

CHAPTER 21.03: REVIEW AND APPROVAL PROCEDURES

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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.

(AO 2012-124(S), 2-26-13)

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.

B. Pre-Application Conferences

1. Purpose

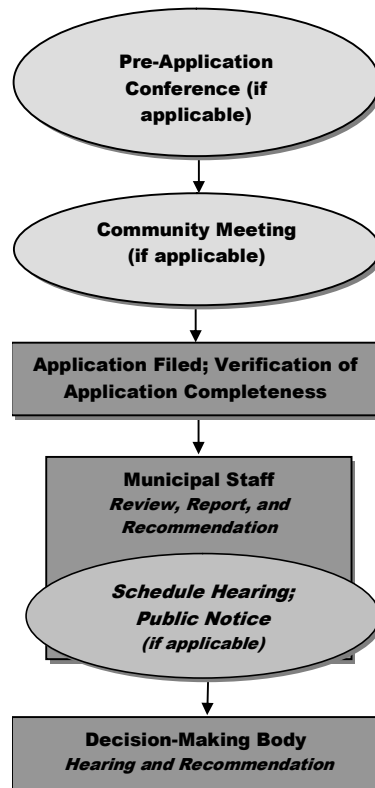
The pre-application conference is an informal discussion to familiarize the applicant and the municipal staff with the applicable provisions of this title that are required to permit the proposed development.

2. Applicability

a. Required for New Applications

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

- i. Rezoning (Map Amendments) (section 21.03.160);
- ii. Subdivisions, except for most Abbreviated Plats (section 21.03.200);
- iii. Conditional Uses (section 21.03.080);
- iv. Institutional Master Plans (section 21.03.110);
- v. Major Site Plan Review (section 21.03.180D.);
- vi. Public Facility Site Selection (section 21.03.140);
- vii. Girdwood Area Master Plans and Development Master Plans (sections 21.09.030E. and F.);
- viii. Abbreviated plats (section 21.03.200) or administrative site plan reviews (subsection 21.03.180C.) which include Class A or B wetlands within or adjacent to the application area;



Common Procedures

- ix. Abbreviated plats for unit lot subdivision (21.08.070E.); and
- x. Small Area Implementation Plan (21.03.115).

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.

c. *Optional for All Other Applications*

A pre-application conference is optional prior to submittal of any other application under this title not listed in subsection 2.a. above.

d. *Waiver*

The director may waive the pre-application requirement if the director finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her judgment, make a pre-application conference unnecessary. The waiver shall be made in writing and shall become a part of the case record for the application.

3. Initiation of Pre-Application Conference

- a. The potential applicant shall request a pre-application conference with the director by email, phone, or in writing. The director shall schedule a pre-application conference after receipt of a proper request.
- b. At least one week prior to the pre-application conference, the applicant shall provide to the director a description of the character, location, and magnitude of the proposed development and any other supporting documents such as maps, drawings, models, and the type of entitlement sought. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal to enable staff to make the informal recommendations discussed below.

4. Pre-Application Conference Content

- a. At the conference, the applicant, the director, and any other persons the director deems appropriate and available to attend shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this title, the parties should discuss in general the proposed development and the applicable requirements and standards of this title.
- b. The conference attendees shall discuss the desired development activities with respect to the following items:
 - i. Applicability of municipality policies, plans, and requirements as they apply to the proposed development.
 - ii. Appropriateness of the development with respect to the policies set forth in the comprehensive plan and the regulations in this title.
 - iii. Need, if any, to prepare a subdivision plat.
 - iv. Any site plan considerations or requirements.
 - v. Any concerns or requirements related to the anticipated impact upon public rights-of-way and public improvements, and appropriate

requirements to mitigate those impacts, including but not limited to traffic impact analyses.

- vi. Any concerns related to neighborhood impacts, land use, landscaping concepts, and overall project design.
- vii. Possible alternatives or modifications related to the proposed application.
- viii. Procedures that will need to be completed to review and act on the proposed application.

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

5. Informal Review Comments Not Binding

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

6. Application Required Within Six Months

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

C. Community Meetings

1. Purpose

The community meeting is an informal opportunity for the developer to inform the surrounding area residents and property owners of the details of a proposed development and application, how the developer intends to meet the standards contained in this title, and to receive public comment and encourage dialogue at an early time in the review process.

2. Applicability

a. Types of Applications

The applicant shall hold a community meeting for any of the following types of applications.

- i. Rezoning (zoning map amendments);
- ii. Subdivisions, except for abbreviated plats;
- iii. Conditional uses;
- iv. Marijuana—special land use permit, associated endorsements, and modifications requiring a public hearing;
- v. Institutional master plans;
- vi. Major site plan review;
- vii. Public facility site selection;

- viii. Small Area Implementation Plan; and
- ix. Reinvestment focus areas.

b. Community Councils

The applicant shall use as its first choice the community council(s) meeting of the project area as the community meeting when the community council(s) meeting is available. If an applicant chooses not to use the community council for the community meeting, the applicant shall provide a written explanation to the director outlining the reasons for this decision. The explanation shall be available to the appropriate board or commission at the time of authorization review. If the community council(s) meeting for the project area is not scheduled in a timely manner, the applicant shall organize a community meeting. If the project area spans more than one community council and the applicant chooses to attend community council meetings, the applicant shall attend the community council meetings of all applicable community councils.

3. Timing and Number of Community Meetings

When required, there shall be at least one community meeting held within six months prior to the submittal of an application, unless one extension is granted by the director not to exceed an additional six months. If a complete application is not submitted within six months or an extension has not been granted, a new community meeting shall be required prior to submitting an application.

4. Notice of Community Meeting

The applicant shall provide written (mailed) notice of the community meeting in accordance with subsection H.3. below, at least 21 days prior to the community meeting. If the applicant does not use the community council meeting as the community meeting, the applicant shall provide community council notice in accordance with subsection H.6. below.

5. Attendance at Community Meeting

- a. If a community meeting is required, the applicant or applicant's representative shall attend the community meeting. The applicant shall be responsible for scheduling the community meeting, coordinating the community meeting, and for retaining an independent facilitator if the applicant determines one is needed.
- b. All community meetings shall be convened at a place in the vicinity of the proposed development.

6. Summary of Community Meeting

The applicant shall prepare a written summary of the community meeting(s), which shall be submitted to the director and the affected community council(s) no later than seven days after the date of the meeting. The written summary shall be included in the departmental report. At a minimum, the written summary shall include the following information:

- a. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposals;
- b. Content and dates of mailing, and number of mailings, including letters, meeting notices, and any other written material;
- c. The number of people that participated in the meeting(s);
- d. A summary of concerns, issues, and problems expressed during the meeting(s), including:
 - i. The substance of the concerns, issues, and problems;

- ii. How the applicant has addressed or intends to address concerns, issues, and problems expressed at the meeting(s); and
- iii. Concerns, issues, and problems the applicant is unwilling or unable to address and why.

D. Authority to File Applications

- 1. When an authorized agent files an application under this title on behalf of a property owner, the agent shall provide the municipality with written documentation that the owner of the property has authorized the filing of the application.
- 2. When a review or decision-making body initiates action under this title, it does so without prejudice toward the outcome.

E. Application Contents, Submittal Schedule, and Fees

1. Form of Application

Applications required under this chapter shall be submitted on the appropriate form provided by the department and in such number as required for the individual application type.

2. Processing Fees

Applications shall be accompanied by the fee amount established by the assembly and listed in AMCR 21.20. Fees are not subject to waivers except as specifically allowed by this title.

3. Waivers

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

F. Verification of Application Completeness

- 1. The director shall only initiate the review and processing of an application if such application is complete. The director shall make a determination of application completeness and notify the applicant in writing within 15 days of application filing. If the application is determined to be complete, the application shall then be processed according to this title. If an application is determined to be incomplete, the director shall provide an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected.
- 2. An application shall be considered complete if it is submitted in the required form, includes all mandatory information, and is accompanied by the applicable fee. A pre-application conference shall have been held, if required, pursuant to subsection 21.03.020B, *Pre-Application Conferences*.
- 3. As a consequence for any false or misleading information submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

G. Additional Information

1. Requested Information

Nothing in this section prohibits the department or the decision-making body on the application from requesting additional information deemed necessary for review, after the application is complete. Any supplemental technical reports, special studies, and/or revised application materials that are requested following the original application must be

received at least thirty days prior to a public hearing. The municipality may postpone and reschedule a public hearing or approval deadline if such reports and studies are submitted less than thirty days prior to a public hearing, unless the applicable board or commission waives this time limit in a specific case for cause. Copies of such additional materials shall be delivered to all reviewers who received the original application packet.

2. Voluntary Information

Any supplemental information, such as revised application materials, that is voluntarily submitted by the applicant, should be submitted before the departmental report is finalized. Any such information submitted after the departmental report is finalized shall cause the application to be automatically postponed to the next regular meeting in order for the department to have time to review the new information, unless the board or commission determines that the new information does not significantly alter the application.

H. Notice

1. Content of Notices

Public notice required under this chapter shall, unless otherwise specified in this title:

- a. Identify the date, time, and place of the public hearing or community meeting, if applicable;
- b. If applicable, describe the property involved in the application by street address or by legal description and nearest cross street;
- c. Describe the nature, scope, and purpose of the proposed action;
- d. If applicable, indicate that interested parties may appear at the hearing or community meeting and speak on the matter; and
- e. Indicate where additional information on the matter may be obtained.

2. Summary of Notice Requirements

The following table 21.03-1 summarizes the notice requirements of the procedures set forth in this chapter. Unless otherwise specified in this title, 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			
		Written (Mailed)	Published	Posted	Community Council
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓	✓
Alcohol – Modification of a Special Land Use Permit Requiring Public Hearing	21.03.040	✓	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-	-
Appeals to ZBEA	21.03.050B.	✓	✓	-	✓
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-	✓
Conditional Uses	21.03.080	✓	✓	✓	✓
Marijuana - Special Land Use Permit and associated endorsements	21.03.105	✓	✓	✓	✓
Marijuana – Modification of a Special Land Use Permit Requiring Public Hearing	21.03.105C.	✓	✓	✓	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Marijuana - Variances	21.03.105C.	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
Master Plan, Development	21.09.030F.	✓	✓	✓	✓
Master Plan, Institutional	21.03.110	✓	✓	✓	✓
Reinvestment Focus Area	21.03.116	✓	✓	✓	✓
Neighborhood or District Plans	21.03.130	-	✓	-	✓
Nonconforming Uses of Land or Structures, Replication of	21.13.030C.	✓	✓	✓	✓
Nonconforming Structures, Replication of	21.13.040D.	✓	✓	✓	✓
Public Facility Site Selection	21.03.140	✓	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓	✓
Site Plan Review, Administrative	21.03.180C.	✓ ¹	✓	✓ ¹	✓
Site Plan Review, Major	21.03.180C.	✓	✓	✓	✓
Small Area Implementation Plan	21.03.115	✓	✓	✓	✓
Street Name Alterations	21.03.185	✓	✓	-	-
Street and 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	✓	✓	✓	✓
Variances	21.03.240	✓	✓	✓	✓
Administrative Variances	21.03.240J.	✓	✓	✓	✓

¹ Written (mailed) notice and posted notice shall be provided only when the “administrative site plan review with notice” process is specifically required by this title.

3. Written (Mailed) Notice

When table 21.03-1 requires that written notice be provided, the director (or developer when noticing a community meeting) shall deposit such notice into first class mail at least 21 days prior to the scheduled date of the hearing or community meeting. In computing

such period, the day of mailing shall not be counted, but the day of the hearing or community meeting shall be counted. Written notice shall be provided to the following persons or groups:

a. *Owners of Subject Property*

All persons listed on the records of the municipal assessor as owners of land subject to the application, at the mailing addresses of such persons in the records of the municipal assessor.

b. *Adjacent Property Owners and Residents/Occupants*

All persons listed on the records of the municipal assessor as owners of any land within 500 feet of the outer boundary of the land subject to the application, or owners of the 50 parcels nearest to the outer boundary of the land subject to the application, whichever is the greater number of parcels, at the mailing addresses of such persons in the records of the municipal assessor; and all residents/occupants of land in the same area as required above, at the property addresses. Any mailing to the 50 nearest parcels shall not include parcels that are entirely located more than a mile from the land subject to the application, which may reduce the number of mailings.

c. *Joint Base Elmendorf-Richardson*

The commander of Joint Base Elmendorf-Richardson (JBER) when the subject parcel is within 500 feet of JBER or within 500 feet of the boundary of a safety zone or noise contour that emanates from JBER and has been shared with and accepted by the department.

d. *Additional Persons*

Such additional persons or geographic areas as the director may designate.

e. *Street Name Alterations*

Notwithstanding the remainder of this subsection H.3., written notice for street name alterations shall be limited to all owners of property fronting on a subject street. Such notice shall be mailed at least 21 days before the street name alteration is submitted to the mayor in accordance with section 21.03.185. The notice shall state the present and proposed street names and shall direct that any comments on the alteration be submitted in writing to the director.

