

TITLE 21 REWRITE

**Assembly Title 21 Committee
September 6, 2012**

**Review of Planning and Zoning Commission Recommended
Amendments to the Provisionally Adopted Title 21**

Chapter 5

Title 21 Rewrite — Assembly Review



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Municipality of Anchorage
Community Development Department
Planning Division



MEMORANDUM

Date: September 6, 2012
To: Assembly Title 21 Committee
From: *GW* Jerry T. Weaver, Jr., Director
Subject: Review of PZC Recommended Amendments to Provisionally Adopted Chapter 5

This document provides the Department's review of the recommended amendments from the Planning and Zoning Commission (PZC) to the provisionally adopted **Chapter 21.05, Use Regulations**, as well as other remaining issues regarding this chapter. This review is intended to assist the Assembly Title 21 Committee in its deliberations.

As with previous installments, the issues of concern raised in Chapter 5 are limited to the following:

1. Changes that have potentially significant implications or outcomes, which either vary from the provisionally adopted Title 21 or downgrade current Title 21 standards.
2. Changes that conflict with the Comprehensive Plan or make its implementation more difficult.
3. Concerns raised by the public that the PZC did not address. In addition, issues brought to the Department's attention by the Assembly Title 21 Committee Chair are included.

Please note: There is a placeholder in this document for a future discussion on the Tables of Allowed Uses, as well as the rearranging of use types in the various subcategories.

For Issue 5.15, Assembly Ordinance 2011-50(s) is included as an appendix at the back of this document for your reference.

Title 21 Exhibits referred to in this document, including Exhibits B, D, G, and N, were provided to you digitally on CD in your three-ring binders at the first meeting. The exhibits are also available online at:

<http://www.muni.org/Departments/OCPD/Planning/Projects/t21/Pages/Title21Rewrite.aspx>.

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5.1 Rearranging and Merging Use Categories and Use Types; Replacing the Use Tables

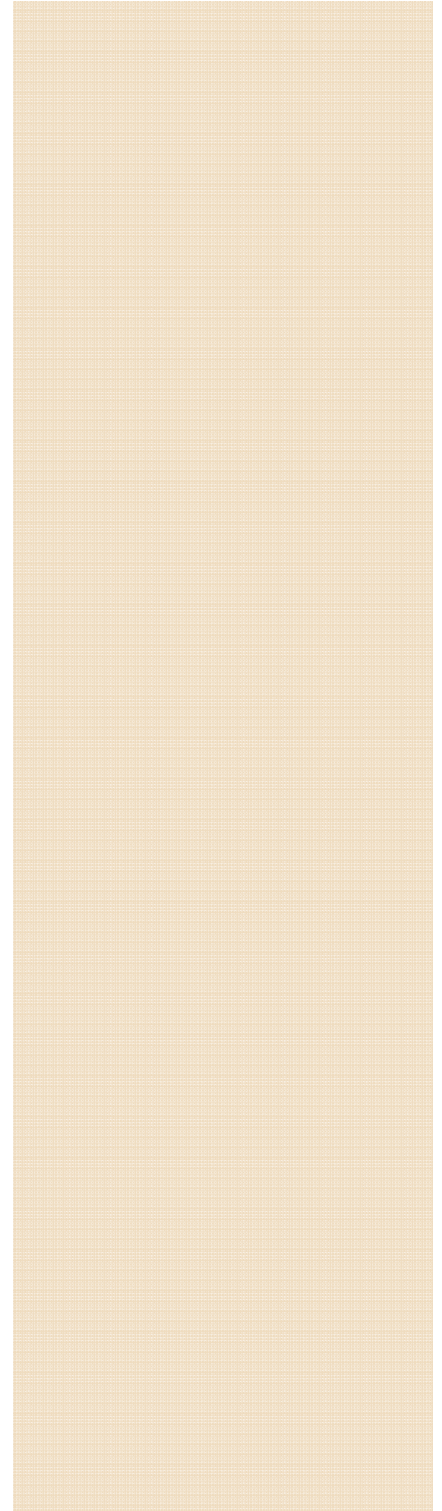
ISSUE:

The PZC has consolidated the two provisionally adopted Tables of Allowed Uses (21.05-1 and 21.05-2) into one table, and has done the same with the accessory use tables (21.05-4 and 21.05-5) later in the chapter. It has submitted its new tables in a separate document from its blue-lined tracked-changes version of Chapter 21.05.

The Department has identified numerous issues within PZC's consolidated Table of Allowed Uses, where changes have been made from the provisionally adopted tables, such as: moving some use types into different use categories; renaming multiple use categories; adding some new use types; deleting some use types; and making changes to what uses are allowed in many of the districts. These are some of the issues identified to date.

Additional changes to the arrangement of use types have been made within the Chapter.

The Department is currently diagnosing the various changes and is working with the Chair on how best to present these issues to the Assembly Title 21 Committee for review.



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5.2 Child Care Center Standards for Vegetated Open Space and Snow Storage –21.05.040B.1

ISSUE:

The Assembly Committee Chair has raised a concern about the Child Care Center use-specific standards for vegetated open space (21.05.040B.1.iii.) and snow storage (21.05.040B.1.iv.), where the establishment is not a stand-alone use but rather located in a multi-tenant or multi-use property (e.g., a strip mall).

The concern is that it may be impractical for childcare centers in tenant spaces to provide the amount of vegetated open space or snow storage required for the lot.

RESPONSE:

- These standards for the most part carry forward existing regulations for child care uses adopted in 2006. See (1).
- The 25 percent vegetated open space requirement applies only in the R-1, R-1A, R-2A, and R-2D low density urban residential districts, where Child Care Centers are a conditional use.
 - ⇒ The required amount is consistent with these districts, and multi-tenant strip malls do not locate in these districts.
- The 15 percent vegetated open space requirement is required in all other residential zones, and commercial and PLI districts.
 - ⇒ While this required amount is consistent with the built pattern in PLI and residential zones, it may be impractical in multi-tenant commercially zoned lots.
- The snow storage requirements are specific to residential districts, not to multi-tenant commercially zoned lots.

