

CHAPTER 1 – GENERAL PROVISIONS

GENERAL OVERVIEW

- Effective date: Two years after passage by Assembly.
 - Need to give people time to become familiar with new code.
 - Minimize impact on existing development.

- Priority of various documents.
 - General goals and objectives of the comp plan need to be followed.
 - Title 21 needs to govern occupancy and use of land.

- Multi-phased projects.
 - Concern over impact of passage of new Title 21.
 - Could be different standards and could adversely impact a development in progress.
 - Developer can decide to continue development under existing code or new code.

PZC'S PROPOSED AMENDMENTS TO CHAPTER 1: GENERAL PROVISIONS

Number	Section	Amendment	Comments
1	21.01.010	Amend the last sentence in the paragraph to read as follows: "This title shall become effective on the effective date, which shall be two years after passage by the Anchorage Assembly."	Sufficient time is needed to become familiar with the new code and to minimize the impact of the new code on existing developments in process.
2	21.01.030	<p>Amend this section as follows:</p> <ul style="list-style-type: none"> A. Delete "of underutilized land" B. Amend to read: "Encouraging a diverse supply of quality housing located in safe neighborhoods; C. Change "Promoting" to Encouraging" D. Change the first part of the sentence to read:"Encouraging well-planned development that reflects the municipality's..." E. Change "Providing" to "Encouraging"; Delete "in the municipality" F. Delete G. Change to read "Protecting fish and wildlife habitats by minimizing the impacts of land development" H. Delete "development and" I. Change to read as follows: "Encouraging development of an accessible system of recreational facilities, parks, trails, and open space that meets neighborhood and community-wide needs." J. Delete "compact" K. Delete L. Delete 	Some of the sub-paragraphs were overly broad and sounded like mandates.

		<p>M. Change to read: “Providing adequate water, sewage, drainage, schools, parks, and other public facilities;”</p> <p>N. Delete “and offer transportation choices”</p>	
3	21.01.060 B	Put this section back in.	
4	21.01.070	Add “Invalidating a Provision in front of paragraph A; add “Invalidating the Application of a Provision” in front of paragraph C; add “Invalidating a Condition” in front of paragraph C In paragraph B. add the following at the end of the sentence, “unless the circumstances leading to the invalidation are the same or substantially similar with respect to the other building, structure or use.” In paragraph C, add the following at the end of the sentence, “unless the circumstances leading to the invalidation of the condition are the same or substantially similar.”	Provides clarification as to the difference between the sections.
5	21.01.080 B.1.	Add at the end of the paragraph: “If there is an apparent conflict between the comprehensive plan (Anchorage Bowl, Eagle River, Turnagain, Girdwood) and a plan element, the former governs unless the plan element, at the time of its adoption, amends the pertinent section(s) of the comprehensive plan.	Provides clarification of the priorities between the comprehensive plan and the plan elements.
6	21.01.080 D.	Amend this paragraph to provide as follows: “The general goals, policies, land use plan map and objectives of the comprehensive plan and of the elements identified in Table 21.01-1 are to be followed by municipal entities (Planning and Zoning Commission, Platting Board) in their approval of rezoning, subdivision plats, conditional uses and related discretionary actions, as well as the provisions of Title 21. All provisions governing the use and occupancy of land and affected by Title 21 shall be in accordance with and conform to the specific requirements of that title for such land use and occupancy.”	Provides clarification of the relationship of the comprehensive plan and Title 21.
7	21.01.090 E.1.b.	Delete this paragraph.	Multi-phased projects

			will be addressed under section E.3.d. below.
8	21.01.090 E.3.d	Amend this paragraph to add a new paragraph d which provides as follows: “d. For multi-phase projects, all phases of the project may be developed utilizing the provisions of this Code as they existed at the time of approval of the first phase or may, at the election of the developer, utilize the provisions of the Code applicable at the time of development of the additional phase or phases.	Phased projects may run into difficulties being developed under two different standards. Therefore the developer should be allowed to continue with the development of the project under either existing Code or new Code

EXCEPT FOR THE CHANGES PROPOSED HEREIN, THE PLANNING AND ZONING COMMISSION RECOMMENDS APPROVAL OF THE PROVISIONALLY ADOPTED CHAPTER 1 WITH THE 2011 ADMINISTRATION PROPOSED AMENDMENTS AND THE 2010 PZC PROPOSED AMENDMENTS. ATTACHED HERETO IS A REDLINED/BLUELINED VERSION OF CHAPTER 1 WHICH REFLECTS THE ADMINISTRATION AMENDMENTS IN RED INK AND THE PZC’S AMENDMENTS IN BLUE INK.