4. *Published Notice*

When table 21.03-1 requires that notice be published, the director shall cause a notice to be published on the municipal public notice web page of the municipal website. The notice shall be published at least 21 days before the scheduled hearing date. In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.

5. *Posted Notice*

When table 21.03-1 requires that notice be posted, the applicant shall cause a notice(s), on a form(s) provided by the department, to be posted on the property, visible from each developed right-of-way adjacent to the property, for at least 21 days before the scheduled public hearing date. In computing such period, the day of posting shall not be counted, but the day of the public hearing shall be counted. If no part of the subject property is visible from the public right-of-way, the notice shall be posted along the nearest street in the public right-of-way. Posted notices shall include the case number or case type, a contact phone number, and the municipal website address. Before the public hearing, the applicant shall submit to the department an affidavit, signed by the person who did the posting or the person who caused the posting to be done, that notice was posted as required by this subsection. Posted notices shall be removed by the applicant within 30 days after the close of the public hearing on the application.

6. Community Councils

When table 21.03-1 requires that notice be given to community councils, any officially recognized community council whose boundary includes any part of the subject property, and any additional such council whose boundary lies within 1,000 feet of any part of the subject property shall receive written (mailed) notice in accordance with H.3. above. Furthermore, the department shall provide notice to additional community councils in the following instances:

- a. Each recognized community council within the municipality shall receive written notice where the subject parcel is one of the following regional public lands or facilities: Ted Stevens Anchorage International Airport; Merrill Field Airport; Birchwood Airport; Far North/Bicentennial Park; Kincaid Park; Russian Jack Springs Park; Beach Lake Park; Edmonds Lake Park; Bird Creek Regional Park; Chugach State Park; Anchorage Coastal Wildlife Refuge; BLM tract(s) near Far North/Bicentennial Park.
- b. If the subject parcel is a branch public facility that serves a specific delineated area, such as a public school or fire station, then any community council whose boundaries lie within the delineated district of service of a branch public facility shall receive written notice. This requirement shall only take effect after the municipality has established maps delineating areas of service for the type of branch facility, and has adopted procedures and responsibilities for updating service area boundaries.
- c. Any community council whose boundaries lie beyond the minimum notification distance shall receive notice regarding proposals of potentially major scope or controversy that, in the opinion of the director, are likely to have a significant impact on the residents of the community council beyond the minimum notification distance.
- d. Any community council within the impact area of a street or trail project, a neighborhood or district plan, or other area-specific element of the comprehensive plan, shall receive written notice. The impact area shall, at a minimum, include all community councils within 1,000 feet of the project/plan boundaries. The impact area shall include additional community councils if the recommendations in the project/plan affect specific public lands or facilities as provided in subsections 6.a. or 6.b. above, or are likely to impact residents beyond the minimum impact area, as provided in subsection 6.c. above.
- e. All community councils shall receive notice of substantive amendments to the comprehensive plan (except as provided in subsection 6.d. above), and amendments to the text of title 21.

7. Constructive Notice

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

8. Presumption of Notice

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

I. Departmental Report

For every decision that requires a public hearing or where otherwise required by this title, the department shall prepare a report to be given to the decision-making body approximately one week before the initial public hearing on the application. The report shall include project background, public comments received, the summary of community meeting (if applicable), and the department's recommendation for action. The report shall be posted on the municipal website.

J. Referrals

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

K. Concurrent Processing

1. Where possible without creating an undue administrative burden on the municipality's decision-making bodies and staff, this title intends to accommodate the simultaneous processing of applications for different permits and approvals that may be required for the same development project in order to expedite the overall review process. Review and decision-making bodies considering applications submitted simultaneously shall render separate reports, recommendations, and decisions on each application based on the specific standards applicable to each approval.
2. Some forms of approval depend on the applicant having previously received another form of approval, or require the applicant to take particular action within some time period following the approval in order to avoid having the approval lapse. Therefore, even though this title intends to accommodate simultaneous processing, applicants should note that each of the permits and approvals set forth in this title has its own timing and review sequence.
3. The expected time frame and approval process for a consolidated application shall follow the longest time frame and approval process required from among the joined application types.

L. Postponements

1. If only five or fewer board or commission members are in attendance at the hearing, the applicant may request a postponement of his or her case, and the fee for the first postponement request shall be waived.
2. The applicant may request a postponement of his or her case for any other reason, which he or she shall state to the decision-making body. If the decision-making body grants the postponement request, the applicant shall pay the postponement fee as required by AMCR 21.20, and a new hearing date shall be determined by the department.
 - a. If public notice pursuant to subsection H. above has not been given, the director is the decision-making body for the purpose of granting a postponement.
 - b. If public notice pursuant to subsection H. above has been given, the decision-making body is the board or commission identified in this chapter for the entitlement requested.

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

M. Conditions of Approval

1. The decision-making body is authorized to impose such conditions upon the entitlement as may be necessary to conform to the standards of this title, reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the comprehensive plan and this title. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development.
2. No conditions of approval, except for those attached to variance approvals, shall be less restrictive than the requirements of this title or applicable special limitations.
3. Unless there is a time schedule stated as part of the approval or conditions of approval, all conditions of approval shall be met within one year of the date of approval (unless the condition is ongoing, such as a specification of hours of operation).

N. Decision

Recommendations and decisions shall be made in accordance with title 4.

O. Lapse of Approval

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

P. New Application Required

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

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2015-131, 1-12-16; AO 2015-142(S-1), 6-21-16; AO 2016-3(S), 2-23-16; AO 2017-75, 5-9-2017; AO 2017-175(S), 2-13-18; AO 2019-67, 6-18-19; AO 2021-46(S), 6-8-21; AO 2021-89(S), 2-15-22; 2022-62(S), 10-11-22; 2023-25(S), 3-7-23; AO 2023-77, 7-25-23)

21.03.030 ADMINISTRATIVE PERMITS

A. Applicability

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

1. Premises containing uses where children are not allowed (21.05.020B.);
2. Roominghouse (21.05.030B.4.);
3. Telecommunication tower and antenna (21.05.040K.)

4. Unlicensed nightclub (21.05.050D.8.c.);
5. Hostel in a residential zoning district (21.05.050J.3.); and
6. Bed and breakfast (21.05.070D.3.)

B. Administrative Permits

Except as otherwise allowed in this title, a permit issued by the director and pursuant to this section shall be valid between January 1 or the date of issuance and December 31 of either the year in which it is issued or the year after it is issued. Permits and renewals may be for one or two years, at the choice of the applicant. An application for renewal of a permit shall be submitted in the same manner as the original application and no later than December 1 immediately preceding the expiration date of that permit.

C. Regulations

The director may promulgate regulations to implement this section, as provided in AMC chapter 3.40. Permits shall be issued and renewed as outlined in the use specific standards of Chapter 21.05.

D. Appeals

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

(AO 2012-124(S), 2-26-13; 2021-89(S), 2-15-22)

21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT

A. Applicability

1. Any use that includes the retail sale or service of alcoholic beverages is subject to the review process set forth in this section. This process shall apply to such a use regardless of whether it is listed in the use table in section 21.05.010 as being permitted as a matter of right or subject to site plan review or the conditional use process. The applicant shall be required to obtain approval through both the process in this section and the separate process referenced in the use table.
2. Notwithstanding A.1. above, permits issued by the state alcoholic beverage control board are exempt from these approval requirements, but shall meet AMC title 10 requirements and the following:
 - a. When multiple permits are issued for the same location, the permits shall be for discrete events, and shall not be used to avoid the special land use permit process; and
 - b. The permit shall be reviewed by the chief of police in order to address any recurring problems at the site that have involved the police.
3. An automatic conversion as defined in AMC 2.30.121, a conversion by application, or an application by a licensee for a license or a license with one or more endorsements shall not be subject to a modification of an existing special land use permit for alcohol.

B. General Standards

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

C. Application and Review Procedure

1. Application Submittal

Applications for a special land use permit for alcohol shall be submitted to the director after application is made to the state alcoholic beverage control board for issue or transfer of location of an alcohol license. Applications shall contain any information specified on the application form. The assembly may promulgate regulations concerning the mandatory information to be submitted with the application for a special land use permit for alcohol.

2. Departmental Review

The department shall prepare and submit a report and a list of all licenses located within a minimum of 1,000 feet of the proposed use to the assembly, and shall address the conformity of the proposed application with this title. The department shall also submit a proposed resolution for assembly consideration in connection with alcohol license applications.

3. Public Notice

Notice for original applications and modifications that require a public hearing shall be provided in accordance with section 21.03.020H., *Notice*.

4. Action

- a. The special land use permit for alcohol for any use that includes the retail sale or service of alcoholic beverages, with the exception of a restaurant or eating place that only sells beer and wine for consumption on the licensed premises, shall be considered by the assembly. After holding a public hearing, the assembly shall approve, approve conditionally, or deny the application. In considering action, the assembly shall apply the criteria set forth in this title for conditional uses in section 21.03.080D., *Approval Criteria*. The assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.
- b. The special land use permit for alcohol for a restaurant or eating place that sells only beer and wine for consumption on the licensed premises, shall be considered by the director. In considering whether to approve, approve conditionally, or deny the application, the director shall apply the criteria set forth in this title for conditional uses in section 21.03.080D., *Approval Criteria*. The director shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested. The director's decision may be appealed to the assembly.

5. Conditions of Approval

- a. The assembly or the director may, in connection with an approval under this section, impose such special terms and conditions or modify existing conditions governing operation of that license as are in the public interest, and are consistent with the purposes of this title.
- b. Conditions of approvals under this section are enforceable under the provisions of this title. The assembly may revoke such an approval for failure to comply with conditions of the permit, provided a public hearing with notice to the owner affected is first held.
- c. The assembly may, at its discretion, modify the conditions of approval of a special land use permit for alcohol, when the assembly finds this is warranted by public safety concerns or negative impacts on surrounding properties. Before the assembly acts to modify the conditions of approval on a special land use permit for alcohol, notice shall be provided to the permit holder and in accordance with subsection 21.03.020H., and a public hearing shall be held.
- d. A copy of the conditions imposed by the assembly or the director in connection with approval under this section shall be maintained by the department and the

licensee. The licensed business shall make the conditions available to the public on request.

6. Effect of Denial

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

7. Modifications

- a. The licensed business may request a modification to their approval by submitting an application, site plan and floor plan for department review, along with the fee specified in AMCR 21.20. The department shall review the application for potential impacts including, but not limited to parking, lighting, noise, traffic, and ADA accessibility.
- b. Applications for an increase in the square footage of the original licensed premises of more than one thousand square feet, whether or not the area of increase is used year-round, shall be decided by the assembly after a public hearing.
- c. The first modification to the licensed establishment submitted by the licensee for changes that increase the licensed premises area not requiring assembly approval or its hours of service, and all other modifications that change other use conditions in the special land use permit shall be considered by the director, although the director may require a proposed change to be brought to the assembly if the director determines the proposed change is significant and warrants assembly consideration.
- d. Upon denial by the director, a licensee may request that the director's decision be vacated and the unchanged modification application be considered by the assembly. The request must be submitted in writing to the director within 30 days of the denial, and the director shall then prepare a resolution for the assembly's consideration with a memorandum stating the reason for denial. The director shall forward the resolution packet to the assembly as soon as practicable for inclusion on a regular meeting agenda, and it shall not require a public hearing so long as the denial is not because of a significant change and it is not required by the thresholds in subsection C.7.b.
- e. At any time, the assembly may, at its discretion, modify the conditions of approval of a special land use permit for alcohol in accordance with subsection C.5.c.
- f. *Exceptions*
An application for a new endorsement for a use that has already been approved for a special land use permit for alcohol shall not require modification, except an endorsement that also results in an increase of the square footage of the original licensed premises shall require a modification to the special land use permit for alcohol.

