

CLERK'S OFFICE  
**AMENDED AND APPROVED**

Date: 6-28-05

Submitted by: Assemblymember  
Coffey

Prepared by: Planning Department  
For reading: June 14, 2005

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Date: 6-14-05

RECONSIDERED 6-14-05 ANCHORAGE, ALASKA

No. AO 2005-67(S)

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.55.020  
REGARDING NONCONFORMING LOTS OF RECORD.

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 21.55.020 is hereby amended to read as follows:

**21.55.020 Nonconforming lots of record.**

A. In any zoning district in which [single-family] dwellings are permitted, notwithstanding limitations imposed by other provisions of chapters 21.35 through 21.50, [a single-family structure] dwellings and customary accessory buildings may be erected on any lot, provided the underlying zoning district and supplementary district standards such as setbacks, parking, useable yard, landscaping, etc. can be met, which is of record at the effective date of the original adoption or amendment of applicable regulations, except as restricted in subsection C [B] of this section. This provision shall apply even though such lot fails to meet the requirements for the area or width, or both, that are applicable in the district. Furthermore, setback and lot coverage requirements applicable to those nonconforming lots of record shall be those of the zone with the largest lot area requirement within which the lot would be conforming. A lot which fails to be conforming in any zone shall maintain a front yard of 20 feet, side yards of five feet, a rear yard of five feet, and a maximum lot coverage of 50 percent.

**B. Legalization of nonconforming lots created prior to September 16, 1975.**

1. Lots existing prior to January 1, 2005, September 16, 1975, may continue in existence provided the following requirements are met:

a. an application for the registration of nonconforming lot is submitted to the Planning Department; and

b. the lot is determined to be sufficient is in size to allow construction of a structure and associated zoning district and supplementary district standards such as setbacks, parking, landscaping, useable yard area, etc can be met.

2. Procedures for registration. Application for the registration of a nonconforming lot shall be submitted to the Planning Department. This application shall be on a form

1 provided by the department, which will require an as-built drawn by a land  
2 surveyor registered in the State of Alaska, which shows boundaries on the lot.

3  
4 a. the municipality may require the petitioner to provide additional  
5 information to support this application.

6  
7 b. within 30 days of receipt of all requested information and upon an adequate  
8 showing that the requirements stated in subsection 1. are met, the director or  
9 his/her designee shall issue or deny a certificate for the lot. The director  
10 may impose such conditions on the certificate as he/she may determine are  
11 appropriate to protect the general welfare. A copy of the required as-built  
12 shall be attached thereto.

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14 c. Once registered, the lot shall enjoy all the protections and privileges  
15 afforded to a nonconforming lot under the provisions of this chapter.

16  
17 d. Any aggrieved person may appeal the grant or denial of a certificate to the  
18 zoning board of examiners and appeals within thirty (30) days of the  
19 director's determination.

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21 e. ~~No variances shall be granted from the standards and provisions of this~~  
22 ~~section, nor from the applicable underlying zoning district or~~  
23 ~~supplementary district standards.~~

24  
25 f. e. **Nothing in this section shall preclude relief for nonconforming lots by**  
26 **means of a variance.**

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28 C.[B]. If two or more abutting lots in single ownership and containing less than 6,000  
29 square feet of area in any one lot are of record on or after November 27, 1990, and  
30 are nonconforming by virtue of this title or any amendment thereto, the lands  
31 involved shall be considered to be an undivided parcel for the purpose of this title,  
32 and no portion of such parcel shall be sold individually after being developed under  
33 this provision.

34  
35 D. Nonconforming lots of record which are subsequently resubdivided to combine two or  
36 more lots shall be considered a legal nonconforming lot at the time of recordation,  
37 [even though] when the new lot does not meet dimensional requirements of the zoning  
38 district or those requirements of 21.80 at the time of replat.

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40 E. **The Planning Department shall publish the registration of a non conforming lot**  
41 **including the street address and legal description of the property in a newspaper**  
42 **of general circulation in the municipality within seven days of the requisition.**

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47 (GAAB 21.05.070.B; AO No. 85-90; AO No. 86-175; AO No. 90-138; AO No. 2004-  
48 133(S))

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**Section 2.** This ordinance shall become effective immediately upon its passage and approval by the Assembly. **This ordinance shall not apply to any application for an entitlement which was made prior to the effective date of this ordinance.**

PASSED AND APPROVED by the Anchorage Assembly this 28<sup>th</sup> day of June, 2005.

*Anna L. Fairclough*  
Chair of the Assembly

ATTEST:

*Barbara S. Gustafson*  
Municipal Clerk



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 394-2005

**Meeting Date:** June 14, 2005

**From:** Assemblymember Coffey

**Subject:** Planning and Zoning Commission Recommendation of Approval of an ordinance amendment to the Municipal Code regarding nonconforming lots.

1 Assemblymember Coffey introduced AO 2005-67, May 3, 2005, for a public hearing June  
2 14, 2005. The ordinance was referred to the Planning and Zoning Commission for review.  
3 The Planning and Zoning Commission reviewed AO 2005-67 on May 9, 2005, and  
4 suggested some changes to the proposed ordinance. These changes are reflected in AO  
5 2005-67 (S).

6 The changes to AMC 21.55.020 will allow any dwelling structure permitted in the  
7 underlying zoning district to be constructed on an existing lot. Presently, only a single  
8 family structure can be constructed on a nonconforming lot.

9  
10 The ordinance adds a new section AMC 21.55.020 B. which will create a procedure  
11 whereby an illegal lot, for example, a lot that was created by illegal subdivision and does  
12 not meet lot area or the width to depth ratio, may become a legal nonconforming lot  
13 subject to all the rights, privileges and restrictions of AMC 21.55.020 if it meets the  
14 registration requirements.