Section	Amendment	Purpose/Origin/Notes
R1†	<p>21.01.060B. [B. CONFLICT WITH COMPREHENSIVE PLAN</p> <p>IT IS VITAL THAT THE MORE SPECIFIC DESIGN AND DEVELOPMENT STANDARDS THAT ARE CONTAINED IN TITLE 21 AND ARE INTENDED TO APPLY TO INDIVIDUAL DEVELOPMENT APPLICATIONS APPLY OVER THE GENERAL GOALS AND POLICIES OF THE COMPREHENSIVE PLAN WHERE THERE MAY BE A POTENTIAL CONFLICT WHEN DEALING WITH DEVELOPMENT APPLICATIONS. WHERE CONDITIONS, STANDARDS, OR REQUIREMENTS IMPOSED BY ANY PROVISION OF THIS TITLE ARE EITHER MORE RESTRICTIVE OR LESS RESTRICTIVE THAN ANY PROVISION FOUND IN THE COMPREHENSIVE PLAN, THE PROVISION OF THIS TITLE SHALL GOVERN.]</p> <p><i>Re-letter remaining sections</i></p>	<p>Approved by PZC in 2010</p> <p>DON'T ACCEPT---SEE AMENDMENT 3</p>
R2†	<p>21.01.080D. The elements of the comprehensive plan shall be implemented as provided in this section and as provided in the remainder of this title. <u>All provisions governing use and occupancy of land, including zoning map amendments, land use approvals, site plan reviews, and subdivisions, shall be in accordance with and conform to the comprehensive plan elements listed in this section. Where comprehensive plan elements conflict, the most recently adopted shall govern.</u></p>	<p>Approved by PZC in 2010</p> <p>DON'T ACCEPT –REVISED IN AMENDMENT 6</p>
1.	<p>21.01.090 <i>Add new subsection and re-letter remaining subsections:</i></p> <p>B. Special Limitations</p> <p>1. <u>If a provision of this title conflicts with a special limitation of a zoning district, the more restrictive provision or limitation shall apply.</u></p> <p>2. <u>If any special limitation becomes unnecessary or void as the result of any provision of this title, other remaining special limitations of the zoning district shall still apply.</u></p>	<p>To clarify how existing special limitations will be treated under the new code.</p> <p>ACCEPT</p>
R3†	<p>21.01.090D. <i>Add new Subsection D.5. (which, due to amendment above, will be E.5.)</i></p> <p>5. Future Amendments</p> <p><u>The transitional provisions described in this section shall apply to any future amendment to this title, with the referenced effective date meaning the effective date of the amendment that impacts any particular application.</u></p>	<p>Approved by PZC in 2010</p> <p>ACCEPT</p>
R4†	<p>21.01.090E. [E. INVESTMENT-BACKED EXPECTATIONS</p> <p>[RESERVED]</p>	<p>Approved by PZC in 2010</p> <p>DON'T ACCEPT</p>

* = Some of the proposed amendments #1 – 106 have been available for public review since May 2010. These are marked with an asterisk*.
 † = Amendments numbered R1 through R29 were already recommended for approval by PZC through two cases in the first quarter of 2010.

CHAPTER 21.01: GENERAL PROVISIONS

21.01.010 TITLE AND EFFECTIVE DATE

This title shall be officially known as "Title 21, Land Use Planning, of the Anchorage Municipal Code of Ordinances." It also may be called "Title 21," the "Zoning Ordinance," or "the Land Use Ordinance," and is referred to throughout this document as "this title." This title shall become effective on **[effective date]**, which shall be two years after passage by the Anchorage Assembly.

21.01.020 AUTHORITY

This title is adopted pursuant to authority granted generally by the Alaska Constitution, the Alaska Statutes (A.S.), and the Municipal Charter, and specifically by:

- A. Alaska Constitution, Article X, Sect. 11 (Home rule powers);
- B. Municipal Charter, section 10.02(7) (Requires ordinances for land use controls);
- C. Municipal Charter, section 12.02 (Requires a planning commission); and
- D. A.S. 29.35.180(b) (Requires a home rule borough to provide for planning, platting, and land use regulation).