8. Expiration

An approval granted under this section shall expire:

- a. When the license has been expired for at least 1 year, based on the license expiration date provided by AMCO; or

- b. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly or the director when the alcohol approval was granted under this section, unless the licensee applies for and receives approval for a modification of the existing alcohol approval to reflect the change. For the purposes of this subsection, “substantially different” means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants. A material change includes, without limitation, an increase in the late night or early morning hours of operation or a change involving the type of entertainment presented which results in an increase in noise level at the property line.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2021-14, 2-23-21; 2021-89(S), 2-15-2022; 2023-25(S), 3-7-23; AO 2023-102, 11-7-23)

21.03.050 APPEALS

A. Appeals to Board of Adjustment

1. Jurisdiction of Board

The board of adjustment shall decide appeals:

- a. From decisions regarding the approval or denial of a preliminary plat (subsection 21.03.200C.);
- b. From decisions regarding the approval or denial of a variance from the all of the provisions of this title with the exception of subsection 21.05.040K., *Telecommunication Facilities*; chapter 21.06, *Dimensional Standards and Measurements*; and section 21.07.050, *Utility Distribution Facilities*;
- c. From decisions regarding the approval or denial of vacations of public and private interest in land where the platting board is the platting authority (section 21.03.230);
- d. From decisions regarding the approval or denial of a development master plan (subsection 21.09.030F.);
- e. From decisions regarding the approval or denial of applications for conditional uses (section 21.03.080); and
- f. From decisions regarding the approval or denial of applications for major site plan reviews (subsection 21.03.180C.).
- g. From decisions regarding the approval or denial of a draft street review design study report (subsection 21.03.190B.4.).
- h. From decisions regarding the approval or denial of a small area implementation plan (subsection 21.03.115.).

2. Appellants Before Board

Decisions may be appealed to the board of adjustment by:

- a. Any municipal agency; or
- b. Any party of interest for the application, as defined in chapter 21.15.

3. Appellees Before Board

- a. Appellees before the board may be:

- i. The party in whose favor the lower administrative body's decision was rendered.
 - ii. Any municipal agency.
 - iii. Any party of interest for the application, as defined in chapter 21.15.
 - b. Within ten days after the deadline for filing an appeal, an appellee shall file a notice of intent to file a brief with the assembly counsel's office on a form prescribed by the assembly counsel's office, and serve a copy of the notice on all appellants.
- 4. **Notice of Intent to Appeal; Findings of Fact and Decision; Notice of Appeal; Appeal Fee**
 - a. ***Notice of intent to appeal.***

Any party of interest shall first file with the planning director, within seven days of the board or commission's decision made on the record, a written notice of intent to appeal
 - b. ***Findings of fact and decision.*** The planning director shall prepare proposed written findings of fact and decision to submit to the board or commission at its next regularly scheduled meeting, or as soon thereafter as possible. Review of the written findings of fact and decision shall have priority over regular agenda items, and shall be approved, as amended by the board or commission if necessary, and become the final appealable decision.
 - c. ***Notice of appeal.***
 - i. Following approval of the written findings of fact and decision, any party of interest may, within 20 days, file an appeal by filing a notice of appeal, and paying the appeal fee and deposit in accordance with this section.
 - ii. The notice of appeal must be filed with the planning director on a form prescribed by the municipality. If the appellant is not the applicant, the appellant's notice of appeal shall include proof of service on the applicant.
 - iii. ***Appeal Fee.***

The appellant shall pay the current appeal fee. In addition, the appellant shall deposit with the planning director an amount equal to the estimated cost of preparation of the record. Following completion of the record, the actual cost thereof shall be paid from the appellant's deposit and the remainder refunded. The appeal fee shall be returned to the appellant if the decision of the lower administrative body is reversed in whole, and one-half of the fee shall be returned if the decision is reversed in part.
- 5. **Appeal Record**
 - a. The appellant shall arrange for the preparation of the transcript of the board or commission hearing by a court reporter and shall pay the cost of such preparation. The appellant shall file the transcript with the planning director. If the appellant fails to file the transcript within 30 days after the filing of the notice of appeal, the planning director shall reject the appeal.
 - b. Upon timely filing by an appellant of an appeal to the board of adjustment, the planning director shall assemble an appeal record. The record shall contain:
 - i. A copy of the notice of appeal filed by the appellant.
 - ii. A verbatim transcript of the proceedings before the administrative body from which the appeal has been taken.

- iii. Copies from the department of all documentary evidence, memoranda, exhibits, correspondence, and other written material submitted to the administrative body prior to the decision from which the appeal is taken.
- iv. A copy from the department of the written decision of the administrative body, including its findings and conclusions.
- c. Within 3 business days of completion of the record, the planning director shall provide the record to the assembly counsel's office, along with any notice of intent to file a brief filed by an appellee. The planning director shall serve a copy of the record on the appellant. The planning director shall also serve the record on the appellees who have filed a notice of intent to file a brief and, if a paper copy, paid for copying cost. Upon request, the planning director shall provide a copy of the record to an appellee or the public. A copying cost for the record will be charged as set out in AMCR 3.90.002. The appellee shall also be charged any mailing costs.

6. Written Appeal Briefs

a. *Brief of Appellant*

The appellant shall file a written brief of points and authorities in support of those allegations of error specified in the notice of appeal with the assembly counsel's office within 15 days after service of the appeal record. If no brief is filed within the required time period, the assembly counsel's office shall dismiss the appeal. Concurrent with filing of the brief, appellant shall serve and provide proof of service of the brief on any appellee and the planning director.

b. *Brief of Appellee*

An appellee who has filed a notice of intent to file a brief may file with the assembly counsel's office a brief within 15 days after service of appellant's brief or of the expiration of the appellant's briefing deadline. Concurrent with filing of the brief, appellee shall serve and provide proof of service of the brief on any appellant and the planning director.

c. *Staff Brief*

The planning director may prepare and submit to the assembly counsel's office a written response (staff's brief) within 15 days after service of the appellant's brief. Concurrent with filing of the brief, appellant shall serve and provide proof of service of the brief on any appellee and the planning director.

d. *Reply Brief*

An appellant may file a written reply brief to appellee briefs submitted pursuant to subsection 6.b. The appellant's reply brief is due to the assembly counsel's office within 15 days after service of appellee's brief. Concurrent with filing of the brief, appellant shall serve and provide proof of service of the brief on any appellee and the planning director.

e. *Form of Briefs*

The assembly counsel's office shall only accept the timely filing of the briefs described in subsections a, b, c, and d. above and only in the form prescribed by this subsection.

i. *Required Attachments*

All briefs shall be filed with an attached copy of the ordinances and regulations principally relied upon, set out verbatim.

- 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.
- 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.
- iv. *Page designation*
References to the record should be designated by "R" followed by the page number. For example, "R-1" references page one of the record. References to the transcript of the hearing before the lower administrative body should be designated by "T" followed by the page number. For example, "T-1" references page one of the transcript.

7. 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.6. 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 and shall serve notice on the appellant and those appellees who have submitted briefs. The municipal clerk shall make appeal packets available to the public upon request with costs payable by the public as provided in AMCR 3.90.002.

8. Procedural Changes

Upon timely motion 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.

9. Motions

a. General

An application for relief of any kind shall be made by written motion. A stipulation is not sufficient. Dispositive motions, other than a motion for lack of jurisdiction, shall not be heard.

b. Format

A motion must include:

- i. A brief, complete statement of the reasons in support of the motion;
- ii. An affidavit where the facts relating to the motion are not otherwise proven;
- iii. If the motion is for an extension of a time period, a statement of each extension of that time period previously granted to that party, indicating the length of each extension;
- iv. The points an authorities on which the moving party relies; and
- v. If the moving party requests relief by a specific date, a statement of the date by which a decision is needed and the reasons why a decision is needed by that date.

c. Filing and service

The original of all motions and responses must be filed with the assembly counsel's office, together with proof of service on all other parties.

- d. *Opposition to motion – disposition*
Adverse parties have seven days after service of a motion within which to file and serve memoranda in opposition, counter motions and affidavits. As soon as practical after expiration of the seven-day period, the motion will be considered. A reply memorandum may not be filed by the moving party unless otherwise ordered. Oral argument will not be heard on motions unless otherwise ordered. If a motion is decided before expiration of the time for opposition, the filing of a timely opposition requires that the motion be considered de novo.
- e. *Motions determined by the assembly counsel's office.*
Routine, unopposed motions may be ruled upon by the assembly counsel's office without referral to the chair or the board panel. Unopposed motions for extensions of time for filing briefs may be ruled upon by the assembly counsel's office except for motions which, if granted, would extend the filing due date beyond 30 days from the original due date. The assembly counsel's office may not determine a motion to extend the time for filing a notice of appeal. The assembly counsel's office may not determine a motion for extension of time to file a document if the time period, including any previous extensions, has already expired when the motion is filed. The assembly counsel's office has the discretion to refer motions that may be determined by the clerk to the chair or board panel, as provided in paragraph f.
- f. *Motions determined by the chair of the board of adjustment*
Any motions not described in paragraph g. may be determined by the chair without referral to the board panel assigned to the appeal. The chair has the discretion to refer such a motion to the panel.
- g. *Motions determined by panel*
A motion that would have the effect of determining the merits of an appeal, or a motion referred to the panel by the chair, shall be considered by the panel assigned to the appeal. The chair may, in connection with such a motion, enter such orders as may be necessary to prevent irreparable harm prior to the time that the full panel is able to consider the motion.
 - i. *Motion for non-routine extension based upon a showing of diligence and substantial need*
Appellee may obtain up to 30 additional days for opening briefs and the appellant or staff may obtain up to 15 additional days for the staff brief or reply brief upon a showing of diligence and substantial need. A conclusory statement as to the press of business does not constitute a showing of diligence and substantial need.
 - ii. *Motion for non-routine extension based upon a showing of extraordinary and compelling circumstances*
An extension that would extend the time for filing a brief beyond the time allowed under subsection i. will be granted only upon a showing of extraordinary and compelling circumstances. The affidavit accompanying the motion must include a detailed explanation of the extraordinary and compelling circumstances that prevent completion of the brief within the time allowed. Factors the court may consider in determining the existence of extraordinary and compelling circumstances include: the nature and foreseeability of intervening events, pre-existing commitments, the extent of the party's control over the circumstances that prevent completion of the brief, the nature of the appeal, and any prejudice to the parties.

- iii. *General requirements*
The motion must be filed on or before the due date, and must be accompanied by an affidavit stating:
 - (A) when the brief is due;
 - (B) when the brief was first due and the number and length of previous extensions;
 - (C) the length of the requested extension and requested due date;
 - (D) a detailed explanation of the reason that an extension is necessary; and
 - (E) that the brief will be filed within the time requested.
- iv. *Failure to include complaint affidavit*
A motion without a complaint affidavit will be rejected by the assembly counsel's office.

10. Conduct of Hearing

- a. The hearing 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.
- 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.

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.
- 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.
- c. The board of adjustment shall, unless it substitutes its independent judgment pursuant to subsection 11.d. below, defer to the judgment of the lower administrative body regarding factual issues. Findings of fact adopted expressly or by necessary implication by the lower administrative body may be considered as true if they are supported in the record by substantial evidence. The term "substantial evidence," for the purpose of this section, means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record affords a substantial basis of fact from which the fact in issue may be reasonably inferred, it shall be considered that the fact is supported by substantial evidence.
- d. The board of adjustment may, by unanimous vote, substitute its independent judgment for that of the lower administrative body on any disputed issues or findings of fact. such judgment must be supported on the record by substantial evidence.

12. Decision

- a. The board of adjustment, by majority vote, may affirm, modify, or reverse the decision of the lower administrative body in whole or in part. A decision reversing or modifying the decision appealed from shall be in a form which finally disposes

of the case on appeal except where the case is remanded in accordance with subsection 13.a. below.

- b. Every decision of the board of adjustment to affirm, modify, or reverse the decision of the lower administrative body pursuant to subsection 12.a. above shall be based upon and include written findings and conclusions adopted by the board. Such findings must be reasonably specific so as to provide the community, and, where appropriate, reviewing authorities, a clear and precise understanding of the reason for the board's decision. The board may seek the assistance of legal counsel in the preparation of its decision.
- c. Every final decision of the board of adjustment shall clearly state on its face it is a final decision with respect to all issues involved in the case, and that the parties have 30 days from the date of service of the decision to appeal to the superior court.

13. Remand

- a. The case shall be remanded to the lower body where the board of adjustment determines any of the following:
 - i. There is insufficient evidence in the record on an issue material to the decision of the case;
 - ii. There has been a substantial procedural error that requires further public hearing; or
 - iii. The lower administrative body has made a legal error that, in the opinion of the board of adjustment, warrants a remand.
- b. If the board of adjustment remands a case to the lower administrative body, the board shall describe any issue upon which further evidence shall be taken, and shall set forth any further directions the board deems appropriate for the guidance of the lower administrative body.
- c. Cases on remand following a decision of the board shall take precedence over all other matters on the agenda of the lower administrative body.
- d. A board of adjustment decision remanding a case on one or more issues is not a final decision with respect to any issues involved in the appeal. The board of adjustment's decision remanding the case is and shall state that it is the final decision with respect to all matters affirmed by the board of adjustment's decision, when, following service of the lower administrative body's decision on remand, no appeal is perfected within the period specified in subsection 21.03.050A.4. The decision shall also state that the parties have 30 days from the expiration of said period to appeal to the superior court.