RECOMMENDATIONS:

1. Amend the 15 percent vegetated open space requirement on page 33, lines 33-37, so that it does not apply in non-residential districts.
2. Delete section 21.05.040B.1.c. on page 34, lines 25-31, as it is redundant to the section 21.05.040B.1.b.iii. on page 33.

REFERENCES:

*PZC Revision of Title 21:
Section 21.05.040B.1.b., pages
33-34.*

*Provisionally Adopted Title 21:
Section 21.05.040B.1.b., pages
168-169.*

(1) AO 2005--185(S).





5.3 Elementary and Middle School Outdoor Play Space – 21.05.040E.3.

ISSUE:

The Anchorage School District (ASD) provided comments (See 1) that its charter schools would be forced to relocate if they were required to provide two square feet of outdoor play space for every square foot of classroom space. ASD states that other cities have developed similar urban schools with magnet programs that thrive on proximity to downtown assets and play space is provided at nearby facilities such as the YMCA.

After reviewing the comments, the Department recommended to PZC that the outdoor play space requirement be retained, with an amendment such that, in Downtown, to allow parks within ¼ mile walking distance and separated from the school by arterial streets to count toward the school’s outdoor play space requirement, if a signalized pedestrian crossing and adult supervision are provided.

These comments and recommendations were not addressed by PZC.

RESPONSE:

- Minimum requirements for outdoor play areas have been a part of the draft code since its early draft iterations. Public review and hearing drafts required all schools to abide by ASD site development and design criteria for its public school sites. The current draft minimum requirement for outdoor play areas was provisionally adopted by the Assembly in 2008.
- Similar to other site standards in the Title 21 rewrite, the outdoor play space requirement would not be imposed retroactively on existing schools. It would apply only to proposed new schools.
- The provisionally adopted outdoor play space requirement allows for use of parks within a quarter mile from schools to satisfy the outdoor play space requirement, although the provisions don’t allow crossing an arterial street. This draft provision could be modified to allow for crossing arterial streets if such streets have signalized crosswalks that are supervised by adults during recreation periods and the schools are located in the downtown central business district.

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.040E.3.b.iv.,
Page 41, Lines 1-17.**

*Provisionally Adopted Title 21:
Section 21.05.040E.3.b.iv, Page
175, Lines 29-43, and Page 176,
Lines 1-3.*

(1) Exhibit D, Comments
Received for Public
Hearings through March
19, 2012, Page 285.

Continued...





5.3 Elementary and Middle School Outdoor Play Space – (Continued)

RECOMMENDATIONS:

1. Retain the requirement for outdoor play space as provisionally adopted, with the following amendment.
2. Approve and forward the following amendment to allow the $\frac{1}{4}$ mile walking distance to include crossing arterial streets in the downtown central business district if a signalized pedestrian crossing and adult supervision are provided:

Amend Section 21.05.040E.3.b.iv(2) to read:

The school and park are not separated by a street of arterial classification or greater on the Official Streets and Highways Plan, except that in the Downtown area, as defined by the Anchorage Downtown Comprehensive Plan (2007) but excluding the area north of 2nd Avenue, the school and park may be separated by a street classified as an arterial if a signalized pedestrian crosswalk and adult crossing guard supervision are provided.





5.4 Pharmacies as a Health Service or General Retail Use – 21.05.040F.1.

ISSUE:

A member of the public provided comments with suggested changes to improve consistency in the treatment of pharmacies in the use definitions and use-specific standards, as follows:

1. Modify the definition of ‘Health Services’ in section 21.05.040F.1.a. by substituting the word “pharmacies” for “dispensaries”; and
2. Modify the use-specific standards for ‘General Retail’ in Section 21.05.050F.7.b.i. to delete the language “such as a pharmacy” which inaccurately identifies pharmacies as an example of a ‘General Retail’ use .

After reviewing these proposed changes, the Department agreed and recommended they be approved by PZC.

These comments and recommendations were not addressed by PZC.

RESPONSE:

The commenter’s changes would make Title 21 clearer and more consistent in categorizing medical dispensary type pharmacies:

- As requested by the Assembly Title 21 Committee in 2010, the draft Chapter 21.14 defines “pharmacy” as being limited to only medical dispensaries. This clarified that Title 21 will not regulate a Walgreens type retail store (which offers a variety of items including toys, for example) as ‘Health Services’, but rather under ‘General Retail’. See (1).
- Chapter 5 section 21.05.040F.1.a. (page 42) categorizes a pharmacy as being under the ‘Health Services’ use type. The ‘Health services’ use type includes a variety of outpatient care, personal service, medical laboratory related medical establishments. Zoning districts such as the PLI and RO allow a “Health Services’ use such medical dispensary-type pharmacies, but prohibit ‘General Retail’.

Continued...

REFERENCES:

PZC Revision of Title 21:
Section 21.05.040F.1.a., Page 42, Lines 36-40 and Section 21.05.050F.7, Page 74, line 44 and Page 75, line 2.

Consolidated Table of Proposed Amendments:
Amendment 106.30, Page 72.

Provisionally Adopted Title 21:
Section 21.05.040F.1.a, Page 177, Line 24 and Section 21.05.050H,6.a. and b., Page 202, Lines 38 and 42.

- (1) **Pharmacy:** “An establishment offering **only** [emphasis added] to prepare, preserve, compound, and dispense prescribed and non-prescribed medication and drugs, medical supplies, and health care items.” (Amendment 106.30, as approved on page 612 of PZC’s Revision of Chapter 14.)





5.4 Pharmacies as a Health Service or General Retail Use – (Continued)

RESPONSE CONTINUED:

- However, as the public commented:
 - ⇒ The provisionally adopted ‘Health Services’ use definition on line 40 of page 42 lists “dispensaries” rather than “pharmacies” in its list of example establishments. Use of the word “Pharmacy” here would be more appropriate, since it is contemporary and more familiar, and is consistent with the rest of the rewrite. For example, “Pharmacy” is listed as an allowed accessory activity under the definition of ‘Hospital/Health Care Facility’ use type.
 - ⇒ The definition as well as the use-specific standard for ‘General Retail’ identifies “pharmacy” as an example of a general retail use. This appears to be leftover language from an early draft of the code, which defined and categorized this use type differently.

