

CHAPTER 21.03 REVIEW AND APPROVAL PROCEDURES

21.03.010 PURPOSE AND STRUCTURE OF THIS CHAPTER

This chapter describes the procedures for review and approval of all applications for development activity in the municipality. Common procedures, which are applicable to all or most types of development applications, are set forth in section 21.03.020. Subsequent sections set forth additional provisions that are unique to each type of application, including timetables, staff and review board assignments, review standards, and other information.

21.03.020 COMMON PROCEDURES

A. Applicability

The common procedures of this section 21.03.020 shall apply to all applications for development activity under this Title unless otherwise stated. The word "director" means the director of the planning department or his or her designee.

B. Pre-Application Conferences

1. Purpose

The pre-application conference is an informal discussion to familiarize the applicant and the municipal staff with the applicable provisions of this Title that are required to permit the proposed development.

2. Applicability

a. *Required for New Applications*

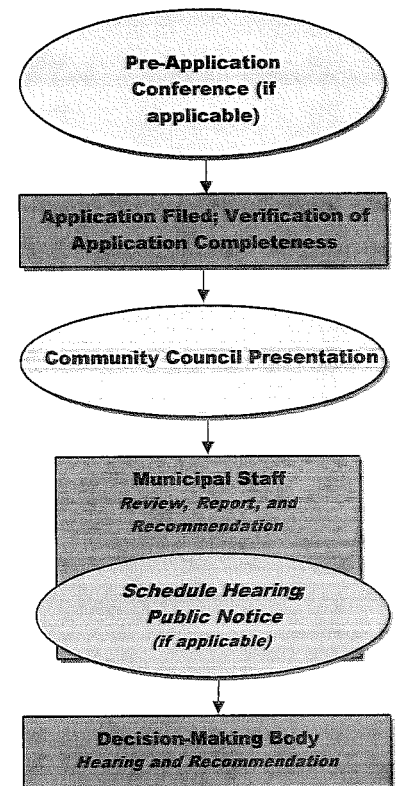
A pre-application conference is required prior to submittal of the following types of applications:

- i. Rezonings (Map Amendments) (section 21.03.160);
- ii. Subdivisions, except for Abbreviated Plats (section 21.03.200);
- iii. Conditional Uses (section 21.03.080);
- iv. Major Site Plan Review (section 21.03.180C);
- v. Public Facility Site Selection (section 21.03.140); and
- vi. Projects including Class A or B wetlands within or adjacent to the application area.

No application for these types of approvals shall be accepted until after the pre-application conference is completed and the applicant receives written notification of the conclusions.

b. *Exception for Some Changes to Already-Approved Applications*

Pre-application conferences are not required for minor amendments to already-approved conditional uses or site plans. All other changes to already-approved applications require a pre-application conference.



Common Procedures

- 1 c. **Optional for All Other Applications**
2 A pre-application conference is optional prior to submittal of any other
3 application under this Title not listed in subsection 2.a. above.
- 4 d. **Waiver**
5 The director may waive the pre-application requirement if the director
6 finds that the projected size, complexity, anticipated impacts, or other
7 factors associated with the proposed development clearly, in his or her
8 judgment, make a pre-application conference unnecessary. The waiver
9 shall be made in writing and shall become a part of the case record for
10 the application.
- 11 3. **Initiation of Pre-Application Conference**
12 The potential applicant shall request a pre-application conference, in the manner
13 prescribed in the Users' Guide with the director. Prior to the pre-application
14 conference, the applicant shall provide to the director a description of the
15 character, location, and magnitude of the proposed development and any other
16 supporting documents such as maps, drawings, models, and the type of
17 entitlement sought. It is the applicant's responsibility to provide sufficiently
18 detailed plans and descriptions of the proposal to enable staff to make the
19 informal recommendations discussed below.
- 20 4. **Pre-Application Conference Content**
21
- 22 a. The director shall schedule a pre-application conference after receipt of a
23 proper request in the manner prescribed in the Users' Guide. At the
24 conference, the applicant, the director, and any other persons the
25 director deems appropriate and available to attend shall discuss the
26 proposed development. Based upon the information provided by the
27 applicant and the provisions of this Title, the parties should discuss in
28 general the proposed development and the applicable requirements and
29 standards of this Title.
- 30 b. The conference attendees shall discuss the desired development
31 activities with respect to the following items:
- 32 i. Applicability of municipality policies, plans, and requirements as
33 they apply to the proposed development.
- 34 ii. Appropriateness of the development with respect to the policies
35 set forth in the comprehensive plan and the regulations in this
36 Title.
- 37 iii. Need, if any, to prepare a subdivision plat.
- 38 iv. Any site plan considerations or requirements.
- 39 v. Any concerns or requirements related to the anticipated impact
40 upon public rights-of-way and public improvements, and
41 appropriate requirements to mitigate those impacts, including but
42 not limited to traffic impact analyses.
- 43 vi. Any concerns related to neighborhood impacts, land use,
44 landscaping concepts, and overall project design.
- 45 vii. Possible alternatives or modifications related to the proposed
46 application.

1 viii. Procedures that will need to be completed to review and act on
2 the proposed application.

3 c. A checklist of discussion items indicating topics discussed at the pre-
4 application conference shall be mailed to the applicant within ten days of
5 the conference. The checklist shall be considered proprietary
6 information until an application has been submitted.

7 **5. Informal Review Comments Not Binding**

8 The review comments of the director are not binding upon the applicant or the
9 municipality, but are intended to serve as a guide to the applicant in making the
10 application and to advise the applicant in advance of the formal application of any
11 issues which will or may subsequently be presented to the appropriate decision-
12 making body. Because a pre-application conference precedes the actual
13 application, some key issues relating to a specific proposal may not be apparent
14 at the pre-application conference.

15 **6. Application Required Within Six Months**

16 After a pre-application conference has been completed, an application must be
17 submitted within six months, unless one extension is granted by the director not
18 to exceed an additional six months. If a complete application is not submitted
19 within six months or an extension has not been granted, a new pre-application
20 conference shall be required prior to submitting an application.

21 **C. Community Council Meetings**

22 **1. Purpose**

23 Community Councils are recognized by the Charter of the Municipality of
24 Anchorage. They are intended to afford citizens an opportunity for maximum
25 community involvement and self-determination. Those applications identified in
26 sub-section C. 2. A. below shall, prior to the public hearing on such application,
27 present the application to the appropriate Community Council to allow an
28 informal opportunity for the applicant to inform the residents and property owners
29 of the details of a proposed application, how the applicant intends to meet the
30 standards contained in this Title, and to receive public comment and encourage
31 dialogue early in the review process.

32 **2. Applicability**

33 **a. Types of Applications**

34 The applicant shall attend and present the application at the community
35 council meeting for any of the following types of applications:

- 36 i. *Rezoning (zoning map amendments)*
- 37 ii. *Subdivisions, except for abbreviated plats*
- 38 iii. *Conditional uses*
- 39 iv. *Master plans*
- 40 v. *Major site plan review*
- 41 vi. *Public facility site selection*

42 **3. Timing and Number of Community Council Meetings**

43 There shall be at least one presentation of the application to the appropriate
44 Community Council(s) unless the Community Council fails to schedule a properly
45

1 requested meeting made in a timely fashion by the applicant. The presentation
2 may be scheduled at any time prior to the initial public hearing.
3

4 **4. Community Council Appearance**

5 The applicant shall request, in writing, an appearance before the appropriate
6 community council(s) concurrent with the filing of the application.

7 **D. Authority to File Applications**

8 1. When an authorized agent files an application under this Title on behalf of a
9 property owner, the agent shall provide the municipality with written
10 documentation that the owner of the property has authorized the filing of the
11 application.

12 2. When a review or decision-making body initiates action under this Title, it does
13 so without prejudice toward the outcome.

14 **E. Application Contents, Submittal Schedule, and Fees**

15 **1. Title 21 Users' Guide**

16 The director shall compile the requirements for application contents, forms, fees,
17 and the submittal and review schedule (including typical time frames for review)
18 in a Users' Guide, which shall describe the processes and procedures for all
19 applications. The Users' Guide shall be readily available to the public. The
20 director may amend and update the Users' Guide from time to time. Nothing
21 contained in the Users' Guide shall be a substantive land use or development
22 requirement.

23 **2. Form of Application**

24 Applications required under this chapter shall be submitted in a form and in such
25 number as required in the Users' Guide.

26 **3. Processing Fees**

27 Applications shall be accompanied by the fee amount established by the
28 assembly and listed in the Users' Guide. Fees are not subject to waivers.

29 **4. Waivers**

30 The director may waive certain submittal requirements in order to reduce the
31 burden on the applicant and to tailor the requirements to the information
32 necessary to review a particular application. The director may waive such
33 requirements where he or she finds that the projected size, complexity,
34 anticipated impacts, or other factors associated with the proposed development
35 clearly, in his or her opinion, support such waiver. The waiver shall be made in
36 writing and shall become a part of the case record for the application.

37 **F. Verification of Application Completeness**

38 1. The director shall only initiate the review and processing of an application if such
39 application is complete. The director shall make a determination of application
40 completeness and notify the applicant in writing within 15 days of application
41 filing. If the application is determined to be complete, the application shall then
42 be processed according to this Title. If an application is determined to be
43 incomplete, the director shall provide an explanation in the written notification of
44 all of the application's deficiencies. No further processing of an incomplete
45 application shall occur until the noticed deficiencies are corrected. Any
46 deficiencies which are not part of the initial notification shall be addressed during
47 the application process without further delay of that process.

1 2. An application shall be considered complete if it is submitted in the required
2 form, includes all mandatory information, including all supporting materials
3 specified in the Title 21 Users' Guide, and is accompanied by the applicable fee.
4 A pre-application conference shall have been held, if required, pursuant to
5 subsection 21.03.020B, *Pre-Application Conferences*.

6 3. If any false or misleading information is submitted or supplied by an applicant on
7 an application, that application shall be deemed incomplete.

8
9

G. Additional Information

10 1. **Requested Information**
11 Nothing in this section prohibits the department or the decision-making body on
12 the application from requesting additional information deemed necessary for
13 review, after the application is complete. Any supplemental technical reports,
14 special studies, and/or revised application materials that are requested following
15 the original application must be received at least thirty days prior to a public
16 hearing. Any board or commission scheduled to hear an application may
17 postpone and reschedule a public hearing or approval deadline if such reports
18 and studies are submitted less than thirty days prior to the public hearing, unless
19 the applicable board or commission waives this time limit in a specific case for
20 cause. Copies of such additional materials shall be delivered to all reviewers
21 who received the original application packet.

22 2. **Voluntary Information**
23 Any supplemental information, such as revised application materials, that is
24 voluntarily submitted by the applicant, should be submitted before the
25 departmental report is finalized. Any such information submitted after the
26 departmental report is finalized may cause the application to be postponed to the
27 next regular meeting in order for the department to have time to review the new
28 information, if the board or commission determines that further department review
29 is not required.

30 **H. Notice**

31 1. **Content of Notices**
32 Public notice required under this chapter shall, unless otherwise specified in this
33 Title:

34 a. Identify the date, time, and place of the public hearing, if applicable;
35 b. If applicable, describe the property involved in the application by street
36 address or by legal description and nearest cross street;

37 c. Describe the purpose of the proposed action;
38 d. If applicable, indicate that interested parties may appear at the hearing
39 and speak on the matter; and

40 e. Indicate where additional information on the matter may be obtained.

41 2. **Summary of Notice Requirements**
42 The following table 21.03-1 summarizes the notice requirements of the
43 procedures set forth in this chapter. Unless otherwise specified in this Title,
44 procedures not listed in this table have no public notice requirements.

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written	Published	Posted	
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-	-
Appeal of an Enforcement Order	21.13	-	-	✓	-
Appeals to ZBEA	21.03.050B.	✓	✓	-	✓
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-	✓
Conditional Uses	21.03.080	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
Master Plan, Development	21.09.030F.	✓	✓	✓	✓
Master Plan	21.03.110	✓	✓	✓	✓
Neighborhood or District Plans	21.03.130	-	✓	-	✓
Nonconforming Uses of Land or Structures, Replication of	21.12.030C.		✓	✓	✓
Nonconforming Structures, Replication of	21.12.040D.		✓	✓	✓
Public Facility Site Selection	21.03.140	✓	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓	✓
Site Plan Review, Major	21.03.180C	✓	✓	✓	✓
Street Review	21.03.190	-	✓	-	-
Trail Review	21.03.190	-	✓	-	-
Subdivisions (with existing physical access)	21.03.200	✓	✓	✓	✓
Subdivisions (without existing physical access)	21.03.200	✓	✓	-	✓
Abbreviated Plats	21.03.200D.	-	✓	-	✓
Modification or Removal of Plat Notes	21.03.200G.	✓	✓	✓	✓
Title 21, Text Amendments	21.03.210	-	✓	-	✓
Vacation of Public and Private Interest in Land	21.03.230	✓	✓	✓	✓
Variations	21.03.240	✓	✓	✓	✓

- 1 **3. Written (Mailed) Notice**
- 2 When table 21.03-1 requires that written notice be provided, the director shall
- 3 deposit such notice into first class mail at least 21 days prior to the scheduled
- 4 date of the hearing. In computing such period, the day of mailing shall not be
- 5 counted, but the day of the hearing shall be counted. Written notice shall be
- 6 provided to the following persons or groups:
- 7 **a. Owners of Subject Property**
- 8 All persons listed on the records of the municipal assessor as owners of
- 9 land subject to the application, at the mailing addresses of such persons
- 10 in the records of the municipal assessor.
- 11 **b. Adjacent Property Owners**
- 12 All persons listed on the records of the municipal assessor as owners of
- 13 any land within 500 feet of the outer boundary of the land subject to the
- 14 application, or owners of the 50 parcels nearest to the outer boundary of
- 15 the land subject to the application and which parcels are within one mile
- 16 of the subject property, whichever is the greater number of parcels, at
- 17 the mailing addresses of such persons in the records of the municipal
- 18 assessor.
- 19 **c. Additional Persons**
- 20 Such additional persons or geographic areas as the director may
- 21 designate.
- 22 **4. Published Notice**
- 23 When table 21.03-1 requires that notice be published, the director shall cause a
- 24 notice to be published on the municipal public notice web page of the municipal
- 25 website. The notice shall be published at least 21 days before the scheduled
- 26 hearing date. In computing such period, the day of publication shall not be
- 27 counted, but the day of the hearing shall be counted.
- 28 **5. Posted Notice**
- 29 When table 21.03-1 requires that notice be posted, the applicant shall cause a
- 30 notice(s), on a form(s) provided by the department, to be posted on the property,
- 31 visible from each developed right-of-way adjacent to the property, for at least 21
- 32 days before the scheduled public hearing date. In computing such period, the
- 33 day of posting shall not be counted, but the day of the public hearing shall be
- 34 counted. If no part of the subject property is visible from the public right-of-way,
- 35 the notice shall be posted along the nearest street in the public right-of-way.
- 36 Posted notices shall include all the content specified in subsection H.1. above
- 37 except for the legal description. Before the public hearing, the applicant shall
- 38 submit to the department an affidavit, signed by the person who did the posting
- 39 or the person who caused the posting to be done, that notice was posted as
- 40 required by this subsection. Posted notices shall be removed by the applicant
- 41 within 30 days after the close of the public hearing on the application.
- 42 **6. Community Councils**
- 43 When table 21.03-1 requires that notice be given to community councils, any
- 44 officially recognized community council whose boundary includes any part of the
- 45 subject property, and any additional such council whose boundary lies within
- 46 1,000 feet of any part of the subject property shall receive notice in accordance
- 47 with H.3. above. Furthermore, the department shall provide notice to additional
- 48 community councils in the following instances:

- 1 a. Each recognized community council within the municipality shall receive
2 notice where the subject parcel is one of the following regional public
3 lands or facilities: Merrill Field Airport; Birchwood Airport; Far
4 North/Bicentennial Park; Kincaid Park; Russian Jack Springs Park;
5 Beach Lake Park; Edmonds Lake Park; Bird Creek Regional Park;
6 Chugach State Park; Anchorage Coastal Wildlife Refuge; BLM tract(s)
7 near Far North/Bicentennial Park.
8
9 b. If the subject parcel is a branch public facility that serves a specific
10 delineated area, such as a public school or fire station, then any
11 community council whose boundaries lie within the delineated district of
12 service of a branch public facility shall receive written notice. This
13 requirement shall only take effect after the municipality has established
14 maps delineating areas of service for the type of branch facility, and has
15 adopted procedures and responsibilities for updating service area
16 boundaries.
17
18 c. Any community council whose boundaries lie beyond the minimum
19 notification distance shall receive notice regarding proposals of
20 potentially major scope or controversy that, in the opinion of the director,
21 are likely to have a significant impact on the residents of the community
22 council beyond the minimum notification distance.
23
24 d. All community councils within the area of a proposed neighborhood or
25 district plans, served by the street or trail being reviewed, or substantive
26 amendments to the comprehensive plan, and amendments to the text of
27 Title 21 shall receive written notice of the proposed action.
28

29 **7. Constructive Notice**

30 Minor defects in any notice shall not impair the notice or invalidate proceedings
31 pursuant to the notice if a bona fide attempt has been made to comply with
32 applicable notice requirements. Minor defects in notice may include, but are not
33 limited to, errors in a legal description or typographical or grammatical errors that
34 do not impede communication of the notice to affected parties. Failure of a party
35 to receive written notice shall not invalidate subsequent action. In all cases,
36 however, the requirements for the timing of the notice and for specifying the time,
37 date, and place of a hearing shall be strictly construed. If questions arise at the
38 hearing regarding the adequacy of notice, the decision-making body shall make a
39 formal finding as to whether there was substantial compliance with the notice
40 requirements of this Title.

41 **8. Presumption of Notice**

42 When the records of the municipality document the publication, mailing, and
43 posting of notices as required by this subsection, it shall be presumed that notice
44 of a public hearing was given as required by this subsection.

45 **I. Departmental Report**

46 For every decision that requires a public hearing or where otherwise required by this
47 Title, the department shall prepare a report to be given to the decision-making body at
48 least ten (10) days before the initial public hearing on the application. The report shall
49 include project background, public comments received, any comments received from the
50 affected community council(s), and the department's recommendation for action. The
51 written report shall be posted on the municipality's web site for public viewing.

1 **J. Referrals**

2 The applicant, boards, commissions, or the municipal administration may request that
3 government agencies, non-governmental agencies, and other boards and commissions
4 besides the decision-making body review an application, but the final decision-making
5 authority shall remain with the body identified in this chapter.

6 **K. Concurrent Processing**

7 1. Where possible without creating an undue administrative burden on the
8 municipality's decision-making bodies and staff, this Title intends to
9 accommodate the simultaneous processing of applications for different permits
10 and approvals that may be required for the same development project in order to
11 expedite the overall review process. Review and decision-making bodies
12 considering applications submitted simultaneously shall render separate reports,
13 recommendations, and decisions on each application based on the specific
14 standards applicable to each approval.

15 2. Some forms of approval depend on the applicant having previously received
16 another form of approval, or require the applicant to take particular action within
17 some time period following the approval in order to avoid having the approval
18 lapse. Therefore, even though this Title intends to accommodate simultaneous
19 processing, applicants should note that each of the permits and approvals set
20 forth in this Title has its own timing and review sequence

21 3. The expected time frame and approval process for a consolidated application
22 shall follow the longest time frame and approval process required from among
23 the joined application types.
24

25 **L. Postponements**

26 1. If only five or fewer board or commission members are in attendance at the
27 hearing, the applicant may request a postponement of his or her case, and the
28 fee for the first postponement request shall be waived.
29

30 2. The applicant may request a postponement of his or her case for any other
31 reason, which he or she shall state to the board or commission. If the decision-
32 making body grants the postponement request, the applicant shall pay the
33 postponement fee and a new hearing date shall be determined by the
34 department.

35 a. If public notice pursuant to subsection H. above has not been given, the
36 director is the decision-making body for the purpose of granting a
37 postponement.

38 b. If public notice pursuant to subsection H. above has been given, the
39 decision-making body is the board or commission identified in this
40 chapter for the entitlement requested.

41 3. Re-notice of the new time for hearing is only required if the postponement is for
42 more than 30 days, or if no date certain is set for the hearing at the time of
43 postponement.
44

45 **M. Conditions of Approval**

46 1. The decision-making body is authorized to impose such conditions upon the
47 entitlement as may be necessary to conform to the standards of this Title, reduce
48 or minimize any potential adverse impact upon other property in the area, or to
49 carry out the general purpose and intent of this Title. In such cases, any

1 conditions attached to approvals shall be directly related to the impacts of the
2 proposed use or development and shall be roughly proportional in both extent
3 and amount to the anticipated impacts of the proposed use or development.

- 4
5 2. No conditions of approval, except for those attached to variance approvals, shall
6 be less restrictive than the requirements of this Title or applicable special
7 limitations.
8

9 N. Unless there is a time schedule stated as part of the condition, all conditions of approval
10 shall be met within one year of the date of approval (unless the condition is ongoing, such
11 as a specification of hours of operation).

12 O. **Decision**

13 Recommendations and decisions of all boards and commissions shall be made in
14 accordance with AMC Title 4.

15 P. **Lapse of Approval**

- 16 1. The lapse of approval time frames established by the procedures of this Title
17 may be extended only when all of the following conditions exist:
18 a. The provisions of this Title must expressly allow the extension;
19 b. An extension request must be filed prior to the applicable lapse-of-
20 approval deadline; and
21 c. The extension request must be in writing and include justification.
22 2. Unless otherwise noted, authority to grant extensions of time shall rest with the
23 decision-making body that granted the original approval (the one being
24 extended).

25 Q. **New Application Required**

26 If an application is inactive for one year awaiting action by the petitioner, the application
27 shall be discarded and a new application shall be required.

28 **21.03.030 ADMINISTRATIVE PERMITS**

29 A. **Applicability**

30 It shall be a violation of law for any person to engage in a land use for which an
31 administrative permit is required by this Title without first obtaining such a permit. An
32 administrative permit is required for the following uses:

- 33 1. Premises containing uses where children are not allowed (21.05.020B.);
34 2. Roominghouse (21.05.030B.4.);
35 3. Telecommunication tower and antenna (21.05.040K.)
36 4. Unlicensed nightclub (21.05.050D.8.c.);
37 5. Hostel in a residential zoning district (21.05.050J.3.); and
38 6. Bed and breakfast (21.05.070D.2.

39 B. **Administrative Permits**

40 Except as otherwise allowed in this Title, a permit issued by the director and pursuant to
41 this section shall be valid between January 1 or the date of issuance and December 31 of
42 the year in which it is issued, except that permits for bed and breakfasts shall be valid

1 between the date of issuance and December 31 of the year after the permit was issued.
2 An application for renewal of a permit shall be submitted in the same manner as the
3 original application and no later than December 1 immediately preceding the expiration
4 date of that permit.

5 **C. Regulations**

6 Subject to review and approval by the Assembly, the director may promulgate regulations
7 to implement this section, as provided in AMC chapter 3.40. Permits shall be issued and
8 renewed as outlined in the Title 21 Users' Guide.

9 **D. Appeals**

10 Denial of an administrative permit may be appealed to the zoning board of examiners and
11 appeals in accordance with subsection 21.03.050B.

12 **21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT**

13 **A. Applicability**

- 14 1. Any use that includes the retail sale of alcoholic beverages is subject to the
15 review process set forth in this section. This process shall apply to such a use
16 regardless of whether it is listed in the use tables in section 21.05.010 as being
17 permitted as a matter of right or subject to site plan review or the conditional use
18 process. The applicant shall be required to obtain approval through both the
19 process in this section and the separate process referenced in the use table.
20
- 21 2. Notwithstanding A.1. above, catering and special event permits issued by the
22 state alcoholic beverage control board are exempt from these approval
23 requirements, but shall meet AMC Title 10 requirements and the following:
24
- 25 a. When multiple permits are issued for the same location, the permits shall
26 be for discreet events, and shall not be used to avoid the special land
27 use permit process; and
- 28 b. The catering and special event permit shall be reviewed by the chief of
29 police in order to address any recurring problems at the site that have
30 involved the police.
- 31 3. No modification of an existing special land use permit for alcohol shall be
32 required for the first duplicate liquor license provided:
- 33 a. There is no increase in the square footage of the premise licensed for
34 the retail sale or dispensing of alcoholic beverages; or
- 35 b. If there is an increase in the square footage of the licensed premise,
36 such increase is five hundred square feet or less, whether or not the area
37 of increase is used year-round. In such case the licensed business shall
38 request a minor modification to their approval by submitting a site plan
39 for department review, along with the fee specified in the Users' Guide.
40 The department shall review the site plan for potential impacts including,
41 but not limited to, parking, lighting, noise, and traffic.

42 **B. General Standards**

43 Any use, whether principal or accessory, involving the retail sale or dispensing of
44 alcoholic beverages is permitted only by approval under this section. This
45 provision applies to all uses, in all districts, involving the retail sale, dispensing, or
46 service of alcoholic beverages including, but not limited to, liquor stores,
47 restaurants, bars, dinner theaters, movie theaters, brew pubs, tearooms, and

1 cafes, but applies only to the retail sale or dispensing of alcoholic beverages and
2 not to related principal or accessory uses.

3 **C. Application and Review Procedure**

4 **1. Application Submittal**

5 Applications for a special land use permit for alcohol shall be submitted to the
6 director within seven days after application is made to the state alcoholic
7 beverage control board for issue or transfer of location of a liquor license.
8 Applications shall contain a zoning map showing the proposed location and any
9 other information specified in the Title 21 Users' Guide. The assembly may
10 promulgate regulations concerning the mandatory information to be submitted
11 with the application for a special land use permit for alcohol.

12 **2. Departmental Review**

13 The department shall prepare and submit a report and a list of all licenses
14 located within a minimum of 1,000 feet of the proposed use to the assembly, and
15 shall address the conformity of the proposed application with this Title and AMC
16 chapter 10.50. The department shall also submit a proposed resolution for
17 assembly consideration in connection with liquor license applications.