B. Appeals to Zoning Board of Examiners and Appeals

1. Jurisdiction of Board

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

- a. Interpretation of zoning district boundaries under subsection 21.01.050C.
- b. Denial of an administrative permit under section 21.03.030.
- c. Denial of a certificate of zoning compliance under section 21.03.060.

- d. Interpretation of whether a conditional use amendment is major or minor under subsection 21.03.080D.2.
- e. Denial of an application for a flood hazard permit under section 21.03.090.
- f. Denial of an application for a building or land use permit under subsection 21.03.100 when such denial is based on the requirements of title 21, except for subsection 21.03.100E.
- g. Compliance with an institutional master plan under subsection 21.03.110F.
- h. Denial of a minor modification under section 21.03.120 when the director is the decision-making body.
- i. Denial of an application for a sign permit under subsection 21.03.170 when such denial is based on the requirements of title 21.
- j. Determination of use classification under subsection 21.03.220.
- k. Denial of a verification of legal nonconforming status under section 21.03.250.
- l. Alleging an error in the enforcement or interpretation of the flood hazard area under subsection 21.07.020E.
- m. Site enhancement plan for a self-storage facility under subsection 21.05.060D.4.
- n. Denial of or imposition of conditions on a certificate for legalization of nonconforming dimensional setback encroachment under section 21.13.030, or a certificate for legalization of lots created prior to September 16, 1975 under subsection 21.13.050C.
- o. Denial of administrative approval to reinstate a damaged nonconforming use under subsection 21.13.030C., or to rebuild a damaged nonconforming structure under subsection 21.13.040D.1.a.
- p. Overcoming presumption of abandonment under subsection 21.13.030E.
- q. Enforcement orders issued under chapter 21.14, *Enforcement*.
- r. Interpretation of general definitions and use definitions.

2. Initiation of Appeal

Appeals to the zoning board of examiners and appeals may be brought by any party of interest for the application.

3. Time Limit for Filing; Notice of Appeal; Appeal Fee

- a. An appeal of an administrative decision to the zoning board of examiners and appeals, as set out in subsection B.1. above, must be filed no later than 20 days after the date of service of the decision.
- b. Notice of appeal must be filed with the director on a form prescribed by the municipality and must contain detailed and specific allegations of error.
- c. The appellant shall pay an appeal fee as set by the assembly, which shall accompany the filing of the notice of appeal. The appeal fee shall be returned to the appellant if the decision of the lower administrative body is reversed in whole, and one-half of the fee shall be returned if the decision is reversed in part.

4. Scope of Review

The zoning board of examiners and appeals shall conduct a full evidentiary hearing on an appeal and make its decision on the basis of this title, the evidence, and the argument presented.

5. Notice and Public Hearing

- a. A public hearing shall be held within 60 days of the filing of a proper notice of appeal.
- b. Notice of the appeal hearing shall be published on the municipal public notice web page of the municipal website at least 14 days prior to the hearing, and, in addition, the appellant shall be sent a notice by mail at least 14 days prior to the hearing.
- c. The zoning board of examiners and appeals may prescribe rules of procedure for additional notification in cases where a decision of the board would have a substantial effect on the surrounding neighborhood.

6. Decision

- a. The zoning board of examiners and appeals may affirm or reverse the decision of the decision-making body in whole or in part. It shall require a majority of the full membership, minus those members who disqualify themselves with conflicts of interest in accordance with AMC title 4.
- b. Every decision of the zoning board of examiners and appeals to affirm or reverse an administrative action shall be in writing and based on and include written findings and conclusions adopted by the board. Such findings must be reasonably specific so as to provide the community and, where appropriate, reviewing authorities, with a clear and precise understanding of the reasons for the board's decision.
- c. Every final decision of the zoning board of examiners and appeals shall clearly state it is a final decision and that the parties have 30 days from the date of mailing, or other distribution of the decision to file an appeal to the superior court.

C. Appeal of Director's Decision

If the right to appeal the director's decision is not otherwise provided in this code, the decision of the director may be appealed to the board or commission that has decision-making and/or review authority over the type of issue being appealed as set forth in table 21.02-1.

D. Judicial Appeals—Judicial Review Authorized

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

1. A final decision of the board of adjustment on an appeal from a decision regarding the approval or denial of an application for a conditional use.
2. A final decision of the municipal manager or platting board on an appeal from a decision of the building official regarding off-site improvements for a land use permit.
3. A final decision of the board of adjustment on an appeal from the platting board regarding an application for a subdivision.
4. A final decision of the zoning board of examiners and appeals.
5. Any final action or decision under this title that is appealable to the superior court under the *Alaska Rules of Court* and/or laws of the state of Alaska.

E. Service

Service if required under this section, is complete on the day the filing, order or decision is mailed or emailed by the department, municipal clerk, appellant, appellee, or other party having responsibility for service. Delivery and receipt of service by email shall be mandatory for all parties who have consented to service by email.

1. Proof of service of all documents required or permitted to be served must:
 - a. State the name of each person who has been served;
 - b. Show the day and manner of service;
 - c. Contain a description or list of the documents served if not on the documents themselves; and
 - d. Be certified by an attorney, an authorized agent of the attorney or, in the case of a self-represented person, then that person. An example of a certificate of service follows:

Certificate of Service:

I certify that on [date] a true and correct copy of Appellant's Brief was served by email upon each of the following:

[Name of Appellee]
Email address of appellee

Planning Department
Planning Director
Email address

[Name of person emailing documents]
Title, if applicable
Business Name, if applicable

2. Service by mail shall add three (3) days to the time to respond to the mailed item.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2015-133(S), 2-23-16; AO 2021-46(S), 6-8-21; AO 2022-70, 7-26-22)

21.03.060 CERTIFICATE OF ZONING COMPLIANCE

A. Purpose

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

B. Applicability

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

C. Issuance

1. Certificate

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

2. Conditional Certificate

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

b. The conditional certificate shall be valid only for the period of time stated in the certificate, not to exceed 270 days.

c. Conditions that are attached to the conditional certificate of zoning compliance must be completed prior to the expiration of the certificate. When such conditions have not been completed prior to the expiration date of the conditional certificate, the certificate of zoning compliance shall immediately expire.

d. Upon receipt of a written application to the building official stating satisfactory reasons for the failure to complete work within the given time period, the building official may renew the certificate for a specified period of time, not to exceed 180 days.

e. Only one renewal may be granted, except that single family homes and phased projects may be granted more than one renewal.

3. Inside the Building Safety Service Area

Inside the building safety service area, the building official shall issue a certificate of zoning compliance in accordance with AMC 23.10.107.3, *Certificate of Occupancy Issuance*, when, after examination of the building, structure, landscaping, and/or other improvements or changes to the property, the municipality finds that the property complies with the applicable provisions of this title and other applicable ordinances and construction codes of the municipality. Where there is no construction or placement of a structure, or addition to an existing structure, no as-built survey is required. An as-built is not required for a fence.

4. Outside the Building Safety Service Area

Outside the building safety service area, the building official shall issue a certificate of zoning compliance when the municipality finds that the property complies with the applicable provisions of this title. An as-built survey certified by a surveyor registered with the state of Alaska is required for construction or placement of a structure, or addition to a structure. An as-built is not required for a fence.

a. For single- and two-family development, site inspection is not required. However, provisions of this title that cannot be verified by an as-built may be subject to physical examination of the property through a final zoning inspection.

b. For all other development, such finding shall follow an examination of the building/structure exterior, landscaping, and/or other improvements or changes to the property through a final zoning inspection.

5. Appeals

Denial of a certificate of zoning compliance may be appealed to the zoning board of examiners and appeals in accordance with subsection 21.03.050B.

(AO 2012-124(S), 2-26-13)

21.03.070 COMPREHENSIVE PLAN AMENDMENTS

A. Purpose and Scope

This section provides uniform procedures, schedules, and review criteria necessary for amendments to the comprehensive plan. It includes allowances for concurrent comprehensive plan map and zoning map amendments.

B. Levels of Plan Review

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

1. Complete Plan Revision (20-year Intervals)

The director shall initiate a full review and complete revision of the comprehensive plan at least once every 20 years, preferably following the decennial census. As part of this review, the director shall provide the planning and zoning commission with an overall assessment of the adequacy and effectiveness of the existing plan, including identification of new issues not adequately addressed, issues which require further study and investigation, and suggested improvements. The planning and zoning commission shall consider the staff assessment and shall recommend amendments or issues that the commission feels should be pursued or investigated. Any amendments shall follow the procedures of subsections C. and D. below.

2. Targeted Plan Review (10-year Intervals)

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

3. Other Plan Amendments

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

C. Procedure for Substantive Amendments

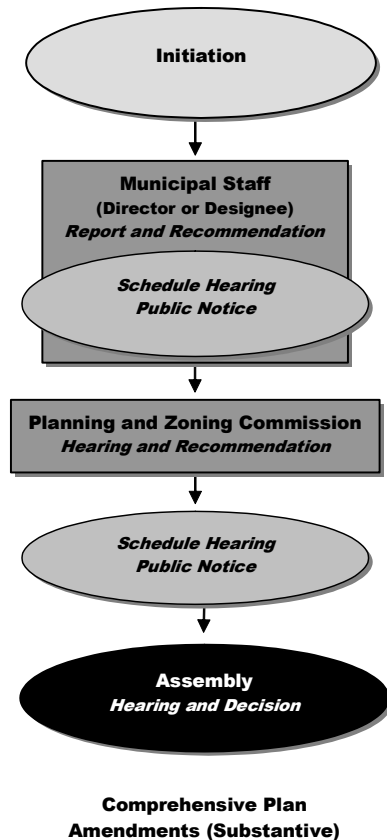
1. Procedure

a. Initiation

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

b. Public Notice

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



ii. Substantive amendments to be considered by the planning and zoning commission shall be available for public review at least 21 days in advance of the public hearing.

c. ***Departmental Review***

The department shall review each proposed substantive amendment in light of the approval criteria set forth in subsection C.2. 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. This report shall include a discussion of all plans and policies that have been adopted by the municipality and are relevant to the proposed amendment.

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

The planning and zoning commission shall hold a public hearing on the proposed amendment. Based on testimony received, the department's report, and the approval criteria in subsection C.2. below, the commission shall recommend that the assembly approve, approve with modifications, or deny the proposed amendment.

e. ***Assembly Action***

The assembly shall hold a public hearing on the proposed amendment. Based on the commission's recommendation, testimony received, and the approval criteria in subsection C.2. below, the assembly shall:

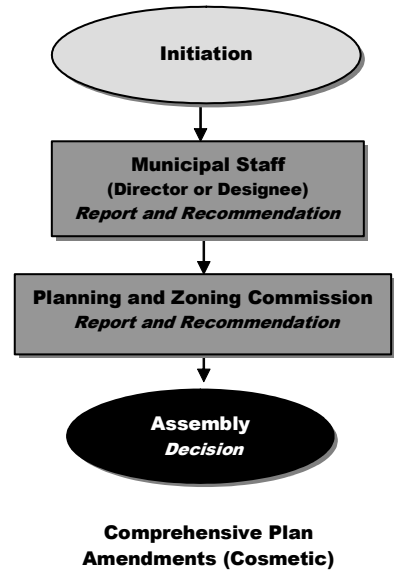
- i. Approve the amendment by ordinance, either as submitted or with modifications suggested by staff, the planning and zoning commission, or the assembly;
- ii. Reject the proposed amendment; or
- iii. Refer the proposed amendment, and/or any substantial modifications proposed by the assembly, back to the planning and zoning commission or to a committee of the assembly for further consideration.

2. **Approval Criteria**

The planning and zoning commission may submit a recommendation for approval, and the assembly may approve an amendment if, in the judgment of the commission or the assembly, the amendment meets the following approval criteria:

- a. The proposed amendment is necessary in order to address one or more of the following:
 - i. A change in projections or assumptions from those on which the comprehensive plan is based;
 - ii. Identification of new issues, needs, or opportunities that are not adequately addressed in the comprehensive plan;
 - iii. A change in the policies, objectives, principles, or standards governing the physical development of the municipality or any other geographic areas addressed by the comprehensive plan; or
 - iv. Identification of errors or omissions in the comprehensive plan.
- b. The proposed amendment maintains the internal consistency of the comprehensive plan, and is consistent with the other elements of the comprehensive plan without the need to change other components of the plan to maintain internal consistency.