21.01.030 PURPOSE OF THIS TITLE

The purpose of this title is to implement the comprehensive plan in a manner which protects the public health, safety, welfare, and economic vitality by:

- A. Encouraging the efficient use of existing infrastructure and the available land supply in the municipality, including redevelopment ~~of underutilized land~~;
- B. ~~Promoting a balanced,~~ Encouraging a diverse supply of ~~affordable,~~ quality housing located in safe ~~and livable~~ neighborhoods;
- C. ~~Promoting~~ Encouraging a balanced supply of nonresidential land uses that are compatible with adjacent land uses and have good access to transportation networks;
- D. ~~Promoting- Encouraging~~ well-planned development that ~~creates a sense of place and~~ reflects the municipality's unique northern setting, natural resources, and majestic surroundings;
- E. ~~Providing~~ Encouraging appropriate development incentives to achieve an economically balanced and diverse community and to promote further economic development ~~in the municipality~~;
- F. ~~Conserving the value of buildings and land~~;
- F. Protecting ~~the wide diversity of~~ fish and wildlife habitats by minimizing the ~~adverse~~ impacts of land development ~~on the natural environment~~;
- G. Protecting ~~development and~~ residents of the municipality from flooding, wildfires, seismic risks, and other hazards;
- H. Encouraging development of ~~a sustainable and~~ an accessible system of recreational facilities, parks, trails, and ~~natural~~ open space that meets ~~year-round~~ neighborhood and community-wide needs;
- I. Promoting ~~compact~~ development in city centers and infill areas so as to create efficient travel patterns;
- K. ~~Encouraging the retention of mature vegetation~~;

~~L. Protecting and enhancing livable and distinctive neighborhoods;~~

J. ~~Facilitating the adequate and safe provision of transportation,~~ Providing adequate water, sewage, drainage, schools, parks, and other public facilities; and

K. Encouraging land and transportation development patterns that promote public health and safety ~~and offer transportation choices.~~

21.01.040 APPLICABILITY AND JURISDICTION

A. General

The provisions of this title shall apply to all land, buildings, structures, and uses thereof located within the municipality, unless an exemption is provided by the terms of this title.

B. Application to Governmental Units

To the extent allowed by law, the provisions of this title shall apply to all land, buildings, structures, and uses owned by government agencies, including all municipal, state, and federal lands, within the corporate limits of the municipality. Where the provisions of this title do not apply to such land, buildings, structures, and uses, such agencies are encouraged to meet the provisions of this title.

C. Compliance Required

No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with this title. No lot of record that did not exist on the effective date of this title shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this title, unless allowed by section 21.01.090, *Transitional Provisions*.

21.01.050 OFFICIAL ZONING MAP

A. Incorporation Into this Ordinance

The official zoning map designates the location and boundaries of the various zone districts established in this title. It consists of a series of map pages adopted by ordinance and any subsequent amendments in accordance with this title. The official zoning map is incorporated herein by reference and referred to as the "zoning map" in this title. The zoning map shall be kept on file in the office of the department and is available for public inspection during normal business hours. The map shall be the final authority as to the current zoning status of lands, water areas, buildings, and other structures in the municipality.

B. Changes to Official Zoning Map

Changes made in zoning district boundaries or other matters portrayed on the official zoning map shall be made only in accordance with the provisions of section 21.03.160, *Rezoning (Zoning Map Amendments)*.

C. Interpretation of District Boundaries

In the case of any dispute regarding the zoning classification of property subject to this title, the official zoning map contained in the department shall control, or other official records as provided below. The director shall use the rules set forth below to interpret the map. Appeals shall be made to the zoning board of examiners and appeals in accordance with section 21.03.050[040], *Appeals*.

1. Where the zoning map shows a zoning district boundary line located within or following a street or alley right-of-way, utility line right-of-way, or public use easement, the district boundary shall be considered to be in the center of the right-of-way or easement. If the actual location of such right-of-way, or easement, as indicated in a recorded legal

1 description of such, varies slightly from the location shown on the zoning map, then the
2 actual location shall control.

3 2. Where the zoning map shows a boundary line as being located a specific distance from a
4 street line or other physical feature, this distance shall control.

