMISSIONER G. JONES thanked those who testified on this ordinance and the subcommittee that has been working for 1.5 years to develop a reasonable and well-rounded ordinance.

CHAIR POULTON supported the motion, feeling the ordinance is well thought out, it has enjoyed the participation of the relevant parties, and all parties have expressed their issues and concerns, which were embodied in the final document before the Commission. He noted that, although the Commission is charged with addressing land use issues, it is sometimes difficult to separate land use issues from programmatic issues. He felt that the ordinance also supports the programmatic efforts that are necessary to ensure that assisted living homes operate properly for their residents. He thanked all those members of the public who listened and testified during the proceedings on this ordinance.

Main Motion

AYE: T. Jones, Gibbons, Poulton, G. Jones, Simonian, Lottsfeldt, Isham

NAY: Pease

PASSED

- 2. 2005-039** Municipality of Anchorage. An ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Title 21 by adding a Section 21.05.055 Procedure for Creating and Adopting a Neighborhood or District Plan and providing for an effective date.

Staff member DAVE TREMONT stated this ordinance provides a process and standards for the creation, review and adoption of neighborhood and district plans. This ordinance would enact a new section to Title 21. One of the implementation strategies of the Anchorage 2020 Comprehensive Plan is the completion and adoption of neighborhood and district plans. Various community councils have expressed interest in initiating a neighborhood or district planning process, however, the existing Title 21 does not contain guidelines or standards for how to proceed or information on what needs to be included in the plans. The draft ordinance addresses these issues and contains several main features: a description of who may sponsor a neighborhood or district plan; the process by which such a plan shall be created, reviewed and adopted;

Submitted by: Chair of the Assembly at
the request of the Mayor
Prepared by: Planning Department
For reading

Original
Document

ANCHORAGE, ALASKA

AO 2005-

AN ORDINANCE AMENDING CHAPTERS 21.35, 21.40, 21.45 AND 21.50 OF THE ANCHORAGE MUNICIPAL CODE REGARDING AND CLARIFYING ADMINISTRATIVE PROCEDURES AND PROVIDING DEFINITIONS FOR ADULT CARE FACILITIES, RESIDENTIAL CARE FACILITIES, ASSISTED LIVING FOR DISABILITY OR HANDICAP, HOSPITALS, NURSING FACILITIES, NURSING HOMES, TRANSITIONAL LIVING, HEALTH CARE FACILITIES, HEALTH SERVICES, CHILD CARE FACILITIES, QUASI-INSTITUTIONAL USES, LARGE AND SMALL RESIDENTIAL CARE FACILITIES, TRANSITIONAL LIVING FACILITIES, AMENDING ZONING DISTRICTS, SUPPLEMENTARY DISTRICT STANDARDS, AND STANDARDS FOR CONDITIONAL USES AND SITE PLANS, DELETING ZONING AND CONDITIONAL USE PROVISIONS RELATED TO ROOF-MOUNTED SATELLITE DISHES, AMENDING ANCHORAGE MUNICIPAL CODE SECTION 14.60.030 TO ADD VARIOUS CARE FACILITIES VIOLATIONS TO THE FINE SCHEDULE, AND OTHER RELATED MATTERS.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 21.10.025 is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out.*):

21.10.025 **Zoning board of examiners and appeals.**

*** *** ***

B. Hear and decide appeals from enforcement orders, [AND] denials of permit or certificate applications, and decisions to approve or deny section 21.15.013 administrative variance applications, under sections 21.30.110 through 21.30.170, and 21.55.040.

*** *** ***

(GAAB 21.30.250, 21.30.350; AO No. 77-355; AO No. 85-23; AO No. 99-131, § 2, 10-26-99; AO No. 2001-117, § 1, 7-10-01)

Cross references: Appointment of boards and commissions, Ch. 4.05; zoning board of examiners and appeals, section 4.40.130.

Section 2. Anchorage Municipal Code chapter 21.15 is hereby amended by adding a new section to read as follows:

21.15.013 **Administrative variance from occupancy limits for residential care facilities.**

- 1
2 A. *Intent.* It is the intent of this section to provide reasonable accommodation to
3 residential care facilities to locate in specific buildings or neighborhoods for
4 justifiable reasons, but without allowing occupancy limits to exceed the average
5 building in the neighborhood.
6
7 B. *Application.* An application for an administrative variance from occupancy limits
8 shall be made on a form provided by the municipality, shall be executed by the
9 owner of the real property, or the lessee with proof of the owner's consent, and shall
10 be complete in all respects prior to review under subsection C.
11
12 C. *Time for approval.* The Planning Department shall make a determination on an
13 application within 60 days of submittal. Notification of approval or denial shall be
14 made in writing to the applicant by mail or delivered by electronic means.
15
16 D. *Standards.* In deciding to approve or deny an application, the Planning
17 Department shall make reasonable accommodations, considering relevant factors
18 including, but not limited to, the following:
19
20 1. Quantifiable risks to the health, safety, and quality of life of area residents
21 and users;
22 2. Economic hardship to the applicant, if the variance is denied;
23 3. Economic hardship on the intended occupants, if the variance is denied,
24 including the availability of other housing alternatives;
25 4. Administrative and economic burden on the municipality, if the variance is
26 granted; and
27 5. External characteristics and impacts of the proposed facility, including
28 appearance and projected contribution to traffic volumes within the
29 neighborhood.
30
31 E. *Conditions.* In approving a variance, the Planning Department may impose
32 reasonable conditions designed to mitigate impacts created by the variance.
33
34 F. *Appeal.* Appeals of the decision to approve or deny a variance under this section
35 shall be to the zoning board of examiners and appeals, pursuant to the provisions of
36 sections 21.30.110 - .170, and may be brought by any person adversely affected by
37 the action.

38
39 (GAAB 21.05.060, 21.05.080; AO No. 77-355; AO No. 78-231; AO No. 79-34; AO No.
40 79-214; AO No. 82-22(S); AO No. 82-49; AO No. 84-70; AO No. 85-21; AO No. 85-72;
41 AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-155; AO No. 87-121, 11-27-87; AO
42 No. 88-5(S); AO No. 94-62, § 1, 4-12-94; AO No. 95-129, § 5, 3-12-96; AO No. 2004-6, §
43 1, 10-1-03; AO No. 2004-108(S), § 1, 10-26-04)
44

45 **Section 3.** Anchorage Municipal Code section 21.30.110 is hereby amended to add a new
46 subsection as follows (*the remainder of the section is not affected and therefore is not set out.*):

21.30.110 Jurisdiction of board.

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

*** **

H. Approval of or denial of an application for an administrative variance under section 21.15.013.

*** **

(GAAB 21.05.080, 21.30.350; AO No. 85-23; AO No. 88-59(S); AO No. 99-131, § 5, 10-26-99; AO No. 2001-117, § 2, 7-10-01)

Section 4. Anchorage Municipal Code section 21.35.020 is amended to revise, add or repeal, as indicated, the following definitions (*the remainder of the section is not affected and therefore is not set out.*):

21.35.020 Definitions and rules of construction.

*** **

B. The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*** **

Adult care facility is a facility that provides assisted living to 3 or more persons over the age of 15, and such care is provided on a non-residential basis only.

*** **

Assisted living has the same meaning as set forth in Alaska Statutes chapter 47.33.

*** **

Child care facility has the same meaning as set forth in chapter 16.55. Child care is not a home occupation. [SERVICES MEANS ALL TYPES OF SERVICES INCLUDED IN THE FOLLOWING SUBCATEGORIES:

- A. CHILD CARE FACILITY, 24-HOUR MEANS A SERVICE PROVIDING FOR THE SUPERVISION, EDUCATION OR COUNSELING OF CHILDREN WITHOUT RESTRICTION ON THE TIME OF SERVICE. SUCH SERVICE MAY INCLUDE BABYSITTING OR RESIDENTIAL CARE, AND ACADEMIC, MEDICAL AND SOCIAL PROGRAMS.
- B. DAY CARE MEANS A SERVICE PROVIDING FOR THE SUPERVISION, EDUCATION OR COUNSELING OF ANY NUMBER OF CHILDREN FOR A PERIOD NOT TO EXCEED 18 HOURS PER DAY. SUCH SERVICES MAY INCLUDE BABYSITTING AND ACADEMIC, MEDICAL AND SOCIAL PROGRAMS.

- 1 C FAMILY CARE MEANS CARE PROVIDED IN A SINGLE DWELLING UNIT, AS
2 A HOME OCCUPATION, TO FIVE CHILDREN OR LESS FOR A PERIOD NOT
3 TO EXCEED 18 HOURS PER DAY. THE SERVICE IS PRIMARILY
4 BABYSITTING BUT MAY INCLUDE EDUCATIONAL PROGRAMS.
5 D. FAMILY RESIDENTIAL CARE MEANS CARE PROVIDED IN A SINGLE
6 DWELLING UNIT, IN A FAMILY SETTING, FOR TEN CHILDREN OR LESS,
7 WITHOUT RESTRICTION ON THE TIME THAT SERVICES ARE
8 PROVIDED].

9
10 *** **

11 Disability or handicap has the same meaning as "disability", pursuant to the Americans
12 with Disabilities Act of 1990, as amended, 42 U.S.C. 126.