- c. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.
- d. If the proposed amendment is to the comprehensive plan map, the requested land use designation is found to be equally or more supportive of the comprehensive plan goals, objectives, policies, and guidelines, than the old land use designation.
- e. If the proposed amendment is to the comprehensive plan map, the subject site is consistent with the adopted description and locational criteria for the requested land use designation, and is physically suitable to accommodate the proposed designation, including but not limited to access, physical constraints, provision of utilities, and compatibility with surrounding designations and development patterns.



3. Concurrent Zoning Changes Allowed

- a. Requests for rezonings (zoning map amendments) may be considered concurrently with a comprehensive plan map amendment. The zoning map amendment shall be to a zone corresponding to the requested comprehensive plan map designation. Concurrent zoning map amendments shall meet all of the approval criteria of subsection 21.03.160E.
- b. The planning and zoning commission shall submit its report and recommendation regarding the comprehensive plan map amendment to the assembly at the same time it submits the report and recommendation on the rezoning case. The assembly and planning and zoning commission shall consider the plan amendment proposal and rezoning request separately, and shall act separately on the two items.

D. Procedure for Cosmetic Amendments

1. Initiation

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

2. Departmental Review

The department shall review each proposed cosmetic amendment and shall provide a report to the planning and zoning commission.

3. Planning and Zoning Commission Action

The planning and zoning commission shall submit, within a reasonable time, a report and recommendation to the assembly regarding whether or not the proposed amendment should be adopted as submitted, adopted with modifications, or rejected.

4. Assembly Action

The assembly shall consider the reports and recommendations of the planning and zoning commission and the director at a regularly scheduled assembly meeting, and will take action to either:

- a. Approve or deny the amendment;

- b. Approve the amendment with modifications; or
- c. Refer the matter back to the planning and zoning commission for further consideration.

(AO 2012-124(S), 2-26-13)

21.03.080 CONDITIONAL USES

A. Purpose

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

B. Applicability

1. Land uses requiring conditional use approval are identified in table 21.05-1, *Table of Allowed Uses*, table 21.05-3, *Table of Allowed Accessory Uses*, table 21.09-1, *Table of Allowed Uses (Girdwood)*, table 21.09-2, *Table of Accessory Uses (Girdwood)*, table 21.10-4, *Table of Allowed Uses (Chugiak-Eagle River)*, table 21.10-5, *Table of Accessory Uses (Chugiak-Eagle River)*, table 21.11-2, *Table of allowed Uses (Downtown)*, and table 21.11-3, *Table of Accessory Uses (Downtown)*.
2. This section shall not apply to remodeling, renovation, or repair to interior portions of structures that are subject to conditional use approval under this title, except those interior areas that affect conformity to the approval criteria for conditional use approval or the development and design requirements of this title.

C. Procedure

1. **Initiation**
 An application for a conditional use approval shall be initiated by the owner(s) of the subject property.
2. **Pre-Application Conference**
 Before filing an application, the applicant shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.
3. **Community Meeting**
 A community meeting is required in accordance with subsection 21.03.020C.
4. **Application Submittal**
 Applications for a conditional use approval shall be submitted to the director on a form provided by the department and shall contain the information specified on the application form.
5. **Public Notice**



Conditional Uses

Notice shall be provided in accordance with section 21.03.020H.

6. Departmental Review

The department shall review each proposed conditional use approval application in light of the approval criteria of subsection D. 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.

7. Planning and Zoning Commission Action

The planning and zoning commission shall hold a public hearing on the proposed application and act to approve, approve with conditions, or deny the proposed conditional use, based on the approval criteria of subsection D. below.

8. Appeal

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

D. Approval Criteria

The planning and zoning commission may approve a conditional use application if, in the judgment of the commission, all of the following criteria have been met in all material matters:

1. The proposed use is consistent with the comprehensive plan and all applicable provisions of this title and applicable state and federal regulations;
2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04;
3. The proposed use is consistent with any applicable use-specific standards set forth in chapter 21.05;
4. The site size, dimensions, shape, location, and topography are adequate for the needs of the proposed use and any mitigation needed to address potential impacts;
5. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;
6. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
7. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent feasible;
8. The proposed use is appropriately located with respect to the transportation system, including but not limited to existing and/or planned street designations and improvements, street capacity, access to collectors or arterials, connectivity, off-site parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation, and safety for all modes; and
9. The proposed use is appropriately located with respect to existing and/or planned water supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.

E. Amendments to Approved Conditional Uses

1. Original Procedure Applies for Most Amendments

Amendment of a conditional use approval shall follow the same process required for the original approval of a conditional use, unless the amendment is determined to be a minor amendment as described in subsection E.2. below.

2. Administrative Approval of Minor Amendments

The director may administratively approve minor amendments to any approved conditional use upon written application and documentation by the applicant, and upon the director's determination that the amendment is a minor amendment.

a. Procedure

- i. Upon receiving a written request from the applicant for a conditional use amendment, the director shall determine if the proposed amendment will be processed as a minor amendment or major amendment. The applicant may appeal the director's decision in writing to the zoning board of examiners and appeals within 10 days of the decision.
- ii. Immediately following the director's determination that a proposed amendment is minor, the director shall:
 - (A) Issue a minor amendment affidavit, which shall be transmitted to the planning and zoning commission for their information; and
 - (B) Attach a form stating the nature of the modification, date of approval, and bearing the signature of the director to the conditional use on file in the department.
- iii. If the original approval had been recorded, the amended plan shall be recorded by the municipality at the applicant's expense.

b. Types of Minor Amendments

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

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in street alignment if such changes further the intent of the plan and this code, and are acceptable to the municipal engineer.
- iii. Changes in building envelope, setback, and similar provisions of 10 percent or less.
- iv. Incidental changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the plan and this code.

F. Platting for Conditional Uses

1. If development under an approval under this section creates a subdivision or requires the vacation of a dedicated public area, the approval is not effective until a final plat for the subdivision or vacation is approved and recorded in accordance with this title. A preliminary plat required under this section is subject to approval as required by section 21.03.200, *Subdivisions*.
2. Unless the planning and zoning commission directs in the final approval that it shall act as the platting authority, the platting board is the platting authority for subdivisions under this subsection.

3. The platting authority under this subsection may require that any street right-of-way, walkway, utility easement, or other public area designated under the final approval be dedicated to the public.

G. Abandonment of Conditional Use

An otherwise lawful conditional use approval shall expire if:

1. For any reason the conditional use is abandoned in its entirety for a period of one year or longer; or
2. The property owner notifies the planning and zoning commission of the abandonment of the conditional use approval. A conditional use shall not be abandoned under this subsection if the result of the abandonment is the creation of a nonconforming land use.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2015-36, 5-14-15; AO 2020-38, 4-28-20; AO 2021-89(S), 2-15-2022)

21.03.090 FLOOD HAZARD PERMITS

A. Applicability

Any use, structure, or activity listed in the floodplain regulations (section 21.07.020E., *Flood Hazard Area Regulations*) 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

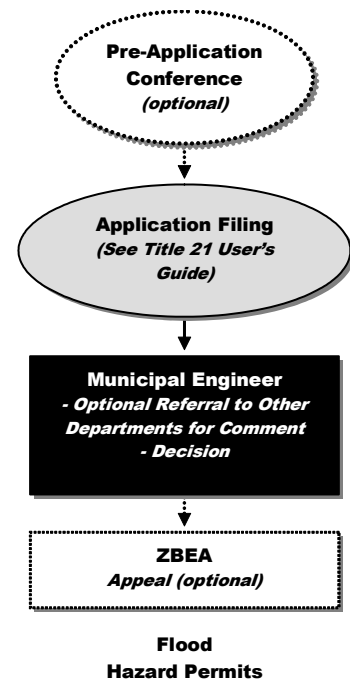
Any application for a flood hazard permit shall contain the following material:

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 21.07.020E.7., *Construction Requirements*; 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;
2. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions will not be impaired by flooding;
3. The susceptibility of the proposed facility and its contents to flood damage is minimal;
4. There will be adequate access to the property in times of flood for ordinary and emergency vehicles;
5. The proposed use, structure, or activity is in conformance with all applicable land use regulations; and
6. All necessary floodproofing will be provided.

E. Time for Acting on Application

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

F. Notice on Subdivision Plats

Where any portion of a subdivision is situated within a flood hazard area, a note shall be placed on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard area as it exists on the date hereof. The boundaries of the flood hazard area may be altered from time to time in accordance with the provisions of section 21.07.020E4., *Creation of Flood Hazard Area; Official Flood Hazard Reports and Maps*. All construction activities and any land use within the flood hazard area shall conform to the requirements of subsection 21.07.020E., *Flood Hazard Area Regulations*."

G. Appeals

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

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

21.03.100 LAND USE PERMITS

A. Purpose

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

B. Applicability

1. In the Municipality

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

- a. Construction or placement of any building whose floor area is 200 square feet or greater;
- b. Changing the principal use of a building, as defined by “change of use” in chapter 21.15;
- c. Installation of telecommunication towers;
- d. Construction of a fence over eight feet in height;
- e. Excavation of more than 50 cubic yards on any lot or tract;
- f. Filling or grading more than 50 cubic yards on any lot or tract; or
- g. Mechanized land clearing of more than one contiguous acre (chainsaws excluded).

2. Inside Building Safety Service Area

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

C. Procedures

1. Application Submittal

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

2. Approval Procedure

- a. The building official shall review each application for a land use permit.
- b. The building official shall determine whether the application complies with all requirements of title 23. The director shall determine whether the application complies with all requirements of title 21, and shall inform the building official of his or her determination.
- c. The building official shall issue a land use permit upon finding that the application and the proposed work complies with the approval criteria of subsection D. below.
- d. A land use permit shall become null and void unless the work approved by the permit is commenced (see “start of construction” in chapter 21.15) within 12 months after the date of issuance. If after start of construction the work is discontinued for a period of 12 months, the permit therefore shall immediately expire. However, before the expiration of the permit, the applicant may request a time extension from the building official. The building official may grant one time extension, up to 12 months in length, to allow the applicant to commence or re-commence work, upon a showing of good cause by the applicant and provided such extension does not unreasonably impact adjacent properties or the general public. No work authorized by any permit that has expired shall thereafter be performed until a permit has been reinstated, or until a new permit has been secured.

3. Changes to Approved Permits

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

4. Revocation of Land Use Permit

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

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

5. Appeals

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

D. Approval Criteria

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

E. Improvements Associated with Land Use Permits

1. Purpose

The purpose of this section is to determine what off-site public infrastructure improvements are reasonably necessary to serve a development, determine the portion of the demand for off-site public infrastructure improvement which is created by a development, and provide for dedications or improvements which are directly proportional to the development's demand for the public infrastructure improvements.

2. Improvements Required

The issuance of a land use permit under this section for the construction of a residential, community, commercial, commercial marijuana or industrial structure on a lot, shall be subject to the permit applicant providing the easements, dedications, and improvements required for a subdivision in the same improvement area under chapter 21.08, *Subdivision Standards*. In applying the provisions of chapter 21.08, *Subdivision Standards*, under this section, the term "lot" shall be substituted for the term "subdivision," the term "permit applicant" shall be substituted for the term "subdivider," and the term "building official" shall be substituted for the term "platting authority."

3. Exceptions

The requirements in subsection E.2. above shall not apply to a land use permit to the extent that:

- a. All construction associated with a single dwelling unit is located on a single lot, tract, or parcel, regardless of zoning district;
- b. The traffic engineer determines that a street dedication or improvement is not required for traffic circulation;
- c. A dedication or improvement has been provided to the applicable standard of chapter 21.08, *Subdivision Standards*;
- d. A dedication or improvement will be provided under a subdivision agreement that has been entered into under section 21.08.060, *Subdivision Agreements*, or under an established assessment district;
- e. The municipality has already appropriated funds to construct an improvement; or
- f. The permit is for repairs, maintenance, emergencies, electrical, mechanical, or plumbing.
- g. This subsection E. shall not be used to implement access to Chugach State Park. No easements, dedications, or improvements to implement access to Chugach State Park shall be required through the land use permit process.

