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C L A R I O N

## MEMORANDUM

**TO:** Municipality of Anchorage  
**FROM:** Clarion Associates  
**DATE:** July 3, 2003  
**RE:** Module One of New Title 21

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We are pleased to transmit to you Module One of the new Anchorage *Title 21: Land Use Planning Ordinance*. This module contains the first three chapters, which address administration of the new Title 21.

The Municipality has established an ambitious calendar in order to have a draft of the entire code ready by the end of the year. Clarion is scheduled to present this module at a series of meetings in Anchorage on July 23-25, 2003.

The remainder of this cover memorandum highlights some of the more significant features that appear in this draft, including new provisions and major suggested changes from current policy.

### **General Comments**

- **Footnotes.** Footnotes are used throughout the text to provide commentary on new provisions and to reference existing sections of Title 21. In addition, several outstanding issues are cited in some footnotes. To maintain project momentum and to produce a final draft as efficiently as possible, it will be important to try and resolve each of these outstanding issues and settle on a course of action for each as soon as possible. However, it is not necessary to resolve every one of these issues prior to distributing this draft of Module One. Some issues undoubtedly will require extended discussion and will have to be resolved later in the drafting process.
- **“Director.”** Throughout this draft, the term “Director” is used to denote the Planning Director or his or her designee. This will be made explicit in the definitions chapter. We recommend keeping this term generic to prevent any future changes (in delegation or in the bureaucratic structure) from requiring a text amendment to the code.

- **Cross-References.** In such a large document, correct cross-references are essential to understanding how the various pieces of the code fit together. We have included as many correct references in these drafts as possible – mostly internal references within this module. However, we have not included many necessary references to other sections of the new Title 21 that are not yet drafted. In such cases, we have either included a highlighted note to a current code section (if the material is being carried forward unchanged), or have left the reference blank (if the material is new).
- **User’s Guide.** The new code will be accompanied by a User’s Guide that will include application forms, submittal requirements, lists of responsibilities of various municipal departments, and general, user-friendly descriptions of how to use the new code. For example, there will be an overview section that explains in very general terms how the overall Title 21 is organized and the intent behind each chapter. Also, there might be a section called “Overview of the Development Review Process” that provides readers with an overview on the basic steps for how to use Title 21 when applying for a development application or other request. The User’s Guide will be developed later in the redrafting process.

### **Chapter 21.01: General Provisions**

This chapter follows the outline and guidance provided in the Diagnosis and Annotated Outline. The current version of Title 21 has very limited general provisions, and many of the sections in this draft chapter are new. Consolidating general rules regarding the operation of the land use code allows for streamlining in subsequent chapters, where general rules otherwise can be subject to frequent repetition.

Specific issues to note include:

- **21.01.030, “Purpose of this Title.”** The draft contains new purpose statements, including several based on text from the 2020 plan.
- **21.01.050, “Official Zoning Map.”** The section on the Official Zoning Map contains a table showing the transition to new zoning districts. This table will continue to be a work in progress throughout the drafting of the new Title 21, and will need to be updated as needed once the new districts are finalized in a few months.
- **21.01.060, “Transitional Regulations.”** This new section is intended to resolve the status of properties with pending applications or recent approvals and properties with outstanding violations.
- **21.01.070, “Conflicting Provisions.”** For simplicity, we have merged the section proposed in the Annotated Outline on “Relationship to Other Regulations” into this new section.
- **21.01.080, “Comprehensive Plan.”** This section contains materials carried forward from existing AMC chapter 21.05. As noted in the Diagnosis and Outline, the Comprehensive Plan provisions in the Anchorage code are more extensive than typically found in a zoning code, and apparently are being used to guide land use decisions. Some attempt has been made to remove references to obsolete

plans and difficult-to-administer provisions. For example, Land Use Classifications (current AMC 21.05.050) and Residential Densities (current AMC 21.05.060) are not carried forward. Also, per staff suggestion, we have removed sections that merely described components of the comprehensive plan, as opposed to those containing regulatory requirements.

### **Chapter 21.02: Boards, Commissions, and Municipal Administration**

This chapter is based on the provisions of Chapter 21.10 (Boards and Commissions; Administrative Officers) of the current Title 21. Our overall goals in revising this chapter included updating board and commission roles to reflect both recent legislation in the Municipality and suggestions found in the Annotated Outline, creating greater consistency in provisions common to multiple boards, and providing more detail for the role of municipal staff.

This draft integrates the rules regarding Title 21 boards and commissions that currently are contained in external documents. Section 4.05.120 of the Anchorage Code states that “a board or commission shall establish its own rules and order of business, except as otherwise provided by law.” Yet, in the case of most Title 21 boards and commissions, the Assembly has adopted basic rules regarding board officers, meetings, and conflicts of interest. These procedural rules are contained in external regulations – in the Anchorage Municipal Code of Regulations (AMCR) – that have been folded into this draft at the request of the Municipal Attorney’s office. Input from board members and municipal staff will be especially helpful as we refine these sections.

Major new features and modifications include:

- **21.02.020, “Boards and Commissions Generally.”** This section provides an overview table defining the review roles and decision-making responsibilities of all the Municipality’s land use-related boards and commissions, as well as noting the role, including final approval powers, of the municipal staff.

This section also consolidates various common provisions from the resolutions that currently appear outside of Title 21. Per staff direction, this section includes materials that are applicable to all bodies and so appear only once in the Code (e.g., how disclosures of potential or actual conflicts of interest are to occur). This consolidation was done so that all the bodies will work under the same general procedural rules, and thus there will be less opportunity for errors.