RECOMMENDATIONS:

1. Amend the definition of “Health services” in section 21.05.040F.1.a. by substituting the word “pharmacies” for “dispensaries”.
2. Amend the definition for “General Retail” in Section 21.05.050F.7.a to delete “pharmacies” from the list of general retail examples.
3. Amend the use-specific standards for “General Retail” in Section 21.05.050F.7.b.i. to delete the phrase “,such as a pharmacy,”.





5.5 Park, Public or Private Use –21.05.040G.2.

ISSUE:

The PZC proposes that master plans for parks in the Chugiak-Eagle River area should be approved by the Eagle River-Chugiak Parks and Recreational Service Area Board of Supervisors, rather than by the PZC or the director (depending on park type and size). No reasoning was given for this proposed change .

(PZC’s changes also include improper place-naming of Chugiak-Eagle River, which the Department has been asked to correct.)

RESPONSE:

While at first blush it may seem reasonable that the Eagle River-Chugiak Parks and Recreational Service Area Board of Supervisors be the approving authority for park master plans in the Chugiak-Eagle River area, this in fact creates an unequal review process for park master plans in the municipality, and also seeks to give approval authority to a body that does not have the codified authority to do so.

- The overall treatment of parks in the rewrite was that master plans and development projects for large parks, as well as large development projects, would be approved by the PZC, but only after a public hearing and recommendation by the area-appropriate parks board/commission. Master plans for small parks and small development projects would be approved administratively, and again only after a public hearing and recommendation by the area-appropriate parks board/commission.
- Changing the approving authority for park master plans and projects in Chugiak-Eagle River area gives the appearance is that PZC is the commission only for the Anchorage Bowl and not for Chugiak-Eagle River. The PZC is the planning and zoning commission for the whole municipality and approvals for parks plans and projects should be consistent throughout the entire municipality .

Continued...

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.040G.2.c, Pages
45-46**

*Provisionally Adopted Title 21:
21.05.040G.2., Page 179, Line 2*

- (1) Consolidated Table of Proposed Amendments: Amendment R-12, Pages 23-26.





5.5 Park, Public or Private Use –(Continued).

RESPONSE CONTINUED:

- AMC 27.10.015A. states that “A service area may not be established or maintained to provide an area of territorial jurisdiction for any regulatory ordinance or general code of regulations.”
- AMC 27.10.040A. states “In a service area with a board of supervisors, services shall be provided in the service area by the departments, if any, designated by the ordinance establishing the service area and designating the power to be exercised within the service area subject to the advice and recommendations of the board of supervisors established pursuant to Chapter 27.20.”
- AMC 27.20.100, which establishes the Eagle River-Chugiak Park and Recreational Service Area Board of Supervisors, states in subsection A.6., “Before the assembly acts on acquisitions, amendments to the parks and recreation plans, the park and recreation capital improvement program, proposed development of park, recreation or open space facilities, the budget, funding for the capital improvement plan, or ordinances relating to the park and recreation program, and contributions to private recreation organizations and activities, contract or management services, or recommended adjustments to the mill levy, it shall first refer the matter to the board of supervisors for its recommendations and comments.”
- Clearly the service area board is intended to be advisory, and nothing else in 27.20.100 gives the Board any authority to approve park master plans or development projects.

RECOMMENDATION:

1. This proposed change by PZC should not be accepted, and the “Parks, Public or Private” section should be forwarded for adoption as proposed in amendment R12 (See 1).
2. Correct any instances of improper place-naming of Chugiak-Eagle River.





5.6 Heliport —Use-specific Standards at Hospitals – 21.05.060A.2.

ISSUE:

The PZC accepted amendment #R13 that establishes use-specific standards for Heliports, however PZC changed the amendment in a way that exempts heliports at hospitals from the use-specific standards.

The rationale provided by PZC reads, “Heliports accessory to a hospital need to be included in this section”, but does not explain why heliports at hospitals should be exempted from the use-specific standards.

RESPONSE:

This proposed change should be rejected unless the PZC’s intent can be clarified and a more appropriate modification identified:

- The amendment #R13 to create use-specific standards for Heliports was prepared in response to concerns raised by the FAA about heliports, including heliports at hospitals.
- The purpose of the use-specific standards is to ensure that the Planning and Zoning Commission knows whether or not the FAA supports the location of a proposed heliport, and also to mitigate potential problems.
- Heliports located near sensitive uses such as residential areas can have severe negative impacts on those areas.
- This amendment, #R13, makes all proposed heliports that aren’t located at an airport a principal use, so that they will be reviewed, even if they are associated with another principal use. It also directs the Planning and Zoning Commission to consider the nearness of sensitive uses and the intensity of the use of the heliport when a heliport is not collocated with an airport.

RECOMMENDATION:

Delete the words “or a hospital” from line 26 of the Heliport use-specific standards on page 48.

REFERENCES:

*PZC Revision of Title 21:
Section 21.05.040l.3.b.i, Page
48, Line 26.*

*Consolidated Table of
Proposed Amendments:
Amendment #R13, Page 27.*

*Provisionally Adopted Title 21:
Section 21.05.040l.3., Page
180.*





5.7 Retail Pet Store and Veterinary Clinic —Use-Specific Standards –21.05.050B.4.

ISSUE:

The Assembly Committee Chair requested a review to ensure ‘Retail and Pet Services’ uses and Veterinary Clinics do not have to meet the same use-specific standards as Animal Shelters or Commercial Kennels (including animal daycare), except for the standards related to outdoor animal runs.

For example, pet stores (e.g., Pet Zoo) are typically in enclosed buildings, and more similar to other retailers than to a kennel.

