

INTERNAL AUDIT REPORT

2019- S1

Urban Design Commission

Planning Department

August 9, 2019

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Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 9, 2019

Honorable Mayor and Members of the Assembly:

I am pleased to present **Sunset Audit Report 2019-S1, Urban Design Commission, Planning Department**, for your review. A brief summary of the report is presented below.

In accordance with Assembly Ordinance Number 2011-64(S-1), Section 14, we have performed a sunset audit of the Urban Design Commission. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Urban Design Commission should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Urban Design Commission be reauthorized. However, our sunset audit revealed that revised Anchorage Municipal Code Title 21, *Land Use Planning*, effective January 1, 2014, does not contain language regarding the Urban Design Commission's composition or the number of members. This same condition was reported in prior Sunset Audit Report 2016-S1.

The Urban Design Commission will sunset on October 14, 2019, unless reauthorized by the Assembly.

Michael Chadwick, CIA, CICA
Director, Internal Audit



Municipality of Anchorage

Ethan Berkowitz, Mayor
Internal Audit Department

August 9, 2019

Sunset Audit Report 2019-S1
Urban Design Commission
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Introduction. We have performed a sunset audit of the Urban Design Commission (Commission) as required by Assembly Ordinance Number 2011-64(S-1), Section 14 which states:

“The Municipal Clerk shall notify the Assembly and the Mayor by assembly memorandum at least 120 days prior to the sunset of any board or commission, and an ordinance for reauthorization shall be introduced through the Assembly Chair with the assembly memorandum. The assembly memorandum shall include direction to the Office of Internal Audit to audit the board or commission under Anchorage Municipal Code section 3.20.110 D.3. and 4. The Office of Internal Audit shall report its findings to the Mayor and Assembly at least 60 days, prior to sunset, prior to vote by the Assembly on reauthorization.”

Objective and Scope. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Commission should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

We conducted this performance audit in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained

provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was performed during the period of May through July 2019.

Overall Evaluation. Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Commission be reauthorized. However, our sunset audit revealed that revised Anchorage Municipal Code (AMC) Title 21, *Land Use Planning*, effective January 1, 2014, does not contain language regarding the Commission's composition or the number of members. This same condition was reported in prior Sunset Audit Report 2016-S1.

SUNSET FACTORS

The following factors were used in our evaluation and are presented for information to the Mayor and Assembly:

1. **Name of Commission.**

Urban Design Commission

2. **Sunset Date.**

October 14, 2019

3. **The Purpose and Goal of the Commission.**

AMC subsection 4.40.125A., Urban design commission, states "There is established an urban design commission to exercise the powers and duties more particularly set forth in Title 21."

AMC section 21.02.040, Urban design commission, states:

“A. Decision-making authority. The urban design commission has decision-making authority over the following:

- 1. Appeals of administrative site plan reviews (21.03.180 C.);*
- 2. Major site plan reviews for non-residential development with a gross floor area of less than 100,000 square feet, and for residential development of fewer than 140 units (21.03.180 D.);*
- 3. Preliminary plats, when a major site plan review under the authority of the urban design commission creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the major site plan approval that it shall act as the platting authority (21.03.180 F.);*
- 4. Plans in hand design drawings review for new construction and reconstruction of streets of collector classification or greater on the Official Streets and Highways Plan (21.03.190);*
- 5. Commercial tract plats, where the site plan includes a large commercial establishment under the authority of the urban design commission (21.03.200 E.);*
- 6. Variances from:*
 - a. The district-specific standards of chapter 21.04, Zoning Districts, section 21.09.040, Zoning Districts, and section 21.10.040, Zoning Districts;*
 - b. The use-specific standards of chapter 21.05, Use Regulations (except subsection 21.05.040K., Telecommunication Facilities, and section 21.05.055, Marijuana Establishments), section 21.09.050, Use Regulations, and section 21.10.050, Use Regulations;*
 - c. Chapter 21.07, Development and Design Standards (except subsections 21.07.020C., Steep Slope Development, 21.07.050, Utility Distribution Facilities, and 21.07.060, Transportation and Connectivity);*
 - d. Those provisions of section 21.09.070, Site Development and Design Standards, for which variance authority is not given to the platting authority or the zoning board of examiners and appeals;*