5 3. Where the zoning map shows a district boundary to coincide with a property line or
6 municipal border, the legal property line or municipal border shall be considered to be the
7 district boundary, unless otherwise indicated on the map.

8 4. Where the zoning map shows a district boundary to not coincide or approximately
9 coincide with any street, alley, or property line, and no dimensions are shown, the
10 location of the boundary shall be determined by use of the scale appearing on the zoning
11 map.

12 5. Where the zoning map shows a district boundary dividing an existing lot, each part of the
13 lot shall be used in conformity with the standards established by this title for the zoning
14 district in which that part is located.

15 6. Where the case record conflicts with the zoning map, the case record shall control. For
16 example, if the zoning map shows a property to be zoned R-1, yet the case record shows
17 that the property was actually zoned I-1, the case record would control and the map
18 would be changed to reflect the case record. Any permits issued in reliance on the
19 erroneous designation shall be considered valid under this title; however, the lot,
20 structure, or use shall be considered nonconforming and governed by chapter 21.12,
21 *Nonconformities*.

22 21.01.060 CONFLICTING PROVISIONS

23 A. Conflict with Other Public Laws, Ordinances, Regulations, or Permits

24 This title is intended to complement other municipal, state, and federal regulations that affect land
25 use. This title is not intended to revoke or repeal any other public law, ordinance, regulation, or
26 permit, except as expressly set forth in ordinance. However, where conditions, standards, or
27 requirements imposed by any provision of this title are either more restrictive or less restrictive
28 than comparable standards imposed by any other public law, ordinance, or regulation, the
29 provisions that are more restrictive or that impose higher standards or requirements shall govern.

30 B. Conflict with Comprehensive Plan

31 It is vital that the more specific design and development standards that are contained in title 21
32 and are intended to apply to individual development applications apply over the general goals and
33 policies of the comprehensive plan where there may be a potential conflict when dealing with
34 development applications. Where conditions, standards, or requirements imposed by any
35 provision of this title are either more restrictive or less restrictive than any provision found in the
36 comprehensive plan, the provision of this title shall govern.

37 C. Conflict with Private Agreements

38 This title is not intended to revoke or repeal any easement, covenant, or other private agreement.
39 However, where the regulations of this title are more restrictive or impose higher standards or
40 requirements than such easement, covenant, or other private agreement, then the requirements
41 of this title shall govern. Nothing in this title shall modify or repeal any private covenant or deed
42 restriction, but such covenant or restriction shall not excuse any failure to comply with this title. In
43 no case shall the municipality be obligated to enforce the provisions of any easements,
44 covenants, or agreements between private parties.

45 21.01.070 SEVERABILITY

46 A. Invalidating a Provision

1 If any court of competent jurisdiction invalidates any provision of this title, then such judgment
 2 shall not affect the validity and continued enforcement of any other provision of this title.

3 **B. Invalidating the Application of a Provision**

4 If any court of competent jurisdiction invalidates the application of any provision of this title, then
 5 such judgment shall not affect the application of that provision to any other building, structure, or
 6 use not specifically included in that judgment, **unless the circumstances leading to the invalidation**
 7 **are the same or substantially similar with respect to the other building, structure or use.**

8 **C. Invalidating a Condition**

9 If any court of competent jurisdiction invalidates any condition attached to the approval of an
 10 application for development approval, then such judgment shall not affect any other conditions or
 11 requirements attached to the same approval that are not specifically included in that judgment,
 12 **unless the circumstances leading to the invalidation of the condition are the same or substantially**
 13 **similar.**

14 **21.01.080 COMPREHENSIVE PLAN**

15 **A. Purpose**

16 The purpose of the comprehensive plan is to set forth the goals, objectives, strategies, and
 17 policies governing land use development of the municipality. As adopted, this section and the
 18 documents incorporated in this section constitute the comprehensive plan of the municipality.