18 **3. Public Notice**

19 Notice shall be provided in accordance with section 21.03.020H., *Notice*.

20 **4. Action**

21 **a.** The special land use permit for alcohol for any use that includes the retail
22 sale of alcoholic beverages, with the exception of a restaurant or eating
23 place that sells beer and wine for consumption only on the licensed
24 premises, shall be considered by the assembly. After holding a public
25 hearing, the assembly shall approve, approve conditionally, or deny the
26 application. In considering action, the assembly shall apply the criteria
27 set forth in this Title for conditional uses in section 21.03.080C., *Approval*
28 *Criteria*. The assembly shall not take into consideration the sum paid by
29 any person to acquire the license for which a permit is requested.

30 **b.** The special land use permit for alcohol for a restaurant or eating place
31 that sells beer and wine for consumption only on the licensed premises,
32 shall be considered by the director. In considering whether to approve,
33 approve conditionally, or deny the application, the director shall apply the
34 criteria set forth in this Title for conditional uses in section 21.03.080C.,
35 *Approval Criteria*. The director shall not take into consideration the sum
36 paid by any person to acquire the license for which a permit is requested.
37 The director's decision may be appealed to the assembly.

38 **5. Conditions of Approval**

39 **a.** The assembly may, in connection with an approval under this section,
40 impose such special terms and conditions or modify existing conditions
41 governing operation of that license as are in the public interest, and are
42 consistent with the purposes of this Title.

43 **b.** Conditions of approvals under this section are enforceable under the
44 provisions of this Title. The assembly may revoke such an approval for
45 failure to comply with conditions of the permit, provided a public hearing
46 with notice to the owner affected is first held.

47 **c.** A copy of the conditions imposed by the assembly in connection with
48 approval under this section shall be maintained on the premises involved
49 at a location visible to the public.

1 **6. Effect of Denial**
2 An application for approval under this section that has been denied] shall not be
3 accepted for rehearing for a period of one year following such denial if the
4 director finds the proposed application is substantially the same as that denied,
5 and if no substantially new evidence or change in circumstances has occurred.
6 This paragraph shall not apply to an application filed under assembly direction at
7 a hearing at which a like application was considered. This paragraph does not
8 apply if the alcoholic beverage control board remands a case that was previously
9 denied.

10 **7. Expiration**
11 An approval granted under this section shall expire:

12 **a.** One hundred twenty days after the transfer of the license to sell alcoholic
13 beverages from the premises has been approved by the state alcoholic
14 beverage control board, unless there is an application filed with the
15 control board prior to the expiration of the 120 day period;

16 **b.** The use holding the permit has been discontinued, vacant, or inactive for
17 a continuous period of at least one year; or

18 **c.** If the operation of the business becomes substantially different from the
19 business and operation reviewed by the assembly or the director when
20 the alcohol approval was granted under this section, unless the licensee
21 applies for and receives approval for a modification of the existing
22 alcohol approval to reflect the change.

23 For the purposes of this section, "substantially different" means any material
24 change in the operation of the business which could result in significant impact
25 on the use and enjoyment of adjacent properties by property owners or
26 occupants. A material change includes, without limitation, an increase in the late
27 night or early morning hours of operation; a change involving the type of
28 entertainment presented which results in an increase in noise level at the
29 property line; or a change from a business which meets the requirements of the
30 state alcoholic beverage control board statutes and regulations for a restaurant
31 designation permit to a business which would not meet such requirements.

**For public information only.
Copy of consultant's work as submitted in July 2011.**

1 **21.03.050 APPEALS**

2 **A. Appeals to Board of Adjustment**

3 **1. Jurisdiction of Board**

4 The board of adjustment shall decide appeals:

- 5 a. From decisions regarding the approval or denial of a preliminary plat
6 (subsection 21.03.200C.);
- 7 b. From decisions regarding the approval or denial of a variance from the
8 all of the provisions of this Title with the exception of subsection
9 21.05.040K., *Telecommunication Facilities*; chapter 21.06, *Dimensional*
10 *Standards and Measurements*; and section 21.07.050, *Utility Distribution*
11 *Facilities*
- 12 c. From decisions regarding the approval or denial of vacations of public
13 and private interest in land where the platting board is the platting
14 authority (section 21.03.230);
- 15 d. From decisions regarding the approval or denial of a development
16 master plan (subsection 21.09.030F.);
- 17 e. From decisions regarding the approval or denial of applications for
18 conditional uses (section 21.03.080); and
- 19 f. From decisions regarding the approval or denial of applications for major
20 site plan reviews (subsection 21.03.180C.).

21 **2. Appellants Before Board**

22 Decisions may be appealed to the board of adjustment by:

- 23 a. Any municipal agency; or
- 24 b. Any party of interest for the application, as defined in chapter 21.14.

25 **3. Appellees Before Board**

26 a. Appellees before the board may be:

- 27 i. The party in whose favor the lower administrative body's
28 decision was rendered.
- 29 ii. Any municipal agency.
- 30 iii. Any party of interest for the application, as defined in chapter
31 21.14.

32 b. An appellee shall file a notice of intent to file a brief with the municipal
33 clerk's office on a form prescribed by the municipal clerk, within 10 days
34 after the deadline for filing an appeal. The municipal clerk shall serve
35 notice to such appellees in writing of the date the record is available and
36 of the date the appellant's brief is filed.

37 **4. Perfection of Appeal; Notice of Appeal; Appeal Fee**

38 a. An appeal to the board of adjustment must be perfected by the appellant
39 within 20 days after the date of service of the decision. The appeal is
40 perfected by the filing of a notice of appeal, appeal fee, and cost bond in
41 accordance with this section.

1 b. The notice of appeal must be filed with the municipal clerk on a form
2 prescribed by the municipality and must contain detailed and specific
3 allegations of error. If the appellant is not the applicant, the appellant's
4 notice of appeal shall include certificate of service on the applicant.

5 c. The appellant shall pay the current appeal fee. In addition, the appellant
6 shall file a cost bond equal to the estimated cost of preparation of the
7 record. Following completion of the record, the actual cost thereof shall
8 be paid by the appellant. All costs and fees shall be returned to the
9 appellant if the decision of the lower body is reversed in whole or in part.

10 **5. New Evidence or Changed Circumstances**

11 a. Allegations of new evidence or changed circumstances shall not be
12 considered or decided by the board of adjustment. Allegations of new
13 evidence or changed circumstances shall be raised by written motion for
14 rehearing, filed with the municipal clerk within 20 days after the date of
15 service of the initial decision of the lower administrative body.

16 i. The municipal clerk shall reject any motion filed more than 20
17 days after the date of service of the initial decision of the lower
18 administrative body, without hearing or reconsideration by the
19 lower administrative body.

20 ii. A decision of the lower administrative body on any issues
21 remanded from the board of adjustment is not an initial decision
22 as described in subsection 5.a. above.

23 iii. The municipal clerk shall reject any motion alleging new
24 evidence or changed circumstances filed in response to a lower
25 administrative body's decision on any issue(s) presented on
26 remand.

27 b. If the written motion for rehearing is filed in a timely manner, the
28 administrative body from which the appeal is taken shall decide whether
29 to reopen and rehear the matter. A rehearing shall be held if the lower
30 administrative body determines:

31 i. If true, that the alleged new evidence or changed circumstances
32 would substantially change the decision of the body, and

33 ii. The party alleging new evidence or changed circumstances
34 acted promptly and with diligence in bringing the information to
35 the body's attention.

36 **6. Appeal Record**

37 a. The appellant shall arrange for the preparation of the transcript of the
38 board hearing by a court reporter or the board and commission recording
39 secretary and shall pay the cost of such preparation. The appellant shall
40 file the transcript with the municipal clerk. If the appellant fails to file the
41 transcript within 30 days after the filing of the notice of appeal, the
42 municipal clerk shall reject the appeal.

43 b. Upon timely perfection of an appeal to the board of adjustment, the
44 municipal clerk shall assemble an appeal record. The record shall
45 contain:

46 i. A copy of the notice of appeal filed by the appellant.

- 1 ii. A verbatim transcript of the proceedings before the
- 2 administrative body from which the appeal has been taken.

- 3 iii. Copies from the department of all documentary evidence,
- 4 memoranda, exhibits, correspondence, and other written
- 5 material submitted to the administrative body prior to the
- 6 decision from which the appeal is taken.

- 7 iv. A copy from the department of the written decision of the
- 8 administrative body, including its findings and conclusions.

- 9 c. Upon completion of the record, the municipal clerk shall serve notice on
- 10 the appellant of the cost of its preparation. If the appellant fails to pay
- 11 the costs within seven days of receiving the notice, the appeal shall be
- 12 rejected. Upon timely payment of costs, the municipal clerk shall serve a
- 13 copy of the record on the appellant. The municipal clerk shall also serve
- 14 notice on the appellees who have filed a notice of intent to file a brief that
- 15 the record is available for pickup. Upon request, the municipal clerk shall
- 16 provide a copy of the record to an appellee or the public. A copying cost
- 17 for the record will be charged as set out in AMCR 3.90.002. The
- 18 appellee shall also be charged any mailing costs.

7. **Written Arguments**

a. **Brief of Appellant**

The appellant may file a written brief of points and authorities in support of those allegations of error specified in the notice of appeal with the municipal clerk's office within 15 days after service of the appeal record. If the appellant files a brief, allegations of error specified in the notice of appeal and not included in the appellant's brief may be deemed waived or abandoned. The municipal clerk shall deliver a copy of the appellant's brief to the municipal staff assigned responsibility for the appeal. The municipal clerk shall also serve notice on those appellees who have filed a notice of intent to file a brief that the appellant's brief is available for pickup. Upon request, the municipal clerk shall provide a copy of the appellant's brief to appellees, who shall be charged copying costs as provided in AMCR 3.90.002 and any mailing costs applicable.

b. **Brief of Appellee**

An appellee who has filed a notice of intent to file a brief may also file with the municipal clerk's office a written response (appellee's brief) to the notice of points on appeal and any brief in support thereof within 15 days after service of notice by the municipal clerk that the appellant's brief is available for pick-up. The municipal clerk shall serve notice on the appellant that appellee briefs have been filed. The director may prepare and submit to the municipal clerk a written response (staff's brief) to the notice of appeal and any brief in support thereof within 15 days after service of notice by the municipal clerk that the appellant's brief is available for pick-up.

c. **Reply Brief**

An appellant may file a written reply brief to appellee briefs submitted pursuant to subsection 7.b. The appellant's reply brief is due within 15 days after service of notice by the municipal clerk that the appellee's brief is available for pick-up.

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- d. **Form of Briefs**
The municipal clerk shall not accept a brief unless it is in the form prescribed by this subsection.
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- i. **Required Attachments**
All briefs shall be filed with an attached copy of the ordinances and regulations principally relied upon, set out verbatim. All briefs shall also include an excerpt of record of the pages on which the brief relies.
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- ii. **Text of Brief, Exclusive of Attachments**
Briefs shall be typewritten on 8½- by 11-inch pages, double-spaced, with quotations over two lines being single-spaced and indented.
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- iii. **Page Limitation**
The brief of appellant and the brief of appellee are each limited to 25 pages exclusive of exhibits and attachments. The reply brief is limited to 10 pages exclusive of exhibits.
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8. **Appeal Packet; Notice of Hearing**
Following the time set for the municipal clerk's receipt of all written argument from the appellant, the appellee, and the municipal staff, the municipal clerk shall prepare and distribute to the members of the board of adjustment an appeal packet containing only the appeal record assembled by the clerk and any briefs filed in accordance with subsection A.7. above. The board of adjustment shall set a date for consideration of the issues on appeal. The municipal clerk shall publish notice of the date in a newspaper of general circulation and shall serve notice by mail on the appellant and those appellees who have submitted briefs. The municipal clerk shall make appeal packets shall be made available to the public upon request with costs payable by the public as provided in AMCR 3.90.002.
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9. **Procedural Changes**
Upon timely application and for good cause shown, the board of adjustment may relax or modify the procedural rules or the rules relating to costs contained herein for the orderly transaction of appeals before the board.
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10. **Conduct of Hearing**
- a. The meeting at which the board of adjustment deliberates and decides an appeal shall be open to the public and a record of the hearing shall be made.
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- b. The board of adjustment shall not hear argument nor take additional testimony or other evidence. The board of adjustment may consider only the material contained in the appeal packet.
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11. **Scope of Review**
- a. The board of adjustment shall consider an appeal solely on the basis of the record established before the lower administrative body, the notice of appeal, the briefs, and the law.
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- b. The board of adjustment may exercise its independent judgment on legal issues raised by the appellant. The term "legal issues," as used in this section, means those matters that relate to the interpretation or construction of ordinances or other provisions of law.

- 1 c. The board of adjustment shall, unless it substitutes its independent
2 judgment pursuant to subsection 11.d. below, defer to the judgment of
3 the lower administrative body regarding factual issues. Findings of fact
4 adopted expressly or by necessary implication by the lower
5 administrative body may be considered as true if they are supported in
6 the record by substantial evidence. The term "substantial evidence," for
7 the purpose of this section, means such relevant evidence as a
8 reasonable mind might accept as adequate to support a conclusion. If
9 the record affords a substantial basis of fact from which the fact in issue
10 may be reasonably inferred, it shall be considered that the fact is
11 supported by substantial evidence.
- 12 d. The board of adjustment may, by unanimous vote, substitute its
13 independent judgment for that of the lower administrative body on any
14 disputed issues or findings of fact. such judgment must be supported on
15 the record by substantial evidence.
- 16 **12. Decision**
- 17 a. The board of adjustment, by majority vote, may affirm, modify, or reverse
18 the decision of the lower administrative body in whole or in part. A
19 decision reversing or modifying the decision appealed from shall be in a
20 form which finally disposes of the case on appeal except where the case
21 is remanded in accordance with subsection 13.a. below.
- 22 b. Every decision of the board of adjustment to affirm, modify, or reverse
23 the decision of the lower administrative body pursuant to subsection
24 12.a. above shall be based upon and include written findings and
25 conclusions adopted by the board. Such findings must be reasonably
26 specific so as to provide the community, and, where appropriate,
27 reviewing authorities, a clear and precise understanding of the reason for
28 the board's decision. The board may seek the assistance of legal
29 counsel in the preparation of its decision.
- 30 c. Every final decision of the board of adjustment shall clearly state on its
31 face it is a final decision with respect to all issues involved in the case,
32 and that the parties have 30 days from the date of service of the decision
33 to appeal to the superior court.
- 34 **13. Remand**
- 35 a. The case shall be remanded to the lower body where the board of
36 adjustment determines any of the following:
- 37 i. There is insufficient evidence in the record on an issue material
38 to the decision of the case;
- 39 ii. There has been a substantial procedural error that requires
40 further public hearing; or
- 41 iii. The lower administrative body has made a legal error that, in the
42 opinion of the board of adjustment, warrants a remand.
- 43 b. If the board of adjustment remands a case to the lower administrative
44 body, the board shall describe any issue upon which further evidence
45 shall be taken, and shall set forth any further directions the board deems
46 appropriate for the guidance of the lower administrative body.

- 1 c. Cases on remand following a decision of the board shall take
2 precedence over all other matters on the agenda of the lower
3 administrative body.
- 4 d. A board of adjustment decision remanding a case on one or more issues
5 is not a final decision with respect to any issues involved in the appeal.
6 The board of adjustment's decision remanding the case is and shall state
7 that it is the final decision with respect to all matters affirmed by the
8 board of adjustment's decision, when, following service of the lower
9 administrative body's decision on remand, no appeal is perfected within
10 the period specified in subsection 21.03.050A.4. The decision shall also
11 state that the parties have 30 days from the expiration of said period to
12 appeal to the superior court.

13 **B. Appeals to Zoning Board of Examiners and Appeals**

14 **1. Jurisdiction of Board**

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

- 17 a. Interpretation of zoning district boundaries under subsection 21.01.050C.
- 18 b. Denial of an administrative permit under section 21.03.030.
- 19 c. Denial of a certificate of zoning compliance under section 21.03.060.
- 20 d. Interpretation of whether a conditional use amendment is major or minor
21 under subsection 21.03.080D.2.
- 22 e. Denial of an application for a flood hazard permit under section
23 21.03.090.
- 24 f. Denial of an application for a building or land use permit under
25 subsection 21.03.100 when such denial is based on the requirements of
26 Title 21.
- 27 g. Compliance with an institutional master plan under subsection
28 21.03.110F.
- 29 h. Denial of a minor modification under section 21.03.120 when the director
30 is the decision-making body.
- 31 i. Denial of an application for a sign permit under subsection 21.03.170
32 when such denial is based on the requirements of Title 21.
- 33 j. Determination of use classification under subsection 21.03.220.
- 34 k. Administrative variance for occupancy limits in assisted living facilities
35 under subsection 21.03.240J.
- 36 l. Denial of a verification of legal nonconforming status under section
37 21.03.250.
- 38 m. Alleging an error in the enforcement or interpretation of the flood hazard
39 overlay district under subsection 21.04.080D.
- 40 n. Site enhancement plan for a self-storage facility under subsection
41 21.05.060D.4.

- 1 o. Denial of or imposition of conditions on a certificate for legalization of
2 nonconforming dimensional setback encroachment under section
3 21.12.030, or a certificate for legalization of lots created prior to
4 September 16, 1975 under subsection 21.12.050C.
- 5 p. Denial of administrative approval to reinstate a damaged nonconforming
6 use under subsection 21.12.030C., or to rebuild a damaged
7 nonconforming structure under subsection 21.12.040D.1.a.
- 8 q. Overcoming presumption of abandonment under subsection 21.12.030E.
- 9 r. Enforcement orders issued under chapter 21.13, *Enforcement*.
- 10 s. Interpretation of general definitions and use definitions.
- 11 **2. Initiation of Appeal**
12 Appeals to the zoning board of examiners and appeals may be brought by any
13 party of interest for the application.
- 14 **3. Time Limit for Filing; Notice of Appeal; Appeal Fee**
15 a. An appeal of an administrative decision to the zoning board of examiners
16 and appeals, as set out in subsection B.1. above, must be filed no later
17 than 20 days after the date of service of the decision.
- 18 b. Notice of appeal must be filed with the director on a form prescribed by
19 the municipality and must contain detailed and specific allegations of
20 error.
- 21 c. The appellant shall pay an appeal fee as set by the assembly, which
22 shall accompany the filing of the notice of appeal. The appeal fee shall
23 be returned to the appellant if the decision of the lower administrative
24 body is reversed in whole, and one-half of the fee shall be returned if the
25 decision is reversed in part.
- 26 **4. Scope of Review**
27 The zoning board of examiners and appeals shall conduct a full evidentiary
28 hearing on an appeal and make its decision on the basis of this Title, the
29 evidence, and the argument presented.
- 30 **5. Notice and Public Hearing**
31 a. A public hearing shall be held within 60 days of the filing of a proper
32 notice of appeal.
- 33 b. Notice of the appeal hearing shall be published on the municipal public
34 notice web page of the municipal website at least 14 days prior to the
35 hearing, and, in addition, the appellant shall be sent a notice by mail at
36 least 14 days prior to the hearing.
- 37 c. The zoning board of examiners and appeals may prescribe rules of
38 procedure for additional notification in cases where a decision of the
39 board would have a substantial effect on the surrounding neighborhood.
- 40 **6. Decision**
41 a. The zoning board of examiners and appeals may affirm or reverse the
42 decision of the decision-making body in whole or in part. It shall require
43 a majority of the full membership, minus those members who disqualify
44 themselves with conflicts of interest in accordance with AMC Title 4.

- 1 b. Every decision of the zoning board of examiners and appeals to affirm or
2 reverse an administrative action shall be in writing and based on and
3 include written findings and conclusions adopted by the board. Such
4 findings must be reasonably specific so as to provide the community
5 and, where appropriate, reviewing authorities, with a clear and precise
6 understanding of the reasons for the board's decision.
- 7 c. Every final decision of the zoning board of examiners and appeals shall
8 clearly state it is a final decision and that the parties have 30 days from
9 the date of mailing, or other distribution of the decision to file an appeal
10 to the superior court.

11 **C. Judicial Appeals**

12 **1. Judicial Review Authorized**

13 In accordance with Appellate Rule 601 et seq., of the *Alaska Rules of Court*, a
14 municipal officer, a taxpayer, or a person jointly or severally aggrieved may
15 appeal to the superior court:

- 16 a. A final decision of the board of adjustment on an appeal from a decision
17 regarding the approval or denial of an application for a conditional use.
- 18 b. A final decision of the board of adjustment on an appeal from the platting
19 board regarding an application for a subdivision.
- 20 c. A final decision of the zoning board of examiners and appeals.
- 21 d. Any final action or decision under this Title that is appealable to the
22 superior court under the *Alaska Rules of Court* and/or laws of the State
23 of Alaska.

24 **21.03.060 CERTIFICATE OF ZONING COMPLIANCE**

25 **A. Purpose**

26 A certificate of zoning compliance shall be required at the completion of any development
27 in the municipality for which a permit is required, to ensure that the development
28 complies with all applicable standards of this Title.

29 **B. Applicability**

30 A certificate of zoning compliance shall be required prior to the occupancy of any
31 building, structure, or land, except that temporary uses and structures in accordance with
32 section 21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of
33 zoning compliance requirements. Where issued, a certificate of occupancy shall be
34 considered the certificate of zoning compliance.

35 **C. Issuance**

36 **1. Certificate**

37 Upon approval by the director, the building official shall issue a certificate of
38 zoning compliance, which is valid as long as the conditions of the building or land
39 use permit remain in effect.

40 **2. Conditional Certificate**

- 41 a. Upon approval by the director, the building official may issue a
42 conditional certificate of zoning compliance for a specified portion or
43 portions of a building prior to final completion of the entire building and/or
44 site.

- 1 b. The conditional certificate shall be valid only for the period of time stated
2 in the certificate, not to exceed 270 days.
- 3 c. Conditions that are attached to the conditional certificate of zoning
4 compliance must be completed prior to the expiration of the certificate.
5 When such conditions have not been completed prior to the expiration
6 date of the conditional certificate, the certificate of zoning compliance
7 shall immediately expire.
- 8 d. Upon receipt of a written application to the building official stating
9 satisfactory reasons for the failure to complete work within the given time
10 period, the building official may renew the certificate for a specified
11 period of time, not to exceed 180 days.
- 12 e. Only one renewal may be granted, except that single family homes and
13 phased projects may be granted more than one renewal.

14 **3. Inside the Building Safety Service Area**
15 Inside the building safety service area, the building official shall issue a certificate
16 of zoning compliance when, after examination of the building, structure,
17 landscaping, and/or other improvements or changes to the property, the
18 municipality finds that the property complies with the applicable provisions of this
19 Title and other applicable ordinances and construction codes of the municipality.

20 **4. Outside the Building Safety Service Area**
21 Outside the building safety service area, the building official shall issue a
22 certificate of zoning compliance when the municipality finds that the property
23 complies with the applicable provisions of this Title. For all development except
24 for single- and two-family development, such finding shall follow an examination
25 of the building, structure, landscaping, and/or other improvements or changes to
26 the property. Single- and two-family development shall provide a certified as-
27 built to the building official. Provisions of this Title that cannot be verified by a
28 certified as-built may be subject to a physical examination of the property through
29 a final zoning inspection.

30 **5. Appeals**
31 Denial of a certificate of zoning compliance may be appealed to the zoning board
32 of examiners and appeals in accordance with subsection 21.03.050B.

33 **21.03.070 COMPREHENSIVE PLAN AMENDMENTS**

34 **A. Purpose and Scope**
35 This section provides uniform procedures, schedules, and review criteria necessary for
36 amendments to the comprehensive plan. It includes allowances for concurrent
37 comprehensive plan map and zoning map amendments.

38 **B. Levels of Plan Review**
39 The comprehensive plan should be reviewed and reassessed regularly in order to
40 evaluate its effectiveness and adequacy in guiding the growth of the municipality and to
41 determine whether or not the plan continues to meet the long-term planning needs of the
42 municipality. Because this review need not necessarily result in the complete revision of
43 the plan, several levels of review are contemplated in this section.

44 **1. Complete Plan Revision (20-year Intervals)**
45 The director shall initiate a full review and complete revision of the
46 comprehensive plan at least once every 20 years, preferably following the

1 decennial census. As part of this review, the director shall provide the Planning
2 and Zoning Commission with an overall assessment of the adequacy and
3 effectiveness of the existing plan, including identification of new issues not
4 adequately addressed, issues which require further study and investigation, and
5 suggested improvements. The Planning and Zoning Commission shall consider
6 the staff assessment and shall recommend amendments or issues that the
7 commission feels should be pursued or investigated. Any amendments shall
8 follow the procedures of subsections C. and D. below.

9 **2. Targeted Plan Review (10-year Intervals)**

10 The director shall initiate a targeted review of the plan at least once every 10
11 years, or in conjunction with an area-wide rezoning, in order to make it consistent
12 with economic and demographic trends, recent and proposed land use decisions,
13 and adopted studies and plans. Any amendments shall follow the procedures of
14 subsections C. and D. below.

15 **3. Other Plan Amendments**

16 In addition to the regularly scheduled reviews described above, any review or
17 decision-making body, or the director of any municipal department, may propose
18 a plan amendment at any time. All such proposals shall be processed in
19 accordance with the procedures in subsections C. and D. below.

20 **C. Procedure for Substantive Amendments**

21 **1. Procedure**

22 **a. Initiation**

23 A petition for amendment to the comprehensive plan may be initiated by
24 any review or decision-making body, or, if accompanied by a rezone
25 application, by a property owner.

26 **b. Public Notice**

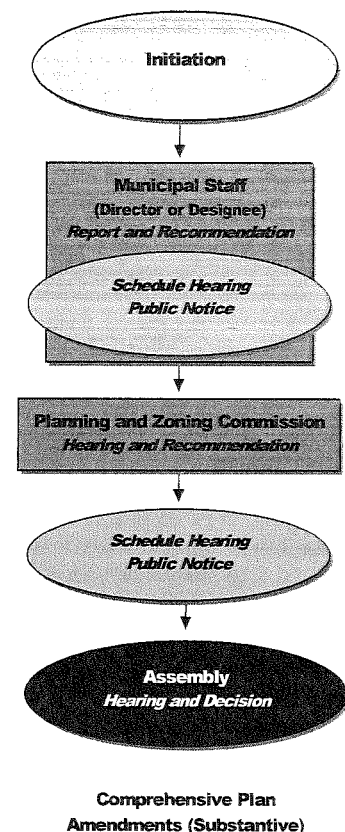
27 Notice shall be provided in accordance with
28 section 21.03.020H.