RESPONSE:

A review confirms that the provisionally adopted use-specific standards achieve this already, and ensure that neighborhoods are protected from any kind of accessory outdoor animal facility:

- The use-specific standards for Animal Shelters and Commercial Kennels (including doggie daycare) only address outdoor animal facilities and runs. The standards prohibit outdoor animal facilities such as kennels and runs within 100 feet of residential zones and that outdoor runs are to be screened from view of public streets. Lastly, the standards refer to the public nuisance code (AMC 15.20.020, page 61, line 11).
- There is no impact from the provisionally adopted use-specific standards on pet stores or veterinary clinics which do not have outdoor animal runs and facilities.
- ‘Retail Pet Services’ includes animal grooming establishments, which are similar in some ways to certain ‘Commercial Kennel’ establishments such as animal daycare. The draft code should continue to prohibit grooming services from placing outdoor animal facilities within 100 feet of a residential district, just as it prohibits animal daycare from doing so.

RECOMMENDATION:

Retain the provisionally adopted use-specific standards for Retail and Pet Services and Veterinary Clinics.

REFERENCES:

PZC Revision of Title 21: Section 21.05.050B.4.b., Page 62 Lines 41-42; and Section 21.05.050B.5.b., Page 63, Lines 5-6.

Provisionally Adopted Title 21: Section 21.05.050B.4.b. and B.5.b., Page 194, Lines 3-5 and Lines 10-12.





5.8 Office Use Limitations in the I-1 and I-2 Industrial Districts –21.05.050.

ISSUE:

The PZC has rejected Proposed Amendments #R14 and #38 from the Consolidated Table of Amendments, which proposed some limitations to ‘Business and Professional Offices’ in the I-1 and I-2 industrial districts. No specific rationale is provided.

The Department did offer PZC a refinement to Amendment #38, based on public comments from an industrial property owner (Carr-Gottstein Properties). The comments suggested several amendments to the language that would retain the limitations but would improve flexibility. These comments and recommendations were not addressed by PZC.

PZC’s action, if adopted, would allow commercial offices without limitation in the I-1 and I-2 industrial districts.

RESPONSE:

The proposed limitations on offices uses in industrial zones should be adopted, with revisions, for the following reasons:

- Some limits to the size and non-industrial use of office buildings in the industrial districts are needed in order to:
 - ⇒ Encourage the higher-intensity office employment growth to concentrate in the city’s commercial districts and centers, rather than in outlying industrial zones.
 - ⇒ Protect the city’s remaining industrial land base, and its industrial uses, from higher density commercial offices unrelated to / incompatible with industrial functions.
 - ⇒ Avoid allowing taller commercial office buildings in the industrial zones than in the commercial districts.
- Continuing to allow unlimited commercial office uses in industrial zones would perpetuate the conflict between Title 21 and the Comprehensive Plan, and undermine implementation of the city’s policies for appropriate location of commercial growth and protection of Industrial lands. See (1).

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.050E.3.a.ii.,
page 70, lines 25-40.**

*Consolidated Table of
Proposed Amendments:
Amendments #R14 and #38,
pages 28-29.*

*Provisionally Adopted Title 21:
Section 21.05.050F.3., page
200.*

- (1) For example, Anchorage 2020 Policy #21 (page 75) states, “All new commercial development shall be located and designed to contribute to improving Anchorage’s overall land use efficiency and compatibility...” Policy #26 (page 77) states, “Key industrial lands , such as the Industrial Reserves designated on the Land Use Policy Map, shall be preserved for industrial purposes”.

Continued...





5.8 Office Use Limitations in the I-1 and I-2 Industrial Districts – (Continued)

RESPONSE CONTINUED:

- The proposed limitations can provide for an appropriate way to allow for offices that can fit in with an industrial context, or serve the function of an industrial or utility use, such as Chugach Electric’s headquarters co-located with its new power generation plant.
- Relaxing the proposed amendment’s percent floor area limitation, and clarifying that this limitation applies only where the office portion exceeds a certain size, would improve its practicality for industrial uses.
- Providing for an exception for offices in Business Industrial Park PUDs (BIP-PUDs) would also be appropriate.
- The proposed height limit could also be adjusted upward, for consistency with the 50-foot height limit in the I-1 District. The height limit is anticipated to have little to no economic impact. Existing structures will be exempt from new height limits. The Anchorage Commercial Land Assessment (Exhibit G) documents that future office development outside of Midtown is anticipated to continue Anchorage’s existing development pattern of one-, two-, and three-story low rise office buildings. The market for medium-to-high rise office development will continue to be concentrated in Downtown and Midtown.

RECOMMENDATIONS:

Approve proposed amendment #38 creating Section 21.05.050E.3.a.ii., with modifications, so that it reads as follows (with the new changes underlined):

- ii. Business or professional office uses in the I-1 and I-2 districts shall be subject to the following limitations:
 - (A) The building or portion of the building containing the use shall not exceed 50 feet in height.
 - (B) The proposed office use shall directly serve the function of an industrial or public/institutional use permitted in the district, unless the proposed office use is included within a BIP-PUD.
 - (C) The office use shall comprise no more than 50 percent of the gross floor area on the site when the office gross floor area is over 10,000 square feet, unless a greater percentage is approved by the decision making body or the proposed use is included within a BIP-PUD.





5.9 Government Administration and Civic Buildings –21.05.050E.4. vs. 21.05.040C.4.

ISSUE:

The PZC has proposed a new set of use-specific standards for ‘Government Administrative Offices and Civic Buildings’ under the category “Retail Services”, while also retaining the provisionally adopted use-specific standards for ‘Government Administration and Civic Buildings’ under the “Community Uses” category in 21.05.040C.4.

The proposed new section would loosen the requirements for locating major government offices in the Downtown Anchorage central business district. It could also make it more difficult to locate satellite offices and civic functions (e.g., the municipal services building and park office in Eagle River CBD) in designated town centers and similar mixed-use or commercial centers.

No rationale has been provided for these proposed changes.