19 **B. Elements**

20 **1. Adopted Elements**

21 The comprehensive plan consists of the adopted elements identified in the following
 22 table, and which are incorporated in this chapter by reference. Plans or other elements
 23 that are not listed below are not official elements of the comprehensive plan, though they
 24 may be valid planning tools. **If there is an apparent conflict between the comprehensive**
 25 **plan (Anchorage Bowl, Eagle River, Turnagain, Girdwood) and a plan element, the**
 26 **former governs unless the plan element, at the time of its adoption, amends the pertinent**
 27 **section(s) of the comprehensive plan.**

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS

Area/Topic	Plan	Adoption Date ¹	Amendments
Anchorage Bowl	Anchorage 2020, Anchorage Bowl Comprehensive Plan	AO 2000-119(S); 2-20-2001	AO 2002-119; 9-10-2002
	Spenard Commercial District Development Strategy	AR 1986-121; 6-17-1986 AO 1987-145; 12-15-1987	
	Tudor Road Public Lands and Institutions Plan	AR 1986-162; 9-9-1986	
	3500 Tudor Road Master Plan	AO 2007-118; 11-13-2007	
	Anchorage Downtown Comprehensive Plan [CENTRAL BUSINESS DISTRICT COMPREHENSIVE DEVELOPMENT PLAN]	AO 2007-113; 12-11-2007 [AR 1983-194(S); 9-13-1983]	
	Hillside District Plan	AO 2010-22; 4-13-2010	
	Utility Corridor Plan	AO 1990-13(S); 2-27-1990	
	Section 36 Land Use Study (recommending Alternative 2)	AO 1992-125; 11-10-1992	
	The Ship Creek/Waterfront Land Use Plan (May 1991), including the Transportation Element	AO 1991-88; 6-3-1991	AIM 1991-178
	Potter Valley Land Use Analysis	AO 1999-144; 12-7-1999	
University-Medical District Plan	AO 2003-129; 10-21-2003	AO 2009-69; 6-23-1009	
Turnagain Arm	Turnagain Arm Comprehensive Plan	AO 2009-126; 12-1-2009 [AO 1987-22; 4-7-1987]	
	Girdwood Area Plan	AO 1994-238(S); 2-28-1995	AO 1998-176; 11-24-1998 AO 2006-47; 4-11-2006

TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS

Area/Topic	Plan	Adoption Date ¹	Amendments
	Crow Creek Neighborhood Land Use Plan	AO 2006-47; 4-11-2006	
	Glacier-Winner Creek Access Corridor Study Final Routing Report	AO 1997-11; 2-4-1997	
	Girdwood-Iditarod Trail Route Study	AR 1997-84; 5-20-1997	
	Girdwood Commercial Areas and Transportation Master Plan	AO 2000-124(S); 2-20-2001	
Chugiak; Eagle River; Eklutna	Chugiak-Eagle River Comprehensive Plan	AO 1992-133; 1-12-1993	AO 1996-86; 6-25-1996--amended by Alternative 1 of HLB Parcel 1-085 Land Use Study AO 2006-93(S-1); 12-12-2006
	Eagle River Greenbelt Plan	AR 1985-88; April 1985	
	Chugiak-Eagle River Long-Range Transportation Plan 2002 Update	AO 2003-128; 9-23-2003	
	Eagle River Central Business District Revitalization Plan	AO 2003-74; 5-20-2003	
Environmental Quality	Anchorage Coastal [ZONE] Management Plan	AO 2007-107; 8-28-2007 [AR 1979-153; 8-28-1979]	[AO 1981-3; 3-3-1981]
	208 Areawide Water Quality Management Plan	AR 1979-151; 7-31-1979	AO 1982-33(S); 4-20-1982
	Eagle River PM-10 Control Plan	AR 1990-30; 2-6-1990	AR 1991-197; 9-24-1991
	[HILLSIDE WASTEWATER MANAGEMENT PLAN]	[AO 1982-52; 5-18-1982]	[AO 1985-167; 9-24-1985 AO 1985-168; 9-24-1985 AO 1993-203; 12-7-1993 AO 1997-64; 6-3-1997 AO 1998-78; 6-2-1998 AO 1998-90; 8-18-1998 AO 1999-51; 3-23-1999 AO 2001-141(S); 10-23-2001 AO 2004-150; 11-16-2004]
	1992 Air Quality Attainment Plan for Anchorage, Alaska	AR 1992-279; 12-8-1992	
	Anchorage Wetlands Management Plan	AO 1982-33(S); 4-20-1982	AO 1984-16(SA); 2-28-1984 AO 1984-130(S); 8-14-1984 AO 1984-163; 7-31-1984 AO 1995-129; 3-12-1996
Transportation	Street and Highway Landscape Plan	AO 1981-180; 11-3-1981	
	Areawide Trails Plan	AO 1996-140; 4-8-1997	
	Anchorage Non-Motorized Transportation Plan: Pedestrian Plan	AO 2007-96; 10-9-2007	
	Anchorage Non-Motorized Transportation Plan: Bicycle Plan	AO 2010-08; 3-23-2010	
	Official Streets and Highways Plan	AO 1979-10; 6-19-1979	AO 1983-200; 12-6-1983 AO 1984-255; 1-22-1985 AO 1986-132; 8-19-1986 AO 1996-97(S); 8-13-1996 AO 1997-85; 6-3-97 AO 2000-122; 8-15-2000 AO 2005-115; 10-25-2005
	Anchorage Long-Range Transportation Plan 2025	AO 2005-115; 10-25-2005	
Parks, Greenbelts, and Recreational Facilities	Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan	AO 2005-122; 4-18-2006	
	Areawide Library Facilities Plan	AR 1984-83; 4-10-1984	
	Updated Far North Bicentennial Park Plan	AR 1985-87; 5-14-1985	AO 2002-165; 12-10-2002
	Campbell Creek Park System Acquisition and Development Plan	GAAB Resolution No. R1986-72	
	Rabbit Creek Greenbelt Plan	AR 1987-16; 3-31-1987	
	Chester Creek Greenbelt	AR 11-1975; October 1975	