13
14 *** **

15 Habilitative care facility [QUASI-INSTITUTIONAL HOUSE] means a residential facility,
16 other than a correctional center or transitional living facility, [LOCATED IN A
17 STRUCTURE OR RESIDENCE OR ANY LIVING UNIT THEREOF DESIGNED] the
18 principal use or goal of which is to serve as a place for persons seeking rehabilitation or
19 recovery from any physical, mental, or emotional infirmity, or any combination thereof, that
20 does not qualify as a disability as defined above, in a family setting as part of a group
21 rehabilitation and/or recovery program utilizing counseling, self-help or other treatment or
22 assistance. The term "habilitative care facility" replaces the "quasi-institutional house"
23 previously used in this title.

24
25 *** **

26 Health care facility means a facility or institution, whether public or private, principally
27 engaged in providing services for health maintenance, diagnosis or treatment of human
28 disease, pain, injury, deformity or physical condition, including but not limited to a general
29 hospital, special hospital, mental hospital, public health center, diagnostic center, treatment
30 center, rehabilitation center, extended care facility, skilled nursing home, nursing home,
31 intermediate care facility, tuberculosis hospital, chronic disease hospital, or maternity
32 hospital, [OUTPATIENT CLINIC, DISPENSARY, HOME HEALTH CARE AGENCY,
33 AND BIOANALYTICAL LABORATORY OR CENTRAL SERVICES FACILITY
34 SERVING ONE OR MORE SUCH INSTITUTIONS,] but excluding habilitative care
35 facilities [QUASI-INSTITUTIONAL HOUSES] and residential care facilities. Training,
36 rehabilitation services, and health services may be permitted as accessory uses, if integral to
37 the facility's function. Central services facilities, such as kitchens and laboratories, which
38 serve the health care facility are permitted accessory uses to a health care facility.

39
40 Health services means establishments primarily engaged in furnishing, on an outpatient
41 basis, chiropractic, dental, medical, surgical or other services to individuals, including the
42 offices of chiropractors, physicians, osteopaths, dentists and other health practitioners,
43 medical and dental laboratories, outpatient care and outpatient care facilities, dispensaries,
44 home health care agencies, blood banks and pharmacies.

*** **

Hospital has the same meaning as set forth in Alaska Statutes chapter 18.20 [MEANS AN INSTITUTION PROVIDING PRIMARY HEALTH SERVICES AND MEDICAL OR SURGICAL CARE TO PERSONS, PRIMARILY INPATIENTS, SUFFERING FROM ILLNESS, DISEASE, INJURY, DEFORMITY AND OTHER ABNORMAL PHYSICAL OR MENTAL CONDITIONS, AND INCLUDING, AS AN INTEGRAL PART OF THE INSTITUTION, RELATED FACILITIES SUCH AS LABORATORIES, OUTPATIENT FACILITIES OR TRAINING FACILITIES].

*** **

Nursing facility has the same meaning as set forth in Alaska Statutes chapter 18.20.

*** **

Residential care facility is a facility that provides assisted living to 3 or more persons over the age of 15 on a residential basis. A large residential care facility has 9 or more residents; a small residential care facility has 8 or fewer residents. Residential care provided to two or fewer clients is permitted in any zoning district where a residential dwelling is allowed, and is not subject to this definition.

*** **

Transitional living facility means a supervised residential facility, other than a correctional center or habilitative care facility, for adults and dependent children in transition from rehabilitation, recovery, or homelessness into independent living.

*** **

(GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No. 81-97; AO No. 81-180; AO No. 82-54; AO No. 82-167; AO No. 83-91(S); AO No. 84-14; AO No. 84-52; AO No. 85-58; AO No. 85-159; AO No. 85-91, 10-1-85; AO No. 85-216; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 86-171; AO No. 88-172; AO No. 88-171(S-1), 12-31-88; AO No. 89-35, 4-7-89; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 91-35; AO No. 90-152(S); AO No. 91-90(S); AO No. 91-184; AO No. 92-7(S-2); AO No. 92-26; AO No. 92-93; AO No. 92-128(S); AO No. 92-129(S); AO No. 93-58; AO No. 93-148, § 1, 11-16-93; AO No. 94-62, § 2, 4-12-94; AO No. 95-68(S-1), §§ 2, 3, 8-8-95; AO No. 95-173, § 1, 11-14-95; AO No. 96-41, § 1, 3-5-96; AO No. 96-131(S), § 1, 10-22-96; AO No. 98-106, § 1, 7-21-98; AO No. 98-160, § 3, 12-8-98; AO No. 99-62, § 2, 5-11-99; AO No. 2000-119(S), § 8, 2-20-01; AO No. 2001-79(S), § 1, 5-8-01; AO No. 2001-80, § 1, 5-8-01; AO No. 2002-101(S), § 2, 4-9-02; AO No. 2002-109, § 2, 9-10-02; AO No. 2002-117, § 4, 1-28-03; AO No. 2003-62(S-1), § 3, 10-1-03; AO No. 2003-97, § 1, 9-30-03; AO No. 2003-132, § 1, 10-7-03; AO No. 2003-124(S), § 1, 1-20-04; AO No. 2004-108(S), § 2, 10-26-04)
Editor's note: The definition of fallout shelters contained in this section was formerly codified in the 1977 Code as the first sentence of subsection 21.45.060A.

Cross references: Definitions and rules of construction generally, section 1.05.020.

Section 5. Anchorage Municipal Code section 21.40.020 is hereby amended to read as follows (the remainder of the section is not affected and therefore is not set out.):

21.40.020 **PLI public lands and institutions district.**

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** *** ***

12. Child care facilities. [DAY CARE AND 24-HOUR CHILD CARE FACILITIES.]

*** *** ***

19. Adult care facilities with 16 or more persons.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

6. Habilitative care facilities [QUASI-INSTITUTIONAL USES].

*** *** ***

16. Health care facilities with 16 or more persons and health services.

*** *** ***

18[19]. Correctional community residential centers [HOSPITALS].

19. Large residential care facilities.

*** *** ***

(GAAB 21.05.050.A; AO No. 77-355; AO No. 79-25; AO No. 81-67(S); AO No. 81-178(S); AO No. 82-24; AO No. 83-78; AO No. 84-34; AO No. 85-18; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-90; AO No. 88-7(S), 7-4-88; AO No. 90-152(S); AO No. 92-93; AO No. 93-148, § 3, 11-16-93; AO No. 95-68(S-1), § 4, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 99-62, § 3, 5-11-99; AO No. 99-131, § 6, 10-26-99; AO No. 99-149, § 1, 12-14-99; AO No. 2002-109, § 3, 9-12-02; AO No. 2003-132, § 2, 10-7-03)

Cross references: Zoning map; districts designated, section 21.40.010A.1.

Section 6. Anchorage Municipal Code section 21.40.030 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out.):

21.40.030 **R-1 and R-1A single-family residential districts.**

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

6. Small residential care facilities [FAMILY RESIDENTIAL CARE].
7. Child care facilities with 1 through 8 children.
8. Adult care facilities with 1 through 8 persons.
- 9[7]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title.
- 10[8]. With a permitted non-residential use as a secondary and subordinate use and as specified in the supplementary district regulations, antennas without tower structures, type 1, 3, local interest towers and type 4 tower structures and antennas.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

9. Habilitative care facilities [QUASI-INSTITUTIONAL USES].
10. Child care facilities with 9 or more children [DAY CARE].
11. Adult care facilities with 9 or more person.
12. Large residential care facilities.
[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002.)]
- 13[11]. Bed and breakfast with five guestrooms.
- 14[13]. Snow disposal site.
- 15[14]. Community interest and local interest towers that do not meet the supplementary district regulations.

*** **

(GAAB 21.05.050.B; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 83-216; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 98-53(S), § 1, 6-9-98; AO No. 99-49, § 1, 3-23-99; AO No. 99-62, § 4, 5-11-99; AO No 2002-109, § 3, 9-10-02)

Section 7. Anchorage Municipal Code section 21.40.040 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out.):

21.40.040 R-2A two-family residential district (large lot); R-2D two-family residential district.

*** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** ***

7. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL CARE].

8. Adult care facilities with 1 through 8 persons.

9. Small residential care facilities.

10[8]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title.

11[9]. With a permitted non-residential use as a secondary and subordinate use and as specified in the supplementary district regulations, antennas without tower structures, type 1, 3, local interest towers and type 4 tower structures and antennas.

*** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** ***

4. Hospitals and nursing facilities with 1 through 16 clients [NURSING HOMES, CONVALESCENT HOMES AND SIMILAR INSTITUTIONAL USES].

*** ***

9. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

10. Child care facilities with 9 or more children [DAY CARE].

11. Adult care facilities with 9 or more persons.

12. Large residential care facilities.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE [(EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

13[11]. Bed and breakfast with five guestrooms.

14[13]. Snow disposal sites.

15[14]. Community interest and local interest towers that do not meet the supplementary district regulations.