RESPONSE:

These proposed changes should not be supported for the following reasons:

- The three successive Anchorage Bowl Comprehensive Plans since 1976 and the 2007 Downtown Plan have all stressed the importance of locating major government offices in Downtown, and by the adoption of these Plans, this policy has repeatedly been reaffirmed (See 1,2,and 3).
- The PZC changes include a claim that, since the Downtown is designated in Anchorage 2020 as a Major Employment Center, the other two Major Employment Centers in the Anchorage Bowl (Midtown and the U-Med District) are also appropriate locations for major government offices. However, Comprehensive Plan policies specifically reference locating major government offices to the “Central Business District” which is Downtown.

Continued...

REFERENCES:

PZC Revision of Title 21: Section 21.05.040C.4., Page 37, Lines 13-40, and Section 21.05.050E.4, Page 71, Lines 1-44.

Provisionally Adopted Title 21: Section 21.05.040C.4., Page 172, Lines 7-34.

- (1) The 1982 Comprehensive Development Plan (last policy on page 67) states that “the Municipality shall **locate all major office functions within the downtown** and shall encourage both State and Federal agencies to locate within this area, as appropriate to their functions.”
- (2) **Policy #19** of Anchorage 2020 (Page 74), adopted in 2001, states: “locate municipal, state, and federal administrative offices in the Central Business District.” **Policy #18** of Anchorage 2020 (Page 74) states: “Strengthen the Central Business District’s role as the regional center for commerce, services, finance, arts and culture, government offices, and medium- to high-density residential development.”
- (3) See **Anchorage Downtown Comprehensive Plan** next page.





5.9 Government Administration and Civic Buildings – (Continued)

RESPONSE CONTINUED:

- Adoption of PZC’s standards would conflict with the adopted Comprehensive Plan’s policies for locating major government offices in the Downtown Central Business District.
- The Comprehensive Plan prioritizes Downtown as the location for government FUNCTIONS and EMPLOYMENT, not just for agencies that provide direct customer service to the public.
- To implement the Comprehensive Plan, the provisionally adopted Title 21 provisions include two primary sections affecting the location of government administrative offices: the public facility site selection process (21.03.140) and the site-specific standards for government administration and civic buildings in 21.05.040C.4. Each of these sections state that the priority location for major federal, state, and municipal administrative offices and civic buildings is in the Central Business District.
- Satellite government offices and civic functions are intended to be located in other regional centers, such as Midtown, mixed-use centers, or town centers. Title 21 rewrite also recognizes that there may be instances when satellite government offices are proposed at locations other than the designated centers. When this occurs, approval is contingent on the Planning and Zoning Commission’s findings, using the site selection criteria of 21.03.140, that comprehensive plan designated centers would not be feasible or would not serve the public interest.
- For more discussion of this issue, see issue Exhibit N, Pages 68 to 70.

RECOMMENDATIONS:

For consistency with the Comprehensive Plan, retain the provisionally adopted use specific standards for government administrative buildings and civic buildings in 21.05.040C.4.

(3) Anchorage Downtown Comprehensive Plan :

A primary goal of the Anchorage Downtown Plan is to “**attract government and private offices Downtown**” (Page 41). Its key economic development strategies to implement this goal state:

“**Strengthen the hub of civic facilities, offices, and employment Downtown**” and “**Make Downtown a priority location for federal, state, and local government administrative employment and services**”. (Page 44)

The Downtown Plan recognizes that Downtown provides the Anchorage with a comparative advantage as the regional center for civic and cultural activities, and an employment center with a concentration of local, state, and federal offices as well as commercial and professional service offices—within a unique, concentrated urban setting.

Downtown is the heart of civic and public activity in Anchorage. Its vitality helps attract more visitors, skilled workforce, investment, and activity to our city. A successful Downtown positively impacts all of Anchorage’s economic vitality and quality of life.





**5.10 Building Materials Store, Furniture Store, and General Retail Store
Overlap – 21.05.050F.**

ISSUE:

A member of the public provided a comment with suggestions for clarifying the use definitions to eliminate unintended overlaps between big box type ‘Building Materials Stores’ and ‘Furniture and Home Appliance Stores’, and ‘General Retail’ stores selling home furnishings, floor coverings, paint, etc. Specifically:

1. To delete “floor covering” from the definition of ‘Building Materials Store’; and
2. To retain the words “home furnishings” and add “paint” as another example after home furnishings in the definition of ‘General Retail’.

After reviewing these comments, the Department agreed and recommended the amendments be approved by PZC. See (1).

These comments and recommendations were not addressed by PZC.

NOTE: There is an error in PZC’s definition of “General Retail”. PZC’s version should have reflected that it accepted amendment #40 from the Consolidated Table of Proposed Amendments, which made several minor wording changes.

RESPONSE:

The public comments propose constructive refinements that should improve the consistency and clarity of regulations:

- The Provisionally Adopted Title 21 combines most every kind of retail establishment into a single use type: “General retail”, where they have similar land use impacts and identical land use regulations.
 - ⇒ This reduces the number of retail uses from the number listed separately under the current Title 21 (e.g., “hardware stores”, “bookstores, stationery stores, and newsstands”, or “drugstores”).

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.050.F., Page 74,
Lines 4-10; Lines 33-38; and
Lines 39-46.**

*Consolidated Table of
Proposed Amendments:
Amendments #39 and #40,
Page 29.*

*Provisionally Adopted Title 21:
Section 21.05.050H., Page 202,
Lines 4-10, and Lines 33-40.*

(1) Exhibit N - PZC Case 2011-104 Issue Responses, Issue 5-12, Page 77.

Continued...





5.10 Building Materials Store, Furniture Store, and General Retail Store Overlap – (Continued)

RESPONSE CONTINUED:

- A few kinds of retail sales uses are defined as a separate use type in the provisionally adopted Title 21, because different use regulations apply:
 - ⇒ The provisionally adopted ‘Building Materials Store’ use type is one of these. It is exemplified by a “Lowes” kind of store that sells lumber and other primary building materials (e.g., cement), taking on a land-intensive, industrial box type nature. The Title 21 rewrite applies a lower parking requirement to these stores, and is more lenient toward allowing these stores into I-2 district than, say, a full sized grocery or general retail store:
 - ⇒ For similar reasons, an amendment approved by PZC differentiates ‘Furniture and Home Appliance Store’ from ‘General Retail’.
- The commenter, a tenant retail property manager, identified potential edits to eliminate several overlaps in the definitions between ‘Building Materials Store’, ‘Furniture and Appliance Store’, and ‘General Retail’.