15  
16 The illegal nonconforming lot must have been in existence prior to January 1, 2005 or  
17 September 16, 1975 as recommended in the 2005-67 (S). An application and an as-built  
18 survey which shows lot boundaries will be submitted to the Planning Department. The  
19 director or designee shall determine if the lot is of sufficient size to allow a structure. The  
20 director may impose conditions appropriate to protect the general welfare. Aggrieved  
21 persons may appeal the grant or denial of a certificate to build to the Zoning Board of  
22 Examiners and Appeals.

23  
24 The Planning and Zoning Commission found it is appropriate to allow all the residential  
25 uses in the underlying zoning district provided the development standards, yard setbacks,  
26 parking, useable yard area, etc., can be met.

27 The Planning and Zoning Commission found that illegal nonconforming lots should have a  
28 registration procedure to legalize their existence; and to specify the development rights of  
29 the lot(s) for the protection of current and future property owners.

1 The Planning and Zoning Commission found that it is appropriate that only nonconforming  
2 lots which were created prior to the date of Unification, September 16, 1975, should  
3 qualify for this procedure.

4 The Planning and Zoning Commission believes that development on appropriate  
5 nonconforming lot(s) can best be achieved by requiring public notice when lots are either  
6 granted or denied a certificate through the registration procedure.

7 Additionally, as a housekeeping issue, a new section D will be added which clarifies that  
8 nonconforming lots which are re-subdivided to form two or more new lots will still be  
9 considered legal nonconformities. This will apply when the newly created lots still do not  
10 meet the standards of AMC 21.80.

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15 Respectively submitted: Dan Coffey, Assemblymember

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**MUNICIPALITY OF ANCHORAGE**  
**PLANNING AND ZONING COMMISSION RESOLUTION NO. 2005-026**

A RESOLUTION RECOMMENDING APPROVAL TO THE ASSEMBLY OF AN ORDINANCE AMENDMENT TO ANCHORAGE MUNICIPAL CODE SECTION 21.55.020 NONCONFORMING LOTS OF RECORDS, TO ALLOW DUPLEXES AND MULTIFAMILY DWELLING UNITS, WHEN THOSE USES ARE ALLOWED IN THE UNDERLYING ZONING DISTRICT, AND TO PROVIDE A REGISTRATION PROCEDURE TO LEGALIZE NONCONFORMING LOTS OF RECORD THAT EXISTED PRIOR TO SEPTEMBER 16, 1975; AND TO CLARIFY THAT WHEN NONCONFORMING LOTS OF RECORD ARE RESUBDIVIDED, THE NEW LOT(S) BECOME A LEGAL NONCONFORMING LOT(S) OF RECORD AT THE TIME OF RECORDATION, WHEN THE LOT(S) DOES NOT MEET THE DIMENSIONAL REQUIREMENTS OF THE ZONING DISTRICT OR THE REQUIREMENTS OF AMC 21.80 AT THE TIME OF REPLAT.

(PNZ Case 05-052)

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WHEREAS, a request has been received from Assemblymember Dan Coffey to address the status of illegal nonconforming lots, which under the current code AMC 21.55.020 are limited to the construction of a single family home, and

WHEREAS, it is appropriate to allow all the residential uses in the underlying zoning district of the nonconforming lot(s), provided the development standards, yard setbacks, parking, useable yard area, etc., can be met, and

WHEREAS, illegal nonconforming lots should have a registration procedure to legalize their existence; and to specify the development rights of the lot(s) for the protection of current and future property owners, and

WHEREAS, when nonconforming lots of record are re-subdivided and become more conforming in terms of lot area and lot width, then those lots which have registered and replatted shall be deemed to be legal nonconforming lot(s) of record, and

WHEREAS, it is appropriate that only nonconforming lots which were created prior to the date of Unification, September 16, 1975, should qualify for this procedure, and

WHEREAS, the Planning and Zoning Commission wishes to allow for development on appropriate nonconforming lot(s), and this can best be achieved by requiring public notice when lots are either granted or denied a certificate through the registration procedure; and can be further achieved by not allowing variances from Title 21 for the nonconforming lots, and

WHEREAS, a public hearing was held on May 9, 2005 and the Planning and Zoning Commission unanimously recommended approval.

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

- A. The Commission makes the following findings of fact:
1. AMC 21.55.020 currently limits development on nonconforming lots to single family home construction.
  2. Allowing the residential uses permitted by the underlying zoning district is consistent with Anchorage 2020 and will be compatible with the existing residential development, if the development standards of the zoning district can be met.
  3. The legalization of nonconforming lots through a registration procedure should be offered to lots which were created under a different set of platting regulations, namely prior to Unification, September 16, 1975.
  4. The Planning and Zoning Commission recommends approval to the Assembly of an Ordinance Amending AMC 21.55.020 Nonconforming lots of record.

PASSED AND APPROVED by the Municipal Planning and Zoning Commission this 9<sup>th</sup> day of May 2005.

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Tom Nelson  
Director

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Don Poulton  
Chair

(Case 2005-052)

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05/23/05

**DRAFT**

### Content Information

Content ID : 002948

Type: Ordinance - AO

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE

Title: SECTION 21.55.020 REGARDING NONCONFORMING LOTS OF RECORD

Author: gray-jacksone

Initiating Dept: Assembly

Date Prepared: 6/6/05 9:55 AM

Director Name: Anna Fairclough

Assembly Meeting Date MM/DD/YY: 6/14/05

Public Hearing Date MM/DD/YY: 6/14/05

### Workflow History

Workflow Name	Action Date	Action	User	Security Group	Content ID
AllOrdinanceWorkflow	6/6/05 9:56 AM	Checkin	gray-jacksone	Public	002948

M.O.A  
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