*** **

(GAAB 21.05.050.C; AO No. 77-355; AO No. 79-13; AO No. 80-27; AO No. 80-42; AO No. 81-67(S); AO No. 82-54; AO No. 83-217; AO No. 84-52; AO No. 85-18; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 85-163; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 98-53(S), § 2, 6-9-98; AO No. 99-49, § 2, 3-23-99; AO No. 99-62, § 5, 5-11-99)

Section 8. Anchorage Municipal Code section 21.40.045 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.045 R-2M multiple-family residential district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

8. Child Care facilities with 1 through 8 children [FAMILY RESIDENTIAL CARE].
9. Adult care facilities with 1 through 8 persons [DAY CARE, ON A LOT OF AT LEAST 14,000 SQUARE FEET].
10. Large and small residential care facilities.
- 11[10]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title
- 12[11]. With a permitted non-residential use as a secondary and subordinate use and as specified in the supplementary district regulations, antennas without tower structures, type 1, 3, local interest towers and type 4 tower structures and antennas.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

4. Hospitals and nursing facilities with 1 through 16 persons [NURSING HOMES, CONVALESCENT HOMES AND SIMILAR INSTITUTIONAL USES].
10. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

11. Child care facilities with nine (9) or more children [TWENTY-FOUR-HOUR CHILD CARE FACILITIES].

*** **

14[15]. Snow disposal sites.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN ONE METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

15[16]. Community interest and local interest towers that do not meet the supplementary district regulations.

16. Adult care facilities with nine (9) or more persons.

*** **

(GAAB 21.05.050.C; AO No. 77-355; AO No. 79-13; AO No. 80-27; AO No. 80-42; AO No. 81-67(S); AO No. 82-54; AO No. 83-217; AO No. 84-52; AO No. 85-18; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 85-163; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 98-53(S), § 3, 6-9-98; AO No. 99-49, § 3, 3-23-99; AO No. 99-62, § 6, 5-11-99)

Section 9. Anchorage Municipal Code section 21.40.050 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.050 R-3 multiple-family residential district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

8. Child care facilities with one (1) through eight (8) children [DAY CARE AND FAMILY RESIDENTIAL CARE].

9. Adult care facilities with one (1) through eight (8) persons.

10. Large and small residential care facilities.

11. Transitional living facilities.

12[9]. Roominghouses.

13[10]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title.

14[11]. With a permitted non-residential use or residential use of six (6) dwelling units or more as a secondary and subordinate use and as specified in the

supplementary district regulations, antennas without tower structures, type 1,
3, local interest towers and type 4 tower structures and antennas.

C. *Permitted accessory uses and structures.* Permitted accessory uses and structures
are as follows:

*** *** ***

5[6]. Keeping honey bees, *Apis mellifera*, in a manner consistent with the
requirements of all titles of this Code. Colonies shall be managed in such a
manner that their flight path to and from the hive will not bring them into
contact with people on adjacent property. To accomplish this, colonies shall
be:

*** *** ***

[FAMILY CARE.]

6[7]. Bed and breakfast with three (3) or less guestrooms.

7[8]. Bed and breakfast with four (4) guestrooms only by administrative site plan
review.

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

1. Hospitals and nursing facilities [NURSING HOMES, CONVALESCENT
HOMES AND SIMILAR INSTITUTIONAL USES].

*** *** ***

13. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

14. Child care facilities with nine (9) or more children [TWENTY-FOUR-
HOUR CHILD CARE FACILITY].

15[16]. Snow disposal sites.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002).]

16[17]. Computer aided learning center maximum useable area of 1,000 square feet
operated or sponsored by a governmental agency for economically
disadvantaged individuals.

17[18]. Family self sufficiency service office maximum usable area of 1,500 square
feet.

18[19]. Community interest and local interest towers that do not meet the
supplementary district regulations.

19. Adult care facilities with nine (9) or more persons.

*** *** ***

(GAAB 21.05.050.D; AO No. 77-355; AO No. 80-27; AO No. 80-42; AO No. 81-67(S);
AO No. 82-54; AO No. 83-218; AO No. 84-52; AO No. 85-18; AO No. 85-21; AO No. 85-

23; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 85-163; AO No. 86-19;
AO No. 86-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO
No. 92-114; AO No. 96-131(S), § 2, 10-22-96; AO No. 99-62, § 7, 5-11-99)

Section 10. Anchorage Municipal Code section 21.40.060 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.060 **R-4 multiple-family residential district.**

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are
as follows:

*** *** ***

9. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL
CARE AND DAY CARE].
10. Adult care facilities with 1 through 8 persons.
11. Large and small residential care facilities.
12. Transitional living facilities.
- 13[10]. Roominghouses.
- 14[11]. Private clubs and lodges. Any use involving sale or dispensing or service of
alcoholic beverages may be permitted by conditional use only.
- 15[12]. Churches, to include any place of religious worship, along with their
accessory uses, including, without limitation, parsonages, meeting rooms
and child care provided for persons while they are attending religious
functions, but excluding day care uses, which shall be permitted only if they
are otherwise allowed in accordance with this title. Use of church buildings
other than the parsonage for the purpose of housing or providing shelter to
persons is not permitted except as otherwise allowed in this title.
- 16[13]. With a permitted non-residential use or residential use of 6 dwelling units or
more as a secondary and subordinate use and as specified in the
supplementary district regulations, antennas without tower structures, type 1,
3, local interest towers and type 4 tower structures and antennas.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** *** ***

2. Hospitals and nursing facilities [NURSING HOMES, CONVALESCENT
HOMES AND SIMILAR INSTITUTIONAL USES].
- *** *** ***
12. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].
 13. Child care facilities with 9 or more children [TWENTY-FOUR-HOUR
CHILD CARE FACILITY].

14[15]. Snow disposal sites.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002).]

15[16]. Computer aided learning center maximum useable area of 1,000 square feet
operated or sponsored by a governmental agency for economically
disadvantaged individuals.

16[17]. Family self sufficiency service office maximum usable area of 1,500 square
feet.

17[18]. Community interest and local interest towers that do not meet the
supplementary district regulations.

18. Adult care facilities with 9 or more persons.

*** *** ***

(GAAB 21.05.050.E; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54;
AO No. 85-18; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-
91, 10-1-85; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No.
92-114; AO No. 96-131(S), § 2, 10-22-96; AO No. 99-62, § 8, 5-11-99; AO No. 2003-
124(S), § 2, 1-20-04)

Section 11. Anchorage Municipal Code section 21.40.070 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.070 R-5 rural residential district; R-5A, rural residential district (large lot).

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are
as follows:

*** *** ***

8. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL
CARE].

*** *** ***

11. Adult care facilities with 1 through 8 persons.

12. Large and small residential care facilities.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** *** ***

8. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

9. Child care facilities with 9 or more children [DAY CARE FOR 30
CHILDREN OR LESS].

*** **

12[13]. Snow disposal sites

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER
IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES
ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE
DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL
DECEMBER 31, 2002)].

13[14]. Community interest and local interest towers that do not meet the
supplementary district regulations.

14[15]. Off-street parking spaces or structures so long as the property is contiguous
and abuts a commercially or industrially zoned property and the properties
are not separated by a right-of-way or constructed street.

15. Adult care facilities with 9 or more persons.

*** **

(GAAB 21.05.050.F; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54;
AO No. 83-52; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 86-
90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 99-62, §
9, 5-11-99; AO No. 2002-63(S), § 1, 5-21-02

Section 12. Anchorage Municipal Code section 21.40.080 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.080 R-6 suburban residential district (large lot).

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are
as follows:

*** **

5. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL
CARE].

6. Adult care facilities with 1 through 8 persons.

7. Small residential care facilities.

8 [6]. Churches, to include any place of religious worship, along with their
accessory uses, including, without limitation, parsonages, meeting rooms
and child care provided for persons while they are attending religious
functions, but excluding day care uses, which shall be permitted only if they
are otherwise allowed in accordance with this title. Use of church building
other than the parsonage for the purpose of housing or providing shelter to
persons is not permitted except as otherwise allowed in this title.

9 [7]. With a permitted non-residential use as a secondary and subordinate use and
as specified in the supplementary district regulations, antennas without
tower structures, type 1, 3, local interest towers and type 4 tower structures
and antennas.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

6. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

7. Child care facilities with 9 or more children [TWENTY-FOUR-HOUR CHILD CARE AND DAY CARE FACILITIES].

*** **

10[11]. Snow disposal sites

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002)].

11[12]. Commercial greenhouses.

12[13]. Community interest and local interest towers that do not meet the supplementary district regulations.

13. Large residential care facilities.

*** **

(GAAB 21.05.050.G; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 85-18; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 99-27, § 1, 2-23-99; AO No. 99-62, § 10, 5-11-99)

Section 13. Anchorage Municipal Code section 21.40.090 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.090 R-7 intermediate rural residential district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

5. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL CARE].

6. Adult care facilities with 1 through 8 persons.

7. Small residential care facilities.

8 [6]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title.

9 [7]. With a permitted non-residential use as a secondary and subordinate use and as specified in the supplementary district regulations, antennas without tower structures, type 1, 3, local interest towers and type 4 tower structures and antennas.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

7. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].
8. Child care facilities with 9 or more children [DAY CARE FOR 30 CHILDREN OR LESS].

*** **

- 11[12]. Snow disposal sites.
[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

- 12[13]. Community interest and local interest towers that do not meet the supplementary district regulations.

- [14. COMMUNITY INTEREST AND LOCAL INTEREST TOWERS THAT DO NOT MEET THE SUPPLEMENTARY DISTRICT REGULATIONS.]

13. Large residential care facilities.

(GAAB 21.05.050.H; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 83-219; AO No. 85-21; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 99-62, § 11, 5-11-99)

Section 14. Anchorage Municipal Code section 21.40.100 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.100 R-8 rural residential district (large lot).

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

2. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL CARE].
3. Adult care facilities with 1 through 8 persons.
4. Small residential care facilities.