RECOMMENDATIONS:

1. Amend the definition of “Building Materials Store” in section 21.05.050F.2.a. by deleting the word “floor covering”.
2. Accept the proposed definition of “Furniture and Home Appliance Store” in section 21.05.050F.6.a., as approved by PZC.
3. Amend the provisionally adopted definition of “General Retail” in section 21.05.050F.7.a., by adding the word “paint” to the list of goods on lines 45-46, placing it after “home furnishings”.





5.11 Governmental Service Definition – 21.05.060A.2.

ISSUE:

A member of the public commented that the use definition for “Governmental Service” should be made more flexible, as follows:

1. To allow for shops, maintenance, repair centers and/OR equipment storage; and
2. To allow for indoor storage not just storage yards.

After reviewing these comments, the Department agreed and recommended the amendments be approved by PZC as presented in the PZC Case 2011-104 Issue Response. See (1) .

These comments and recommendations were not addressed by PZC.

RESPONSE:

The commenter’s proposed changes to the use definition reflect that government equipment storage may come in another form besides an outdoor storage yard (e.g., an enclosed structure), and may be a combination of facilities.

RECOMMENDATION:

Amend the provisionally adopted definition of “Governmental Services” in section 21.05.060.A.2. (page 81, lines 20-21) to read as follows:

“A facility housing government shops, maintenance[,] and repair centers, and/or equipment storage [YARDS]. **Accessory activities may include supporting administrative offices.**”

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.060A.2.a., Page
81, Lines 20-21.**

*Provisionally Adopted Title 21:
Section 21.05.060A.4., Page
208, Lines 5-6.*

(1) Exhibit N - PZC Case 2011-
104 Issue Responses,
Issue 5-14, Page 79.





5.12 Snow Disposal Site —Height Limit for Snow Piles –21.05.060E.8.

ISSUE:

The Assembly Committee Chair has raised an objection to the provisionally adopted 35-foot height limit for snow piles in a snow disposal site. The section applies to dedicated snow disposal facilities as a principal use (not on-site snow storage).

Current Title 21 regulations for snow disposal sites establish a height limit of 25-feet for structures. The Design Criteria Manual (DCM) includes standards for the design and operation of snow disposal sites, for drainage, water quality, and buffering. (1, 2)

RESPONSE:

In general, a 35-foot height limit may be inappropriate in some areas. However, issues that should be considered are:

- To protect homes and residences, there should be height limits where the snow disposal facility abuts residential zones.
- The Comprehensive Plan emphasizes neighborhood protection as an essential part of a successful strategy for the city to grow by infill and efficient re-use of land.
- Otherwise, if use of land in Bowl intensifies without reasonable transitions, property owner-to-owner conflicts grow, property values fall, and neighborhoods resist new projects.
- MOA is dealing with a conflict between the snow disposal site NE of Dowling / Seward Highway and the abutting residential properties, for which the height of the snow pile is shadowing light access, worsening wind blown dirt, and is a visual blight.
- Title 21 applies district-specific height limits to other uses.

RECOMMENDATIONS:

Amend the provisionally adopted height limit as follows:

1. Apply a 35-foot height limit only where the snow storage pile operations area is within 500 feet of a residential district.
2. In all other areas, apply the height limits of the zoning district in which the snow disposal site is located. (3)

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.060E.8.b.ii.(B),
page 102, lines 25-26.**

*Provisionally Adopted Title 21:
Section 21.05.060E.8.b.ii.(B),
page 227, lines 26-27.*

- (1) AMC 21.50.270.E.
establishes current Title 21 standards for snow disposal sites.
- (2) Design Criteria Manual
Section 2.16, *Snow Storage and Snow Disposal Site Design Criteria*
- (3) For example, as proposed, the height limit in the PLI District would be 75-feet by-right, with opportunity for taller structures through a conditional use or an institutional master plan. (see PZC Revision to Chapter 6, page 265).





5.13 Accessory Dwelling Units (ADUs) —21.05.070D.1.

ISSUE:

The Assembly Committee Chair is reviewing the Accessory Dwelling Unit (ADU) provisions in 21.05.070D.1, and may propose issues to be addressed. The Department will diagnose and identify potential solutions once it has received the issues.

REFERENCES:

*PZC Revision of Title 21:
Section 21.05.070D.1, starting
on Page 109*

*Consolidated Table of
Proposed Amendments:
Amendments #43, 45, and 46.*

*Provisionally Adopted Title 21:
Section 21.05.070D.1., starting
on Page 233.*





5.14 Addition or Removal of a Drive-through as a Change of Use –21.05.070D.6.

ISSUE:

The Assembly Committee Chair has raised a question about an amendment that the Department proposed and the PZC accepted to the provisionally adopted accessory use standards for drive-throughs. The amendment adds language that reads: “The addition or removal of a drive-through is a change of use.”

The Committee Chair wants to know what happens if the addition or removal of a drive-through for an establishment is considered a change-of-use.

RESPONSE:

- A ‘change of use’ (ie., from one use to another) triggers a land use permit review for compliance with the zoning ordinance.
- The amendment above is needed to maintain separate parking requirements and development standards for drive-through restaurants, which are administered through land use reviews:
 - ⇒ ‘Restaurant’ is a single use type in Title 21. However, its parking requirements are reduced if it has a drive-through.
 - ⇒ If its drive-through is removed, then the restaurant needs to provide more parking. Otherwise, spillover parking might impact adjacent streets and properties. (2)
 - ⇒ The correct parking requirement can be administered only if the removal triggers a review for zoning compliance.
- Calling a drive-through a “change of use” does not change what land use regulations apply to the property, other than to make it more likely that drive-through-specific regulations are properly administered.
- Land use permit fees currently vary with the building valuation.