29 **c. Departmental Review**

30 The department shall review each proposed
31 substantive amendment in light of the approval
32 criteria set forth in subsection C.2. below and
33 distribute the application to other reviewers as
34 deemed necessary. Based on the results of
35 those reviews, the department shall provide a
36 report to the Planning and Zoning
37 Commission. This report shall include a
38 discussion of all plans and policies that have
39 been adopted by the municipality and are
40 relevant to the proposed amendment.

41 **d. Planning and Zoning Commission Action**

42 The Planning and Zoning Commission shall
43 hold a public hearing on the proposed
44 amendment. Based on testimony received,
45 the department's report, and the approval
46 criteria in subsection C.2. below, the
47 commission shall recommend that the
48 assembly approve, approve with modifications,
49 or deny the proposed amendment.



- 1 e. **Assembly Action**
2 The assembly shall hold a public hearing on the proposed amendment.
3 Based on the commission's recommendation, testimony received, and
4 the approval criteria in subsection C.2. below, the assembly shall:
- 5 i. Approve the amendment by ordinance, either as submitted or
6 with further amendments as deemed necessary and appropriate
7 by the assembly;
- 8 ii. Reject the proposed amendment; or
- 9 iii. Refer the proposed amendment, and/or any substantial
10 modifications proposed by the assembly, back to the Planning
11 and Zoning Commission or to a committee of the assembly for
12 further consideration.
- 13 **2. Approval Criteria**
14 The Planning and Zoning Commission may submit a recommendation for
15 approval, and the assembly may approve an amendment if, in the judgment of
16 the commission or the assembly, the amendment meets the following approval
17 criteria:
- 18 a. The proposed amendment is appropriate in order to address one or more
19 of the following:
- 20 i. A change in projections or assumptions from those on which the
21 comprehensive plan is based;
- 22 ii. Identification of new issues, needs, or opportunities that are not
23 adequately addressed in the comprehensive plan;
- 24 iii. A change in the policies, objectives, principles, or standards
25 governing the physical development of the municipality or any
26 other geographic areas addressed by the comprehensive plan;
27 or
- 28 iv. Identification of errors or omissions in the comprehensive plan.
- 29 b. The proposed amendment maintains the internal consistency of the
30 comprehensive plan, and is consistent with the other elements of the
31 comprehensive plan without the need to change other components of the
32 plan to maintain internal consistency unless such other changes are
33 deemed appropriate by the assembly.
- 34 c. The proposed amendment would not be detrimental to the public
35 interest, health, safety, convenience, or welfare of the community.
- 36 d. If the proposed amendment is to the comprehensive plan map, the
37 requested land use designation is found to be equally or more supportive
38 of the comprehensive plan goals, objectives, policies, and guidelines,
39 than the old land use designation.
- 40 e. If the proposed amendment is to the comprehensive plan map, the
41 subject site is consistent with the adopted description and locational
42 criteria for the requested land use designation, and is physically suitable
43 to accommodate the proposed designation, including but not limited to
44 access, physical constraints, provision of utilities, and compatibility with
45 surrounding designations and development patterns.

- 1 **3. Concurrent Zoning Changes Allowed**
2 a. Requests for rezonings (zoning map amendments) may be considered
3 concurrently with a comprehensive plan map amendment. The zoning
4 map amendment shall be to a zone corresponding to the requested
5 comprehensive plan map designation. Concurrent zoning map
6 amendments shall meet all of the approval criteria of subsection
7 21.03.160E.
- 8 b. The Planning and Zoning Commission shall submit its report and
9 recommendation regarding the comprehensive plan map amendment to
10 the assembly at the same time it submits the report and recommendation
11 on the rezoning case. The assembly and Planning and Zoning
12 Commission shall consider the plan amendment proposal and rezoning
13 request separately, and shall act separately on the two items.

14 **D. Procedure for Cosmetic Amendments**

15 **1. Initiation**

16 Any review or decision-making body, or director of any
17 municipal department, may, at any time on their own motion,
18 request that the director investigate and evaluate a specific
19 cosmetic amendment proposal. No public hearing or public
20 notification is required.

21 **2. Departmental Review**

22 The department shall review each proposed cosmetic
23 amendment and shall provide a report to the Planning and
24 Zoning Commission.

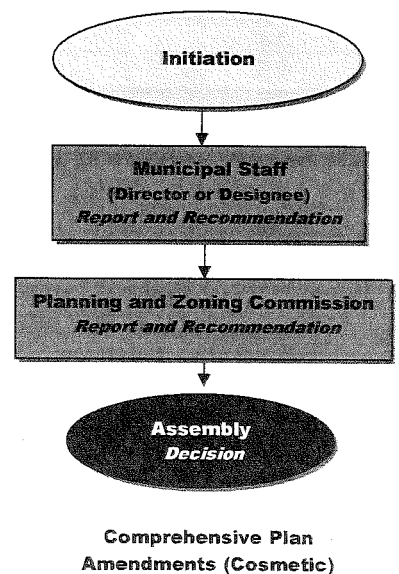
25 **3. Planning and Zoning Commission Action**

26 The Planning and Zoning Commission shall submit, within a
27 reasonable time, a report and recommendation to the assembly
28 regarding whether or not the proposed amendment should be
29 adopted as submitted, adopted with modifications, or rejected.

30 **4. Assembly Action**

31 The assembly shall consider the reports and recommendations of the Planning
32 and Zoning Commission and the director at a regularly scheduled assembly
33 meeting, and will take action to either:

- 34 a. Approve or deny the amendment;
- 35 b. Approve the amendment with modifications; or
- 36 c. Refer the matter back to the Planning and Zoning Commission for
37 further consideration.



38 **21.03.080 CONDITIONAL USES**

39 **A. Purpose**

40 The conditional use approval procedure is intended for situations where a use may or
41 may not be appropriate in a district, depending on the specific location, the use
42 characteristics, and potential conditions to decrease the adverse impacts of the use on
43 surrounding properties and/or the community-at-large. It also provides a discretionary
44 review process for uses with unique or widely varying operating characteristics or
45 unusual site development features. The procedure provides public review and evaluation

1 of a use's operating characteristics and site development features through a public
2 hearing process.

3 **B. Procedure**

4 **1. Initiation**

5 An application for a conditional use approval shall be initiated
6 by the owner(s) of the subject property.

7 **2. Pre-Application Conference**

8 Before filing an application, the applicant shall request a pre-
9 application conference with the director, in accordance with
10 subsection 21.03.020B.

11 **3. Community Council Meeting**

12 A community council meeting is required in accordance with
13 subsection 21.03.020C.

14 **4. Application Submittal**

15 Applications for a conditional use approval shall contain the
16 information specified in the Title 21 user's guide, and shall be
17 submitted to the director on a form provided by the department.

18 **5. Public Notice**

19 Notice shall be provided in accordance with section
20 21.03.020H.

21 **6. Departmental Review**

22 The department shall review each proposed conditional use
23 approval application in light of the approval criteria of
24 subsection C. below and distribute the application to other
25 reviewers as deemed necessary. Based on the results of
26 those reviews, the department shall provide a report to the
27 Planning and Zoning Commission.

28 **7. Planning and Zoning Commission Action**

29 The Planning and Zoning Commission shall hold a public
30 hearing on the proposed application and act to approve, approve with conditions,
31 or deny the proposed conditional use, based on the approval criteria of
32 subsection C. below.

33 **8. Appeal**

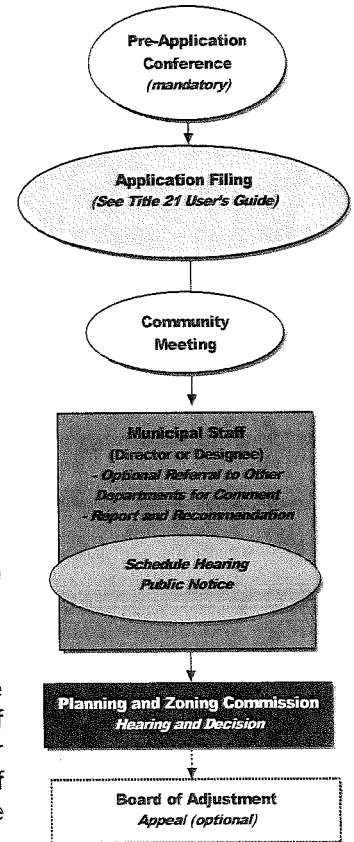
34 Decisions on conditional use approvals may be appealed to the board of
35 adjustment in accordance with subsection 21.03.050A.

36 **C. Approval Criteria**

37 The Planning and Zoning Commission may approve a conditional use application if, in
38 the judgment of the commission, all of the following criteria have been met in all material
39 matters:

40 **1.** The proposed use is consistent with the comprehensive plan and all applicable
41 provisions of this Title and applicable state and federal regulations;

42 **2.** The proposed use is consistent with the purpose and intent of the zoning district
43 in which it is located, including any district-specific standards set forth in chapter
44 21.04;



Conditional Uses

- 1 3. The proposed use is consistent with any applicable use-specific standards set
2 forth in chapter 21.05;
- 3 4. The site size, dimensions, shape, location, and topography are adequate for the
4 needs of the proposed use and any mitigation needed to address potential
5 impacts;
- 6 5. The proposed use will not alter the character of the surrounding area in a manner
7 which substantially limits, impairs, or prevents the use of surrounding properties
8 of the permitted uses listed in the underlying zoning district;
- 9 6. The proposed use is compatible with uses allowed on adjacent properties, in
10 terms of its scale, site design, operating characteristics (hours of operation, traffic
11 generation, lighting, noise, odor, dust, and other external impacts);
- 12 7. Any significant adverse impacts anticipated to result from the use will be
13 mitigated or offset to the maximum extent feasible;
- 14 8. The proposed use is appropriately located with respect to the transportation
15 system, including but not limited to existing and/or planned street designations
16 and improvements, street capacity, access to collectors or arterials, connectivity,
17 off-site parking impacts, transit availability, impacts on pedestrian, bicycle, and
18 transit circulation, and safety for all modes; and
- 19 9. The proposed use is appropriately located with respect to existing and/or planned
20 water supply, fire and police protection, wastewater disposal, storm water
21 disposal, and similar facilities and services.

22 **D. Amendments to Approved Conditional Uses**

- 23 1. **Original Procedure Applies for Most Amendments**
24 Amendment of a conditional use approval shall follow the same process required
25 for the original approval of a conditional use, unless the amendment is
26 determined to be a minor amendment as described in subsection D.2. below.
- 27 2. **Administrative Approval of Minor Amendments**
28 The director may administratively approve minor amendments to any approved
29 conditional use upon written application and documentation by the applicant, and
30 upon the director's determination that the amendment is a minor amendment.
- 31 a. **Procedure**
 - 32 i. Upon receiving a written request from the applicant for a
33 conditional use amendment, the director shall determine if the
34 proposed amendment will be processed as a minor amendment
35 or major amendment. The applicant may appeal the director's
36 decision in writing to the zoning board of examiners and appeals
37 within 10 days of the decision.
 - 38 ii. Immediately following the director's determination that a
39 proposed amendment is minor, the director shall:
 - 40 (A) Issue a minor amendment affidavit, which shall be
41 transmitted to the planning and zoning commission for
42 their information; and
 - 43 (B) Attach a form stating the nature of the modification, date
44 of approval, and bearing the signature of the director to
45 the conditional use on file in the department.

**For public information only.
Copy of consultant's work as submitted in July 2011.**

21.03.090 FLOOD HAZARD PERMITS

A. Applicability

Any use, structure, or activity listed in the floodplain regulations (section 21.04.060D., *Flood Hazard Overlay District*) as requiring a flood hazard permit is prohibited until the issuance of such permit. Applications for flood hazard permits shall be made to the municipal engineer.

B. Application Contents

Any application for a flood hazard permit shall contain the following material:

1. The elevation in relation to mean sea level of the lowest floor, including basement or crawl space, of all structures;
2. The elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 21.04.060D.7., *Construction Requirements (in Flood Hazard Overlay District)*; and
4. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

C. Evaluation; Additional Information

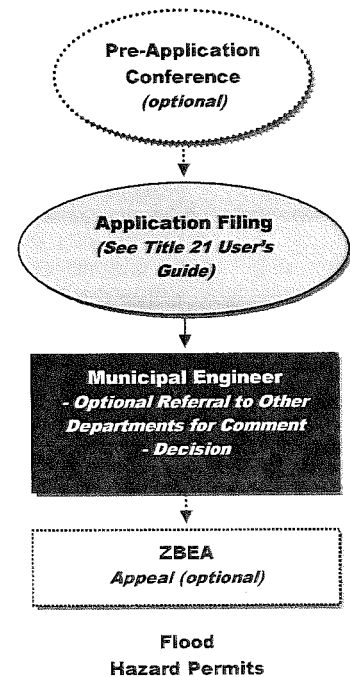
Upon receipt of an application for a flood hazard permit, the municipal engineer shall transmit copies of the application, together with pertinent information, to interested and affected departments and agencies within the municipality, requesting technical assistance in evaluating the proposed application. The municipal engineer may require more detailed information from the applicant where special circumstances necessitate. Such additional information may include:

1. A valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
2. Specification of proposed construction and materials, floodproofing, filling, dredging, grading, channel improvement, water supply, and sanitary facilities.
3. A profile showing the slope of the bottom of the channel or flow line of the stream.
4. A report of soil types and conditions.
5. Analysis of proximity to a dam break area.

D. Criteria for Issuance

Permits shall be issued if the application and supporting material demonstrate that:

1. The proposed use or structure poses a minimal increase in probable flood height or velocities caused by encroachment;



- 1 2. The proposed water supply and sanitation systems and the ability of these
2 systems to prevent disease, contamination, and unsanitary conditions will not be
3 impaired by flooding;
- 4 3. The susceptibility of the proposed facility and its contents to flood damage is
5 minimal;
- 6 4. There will be adequate access to the property in times of flood for ordinary and
7 emergency vehicles;
- 8 5. The proposed use, structure, or activity is in conformance with all applicable land
9 use regulations; and
- 10 6. All necessary floodproofing will be provided.

11 **E. Time for Acting on Application**

12 The municipal engineer shall act on an application in the manner described in this section
13 within 30 days from receiving the application, except that, where additional information is
14 required, the official shall act within 30 days of the receipt of such additional requested
15 information.

16 **F. Notice on Subdivision Plats**

17 Where any portion of a subdivision is situated within a flood hazard district, a note shall
18 be placed on the plat that reads as follows: "Portions of this subdivision are situated
19 within the flood hazard district as it exists on the date hereof. The boundaries of the flood
20 hazard district may be altered from time to time in accordance with the provisions of
21 section 21.04.060D.3., *Creation of Flood Hazard Overlay District; Official Flood Hazard*
22 *Reports and Maps*. All construction activities and any land use within the flood hazard
23 district shall conform to the requirements of section 21.04.060D. *Flood Hazard Overlay*
24 *District*."

25 **G. Appeals**

26 Denial of a flood hazard permit may be appealed to the zoning board of examiners and
27 appeals in accordance with section 21.03.050B.

28 **21.03.100 LAND USE PERMITS**

29 **A.** Applicability The land use permit process assures current and future property owners that
30 the structures and land uses conform to the zoning code. Within the building safety
31 service area, the land use permit also involves plan review and on-site inspections to
32 insure that buildings meet the structural, plumbing, mechanical, electrical, and fire safety
33 codes.

34 **B. Applicability**

35 **1. In the Municipality**

36 In the municipality, a land use permit shall be required prior to:

- 37 a. Construction or placement of a building or addition to an existing building
38 whose floor area is 120 square feet or greater;
- 39 b. Installation of telecommunication towers;
- 40 c. Construction of a fence over eight feet in height;
- 41 d. Excavation of more than 50 cubic yards on any lot or tract;
- 42 e. Filling or grading more than 50 cubic yards on any lot or tract;

- 1 f. Changing the principal use of a building, as defined by "change of use" in
2 chapter 21.14; or
- 3 g. Mechanized land clearing of more than one contiguous acre (chainsaws
4 excluded).

5 **2. Inside Building Safety Service Area**

6 Inside the building safety service area, a building permit shall be considered the
7 land use permit and shall be required in accordance with B. 1. above and Title 23.
8 The issuance of a building permit may also be subject to the improvement
9 requirements referenced in subsection E. below.

10 **C. Procedures**

11 **1. Application Submittal**

12 Applications for land use permits shall be submitted to the building official on the
13 form provided.

14 **2. Approval Procedure**

- 15 a. The building official shall review each application for a land use permit.
- 16 b. The building official shall determine whether the application complies
17 with all requirements of Title 23. The director shall determine whether
18 the application complies with all requirements of Title 21, and shall
19 inform the building official of his or her determination.
- 20 c. The building official shall issue a land use permit upon finding that the
21 application and the proposed work complies with the approval criteria of
22 subsection D. below.
- 23 d. A land use permit shall become null and void unless the work approved
24 by the permit is commenced (see "start of construction" in chapter 21.14)
25 within 12 months after the date of issuance. If after start of construction
26 the work is discontinued for a period of 12 months, the permit therefore
27 shall immediately expire. No work authorized by any permit that has
28 expired shall thereafter be performed until a permit has been reinstated,
29 or until a new permit has been secured.

30 **3. Changes to Approved Permits**

- 31 a. After a land use permit has been issued, no substantial changes or
32 deviations from the terms of the permit or the application and
33 accompanying plans and specifications shall be made without the
34 specific written approval of such changes or deviations by the building
35 official.
- 36 b. An amendment to a land use permit that requires payment of an
37 additional fee, either because of an increase in the size of the buildings,
38 a change in the scope of work, or an increase in the estimated cost of
39 the proposed work, shall not be approved until the applicant has paid the
40 additional fees and the amendment has been properly reviewed and
41 approved for conformance with applicable codes.

42 **4. Revocation of Land Use Permit**

43 The issuing department may revoke and require the return of any land use permit
44 by notifying the permit holder in writing, stating the reason for such revocation.
45 The issuing department shall revoke land use permits for any of the following
46 reasons:

- 1 a. Any material departure from the approved application, plans, or
2 specifications;
- 3 b. Refusal or failure to comply with the requirements of this Title or any
4 other applicable state or local laws;
- 5 c. False statements or misrepresentations made in securing such permit.

6 **5. Appeals**

- 7 a. Denials or revocations of a land use permit relating to Title 21
8 compliance, with the exception of those relating to subsection
9 21.03.100E, may be appealed to the zoning board of examiners and
10 appeals in accordance with subsection 21.03.050B.
- 11 b. Denials or revocations of a land use permit relating to Title 23
12 compliance may be appealed to the building board of examiners and
13 appeals.

14 **D. Approval Criteria**

15 No land use permit shall be issued unless the building official determines that all required
16 approvals have been granted and the plans comply with all applicable provisions of Title
17 23, and the director determines the plans comply with all applicable provisions of this
18 Title.

19 **21.03.110 MASTER PLANNING**

20 **A. Purpose**

21 The institutional master plan review process provides a framework for development of
22 large institutions, such as hospitals and universities, that control large land areas within
23 the municipality, and are a source of substantial employment, and that may contain a
24 greater density of development than surrounding areas. An institutional master plan is
25 intended to permit flexibility for a large institution to have greater control over its own land
26 use decisions, while providing a level of understanding to the surrounding community
27 about the potential growth of the institution and the resultant impacts, and to the
28 municipality about the public infrastructures and services that may be necessary to serve
29 the planning area and adjacent neighborhoods. The process is specifically intended to:

- 30 1. Provide flexibility to institutions to carry out long-range building programs in
31 accord with the institutional mission and objectives;
- 32 2. Provide a growing and continuing source of employment for the municipality that
33 is easily accessible and well-integrated with surrounding neighborhoods and the
34 local transportation system;
- 35 3. Create attractive and efficient urban areas that incorporate quality design and
36 urban amenities;
- 37 4. Protect sensitive portions of the natural environment that are potentially affected
38 by institutional development; and
- 39 5. Consider the impacts of institutional development on adjacent neighborhoods.

40 **B. Applicability**

41 An institutional master plan may be submitted and approved, in accordance with the
42 procedures of this section, for any multi-building development site of 25 contiguous acres
43 or more in common ownership in any zoning district or combination of districts. The
44 process provides an alternative to the procedures and development and design

1 standards of this Title for institutions seeking to develop large, complex sites with multiple
2 buildings and uses following a contextually aesthetic design theme.

3 **C. Institutional Master Plan Requirements**

4 **1. Planning Area**

5 The planning area for the institutional master plan shall include all the areas that
6 are under the ownership and control of the institution, and for which the institution
7 wishes to establish independent design and development standards under this
8 section.

9 **2. Submittal Requirements**

10 An institutional master plan shall, at a minimum, include the following information
11 Specific requirements for the full institutional master plan shall be determined by
12 the director following the pre-application conference.

13 **a. Boundaries**

14 At least one aerial photograph taken during the three-year period
15 preceding submittal of the institutional master plan shall be submitted
16 under this section. The aerial photo or some other map shall depict
17 existing zoning districts and surrounding properties within 1,000 feet of
18 the planning area boundaries.

19 **b. Mission and Objectives**

20 The institutional master plan shall include a statement that defines the
21 organizational mission and objectives of the institution and description of
22 how development contemplated or defined by the institutional master
23 plan advances the goals and objectives of the institution. The statement
24 should describe the number of people being served by the institution on
25 the site, the number of people employed on the site, and the maximum
26 number of people present on the site for any single event or activity. The
27 statement should include any projected changes in the size of those
28 populations, and how such projections were calculated. It should also
29 specify any services to be provided to residents in adjacent
30 neighborhoods and in other areas of the municipality.

31 **c. Existing Property and Uses**

32 The institutional master plan shall include a description of land, buildings,
33 and other structures owned or occupied by the institution within the
34 planning area boundaries as of the date of submittal of the institutional
35 master plan. The following information shall be required:

36 **i.** Illustrative site plans showing the footprints of each building and
37 structure, together with roads, sidewalks, parking, landscape
38 features, and other significant site improvements;

39 **ii.** Land and building uses;

40 **iii.** Gross floor area in square feet of each individual building;

41 **iv.** Building height in stories and feet of each individual building; and

42 **v.** A description of parking and loading areas and facilities,
43 including a statement of the approximate number of parking
44 spaces in each area or facility.

45 **d. Needs of the Institution**

46 The institutional master plan shall include a summary and projection of
47 the institution's current and future land use needs within the planning

- 1 area boundaries, such as, but not limited to, the following types of
2 facilities:
- 3 i. Academic
 - 4 ii. Support services
 - 5 iii. Research
 - 6 iv. Office
 - 7 v. Housing
 - 8 vi. Patient care
 - 9 vii. Assembly for public events, worship, cultural events, and the like
 - 10 viii. Recreation and athletics
 - 11 ix. Transit
 - 12 x. Parking
 - 13 xi. Commercial spaces, not including concessionaire space that is
14 intended to serve the institutional community
- 15 e. **Ten-Year Development Envelope**
16 The institutional master plan shall include a description of the
17 development expected to occur within the planning area boundaries
18 within a 10-year time frame. The 10-year development description shall
19 be the maximum amount of development proposed by the institution
20 based on anticipated changes in total population and programs. The 10-
21 year development description shall include the following:
- 22 i. General location of the institution's needs (as listed in 2.d.
23 above) in potential development areas as depicted on a site
24 functional use map;
 - 25 ii. Estimated total square footage of anticipated development in
26 each development area.
- 27 f. **Development and Design Standards**
28 The institutional master plan shall include the elements listed below.
29 These elements may set different standards than those found in Title 21.
30 The plan shall list the specific sections of Title 21 for which different
31 standards are to be established by the master plan, and provide rationale
32 for any different standards proposed. Where different standards are
33 approved in the institutional master plan, those standards shall be
34 applied instead of the corresponding standards in Title 21.
- 35 i. ***Borders and Boundaries***
36 Treatment along public rights-of-way and boundaries with other
37 landowners, with regard to building setbacks and landscape
38 buffers.
 - 39 ii. ***Transportation and Parking Management***
40 A transportation and parking management plan including how
41 additional parking demand and transit will be accommodated
42 within the planning area.

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- iii. **Natural Resource Protection**
Identification of sensitive natural resources, including but not limited to wetlands and flood plain delineation maps, within the planning area, and the institution's plans for maintaining or mitigating impacts on those sensitive areas. The institutional master plan shall not reduce or otherwise weaken the natural resource protection standards of section 21.07.020.
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- iv. **Open Space and Pedestrian Circulation**
Open space and pedestrian circulation guidelines and objectives, including a description of the circulation system to be provided through the planning area, plans for ensuring the accessibility of pedestrian areas and open spaces, and links to surrounding community open space, where appropriate.
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- v. **Site and Building Design Standards**
Institutional design standards and objectives, identified through written and graphic materials, that address the following issues:
- (A) Dimensional standards for building setbacks, height, and lot coverage
 - (B) Site design and circulation
 - (C) Landscaping and site amenities
 - (D) Building orientation
 - (E) Building massing and articulation
 - (F) Building sustainability
 - (G) Northern climate design
- 27
28
29
- vi. **Wayfinding and Signage**
A wayfinding and signage plan including building, vehicular, and pedestrian signage.
- 30
31
- vii. **Timing**
A conceptual development schedule and phasing plan.
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- g. **Twenty Year Development Areas**
The institutional master plan shall include written and graphic materials identifying future development areas beyond those noted in the 10-year development description. This information shall include, at a minimum, the general location and approximate scale of anticipated development that may occur within a 20 year period.