4. Standards for Requiring Dedications and Improvements

Where chapter 21.08, *Subdivision Standards*, grants discretion to determine whether a dedication or improvement will be required, or to determine the design standards for a dedication or improvement, the building official shall determine the requirement or standard that applies to a land use permit under this section by applying the following standards:

- a. The dedication or improvement shall be directly correlated to the occupancy of the structure that is the subject of the building or land use permit. The required dedication or improvement shall bear a rational nexus to the public facility improvement needs created by the development. The extent of a requirement shall be no greater than what is proportional to the impact of the development. Any required public use easement shall be removed when calculating density or lot coverage per the applicable zoning district. The building official may require the permit applicant to provide information or analyses to determine impacts as set out in the comprehensive plan's policies for transportation, transportation design and maintenance, and water resources on public facilities and adjacent areas, including without limitation the following:
 - i. A traffic impact analysis, or similar information. The traffic engineer may require a traffic impact analysis if the same would be required for approval of a subdivision, conditional use, or site plan for similar development under this title.
 - ii. A drainage study, or similar information. A drainage study may be required if the same would be required for approval of a subdivision, conditional use, or site plan for similar development under this title.
 - iii. An estimate of the financial costs of impacts on public facilities and adjacent areas without the required improvements, including without limitation continuity of improvements, maintenance costs of public facilities, parking, drainage, noise and dust control, pedestrian and vehicle safety and access, and emergency vehicle access and response time.

- iv. Information concerning the consistency of the impacts of the proposed development with the comprehensive plan.
 - v. A design of internal streets and location of fire hydrants satisfactory to the fire marshal for purposes of fire protection within the development. Outside the Anchorage fire service area, the state fire marshal's standards control.
 - b. The building official shall consider relevant level of service standards, standards for adequate facilities, and/or design standards for public facilities.
 - c. The estimated cost of constructing the improvement shall be reasonable when compared to the estimated cost of the proposed development under the land use permit. The determination of reasonableness shall be based on cost estimates for the improvement and the proposed development that the permit applicant or applicant's agent submits under penalty of perjury. If the building official determines that the estimated cost to the applicant to complete all the improvements required by this section is unreasonable in relation to the estimated cost of the proposed development, the building official may reduce or eliminate required improvements as necessary to make the relationship between such costs reasonable.
 - d. The building official shall consider the potential development of all adjacent parcels, lots, or tracts under common ownership, in addition to the lot, parcel, or tract that is the subject of the permit application, and the impacts associated therewith, in applying the standards in this subsection.
 - e. The building official may approve adjustments to the improvement requirements under this section to the extent that compliance with the standards would result in an adverse impact on natural features such as wetlands, steep slopes, or existing mature vegetation; existing development; or public safety.
- 5. Phasing of Installation**
Except as provided in this section, all required improvements shall be constructed and accepted by the municipality before any certificate of zoning compliance is issued for the permitted construction. If the building official determines that it is not reasonable to require compliance with the preceding sentence, no permit may be issued until the applicant enters into an agreement for construction of the required improvements, with performance guarantees, in the form required for subdivision improvements under section 21.08.050, *Improvements*.
- 6. Warranty**
All improvements required under this section shall be subject to the warranty and guarantee of warranty requirements provided for subdivision improvements in section 21.08.050, *Improvements*.
- 7. Oversizing**
If an improvement exceeding the requirements of this section is requested by the municipality and is necessary for the adequate and efficient development of surrounding areas, the municipality may require the applicant to install or accommodate oversizing. Inside the Anchorage road and drainage service area, the municipality shall reimburse the applicant for the cost of the oversizing at least as soon as budgeted funds are available after completion and acceptance of the improvements. This subsection shall not be a limitation on the municipality's ability to require a utility to oversize its facilities or a limitation on the manner in which the municipality may pay its proportionate share of the costs of oversizing.

8. Fee in Lieu

A fee in lieu of the required improvements may be accepted if the building official determines:

- a. That the improvements or construction activities associated therewith would create a potential undue safety hazard to motorists or pedestrians; or
- b. Due to the nature of existing development on adjacent properties it is unlikely that improvements would be extended in the foreseeable future and the improvements associated with the development under review do not, by themselves, provide a sufficient improvement to safety or capacity or a sufficient benefit to the property to be developed under the building or land use permit to warrant construction.
- c. Any fee paid pursuant to this section shall be accounted for separately, and the fee paid shall be dedicated and used only for the purpose of constructing the public facilities which were identified by the building official and for which the fee was paid.

9. Fee Amount

The amount of the fee in lieu shall be the full cost of the improvements as estimated by an engineer registered as a professional engineer in Alaska. In the event the applicant or successor in interest later elects or is required to install improvements for which the fee was paid, the fee shall be refunded (without interest), so long as the claim for refund is filed within two years from the date of acceptance of the improvement.

10. Appeals of Improvement Standards

a. *Administrative Appeal*

A permit applicant may request an administrative appeal of a decision of the building official concerning required improvements under this section. The appeal shall first be to the director, and at the discretion of the applicant, may advance to the municipal manager. Notice of appeal shall be filed with the director not later than 30 days after the date of service of the decision, on a form prescribed by the municipality, and shall contain detailed and specific allegations of error. Decisions shall be reported in writing, including findings, within 30 days after the filing of an appeal.

b. *Administrative Appeal Advanced to Municipal Manager*

An appeal rejected by the director may be resubmitted with additional information for reconsideration by the municipal manager. If this advance appeal is elected, the applicant shall submit notice of appeal to the director not later than 10 days after the date of service of the decision. Final decision of the municipality shall rest with the municipal manager. The final decision shall be reported in writing within 10 days after the filing of the advanced appeal. The decision shall include written findings and the reason for the decision, and shall clearly state it is a final decision and that the parties have 30 days from the date of service of the decision to file an appeal to the superior court.

c. *Appeals to the Platting Board*

A permit applicant may alternatively appeal a decision of the building official concerning required improvements under this section to the platting board, using the procedure of appeals to the zoning board of examiners and appeals established in section 21.03.050B., except as follows: the applicant shall file a written notice of appeal with the secretary of the platting board not later than 10 days after receipt of written notice of the decision. The appeal shall be placed on the agenda of the next regularly scheduled platting board meeting that occurs not less than 60 days after the filing of the appeal. The platting board shall hear the appeal.

d. Judicial Review

A final decision of the municipal manager or the platting board may be appealed to the superior court, provided the applicant shall file such appeal within 30 days from the date of mailing, or other distribution of the decision.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2014-140(S), 3-24-15; AO 2017-55, 04-11-17; AO 2019-11, 2-12-2019; AO 2021-89(S), 2-15-2022)

21.03.105 MARIJUANA—SPECIAL LAND USE PERMIT

A. Purpose

This section governs the review and approval process for land use approvals associated with marijuana establishments, where this approval process is indicated in table 21.05-1.

B. Applicability

Land uses requiring a special land use permit for marijuana are identified in table 21.05-1, *Table of Allowed Uses*, table 21.09-1, *Table of Allowed Uses* (Girdwood), table 21.10-4, *Table of Allowed Uses* (Chugiak-Eagle River), and table 21.11-2, *Table of Allowed Uses* (Downtown).

C. Application and Review Procedure

1. Initiation

An application shall be initiated by the owner(s) of the subject property, or shall include a letter of authorization (with original signature) from the owner(s) of the subject property stating their non-objection to the application.

2. Community Meeting

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

3. Application Submittal

Applications for a municipal marijuana license, special land use permit for marijuana, and any associated endorsements, shall be submitted to the municipality on a form provided by the municipality, after application to the state marijuana control board has been accepted. Applications shall contain the information required in title 10, and the following:

a. For all marijuana establishments:

- i.** A site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign location(s), required open space, snow storage area or alternative strategy, trash receptacle location and screening detail, fences, and outdoor marijuana consumption areas.
- ii.** A floor plan to scale and dimensioned, depicting the entirety of the licensed premises, and relation to all other uses located within the same building.
- iii.** A security plan indicating how the applicant will comply with the requirements of municipal and state law and regulation. The security plan is not required to show location or placement of security cameras and areas covered by them.
- iv.** A waste disposal plan.

b. For marijuana cultivation facilities:

- i.** A plan that specifies the methods to be used to prevent the growth of harmful mold.

- ii. The projected amount of water that will be used.
 - iii. The projected amount of wastewater that will be discharged.
 - iv. A letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use.
 - v. An odor control plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
 - c. For marijuana manufacturing facilities:
 - i. A description of the type of products to be processed and the equipment to be used, including a list of any solvents, gases, chemicals, or other compounds that will be used, kept, or created at the manufacturing facility, the location of such materials, and how such materials will be stored.
 - ii. Certification of an industrial hygienist or a professional engineer, as required in subsection 21.05.055B.2.
 - iii. The projected amount of water that will be used.
 - iv. The projected amount of wastewater that will be discharged.
 - v. “Industrial hygienist” as used in this section, shall mean an individual who meets the definition for “industrial hygienist” set forth in Alaska Statute 45.50.477(a). “Professional engineer” as used in this section, shall mean an individual who meets the definition for “professional engineer” set forth in Alaska Statute 08.48.341.
 - d. For marijuana retail sales establishment:
 - i. Evidence of neighborhood responsibility planning, as required in subsection 21.05.055B.4.
- 4. **Public Notice**

Notice shall be provided in accordance with section 21.03.020H.
- 5. **Departmental Review**

The department shall review each proposed marijuana establishment application in light of the approval criteria of subsection C.7. 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 assembly. The report shall contain a list of all marijuana licenses located within 1,000 feet of the proposed subject property.
- 6. **Assembly Action**
 - a. The special land use permit for marijuana shall be considered by the assembly by resolution.
 - b. After holding a public hearing, the assembly shall approve or deny the application. In considering action, the assembly shall apply the criteria set forth in subsection C.7. below. The conditions of approval shall include, at a minimum, operation of the business in compliance with all the plans and information made part of the application.
 - c. The assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.

7. Approval Criteria

The assembly may approve a special land use permit for marijuana if, in the judgment of the assembly, the application meets the following approval criteria:

- a. The proposed use is consistent with the comprehensive plan, all applicable provisions of this title, and applicable state regulations.
- b. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04.
- c. The proposed use is consistent with applicable use-specific standards set forth in chapter 21.05.
- d. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, and operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- e. The proposed use is appropriately located with respect to existing and/or planned water supply, power supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.
- f. Any significant adverse impacts anticipated to result from the use can and will be mitigated or offset to the maximum extent feasible.
- g. The owner/operator of the establishment has no previous denials or revocations of a marijuana license or special land use permit, or previous documented violations of municipal or state law/regulation relating to marijuana establishments. Alternately, the owner/operator has provided sufficient evidence of rehabilitation to the assembly.
- h. The owner/operator of a marijuana retail establishment has meaningfully engaged in neighborhood responsibility planning with residents and other neighborhood businesses to mitigate concerns such as odor, parking, and security. Neighborhood responsibility planning guidelines are included in AMC chapter 2.40.

8. Effect of Denial

An application for approval under this section that has been denied shall not be accepted for rehearing for a period of one year following such denial if the director finds the proposed application is substantially the same as that denied, and if no substantially new evidence or change in circumstances has occurred. This paragraph shall not apply to an application filed under assembly direction at a hearing at which a like application was considered.

9. Modifications

- a. Modifications to the licensed establishment submitted by the licensee for the following changes shall be considered by the assembly after a public hearing noticed in accordance with subsection 21.03.020H.:
 - i. Any increase to the gross square footage of the licensed premises area of more than 20 percent.
 - ii. Any second increase or subsequent increase thereafter to the gross square footage of the licensed premises of any amount.
 - iii. For marijuana retail sales establishments:
 - (A) If within 500 feet of a residential zoning district (measured lot line to lot line) any expansion of hours of operation and/or any

increase in the number of outdoor light fixtures on the site that have the potential to negatively affect nearby residential areas, as determined by the director.

- (B) The addition of an indoor or outdoor marijuana consumption area, or an increase of the existing marijuana consumption area of more than 20 percent, or the addition of marijuana consumption by inhalation or smoking not previously approved by the assembly.
- b. Modifications to the licensed establishment submitted by the licensee for all other changes shall be considered by the director, although the director may require a proposed change to be brought to the assembly if the director determines the proposed change is significant and warrants assembly consideration. Upon denial by the director, a licensee may request that the director's decision be vacated and the unchanged modification application be considered de novo by the assembly. The director shall provide an annual report to the assembly regarding changes requested and approved.
- c. At any time, after a public hearing with written, published, and community council notice in accordance with subsection 21.03.020H., the assembly may modify an approved special land use permit for marijuana, if the assembly finds such modification necessary to meet the approval criteria of subsection C.7. above.

10. Expiration

The special land use permit for marijuana shall expire:

- a. Sixty (60) days after expiration of either the state or municipal license, if no new or renewal license application has been submitted to the state or municipality with that time;
- b. If the use for which the permit was approved has been discontinued, vacant, or inactive for a continuous period of at least one year; or
- c. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly when the land use approval was granted under this section, unless the licensee applies for and receives approval for a modification of the existing approval to reflect the change. For the purpose of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants.