RECOMMENDATION:

Support adding section 21.05.070D.6.b.iii. on page 116, with a clarification, to add the word “physical” in front of “addition”.

REFERENCES:

**PZC Revision of Title 21:
Section 21.05.070D.6.b.iii.
page 116, lines 5 and 6.**

*Consolidated Table of
Proposed Amendments:
Amendment #47, page 33.*

*Provisionally Adopted Title 21:
Section 21.05.070D.6.b., pages
239-240.*

- (1) A change of use occurs when the type of use is not the same as the immediate prior use type, as determined by Tables of Allowed Uses and Accessory Uses.
- (2) Parking demand studies document that sit-down restaurants have a higher demand for parking than drive-through restaurants.





5.15 Outdoor Keeping of Small Animals — AO 2011-50(S)

ISSUE:

The Assembly Committee Chair would like to change this section (See 1) to allow residents of mobile home parks to keep small animals (such as chickens) outdoors, if there is a minimum separation distance from other mobile home residences.

In some parts of the Municipality, there are mobile home parks where the mobile homes are spread out from each other and it is not equitable treatment to prohibit those residents from the outdoor keeping of animals.

RESPONSE:

- There should be a minimum separation distance between mobile home residences established.
- If, after the use (small animal) is established, the minimum separation distance is no longer maintained (i.e., another mobile home structure is placed closer than the separation distance), then the use must go away. No grandfather rights for the outdoor keeping of animals in mobile home parks shall be established.

RECOMMENDATION:

“Animals under this section[, OTHER THAN DOGS,] shall not be kept outdoors in manufactured home communities [MOBILE HOME PARKS], except for when the following standards are met: [MOBILE HOME PARKS ARE EXCLUDED FROM THE SUPPLEMENTARY DISTRICT REGULATIONS IN THIS SECTION.]

a. Any structure or fenced enclosure for the outdoor keeping of animals shall be at least 15 feet from any manufactured home, not including the manufactured home of the owner of the animal(s).

b. No nonconforming rights for the outdoor keeping of animals in a manufactured home community shall be established. If at any time the separation distance of C.2.a. above is no longer achieved, the animal(s) shall no longer be kept outside.”

REFERENCES:

- (1) AO 2011-50(s): An Ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Chapter 21.45 to provide for Supplementary District Regulations Governing the Outdoor Keeping of Animals as a Permitted Accessory Use.

Please Note: AO 2011-50(s) regarding the keeping of small animals, is not in the provisionally adopted title 21. It will be incorporated into Title 21 by the Municipal Code Recorder including any amendments adopted by the Assembly.

A copy of AO 2011-50(S) is included as an appendix at the back of this document for your reference.





**5.16 Screening of Intermodal Shipping Containers
(Connex Units) – 21.05.070D.12.**

ISSUE:

The Anchorage School District (ASD) has a number of permanent connex units, primarily at its middle and high schools, which serve two purposes: 1) emergency preparedness, and 2) site-based exterior storage.

The ASD expressed the following concerns to PZC regarding the provisionally adopted standards for screening connex units:

1. The cost of screening or cladding all existing ASD connexes;
2. Treating all connex units the same, including those not readily visible to the public;
3. Where screening of connexes is not an option, ASD questions the reasonableness of requiring cladding or siding that is similar to the primary structure. ASD recommends that application of recessive paint, or paint that matches the building color scheme would appear to better achieve the intent;
4. Screening on all four sides would make the units immobile and impede access. The size of the access end is minor compared to the overall bulk. Recessive paint treatment would preserve their mobility and ease of access; and
5. Some connexes are located near athletic fields and are seasonal in nature, and because these units are mobile, they are relocated when not in use. Fixed landscaping, therefore, would be a concern.

The ASD comments are provided in full in Exhibit D. See (1).

After reviewing these comments and with further discussion with ASD, the Department agreed with key points made by ASD, and recommended several amendments to the connex screening requirements. See (2).

These comments and recommendations were not addressed by PZC.

REFERENCES:

**PZC Revision of Title 21:
Section 21.04.070D.12.b.i,
Page 119, Lines 21-24.**

**Provisionally Adopted Title 21:
Section 21.05.070D.12.b.i,
Page 243, Lines 17-20.**

- (1) The ASD comments are provided in full detail in Exhibit D., Comments Received for Public Hearings through March 19, 2012, on Page 285.
- (2) Exhibit N., PZC Case 2011-104, Issue Response, Issue #5-16, pages 82-83.

Continued...





5.16 Screening of Intermodal Shipping Containers – (Continued)

RESPONSE:

- Similar to other site standards in the Title 21 rewrite, the connex screening requirements would not be imposed retroactively on existing connexes previously placed by the ASD.
- The intent of the provisionally adopted Title 21 requirements is to screen permanently located connexes from view or, alternately, if the connexes aren't screened, to make them appear more like storage buildings than transport containers. To do the latter effectively is to use some type of siding material, to have a roof, and use materials and/or colors which match those of the primary building.
- The Department agrees with the ASD that the screening of connexes should focus primarily on views from off the site, particularly abutting public streets, similar to dumpster screening. Also, screening of a connex should occur where it is visible from an adjacent residential property.
- The Department also agrees that requirements for cladding or siding similar to the primary structure may not be feasible in some cases. Connex units that are used on a seasonal basis could fall under Section 21.05.080, Temporary Uses and Structures.

RECOMMENDATIONS:

To address ASD comments, approve and forward the following amendments to 21.05.070D.12.b.i:

Except in the industrial, commercial, and airport districts, connex units shall be screened on sides facing abutting public streets and residential properties [ON ALL SIDES] by structures, landscaping, and/or fences at least as high as the unit, or alternatively, shall be sided and roofed using [WITH] materials and colors which are similar to materials and/or colors [SUBSTANTIALLY SIMILAR TO THE SIDING] of the primary structure. If the connex unit is placed and used for seasonal purposes subject to the provisions of section 21.05.080, temporary uses and structures, it may instead be painted with recessive paint or paint that matches the color scheme of the principal building.