38 **D. Residential Planned Unit Development**

39 **1. Intent and Approval**

40 A residential planned unit development (PUD) is intended to allow flexibility for
41 residential development in the zoning ordinance and to achieve the creation of a
42 more desirable environment than would be possible through a strict application of
43 this provision Title. The Planning and Zoning Commission shall evaluate the
44 proposed planned unit development in accordance with the following additional
45 criteria:

- 1 a. Creative use of the land, imaginative architectural design, a consolidation
2 of usable open space and recreation areas, and the preservation of
3 natural features.
- 4 b. The mixing of compatible land uses, residential densities, and housing
5 types within the neighborhood.
- 6 c. The efficiency of the configuration of utilities, vehicular circulation, and
7 parking facilities.
- 8 d. Enhancing the surrounding environment.
- 9 e. Maintaining population densities and lot coverage that are consistent
10 with available public services.

11 **2. Minimum Standards**

12 All planned unit developments shall meet the following minimum standards. In
13 addition, the Planning and Zoning Commission may require compliance with
14 such other design standards relating to the construction, design, and placement
15 of buildings, landscaping, streets, roadways, walkways, drainageways, and other
16 site design features as it may deem necessary. The Users' Guide may include
17 guidelines to assist developers in meeting such standards.

18 a. **Minimum Site Area**

19 The minimum site area for a PUD shall be 2.0 acres for PUDs located
20 entirely in the R-2F, R-2M, R-3, and R-4 zoning districts. If any portion of
21 a proposed PUD is located within the R-1, R-1A, R-2A, R-2D, R-5, R-7,
22 GR-1, GR-2, GR-2A, GR-3, GR-4, or GR-5 zoning districts, the minimum
23 site area shall be 5.0 acres. If any portion of a proposed PUD is located
24 within the R-6, R-8, or R-9 zoning districts, the minimum site area shall
25 be 10 acres.

26 b. **Open Space**

27 A minimum of 20 percent of the site shall be reserved as open space
28 which shall meet the following standards:

- 29 i. At least one-half of such open space shall be contiguous;
- 30 ii. The open space shall not include public or private streets or
31 rights of way; parking facilities, driveways, other motor vehicle
32 circulation areas, loading areas, or refuse collection areas;
33 slopes over 15 percent; 50 percent of drainage easements,
34 ditches, swales, or other areas intended to collect and channel
35 water; and
- 36 iii. In multistory buildings, balconies or decks may be used in lieu of
37 individual yards provided that the total area of all balconies or
38 decks is not less than the total yard area otherwise required.

39 c. **Design**

- 40 i. Any nonresidential use permitted in a PUD shall be compatible
41 with the residential nature of the development. Parking areas
42 which are intended to serve nonresidential uses shall be
43 separated from those designed to serve residential areas.
44 Unless nonresidential and residential uses are combined within a
45 single structure, nonresidential uses shall be separated from
46 dwelling units by L2 buffer landscaping.

- 1 ii. Pedestrian walkways shall connect residential and nonresidential
- 2 uses within a PUD.

- 3 iii. Level 3 buffer landscaping shall be planted along each boundary
- 4 of the PUD adjacent to a residential district or a right-of-way
- 5 designated for collector or greater capacity on the *Official Streets*
- 6 *And Highways Plan*.

- 7 iv. Common open space with L3 screening landscaping shall be
- 8 provided along any lot line abutting a residential neighborhood
- 9 where any abutting lot is greater than 150 percent of the average
- 10 lot size along that lot line of the PUD.

- 11 v. Each dwelling unit shall be provided with either heated parking,
- 12 or at least one electrical outlet that is convenient to the required
- 13 parking space(s).

- 14
- 15 d. **Access and Connectivity**
- 16 PUDs shall comply with section 21.07.060, *Transportation and*
- 17 *Connectivity*.

- 18 e. **Utility Installation**
- 19 All new utilities shall be installed underground.

- 20 f. **Homeowners' Agreements**
- 21 Any PUD which will involve the formation of a horizontal property regime
- 22 under the terms of AS 34.07.010 et seq. or any mandatory homeowners'
- 23 or similar association shall submit for review by the commission the
- 24 articles of incorporation and bylaws of any such association prior to the
- 25 sale of any property subject to the association. The commission may
- 26 require any provisions necessary to ensure that the provisions and intent
- 27 of this Title are met.

28 3. **Development Options**

29 The following provisions allow the developer of the PUD to propose changes

30 from the provisions of the underlying zoning district with regard to density,

31 allowed uses, and dimensional standards. The extent of the changes to the

32 standards shall be determined by the Planning and Zoning Commission in

33 accordance with the approval criteria of subsection F.1. above.

34 a. **Density**

35 The number of dwelling units per acre allowable on the gross area of a

36 PUD shall be determined by the Planning and Zoning Commission.

37 However, in no event shall the number of dwelling units per acre exceed

38 the maximums established by the following schedule:

TABLE 21.03-2	
Zoning District	Dwelling Units per Acre (gross area)
R-1 and R-5	8
R-1A	6
R-2A	12
R-2D	15
R-2F and R-2M	22

TABLE 21.03-2	
Zoning District	Dwelling Units per Acre (gross area)
R-3	55
R-4	110
R-6	2
R-7	4.5
R-8	0.5
R-9	1.0
GR districts	As determined by the Planning and Zoning Commission

b. Uses

The applicant may propose any residential use, and in class A zoning districts, may propose any commercial use that is allowed in the R-4 district in table 21.05-1. A PUD may not include the storage or use of mobile homes or quonset huts. Any nonresidential use must be specifically authorized as to its exact location, type, and size. In no event shall the total gross floor area of all nonresidential uses exceed 10 percent of the total gross floor area of the PUD.

c. Dimensional Standards

i. Height limitations in the R-1, R-1A, R-2A, R-2D, R-2F, R-2M, R-6, R-7, R-8, R-9, GR-1, GR-2, GR-2A, GR-3, GR-4, or GR-5 zoning districts may be exceeded by an additional five feet. Height limitations in the R-3 and R-4 districts may be exceeded by an additional 10 feet.

ii. The applicant may propose changes to minimum lot area, maximum lot coverage, and minimum setbacks for the PUD.

4. Planned Unit Developments in the Turnagain Arm District

PUDs in the TA district shall conform, with regard to uses and residential density, to the land use plans of the *Turnagain Arm Area Plan* and the standards of this section.

E. Business-Industrial Park Planned Unit Development

1. Intent and Approval

A business-industrial park planned unit development (BIP-PUD) is intended to provide comprehensively planned commercial-industrial developments that are compatible with surrounding areas. BIP-PUD developments should have integrated, campus-style site plans designed to accommodate a variety of public/institutional, commercial, and industrial uses. High standards for architecture, landscaping, and site planning are encouraged. The Planning and Zoning Commission shall evaluate the proposed planned unit development in accordance with the conditional use approval criteria at C. above.

2. Zoning District

A BIP-PUD is allowed only in the B-3 district. Business-industrial parks existing on [effective date] in other zoning districts shall be considered conforming in those districts.

3. Allowed Uses

a. In addition to the uses allowed in the B-3 district, a developer may propose to include the following industrial uses in a BIP-PUD: General

1 Industrial Service; Governmental Service; Manufacturing, Light;
2 Warehouse; Wholesale Establishment.

3 b. For initial uses proposed in the BIP-PUD that require a conditional use
4 approval, the conditional use application(s) may be combined with the
5 BIP-PUD conditional use and treated as one application and approval
6 process.

7 **4. Development Agreement**

8 The developer shall enter into a development agreement with the project
9 management and engineering department, using the provisions established in
10 subsection 21.03.100E., *Improvements Associated with Land Use Permits*.

11 **5. Minimum Standards**

12 All BIP-PUDs shall meet the following minimum standards, in addition to the
13 applicable standards of this Title. The Planning and Zoning Commission may
14 apply additional standards as it may deem necessary to meet the approval
15 criteria.

16 a. The minimum site area for a BIP-PUD is seven acres.

17 b. In keeping with a campus-style site plan, the number of access points to
18 the BIP-PUD shall be limited to only what is necessary, as determined by
19 the traffic engineer.

20 c. Pedestrian walkways shall be provided to streets abutting the BIP-PUD.
21 All transit stops abutting a BIP-PUD shall be connected to the internal
22 street/sidewalk system by a pedestrian walkway. Abutting streets
23 without any transit stops shall have at least one pedestrian walkway
24 connection with the BIP-PUD.

25 d. L3 buffer landscaping shall be provided along the exterior lot lines of the
26 BIP-PUD.

27 e. A BIP-PUD shall have a defined internal street system, which shall have
28 pedestrian facilities and landscaping in accordance with the provisions of
29 this Title. Streets shall allow vehicles to travel into and within the
30 development. Driveways shall access parking areas.

31 f. Except for stand-alone restaurants located along an outside edge of a
32 BIP-PUD, all buildings shall have a common architectural character
33 utilizing similar materials. The standards of 21.07.130 shall not apply.

34 g. Maximum individual building footprint shall be 30,000 square feet.

35 h. The uses in the entire BIP-PUD may aggregate their parking as long as
36 the following standards are met:

37 i. Required parking for each use shall be located no farther than
38 800 feet from the primary entrance of the use;

39 ii. Relatively direct pedestrian pathways shall be available from
40 required parking to each use;

41 iii. At no time shall the aggregate of the required parking of all uses
42 in the BIP-PUD exceed the total number of parking spaces
43 provided.

- 1 i. Loading areas and refuse collection areas shall be internal to the site
2 and not located between any building and any BIP-PUD exterior lot line.
- 3 j. The maximum floor area devoted to retail sales uses shall not exceed 35
4 percent of the total gross building area of the entire development.
- 5 k. Outdoor storage and display is prohibited.
6

7 **F. Procedures for Master Plan Approval**

8 **1. Initiation**

9 An application for approval of an institutional master plan shall be initiated by the
10 owner or managing agent of the subject property.

11 **2. Pre-Application Conference**

12 Before filing an application, an applicant shall request a pre-application
13 conference with the director. See section 21.03.020B.

14 **3. Community Meeting**

15 A Community council meeting is required in accordance with subsection
16 21.03.020C.

17 **4. Application Submittal**

18 Applications for institutional master plan approval shall contain all information
19 and supporting materials specified in the Title 21 Users' Guide and in subsection
20 C.2. above, and shall be submitted to the director on a form provided by the
21 department. The director may require the submittal of such other information as
22 may be necessary to permit the informed exercise of judgment under the criteria
23 for the review of the plan, as set out in subsection E. below.

24 **5. Departmental Review**

25 The department shall review the proposed institutional master plan in light of the
26 approval criteria set forth in subsection E. below, and shall distribute the
27 application to other reviewers as deemed necessary. Based on the results of
28 those reviews, the department shall provide a report to the Planning and Zoning
29 Commission.

30 **6. Public Notice**

31 Notice shall be provided in accordance with section 21.03.020H.

32 **7. Planning and Zoning Commission Action**

33 **a.** The Planning and Zoning Commission shall hold a public hearing on the
34 proposed institutional master plan and, at the close of the hearing,
35 recommend that the assembly approve the plan as submitted, approve
36 the plan subject to conditions or modifications, or deny the plan, based
37 on the approval criteria of subsection E. below.

38 **b.** If the Planning and Zoning Commission recommends that the assembly
39 approve a plan as submitted or with conditions or modifications, within 60
40 days of the commission's action the director shall forward the
41 recommendation to the assembly.

42 **c.** If the Planning and Zoning Commission recommends denial of a plan,
43 that action is final unless, within 20 days of the commission's action, the
44 applicant files a written statement with the municipal clerk requesting that
45 the proposed institutional master plan be submitted to the assembly.

- 1 **8. Assembly Action**
2 The assembly shall hold a public hearing on the proposed institutional master
3 plan. At the close of the hearing, taking into account the recommendations of the
4 director and the Planning and Zoning Commission, any public comment, and
5 based on the approval criteria of subsection E. below, the assembly shall, within
6 90 days, approve the plan, approve the plan with modifications or conditions,
7 deny the plan, or refer the plan back to the Planning and Zoning Commission.
- 8 **9. Approval of Final Institutional Master Plan**
9 **a.** The approval of an institutional master plan expires 12 months after the
10 date of approval by the assembly unless, before the approval expires,
11 the applicant files the final institutional master plan, including any
12 modifications or conditions required by the assembly, with the director.
- 13 **b.** The director shall certify the final institutional master plan within 60 days
14 of filing by the applicant, or if the plan is not in compliance with the
15 assembly's approval, the director shall issue a detailed list of reasons
16 and recommended amendments to the final institutional master plan to
17 achieve compliance.
- 18 **c.** Until the approval of an institutional master plan by the assembly and the
19 filing by the applicant of a final institutional master plan accepting the
20 modifications or conditions required by the assembly, the affected
21 institutional shall continue to be governed solely by the provisions of Title
22 21 other than this section.
- 23 **G. Approval Criteria**
24 An institutional master plan may be approved if the assembly finds that it is consistent
25 with the comprehensive plan and will achieve the following:
- 26 **1.** Provides flexibility to the institution to plan and implement long-range
27 development programs to achieve its institutional mission and objectives;
- 28 **2.** Facilitates the continuation of the institution as a major source of service and
29 employment that is easily accessible and well integrated with surrounding
30 neighborhoods and the public transportation system;
- 31 **3.** Ensures that institutional facilities, especially those that are publicly funded, are
32 well designed and constructed, include urban amenities, and are efficient to
33 operate over their life-cycles;
- 34 **4.** Protects and mitigates effects of development on sensitive portions of the natural
35 environment; and
- 36 **5.** Recognizes and addresses potential significant adverse impacts of institutional
37 development on adjacent built environments, neighborhoods, and the community
38 at large.
- 39 **H. Compliance with Institutional Master Plan**
40 **1.** Projects developed under the auspices of an approved institutional master plan
41 are exempt from the review and approval procedures required in table 21.05-2.
- 42 **2.** Before a building permit or land use permit is issued for any project within an
43 area covered by an approved institutional master plan, the director shall certify
44 that the proposed project is consistent with the approved institutional master
45 plan. The applicant shall submit a request for certification of consistency on a
46 form provided by the department.

- 1 3. Such a certification shall be found if the proposed project is consistent or
2 substantially consistent with the approved institutional master plan, or if the
3 project is found to be not consistent with the approved institutional master plan,
4 but the director finds the proposed project creates minimal impact according to
5 the following criteria:
- 6 a. Not more than 25 percent of the proposed project is located outside the
7 development areas depicted on the site functional use map;
- 8 b. The proposed project does not result in the addition of more than 10
9 percent additional square footage on a cumulative basis to the estimated
10 total square footage of the affected site functional use category;
- 11 c. The project does not result in the creation of or the need for additional
12 parking beyond that covered in the approved transportation and parking
13 management element; and
- 14 d. The project does not result in the coverage of more than 25,000 square
15 feet of site area.
- 16 4. A certification of consistency, finding of inconsistency, or finding of consistency
17 subject to conditions, shall be issued within 45 days of receipt of an application
18 for such certification.
- 19 5. If the director finds that a project is not consistent with the approved institutional
20 master plan, the director shall issue a detailed list of reasons and recommended
21 actions to achieve compliance.
- 22 6. The director may issue a finding of inconsistency, or a finding of consistency
23 subject to conditions, only where the director finds that the matters resulting in
24 the inconsistency, or the conditions to which the certification is made subject, are
25 required by specific terms of the approved institutional master plan or any
26 applicable Title 21 provisions.
- 27 7. The director's decision may be appealed to the Planning and Zoning
28 Commission.
- 29 I. **Modifications to Approved Institutional Master Plans**
- 30 1. **Minor Amendments**
31 The director may administratively approve amendments to an approved
32 institutional master plan upon written application, unless the assembly
33 determines the amendment is a major amendment. Minor amendments are
34 defined generally as modifications to approved plans that do not affect land use
35 or density in ways that would have significant adverse impacts on public facilities,
36 utilities, traffic circulation, or other major infrastructure systems; or on
37 surrounding neighborhoods or development.
- 38 2. **Major Amendments**
39 Major amendments of an approved institutional master plan shall follow the same
40 process required for the original approval of an institutional master plan.
- 41

1 **21.03.120 MINOR MODIFICATIONS**

2 **A. Purpose and Scope**

3 This section sets out the required review and approval procedures for "minor
4 modifications," which are minor deviations from otherwise applicable standards that may
5 be approved by the director, the Planning and Zoning Commission, or the Platting Board.
6 Minor modifications are to be used when the small size of the modification requested,
7 and the unlikelihood of any adverse effects on nearby properties or the neighborhood,
8 make it unnecessary to complete a formal variance process.

9 **B. Applicability**

10 **1. Minor Modifications to General Development and Zoning District Standards**

11 As part of the review and approval of any procedure set forth in this chapter, the
12 director, the Planning and Zoning Commission, the Urban Design Commission or
13 the Platting Board may approve minor modifications of up to a maximum of five
14 percent from the following general development and zoning district standards
15 provided that the approval criteria of subsection D. below are met.

- 16 a. Minimum lot area or setback requirements set forth in chapter 21.06,
17 *Dimensional Standards and Measurements*;
- 18 b. General development standards set forth in chapter 21.07, *Development*
19 *and Design Standards*;
- 20 c. A deviation from the district-specific standards set forth in chapter 21.04,
21 *Zoning Districts*;
- 22 d. The dimensional standards, site development and design standards, and
23 building design standards set forth in chapter 21.09, *Girdwood Land Use*
24 *Regulations* (sections 21.09.060, 21.09.070, and 21.09.080).

25 **2. Exceptions to Authority to Grant Minor Modifications**

26 In no circumstance shall any decision-making body approve a minor modification
27 that results in:

- 28 a. An increase in overall project density unless permitted in this Title;
- 29 b. A change in permitted uses or mix of uses;
- 30 c. the use-specific standards set forth in chapter 21.05, *Use Regulations*; or
- 31 d. A change in conditions attached to the approval of any subdivision plan
32 (section 21.03.200), site plan (section 21.03.180), conditional use
33 (section 21.03.080), or rezone (special limitation) (section 21.03.160).

34 **C. Procedure**

35 **1. Limitation on Minor Modifications**

- 36 a. An applicant may request application of the minor modification process
37 to his or her development only once during the review process.
- 38 b. In no instance may an applicant use the minor modification process to
39 obtain approval for adjustments to more than four standards applicable
40 to the same development.

41 **2. Minor Modifications Approved by Director**

42 For uses allowed by-right or when he or she is the decision-maker, the director
43 may approve a minor modification allowed under this section at any time prior to
44 final decision.

1 3. **Minor Modifications Approved by Planning and Zoning Commission, the**
2 **Urban Design Commission or the Platting Board**
3 The Planning and Zoning Commission, the Urban Design Commission or Platting
4 Board may approve a minor modification allowed under this section at any time
5 before taking action on a development application.

6 4. **Written Findings Noted on Pending Application**
7 Staff shall specify in writing any approved minor modifications and the finding
8 supporting such modifications on the pending development application for which
9 the modifications were sought, which shall be included as part of the case record.

10 5. **Appeals**
11 Denial of a minor modification may be appealed to the same body as an appeal
12 of the underlying approval process. For instance, denial of a minor modification
13 in a conditional use application may be appealed to the board of adjustment, as
14 the board of adjustment hears appeals of conditional use approvals. Denial of a
15 minor modification associated with a permitted use may be appealed to the
16 zoning board of examiners and appeals.

17 D. **Approval Criteria**

18 The decision-making body may approve the minor modification only if it finds that the
19 modification meets all of the criteria below:

- 20 1. The requested modification is not significantly inconsistent with this Title;
- 21
- 22 2. The requested modification substantially complies with other applicable building
23 and safety codes;
- 24
- 25 3. The requested modification does not encroach into a recorded easement;
- 26
- 27 4. The requested modification will have no significant adverse impact on the health,
28 safety, or general welfare of surrounding property owners or the general public,
29 or such impacts will be substantially mitigated; and
- 30
- 31 5. The requested modification is necessary to either: (a) compensate for some
32 practical difficulty or some unusual aspect of the site of the proposed
33 development not shared by landowners in general; or (b) accommodate an
34 alternative or innovative design practice that achieves to the same or better
35 degree the objective of the existing design standard to be modified. In
36 determining if "practical difficulty" exists, the factors set forth in section
37 21.03.240G., *Approval Criteria (for Variances)* shall be considered.
- 38

39 **21.03.130 NEIGHBORHOOD OR DISTRICT PLANS**

40 A. **Purpose and Authority**

41 1. **Purpose**

42 a. The purpose of this section is to allow and facilitate the development of
43 neighborhood or district plans by citizen groups that are approved by the
44 assembly. Neighborhood and district plans that are developed by local
45 government are not subject to this section, but rather follow the process
46 of section 21.03.070C., *Comprehensive Plan Amendments, Substantive*.

47 b. Neighborhood or district plans shall be guided by the elements of the
48 comprehensive plan, as defined in section 21.01.080. Neighborhood or
49 district plans should give specificity to the goals, objectives, policies, and
50 strategies of the comprehensive plan. These plans shall supplement and

1 elaborate on the comprehensive plan. The goal of a neighborhood or
2 district plan is to protect and promote the positive elements of
3 neighborhood or district character and identity, while promoting the
4 orderly growth, improvement, and future development of the
5 neighborhood, community, or municipality.

6 **2. Authority**

7 a. These procedures and minimum standards are established for the
8 creation and review of plans for the development, growth, and
9 improvement of the municipality, and its neighborhoods and
10 communities. The plans may be sponsored, upon express approval of
11 the assembly by resolution, by any group or organization representing
12 the broad public interest, upon express approval by assembly resolution
13 (hereafter called the "sponsor").

14 b. In order to obtain the approval of the assembly as a sponsor, any
15 community council, group of councils, or other groups or organizations
16 shall request a resolution from the assembly authorizing them to proceed
17 with the development of a neighborhood or district plan. The group shall
18 demonstrate, to the reasonable satisfaction of a majority of the
19 assembly, that

20 i. They represent the broad public interest necessary to
21 successfully develop a plan;

22 ii. They have read and understand the requirements of this
23 ordinance, and that their proposed plan will comply with the
24 standards set forth in this ordinance; and

25 iii. They have sufficient financial resources and a sufficient level of
26 knowledge and expertise to warrant the expenditure of public
27 resources as provided herein.

28 **3. Policy Guidance**

29 An adopted plan shall be an element of the comprehensive plan and shall serve
30 as a policy to guide subsequent actions by municipal agencies. The assembly
31 and the Planning and Zoning Commission shall consider adopted plans in review
32 of land use, zoning actions, and capital improvement programs, where
33 consideration is consistent with the charter, the comprehensive plan, and general
34 law. Agencies shall consider adopted neighborhood or district plans as guidance
35 for actions, whether or not actions are subject to commission review. The
36 existence of an adopted neighborhood or district plan shall not preclude the
37 assembly, any municipal department or agency, or any board or commission of
38 the municipality from developing other plans or taking actions not contemplated
39 in the neighborhood or district plan affecting the same geographic area or subject
40 matter.

41 **B. Plan Submittal**

42 **1. Initiation Meeting**

43 The sponsor of a plan shall meet with the department at the initiation of the
44 planning process to discuss and clarify content requirements, scheduling, and
45 other relevant issues. Periodically, the department shall report to the
46 commission, and to the assembly by an assembly information memorandum
47 (AIM) requiring no further action, on the progress of neighborhood or district
48 plans underway.

1 **2. Work Program**
2 Following the initiation meeting, the sponsor shall prepare a work program which
3 shall be submitted to the department for approval. The work program shall
4 include a project schedule, a proposed table of contents, a proposed public
5 participation plan, and at least three milestones at which times the sponsor shall
6 meet with the department.

7 **3. Submittal**
8 Twenty-two printed copies along with an electronic version of all proposed plans
9 shall be submitted to the department. The submittal shall include the name(s)
10 and address(es) of the person(s) designated by the sponsor to be its
11 representative(s) in any discussions of the plan.

12 **C. Threshold Review and Determination**

13 **1. Department Review and Determination**
14 Within 90 days of the submittal of a plan, the department shall review the plan
15 and determine whether the plan meets the standards for form, content, and for
16 consistency with sound planning, as set forth in subsection D. below.

17 **a.** If the department determines that the plan does meet the threshold
18 standards of subsection D., the department shall distribute the plan for
19 public review and commission public hearing as described in subsection
20 E.

21 **b.** If the department determines the plan does not meet the threshold
22 standards of subsection D., the staff shall provide written notification to
23 the sponsor of all deficiencies with respect to form, content, process, and
24 any changes, additions, or deletions which, in the opinion of staff, may
25 correct such deficiencies.
26

27 **2. Coordination of Plan Review**
28 The department may determine, despite a finding of appropriate form, content,
29 and sound planning policy, a proposed plan should not immediately proceed, due
30 to other municipal planning efforts underway which should be coordinated with
31 the plan. In such a case, the department shall develop an appropriate timetable
32 for distributing the plan for public review and commission public hearings.
33

34 **D. Standards**

35 **1. Form and Content**
36 The form and content of all proposed plans shall be consistent with the following:

37 **a.** The plan shall state its sponsoring entity or entities and the names of the
38 individuals who participated in the development of the plan.

39 **b.** A plan shall enhance or implement goals, objectives, policies, and/or
40 strategies of the comprehensive plan and provide further detail and
41 specificity. A plan may take the form of a master plan or targeted plan.

42 **i.** A master plan for a neighborhood, district, or other geographic
43 area of the municipality may combine elements related to
44 housing, industrial and commercial uses, transportation, land use
45 regulation, open space, recreation, cultural features, health,
46 economic vitality, community facilities, and other infrastructure.

