


Director's Interpretation Memo 2020-02

DATE: February 24, 2020

TO: Planning Department

FROM:  Michelle J. McNulty, AICP, Planning Director

SUBJECT: Interpretation of AMC 21.01.090C. *Uses, Characteristics of Use, Structures, and Lots Rendered Lawful* and application of 21.12.050C. *Legalization of Lots Created Prior to September 16, 1975.*

Question: When a lot meets the district requirements for minimum lot area and width, but was subdivided by deed after March 25, 1955, and before September 16, 1975, do the amnesty provisions of AMC 21.12.050C for nonconforming lots apply? Alternately, does the language of AMC 21.01.090C. render the lot lawful without any additional Planning action?

Short Answer: Lots subdivided by deed after March 25, 1955, and before September 16, 1975 are considered nonconforming regardless of lot area and or width because they were not created in accordance with the regulations of the federal, state, or municipal government. These lots are eligible for the amnesty provisions of AMC 21.12.050C and are required to be registered per the requirements of that section. Any lot created by deed after September 16, 1975 is required to be made lawful through a platting action.

Interpretation: AMC 21.01.090C states "A use, characteristic of use, structure, or lot not lawfully existing at the time of the adoption of this title is deemed lawful as of the effective date of this title, provided it conforms to all of the requirements of this title." A lot created by deed after March 25, 1955 cannot be made lawful through this provision even if it meets the district requirements for lot area and width because it was not created by a plat. AMC 21.03.200B.4. requires all transfers of land to be approved by the municipality and recorded by the state of Alaska. Therefore, the lot does not conform to all provisions of Title 21.

AMC 21.12.050C.1. states "Lots existing prior to September 16, 1975, that do not meet the district requirements for minimum area and/or width, and that were not created in accordance with the regulations of the federal, state or municipal government, may continue in existence provided the following requirements are met..." This statement appears to exclude lots that comply with district requirements for minimum area and width. It is the interpretation of this department that lots created by deed, that meet the district requirements for lot area and width are still nonconforming because they were not created by a platting action as required by law. Therefore, if they were created prior to September 16, 1975, they are eligible for the amnesty provisions of this section and can be made legal through the lot registration process.