Submitted by: **ASSEMBLY MEMBER OSSIANDER**
Assembly Member Honeman
Assembly Vice Chair Flynn

Prepared by: Assembly Counsel
For reading: April 26, 2011

CLERK'S OFFICE

AMENDED AND APPROVED

Date: 4-26-11

ANCHORAGE, ALASKA
AO NO. 2011-50(S) As Amended

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 21.45 TO PROVIDE FOR SUPPLEMENTARY DISTRICT REGULATIONS GOVERNING THE OUTDOOR KEEPING OF ANIMALS AS A PERMITTED ACCESSORY USE.

WHEREAS, accessory use regulations governing the outdoor keeping of animals under Chapter 5 of the Title 21 Rewrite were reviewed by the Planning & Zoning Commission, the Assembly Title 21 Committee, the Municipal Planning staff, with public hearing hearings before the Planning & Zoning Commission in October 2007, and recommended amendments approved by the Planning & Zoning Commission on January 28, 2008; and

WHEREAS, accessory use regulations governing the outdoor keeping of animals have been provisionally adopted by the Assembly as part of the Title 21 Rewrite under Chapter 5, Subsections 21.05.070C and D.14 in AO 2008-49, passed and approved on September 16, 2008; and

WHEREAS, these provisionally adopted sections authorize the outdoor keeping of small domestic animals such as chickens and rabbits as a permitted accessory use in all residential zoning districts except R-4; and

WHEREAS, completion of the Title 21 Rewrite for implementation has encountered significant delay; and

WHEREAS, amendment of current land use code to include Supplementary District Regulations to implement and govern the outdoor keeping of such animals will not interfere with completion of the Title 21 Rewrite; and

WHEREAS, it is in the public interest to implement the outdoor keeping of domestic animals such as rabbits and chickens as an accessory use under the supplementary district regulations in current code, pre-existing differing restrictions notwithstanding; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code chapter 21.45, Supplementary District Regulations, is hereby amended by adding a new section to read as follows:

21.45.115 Outdoor keeping of animals.

- A. *Purpose:* The purpose of this section is to implement regulations governing the outdoor keeping of animals as a permitted accessory use, for non-commercial use, in residential districts as defined in 21.45. These regulations exclude

1 dogs, domestic cats, and large domestic animals. This section shall not
2 authorize an accessory use for the keeping of any animals outlawed for personal
3 ownership by other laws or regulations.
4

5 B. *Definition:* The accessory use term “outdoor keeping of animals” as used in
6 this section means the restraining or restricting the movement of animals outside
7 of a principal structure, by any means not involving the continued presence
8 and/or participation of a human being. As used in this section, the accessory use
9 term “outdoor keeping of animals” shall not be construed to include dogs,
10 domestic cats, or large domestic animals.
11

12 [B]C. *Applicable zoning districts:* Other provisions of this title notwithstanding, the
13 outdoor keeping of animals shall be a permitted accessory use, subject to the
14 supplementary district regulations of this section, in all residential zoning districts
15 except for these prohibitions and exclusions:
16

- 17 1. The outdoor keeping of animals is prohibited in the R-4 zoning district **and**
18 **on lots or tracts with more than two dwelling units.** The R-4 zoning
19 district **and lots or tracts with more than two dwelling units are [is]**
20 excluded from the supplementary district regulations in this section.
21
- 22 2. Animals, other than dogs, shall not be kept outdoors in mobile home
23 parks. Mobile home parks are excluded from the supplementary district
24 regulations in this section.
25

26 [G]D. *Standards:* The following accessory use standards apply to the outdoor keeping
27 of all animals permitted under this section:
28

- 29 1. On lots of 40,000 square feet or greater, **the following shall apply:**
 - 30 a. **Non-commercial use shall not exceed one animal per 1,000**
31 **square feet of lot area. A facility license may be required**
32 **pursuant to title 17.**
 - 33 b. **Structures for the outdoor keeping of animals shall not encroach**
34 **into the setbacks of the zoning district and shall be at least 10 feet**
35 **from any lot line.**
- 36 2. On lots smaller than 40,000 square feet, the following shall apply:
 - 37 a. **Excessively noisy animals such as** [THE OUTDOOR KEEPING OF]
38 **roosters, turkeys, guinea fowl, peacocks, or geese** **are [is]**
39 **prohibited.**
 - 40 b. Up to five animals may be kept on lots of 6,000 square feet or less,
41 with an additional one animal per additional 1,000 square feet of lot
42 area. A facility license may be required pursuant to title 17.
43
44
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- c. Structures for the outdoor keeping of animals shall not encroach into the setbacks of the zoning district and shall be at least 10 feet from any lot line.
- d. It shall be unlawful for any owner or custodian of an animal under this section to permit it to make chronic animal noise, as defined in AMC section 17.05.010.

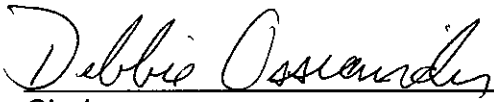
3. Any activity related to this use, which causes or may reasonably be expected to cause excessive noise, vibration, odor, smoke, dust or other particulate matter, toxic or noxious matter, radiation, humidity, heat or glare at or beyond any lot line of the lot on which it is located shall be prohibited. The term "excessive" is defined for the purpose of this subsection as to a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

4. No permanent structure for the outdoor keeping of animals shall be erected closer than ten feet to any principal structure. The height of any structure used for the outdoor keeping of animals under this section shall not exceed the height permitted for accessory structures in the underlying zoning district.

5. The term "excessive" is defined for the purpose of this section as to a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

Section 2. Anchorage Municipal Code subsection 21.10.015 notwithstanding, this ordinance does not require Planning and Zoning Commission review and shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 26th day of April, 2011.


Chair

ATTEST:


Municipal Clerk