47 **ii.** A targeted plan may consider one or a small number of elements
48 of neighborhood, district, or municipal-wide problems or needs,

- 1 and shall focus on issues related to the use, development, and
2 improvement of land within the plan study area.
- 3 c. A plan shall not be limited to a single zoning district or a specific parcel in
4 private ownership. A plan shall cover an identifiable, cohesive
5 geographic area or neighborhood.
- 6 d. Plans shall be presented in clear language and coherent form with
7 elements, chapters, or sections organized in logical sequence.
- 8 e. Plans shall state goals, objectives, or purposes clearly and succinctly.
9 Policy statements or recommendations shall contain documentation and
10 explanation of the data, analysis, or rationale underlying each. Plans
11 shall analyze and propose policies to address identified problems.
- 12 f. A plan shall contain, as applicable:
- 13 i. Inventories or description and analysis of existing conditions,
14 problems, or needs; projections of future conditions, problems, or
15 needs; and recommended goals and strategies to address those
16 conditions, problems, or needs.
- 17 ii. Alternatively, or concomitantly with the elements described
18 above, a plan may also contain a vision for a future end state
19 and a strategy(ies) for achieving it.
- 20 iii. The level of detail and analysis shall be appropriate to the goals
21 and recommendations presented in the plan. The information
22 and analysis relied upon to support the recommendations shall
23 be sufficiently identified to facilitate later plan review, including
24 accuracy and validity of the information and analysis. Supporting
25 information may be contained in the form of narrative, maps,
26 charts, tables, technical appendices, or the like.
- 27 g. A plan shall contain a land use plan map for the geographic area
28 encompassed by the plan. The land use plan map shall propose
29 appropriate land use categories, which generally include: residential,
30 commercial, industrial, institutional, transportation, community facilities,
31 parks, and natural open space. The land use plan map may provide
32 more specificity than the general categories.
- 33 h. Plans shall be accompanied by documentation showing public
34 participation in the plan formulation and preparation. Public outreach,
35 such as surveys, workshops, hearings, or technical advisory committees,
36 is recommended as a tool for community support and consensus, in
37 addition to department, commission, and assembly approval.
- 38 2. **Sound Planning Policy**
- 39 a. Every plan, regardless of form and content, shall include discussion of:
- 40 i. Its long-range consequences
- 41 ii. Impact on economic and housing opportunity for all persons,
42 particularly low- and moderate-income, and persons with
43 disabilities
- 44 iii. Provision of future growth and development opportunities
- 45 iv. Ability to improve the physical environment

- 1 v. Effect on the geographic distribution of municipal facilities
- 2 b. A plan shall set forth goals, objectives, purposes, policies, strategies,
3 and/or recommendations within the legal authority of the municipality.
- 4 c. A plan considering issues under the jurisdiction of specific municipal or
5 state agencies shall disclose all agency comments.
- 6 d. A plan shall analyze its relationship to applicable policy documents,
7 including all adopted elements of the comprehensive plan, as well as its
8 relationship to adjoining neighborhoods and other areas.
- 9 e. A plan shall solicit input from residents, local businesses, agencies, and
10 non-profit organizations local to the neighborhood, and demonstrate it
11 has considered these comments on their merits.

12 **E. Plan Distribution and Review**

13 **1. Plan Distribution**

14 When, pursuant to subsection C. above, a plan is ready for public review, the
15 department shall, within 30 days of its determination, provide copies of the plan
16 simultaneously to all municipal and state agencies with jurisdiction over elements
17 of the plan, and to all community councils. The department shall also make
18 copies available to the general public at city hall and the planning and
19 development center, and post the plan on the department website.

20 **2. Public, Agency, and Community Council Review**

- 21 a. Each community council may conduct its own review of the plan. Within
22 a period of 120 days following receipt of the plan, the community council
23 may provide written recommendation(s) to the department and the
24 sponsor.
- 25 b. Members of the public and other municipal or state agencies may
26 provide written comments to the department during the 120 day review
27 period.

28 **3. Department Review**

29 When the department is not the sponsor of a plan, it shall review the plan during
30 the 120 day review period, and prepare a staff report and recommendation for
31 the commission. The department shall consider the neighborhood, community,
32 and municipal-wide impacts and the long-term effects of the actions or policies
33 recommended by the plan. The department shall also consider the impact of the
34 plan on economic and housing opportunity, future growth and development, and
35 the physical environment, including consistency of the plan with other adopted
36 plans.

37 **F. Planning and Zoning Commission Review**

38 **1. Schedule for Review**

39 The commission shall schedule a public hearing within 60 days following the final
40 day of the public review period.

41 **2. Public Notice**

42 Notice shall be provided in accordance with section 21.03.020H.

43 **3. Planning and Zoning Commission Action**

44 The commission shall vote, within 60 days following the close of the public
45 hearing to recommend approval, approval with modifications, remand to the
46 sponsor, or disapproval of the plan. In reviewing the substance of the plan, the

1 commission shall consider the neighborhood, community, and municipal-wide
2 impacts and the potential long-term effects from the actions or policies
3 recommended by the plan. The commission shall consider the impact of the plan
4 on economic and housing opportunity, future growth and development, and the
5 physical environment, including consistency of the plan with other adopted plans,
6 and any other pertinent adopted neighborhood or district plans. Any
7 modifications recommended by the commission shall be consistent with the
8 standards for form, content, and sound planning policy, as set out in subsection
9 D. above.

10 **4. Commission Findings**

11 The commission's recommendation shall include findings describing its
12 considerations and providing explanation for its determination. The findings may
13 include recommendations for the implementation of plan elements. The
14 recommendation shall be transmitted to the assembly for final approval.

15 **G. Assembly Adoption**

16 **1. Transmission to Assembly**

17 The commission's recommendation shall be transmitted to the assembly for
18 introduction within 45 days of the commission recommendation. The assembly
19 shall schedule a public hearing not more than 45 days after introduction.

20 **2. Public Notice**

21 Notice shall be provided in accordance with subsection 21.03.020H.

22 **3. Assembly Action**

23 Within 45 days of the close of the public hearing, the assembly shall either:

- 24 a. Adopt the plan;
- 25 b. Adopt the plan with modifications;
- 26 c. Remand the plan to the commission; or
- 27 d. Not adopt the plan.

28 If the assembly adopts the plan with modifications, the modifications shall be
29 consistent with the standards for form, content, and sound planning policy, as set
30 out in subsection D. above. If the plan is adopted, either as proposed or with
31 modifications, it shall become an element of the comprehensive plan as
32 described in section 21.01.080.

33 **H. Review and Revision**

34 A plan shall be reviewed by the department concurrent with the review of the
35 comprehensive plans as otherwise provided in this Title to determine if the plan is
36 consistent with the comprehensive plan. If the sponsor shows a major change of
37 circumstances in the neighborhood or district, the sponsor may request a review of the
38 plan before the end of any 10 year period. Any revisions shall be presented for adoption
39 as an amendment to the plan, in accordance with the procedures set forth herein.

40 **21.03.140 PUBLIC FACILITY SITE SELECTION**

41 **A. Purpose**

42 This section sets forth a process by which the municipality shall review and decide upon
43 selection of sites before certain public facilities may be authorized, or publicly owned land
44 is designated as the site for certain public facilities.

1 **B. Applicability**

2 1. Unless exempted by subsection B.2. below, this section shall apply to the
3 following government facilities that are not exempt by law from municipal land
4 use regulation:

5
6 a. Any newly constructed building or buildings and any existing building
7 acquired by purchase or lease, in which government operations or
8 activities occupy more than a total of 50,000 square feet of gross floor
9 area;

10 b. Any use of land over 20 acres in area;

11 c. Public schools;

12 d. Fire stations, unless such station is determined by the director not to
13 have impacts on the surrounding neighborhood;

14 e. Any sports, entertainment, or civic center designed for more than 1,500
15 spectators;

16 f. Any public snow disposal or landfill site; and

17 g. A facility that, in the judgment of the director, warrants a public process
18 for site selection due to the potential for significant impacts on
19 surrounding properties.

20 2. **This section shall not apply to the following:**

21 a. Any site that is:

22 i. Designated for the subject use on a municipal plan adopted by
23 the assembly;

24 ii. Part of an area, development, or institutional master plan;

25 iii. Determined by a dedication to the municipality on a final plat
26 approved and recorded in accordance with this Title; or
27

28 iv. Subject to approval of a conditional use under this Title.
29

30 b. Any facility site selection reviewed by the commission or approved by the
31 assembly before [effective date];

32 c. Any facility site selection for which over \$500,000 has been expended for
33 design or construction before [effective date].

34 **C. Community Council Meeting**

35 A community council meeting shall be held as set out in subsection 21.03.020C.

36 **D. Required Information**

37 The agency proposing a site selection shall submit to the commission all information
38 identified in the user's guide. This information shall include, but need not be limited to, an
39 evaluation of alternative sites, or an explanation why no alternative sites were
40 considered.

1 **E. Public Notice**

2 Notice shall be provided in accordance with subsection 21.03.020H.

3 **F. Departmental Review**

4 1. The department shall review each proposed site selection application in light of
5 the approval criteria set forth in subsection I. below, and distribute the application
6 to other reviewers as deemed necessary.

7
8 2. Based on the results of those reviews, the department shall provide a report to
9 the Planning and Zoning Commission.

10
11 3. For school site sections, the department shall also provide the report to the
12 Anchorage school board for its review and recommendation.
13

14 **G. Planning and Zoning Commission**

15 1. The commission shall review the RFP criteria (or similar guidelines) or the site
16 alternatives for any applicable facility.
17

18 2. The commission shall hold a public hearing.

19
20 3. For school site selections, the school board and the commission may meet in a
21 joint public hearing; however, the school board and the commission shall
22 separately consider and make recommendations to the assembly. Both
23 recommendations shall then be forwarded as a package to the assembly for
24 approval.
25

26 4. For site selections of municipal facilities, the commission shall make a
27 recommendation to the assembly, based on the approval criteria of subsection I.
28 below.
29

30 5. For all other site selections, the commission shall decide on the proposed site
31 based on the approval criteria of subsection I. below.
32

33 **H. Assembly Action**

34 For municipal facilities, upon receipt of the recommendations from the commission (and
35 the Anchorage school board if applicable), the assembly may, based on the criteria of
36 subsection I. below and at its discretion, hold a public hearing and take one of the
37 following actions:

38 1. Approve a specific recommended site;

39
40 2. Approve a specific evaluated site;

41
42 3. Reject some or all recommended sites; or

43
44 4. Remand the evaluated and recommended sites to the commission (and the
45 school board if applicable) for further investigation, review, and evaluation.

46 **I. Approval Criteria**

47 The commission shall review the proposed site for consistency with the goals, policies,
48 and land use designations of the comprehensive plan and other municipal plans adopted
49 by the assembly, conformity to the requirements of this Title, and the effects of the

- 1 proposal on the area surrounding the site. The following specific criteria shall be
2 considered:
- 3 1. Whether the site will allow development that is compatible with current and
4 projected land uses;
 - 5 2. Whether the site is large enough to accommodate the proposed use and future
6 additions or another planned public facility;
 - 7 3. Whether adequate utility and transportation infrastructure is available to the site;
 - 8 4. Whether the site is located near a transit route, if applicable;
 - 9 5. Whether there are existing or planned walkways connecting the site to transit
10 stops and surrounding residential areas, where applicable;
 - 11 6. The environmental suitability of the site;
 - 12 7. The financial feasibility of the site, including maintenance and operations; and
 - 13 8. Major municipal, state, and federal administrative offices shall locate in the
14 Central Business District. Satellite government offices and other civic functions
15 are encouraged to locate in regional or town centers if practicable.

24 **J. Request for Assembly Hearing**

- 25 1. Decisions by the Planning and Zoning Commission are final unless, within 20
26 days of the date of service, any party of interest (see definition of "party of
27 interest" in Chapter 14 of this Title) requests an assembly hearing in a letter sent
28 to the director.
- 29 2. The assembly may hold a public hearing on the case at its discretion.

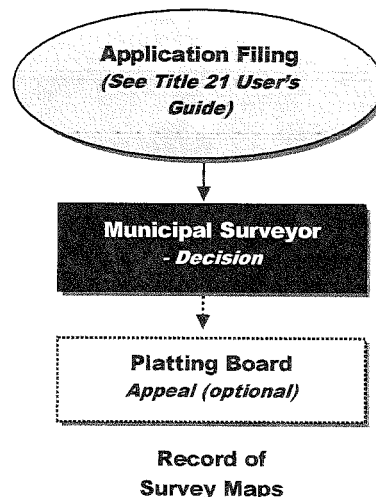
32 **21.03.150 RECORD OF SURVEY MAPS**

33 **A. Purpose and Authorization**

34 The purpose of this section is to provide for the approval of record of survey maps to be
35 filed with the district recorder for the state. Record of survey maps shall be reviewed and
36 approved in accordance with this section.

37 **B. Use of Record of Survey Maps**

- 38 1. A record of survey map is a map depicting the
39 exterior boundaries of a legally created lot,
40 parcel, or tract, and includes a correction to a
41 record of survey map.
- 42 2. A record of survey map shall not be used to
43 depict the boundaries of a lot, parcel, or tract,
44 which lot, parcel, or tract was created or
45 subdivided contrary to law. A record of
46 survey map shall not subdivide property or
47 recombine lots into acreage, and any record
48 of survey map purporting to do so shall be null
49 and void.



1 **C. Application Submittal**

2 Applications for approval of a record of survey map shall contain the information specified
3 in the Title 21 user's guide, and shall be submitted to the platting officer on a form
4 provided by the department.

5 **D. Monuments**

6 Monuments set for the survey shall conform to the standards of the public works
7 department.

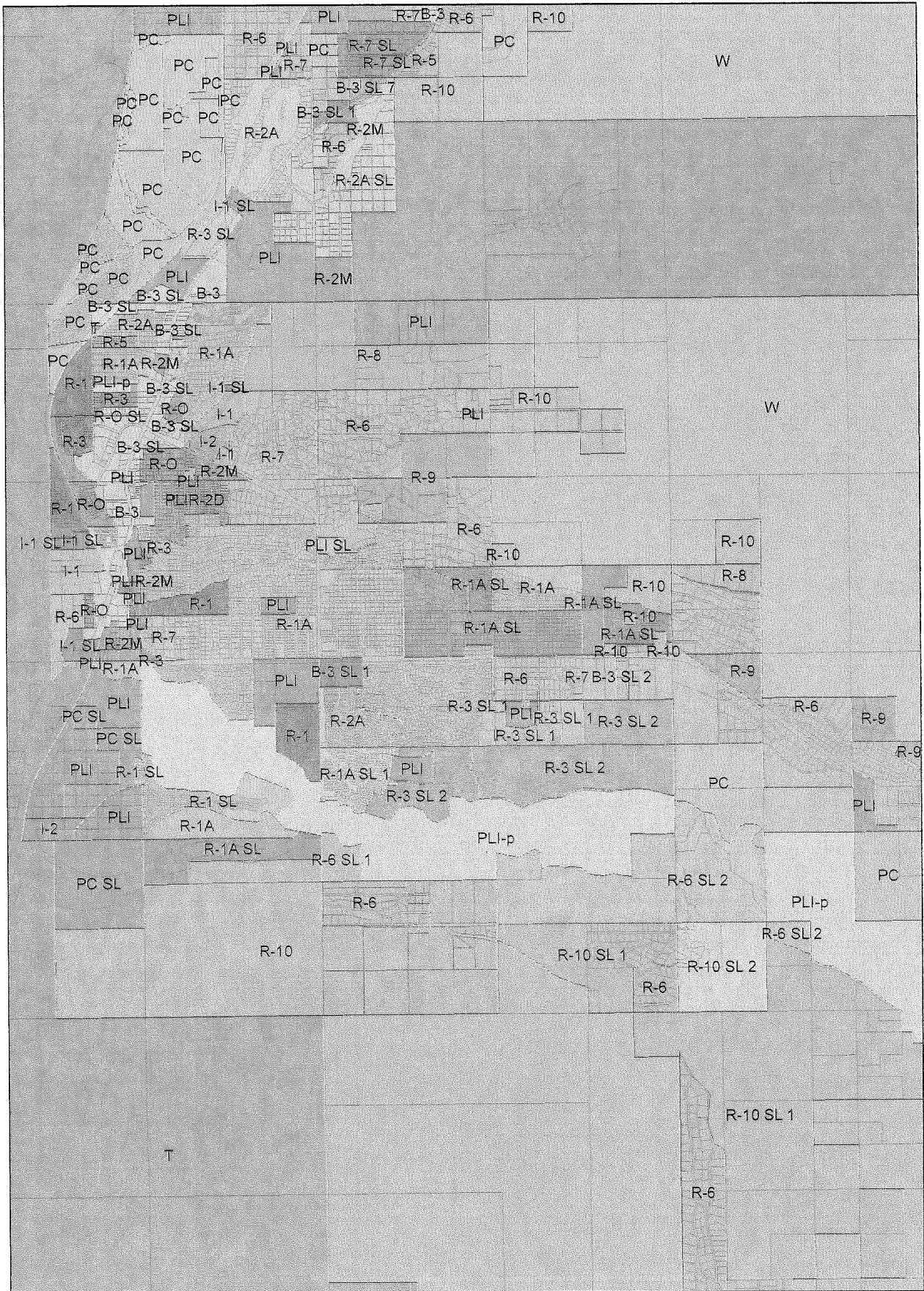
8 **E. Approval**

9 A record of survey map is subject to approval by the municipal surveyor, who shall
10 approve a record of survey map if it conforms to this section.

11 **F. Appeals**

12 All decisions of the municipal surveyor under this section shall be final unless appealed to
13 the Platting Board within 15 days of the date of approval.

**For public information only.
Copy of consultant's work as submitted in July 2011.**



**For public information only.
Copy of consultant's work as submitted in July 2011.**

21.03.160 REZONINGS (ZONING MAP AMENDMENTS)

A. Purpose and Scope

The boundaries of any zone district in the municipality may be changed or the zone classification of any parcel of land may be changed pursuant to this section. This section states the procedures and approval criteria necessary to process an amendment to the official zoning map.

B. Minimum Area Requirements

A rezoning shall only be considered for properties totaling 1.75 acres (76,230 square feet) or more (excluding rights-of-way), except for:

1. A rezoning extending the boundaries of an existing zoning district; or
2. A rezoning initiated by the municipal administration to place municipally owned land in a PLI, PR, DR, GIP, or GOS zoning district.

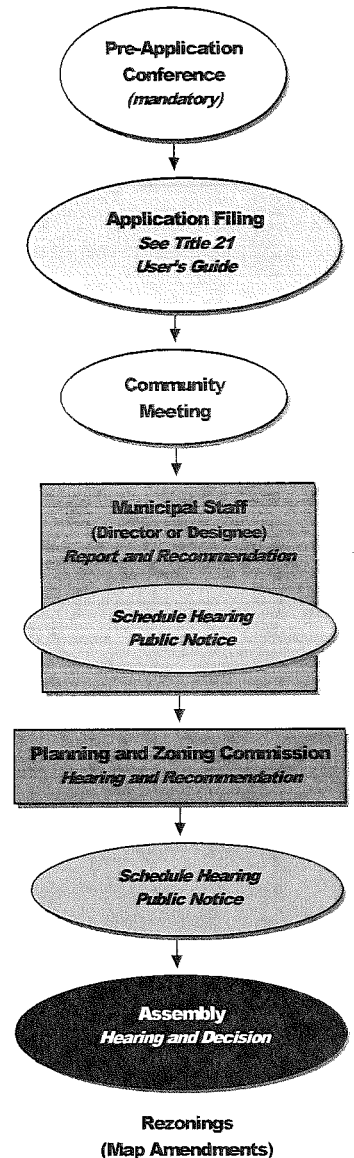
C. When a Comprehensive Plan Map Amendment is Required

Zoning map amendments may also require an amendment to the comprehensive plan map. Determination of whether the comprehensive plan map must also be amended is based upon whether the proposed zoning map amendment is to a zone consistent with the comprehensive plan map. If an amendment to the comprehensive plan map is required, the zoning map amendment can only be made if the amendment to the comprehensive plan map is approved concurrently with the zoning map amendment. Both amendments may be processed concurrently, as provided in subsection 21.03.070C

D. General Procedure

1. Initiation

- a. A rezoning may be initiated by the assembly, or the Planning and Zoning Commission;
- b. In addition, any person may initiate a rezoning by submitting a petition favoring the rezoning signed by the owners of at least 51 percent of the area within the property to be rezoned. For the purposes of this subsection, an owner of property subject to the Horizontal Property Regimes Act (A.S. 34.07) owns a percentage of the appurtenant common areas equal to the percentage for that property stated in the recorded declaration committing the property to the Horizontal Property Regimes Act.
- c. A rezoning application shall expire one year after submittal unless a public hearing on the application has been held by the assembly on or before that date; provided, however, that the director may extend the application for six months if the reason for the delay was due to circumstances beyond the control of the applicant.



- 1 d. Rezoning may precede or be processed concurrently with corps of
2 engineers wetland permit applications.
- 3 **2. Pre-Application Conference**
4 Before filing an application, a private-party applicant shall request a pre-
5 application conference with the director, in accordance with subsection
6 21.03.020B.
- 7 **3. Community Council Meeting**
8 A community council meeting is required in accordance with subsection
9 21.03.020C.
- 10 **4. Application Submittal**
11 Applications for a rezoning shall contain the information specified in the Title 21
12 Users' Guide, and shall be submitted to the director on a form provided by the
13 department. Additional materials may be required for certain types of rezoning,
14 such as rezoning with special limitations.
- 15 **5. Public Notice**
16 Notice shall be provided in accordance with section 21.03.020H. In addition, the
17 published and written (mailed) notice for the public hearing before the assembly
18 shall list the protest provisions set forth in subsection D.9. below.
- 19 **6. Departmental Review**
20 The department shall review each proposed rezoning in light of the approval
21 criteria in subsection E. below and distribute the application to other reviewers as
22 deemed necessary. Based on the results of those reviews, the department shall
23 provide a report to the Planning and Zoning Commission.
- 24 **7. Planning and Zoning Commission Action**
25 **a.** The Planning and Zoning Commission shall hold a public hearing on the
26 proposed rezoning and, at the close of the hearing, taking into account
27 the recommendations of the department and public input, and based
28 upon the approval criteria of subsection E. below, shall recommend
29 approval, approval with special limitations or other modification or denial.
30 The commission shall include written findings based on each of the
31 approval criteria.
32 **b.** If the commission recommends approval or approval with special
33 limitations or other modifications, within 60 days of the commission's
34 written resolution, the director shall forward the recommendation to the
35 assembly with an ordinance to amend the official zoning map in
36 accordance with the recommendation.
37 **c.** If the commission recommends denial, the amendment shall be deemed
38 disapproved unless, within 30 days of the commission's written resolution
39 recommending denial, the applicant files a written statement with the
40 municipal clerk requesting that an ordinance amending the zoning map
41 as set out in the application be submitted for action by the assembly.
42 The draft ordinance shall be appended to an Assembly Informational
43 Memorandum (AIM) for consideration by the assembly.
44
- 45 **8. Assembly Action**
46 The assembly shall hold a public hearing on the proposed rezoning and shall, at
47 the close of the hearing, taking into account the recommendations of the
48 department, Planning and Zoning Commission, and public input, and based upon
49 the approval criteria of subsection E. below:

**For public information only.
Copy of consultant's work as submitted in July 2011.**

Sec.21.03.160 REZONINGS (ZONING MAP AMENDMENTS)

- 1 a. Approve the zoning map amendment as submitted in the application to
2 the Planning and Zoning Commission;
- 3 b. Approve the zoning map amendment with special limitations (see
4 subsection F.) or other modifications provided that an ordinance
5 approving an amendment initiated under this section shall become
6 effective only with the written consent of the property owner(s) to the
7 special limitations or other modifications;
- 8 c. Deny the amendment; or
- 9 d. Remand the proposed amendment to the Planning and Zoning
10 Commission or to a committee of the assembly for further consideration.
- 11 **9. Protests**
- 12 a. Any owner of property subject to a proposed rezoning may protest the
13 rezoning by filing a written protest with the clerk pursuant to this
14 subsection.
- 15 b. Any owner of property within 300 feet of the outer boundary of the land to
16 which the amendment applies may protest the rezoning by filing a written
17 protest with the clerk that is signed by the owners of at least one-third of
18 the property, excluding rights-of-way, of:
- 19 i. The land to which the amendment applies; or
- 20 ii. The land within 300 feet of the outer boundary of the land to
21 which the amendment applies; excluding land owned by the
22 municipality, except where the municipality joins in the protest.
- 23 c. To be valid, the protest shall state the factual and/or legal basis for the
24 protest, contain a legal description of the property on behalf of which the
25 protest is made, be signed by the owner of that property, and be
26 received by the municipal clerk after notice of a public hearing before the
27 assembly on a zoning map amendment and at least three business days
28 before the time set for the assembly public hearing on the amendment.
- 29 d. Assembly approval of a rezoning subject to a valid protest under this
30 subsection shall require an affirmative vote of eight assembly members.
- 31 **10. Waiting Period for Reconsideration**
- 32 Following denial of a rezoning request, no new application for the same or
33 substantially the same rezoning shall be accepted within two years of the date of
34 denial, unless denial is made without prejudice.
- 35 **11. Form of Amending Ordinance**
- 36 An ordinance amending the zoning map shall contain the following:
- 37 a. The names of the current and the requested zoning districts;
- 38 b. The legal description of the subject property;
- 39 c. Any special limitations being applied to the subject property; and
- 40 d. An effective clause.

1 **E. Approval Criteria**

2 The Planning and Zoning Commission may recommend approval, and the assembly may
3 approve a rezoning, if the rezoning meets all of the following criteria:

- 4 1. The rezoning shall be in the best interest of the citizens of Anchorage and shall
5 promote the public health, safety, and general welfare;
- 6 2. The rezoning complies with and conforms to the purposes of this Title;
- 7 3. The rezoning is consistent with the stated purpose of the proposed zoning
8 district;
- 9 4. Facilities and services (including roads and transportation, water, gas, electricity,
10 police and fire protection, and sewage and waste disposal, as applicable) are
11 capable of supporting the uses allowed by the zone or will be capable by the time
12 development is complete, while maintaining adequate levels of service to existing
13 development;
- 14 5. The rezoning is not likely to result in significant adverse impacts upon the natural
15 environment, including air, water, noise, storm water management, wildlife, and
16 vegetation, or such impacts shall be substantially mitigated;
- 17 6. The proposed rezoning is not likely to result in significant adverse impacts upon
18 adjacent land uses, or such impacts shall be mitigated through conditions;
- 19 7. The applicant demonstrates to the satisfaction of the assembly that the supply of
20 land in the desired zoning district is insufficient or inadequate for the stated
21 purpose and that sufficient land of the existing zoning district remains in the area
22 to meet the needs of the community;
- 23 8. The proposed rezoning maintains and preserves the compatibility of surrounding
24 zoning and development, and protects areas designated for specific uses on the
25 zoning map from incompatible land uses or development intensities; and
- 26 9. The rezoning does not result in a split-zoned lot.