5[3]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title.

6 [4]. With a permitted non-residential use as a secondary and subordinate use and as specified in the supplementary district regulations, antennas without tower structures, type 1, 3, local interest towers and type 4 tower structures and antennas.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

6. Child care facilities with 9 or more children [TWENTY-FOUR HOUR CHILD CARE AND DAY CARE FACILITIES].

*** **

9 [10]. Community interest and local interest towers that do not meet the supplementary district regulations
[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002)].

*** **

(GAAB 21.05.050.U; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 98-53(S), § 4, 6-9-98; AO No. 99-62, § 12, 5-11-99)

Section 15. Anchorage Municipal Code section 21.40.110 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.110 R-9 rural residential district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

2. Child care facilities with 1 through 8 children [FAMILY RESIDENTIAL CARE].

3. Adult care facilities with 1 through 8 persons.

4. Small residential care facilities.

5 [3]. Churches, to include any place of religious worship, along with their accessory uses, including, without limitation, parsonages, meeting rooms and child care provided for persons while they are attending religious functions, but excluding day care uses, which shall be permitted only if they are otherwise allowed in accordance with this title. Use of church buildings other than the parsonage for the purpose of housing or providing shelter to persons is not permitted except as otherwise allowed in this title.

6 [4]. With a permitted non-residential use as a secondary and subordinate use and as specified in the supplementary district regulations, antennas without tower structures, type 1, 3, local interest towers and type 4 tower structures and antennas.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

6. Child care facilities with 9 or more children [TWENTY-FOUR HOUR CHILD CARE AND DAY CARE FACILITIES].

7. Bed and breakfast with five guestrooms.

8. Roominghouses.

9[10]. Community interest and local interest towers that do not meet the supplementary district regulations.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002)].

*** *** ***

(GAAB 21.05.050.V; AO No. 77-355; AO No. 80-27; AO No. 81-67(S); AO No. 82-54; AO No. 85-21; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 98-53(S), § 5, 6-9-98; AO No. 99-62, § 13, 5-11-99)

Section 16. Anchorage Municipal Code section 21.40.115 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.115 R-10 residential alpine/slope district.

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows

*** **

6. Child care facilities with 1 through 8 children.

7. Adult care facilities with 1 through 8 persons.

8. Small residential care facilities.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

5 [6]. Community interest and local interest towers that do not meet the supplementary district regulations.

[ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002).]

*** **

(AO No. 81-97; AO No. 81-217; AO No. 85-23; AO No. 85-28; AO No. 85-78; AO No. 86-90; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 98-53(S), § 6, 6-9-98; AO No. 99-49, § 1, 3-23-99; AO No. 99-62, § 14, 5-11-99)

Section 17. Anchorage Municipal Code section 21.40.117 is hereby amended to add new subsections to read as follows (*the remainder of the section is not affected and therefore is not set out*):

21.40.117 R-11 Turnagain Arm district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

6. Child care facilities with 1 through 8 children.

7. Adult care facilities with 1 through 8 persons.

8. Small residential care facilities.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

11. Type 1, 2 and 3 community interest and local interest towers that do not meet the supplementary district regulations for a permitted or accessory use[; ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES

ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002)].

*** *** ***

- 19. Child care facilities with 9 or more children.
- 20. Adult care facilities with 9 or more persons.
- 21. Health care facilities.
- 22. Large residential care facilities.

*** *** ***

(AO No. 82-162; AO No. 84-34; AO No. 85-28; AO No. 85-78; AO No. 85-91, 10-1-85; AO No. 86-122; AO No. 86-182; AO No. 88-143; AO No. 88-144, 11-26-88; AO No. 88-171(S-1), 12-31-88; AO No. 94-120, § 1, 8-23-94; AO No. 94-238(S), § 3, 2-28-94; AO No. 94-239, § 1, 2-14-95; AO No. 96-118, § 1, 8-22-96; AO No. 96-118, § 1, 8-13-96; AO No. 99-62, § 15, 5-11-99; AO No. 2001-88, § 1, 6-5-01)

Section 18. Anchorage Municipal Code section 21.40.130 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.130 R-O residential-office district.

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** *** ***

- 7. Child care facilities [FAMILY RESIDENTIAL CARE, AND 24-HOUR CHILD CARE AND DAY CARE FACILITIES].

*** *** ***

- 9. Hospitals and nursing facilities [HOSPITALS, NURSING HOMES, CONVALESCENT HOMES, HOMES FOR THE AGED, MEDICAL CLINICS, MEDICAL AND DENTAL LABORATORIES, RESEARCH CENTERS, PHARMACIES AND THE LIKE].

- 10. Residential care facilities, any size.

- 11. Transitional living.

***Code Revisor is instructed to renumber remaining subsections.**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

- 6. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

*** **

8. Type 1, 2 and 3 local interest towers that do not meet the supplementary district regulations for a permitted or accessory use[; ROOF MOUNTED SATELLITE DISHES GREATER THAN 1 METER IN DIAMETER ON RESIDENTIAL STRUCTURES OR STRUCTURES ACCESSORY TO A RESIDENTIAL USE (EXCEPT SATELLITE DISHES UP TO TWO METERS IN DIAMETER MAY BE USED UNTIL DECEMBER 31, 2002)].

*** **

(GAAB 21.05.050.I; AO No. 77-219; AO No. 77-355; AO No. 78-199; AO No. 80-57; AO No. 81-67(S); AO No. 83-226; AO No. 85-18; AO No. 85-23; AO No. 85-69; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 86-171; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 91-97; AO No. 92-114; AO No. 96-131(S), § 3, 10-22-96; AO No. 99-62, § 16, 5-11-99; AO No. 2003-124(S), § 3, 1-20-04)

Section 19. Anchorage Municipal Code section 21.40.140 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.140 B-1A local and neighborhood business district.

*** **

- B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

3. Office uses:
a. Health services [OFFICES OF PHYSICIANS, SURGEONS, DENTISTS, OSTEOPATHS, CHIROPRACTORS AND OTHER PRACTITIONERS OF THE HEALING SCIENCES].

*** **

6. Other uses:

*** **

- c. Child care facilities [FAMILY RESIDENTIAL CARE, DAY CARE AND 24-HOUR CHILD CARE FACILITIES].

*** **

- g. Adult care facilities.
h. Small residential care facilities.

*** **

- D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

13. Hospitals and nursing facilities with 1 through 16 persons.

*** **

(GAAB 21.05.050.J; AO No. 77-355; AO No. 78-28; AO No. 78-169; AO No. 81-67(S);
AO No. 81-143; AO No. 83-210; AO No. 85-18; AO No. 85-23; AO No. 85-91, 10-1-85;
AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 87-62; AO No. 88-49(S); AO No. 88-
171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 96-131(S), § 2, 10-22-96; AO No. 99-
62, § 17, 5-11-99)

Section 20. Anchorage Municipal Code section 21.40.145 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.145 B-1B community business district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are
as follows:

*** **

5. Other uses:

*** **

c. Child care facilities [FAMILY RESIDENTIAL CARE, DAY CARE
AND 24-HOUR CHILD CARE FACILITIES].

*** **

j. Adult care facilities.

k. Hospitals and nursing facilities with 1 through 16 persons.

l. Small residential care facilities.

m. Transitional living facilities.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** **

12. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

*** **

15. Hospitals and nursing facilities with 17 or more persons.

16. Large residential care facilities.

*** **

(GAAB 21.05.050.J; AO No. 77-355; AO No. 78-28; AO No. 78-169; AO No. 81-67(S);
AO No. 81-143; AO No. 83-210; AO No. 85-18; AO No. 85-23; AO No. 85-173, 3-17-86;
AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO
No. 95-68(S-1), § 5, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-173, § 1, 11-3-
98; AO No. 99-62, § 18, 5-11-99; AO No. 2001-80, § 2, 5-8-01)

Section 21. Anchorage Municipal Code section 21.40.150 is hereby amended to read as follows

(the remainder of the section is not affected and therefore is not set out):

21.40.150 B-2A central business district core.

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** *** ***

4. Other uses:

*** *** ***

k. Child care facilities.

l. Adult care facilities.

m. Large residential care facilities.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, and to the use's conformity to the CBD comprehensive development plan, the following uses may be permitted:

*** *** ***

9. Habilitative care facilities [QUASI-INSTITUTIONAL USES].

*** *** ***

11[12]. Libraries and museums with a gross floor area greater than 30,000 square feet [FAMILY CARE FAMILY RESIDENTIAL CARE, DAY CARE AND 24-HOUR CHILD CARE FACILITIES].

12[13]. Liquor stores, restaurants, tearooms, cafes, private clubs or lodges, and other places serving food or beverages involving the retail sale, dispensing or service of alcoholic beverages in accordance with section 21.50.160.

13[14]. Auditoriums.

14[15]. Type 1, 2, 3, or 4 community interest and local interest towers that do not meet the supplementary district regulations for a permitted or accessory use.

15[16]. Correctional community residential centers.

*** *** ***

(GAAB 21.05.050.W; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 87-148; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 6, 8-8-95; AO No. 98-160, § 4, 12-8-98; AO No. 98-188, §§ 1--3, 1-12-99; AO No. 99-62, § 19, 5-11-99; AO No. 99-131, § 7, 10-26-99; AO No. 2001-80, § 3, 5-8-01)

Section 22. Anchorage Municipal Code section 21.40.160 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.160 **B-2B central business district, intermediate.**

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** *** ***

3. Other uses:

*** *** ***

h. Child care facilities [FAMILY CARE, FAMILY RESIDENTIAL CARE, DAY CARE AND 24-HOUR CHILD CARE FACILITIES].

