ON 1-23-07: REFERRED TO THE PLANNING AND ZONING COMMISSION AND BUILDING BOARD; NO ASSEMBLY ACTION TAKEN

Submitted by: ASSEMBLY CHAIR SULLIVAN

ASSEMBLY MEMBER COFFEY
ASSEMBLY MEMBER BAUER

Prepared by: Assembly Counsel For reading: January 23, 2007

ANCHORAGE, ALASKA AR NO. 2007–19

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING TITLE 23 BUILDING SAFETY REGULATION 23.10, BUILDING BOARD RULES OF PROCEDURE, TO GIVE THE BUILDING BOARD AUTHORITY TO HEAR SUBDIVISION AGREEMENT APPEALS, TO GIVE PRIORITY HEARING TO STOP WORK ORDER APPEALS, AND TO PROVIDE NOTICE OF TIME IN WHICH TO FILE APPEAL TO THE SUPERIOR COURT.

THE ANCHORAGE ASSEMBLY RESOLVES:

<u>Section 1.</u> Anchorage Municipal Code of Regulations, Board of Building Regulations Examiners and Appeals (Building Board) Rules of Procedure, Regulation 23.10, section 23.10.005, is hereby amended to read as follows:

23.10.005 Jurisdiction.

The building board shall hear and decide appeals from the actions of administrative officials relating to building and fire regulations under Anchorage Municipal Code Title 23, excepting mechanical and plumbing regulations, and disputes arising under subdivision agreements entered into under AMC 21.87, including appeal of a stop work order. The board may determine the suitability of alternate materials and methods of construction, provide for reasonable interpretation of the provisions of the building code, interpret the terms of the subdivision agreement, decide the appeal of a stop work order, and may recommend to the assembly legislation as is consistent therewith. The board shall also determine and recommend such amendments to Title 23 and the building regulations as may be necessary.

(AR No. 81-154)

<u>Section 2.</u> Anchorage Municipal Code of Regulations section 23.10.010 is hereby amended to read as follows:

23.10.010 Order of business for regularly scheduled meetings.

The board shall conduct its regularly scheduled meetings according to the following order of business. Appeals from stop work orders issued under AMC 23.10.206 will take priority over all other public hearings and shall be heard at the first meeting of the board after the appeal is filed.

- A. Call to order and roll call.
- B. Minutes.
- C. Public hearings.
 - 1. Appeals.
 - 2. Requests for interpretations.
 - 3. Other.
- D. Appearance requests.
- E. Unfinished business.
- F. New business.
- G. Reports.
 - 1. Chairman.
 - 2. Staff.
- H. Audience participation.
- I. Board member comments.
- J. Adjournment.

(AR No. 81-154)

<u>Section 3.</u> Anchorage Municipal Code of Regulations, Board of Building Regulations Examiners and Appeals (Building Board) Rules of Procedure, Regulation 23.10, section 23.10.013 is hereby amended to read as follows:

23.10.013 Scope of review.

The board shall conduct a public hearing on any provisions of the adopted building codes. In cases involving a request for an interpretation of any provision of the building codes or an appeal from the decision of the administrative official alleging error in enforcement or interpretation of the building codes, or a subdivision agreement entered into under AMC 21.87, the board shall hold a formal hearing at which time the appellant and/or appellant's [HIS] representatives, and any supporting witnesses, may present testimony relevant to the appeal.

(AR No. 81-154)

<u>Section 4.</u> Anchorage Municipal Code of Regulations, Board of Building Regulations Examiners and Appeals (Building Board) Rules of Procedure, Regulation 23.10 is hereby amended to enact a new subsection 23.10.XXX to read as follows:

23.10.XXX Appeals from the building board.

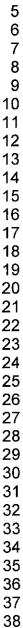
The decision of the building board shall be in writing and state its findings of facts and conclusions of law. The board's decision shall provide notice that an appeal of the board's decision must be filed in superior court within 30 days of the date the board's decision is issued to appellant and the building official.

<u>Section 5.</u> The regulations set out in Sections 1-4 of this resolution shall apply prospectively to appeals or enforcement matters filed subsequent to the date of passage of this resolution.

<u>Section 6.</u> This resolution shall become effective immediately upon its passage and approval by the Assembly.

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	PASSED AND , 2007.	APPROVED	by	the	Anchorage	Assembly	this	 _day	of
					Chair		-	 -	
ATTE	ST:								

Municipal Clerk



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MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. AM 74–2007

Meeting Date: January 23, 2007

From: Assembly Member Dan Coffey

Subject: AO 2007-23 — AN ORDINANCE OF THE ANCHORAGE MUNICIPAL

ASSEMBLY AMENDING AMC CHAPTER 21.87, SUBDIVISION AGREEMENTS, AND CHAPTER 23.10, ANCHORAGE ADMINISTRATIVE CODE, RELATING TO STOP WORK ORDERS AND

ENFORCEMENT.

AMC 21.87.060 currently provides that subdivision agreements entered into under chapter 21.87 may be enforced "by methods of enforcement of ordinance as well as by contract". This reference to "enforcement of ordinance" in AMC 21.87.060 is vague because there are several enforcement mechanisms under code, including but not limited to the procedures set forth in chapters 14.10, 21.25 and 23.10. This ambiguity has lead to disagreement over the applicable procedures to be used, appeal rights, and considerable delay in the resolution of disputes over the construction of improvements under subdivision agreements.

The current practice of the municipal staff in Project Management and Engineering is to try and avoid the ambiguity in code by providing in the subdivision agreement for the contractual use of stop work orders, issued without any right of review or appeal. There is currently no mechanism to test for abuse of discretion in issuing the stop work order, or to objectively grant administrative relief to resolve disputes between Project Management and Engineering and signatories to the subdivision agreements.

Examples of good faith issues arising under the subdivision agreements include questions of interpretation pertaining to technical requirements, application of warranty periods, and issuance of stop work orders. AO 2007-23 amends AMC 21.87.060 to provide a process for efficient and objective dispute resolution of issues arising under the contractual terms and conditions of a subdivision agreement. The Board of Building Regulation Examiners and Appeals is designated as the appellate board having jurisdiction because it has the necessary expertise to review the technical and contractual issues that arise during performance of subdivision agreements.

Respectfully submitted

Dan Coffey Assembly Member, Section 4

Municipality of Anchorage MUNICIPAL CLERK'S OFFICE

Agenda Document Control Sheet

AR 2007-19

<u> </u>	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED								
1	AMEND AMCR 23.10, BUILDING BOARD F	1/22/07								
	PROCEDURE	1,22,0	,							
		Indicate Documents Attached								
		☐ AO ☒ AR ☒ AM ☐ AIM								
	DEPARTMENT NAME	DIRECTOR'S NAME								
2	Assembly	Dan Sullivan, Chairman								
	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER							
3	Julia Tucker, Assembly Counsel			343-4419						
4	COORDINATED WITH AND REVIEWED BY		INIT	IALS	DATE					
	Mayor	1								
	Municipal Clerk									
	Municipal Attorney				7.4					
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6	ASSEMBLY HEARING DATE REQUESTED 1/30/07	7	PUBLIC HE	ARING DATE REQU	JESTED					