27 **F. Rezoning with Special Limitations**

28 Pursuant to this subsection, a rezoning may include special limitations that restrict some
29 aspects of development, to a greater degree than otherwise provided for a zoning district
30 applied by the rezoning.

31 **1. Purposes**

32 A rezoning may include special limitations for one or more of the following
33 purposes:

- 34 a. To prohibit structures, or uses of land or structures, that would adversely
35 affect the surrounding neighborhood or conflict with the comprehensive
36 plan.
- 37 b. To conform the zoning map amendment to the comprehensive plan, or to
38 further the goals and policies of the comprehensive plan.
- 39 c. To conform development under the zoning map amendment to existing
40 patterns of development in the surrounding neighborhood.

1 d. To mitigate the adverse effects of development under the zoning map
2 amendment on the natural environment, the surrounding neighborhood,
3 and on public facilities and services.

4 **2. Types of Limitations**

5 A special limitation shall do one or more of the following:

6 a. Limit residential density; or prohibit structures, or uses of land or
7 structures, otherwise permitted in a zoning district.

8 b. Require compliance with design standards for structures and other site
9 features.

10 c. Require compliance with a site plan approved under this Title.

11 d. Require the construction and installation of improvements, including
12 public improvements.

13 e. Impose time limits for taking subsequent development actions.

14 **3. Effect of Approval**

15 a. A zoning district subject to special limitations shall be identified on the
16 zoning map by the suffix "SL," and the number of the ordinance applying
17 the special limitations shall be printed on the zoning map.

18 b. Where a special limitation in a zoning map amendment conflicts with any
19 less restrictive provision of this Title, the special limitation governs.

20 **G. Rezoning to Create, Alter, or Eliminate Overlay Districts**

21 **1. Purpose and Applicability**

22 The assembly may, through the rezoning process, establish overlay districts that
23 supplement the requirements of the underlying base zoning districts, in order to
24 address special land use needs, to meet an objective of the comprehensive plan
25 or neighborhood plan, or other specific planning objective. A rezoning for an
26 overlay district may be applied to the zoning map in order to:

27 a. Permit, require, prohibit, or restrict structures or the use of land or
28 structures;

29 b. Alter the provisions of the use-specific requirements as applied to
30 property within the overlay district;

31 c. Require new development or attributes of new development to conform
32 to a specific architectural or design theme;

33 d. Require a design review approval process; and/or

34 e. Alter the development standards of the underlying district by decreasing
35 or increasing the requirements with regard to building height, setbacks,
36 lot area, lot width, lot coverage, and lot densities of the underlying
37 district.

38 **2. Minimum Area Requirements**

39 No overlay district zoning map amendment shall be considered or approved that
40 applies an overlay district to an area less than 1.75 acres, excluding rights-of-
41 way, except for an amendment extending the boundaries of an existing overlay
42 district.

1 **3. General Procedure for Creating, Altering, or Eliminating Overlay Districts**

2 Overlay districts shall be established, altered, or eliminated using the general
3 rezoning procedure set forth in subsection D. above, *General Procedure*, except
4 as modified by the following provisions:

5 **a. Contents of Adopting Ordinance**

6 An ordinance amending the zoning map for an overlay district shall
7 contain the following:

- 8 i. The name of the overlay district that the ordinance applies;
- 9 ii. The legal description of the land within the overlay district
10 applied by the ordinance; and
- 11 iii. All standards of development to be governed by the overlay
12 district.

13 **b. Effect of Approval**

- 14 i. Where a specification in an overlay zoning map amendment
15 conflicts with any provision of this Title, the overlay zoning map
16 amendment shall govern.
- 17 ii. An overlay district adopted in the same manner as the original
18 ordinance remains effective until repealed or amended. The
19 assembly may set a time for the overlay district to expire if it
20 finds the planning objectives will be met or completed within a
21 specific time period.

22 **c. Map of Overlay Districts**

- 23 i. Each overlay district shall be annotated on the zoning map with a
24 symbol unique to the overlay district and shall be identified on
25 the zoning map by the suffix "OV" and the number of the
26 ordinance applying the overlay district shall be printed on the
27 zoning map within the boundaries of the overlay district.
- 28 ii. The department shall maintain, for inspection by the public,
29 maps showing the location of the overlay districts and records of
30 the assembly's purpose and intent in establishing each district.

31 **4. Establishment or Modification of Airport Height Overlay Districts**

32 In addition to the standard submittals required to initiate an overlay map
33 amendment, establishment of an Airport Height Overlay District also shall require
34 preparation of an airport height map as set forth in section 21.04.060C.

35 **H. Rezoning to Planned Community Development District (PCD)**

36 **1. Purpose**

37 The assembly may, through the rezoning process, adopt a regulatory zoning
38 strategy that is customized for a specific property or group of properties. The
39 zoning strategy may substitute, alter, or adopt the specific requirements of
40 chapters 21.05, 21.06, and 21.07 (see subsection I.4. below) in order to allow the
41 development to achieve the goals of the comprehensive plan and Title 21 in a
42 unique way. The assembly must find that the proposed strategy will result in
43 development that is compatible with that which would occur with conventional
44 application of the requirements of chapters 21.05, 21.06, 21.07 and 21.080.

- 1 2. **Procedure**
2 Rezoning to PCD districts shall follow the general rezoning procedure set forth in
3 section D. above, except as modified by this section.
- 4 3. **Minimum Area Requirements**
5 No PCD district zoning map amendment shall be considered or approved that is
6 equal to an area of less than 30 acres. These limits exclude rights-of-way and
7 do not apply to amendments that extend the boundaries of an existing PCD
8 district.
- 9 4. **In-Lieu Standards Allowed**
10 a. The use of standards that are different from standards stated in Title 21
11 is intended to allow a developer some flexibility and creativity in meeting
12 the intents and purposes of the code.
- 13 b. In-lieu standards for the following sections may be proposed for the PCD
14 district:
- 15 i. Chapter 21.05, *Use Regulations*;
- 16 ii. Chapter 21.06, *Dimensional Standards*;
- 17 iii. Subsection 21.07.020 *Natural Resource Protection*;
- 18 iv. Section 21.07.030, *Open Space*;
- 19 v. Section 21.07.060, *Transportation and Connectivity*;
- 20 vi. Section 21.07.070 *Neighborhood Protection Standards*
- 21 vii. Section 21.07.080, *Landscaping, Screening, and Fencing*;
- 22 viii. Section 21.07.090, *Off-Street Parking and Loading*;
- 23 ix. Section 21.07.100, *Exterior Lighting*;
- 24 x. Section 21.07.110, *Residential Design Standards*;
- 25 xi. Section 21.07.120, *Public/Institutional and Commercial Design*
26 *Standards*;
- 27 xii. Section 21.07.130, *Large Commercial Establishments*; and
- 28 xiii. Subsection 21.08.050D. *Interior Streets*.
- 29 c. Along with the application and documentation information required in I.5.
30 below, The applicant must also submit the following information with
31 regard to any proposed in-lieu standards.
- 32 i. Clear specification of the proposed in-lieu standards, and the
33 Title 21 standards for which the proposed in-lieu standards are a
34 substitute. Any Title 21 standards that are not replaced with
35 approved in-lieu standards shall apply in the PCD district.
- 36 ii. A statement of why compliance with Title 21 standards would
37 interfere with the goals, purposes, or functions of development in
38 the proposed PCD district.

- 1 6. **Relationship to Other Requirements**
2 When there is a conflict between the PCD district requirements and other
3 requirements of this Title, the PCD district requirements control. The specific
4 requirements of this Title apply unless the PCD district provides other
5 requirements for the same specific topic.
- 6 7. **Changes to an Approved PCD District**
- 7 a. ***Approval by Assembly***
8 Approval of a zoning map amendment in accordance with section
9 21.03.160 is required for the following amendments to the PCD district:
- 10 i. Any increase in the total number of authorized dwelling units;
- 11 ii. Any decrease in the total open space acreage;
- 12 iii. Any increase in the total gross building area of commercial or
13 industrial structures;
- 14 iv. Any addition or deletion of any permitted principal use,
15 conditional use, or accessory use;
- 16 v. Any changes in the development standards;
- 17 vi. Any density transfer between development areas that will result
18 in a 25 percent or greater cumulative increase or decrease in the
19 number of dwelling units in any development area; or
- 20 vii. Any change in the acreage of a development area equal to or
21 more than 25 percent of the total acreage of the development
22 area.
- 23 b. ***Approval by the Planning and Zoning Commission***
24 Approval by the Planning and Zoning Commission is required for the
25 following amendments to the PCD district:
- 26 i. Any density transfer between development areas that will result
27 in a cumulative increase or decrease of more than 10 percent
28 but less than 25 percent in the number of dwelling units in any
29 development area; or
- 30 ii. Any change in the acreage of a development area of more than
31 10 percent but less than 25 percent of the total acreage of the
32 development area.
- 33 c. ***Approval by the Director***
34 Approval by the director is required for the following amendments to the
35 PCD district:
- 36 i. Any density transfer between development areas that will result
37 in a cumulative increase or decrease of 10 percent or less in the
38 number of dwelling units in any development area; or
- 39 ii. Any change in the acreage of a development area of 10 percent
40 or less of the total acreage of the development area.
- 41

1 **21.03.170 SITE PLAN REVIEW**

2 **A. Purpose**

3 The purpose of the site plan review process is to ensure compliance with the
4 development and design standards and provisions of this Title. For land uses requiring a
5 site plan review, such uses may be established in the municipality, and building or land
6 use permits may be issued, only after a site plan showing the proposed development has
7 been approved in accordance with the procedures and requirements of this Title.

8 **B. Administrative Site Plan Review**

9 **1. Applicability**

10 Land uses requiring administrative site plan review are identified in section
11 21.05.010, *Tables of Allowed Uses*, section 21.05.070C., *Tables of Allowed*
12 *Accessory Uses*, and subsection 21.09.050A., *Table of Allowed Uses*
13 (Girdwood).

14 **2. Procedure**

15 **a. Application Submittal**

16 Applications for an administrative site plan review shall contain the
17 information specified in the Title 21 Users' Guide, and shall be submitted
18 to the director on a form provided by the department.

19 **b. Departmental Review and Director's Action**

20 The department shall review each proposed administrative site plan
21 application in light of the approval criteria of subsection E. below and
22 distribute the application to other reviewers as deemed necessary.
23 Based on the results of those reviews, the director shall take final action
24 on the site plan application and approve, approve with conditions, or
25 deny the application. The department's review and the director's action,
26 including referral to other agencies and bodies, shall be completed within
27 60 days of verification of a complete application.

28 **c. Appeals**

29 Denial of an administrative site plan may be appealed to the Board of
30 Adjustment, in which case it shall be treated as a major site plan review
31 application under subsection C. below.

32 **C. Major Site Plan Review**

33 **1. Applicability**

34 Land uses requiring major site plan review are identified in section 21.05.010,
35 *Tables of Allowed Uses* and subsection 21.09.050A. *Table of Allowed Uses*
36 (Girdwood).

37 **2. Procedure**

38 **a. Pre-Application Conference**

39 Before filing an application, the applicant shall request a pre-application
40 conference with the director, in accordance with subsection 21.03.020B.

41 **b. Community Council Meeting**

42 A community council meeting is required in accordance with subsection
43 21.03.020C.

44 **c. Application Submittal**

45 Applications for a major site plan review shall contain the information
46 specified in the Title 21 Users' Guide, and shall be submitted to the
47 director on a form provided by the department.

- 1 d. **Public Notice**
2 Notice shall be provided in accordance with subsection 21.03.020H.
- 3 e. **Departmental Review**
4 The department shall review each proposed major site plan application in
5 light of the approval criteria of subsection E. below and distribute the
6 application to other reviewers as deemed necessary. Based on the
7 results of those reviews, the department shall provide a report to the
8 Urban Design Commission.
- 9 f. **Planning and Zoning Commission Action**
10 The Planning and Zoning Commission shall hold a public hearing on the
11 proposed application and, taking into account the recommendations of
12 the department and public input, shall act to approve, approve with
13 conditions, or deny the proposed major site plan, based on the approval
14 criteria of subsection E. below.
- 15 g. **Appeals**
16 Denial of a major site plan may be appealed to the Board of Adjustment
17 in accordance with subsection 21.03.050A.

18 D. **Expiration**

19 1. **General**

20 A site plan approval shall automatically expire at the end of 24 months after the
21 effective date unless a building or land use permit for at least one building in the
22 development proposed in the site plan is approved and construction has begun
23 (see the definition of "start of construction" in chapter 21.14). A change in
24 ownership of the property does not affect this time frame.

25 2. **Extension**

26 a. **First Extension**

27 Upon written application submitted by the applicant at least 30 days prior
28 to the expiration of the permit period and upon a showing of good cause,
29 the director may grant one extension not to exceed 12 months. The
30 approval shall be deemed extended until the director has acted upon the
31 request for extension. Failure to submit an application for an extension
32 within the time limits established by this section shall render the site plan
33 approval void.

34 b. **Further Extensions**

35 Upon written application submitted at least 30 days prior to the expiration
36 of the previous extensions and upon a showing of good cause, the Urban
37 Design Commission, without a public hearing, may grant additional
38 extensions, each one not to exceed 12 months. The approval shall be
39 deemed extended until the commission has acted upon the request for
40 extension.

41 E. **Approval Criteria**

42 An application for administrative or major site plan review shall be approved upon a
43 finding that the site plan meets all of the following criteria:

- 44 1. The site plan is consistent with any previously approved subdivision plat, planned
45 development master plan, or any other precedent plan or land use approval;
- 46 2. The site plan complies with all applicable development and design standards set
47 forth in this Title, including but not limited to the provisions in chapter 21.04,

1 *Zoning Districts*, chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional*
2 *Standards and Measurements*, and chapter 21.07, *Development and Design*
3 *Standards*;

4 3. The site plan addresses any significant adverse impacts that can reasonably be
5 anticipated to result from the use, by mitigating or offsetting those impacts to the
6 maximum extent feasible.

7 **F. Platting for Site Plans**

8 1. If development under an approval under this section will create a subdivision or
9 requires the vacation of a dedicated public area, the approval is not effective until
10 a final plat for the subdivision or vacation is approved and recorded in
11 accordance with this Title. A preliminary plat required under this section is
12 subject to approval as required by section 21.03.200, *Subdivisions*.

13 **G. Amendments to Approved Site Plans**

14 1. **Original Procedure Applies for Most Amendments**

15 Amendment of a site plan shall follow the same process required for the original
16 approval of a site plan, unless the amendment is determined to be a minor
17 amendment as described in subsection G.2. below.

18 2. **Administrative Approval of Minor Amendments**

19 The director may approve administratively minor amendments to any approved
20 site plan upon written application and documentation by the applicant, and upon
21 the director's determination that the amendment is a minor amendment.

22 a. **Procedure**

23 i. Upon receiving a written request from the applicant for a site
24 plan amendment, the director shall determine if the proposed
25 amendment will be processed as a minor amendment or major
26 amendment. The applicant may appeal the director's decision,
27 in writing to the zoning board of examiners and appeals within 10
28 days of the decision.

29 ii. Immediately following the director's determination that a
30 proposed amendment is minor, the director shall:

31 (A) Issue a minor amendment affidavit, which shall be
32 transmitted to the Urban Design Commission for their
33 information; and

34 (B) Attach a form stating the nature of the modification, date
35 of approval, and bearing the signature of the director to
36 the site plan mylar on file in the department.

37 iii. If the original approval had been recorded, the amended plan
38 shall be recorded by the municipality at the applicant's expense.

39 b. **Types of Minor Amendments**

40 The following are amendments which the director may reasonably
41 determine to be "minor":

42 i. Insubstantial changes to the text to add clarity or correct
43 conflicting provisions.

- 1 ii. Changes in street alignment if such changes further the intent of
- 2 the plan and this code, and are acceptable to the municipal
- 3 engineer.

- 4 iii. Changes of 10 percent or less in building envelope, setback, and
- 5 similar provisions.

- 6 iv. Incidental changes in landscaping, sign placement, lighting
- 7 fixtures, etc. to further the intent of the plan and this code.

8 **21.03.180 STREET AND TRAIL REVIEW**

9 **A. Purpose**

10 Streets are a significant investment in the municipality's infrastructure and establish long-

11 term land use impacts on nearby properties and the community at large.

12

13 Major Multi-Use Trails are a basic part of the infrastructure of the municipality. They are

14 used for transportation, for recreation and leisure. Major Multi-Use Trails also have long-

15 term impacts on nearby properties and the community at large. Trails in Major Parks are

16 subject to Master Plans.

17

18 These important parts of the municipality's infrastructure benefit by oversight in the

19 design decisions by citizen bodies that are represented by the Planning and Zoning

20 Commission and the Urban Design Commission and the Anchorage Parks and

21 Recreation Commission and the Chugiak/Eagle River Parks and Recreation Commission.

22

23 **B. Applicability**

24 **1. Streets**

- 25 a. All Municipal transportation projects are required to follow the *Strategy*
- 26 *for Developing Context Sensitive Transportation Projects* policy.

- 27 b. New construction and major reconstruction of street and intersection
- 28 projects involving streets of collector classification or greater in the
- 29 *Official Streets and Highways Plan* and meeting the Anchorage Metro
- 30 Area Transportation Solutions" (AMATS) definitions of "New Road
- 31 Connection" or "Road Reconstruction", but not "Road Rehabilitation" or
- 32 "Pavement Replacement Program" are required to follow a review
- 33 process by the Planning and Zoning Commission as described below
- 34 and in table 21.03-4.

35

36 **2. Application to Specific Trails**

- 37 a. This section applies to Major Multi-use Trails and to new construction
- 38 and major reconstruction of those Trails, but not to resurfacing, repair or
- 39 maintenance of any other new or existing trails.

- 40 i. Only Major multi-use trails such as the Chester Creek Trail,
- 41 Campbell Creek Trail, Ship Creek Trail, the Coastal Trail shall be
- 42 subject to review and approval by the Urban Design
- 43 Commission;

- 44 ii. This section does not apply to those trails in parks that have an
- 45 existing Master Plan such as Kincaid Park and Bicentennial
- 46 Park; and other Parks classified by the *Anchorage Park,*
- 47 *Greenbelt and Recreational Facility Plan, Volume 2* or the *Eagle*
- 48 *River-Chugiak-Ekultna Plan* as Large Urban or Regional Parks.
- 49 Any new construction or major maintenance of trails within these
- 50 named parks or another park that is subject to a Master Plan
- 51
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1 shall be reviewed by either the Chugiak/Eagle River Parks and
2 Recreation Board or the Anchorage Parks and Recreation Board
3 to insure compliance with the existing Master Plan.
4

- 5 b. Notwithstanding the criteria of 2 a. above, the director may exempt new
6 Major Multi-Use Trails or reconstruction projects for Major Multi-Use
7 Trails from this section if the director finds, in writing, that the project is
8 minor in scope and not likely to cause impacts on surrounding properties
9 and neighbors.
10

11 **C. Review Process**

12
13 **1. Street review Process**

- 14
15 a. The concept report or equivalent shall be distributed to the Planning and
16 Zoning Commission as an information item and shall contain a clearly
17 defined and substantiated purpose and need statement;
18
19 b. The Planning and Zoning Commission shall review and approve a draft
20 design study report (35% design completion).
21
22 c. The Planning and Zoning Commission shall render its decision on the
23 proposed plan when the design is 65% complete.
24

25 **2. Trail Review Process**

- 26 a. The concept report or equivalent shall be distributed to the Urban Design
27 Commission as an information item and shall contain a clearly defined
28 and substantiated purpose and need statement;
29
30 b. The Urban Design Commission shall review and comment on the draft
31 design study report (35% design completion).
32
33 c. The Urban Design Commission shall render its decision on the proposed
34 plan when the design is 65% complete.
35

36 **3. Concept Report**

37 The concept report shall be distributed to the appropriate commission by the staff
38 as an information item. The staff shall address the issue of purpose and need in
39 the concept report. The appropriate Commission shall determine that there is a
40 clearly defined and substantiated purpose and need for the street or the trail. In
41 the absence of such a determination, the project shall not be taken to the next
42 stage.
43

44 **4. Procedure for Design Study Report and 65% Design Drawings**

- 45 a. **Pre-Application Conference**
46 The project management team shall request a pre-application
47 conference with the director, in accordance with subsection 21.03.020B
48
49 b. **Public Outreach**
50 Public outreach is an essential part of Context Sensitive Solutions.
51 Applicants are expected to meet with the appropriate community
52 council(s) after the 35% design study report has been submitted to the
53 respective commission and before the 65% design drawings have been
54 submitted to the respective commission
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- c. ***Application Submittal***
Applications shall contain the information specified in the title 21 user's guide and in *A Strategy for Developing Context Sensitive Transportation Projects (CSS)*.

 - d. ***Public Notice***
Notice of all public hearings shall be provided in accordance with section 21.03.020H

 - e. ***Department Review***
The department shall review each proposed application and distribute the application to other reviewers as deemed necessary. Reviewers shall address those aspects of the design that are germane to the commissions' deliberations; detailed lists of technical comments shall be separately coordinated with the design team leader. Based on the results of those reviews the department shall provide a report to the planning and zoning commission or urban design commission, as applicable
5. **Draft Design Study Report and 65 Percent Design Completion Review and Decision by the Planning and Zoning Commission for Applicable Street Projects and by the Urban Design Commission for Applicable Trail Projects**
- a. The Planning and Zoning Commission shall review, modify, approve or disapprove, the both draft design study report (35% completion) and subsequently the design drawings (65% completion) for all applicable street projects.

 - b. The Urban Design Commission shall review, modify, approve or disapprove, the both draft design study report (35% completion) and subsequently the design drawings (65% completion) for all applicable trail projects.

 - c. Both Commissions shall provide a public hearing after submission of the draft design drawings (35% completion) and prior to final action on the project.

 - d. As applicable, the review process of both Commissions shall include, but not limited to the following issues:
 - i. Existing conditions throughout the location of the new street or the new trail;

 - ii. The applicable design standards and criteria, including landscaping requirements, with specific attention to any requests for variances from the criteria;

 - iii. Compliance with this Title;

 - iv. Identification and evaluation of alternatives and recommendations arising out of the evaluation;

 - v. Project construction costs;

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- vi. Both short and long term impacts on surrounding properties;
 - vii. Both short and long term impacts on property acquisition for rights-of-way;
 - viii. Impacts on utilities and other public infrastructure, including the requirement of undergrounding utilities;
 - ix. Maintenance costs and other maintenance considerations;
 - x. Pedestrian and other non-motorized access and use;
- c. Decisions of the Planning and Zoning Commission or the Urban Design Commission may be appealed to the Board of Adjustment pursuant to subsection 21.03.050A.

19 **21.03.190 SUBDIVISIONS**

20 **A. Purpose**

21 The purpose of the subdivision review process is to ensure compliance with the
22 subdivision standards and requirements set forth in chapter 21.08, *Subdivision*
23 *Standards*, which are designed to ensure quality development in the municipality
consistent with the comprehensive plan.

24 **B. Applicability**

25 **1. General**

26 The procedures of this section, and the standards and requirements set forth in
27 chapter 21.08, *Subdivision Standards*, shall apply to all subdivisions or
28 resubdivisions that result in the portioning, dividing, combining, or altering of any
29 lot, parcel, or tract of land, including subdivisions or resubdivisions created by an
30 exercise of the power of eminent domain by an agency of the state or
31 municipality. All subdivisions applications shall be reviewed according to the
32 process set forth in subsection C. below, unless they qualify for the abbreviated
33 plat procedure.

34 **2. Abbreviated Plat**

35 Certain subdivisions may follow the streamlined procedure set forth in subsection
36 D. below. Eligible preliminary plats are those plats where the applicant is not an
37 agency of the municipal, state, or federal governments, and are:

38 **a. *A movement or elimination of lot lines that does not:***

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- i. Result in an increase in the permitted density of residential units within the area being subdivided or resubdivided.
 - ii. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
 - iii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.

45 **b. *The subdivision of a single tract, parcel, or lot into no more than***
46 ***three tracts or eight lots, provided that the subdivision does not:***

- 1 i. Allow a change in the permitted use to which the lot or tract may
2 be devoted under existing zoning.
- 3 ii. Deny adequate access to and from all lots or tracts created by
4 the subdivision or those adjacent to it.
- 5 iii. Divide a tract, parcel or lot:
- 6 (A) Created within the previous 48 months pursuant to the
7 approval of a preliminary plat under this section;
- 8 (B) Contiguous to or having an owner either in an individual
9 capacity or as an owner of a corporation, partnership, or
10 other legal entity of a preliminary plat approved within
11 the previous 48 months; or
- 12 (C) That is 10 acres or more in the R-6, R-7, R-8, R-9, and
13 R-10 zoning districts or that is governed by AO 84-21
14 (G-5 areawide rezoning).
- 15 c. **Vacations and relocations under section 21.03.230C.1.**
- 16 d. **Subdivision of a cemetery into burial plots.**
- 17 e. **A plat required by section 21.03.080F. for approval of a conditional**
18 **use, or section 21.03.180F. for approval of a site plan.**
- 19 f. **A plat depicting the creation of two attached single-family lots.**
- 20 **3. Subdivision Approval is Prerequisite to Other Approvals**
- 21 a. No building permit, land use permit, certificate of zoning compliance, or
22 certificate of occupancy may be issued for any building, structure, or
23 improvement located within a subdivision, and no plat for a subdivision
24 may be recorded with the state of Alaska, until all required dedications of
25 land have been made, and all required improvements have been
26 installed in accordance with the procedures and requirements of this
27 section, or an approved subdivision agreement is in place pursuant to
28 section 21.08.060, *Subdivision Agreements*.
- 29 b. The municipality shall not accept or maintain any street, and shall not
30 extend or connect any street lighting, water service, or sanitary sewer
31 service to any subdivision of land, until and unless a plat for the
32 subdivision has been approved and recorded in accordance with the
33 requirements set forth in this section.
- 34 **4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat**
35 Any person who transfers or sells any land located within the municipality by
36 reference to a plat that has not been approved by the municipality and recorded
37 by the state of Alaska shall be guilty of a violation of this Title. The description by
38 metes and bounds in the instrument of transfer or other document used in the
39 process of selling or transferring shall not exempt the transaction from such
40 penalties. The municipality also may enjoin such transfer or sale by filing an
41 action for an injunction.
- 42 **5. Existing Lots of Record**
43 No provision of chapter 21.08, *Subdivision Standards*, applies to any lot of record
44 in a subdivision legally created and filed before the effective date of this Title,
45 unless the lot is further subdivided or resubdivided.