*** *** ***

o. Adult care facilities.

p. Large residential care facilities.

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, and to the use's conformity to the CBD comprehensive development plan, the following uses may be permitted:

*** *** ***

11. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

*** *** ***

(GAAB 21.05.050.Y; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 7, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 5, 12-8-98; AO No. 98-188, §§ 4--6, 1-12-99; AO No. 99-62, § 20, 5-11-99; AO No. 99-131, § 8, 10-26-99; AO No. 99-149, § 2, 12-14-99; AO No. 2001-80, § 4, 5-8-01)

Section 23. Anchorage Municipal Code section 21.40.170 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.170 **B-2C central business district, periphery.**

*** *** ***

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** *** ***

3. Other uses:

*** **

e. Child care facilities [FAMILY RESIDENTIAL CARE, DAY CARE
AND 24-HOUR CHILD CARE FACILITIES].

*** **

r. Adult care facilities.

s. Large residential care facilities.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, and to the use's conformity to the CBD comprehensive
development plan, the following uses may be permitted:

*** **

11. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

*** **

(GAAB 21.05.050.X; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S);
AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No.
87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-
1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 8, 8-8-95; AO No.
96-131(S), § 3, 10-22-96; AO No. 98-160, § 6, 12-8-98; AO No. 98-173, § 4, 11-3-98; AO
No. 98-188, §§ 7-9, 1-12-99; AO No. 99-62, § 21, 5-11-99; AO No. 99-131, § 9, 10-26-99;
AO No. 99-149, § 3, 12-14-99; AO No. 2001-80, § 5, 5-8-01)

Section 24. Anchorage Municipal Code section 21.40.180 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.180 B-3 general business district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are
as follows:

*** **

3. Other uses:

*** **

f. Child care facilities [FAMILY RESIDENTIAL CARE, DAY CARE
AND 24-HOUR CHILD CARE FACILITIES].

*** **

l. Adult care facilities.

m. Hospitals and nursing facilities.

n. Transitional living facilities.

o. Large residential care facilities.

*** **

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** **

7. Habilitative care facilities [QUASI-INSTITUTIONAL HOUSES].

*** **

(GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132; AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-80, § 6, 5-8-01; AO. No. 2004-108(S), § 3, 10-26-04)

Section 25. Anchorage Municipal Code section 21.40.190 is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out*):

21.40.190 B-4 rural business district.

*** **

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

*** **

2. Commercial-retail uses:

*** **

vv. Hospitals and nursing facilities [NURSING HOMES, CONVALESCENT HOMES AND SIMILAR INSTITUTIONAL USES; PROVIDED, HOWEVER, THAT REHABILITATION CENTERS, CORRECTIONAL INSTITUTIONS AND PSYCHIATRIC INSTITUTIONS MAY BE PERMITTED ONLY UPON A GRANT OF A CONDITIONAL USE BY THE PLANNING AND ZONING COMMISSION].

*** **

hhh. Child care facilities.

iii. Adult care facilities.

iii. Large residential care facilities.

*** **

(GAAB 21.05.050.N; AO No. 77-355; AO No. 81-67(S); AO No. 84-41; AO No. 85-18; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-32; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-114; AO No. 97-78, § 1, 6-3-97; AO No. 98-149(S), § 1, 11-17-98; AO No. 98-160, § 8, 12-8-98; AO No. 99-62, § 23, 5-11-99; AO No. 2001-80, § 7, 5-8-01; AO. No. 2004-108(S), § 4, 10-26-04)

Section 26. Anchorage Municipal Code section 21.40.200 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.200 **I-1 light industrial district.**

*** *** ***

D. *Conditional uses.* Subject to the requirements of the conditional use standards and
procedures of this title, the following uses may be permitted:

*** *** ***

14. **Child care facilities.**

*** *** ***

(GAAB 21.05.050.O; AO No. 77-355; AO No. 79-95; AO No. 81-67(S); AO No. 82-105;
AO No. 84-57; AO No. 85-91, 10-1-85; AO No. 85-95; AO No. 86-50; AO No. 86-90; AO
No. 87-32; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 92-114; AO No. 95-68(S-1), §
11, 8-8-95; AO No. 95-76, § 1, 4-4-95; AO No. 95-194, § 1, 1-2-96; AO No. 98-160, § 9,
12-8-98; AO No. 98-173, § 5, 11-3-98; AO No. 99-62, § 24, 5-11-99; AO No. 2001-80, § 8,
5-8-01; AO No. 2004-5, § 1, 1-20-04; AO. No. 2004-108(S), § 5, 10-26-04)

Section 27. Anchorage Municipal Code section 21.40.210 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.210 **I-2 heavy industrial district.**

*** *** ***

E. *Prohibited uses and structures.* The following uses and structures are prohibited:

*** *** ***

- 5.** **Hospitals and nursing facilities.**
- 6.** **Adult care facilities and child care facilities.**
- 7.** **Residential care facilities of any size.**

*** *** ***

(GAAB 21.05.050.P; AO No. 77-355; AO No. 85-91, 10-1-85; AO No. 87-32; AO No. 91-
184; AO No. 93-148, § 4, 11-16-93; AO No. 96-60, § 1, 8-6-96; AO No. 96-125, § 1, 11-
12-96; AO No. 97-78, § 2, 6-3-97; AO No. 99-62, § 25, 5-11-99; AO No. 2001-80, § 9, 5-8-
01)

Section 28. Anchorage Municipal Code section 21.40.220 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.220 **I-3 rural industrial district.**

*** *** ***

E. *Prohibited uses and structures.* Prohibited principal uses and structures are as

follows:

*** *** ***

6. Hospitals and nursing facilities.
7. Adult care and child care facilities.
8. Residential care facilities of any size.

*** *** ***

(GAAB 21.05.050.Q; AO No. 77-355; AO No. 85-91, 10-1-85; AO No. 87-32; AO No. 93-148, § 2, 11-16-93; AO No. 99-62, § 26, 5-11-99; AO No. 2001-80, § 10, 5-8-01)

Section 29. Anchorage Municipal Code section 21.40.240 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.40.240 Transition district.

*** *** ***

E. *Prohibited uses and structures.* Prohibited principal uses and structures are as follows:

*** *** ***

3. Hospitals and nursing facilities.
4. Adult care and child care facilities.
5. Residential care facilities of any size.

*** *** ***

(GAAB 21.05.050.S; AO No. 77-355; AO No. 79-25; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 88-59(S); AO No. 88-171(S-1), 12-31-88; AO No. 98-160, § 10, 12-8-98; AO No. 99-62, § 28, 5-11-99)

Section 30. Anchorage Municipal Code section 21.45.080 is hereby amended to read as follows
(the remainder of the section is not affected and therefore is not set out):

21.45.080 Off-street parking.

*** *** ***

G. *Health care facilities, hospitals and health services.*

*** *** ***

5. Residential care and adult care facilities. For adult care facilities, one space is required for every 400 square feet of gross building area and one additional space, reserved for pickup and delivery of clients, for every 800 square feet of gross building area. The pickup and delivery area(s) shall be marked. Large residential care facilities shall meet the requirements of G.3, above. If located in a dwelling, the requirements of subsections 21.45.080B, and .080W.6. shall also apply to adult care facilities and large residential

care facilities. The provisions of this paragraph do not apply to small residential care facilities. For small residential care facilities, the requirements of the dwelling unit shall apply.

*** **

U. Child care facilities.

1. Child care facilities with one through eight children [FAMILY CARE]. No additional parking is required above the dwelling requirement.
2. Child care facilities with nine through fifteen children [FAMILY RESIDENTIAL CARE]. One space above the dwelling requirement is required for establishments with [MORE THAN] 9 through 15 children.
3. [PRESCHOOL, DAY CARE OR] Child care facility with more than 15 children [24-HOUR]. One space is required per 400 square feet gross building area, and one additional space, reserved for pickup and delivery of children, per 800 square feet of gross building area.

*** **

(GAAB 21.05.060.G; AO No. 77-355; AO No. 78-118; AO No. 81-106; AO No. 81-178(S); AO No. 82-69; AO No. 84-90; AO No. 84-117(S); AO No. 85-91, 10-1-85; AO No. 87-31, 7-18-87; AO No. 89-30; AO No. 90-152(S); AO No. 93-172, § 1, 11-16-93; AO No. 96-68, § 1, 5-28-96; AO No. 99-131, § 12, 10-26-99; AO. No. 2004-108(S), § 6, 10-26-04)

Editor's note: The last sentence of subsection A of this section was formerly codified in the 1977 Code as the last sentence of subsection 21.35.020B.69.

Cross references: Business licenses and regulations, title 10.

Section 31. Anchorage Municipal Code section 21.45.180, including the inset tables, is hereby repealed in its entirety:

21.45.180 [CHILD CARE SERVICES.]