¹ AO 2000-119(S), at section 9, provides that elements of the comprehensive plan that were originally adopted by resolution are hereby ratified and confirmed, and shall be deemed to have been adopted on the date that they were adopted by resolution.

1
2 **2. New Elements**

3 Procedures for amending the comprehensive plan are set forth in section 21.03.070,
4 *Comprehensive Plan Amendments*. That process may be used to amend existing
5 elements of the plan or to adopt new plan elements, including, but not limited to:

- 6 a. Plan elements that address new topic areas, such as, but not limited to, housing
7 or public utilities;
- 8 b. Neighborhood plans;
- 9 c. Town center, district, or small-area plans; and
- 10 d. Land use maps or residential intensity maps.

11 **C. Periodic Review**

12 The comprehensive plan shall be subject to periodic review in accordance with the procedure
13 described in section 21.03.070, *Comprehensive Plan Amendments*.

14 **D. Implementation—Conformity to Plans**

15 ~~The elements of the comprehensive plan shall be implemented as provided in this section and as~~
16 ~~provided in the remainder of this title. All provisions governing use and occupancy of land,~~
17 ~~including zoning map amendments, land use approvals, site plan reviews, and subdivisions shall~~
18 ~~be in accordance with and conform to the comprehensive plan elements listed in this section.~~
19 ~~Where comprehensive plan elements conflict, the most recently adopted shall govern.~~

20 The general goals, policies, land use plan map and objectives of the comprehensive plan and of
21 the elements identified in Table 21.01-1 are to be followed by municipal entities (Planning and
22 Zoning Commission, Platting Board) in their approval of rezoning, subdivision plats, conditional
23 uses and related discretionary actions, as well as the provisions of Title 21. All provisions
24 governing the use and occupancy of land and affected by Title 21 shall be in accordance with and
25 conform to the specific requirements of that title for such land use and occupancy.

26 **21.01.090 TRANSITIONAL PROVISIONS**

27 The purpose of transitional provisions is to resolve the status of properties with pending applications or
28 recent approvals, and properties with outstanding violations, at the time of the adoption of this title and
29 any future amendments to this title.

30 **A. Violations Continue**

31 Any violation of the previous title 21 ordinance shall continue to be a violation under this title and
32 shall be subject to the penalties and enforcement set forth in chapter 21.13, *Enforcement*, unless
33 the use, development, construction, or other activity complies with the provisions of this title.

1 **B. Special Limitations**

- 2 1. If a provision of this title conflicts with a special limitation of a zoning district, the more
3 restrictive provision or limitation shall apply.
- 4 2. If any special limitation becomes unnecessary or void as the result of any provision of this
5 title, other remaining special limitations of the zoning district shall still apply.

6 **C. Uses, Characteristics of Use, Structures, and Lots Rendered Lawful [CONFORMING]**

7 A use, characteristic of use, structure, or lot not lawfully existing at the time of the adoption of this
8 title is deemed lawful as of the effective date of this title, provided it conforms to all of the
9 requirements of this title.