C. Review and Approval of Subdivision Plans

1. Applicability

This section shall apply to all subdivisions not meeting the eligibility criteria for the abbreviated plat procedure

2. Pre-Application Conference

Before filing an application for a new subdivision or a modification of an already-approved subdivision, the applicant shall request a pre-application conference with the platting officer in accordance with subsection 21.03.020B.

3. Community Council Meeting

A community council meeting is required in accordance with subsection 21.03.020C.

4. Application Submittal

a. Unless waived by the platting officer, a preliminary plat shall include all land under contiguous ownership, unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be part of the preliminary and final plat. Requirements for surveying this remaining tract may be waived at the discretion of the municipal surveyor. By plat note, development shall not be allowed on the remaining tract until approved under this section.

b. Applications for a preliminary plat shall contain the information specified in the Title 21 Users' Guide, and shall be submitted to the platting officer on a form provided by the department.

c. For subdivision plats that have A or B wetlands, the applicant shall have initiated corps of engineers wetland permitting prior to submitting the preliminary plat.

5. Public Notice

Notice shall be provided in accordance with subsection 21.03.020H.

6. Departmental Review

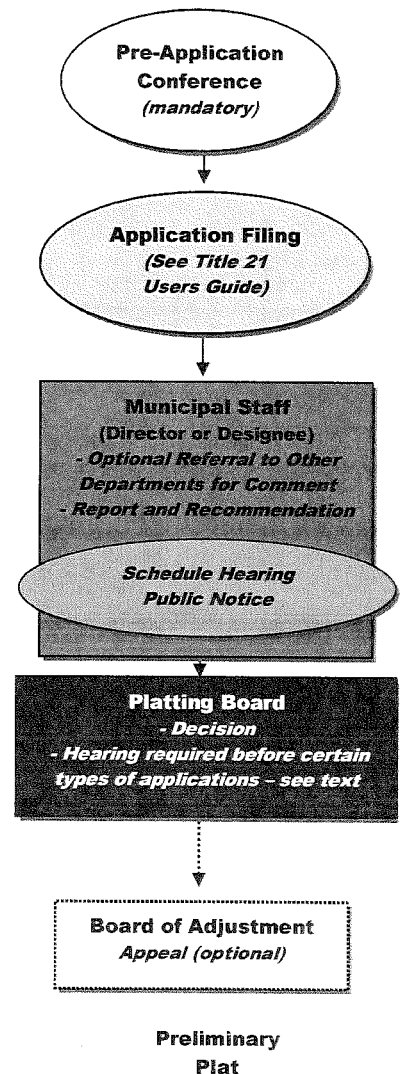
The department shall review each proposed preliminary plat in light of the approval criteria of subsection C.9. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the platting board.

7. Action on Preliminary Plat

a. Platting Authority

The platting board is the platting authority for preliminary plats, except as provided in subsection 21.03.080F. for conditional uses, and subsection 21.03.180F. for site plans.

b. Action by Platting Authority



1 Subject to paragraph 7.c. below, the platting authority shall, based on the
2 approval criteria of subsection C.9. below, take action on the preliminary
3 plat within 90 days after the submittal date, or shall return the plat to the
4 applicant for modification or correction. The reasons for denial of a plat
5 shall be stated in the records of the platting authority.

6 **c. Referral to Other Agency**

7 If the platting authority finds that:

8 i. It cannot determine whether a preliminary plat conforms to the
9 approval criteria of subsection C.9. below, because a specific
10 controlling land use, public facility, or other public policy issue
11 has not been resolved; and

12 ii. An official board, commission or legislative body of the
13 municipality or another government has been identified as being
14 responsible for resolving that issue;

15 then, upon a majority vote, the platting authority may refer the issue to
16 the responsible official, board, commission, or legislative body and
17 postpone action on the plat for a period not exceeding 90 days or to its
18 next regular meeting after the responsible official, board, commission, or
19 legislative body responds to the referral, whichever occurs first.

20 **d. Public Hearing**

21 The platting authority shall hold a public hearing before action on the
22 following types of subdivision applications:

23 i. Approval of a preliminary plat, except applications allowed to use
24 the abbreviated plat procedure;

25 ii. Approval of a final plat that differs from the preliminary plat (see
26 section 21.03.200C.8.b.);

27 iii. Modification or deletion of a condition of plat approval;

28 iv. Granting of a variance from the provisions of chapter 21.08,
29 *Subdivision Standards*; and

30 v. Vacation of dedicated right-of-way; BLM and section line
31 easements; or platted landscape, drainage, slope, or protective
32 well radii easements.

33 **e. Approval Period; Time Extensions**

34 i. Notwithstanding any subsequent change in the subdivision
35 regulations, zoning regulations, and zoning districts, the approval
36 of the preliminary plat shall be effective:

37 (A) For at least 24 months and up to 60 months from the
38 date of approval, when it pertains to a development of no
39 less than 10 acres and includes a phasing plan. The
40 length of the approval period shall be based upon the
41 platting board's evaluation of the size, complexity, and
42 phasing elements of the development.

43 (B) For 24 months from the date of approval when it pertains
44 to a development of less than 10 acres or does not
45 include a phasing plan.

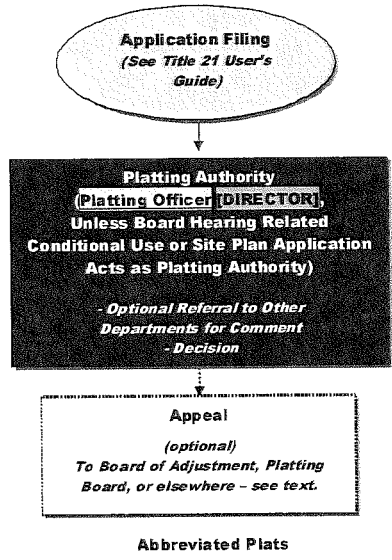
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- ii. The preliminary plat shall become null and void after the approval period unless an extension of time is granted by the platting authority. A request for a time extension must be made in writing by the subdivider. The extension request must be received by the platting officer prior to the expiration of the preliminary plat to be eligible for consideration by the platting authority.
 - iii. Such a time extension shall be granted only if the authority finds that current conditions are substantially the same as those that existed when the preliminary plat was originally approved. The director shall conduct the reevaluation for every extension request that does not raise the total time of extension for a particular plat beyond 24 months and present his or her findings to the authority. Every extension request that raises the total time of extension for a particular plat beyond 24 months shall be evaluated in the same manner as an original plat application, including payment of the applicable fee.
 - iv. Only two time extensions may be approved for a preliminary plat approved by the platting authority. Approval of the second extension shall require a noticed public hearing.
 - v. Preliminary plats being finalized in portions or phases shall not be construed to automatically extend the original approval period. Such an extension may only be granted by the platting authority in accordance with the procedures set out in this subsection.
- f. **Appeals**
All decisions as to approval or denial of a preliminary plat by the platting authority shall be final unless appealed to the board of adjustment.
- g. **Resubmittal Following Denial**
No new application for the same or substantially the same preliminary plat shall be accepted by the platting authority within one year of denial of the original application. The waiting period required by this section may be waived in an individual case, based upon new evidence or changed circumstances, by the affirmative vote of a majority of the platting authority.
8. **Final Plat**
- a. **Procedure When Final Plat Corresponds to Preliminary Plat as Approved**
 - i. A hearing on the final plat shall not be required when such plat essentially conforms to the preliminary plat approved by the platting board. The final plat shall, in addition, meet all conditions imposed by the board in approving the preliminary plat.
 - ii. The final plat map shall constitute only that portion of the approved preliminary plat that is proposed to be recorded and developed at the time. If only a portion of the approved preliminary plat is proposed for final plat approval, such portions shall conform to all requirements of this section and chapter 21.08, *Subdivision Standards*.

- 1 iii. The following procedure shall be followed for the final plat:
- 2 (A) The final plat shall be submitted to the platting officer for
3 examination as to compliance with all terms of the
4 preliminary plat as approved by the platting authority. If
5 all conditions have been met, a statement to that effect,
6 appearing on the final plat, shall be signed by the
7 platting authority. The final plat shall not be signed until
8 the documents described in paragraph a.iv. and a.v.
9 below have been received.
- 10 (B) Upon acceptance of the final plat, the department shall
11 forward the final plat to the public works department for
12 final checking and inspection before final approval is
13 given. If requested, a subdivision survey shall be
14 submitted to the public works department with a
15 complete set of field and computation notes showing the
16 original or reestablished corners of the plat and of lots
17 within the plat. Traverse sheets and work sheets
18 showing the closure within the allowable limits of error of
19 the exterior boundaries of each irregular block and lot of
20 the subdivision may also be required. Final approval by
21 the public works department shall be indicated by a
22 statement appearing on the plat.
- 23 iv. Final approval by the platting board shall be dependent upon
24 receipt of the following material:
- 25 (A) A statement from the development services department
26 stating that all conditions imposed by the department on
27 the preliminary plat and approved by the platting board
28 have been met. This approval by the development
29 services department shall not affect any subsequent
30 requirements relating to sewage disposal and water
31 supply as they apply to any lots within the plat.
- 32 (B) A certificate from the tax collecting official or a note on
33 the face of the plat stating that all municipal real property
34 taxes levied against the property are paid in full, or, if
35 approval is sought between January 1 and the tax due
36 date, that there is on deposit with the chief fiscal officer
37 an amount sufficient to pay estimated real property tax
38 for the current year.
- 39 (C) A certificate to plat showing the legal and equitable
40 owners, including mortgagees, contract purchasers and
41 fee owners, of the land to be platted, plus all grants,
42 reservations, covenants, deed restrictions, and
43 easements of record which may condition the use of the
44 property.
- 45 v. If the subdivision is to be served by a community water or sewer
46 system, the development services department may require the
47 subdivider to provide the following before the platting board
48 finally approves the plat:

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- (A) Any approvals or certificates required by the state departments of environmental conservation and natural resources.
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- (B) An agreement under the standards and procedures set out in section 21.08.060, *Subdivision Agreements*, to ensure that the system installed will be compatible with existing public water and sewer systems.
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- (C) Approval of the plans, specifications, and installation and operating procedures for the system by the municipal water and wastewater utility pursuant to chapter 21.08, *Subdivision Standards*, and regulations promulgated thereunder.
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- vi. Final plats affecting land neither supplied, nor under subdivision agreement to be supplied, both with public water and public sewer, shall be submitted to the development services department for a determination that all lots and proposed water and wastewater facilities conform to AMC chapter 15.65 at the time of determination.
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- b. ***Procedure When Final Plat Differs from Preliminary Plat***
When the final plat differs from the preliminary plat, the plat shall be considered a new application for preliminary plat approval under this subsection C., except that all decisions as to approval or denial of this plat by the platting board as submitted under this section shall be final unless appealed to superior court.
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- c. ***Requirements for Final Plat***
The final plat shall be prepared to the technical specifications, and shall be accompanied by appropriate supporting materials, as specified in the Title 21 Users' Guide.
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- d. ***Subdivision Agreements and Cost Estimates***
All final plats requiring public improvements, except those requiring monumentation only, shall be accompanied by a subdivision agreement between the subdivider and the municipality and an engineer's estimate of the cost of all required public improvements. Requirements for such an agreement are further described in section 21.08.060, *Subdivision Agreements*.
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- e. ***Notes, Restrictions, and Covenants***
The platting board may place such conditions upon granting of final plat approval as are necessary to preserve the public welfare in accordance with the subdivision regulations. (See section 21.03.020M.) When such a condition of approval entails a restriction upon the use of all or part of the property being subdivided, a note specifying such restrictions shall be placed on the face of the plat. Such note shall constitute a restrictive covenant in favor of the municipality and the public and shall run with the land, enforceable against all subsequent owners. Any such restrictive covenant may be enforced against the subdivider or any subsequent owner by the municipality or by any specifically affected member of the public.

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- 9. Approval Criteria**
The platting board may approve a preliminary or final plat only if it finds that the plat conforms to chapters 21.06, *Dimensional Standards and Measurements*, 21.07, *Development and Design Standards*, and 21.08, *Subdivision Standards*, and, to the maximum extent feasible:
- a. Promotes the public health, safety, and welfare;
 - b. Mitigates the effects of incompatibilities between the land uses or residential densities in the subdivision and the land uses and residential densities in the surrounding neighborhood, including but not limited to visual, noise, traffic, and environmental effects;
 - c. Provides for the proper arrangement of streets in relation to existing or proposed streets;
 - d. Provides for adequate and convenient open space;
 - e. Provides for the efficient movement of vehicular and pedestrian traffic;
 - f. Ensures adequate and properly placed utilities;
 - g. Provides access for firefighting apparatus;
 - h. Provides opportunities for recreation, light, and air, and avoids congestion;
 - i. Facilitates the orderly and efficient layout and use of the land;
 - j. Does not create a split-zoned lot; and



D. Abbreviated Plat Procedure

- 1. Authorization**
Except for preliminary plats where the applicant is an agency of the municipal, state, or federal governments, the preliminary plats described in subsection B.2.b. above are subject to approval under the abbreviated procedure in this subsection instead of the procedure in subsection C. above. Preliminary plats described in B.2.b., where the applicant is an agency of the municipal, state, or federal governments, are subject to approval under the procedure in subsection C. above.
- 2. Application Submittal**
Applications for abbreviated plats shall contain all of the submittal requirements that are listed in the Title 21 Users' Guide. Applications shall be submitted to the platting officer on a form provided by the department.
- 3. Public Notice**
Before acting on an abbreviated plat application under this section, the platting officer shall provide notice in accordance with section 21.03.020H.
- 4. Action on Plat**

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- a. **Platting Authority**
The platting officer is the platting authority for abbreviated plats, except as provided in section 21.03.230 for vacation or relocation of certain dedicated public areas. The platting officer may refer any application to the platting board that he or she deems may need further or more extensive analysis and public comment concerning access into adjacent property.
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- b. **Review and Decision**
The platting authority shall review each proposed subdivision in light of the approval criteria of subsection C.9. above and shall consult other municipal offices or agencies as necessary. Based on the results of that review, the platting authority shall act to approve, approve with conditions, or deny the plat.
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- c. **Variances**
- i. When acting as the platting authority under this section, the platting officer may not grant variances from the provisions of chapter 21.08, *Subdivision Standards*.
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- ii. When acting as the platting authority under section 21.03.080F., *Platting for Conditional Uses*, or 21.03.180F., *Platting for Site Plans*, the board or commission hearing an application for conditional use or site plan approval may grant variances from the provisions of chapter 21.08, *Subdivision Standards*, in accordance with section 21.03.240, *Variances*.
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- d. **Duration of Preliminary Approval**
Abbreviated plat approval expires after 24 months; provided that the board hearing an application for conditional use or site plan approval may extend the expiration of abbreviated plat approval in conjunction with extending the time for implementing the conditional use or site plan.
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- e. **Time Extensions**
The abbreviated plat shall become null and void after the preliminary approval period unless an extension of time is granted by the platting officer. A request for a time extension must be made in writing by the subdivider. Such a time extension shall be granted only if the platting officer finds that current conditions are substantially the same as those that existed when the preliminary plat was approved. Only one extension of no more than 24 months may be approved.
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- f. **Appeals**
Decisions of the platting officer under this section are final unless appealed within 15 days to the platting board, in which case the appeal shall be treated as an application for preliminary plat approval pursuant to subsection 21.03.200C.
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- g. **Approval of Final Plat**
A final plat submitted pursuant to the approval of an abbreviated plat under this section is subject to approval in accordance with subsection C.8. above, provided that the municipal surveyor may waive a field survey for a final plat that merely eliminates interior lot lines.

- 1 E. **Commercial Tract Plats**
- 2 1. **Applicability**
- 3 A commercial tract may be created and divided into fragment lots in order to
- 4 facilitate construction of commercial developments requiring multiple phases of
- 5 construction. Designation of commercial tracts shall be allowed only in the B-3,
- 6 RO, I-1, I-2, PCD, MC, MI, GC-1 through GC-10, GI-1, GI-2, GRST-1, and
- 7 GRST-2 zoning districts.
- 8 2. **Platting Authority**
- 9 The platting board shall be the platting authority for a commercial tract whose site
- 10 plan includes a large commercial establishment. The platting board shall be the
- 11 platting authority for all other commercial tracts.
- 12 3. **Review, Approval, and Modification of Commercial Tract Plats**
- 13 a. **Application Submittal**
- 14 Applications for a commercial tract plat shall contain the information
- 15 specified in the Title 21 Users' Guide, and shall be submitted to the
- 16 platting officer on a form provided by the department. An application for
- 17 approval of a commercial tract shall be signed by the owners of the
- 18 property involved.
- 19 b. **Action by Platting Authority**
- 20 i. The platting authority shall act upon the application for approval
- 21 of a commercial tract whose site plan includes a large
- 22 commercial establishment as part of the major site plan review
- 23 for the large commercial establishment under subsection
- 24 21.03.170.
- 25 ii. Except as provided in E.3.b.i. above, the platting authority shall
- 26 act upon the application for commercial tract approval following
- 27 the review and approval procedures of a preliminary plat in
- 28 accordance with subsection 21.03.190C.7.
- 29 c. **Recording of Site Plan**
- 30 Upon approval of a commercial tract under subsection E.3.b. above, the
- 31 platting officer shall, after notice to the petitioner, record the commercial
- 32 tract site plan as approved, together with any declarations, covenants,
- 33 and restrictions, with the district recorder's office.
- 34 d. **Conformance with Site Plan**
- 35 It shall be unlawful for any person to construct, erect, or maintain any
- 36 structure, building, fence, or improvement, including landscaping,
- 37 parking, and other facilities, on property designated as a commercial
- 38 tract, unless such improvements are constructed or reconstructed in a
- 39 manner consistent with the approved commercial tract site plan.
- 40 e. **Alteration of Boundaries**
- 41 The process for amending or altering the boundaries of an approved
- 42 commercial tract shall be the same process as that of the original
- 43 approval of the commercial tract plat.
- 44 f. **Amendment of Site Plan**
- 45 Any amendment or alteration of an approved commercial tract site plan
- 46 shall be made only upon approval of the platting authority as provided in
- 47 this section.

- 1 4. **Division of Tract**
2 The owner of a commercial tract may divide the tract into fragment lots provided
3 that such division is consistent with the approved commercial tract site plan and
4 recorded declarations, covenants, and restrictions applicable to the commercial
5 tract. Any property description used to divide an area of the commercial tract into
6 a fragment lot shall not be considered a lot or tract under the terms of this Title or
7 Title 23, but shall be otherwise a lawful lot or tract. Any fragment lot created
8 under this section shall contain the minimum area, width, and depth otherwise
9 required for lots in the zoning district in which the fragment lot is located.
- 10 F. **Right-of-Way Acquisition Plat**
- 11 1. **Generally**
12 A plat for a subdivision created by a government agency's acquisition of a street
13 or trail right-of-way is subject to approval under this section and is not subject to
14 any other approval procedure for plats under this Title.
- 15 2. **Application Submittal**
16 Applications for a right-of-way acquisition plat shall contain the information
17 specified in the Title 21 Users' Guide, and shall be submitted to the platting
18 officer on a form provided by the department.
- 19 3. **Applicability of Requirements**
20 a. A right-of-way acquisition plat is not subject to section 21.08.050,
21 *Improvements*.
- 22 b. Survey requirements for a right-of-way acquisition plat shall be
23 established by agreement between the municipal surveyor and the
24 government agency applying for plat approval, or, if there is no such
25 agreement, by the provisions of this Title.
- 26 4. **Action**
27 a. ***Platting Authority***
28 The platting officer shall act as the platting authority unless the
29 government agency applying for plat approval requests a public hearing
30 before the platting board.
- 31 b. ***Duration of Approval***
32 The preliminary approval of the right-of-way acquisition plat shall be for a
33 period of 60 months; provided, however, that the platting officer may
34 grant an extension of time for filing the final plat upon a finding that it is in
35 the public interest to do so.
- 36 c. ***Appeals***
37 All decisions of the platting officer under this section shall be final unless
38 appealed to the platting board within 15 days. An appeal under this
39 subsection shall be treated as an application for preliminary plat approval
40 pursuant to section 21.03.200C.
- 41 5. **Requirements for Final Plat**
42 Requirements for final right-of-way acquisition plats shall be established by
43 agreement between the director and the government agency applying for plat
44 approval, or, if there is no such agreement, by the provisions of this Title.

- 1 **G. Modification or Removal of Plat Notes**
- 2 **1. Purpose**
- 3 This section sets forth a process by which the platting board may modify or
- 4 remove plat notes from recorded plats.
- 5 **2. Initiation**
- 6 Applications for modifying or removing a plat note(s) may be initiated by the
- 7 owner(s) of land encumbered by the plat note. If the applicable plat note
- 8 encumbers more than one lot, the owners of all encumbered lots shall be a party
- 9 to the application.
- 10 **3. Application**
- 11 Applications for modifying or removing a plat note(s) shall contain the information
- 12 specified in the Title 21 Users' Guide, and shall be submitted to the platting
- 13 officer on a form provided by the department.
- 14 **4. Public Notice**
- 15 Notice shall be provided in accordance with section 21.03.020H.
- 16 **5. Departmental Review**
- 17 The department shall review the proposed modification or removal of a plat
- 18 note(s) in light of the approval criteria of subsection G.9. below and distribute to
- 19 other reviewers as deemed necessary. Based on the results of those reviews,
- 20 the department shall provide a report to the platting board.
- 21 **6. Action by the Platting Board**
- 22 The platting board shall hold a public hearing on the proposed application and
- 23 act to approve, approve with alterations, or deny the proposed modification or
- 24 removal of a plat note(s), based on the approval criteria of subsection G.9.
- 25 below.
- 26 **7. Recordation**
- 27 Once approved by the platting board, a plat with modified or deleted plat notes
- 28 shall be re-recorded in accordance with the procedures of the district recorder's
- 29 office.
- 30 **8. Appeal**
- 31 Decisions on modifying or removing a plat note(s) may be appealed to the board
- 32 of adjustment in accordance with subsection 21.03.050A.
- 33 **9. Approval Criteria**
- 34 Plat note modifications or deletions may be approved if the platting board finds
- 35 that all of the following approval criteria have been met:
- 36 **a.** Conditions that required the plat note(s) on the original plat have
- 37 changed and the need for the plat note has been negated;
- 38 **b.** Modification or removal of the plat note(s) will not have a negative impact
- 39 on adjacent or nearby properties; and
- 40 **c.** Despite modification or removal of the plat note(s), the plat continues to
- 41 meet the approval criteria of subsection 21.03.200C.9.

21.03.200 TITLE 21 – TEXT AMENDMENTS

A. Purpose and Scope

The assembly may amend the text of this Title in accordance with the procedures set forth in this section. The purpose of text amendments is not to relieve particular hardships, nor to confer special privileges or rights on any person, but rather to make adjustments to text that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the municipality.

B. Procedure

1. Initiation

A petition for amendment to the text of this Title may be initiated by any review or decision-making body, including the Assembly itself.

2. Application Submittal

Proposals for text amendments shall be in ordinance form and shall be filed with the director.

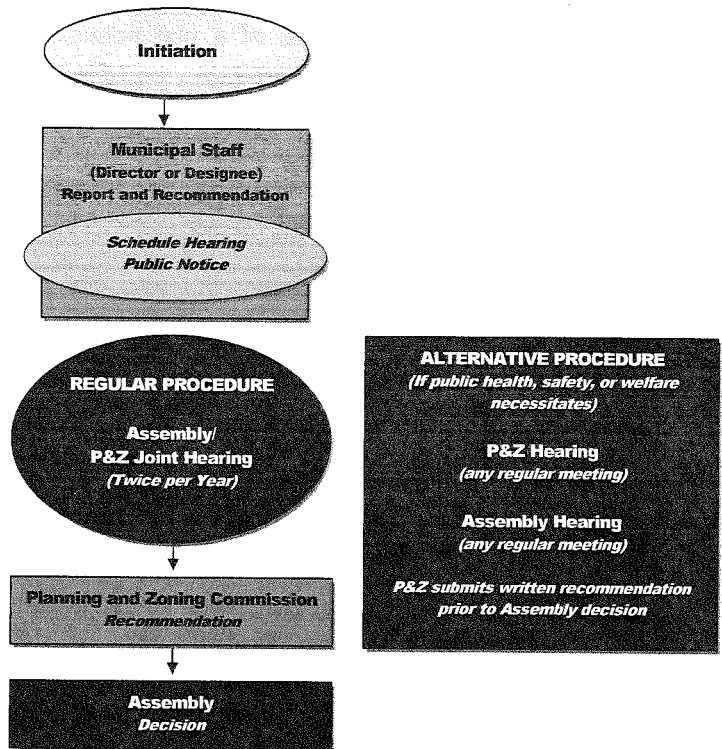
3. Departmental Review

The department shall review each proposed text amendment in light of the approval criteria of subsection C. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the Planning and Zoning Commission. A positive recommendation shall be accompanied by a draft ordinance reflecting the recommendation.