[DAY CARE AND 24-HOUR CHILD CARE FACILITIES SHALL COMPLY WITH THE FOLLOWING STANDARDS:

- A. YARD AREA. THERE SHALL BE A CONTIGUOUS USABLE YARD PROVIDED, WHICH SHALL BE AT LEAST 20 FEET WIDE AT ALL POINTS. AT LEAST 75 SQUARE FEET PER CHILD SHALL BE PROVIDED FOR FACILITIES SERVING 30 CHILDREN OR LESS; ALL OTHER DAY CARE SERVICES AND 24-HOUR CHILD CARE FACILITEIS SHALL PROVIDE SIMILAR USABLE YARD AREA AS MAY BE REQUIRED FOR APPROVAL BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.
- B. CHILD CARE MATRIX. CHILD CARE FACILITIES SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

TABLE INSET:

	Family Care	Family Residential Care	Day Care	Day Care	Child Care Facility, 24-hour
Maximum number of children		10	30	No limit	No limit
Maximum number of hours of operation		24	18	18	24
Babysitting	No	Yes	Yes	Yes	
Educational	Yes	Yes	Yes	Yes	
Social program	Yes	Yes	Yes	Yes	
Zoning districts:					
R-1/R-1A single-family	P	P	CU	CU	NP
R-2A/R-2D duplex	P	P	CU	CU	NP
R-2M multiple-family	P	P	*	*	CU
R-3 multiple-family	P	P	P	P	CU
R-4 multiple-family	P	P	P	P	CU
R-5/R-5A rural residential	P	P	CU	NP	NP
R-6 suburban residential	P	P	CU	CU	CU
R-7 intermediate residential	P	P	CU	NP	NP
R-8 rural residential	P	P	CU	CU	CU
R-9 rural residential	P	P	CU	CU	CU
R-O residential office	P	P	P	P	P
B-1A neighborhood business	P	P	P	P	P
B-2A, B, C central business district	P	P	P	P	P
B-3 general business	P	P	P	P	P
B-4 rural business	P	P	P	P	P
I-1 light industrial	NP	NP	P	P	P
I-2 heavy industrial	NP	NP	P	P	P
T transition	P	P	P	P	P
MC marine commercial	NP	NP	NP	NP	NP
MI marine industrial	NP	NP	NP	NP	NP

TABLE INSET:

P	=	Permitted principal use.
CU	=	Conditional use; requires public hearing.
NP	=	Not permitted. The use is prohibited in this zone.
*R-2M	=	If the lot is greater than 14,000 square feet it is a permitted use.

NOTWITHSTANDING SECTION 21.15.010, NO PART OF THE CHILD CARE MATRIX STATED IN THIS SECTION MAY BE THE SUBJECT OF A VARIANCE.]

(AO No. 81-67(S); AO No. 83-52; AO No. 85-8; AO No. 85-18; AO No. 85-23; AO No. 85-187; AO No. 91-90(S))

Section 32. Anchorage Municipal Code section 21.45.200 is hereby amended to read as follows

(the remainder of the section is not affected and therefore is not set out):

21.45.200 **Transition and buffering standards.**

- A. *Purpose.* The purpose of this section is to mitigate the impacts of nonresidential land uses upon residential uses, and of more intense residential land uses upon less intense residential uses, including but not limited to visual, noise, traffic and environmental impacts. This section shall not apply to small residential care facilities or to child care with eight (8) or fewer children.

*** *** ***

(AO No. 85-20; AO No. 85-173, 3-17-86)

Section 33. Anchorage Municipal Code chapter 21.45 is hereby amended by adding 3 new sections to read as follows (*the remainder of the chapter is not affected and therefore is not set out*):

21.45.300 **Adult care and child care facilities with one through 8 adults or children.**

- A. *Intent.* Adult care facilities and child care facilities with occupancy of eight (8) persons/children or less are intended to be minor commercial activities and are allowed pursuant to chapter 21.40. A child care facility or adult care facility shall not detract from the principal allowed use in the district and shall not place an undue burden on any private or public infrastructure greater than anticipated from a permitted development.
- B. *Location.* Adult care facilities shall be located only in a single-family dwelling, excluding detached condominium units and duplex or multi-family structures, when located in any R-1 through R-O, B-1A, or B-1B zoning district. These uses shall be prohibited if the only direct street access is from a private street. A child care facility in the R-3 or R-4 district located in a mobile home park or multi-family structure shall have an occupancy of eight (8) children if licensed by DHHS, and no greater than four (4) children if not licensed by DHHS, but may have up to eight (8) children if located in a single family home or duplex in any R-1 through R-O, B-1A, or B-1B zoning district.
- C. This section shall not apply to any use continuing as a lawful conditional use at the time of adoption of this section.
- D. Child care facilities not licensed under AMC 16.55 must provide outdoor yards. The yard shall be a contiguous yard, which shall be at least 20 feet wide at all points, and at least 75 square feet shall be provided per child.

21.45.310 **Hospitals and nursing facilities, large residential care facilities, adult care or child care facilities with 9 or more adults or children.**

- A. *Intent.* The standards in this section shall apply to health care facilities and related institutions, large residential care facilities, adult care facilities, and child care facilities where the facility serves, or is designed or proposed to serve, nine (9) or more persons/children.
- B. A child care facility in the R-3 or R-4 district located in a mobile home park or multi-family structure shall have an occupancy of eight (8) children if licensed by DHHS, and no greater than four (4) children if not licensed by DHHS, but may have up to eight (8) children if located in a single family home or duplex in any R-1 through R-O, B-1A, or B-1B zoning district. For large residential care facilities, this subsection shall only apply to facilities located in residential zoning districts.
- C. *Traffic access.* The site shall provide for direct access from a street constructed to urban standards.
- D. *Minimum lot size.*
 1. Minimum lot size for a hospital or psychiatric institution. Unless otherwise authorized by the planning and zoning commission, the minimum lot size for a hospital or psychiatric institution shall be as follows:
 - a. Six to ten beds: One-half acre (21,780 square feet).
 - b. Eleven to 20 beds: One acre (43,560 square feet).
 - c. For each additional ten beds or fraction thereof: One-half acre.
 2. Minimum lot size for nursing home, convalescent center, rest home, rehabilitation center or sanitarium. Unless otherwise authorized by the planning and zoning commission, the minimum lot size for a nursing home, convalescent center, rest home, rehabilitation center or sanitarium shall be as follows:
 - a. Six to ten beds: 15,000 square feet.
 - b. 11 or more beds: 20,000 square feet.
 3. Minimum lot size for adult care facility or large residential care facility:
 - a. Seventeen (17) or more persons in care at any give time: 20,000 square feet.
- E. *Maximum lot coverage.* The maximum lot coverage by all structures shall be in accordance with the zoning district in which the institution is established. However, regardless of the maximum underlying lot coverage, a minimum of fifteen percent

(15%) of the lot shall remain as a planted open area, landscaped area, natural vegetation area or useable yard, to exclude buildings, driveways, parking areas, sidewalks, etc., unless the Planning Director determines that retention of less than fifteen percent (15%) of the lot as open area, etc., allows for sufficient buffering of adjacent uses.

F. *Maximum height of structures.* The maximum height of structures shall be the same as permitted in the district in which the site is located.

G. *Yard requirements.* The minimum yard requirements shall be those permitted in the district in which the site is located or as otherwise authorized by the planning and zoning commission so long as a use within a nonresidential district adjacent to a residential use or district shall provide a 15-foot yard between the two, planted with buffer landscaping as described in section 21.45.125, or as prescribed in section 21.45.200. If the method described in section 21.45.200 is applied, the play yard surfacing for a child care facility, as prescribed by Department of Health and Human Services, may be located within this area.

H. *Illumination.* Illumination shall be provided in the manner prescribed in section 21.45.080W.4.e. Fixtures and lighting levels shall avoid trespass light, skyglow, or glare. Lighting fixtures with a mounting height greater than fifteen feet (15') shall incorporate full cut-off fixtures as defined by the Illumination Engineering Society of North America (IESNA), with flat lens fixtures. Exterior building lighting shall be designed and located to direct the light toward the ground.

I. *Landscaping.* Landscaping shall be provided as follows:

1. All areas not occupied by buildings, structures, storage yards, drives, walks, off-street parking installations, play yards required for child care, or other authorized installations shall be planted with visual enhancement landscaping, as described in section 21.45.125;
2. Buffer landscaping, as described in section 21.45.125C.2., shall be planted along the length of each lot line which abuts a lot within a residential district;
3. Arterial landscaping, as described in section 21.45.125C.4., shall be planted along the length of each lot line which abuts a collector or arterial street, as designated in the official streets and highways plan; and
4. The property owner shall maintain all landscaping in good condition.

J. *Screening or buffering.* The planning and zoning commission may require:

1. Screening or buffering landscaping as described in section 21.45.125C.2. or C.3. along the length of a lot line.
2. A bond for the installation of landscaping at the time of implementation of the Commission approval. This landscape bond, payable to the Municipality

of Anchorage, shall be in the amount of a 120% itemized cost estimate prepared by a professional landscape architect of the planting material, topsoil, plus labor for installation. Further, the bond shall remain in effect for a two (2) year growing period to assure survivability of all trees and shrubs and replacement of dead or stunted landscape materials.