10 **D. Uses, Structures, and Lots Rendered Nonconforming**

- 11 1. When a lot is used for a purpose that was a lawful use before the effective date of this
12 title, and this title no longer classifies such use as an allowed use in the zoning district in
13 which it is located, such use shall be considered nonconforming and shall be controlled
14 by chapter 21.12, *Nonconformities*.
- 15 2. [BUILDINGS, S]Structures[,] and lots that legally existed on the effective date of this title
16 may become nonconforming, based on the provisions of chapter 21.12, *Nonconformities*.

17 **E. Processing of Applications Commenced or Approved Under Previous Ordinances**

18 **1. Pending Applications**

- 19 a. Any complete application that has been submitted for approval, but upon which
20 no final action has been taken by the appropriate decision-making body prior to
21 the effective date of this title, shall, within twelve months of the date of
22 acceptance for completeness, be reviewed in accordance with the provisions of
23 the ordinance in effect on the date the application was deemed complete.
24 However, in such cases, if the applicant fails to comply with any applicable
25 required period for submittal or other procedural requirements, the application
26 shall expire and subsequent applications shall be subject to the requirements of
27 this title. Any re-application for an expired project approval shall meet the
28 standards in effect at the time of re-application.

29 ~~For multi-phase projects, this subsection shall apply only to those phases for
30 which complete applications have been submitted for approval but upon which no
31 final action has been taken by the appropriate decision-making body prior to the
32 effective date of this title.~~

- 33 b. An applicant with an approved pending application may waive review available
34 under prior ordinances through a written letter to the director and request for
35 review under this title.

36 **2. Preliminary Plats**

- 37 a. Any complete preliminary plat application that has been submitted for approval,
38 but upon which no final action has been taken by the appropriate decision-
39 making body prior to the effective date of this title, shall, within twelve months of
40 the date of acceptance for completeness, be reviewed in accordance with the
41 provisions of the ordinance in effect on the date the application was deemed
42 complete. Subsequently, the final plat for such subdivision applications also shall
43 be processed and reviewed according to the provisions of the ordinance
44 applicable at the time of submission of the complete application for preliminary
45 plat.

1 **b.** An application for which preliminary approval of a plat was granted prior to the
2 effective date of this title may be processed for a final decision in accordance
3 with the preliminary approval, applicable terms of the ordinance in place at the
4 time of preliminary approval, and any other approved permits and conditions,
5 even if the application does not comply with one or more requirements set forth
6 in this title. Preliminary approvals granted under the previous title 21 may be
7 extended no more than once, and for no longer than 24 months (12 months for
8 abbreviated plats), pursuant to the extension procedures applicable under the
9 previous ordinance.

10 **3. Approved Projects**

11 **a.** Conditional use permits, subdivision plats, site plan approvals, grading permits,
12 building permits, land use permits, sign permits, and variances, any of which are
13 valid on [effective date] shall remain valid until their expiration date. Projects with
14 valid approvals or permits may be carried out with the development standards in
15 effect at the time of approval, provided that the permit or approval is valid and
16 has not lapsed.

17 **b.** Any building or development for which a building permit or land use permit was
18 granted prior to the effective date of this title shall be permitted to proceed to
19 construction even if such building or development does not conform to the
20 provisions of this title.

21 **c.** If the development for which the building permit or land use permit is issued prior
22 to the effective date of this title fails to comply with the time frames for
23 development established for the permit, including any approved extensions, the
24 building or land use permit shall expire and future development shall be subject
25 to the requirements of this title.

26 **d.** For multi-phase projects, all phases of the project may be developed utilizing the
27 provisions of this Code as they existed at the time of approval of the first phase
28 or may, at the election of the developer, utilize the provisions of the Code
29 applicable at the time of development of the additional phase or phases.

30 **4. Remanded Cases**

31 If the board of adjustment remands a case to another decision-making body, that body
32 shall process the case under the rules applicable at the time the original complete
33 application was submitted for approval, unless the applicant has waived review under
34 previous ordinances pursuant to subsection D.1.c. above.

35 **5. Future Amendments**

36 The transitional provisions described in this section shall apply to any future amendment
37 to this title, with the referenced effective date meaning the effective date of the
38 amendment that impacts any particular application.

39 **F. ~~Investment-Backed Expectations~~**

40 [RESERVED]