11. Variances

Notwithstanding AMC chapter 21.02 and section 21.03.240, variances from the provisions of section 21.05.055, Marijuana Establishments, shall be decided by the assembly as part of an application for a special land use permit for marijuana. The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application substantially meets all of the following standards:

- a. Granting the variance does not violate state law or regulation.
- b. Granting the variance will not be detrimental to the public welfare or injurious to other property in the area.
- c. The variance is necessary due to some particular condition of the property that is not present in most properties or for most similar applicants.
- d. The variance is the minimum variance necessary to allow reasonable use of the property for commercial marijuana.

- e. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience or an undesirable financial burden.

(AO 2016-3(S), 2-23-16; AO 2016-161, 1-10-17; AO 2017-55, 4-11-17; AO 2017-175(S), 2-13-18; AO 2019-67, 6-18-2019; AO 2020-9, 2-11-2020; AO 2020-38, 4-28-20)

21.03.110 MASTER PLANNING, INSTITUTIONAL

A. Purpose

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

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

B. Applicability

An institutional master plan may be submitted and approved, in accordance with the procedures of this section, for any multi-building development site of 25 contiguous acres or more in common ownership in any zoning district or combination of districts. The process provides an alternative to the procedures and development and design standards of this title for institutions seeking to develop large, complex sites with multiple buildings and uses following a contextually aesthetic design theme. For the purposes of this section, the term contiguous acres means an area of lots and/or tracts whose boundaries either touch or are separated only by a street or other right-of-way.

C. Institutional Master Plan Requirements

1. Planning Area

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

2. Submittal Requirements

An institutional master plan shall, at a minimum, include the following information unless the director determines that such information is not necessary to evaluate the proposed institutional master plan and the institution's future impacts on surrounding neighborhoods. Specific requirements for the full institutional master plan shall be determined by the director following the pre-application conference.

a. **Boundaries**

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

b. **Mission and Objectives**

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

c. **Existing Property and Uses**

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

- i. Illustrative site plans showing the footprints of each building and structure, together with roads, sidewalks, parking, landscape features, and other significant site improvements;
- ii. Land and building uses;
- iii. Gross floor area in square feet of each individual building;
- iv. Building height in stories and feet of each individual building; and
- v. A description of parking and loading areas and facilities, including a statement of the approximate number of parking spaces in each area or facility.

d. **Needs of the Institution**

The institutional master plan shall include a summary and projection of the institution's current and future land use needs within the planning area boundaries, such as, but not limited to, the following types of facilities:

- i. Academic;
- ii. Support services;
- iii. Research;
- iv. Office;
- v. Housing;
- vi. Patient care;
- vii. Assembly for public events, worship, cultural events, and the like;
- viii. Recreation and athletics;

- ix. Transit;
- x. Parking; and
- xi. Commercial spaces, not including concessionaire space that is intended to serve the institutional community.

e. *Ten-Year Development Envelope*

The institutional master plan shall include a description of the development expected to occur within the planning area boundaries within a 10-year time frame. The 10-year development description shall be the maximum amount of development proposed by the institution based on anticipated changes in total population and programs. The 10-year development description shall include the following:

- i. General location of the institution's needs (as listed in 2.d. above) in potential development areas as depicted on a site functional use map; and
- ii. Estimated total square footage of anticipated development in each development area.

f. *Development and Design Standards*

The institutional master plan shall include the elements listed below. These elements may set different standards than those found in title 21. The plan shall list the specific sections of title 21 for which different standards are to be established by the master plan, and provide rationale for any different standards proposed. Where different standards are approved in the institutional master plan, those standards shall be applied instead of the corresponding standards in title 21.

- i. *Borders and Boundaries*
Treatment along public rights-of-way and boundaries with other landowners, with regard to building setbacks and landscape buffers.
- ii. *Transportation and Parking Management*
A transportation and parking management plan including how additional parking demand and transit will be accommodated within the planning area.
- 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.
- 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.
- 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; and
 - (G) Northern climate design.
- vi. **Wayfinding and Signage**
A wayfinding and signage plan including building, vehicular, and pedestrian signage.
 - vii. **Timing**
A conceptual development schedule and phasing plan.
- 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.

D. Procedures for Master Plan Approval

1. Initiation

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

2. Pre-Application Conference

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

3. Community Meeting

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

4. Application Submittal

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

5. Departmental Review

The department shall review the proposed institutional master plan in light of the approval criteria set forth in subsection E. below, and shall 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.

6. Public Notice

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

b. Draft institutional master plans shall be available for public review at least 21 days in advance of the planning and zoning commission's public hearing.

- 7. Planning and Zoning Commission Action**
 - a. The planning and zoning commission shall hold a public hearing on the proposed institutional master plan and, at the close of the hearing, recommend that the assembly approve the plan as submitted, approve the plan subject to conditions or modifications, or deny the plan, based on the approval criteria of subsection E. below.
 - b. If the planning and zoning commission recommends that the assembly approve a plan as submitted or with conditions or modifications, within 60 days of the commission's action the director shall forward the recommendation to the assembly.
 - c. If the planning and zoning commission recommends denial of a plan, that action is final unless, within 20 days of the commission's action, the applicant files a written statement with the municipal clerk requesting that the proposed institutional master plan be submitted to the assembly.
- 8. Assembly Action**

The assembly shall hold a public hearing on the proposed institutional master plan. At the close of the hearing, taking into account the recommendations of the director and the planning and zoning commission, any public comment, and based on the approval criteria of subsection E. below, the assembly shall, within 90 days, approve the plan, approve the plan with modifications or conditions, deny the plan, or refer the plan back to the planning and zoning commission.
- 9. Approval of Final Institutional Master Plan**
 - a. The approval of an institutional master plan expires 12 months after the date of approval by the assembly unless, before the approval expires, the applicant files the final institutional master plan, including any modifications or conditions required by the assembly, with the director.
 - b. The director shall certify the final institutional master plan within 60 days of filing by the applicant, or if the plan is not in compliance with the assembly's approval, the director shall issue a detailed list of reasons and recommended amendments to the final institutional master plan to achieve compliance.
 - c. Until the approval of an institutional master plan by the assembly and the filing by the applicant of a final institutional master plan accepting the modifications or conditions required by the assembly, the affected institution shall continue to be governed solely by the provisions of title 21 other than this section.
- 10. Approval Criteria**
- 11.** An institutional master plan may be approved if the assembly finds that it is consistent with the comprehensive plan and will achieve the following:
- 12.** Provides flexibility to the institution to plan and implement long-range development programs to achieve its institutional mission and objectives;
- 13.** Facilitates the continuation of the institution as a major source of service and employment that is easily accessible and well integrated with surrounding neighborhoods and the public transportation system;
- 14.** Provides that institutional facilities, especially those that are publicly funded, are well designed and constructed, include urban amenities, and are efficient to operate over their life-cycles;

15. Protects and mitigates effects of development on sensitive portions of the natural environment; and
16. Recognizes and addresses potential significant adverse impacts of institutional development on adjacent built environments, neighborhoods, and the community at large.

E. Compliance with Institutional Master Plan

1. Projects developed under the auspices of an approved institutional master plan are exempt from the review and approval procedures required in table 21.05-1.
2. Before a building permit or land use permit is issued for any project within an area covered by an approved institutional master plan, the director shall certify that the proposed project is consistent with the approved institutional master plan. The applicant shall submit a request for certification of consistency on a form provided by the department.
3. Such a certification shall be found if the proposed project is consistent or substantially consistent with the approved institutional master plan, or if the project is found to be not consistent with the approved institutional master plan, but the director finds the proposed project creates minimal impact according to the following criteria:
 - a. Not more than 25 percent of the proposed project is located outside the development areas depicted on the site functional use map;
 - b. The proposed project does not result in the addition of more than 10 percent additional square footage on a cumulative basis to the estimated total square footage of the affected site functional use category;
 - c. The project does not result in the creation of or the need for additional parking beyond that covered in the approved transportation and parking management element; and
 - d. The project does not result in the coverage of more than 25,000 square feet of site area.
4. A certification of consistency, finding of inconsistency, or finding of consistency subject to conditions, shall be issued within 45 days of receipt of an application for such certification.
5. If the director finds that a project is not consistent with the approved institutional master plan, the director shall issue a detailed list of reasons and recommended actions to achieve compliance.
6. The director may issue a finding of inconsistency, or a finding of consistency subject to conditions, only where the director finds that the matters resulting in the inconsistency, or the conditions to which the certification is made subject, are required by specific terms of the approved institutional master plan or any applicable title 21 provisions.
7. The director's decision may be appealed to the planning and zoning commission.

F. Modifications to Approved Institutional Master Plans

1. **Minor Amendments**

The director may administratively approve minor amendments to an approved institutional master plan upon written application. Minor amendments are defined generally as modifications to approved plans that do not affect land use or density in ways that would have significant adverse impacts on public facilities, utilities, traffic circulation, or other major infrastructure systems; or on surrounding neighborhoods or development.

2. Major Amendments

Major amendments of an approved institutional master plan shall follow the same process required for the original approval of an institutional master plan.

(AO 2012-124(S), 2-26-13; AO 2021-89(S), 2-15-2022)

21.03.115 SMALL AREA IMPLEMENTATION PLAN

A. Purpose.

Small area implementation plans can facilitate the planned development of tracts of land under unified ownership or control, or with a coordinated group of owners. These plans cover discrete geographic areas, and provide certainty to property owners, the municipality, and the general public by stating a clear vision for public investment and the long-term character, layout, and design of the development of the area. Small area implementation plans allow flexibility, and in some cases may increase the intensity of development, beyond that allowed by other chapters of this Title, when the proposed development is well-designed, provides public benefits for residents, employees and or users of the development, and integrated into the surrounding neighborhood. This flexibility is meant to allow plans to adapt to market conditions and other issues that arise during the planning and development of the project. Administration and management of small area implementation plans should also be flexible and might use terms and conditions set forth in joint development agreements. Overall, a small area implementation plan is intended to promote:

1. High quality design that is integrated into the urban fabric, which also complements the area's character;
2. Development that is pedestrian-oriented, with a connection to transit and multimodal transportation alternatives;
3. Building bulk, height, and orientation that ensures sunlight access;
4. A safe and vibrant public realm, with buildings and uses oriented to support public spaces;
5. Affordable housing, energy efficient development, and efficient use of land; and
6. A flexible and adaptable process that leads to a lasting public-private partnership for the benefit of all parties and the public.

B. Applicability.

A small area implementation plan may be submitted and approved, in accordance with the procedures of this section, for:

1. A single parcel not less than five (5) contiguous acres in size;
2. A collection of parcels under common ownership that total not less than five (5) contiguous acres in size;
3. A collection of parcels with several owners that total not less than (5) contiguous acres in size; or
4. Any single parcel or collection of parcels less than five (5) contiguous acres but greater than one (1) contiguous acre in size within an adopted reinvestment focus area or located in an area designated in the Anchorage 2040 Land Use Plan as neighborhood center, city center, commercial corridor, main street corridor, or residential mixed-use development.

For the purposes of this section B., the term contiguous acres means an area of lots and/or tracts whose boundaries are abutting or are separated only by a street, other right-of-way, park land, or water feature. The planning boundaries for a small area implementation plan

shall include all parcels owned by or under control of those entities desiring the small area implementation plan process and establishing site-specific design and development standards.

Small area implementation plans shall not apply to developments by large institutions, such as hospitals, universities, or major transportation facilities.

Small area implementation plans described in this section are available for use in the Anchorage Bowl but not applicable in Chugiak-Eagle River, Turnagain Arm, or Girdwood communities.

C. Submittal Requirements.

Submittal requirements are listed below and shall be in narrative and illustrative form. It is understood that changes can occur to these original submittal details during the planning and review approval process. The director may waive submittal requirements not relevant to the proposed development or planning area. The urban design commission, the planning and zoning commission when applicable, and/or the director may require the submission of other information as necessary for the informed exercise of judgment under the criteria for the review of the plan, as set out in subsection F. below.