- K. *Loading areas.* Loading and unloading areas shall be provided on the site in accordance with section 21.45.090. Ambulance and delivery areas shall be screened from adjacent residential areas by a buffer landscaping, or a fence no less than six feet high.
- L. *Drainage facilities.* A site drainage plan and storm drainage facilities shall be constructed in accordance with the requirements of section 21.45.230.
- M. *Refuse collection.* Refuse containers and facilities shall be provided within the primary structure or within a free-standing enclosure on the site. Refuse containers and facilities located outside the primary structure must be enclosed by a fence on three sides in the manner provided by section 21.45.080W.4. Enclosures shall be durably constructed and use architectural design and screening materials to be consistent with the primary structure(s) on the property. The placement of refuse storage areas in the front yard setback is prohibited.
- N. *Parking.* Parking shall be provided on the lot in accordance with the requirements of section 21.45.080.
- O. *On-site systems.* Every health care facility, large residential care facility, child care facility or adult care facility with nine (9) or more clients, supported by on-site well and wastewater disposal systems, shall conform to the requirements of chapter 15.65, pertaining to wastewater disposal regulations, and shall provide a one-time only health authority certificate. Large residential care facilities shall have an annual field inspection and verification of on-site septic.
- P. *Snow management.* Snow storage space adjacent to surface parking lots and pathways must be identified on the site plan. To facilitate snow removal, in residential districts snow storage areas equal to at least fifteen percent (15%) of the total area of the site used for parking, access drives, walkways and other surfaces that need to be kept clear of snow, shall be designated on the site plan. Such areas designated for snow storage shall be landscaped only with grasses and flowers and shall have flat or concave ground surface with positive drainage away from structures and pavements. Storage of snow is not allowed in front setbacks. Storage of snow may be allowed in fifty percent (50%) of the side and rear setbacks, if trees and other vegetation designated for preservation will not be damaged. If snow is to be hauled off-site, it shall be to an approved snow storage site, and temporary snow storage areas shall be shown on the site plan.
- Q. *Pedestrian circulation.* Paved walkways for residents must be provided from

parking areas, and from abutting public street and trail frontages, to individual units or to common building entries.

R. This section shall not apply to any use continuing as a lawful conditional use at the time of adoption of this section.

S. The use shall meet the requirements of title 23 for construction and life safety issues.

21.45.320 Small residential care facilities.

A. The use shall meet the requirements of title 23 for construction and life safety issues.

Section 34. Anchorage Municipal Code section 21.50.030 is hereby amended to read as follows *(the remainder of the section is not affected and therefore is not set out)*:

21.50.030 Conditional use standards - Health care facilities and related institutions, large residential care facilities, child care facilities, adult care facilities, [HOSPITALS, REHABILITATION CENTERS] correctional facilities and similar institutions.

The following standards shall apply to health care facilities and related institutions, large residential care facilities, child care facilities, adult care facilities, correctional facilities [HOSPITALS, SANITARIUMS, CONVALESCENT CENTERS, NURSING OR REST HOMES, REHABILITATION CENTERS, CORRECTIONAL FACILITIES, PSYCHIATRIC INSTITUTIONS] and similar institutions:

A. Any use shall meet the standards of the supplementary district regulations, in addition to any requirements imposed by the conditional use. Additional restrictions as to the size of the use, hours of operation or other use restrictions may be required to meet the conditional use standards to ensure compatibility with the neighborhood. [TRAFFIC ACCESS. A SITE MORE THAN ONE-HALF ACRE IN SIZE SHALL PROVIDE FOR DIRECT ACCESS FROM A STREET OF COLLECTOR OR GREATER CAPACITY, AS DEFINED IN THE OFFICIAL STREETS AND HIGHWAYS PLAN.]

B. Maximum lot coverage. The maximum lot coverage by all structures shall be in accordance with the zoning district in which the institution is established, except a minimum of twenty five percent (25%) of the lot shall remain as open area, to include landscaping, natural vegetation, or useable yard. The open area calculation shall not include buildings, driveways, parking areas, sidewalks, or similar structures, unless the planning and zoning commission determines retention of less than twenty five percent (25%) of the lot as open area allows for sufficient buffering of adjacent uses.
[MINIMUM LOT SIZE FOR HOSPITAL, CORRECTIONAL FACILITY OR

1 *PSYCHIATRIC INSTITUTION. UNLESS OTHERWISE AUTHORIZED BY THE*
2 *PLANNING AND ZONING COMMISSION, THE MINIMUM LOT SIZE FOR A*
3 *HOSPITAL, CORRECTIONAL FACILITY OR PSYCHIATRIC INSTITUTION*
4 *SHALL BE AS FOLLOWS:*

5 ONE TO TEN BEDS: ONE-HALF ACRE (21,780 SQUARE FEET).

6 ELEVEN TO 20 BEDS: ONE ACRE (43,560 SQUARE FEET).

7 FOR EACH ADDITIONAL TEN BEDS OR FRACTION THEREOF:
8 ONE-HALF ACRE.]

9
10 C. *Yard requirements. The planning and zoning commission may alter the minimum*
11 *yards required by the underlying zoning district, except a use within a nonresidential*
12 *district adjacent to a residential use or district shall provide a fifteen (15) foot yard*
13 *between the two, planted with buffer landscaping meeting the standards in*
14 *section 21.45.125.*

15 *[MINIMUM LOT SIZE FOR NURSING HOME, CONVALESCENT CENTER,*
16 *REST HOME, REHABILITATION CENTER OR SANITARIUM. UNLESS*
17 *OTHERWISE AUTHORIZED BY THE PLANNING AND ZONING*
18 *COMMISSION, THE MINIMUM LOT SIZE FOR A NURSING HOME,*
19 *CONVALESCENT CENTER, REST HOME, REHABILITATION CENTER OR*
20 *SANITARIUM SHALL BE AS FOLLOWS:*

21 LESS THAN FIVE BEDS: 6,000 SQUARE FEET.

22 FIVE TO TEN BEDS: 15,000 SQUARE FEET.

23 MORE THAN 11 BEDS: 20,000 SQUARE FEET.]

24
25 D. *Authority to impose different conditions. Except as specifically limited in this*
26 *section, different conditions may be imposed by the planning and zoning*
27 *commission, if necessary, to properly develop the site and mitigate impacts.*
28 *[MAXIMUM LOT COVERAGE. THE MAXIMUM LOT COVERAGE SHALL BE*
29 *IN ACCORDANCE WITH THE ZONING DISTRICT IN WHICH THE*
30 *INSTITUTION IS ESTABLISHED.]*

31
32 E. *Required submittals. The following shall be provided with an application:*

33
34 1. *A copy of the application submitted for State licensing.*

35 2. *Building elevations.*

36 3. *Landscaping.*

37 4. *Floor plans.*

38 5. *Site plan and/or as-built survey.*

39 6. *Description of the program, including the services offered and the*
40 *professional certification or licenses required to operate.*

41 7. *Submittals as required under section 21.15.030C. may also be required.*

42 *[MAXIMUM HEIGHT OF STRUCTURES. THE MAXIMUM HEIGHT OF*
43 *STRUCTURES SHALL BE THAT WHICH IS PERMITTED IN THE DISTRICT*
44 *IN WHICH THE SITE IS LOCATED.]*

45
46 [F. *YARD REQUIREMENTS. THE MINIMUM YARD REQUIREMENTS SHALL*

1 BE THOSE WHICH ARE PERMITTED IN THE DISTRICT IN WHICH THE
2 SITE IS LOCATED OR AS OTHERWISE AUTHORIZED BY THE PLANNING
3 AND ZONING COMMISSION SO LONG AS A USE WITHIN A
4 NONRESIDENTIAL DISTRICT WHICH IS ADJACENT TO A RESIDENTIAL
5 USE OR DISTRICT SHALL PROVIDE A 15-FOOT YARD BETWEEN THE
6 TWO AND PLANT IT WITH BUFFER LANDSCAPING AS DESCRIBED IN
7 SECTION 21.45.125.

8 G. ILLUMINATION. ILLUMINATION SHALL BE PROVIDED IN THE MANNER
9 PRESCRIBED IN SECTION 21.45.080W.4.

10 H. LANDSCAPING. LANDSCAPING SHALL BE PROVIDED AS FOLLOWS:

- 11 1. ALL AREAS NOT OCCUPIED BY BUILDINGS, STRUCTURES,
12 STORAGE YARDS, DRIVES, WALKS, OFF-STREET PARKING
13 INSTALLATIONS OR OTHER AUTHORIZED INSTALLATIONS
14 SHALL BE PLANTED WITH VISUAL ENHANCEMENT
15 LANDSCAPING, AS DESCRIBED IN SECTION 21.45.125;
16 2. BUFFER LANDSCAPING, AS DESCRIBED IN SECTION 21.45.125C.2.,
17 SHALL BE PLANTED ALONG THE LENGTH OF EACH LOT LINE
18 WHICH ABUTS A LOT WITHIN A RESIDENTIAL DISTRICT;
19 3. ARTERIAL LANDSCAPING, AS DESCRIBED IN SECTION
20 21.45.125C.4., SHALL BE PLANTED ALONG THE LENGTH OF EACH
21 LOT LINE WHICH ABUTS A COLLECTOR OR ARTERIAL STREET,
22 AS DESIGNATED IN THE OFFICIAL STREETS AND HIGHWAYS
23 PLAN; AND
24 4. THE PROPERTY OWNER SHALL MAINTAIN ALL LANDSCAPING
25 IN GOOD CONDITION.