4. Review by Other Boards or Commissions

a. Any text amendments proposed that amend the powers and duties of any board or commission shall be reviewed by that board or commission, which shall forward a recommendation to the assembly.

b. In addition, if any text amendments are proposed in chapter 21.08, *Subdivision Standards*, the platting board shall review such proposed amendments and forward a recommendation to the Planning and Zoning Commission and the assembly.



5. Notice and Frequency of Amendments

a. Notice shall be provided in accordance with section 21.03.020H

Amendments to Text of Title 21

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6. **Planning and Zoning Commission Action**
- a. As soon as possible after the public hearing, but no later than 60 days, the Planning and Zoning Commission shall make a recommendation to the assembly to approve or deny the text amendment based on the approval criteria of subsection C. below.
- b. If the commission recommends approval of the amendment, the director shall submit the draft ordinance to the assembly
- c. If no recommendation is made within 60 days, then the Planning and Zoning Commission may request an extension of time from the assembly. If no recommendation is made and no extension is granted, then the assembly may act on the proposed amendment without a recommendation from the Planning and Zoning Commission.
7. **Assembly Action**
- After a public hearing and reviewing the reports and recommendations of the director and the Planning and Zoning Commission and the platting board if appropriate, the assembly shall vote to approve, approve with amendments, or deny the proposed amendment, based on the approval criteria of subsection C. below. The assembly also may refer the proposed amendment back to the Planning and Zoning Commission or to a committee of the assembly for further consideration. Text amendments shall be approved in the form of ordinances.
- Notwithstanding the processes or the approval criteria in Subsection C below, during the two year period immediately after the effective date of this Title, the Assembly may, at its discretion, consider amendments to this Title at any time without the necessity of review by the Planning and Zoning Commission or the Platting Board if the Assembly determines that the amendment is necessary or appropriate to effectuate the provisions of this Title or the comprehensive plan.
- C. **Approval Criteria**
- Text amendments may be approved if the assembly finds that all of the following approval criteria have been met:
1. The proposed amendment will promote the public health, safety, and general welfare;
 2. The proposed amendment is consistent with the comprehensive plan and the stated purposes of this Title; and
 3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

39 **21.03.210 USE CLASSIFICATION REQUESTS**

- 40 **A. Purpose and Applicability**
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1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*, and in section 21.09.050, *Use Regulations (Girdwood)*, describe one or more uses having similar characteristics, but do not list every use or activity that may fall within the classification. This section shall be used to determine all questions or disputes whether a specific use is deemed to be within a use classification permitted in a zoning district.
 2. The provisions of this section shall not apply to permit any specific use that is expressly prohibited in a zoning district.

1 **B. Procedures for Use Classification Request**

2 The procedure for an application to determine a use classification shall be as follows:

3 **1. Application Submittal and Action**

4 An application for a use classification shall be submitted to the director on a form
5 provided by the department. Within 30 days from the date a complete application
6 is submitted, the director shall review the application according to the standards
7 set forth in this section; consult with the municipal attorney and other staff, as
8 necessary; and make a final determination as to whether the subject use shall be
9 deemed to be within a use classification set forth in this Title and whether such
10 use shall be allowed in the applicable zoning district.

11 **2. Appeals**

12 Appeals from the director's determination on a use classification request shall be
13 made to the zoning board of examiners and appeals, pursuant to section
14 21.03.050B.

15 **3. Form of Determination**

16 All final determinations by the director shall be provided to the applicant in writing
17 and shall be filed in the official record of use classification determinations.

18 **C. Standards for Review**

19 In evaluating a use classification request, the director shall consider whether the
20 proposed use has an impact that is similar in nature, function, and duration to the other
21 uses allowed in a specific zoning district. The director shall give due consideration to the
22 intent of this Title concerning the district(s) involved, the character of the uses specifically
23 identified, and the character of the use(s) in question. The director shall assess all
24 relevant characteristics of the proposed use, including but not limited to the following:

25 **1.** The primary activity of the establishment and its relationship to existing use
26 categories and use types. The primary activity may be the principal product or
27 group of products produced or distributed, or services rendered. It may be the
28 share of production costs, capital investment, revenue, shipments, or
29 employment, if evaluating the relative significance of multiple activities.

30 **2.** The volume and type of sales (retail or wholesale) on the premises, and the size
31 and type of items sold and nature of inventory on the premises.

32 **3.** Any processing done on the premises, including assembly, manufacturing, final
33 production, warehousing, shipping, and distribution.

34 **4.** Any dangerous, hazardous, toxic, or explosive materials used in the processing
35 on the premises.

36 **5.** The type, size, height, and nature of buildings and structures.

37 **6.** The number and density of employees and customers per unit area of site in
38 relation to business hours and employment shifts.

39 **7.** Parking requirements, turnover and generation, ratio of the number of spaces
40 required per unit area or activity, and the potential for shared parking with other
41 uses.

42 **8.** The amount and nature of any nuisances generated on the premises, including
43 but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes.

1 9. Any special public utility requirements for serving the proposed use, including but
2 not limited to water supply, waste water output, pre-treatment of wastes and
3 emissions required or recommended, and any significant power structures and
4 communications towers or facilities.

5 10. The impact on adjacent properties created by the proposed use will not be
6 greater than that of other uses in the zoning district.

7 **D. Effects of Findings by the Director**

8 **1. Typical Uses: Amendment to this Title**

9 If the director finds that the particular use or category of use(s) that was the
10 subject of the use classification request is likely to be common or to recur
11 frequently, or that omission from this Title is likely to lead to public uncertainty
12 and confusion, the director shall initiate an amendment to this Title under section
13 21.03.210, *Title 21-Text Amendments*. The determination of the director shall be
14 binding on all officers and departments of the municipality.

15 **2. Atypical Uses: Determination Binding**

16 If the director finds that the particular use or category of use(s) that was the
17 subject of the use classification request is of an unusual or transitory nature, or is
18 unlikely to recur frequently, the director may approve the use without initiating an
19 amendment to this Title. However, the director's determination shall thereafter
20 be binding on all officers and departments of the municipality.

21 **E. Official Record of Use Classification Determinations**

22 An official record of use classification determinations and related zoning board actions
23 shall be kept on file in the department and shall be available for public inspection in the
24 department during normal business hours.

25 **21.03.220 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS**

26 **A. Authority**

27 The platting authority shall consider the merits of each vacation request, and in all cases
28 the platting authority shall deem the area being vacated to be of value to the municipality
29 unless proven otherwise. The burden of proof shall lie entirely with the petitioner. The
30 presumption contained herein does not apply to vacations of private easements where
31 the beneficiaries have provided written concurrence.

32 **B. Application Submittal**

33 Applications for vacation requests shall contain the information specified in the Title 21
34 Users' Guide, and shall be submitted to the platting officer on a form provided by the
35 department.

36 **C. Decision-Making Responsibilities for Vacations**

37 **1. The platting officer is the platting authority for applications to vacate the**
38 **following platted interests:**

- 39 a. Drainage easements granted under section 21.08.050M.
40 b. Zero lot line maintenance easements.
41 c. Public utility easements.
42 d. Private easements, but only upon the written concurrence of the
43 beneficiaries.

- 1 e. Relocation of any of the above-described interests.
- 2 2. The platting board is the platting authority for all other applications to
3 vacate a dedicated public area.

4 **D. Action**

5 The platting officer or platting board shall take action on the vacation application within 60
6 days after the submittal date. The reasons for the approval of the vacation shall be
7 stated upon the case record.

8 **E. Approval Period**

9 The approval of a vacation expires 24 months after the date of approval unless, before its
10 approval expires, a conveyance of the vacated interest is approved in accordance with
11 law and a final plat depicting the vacation is approved and filed in accordance with this
12 Title. A street right-of-way or easement whose vacation is finally approved under this
13 section is a right-of-way or easement without substantial value to the municipality and is
14 conveyed upon the filing of a final plat depicting the
15 vacation.

16 **F. Appeals**

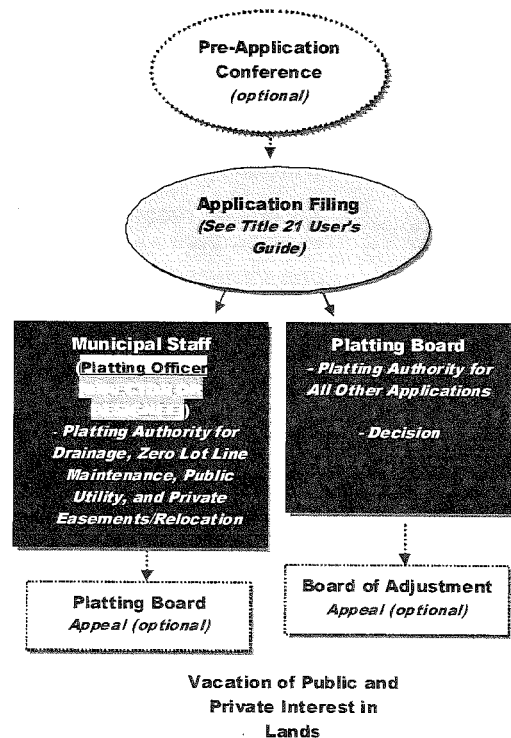
17 Appeals of the platting officer's decision on a
18 vacation under his or her jurisdiction shall be treated
19 as an application for preliminary plat approval
20 pursuant to section 21.03.200C. Appeals of the
21 platting board's decision on a vacation under its
22 jurisdiction shall be to the board of adjustment.

23 **G. Title to Vacated Area**

24 1. The Title to the street or other public right-of-
25 way vacated on a plat attaches to the lot or
26 lands bordering on the area in equal
27 proportions, except that, if the area was
28 originally dedicated by different persons,
29 original boundary lines shall be adhered to
30 so that the street area which lies on one side
31 of the boundary line shall attach to the
32 abutting property on that side, and the street
33 area which lies on the other side of the
34 boundary line shall attach to the property on
35 that side. The portion of a vacated street
36 that lies within the limits of a platting addition
37 bordering on the area. If a public square is
38 vacated, the Title to it vests in the municipality.

40 2. If the municipality acquired the street or other public area vacated for legal
41 consideration before the final act of vacation, the fair market value of the street or
42 public area shall be deposited with the municipality. Title transferred under this
43 subsection shall be warranted by the municipality in the same manner as it was
44 received.

45 3. The provisions of paragraph G.1. of this section notwithstanding, the platting
46 board may determine that all or a portion of the area vacated should be devoted
47 to another public purpose and, if so, Title to the area vacated and held for



1 another public purpose does not vest as provided in paragraph G.1. but remains
2 in the municipality.

3 **21.03.230 VARIANCES**

4 **A. Purpose and Scope**

5 The variance process is intended to provide limited relief from the requirements of this
6 Title in those cases where strict application of a particular requirement will create a
7 practical difficulty or unnecessary hardship prohibiting the reasonable use of land in a
8 manner otherwise allowed under this Title. It is not intended that variances be granted
9 merely to remove inconveniences or financial burdens that the requirements of this Title
10 may impose on property owners in general. Rather, it is intended to provide relief where
11 the requirements of this Title render the land difficult or impossible to use because of
12 some unique physical attribute of the property itself. State and/or federal laws or
13 requirements may not be varied by the municipality. Variances are not intended to allow
14 things that are otherwise prohibited in this Title.

15 **B. Decision-Making Bodies Authorized to Consider Variance Requests**

16 1. The platting authority shall be authorized to review and consider all requests for
17 variances to standards of the following sections:

- 18 a. Subsection 21.07.020C., *Steep Slope Development*;
- 19 b. Section 21.07.060, *Transportation, Connectivity, and Pedestrian*
20 *Facilities*; and
- 21 c. Chapter 21.08, *Subdivision Standards*.

22 2. The Planning and Zoning Commission shall be authorized to review and consider
23 all requests for variances of standards of the following sections:

- 24 a. Subsection 21.05.040K., *Telecommunication Facilities*; and
- 25 b. Section 21.07.050, *Utility Distribution Facilities*.

26 3. Requests for variances from the airport height zoning regulations set forth in
27 section 21.04.060C. shall be referred to the Federal Aviation Administration.

28 4. The following shall be authorized to review and consider all requests for
29 variances to standards of the following sections:

- 30 a. Planning and Zoning Commission: District-specific standards of chapter
31 21.04, *Zoning Districts*;
- 32 b. Planning and Zoning Commission: Use-specific standards of chapter
33 21.05, *Use Regulations*;
- 34 c. Platting Board: Chapter 21.07, *Development and Design Standards*;
- 35 d. Planning and Zoning Commission: The following sections of chapter
36 21.09, *Girdwood Land Use Regulations*: 21.09.040, *Zoning Districts*;
37 21.09.050, *Use Regulations*; 21.09.070, *Site Development and Design*
38 *Standards*; 21.09.080, *Building Design Standards*;

e. Urban Design Commission: Chapter 21.11, *Signs*, including the maximum sign area, the maximum sign height, the location of the sign, and the number of signs on the parcel. In evaluation the request for a variance to the maximum sign height, the Urban Design Commission may consider whether there are special topographic circumstances that would result in a material impairment of visibility of the sign from the adjacent roadway which significantly diminishes the owner's or user's ability to continue to communicate adequately and effectively with the public through the use of the sign.

5. The zoning board of examiners and appeals shall be authorized to review and consider variance requests from chapter 21.06, *Dimensional Standards and Measurements*, and from section 21.09.060, *Dimensional Standards* (Girdwood). The zoning board may only grant variances from dimensional standards.

6. No variance may be granted from the definitions set forth in chapter 21.14.

C. Application Submittal

Applications for a variance shall contain the information specified in the Title 21 Users' Guide, and shall be submitted to the director on a form provided by the department.

D. Public Notice

Notice shall be provided in accordance with section 21.03.020H.

E. Departmental Review

The department shall review each proposed variance in light of the approval criteria of subsection G. below and distribute to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the decision-making body.

F. Action by the Decision-Making Body

1. Once the application is complete, the director shall schedule the application for consideration at a public hearing, and shall transmit to the appropriate decision-making body all applications and other records pertaining to the variance prior to the hearing. Upon receiving the application materials from the director, the decision-making body shall hold a public hearing on the proposed variance.
2. In considering the application, the decision-making body shall review the application materials, the approval criteria of subsection G., and all testimony and evidence received at the public hearing.
3. After conducting the public hearing, the decision-making body may: deny the application; conduct an additional public hearing on the application; or grant the minimum required variance. Any approval or denial of the request shall be by



Variances

All text in the paragraph beyond this footnote is moved from Chapter 21.11, *Signs*, and is from the current code section 21.47.110.

1 resolution, accompanied by written findings of fact that the variance meets or
2 does not meet each of the applicable criteria set forth in subsection G., stating
3 the reasons for such findings. A concurring vote of a majority of the fully
4 constituted membership of the entity, minus those excused by conflicts of
5 interest, shall be required to grant a variance.

6 4. Under no circumstances shall the decision-making body grant a variance to allow
7 a use not permitted in the zoning district containing the property for which the
8 variance is sought.

9 5. Under no circumstances shall the decision-making body grant a variance from
10 any written conditions attached by another decision-making body to the approval
11 of a conditional use, subdivision plat, site plan, or rezone (special limitation).

12 **G. Approval Criteria**

13 The application must state with particularity the relief sought and must specify the facts or
14 circumstances that are alleged to show that the application substantially meets the
15 following standards:

16 1. **Variances from the District-Specific Standards of Chapter 21.04, Zoning**
17 **Districts, the Use-Specific Standards of Chapter 21.05, Use Regulations,**
18 **Chapter 21.07, Development and Design Standards, Section 21.09.040,**
19 **Section 21.09.050, Section 21.09.070, Section 21.09.080, and Chapter 21.11,**
20 **Signs:**

21 a. The proposed alternative achieves the intent of the subject design
22 standard to the same or better degree than the subject standard;

23 b. The proposed alternative achieves the goals and policies of the
24 comprehensive plan to the same or better degree than the subject
25 standard;

26 c. The proposed alternative results in benefits to the community that are
27 equivalent to or better than compliance with the subject standard;

28 d. The variance, if granted, will not adversely affect the use of adjacent
29 property as permitted under this code;

30 e. The variance, if granted, does not change the character of the zoning
31 district where the property is located, is in keeping with the intent of the
32 code, and does not permit a use not otherwise permitted in the district in
33 which the property lies; and

34 f. The variance, if granted, does not adversely affect the health, safety, and
35 welfare of the people of the municipality.

36 2. **Variances from Chapter 21.06, Dimensional Standards and Measurements**
37 **and from Section 21.09.060 (Girdwood):**

38 a. There exist exceptional or extraordinary physical circumstances of the
39 subject property including, but not limited to, streams, wetlands, or slope,
40 and those circumstances are not applicable to other land in the same
41 zoning district;

42 b. Because of these physical circumstances, the strict application of the
43 code creates an exceptional or undue hardship upon the property owner,
44 and would deprive the applicant of rights commonly enjoyed by other
45 properties in the same district under the terms of the zoning ordinance;

- 1 c. The hardship is not self-imposed, special conditions and circumstances
2 do not result from the actions of the applicant, and such conditions and
3 circumstances do not merely constitute inconvenience;
- 4 d. The variance, if granted, will not adversely affect the use of adjacent
5 property as permitted under this code;
- 6 e. The variance, if granted, does not change the character of the zoning
7 district where the property is located, is in keeping with the intent of the
8 code, and does not permit a use not otherwise permitted in the district in
9 which the property lies;
- 10 f. The variance, if granted, does not adversely affect the health, safety, and
11 welfare of the people of the municipality; and
- 12 g. The variance granted is the minimum variance that will make possible a
13 reasonable use of the land.
- 14 **3. Variances from Chapter 21.08, Subdivision Standards**
- 15 a. There are special circumstances or conditions affecting the property
16 such that the strict application of the provisions of the subdivision
17 regulations would clearly be impractical, unreasonable, or undesirable to
18 the general public;
- 19 b. The granting of the specific variance will not be detrimental to the public
20 welfare or injurious to other property in the area in which such property is
21 situated;
- 22 c. Such variance will not have the effect of nullifying the intent and purpose
23 of the subdivision regulations or the comprehensive plan of the
24 municipality; and
- 25 d. Undue hardship would result from strict compliance with specific
26 provisions or requirements of the subdivision regulations. The applicant
27 may supplement the form with supporting documents.
- 28 **4. Variances from Airport Height Zoning Regulations**
- 29 The Federal Aviation Administration shall complete an airspace determination
30 that concludes that the proposed variance would not create a hazard.
- 31 **H. Lapse of Approval**
- 32 Any variance granted shall become null and void if:
- 33 1. The variance is not exercised within one year of the date it is granted or as
34 otherwise conditioned, or
- 35 2. Any building, structure, or characteristic of use permitted by variance is moved or
36 altered so as to enlarge the variance or discontinue it.
- 37 **I. Appeals**
- 38 1. An appeal from a decision of the platting board or the Urban Design Commission
39 shall be brought to the board of adjustment in accordance with sections
40 21.03.050A.
- 41 2. An appeal from a decision of the Planning and Zoning Commission or the zoning
42 board of examiners and appeals shall be brought in accordance with section
43 21.03.050C.

- 1 **J. Administrative Variances from Occupancy Limits For Assisted Living Facilities**
- 2 **1. Intent**
- 3 The intent of this section is to provide a procedure to allow persons with
- 4 disabilities and assisted living providers to request reasonable accommodation
- 5 from the department when access to decent safe, accessible and affordable
- 6 housing with assisted living would not be available absent a reasonable
- 7 accommodation. This administrative variance procedure is available to address
- 8 application for minor variance in dimensional and setback requirements to
- 9 accommodate special needs of persons with disabilities and to address
- 10 application for variance in occupancy limits of no more than three persons.
- 11 **2. Application**
- 12 Application for minor variance in dimensional and setback requirements to
- 13 accommodate special needs of persons with disabilities and application for
- 14 variance in occupancy limits of no more than three persons shall be made to the
- 15 director on a form provided by the department, shall be executed by or on behalf
- 16 of the person with disabilities seeking the reasonable accommodation, or the
- 17 owner of the real property, or the lessee with proof of the owner's consent, and
- 18 shall be complete in all respects prior to review under this section.
- 19 **3. Public Notice Of Application For Variance In Occupancy Limits**
- 20 Notice shall be provided in accordance with section 21.03.020H.
- 21 **4. Time for approval**
- 22 The department shall make a determination on an application within 60 days of
- 23 submittal. Notification of approval or denial shall be posted electronically on the
- 24 department's municipal web site and furnished in writing to the applicant by mail
- 25 or delivered by electronic means.
- 26 **5. Standards**
- 27 In deciding to approve or deny an application, the department shall review the
- 28 application and written comments addressing factors relevant to the request for
- 29 reasonable accommodation, including but not limited to, the extent to which the
- 30 application demonstrates the following, as related to the particular request of the
- 31 applicant:
- 32 a. For administrative variance applications to increase occupancy limits in
- 33 R-1, R-1A, R-2A and R-2D districts, the extent to which the
- 34 accommodation and the assisted living provider seek to protect and
- 35 preserve the primarily residential character of the district. Factors may
- 36 include traffic patterns, on-street parking patterns, the control exercised
- 37 by the assisted living provider to mitigate environmental disturbance
- 38 associated with ingress and egress of facility staff workers at shift
- 39 change, and any other measures taken by the assisted living provider to
- 40 ensure the commercial aspects of the facility do not detract from its
- 41 residential purpose and the primarily residential character of the district.
- 42 An example of a commercial aspect is if residential trash containers were
- 43 standard in the neighborhood and the assisted living provider used one
- 44 or more dumpsters due to volume. An example of a mitigation measure
- 45 for this aspect the assisted living provider might take is to screen the
- 46 dumpster.
- 47 b. For administrative variance applications to increase occupancy limits,
- 48 economic hardship on the intended occupants if the variance is denied.
- 49 Cost and availability of other housing alternatives may be addressed in
- 50 preparation and review of the application.

- 1 c. Whether the requested accommodation and the assisted living provider
2 are implementing accident prevention and safety measures specific to
3 the needs of the residents, including but not limited to safety measures in
4 state law and regulation, and in municipal fire code adopted under Title
5 23.
- 6 d. Whether the accommodation requested is advancing housing
7 opportunities for disabled individuals in a residential community without
8 jeopardizing residential aspects of the neighborhood with commercial
9 aspects of operation.
- 10 e. For administrative variance applications to increase occupancy limits,
11 whether the proposed size of the facility is necessary for the facility's
12 financial viability.
- 13 f. External characteristics and impacts of the proposed facility, including
14 without limitation appearance, projected contribution to traffic volumes
15 and on-street parking within the neighborhood, available street lighting
16 and sidewalks.
- 17 g. Quantifiable risks to the health, safety, and quality of life of area
18 residents and users.
- 19 h. Administrative and economic burden on the municipality, in either
20 approval or denial of the variance.
- 21 i. Other factors deemed relevant to the applicant or the department in
22 review of the application.
- 23 **6. Conditions**
24 In approving a variance, the department may impose reasonable conditions
25 designed to address the standards in subsection J.5. or mitigate impacts created
26 by the variance.
- 27 **7. Appeal**
28 All decisions of the department under this section shall be final unless an appeal
29 is filed in a timely manner. Appeals of the decision to approve or deny a variance
30 under this section shall be to the zoning board of examiners and appeals,
31 pursuant to the provisions of subsection 21.03.050B., except an appeal may be
32 brought by any person with standing to request reasonable accommodation
33 under the Fair Housing Act, 42 U.S.C. § 3604(f).
- 34 **K. Administrative Variances for Signs²**
- 35 1. The director may grant an administrative variance from the height restrictions
36 and/or setback requirements for freestanding signs, provided:
- 37 a. Special topographic circumstances exist that would result in a material
38 impairment of visibility of a conforming sign from the adjacent roadway;
- 39 b. There is no reasonable conforming alternative to the variance;
- 40 c. Any setback variance does not result in an encroachment into a public
41 right-of-way; and
- 42 d. A fee has been received.

² This section is transferred from Chapter 21.11, *Signs*, and is current code section 21.47.105.

- 1 2. The director shall make written findings and conclusions for each variance
2 request.
- 3 3. If the request for an administrative variance is denied, the applicant may apply for
4 a public hearing variance under this section 21.03.240.

5 **L. Administrative Variances for Large Domestic Animal Facility**

6 Application for administrative approval of deviation in minimum lot size of 40,000 square
7 feet may be made to the department. The director may approve deviation of site area
8 square footage, not to exceed 10 percent, upon consultation with the department of
9 health and human services and the department of development services.

10 **21.03.240 VERIFICATION OF NONCONFORMING STATUS**

11 **A. Process**

12 Owners of lots, uses, or structures that may not conform to the requirements of this Title
13 may request a verification of nonconforming status by filing an application with the
14 director in accordance with this section. Owners of signs that do not conform to the
15 requirements of this Title shall comply with section 21.12.070, *Nonconforming Signs*.

- 16 1. The application shall be accompanied by documentation that establishes the
17 approximate date that the lot, use, or structure was established; proof that the lot,
18 use, or structure was lawfully established at the time it became nonconforming;
19 and proof that the use has not been discontinued or abandoned, except as
20 provided in subsection B. below. The director shall require additional information
21 if deemed necessary to permit an accurate determination.
- 22 2. Such verifications shall run with the land, and their status shall not be affected by
23 changes of tenancy, ownership, or management.
- 24 3. A verification of nonconforming status shall not be required for continued daily
25 operation or maintenance of a nonconforming lot, use, or structure.

26 **B. Exceptions**

27 Notwithstanding subsection A. above:

- 28 1. Where the contention for nonconforming use is raised in a court in any action
29 brought to enforce this Title before an application for determination has been filed
30 under this section, this section shall not be applicable and the court shall have
31 jurisdiction to determine the issue.
- 32 2. Nothing in this section shall be construed to deprive the director the right to make
33 a decision regarding a claimed nonconforming use or status as incident to a valid
34 pending application for a land use permit.

35 **C. Appeals**

36 Denial of the director's decision on nonconforming status may be appealed to the zoning
37 board of examiners and appeals pursuant to subsection 21.03.050B.