- e. Section 21.09.080, Building Design Standards;*
 - f. Section 21.10.070, Development and Design Standards (except subsection 21.10.070B., Transportation and Connectivity); and*
 - g. Chapter 21.11, Signs; and*
 - 7. Appeals of the director's decision regarding subsection 21.12.060B., Bringing Characteristics Into Compliance (21.03.050).*
- B. Other powers and duties. The urban design commission shall:*
- 1. Advise the mayor, assembly, and planning and zoning commission regarding urban design, northern climate design, and winter city design matters, including design-related amendments to the comprehensive plan and Title 21.*
 - 2. Review and make recommendations regarding any entitlement requests, in accordance with authority delegated by the planning and zoning commission or platting board under this title.*
 - 3. Perform those duties stated in Title 7, relating to the art funding requirements for public buildings and facilities.*
 - 4. Designate historic signs pursuant to subsection 21.12.070 F.*
 - 5. Exercise such other powers, and perform such other duties, as are provided by law.”*

4. Have Commission members been appointed?

Revised AMC Title 21, effective January 1, 2014, does not contain language regarding the Commission’s composition or the appointment of Commission members, which was inadvertently omitted. According to the Director of the Office of Economic and Community Development, work has started on revising Title 21 to include language regarding the Commission’s composition and number of members. However, the work was not completed prior to this audit, but will be completed by the end of the year. This same condition was reported in prior Sunset Audit Report 2016-S1.

Audit Finding. Although Title 21 does not refer to the Commission’s composition or the number of members, Commission members were still appointed. Historically, this Commission had nine members.

<u>Commission Member</u>	<u>Most Recent Assembly Confirmation</u>	<u>Term Expiration Date</u>
Nichole M. Rehm	12-20-16	10-14-19
Monica Sullivan	10-24-17	10-14-20
Gerald L. (Jerry) Winchester	10-24-17	10-14-20
Barbara Cash	7-11-17	10-14-19
Carla Baxley	2-12-19	10-14-19
Edith J. McKee	2-12-19	10-14-21
Melissa Morse	2-12-19	10-14-21
Arthur Clark	2-26-19	10-14-21
Vacant		

Source: Assembly Memorandums

5. Are the terms of the Commission members current?

AMC section 4.05.040, Terms, states “Except as otherwise specified in this Code, the regular term of each member of a board or commission is three years commencing on October 15 of the year in which appointed and ending three years thereafter on October 14, provided however, to avoid a vacancy until new appointments can be made and confirmed, an appointed member's term is extended until a new appointment is confirmed or a maximum of 120 days which ever occurs first. The terms of initial or subsequent appointments to a board or commission shall be staggered so that, as nearly as possible, a pro rata number of its members shall be appointed each year of the established regular term of office.”

Audit Finding. Although AMC does not contain language regarding the Commission's composition or number of members, the terms for the eight Commission members are current.

6. **Are positions deemed vacant after the maximum number of absences?**

AMC subsection 4.05.060A., Attendance requirements; vacancies, states "The office of a member of a board or commission member shall become vacant if the member:

1. *Ceases to meet the qualifications prescribed for the office;*
2. *Resigns;*
3. *Dies;*
4. *Is judicially determined to be incompetent;*
5. *Is convicted of a felony;*
6. *Is removed from office for breach of the public trust; or*
7. *During any 12-month period while in office:*
 - a. *Is absent from three regular meetings without excuse;*
 - b. *Is absent from:*
 - i. *Six regular meetings; or*
 - ii. *Eight regular meetings for members of the planning and zoning commission, urban design commission, platting board, or zoning board of examiners and appeals; or*
 - c. *Fails to attend a two-thirds majority of the regular meetings without excuse."*

Note: Attendance requirements found in AMC subsection 4.05.060A. were amended on April 24, 2018, by Assembly Ordinance Number 2018-31, as amended and shown above. According to Assembly Counsel, this ordinance is effective prospectively. As a result, we evaluated attendance from May 2018 to the end of June 2019.

Audit Finding. No members were absent from three regular meetings without an excuse during any 12-month period from May 2018 through June 2019.

No members were absent from eight regular meetings during any 12-month period from May 2018 through June 2019.

No members failed to attend two-thirds of the regular meetings without an excuse during any 12-month period from May 2018 through June 2019.