26 I. SCREENING OR BUFFERING. THE PLANNING AND ZONING
27 COMMISSION MAY REQUIRE:

- 28 1. ENCLOSURE OF THE ENTIRE SITE BY A FENCE, OR SCREENING
29 LANDSCAPING AS DESCRIBED IN SECTION 21.45.125C.3., OR
30 BOTH, IN ORDER TO PREVENT CASUAL ACCESS TO AND FROM
31 THE SITE.
32 2. SCREENING OR BUFFERING LANDSCAPING AS DESCRIBED IN
33 SECTION 21.45.125C.3. ALONG THE LENGTH OF A LOT LINE.

34 J. LOADING AREAS. LOADING AND UNLOADING AREAS SHALL BE
35 PROVIDED ON THE SITE IN ACCORDANCE WITH SECTION 21.45.090.
36 AMBULANCE AND DELIVERY AREAS SHALL BE SCREENED FROM
37 ADJACENT RESIDENTIAL AREAS BY A FENCE OR BUFFER
38 LANDSCAPING NO LESS THAN SIX FEET HIGH.

39 K. DRAINAGE FACILITIES. A SITE DRAINAGE PLAN AND STORM
40 DRAINAGE FACILITIES SHALL BE CONSTRUCTED IN ACCORDANCE
41 WITH THE REQUIREMENTS OF SECTION 21.45.230.

42 L. REFUSE COLLECTION. REFUSE CONTAINERS AND FACILITIES SHALL
43 BE ENCLOSED BY A FENCE ON AT LEAST THREE SIDES IN THE
44 MANNER PROVIDED BY SECTION 21.45.080W.4.

45 M. PARKING. PARKING SHALL BE PROVIDED ON THE LOT IN
46 ACCORDANCE WITH THE REQUIREMENTS OF SECTION 21.45.080.

- 1 N. ADDITIONAL REQUIREMENTS. A QUASI-INSTITUTIONAL USE SHALL
2 CONFORM TO THE REQUIREMENTS OF CHAPTER 16.80.
3 O. AUTHORITY TO IMPOSE DIFFERENT CONDITIONS. DIFFERENT
4 CONDITIONS MAY BE IMPOSED BY THE PLANNING AND ZONING
5 COMMISSION, IF NECESSARY, TO PROPERLY DEVELOP THE SITE AND
6 MITIGATE IMPACTS.]
7 (GAAB 21.05.060.M; AO No. 85-91, 10-1-85; AO No. 88-6)

Section 35. Anchorage Municipal Code section 21.50.285 is hereby deleted in its entirety:

21.50.285 **[CONDITIONAL USE STANDARDS--ROOF MOUNT SATELLITE
DISHES IN RESIDENTIAL DISTRICTS.]**

[A. GENERAL. THE FOLLOWING PROVISIONS SHALL GOVERN THE
ISSUANCE OF CONDITIONAL USE PERMITS FOR ROOF MOUNTED
SATELLITE DISHES BY THE PLANNING AND ZONING COMMISSION:

1. APPLICATIONS FOR CONDITIONAL USE PERMITS UNDER THIS
SECTION SHALL BE SUBJECT TO THE CONDITIONAL USE
PROCEDURES AND GENERAL STANDARDS, EXCEPT AS
MODIFIED IN THIS SECTION.
2. IN GRANTING A CONDITIONAL USE PERMIT, THE PLANNING
AND ZONING COMMISSION MAY IMPOSE CONDITIONS TO THE
EXTENT THE PLANNING AND ZONING COMMISSION
CONCLUDES SUCH CONDITIONS ARE NECESSARY TO MINIMIZE
ANY ADVERSE EFFECT OF THE PROPOSED ANTENNA ON
ADJOINING PROPERTIES.
3. ANY INFORMATION OF AN ENGINEERING NATURE THAT THE
APPLICANT SUBMITS, WHETHER CIVIL, MECHANICAL, OR
ELECTRICAL, SHALL BE CERTIFIED BY A LICENSED
PROFESSIONAL ENGINEER.
4. AN APPLICANT FOR A CONDITIONAL USE PERMIT SHALL
SUBMIT THE INFORMATION DESCRIBED IN THIS SECTION AND A
NON-REFUNDABLE FEE TO REIMBURSE THE MUNICIPALITY FOR
THE COSTS OF REVIEWING THE APPLICATION.

B. INFORMATION REQUIRED. APPLICANTS FOR A CONDITIONAL USE
PERMIT FOR A PROPOSED ROOF MOUNTED SATELLITE DISH SHALL
SUBMIT THE FOLLOWING INFORMATION:

1. A SCALED SITE PLAN CLEARLY INDICATING THE LOCATION,
TYPE AND HEIGHT OF THE PROPOSED ROOF MOUNTED
SATELLITE DISH, ON-SITE LAND USES, ADJACENT LAND USES
AND ZONING, ADJACENT ROADWAYS, SETBACKS FROM
PROPERTY LINES, ELEVATION DRAWINGS OF THE PROPOSED
TOWER AND ANY OTHER STRUCTURES, TOPOGRAPHY, AND
OTHER INFORMATION DEEMED BY THE DIRECTOR OF
COMMUNITY PLANNING AND DEVELOPMENT TO BE
NECESSARY TO ASSESS COMPLIANCE WITH THE STANDARDS.
2. RENDERINGS OR PHOTOGRAPHS DEPICTING THE ANTENNA OR
TOWER STRUCTURE IN PLACE SUFFICIENT TO ASSESS THE
VISUAL IMPACT ON THE SURROUNDING NEIGHBORHOOD.
3. THE DISTANCE BETWEEN THE PROPOSED SATELLITE DISH AND
THE NEAREST RESIDENTIAL UNIT.
4. EVIDENCE THE APPLICANT APPEARED BEFORE THE
COMMUNITY COUNCIL REPRESENTING THE SITE.

C. FACTORS CONSIDERED IN GRANTING A CONDITIONAL USE PERMIT

FOR A ROOF MOUNTED SATELLITE DISH. IN ADDITION TO THE GENERAL STANDARDS FOR A CONDITIONAL USE, THE PLANNING AND ZONING COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING WHETHER TO ISSUE A CONDITIONAL USE PERMIT, ALTHOUGH THE PLANNING AND ZONING COMMISSION MAY WAIVE OR REDUCE THE BURDEN ON THE APPLICANT OF ONE OR MORE OF THESE CRITERIA IF THE PLANNING AND ZONING COMMISSION CONCLUDES THAT THE GOALS OF THIS ORDINANCE ARE BETTER SERVED THEREBY:

1. HEIGHT OF THE PROPOSED SATELLITE DISH AND TOWER STRUCTURE;
2. PROXIMITY OF THE TOWER STRUCTURE TO RESIDENTIAL STRUCTURES;
3. NATURE OF USES ON ADJACENT AND NEARBY PROPERTIES;
4. SURROUNDING TOPOGRAPHY;
5. SURROUNDING TREE COVERAGE AND FOLIAGE; AND DESIGN OF THE SATELLITE DISH AND TOWER STRUCTURE, WITH PARTICULAR REFERENCE TO DESIGN CHARACTERISTICS THAT HAVE THE EFFECT OF REDUCING OR ELIMINATING VISUAL OBTRUSIVENESS.]

(AO No. 99-62, § 35, 5-11-99)

Section 36. Anchorage Municipal Code section 14.60.030 is hereby amended by adding the following *(the remainder of the section is not affected and therefore is not set out)*:

14.60.030 **Fine schedule.**

The fine schedule under this chapter is as follows:

<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>
*** *** ***		
<u>21.45.300 or 21.45.310</u>	<u>Child and adult care facilities</u> <u>and large residential care facilities</u> <u>violation (identify specific violation)</u>	<u>\$350.00</u>

*** *** ***

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-

01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1),
§ 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No.
2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04;
AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-
1-05)

Section 36. This ordinance shall be effective immediately upon its passage and approval by the
Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of
_____, 2005.

Chair

ATTEST:

Municipal Clerk

Content Information

Content ID : 003466

Type: Ordinance - AO

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, 21.45 AND 21.50 TO DELETE ZONING AND CONDITIONAL USE PROVISIONS RELATED TO ROOF-MOUNTED SATELLITE DISHES.

Author: weaverjt

Initiating Dept: Planning

Description: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, 21.45 AND 21.50 TO DELETE ZONING AND CONDITIONAL USE PROVISIONS RELATED TO ROOF-MOUNTED SATELLITE DISHES.

Date Prepared: 11/2/05 2:32 PM

Director Name: Tom Nelson

Assembly

Meeting Date 11/22/05

MM/DD/YY:

Public Hearing 12/13/05

Date MM/DD/YY:

Workflow History

Workflow Name	Action Date	Action	User	Security Group	Content ID
AllOrdinanceWorkflow	11/2/05 2:35 PM	Checkin	weaverjt	Public	003466
Planning_SubWorkflow	11/3/05 3:24 PM	Approve	nelsontp	Public	003466
ECD_SubWorkflow	11/4/05 5:16 PM	Approve	thomasm	Public	003466
OMB_SubWorkflow	11/7/05 12:39 PM	Approve	mitsonjl	Public	003466
Legal_SubWorkflow	11/7/05 5:42 PM	Approve	fehlenrl	Public	003466
MuniManager_SubWorkflow	11/11/05 7:41 AM	Approve	leblancdc	Public	003466
MuniMgrCoord_SubWorkflow	11/13/05 6:17 PM	Approve	abbottmk	Public	003466

CLERK'S OFFICE

2005 NOV 14 AM 10:28

NOV 14