Later sections of this chapter include, for each body: the powers and duties of that body, and how and to whom it can delegate authority. Other matters that are more specific to each body (e.g., agenda order, meeting time and location, election of officers) are left out of the code, with the intent that such materials can be adopted by each body as its own rules. Generally, there is concern that including such minor provisions in the code (e.g., agenda order) could open the door to procedural appeals if errors are made.

- **21.02.030, “Assembly.”** This new section defines the Title 21 powers of the Assembly in the same manner as other land use-related board and commissions. The section references rules in other parts of the Anchorage Municipal Code, but also carries forward a provision found in several specific review procedures in

Title 21, namely that the Assembly should not make a final decision on an application where another board is assigned to initially review and make recommendations on the application.

- **21.02.080, “Urban Design Commission.”** The draft of Urban Design Commission authority presumes that the pending ordinance on this topic will be adopted by the assembly. In general, the UDC’s role will become that of a final decision-making body on major site plans, public facility site plans, and certain highway and public facility landscaping plans. Also included for consideration in this draft are provisions that would give the UDC a distinct review role for plans involving design-intensive approvals, such as proposals in new mixed use and town center districts, as well as the central business district.
- **21.020.100, “Municipal Staff.”** Currently, AMC 21.10.005(B) provides a very general statement of the role of municipal staff in the Title 21 process. Based on our discussions with the legal department, we propose to continue with a relatively generic statement of staff’s authority under the code. All staff responsibilities are assigned to the “Director,” who will be defined as the Director of the Department of Planning, Development, and Public Works, or their designee.
- **Administrative Hearing Officer.** We propose to eliminate the administrative hearing officer as a decision-making body for conditional use cases. Our research showed that the delegation of Planning and Zoning Commission authority cited in the current Title 21 was rarely, if ever, employed. The revision will clarify the role of the hearing officer as one of administrative enforcement, most of which provisions are contained within (and cross-referenced at) Title 14 of the municipal code.
- **Community Councils.** The Annotated Outline originally proposed a section in this Chapter 21-3 identifying the role of the community councils under Title 21. However, after much discussion, staff believes that this section now appears unnecessary, since the Municipality already formally recognizes and defines community councils and their role in land-use decision-making in Title 2.40. In addition, the new community meeting section in the following chapter ensures additional involvement by community councils in land-use decision-making.

### **Chapter 21.03: Review and Approval Procedures**

- **21.03.020, “Common Procedures.”** This section establishes a common set of review procedures that apply to all applications for development approval, unless expressly noted. It serves as a mechanism by which Anchorage’s basic review procedures are consolidated and made uniform to the greatest degree possible. The section takes the potential applicant from the rules governing application form, contents, and fees; through the actual application submittal and review stage (the pre-application conference, community meetings, application submission and sufficiency determination, staff review, public notification and scheduling of the public hearing).

- **21.03.020B, “Pre-Application Conferences.”** This section contains a new pre-application conference provision, which is mandatory for the following procedures: Rezoning (Map Amendments), Conditional Uses, Subdivisions and Plats, Public Facility Site Selection (including schools), Major Site Plan Review , Projects involving Class A or B wetlands; and Variances.
- **21.03.030, “Comprehensive Plan Amendments.”** The current Title 21 contains only limited references to how the Comprehensive Plan should be updated or modified – primarily in 21.05.040, “Procedure for modification.” This recommended new section contains more complete procedures for both substantive and non-substantive, “cosmetic” amendments.
- **21.03.050, “Rezoning (Map Amendments).”** This section heavily revises the current rezoning procedure (found in the current Chapter 21.20. Key revisions include: a new purpose statement, clarification of the process, requirement for written findings in Commission recommendations, suggested new approval criteria, and an overall streamlining of the language.
- **21.03.070, “Conditional Uses.”** This is a substantially new procedure for the Municipality’s consideration. It is simpler than the current procedure, and we have not carried forward the somewhat confusing concept versus final plan provisions in the current Title 21. We also have separated out the site plan review provisions as a separate procedure.
- **21.03.080, “Site Plan Review.”** The first half of this new section deals generally with administrative site plans, and the second half deals with larger site plans that may be more controversial. A hearing by the Urban Design Commission is proposed for these so-called “major site plans.”
- **21.03.110, “Land Use Permits.”** This new section is intended to broaden the current land use permit provision to encompass the building permit and other Title 23 inspections. The following section, Certificates of Zoning Compliance, is intended as a final check on compliance with zoning requirements; the current certificate of occupancy is intended to be folded into this new requirement.
- **21.03.190, “Minor Modifications.”** This is a recommended replacement to the current “21.15.012: Procedure for obtaining administrative variance for minor dimensional errors.” The new section is intended to be more flexible and easier to administer – the complexity of the current approach makes it appear unlikely to be used often.
- **21.03.210, “Appeals.”** This section carries forward material from the current Chapter 21.30, so some appeals (subdivision, conditional uses) go to the Board of Adjustment, while appeals of staff decisions go to the Zoning Board of Examiners and Appeals. As noted in the text, the biggest issue with this section will be whether to retain the current broad language allowing anyone to appeal any decision, or whether the right to appeal should be restricted to “parties in interest” to eliminate the use of the appeals process as a potential tool for delay.

- **21.03.220, “Hardship Relief Petitions.”** This section was called “Beneficial Use Determinations” in the Annotated Outline, and was originally proposed to go at the end of the Common Procedures section. However, given the section’s length and the fact that it actually is a stand-alone procedure, we now recommend placing it here at the end of the procedures chapter.