7. **Does the Commission meet regularly?**

AMC section 4.05.090, Meetings, states “A board or commission shall hold regular monthly meetings at such time and place as may from time to time be designated by the board or commission, but meetings need not be held if no business is pending. Boards and commissions shall advise the public of their meeting schedules, or publicly advertise their meetings where necessitated by statutory requirements. The chairman of a board or commission, or the municipal employee who is designated as an ex officio member of the board or commission pursuant to section 4.05.140, or a majority of the board or commission, may call a special meeting of the board or commission. Meetings of all boards and commissions shall be open to the public, except for an executive session, from which the public may be excluded.”

Audit Finding. From January 2018 through June 2019, the Commission met nine times. Meetings are publicly announced on the Mayor’s Boards and Commissions Events website and on the Municipality of Anchorage’s Public Notices website.

8. **Are minutes taken and published?**

AMC section 4.05.130, Reports, minutes and public hearing records, states “A board or commission shall keep minutes of the board or commission proceedings, and such minutes shall record the vote of each member physically present upon every question formally presented to the board or commissions for its consideration. The minutes shall be maintained in the custody of the municipal agency which supplies staff support to the board or commission and shall be a public record, open to inspection by any person.”

Audit Finding. Meeting minutes were taken at each Commission meeting. Planning Department staff keeps a copy available for the public. In addition, meeting minutes and audio recordings of meetings are posted on the Municipal Calendar of Events website.

9. **Do meetings have action items or other business?**

AMC section 21.02.040, Urban design commission, states:

“A. Decision-making authority. The urban design commission has decision-making authority over the following:

- 1. Appeals of administrative site plan reviews (21.03.180 C.);*
- 2. Major site plan reviews for non-residential development with a gross floor area of less than 100,000 square feet, and for residential development of fewer than 140 units (21.03.180 D.);*
- 3. Preliminary plats, when a major site plan review under the authority of the urban design commission creates a subdivision or requires the vacation of a dedicated public area, and the commission directs in the major site plan approval that it shall act as the platting authority (21.03.180 F.);*
- 4. Plans in hand design drawings review for new construction and reconstruction of streets of collector classification or greater on the Official Streets and Highways Plan (21.03.190);*
- 5. Commercial tract plats, where the site plan includes a large commercial establishment under the authority of the urban design commission (21.03.200 E.);*
- 6. Variances from:*
 - a. The district-specific standards of chapter 21.04, Zoning Districts, section 21.09.040, Zoning Districts, and section 21.10.040, Zoning Districts;*
 - b. The use-specific standards of chapter 21.05, Use Regulations (except subsection 21.05.040K., Telecommunication Facilities, and section 21.05.055, Marijuana Establishments), section 21.09.050, Use Regulations, and section 21.10.050, Use Regulations;*

- c. *Chapter 21.07, Development and Design Standards (except subsections 21.07.020C., Steep Slope Development, 21.07.050, Utility Distribution Facilities, and 21.07.060, Transportation and Connectivity);*
 - d. *Those provisions of section 21.09.070, Site Development and Design Standards, for which variance authority is not given to the platting authority or the zoning board of examiners and appeals;*
 - e. *Section 21.09.080, Building Design Standards;*
 - f. *Section 21.10.070, Development and Design Standards (except subsection 21.10.070B., Transportation and Connectivity); and*
 - g. *Chapter 21.11, Signs; and*
7. *Appeals of the director's decision regarding subsection 21.12.060B., Bringing Characteristics Into Compliance (21.03.050).*
- B. *Other powers and duties. The urban design commission shall:*
- 1. *Advise the mayor, assembly, and planning and zoning commission regarding urban design, northern climate design, and winter city design matters, including design-related amendments to the comprehensive plan and Title 21.*
 - 2. *Review and make recommendations regarding any entitlement requests, in accordance with authority delegated by the planning and zoning commission or platting board under this title.*
 - 3. *Perform those duties stated in Title 7, relating to the art funding requirements for public buildings and facilities.*
 - 4. *Designate historic signs pursuant to subsection 21.12.070 F.*
 - 5. *Exercise such other powers, and perform such other duties, as are provided by law.”*

Audit Finding. From January 2018 through June 2019, the Commission issued 11 resolutions.