

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:

Section 1. 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)

Section 2. 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)

Section 3. 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)

Section 4. 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.

Section 5. 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.

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

PASSED AND APPROVED by the Anchorage Assembly this ____ day of _____, 2007.

Chair

ATTEST:

Municipal Clerk



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

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED		
	AMEND AMCR 23.10, BUILDING BOARD RULES OF PROCEDURE ...		1/22/07		
			Indicate Documents Attached <input type="checkbox"/> AO <input checked="" type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM		
2	DEPARTMENT NAME		DIRECTOR'S NAME		
	Assembly		Dan Sullivan, Chairman		
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER		
	Julia Tucker, Assembly Counsel		343-4419		
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE		
	Mayor				
	Municipal Clerk				
	Municipal Attorney				
	Employee Relations				
	Municipal Manager				
	Cultural & Recreational Services				
	Fire				
	Health & Human Services				
	Merrill Field Airport				
	Municipal Light & Power				
	Office of Management and Budget				
	Police				
	Port of Anchorage				
	Public Works				
	Solid Waste Services				
	Transit				
	Water & Wastewater Utility				
	Executive Manager				
	Community Planning & Development				
	Finance, Chief Fiscal Officer				
	Heritage Land Bank				
	Management Information Services				
	Property & Facility Management				
	Purchasing				
	Other				
5	Special Instructions/Comments				
	LAID ON THE TABLE ITEM - INTRODUCTION				
6	ASSEMBLY HEARING DATE REQUESTED		7	PUBLIC HEARING DATE REQUESTED	
	1/30/07				

M.O.A.
 2007 JAN 22 AM 11:56
 CLERK'S OFFICE