1. A detailed description of the purpose and overall proposed development envisioned within the plan area boundary;
2. A map delineating the plan boundary, along with a letter of authorization from all participating landowners, a legal description, acreage of the proposed plan area, a rationale/explanation of boundary delineation, and a description of the existing uses found in the area surrounding the plan area;
3. A traffic summary with sufficient detail of existing and anticipated traffic conditions to determine the impacts of the proposed development(s) on the transportation system and to guide roadway improvements within the plan area. Types of information to be provided are adjacent road classification and typology, traffic volumes, proposed development trip generation, access requirements and site circulation or additional information as determined by the Traffic Engineer;
4. A summary of existing conditions in site plan or graphic format, including land use, existing development and buildings in the area, roads, utilities, storm drains, trails, and a general description of existing vegetation, topography, water features, and site drainage;
5. A conceptual site plan showing existing and proposed new streets with cross-sections, trails, building locations and uses, parking lots, open space, and any other proposed development. The site plan shall include the total number and type of dwelling units, and the total floor area of all uses;
6. A conceptual landscape plan, including vegetation retention areas;
7. Renderings for all proposed buildings with recognition that these might change through the plan review and approval process;
8. A detailed discussion of conformance with the comprehensive plan and its relevant elements;
9. An implementation schedule, including a phasing plan, if proposed, which includes the probable sequence for proposed developments, estimated milestone dates, and interim uses of property awaiting development;

10. Site-specific design standards and/or deviations from certain standards of Title 21, if proposed, as directed in section E. below;
11. Rezone application or proposed future zoning changes, if needed;
12. Any additional applicable information for a proposed use that would normally require an administrative site plan review, major site plan review, or conditional use approval; and
13. A description of how the small area implementation plan proposals relate and transition to adjacent properties and the surrounding neighborhood.

D. Procedures for Small Area Implementation Plan Approval.

1. *Initiation.* A single or joint application, if for several property owners, for approval of a small area implementation plan shall be initiated by the owner(s) or developer(s) of the subject property or area, or by the municipality.
2. *Concept Meeting.* A concept meeting with the director is required before initiating a small area implementation plan application. This meeting serves as a conceptual project overview for applicants and staff to discuss and document the scope of the project.
3. *Pre-Application Conference.* Before filing an application, an applicant shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.
4. *Community Meeting.* A community meeting is required, in accordance with subsection 21.03.020C.
5. *Application Submittal.* Applications for approval of a small area implementation plan shall be submitted to the director and shall contain all information and supporting materials specified in subsection C. above.
6. *Departmental Review.* The director shall review the proposed small area implementation plan in light of the approval criteria of subsection F. below and shall distribute the application to other reviewers as necessary. Based on the results of the reviews, the director shall provide a report and recommendation for changes or additions to the urban design commission, or if applicable, the planning and zoning commission.
7. *Public Notice.* Notice shall be provided in accordance with section 21.03.020H.
8. *Review and Action by Urban Design Commission.* Except as provided in D.9. and D.10. below, the urban design commission shall hold a public hearing on the proposed small area implementation plan and, at the close of the hearing, taking into account the recommendations of the director and any public comment, and based on the approval criteria of subsection F. below, shall, within 90 days, approve the small area implementation plan as submitted, approve the plan subject to conditions or modifications, remand the plan to the applicant for modifications, or deny the plan.
9. *Concurrent Zoning Changes Allowed.* Requests for small area implementation plan approval may be considered concurrently with a zoning map amendment. Concurrent zoning map amendments shall meet all approval criteria of subsection 21.03.160E. When a small area implementation plan is being considered concurrently with a zoning map amendment, the planning and zoning commission shall act as the decision-making body for both requests, including to carry out the review and action described in D.8. above. The planning and zoning commission shall consider the small area implementation plan and the zoning map amendment request separately and shall act separately on both items.

10. *Deviations from Certain Standards of Title 21.* For small area implementation plan applications that incorporate certain uses of Title 21 as outlined in E.3. below, the planning and zoning commission shall act as the decision-making body.

E. Deviations from Certain Standards of Title 21.

A small area implementation plan may establish alternative site-specific dimensional, design, uses and intensities, and development standards that modify or deviate from Title 21 standards that would otherwise apply. The small area implementation plan shall list the specific departures from standards of Title 21 and/or the Design Criteria Manual. Where different standards are approved in the small area implementation plan, those standards shall be applied instead of corresponding standards in Title 21. Deviations from Title 21 standards eligible for consideration in small area implementation plans include:

1. Those standards listed in 21.03.240B.
2. With the approval of the director, variances to certain standards in the Design Criteria Manual may also be issued with the concurrence of the fire marshal, the municipal engineer, and/or the municipal traffic engineer.
3. Certain small-scale commercial and community uses allowed in the B-1A district may be allowed even if not permitted in the underlying zoning district, provided the use is found to be generally compatible with the intent of the underlying district, subject to the terms and conditions of the approved small area implementation plan, and the following:
 - a. The proposed commercial and community uses will be primarily for the service and convenience of residents and employees in and adjacent to the small area implementation plan;
 - b. The allowed location(s) are limited and the area surrounding the proposed location of the commercial use is deficient in commercial opportunities; and
 - c. The proposed commercial and community uses are consistent with the B-1A district-specific standards in 21.04, use regulations in 21.05, and the B-1A district dimensional standards in 21.06, except as specifically approved otherwise as part of the small area implementation plan. The net acreage of the proposed B-1A uses under this subsection shall not exceed double of that allowed in the B-1A district.
 - d. The proposed commercial and community uses are compatible with uses allowed by the underlying zoning surrounding the small area implementation plan, in terms of their scale, site design, hours of operation, traffic and parking generation, lighting, noise, and other external impacts.
4. Proposals for residential lots that do not meet the minimum lot area, lot depth, or setback standards may be requested in residential areas, subject to the small area implementation plan review and consistent with the lot standards in this Title.
5. Development intensities and number of dwelling units, open space location, and parking sites may be amassed or located across zoning lines or transferred to strategic sections of the plan area if this action contributes to the efficient use of the site and still meets the intent of the underlying district and development standards of this Title, subject to the small area implementation plan review.

F. Approval Criteria

A small area implementation plan shall be approved if all the following criteria have been substantially met:

1. The small area implementation plan and any associated site-specific design standards proposed conform to the applicable elements of the comprehensive plan, including the net loss of residential capacity, and addresses the guarantee and timing of residential development at mixed-use sites that include commercial development and the purpose of this title;
2. The small area implementation plan conforms to the intent of the underlying zoning district, except as allowed in E.3., is compatible with surrounding zoning and development, and protects areas designated for specific uses on the zoning map from incompatible land uses or development intensities;
3. The streets, roads, trails, transit, and other transportation elements are in conformance with applicable transportation plans and policies;
4. The development provides community benefits within the plan boundary and immediate area in terms of design, community facilities, open space, other community amenities, and residential units, if applicable to the area;
5. The development minimizes any potential adverse impacts to surrounding residential areas to the maximum extent feasible; and
6. Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property at the proposed level of development, while maintaining sufficient levels of service to existing and anticipated development in the surrounding areas; or an infrastructure deficiency plan with upgrade recommendations, is submitted.

G. Compliance with Small Area Implementation Plan.

No development rights are granted by the approval of a small area implementation plan. Accordingly, all projects developed under an approved small area implementation plan are subject to the provisions below.

1. Projects developed under an approved small area implementation plan are exempt from the administrative site plan review, major site plan review, and conditional use review processes required in Tables 21.05-1 and 21.11.050-4 except as provided in subsections 2 and 3 as follows.
2. The provision in G.1. shall not apply to the following use categories and types when conditional use approval is required in the applicable Title 21 tables of allowed uses:
 - a. Manufactured home communities;
 - b. Correctional community residential center;
 - c. Habilitative care facilities;
 - d. Transitional living facility;
 - e. Social service facilities;
 - f. Zoo;
 - g. Homeless and transient center;
 - h. Correctional institution;
 - i. Transportation facilities;
 - j. Utility facilities;
 - k. Telecommunications facilities;
 - l. Large domestic animal facility;

- m. Civic/convention center;
 - n. Amusement establishment;
 - o. Entertainment facility, major;
 - p. Golf course;
 - q. Motorized sports facility;
 - r. Shooting range, outdoor;
 - s. Fueling station;
 - t. Vehicle service and repair;
 - u. Camper park;
 - v. Recreational and vacation camp;
 - w. Heavy equipment sales and rental;
 - x. Manufacturing, heavy;
 - y. Natural resource extraction;
 - z. Warehousing and storage (excepting self-storage); and
 - aa. Waste and salvage.
3. Before a building or land use permit is issued for any project within an area covered by an approved small area implementation plan, the director shall certify that the proposed project is consistent with the approved small area implementation plan. The applicant shall submit a request for certification of consistency on a form provided by the department. A certification of consistency, finding of inconsistency, or finding of consistency subject to conditions shall be issued no more than 30 days of receipt of a consistency certification application.
- If the director finds that a project is inconsistent with the approved small area implementation plan, the director shall provide detailed reasons for the finding and recommend actions to achieve consistency.
4. If the project is found to be inconsistent with the approved small area implementation plan, the department may issue a certification of consistency, to include minor modifications if the project is substantially similar to the original design and project intent, if the director finds the proposed project has minimal impact according to the following criteria:
- a. The project inconsistency does not result in cumulative changes to the small area implementation plan that exceed or depart from the minor modification standards in 21.03.120B., and the project inconsistency meets the minor modification approval criteria in 21.03.120D.; or
 - b. The project inconsistency substantially meets the approval criteria in section F.1. and F.2., does not impact adjacent properties, and does not result in changes to any of the following:
 - i. Amount of landscaping, types of landscaping, required parking, exterior lighting, or open space;
 - ii. Quality of pedestrian facilities (e.g., amount, type);
 - iii. Proportion of residential to non-residential uses;
 - iv. Proportion of uses in mixed-use buildings;
 - v. Residential or large establishment design standards;

- vi. Exterior signage;
 - vii. Transportation facilities that are proposed to deviate from existing municipal standards; or
 - viii. Utilities.
5. The director's decision may be appealed to the zoning board of examiners and appeals.
 6. The property owner, or designee if more than one landowner, shall submit to the department an annual report of development within the small area implementation plan to ensure progress and overall compliance. Reporting shall not be required after all proposed development in the small area implementation plan has been completed.

H. Modification of Approved Small Area Implementation Plan.

The director shall determine whether a proposed modification to an approved small area implementation plan may be approved administratively or is significant enough to require a new small area implementation plan. Any modifications recommended by the director shall be transmitted to the urban design commission, or if applicable, the planning and zoning commission.

I. Termination of Small Area Implementation Plan.

A small area implementation plan approval shall expire if:

1. Implementation of the small area implementation plan schedule is delayed for more than seven years without a request for a modification as outlined in section 21.03.115H.; or
2. All property owner(s) or their designee(s) of the subject property or area provide written notice to the director of the extinguishment of the small area implementation plan. The director shall notify urban design commission, or if applicable, the planning and zoning commission.

(AO 2021-46(S), 6-8-21; AO 2024-24, 4-23-24)

21.03.116 REINVESTMENT FOCUS AREA DESIGNATION

A. Purpose

This section describes the administration and procedures for designating a Reinvestment Focus Area (RFA). This section also formalizes the criteria, boundaries, incentives and administrative procedures by which an RFA is implemented, including the actions of any responsible parties. The strategy to create RFAs and the approximate locations of RFAs are adopted in the *Anchorage 2040 Land Use Plan* and other strategic areas. Objectives for designating the RFA include:

1. Focus and coordinate municipal actions including development incentives and infrastructure investments to catalyze private sector reinvestment in support of new infill and redevelopment in strategic areas of Anchorage.
2. Coordinate local investments with state or federal level programs and investments, if applicable.
3. Focus on areas of significant near-term growth potential which show a demonstrated need, opportunity, and local support.
4. Coordinate infrastructure investments such as streets, walkways, and utilities (as allowed by tariffs) to create a cohesive, integrated, and yet diverse urban place to offer a high quality of life.
5. Increase new housing development on vacant infill lots.

6. Promote rehabilitation, upgrade, and adaptive reuse of existing buildings for housing or mixed-use residential uses.
7. Meet the community's needs for additional housing and employment in areas best positioned to accommodate growth.

B. Types of Incentives Available through an RFA.

Potential municipal incentives may include but are not limited to items 1-11 below. Incentives may be approved using administrative procedures or existing tools in municipal code to implement in the RFA:

1. Sponsored or targeted area rezonings (Title 21)
2. Tax abatement and tax exemptions (Title 12)
3. Transportation Improvement Plan funds (TIP and/or Capital Improvement Budget (CIB))
4. Alley improvement funding (CIB)
5. Utility undergrounding funding (Utility CIB)
6. Special assessment districts (Title 19)
7. New zoning districts or overlay districts (assembly approval, Title 21)
8. Revenue bonds (assembly approval, citywide election)
9. Expedited permit reviews and inspections (building services, assembly)
10. Off-site improvement phasing, partnering agreements, public funding for improvements (project management and engineering, assembly)
11. Fee waivers, as outlined below:
 - a. Fee waivers are subject to eligibility and qualification under this chapter. Partial waiver or total exemption from certain municipal fees listed in this section may be applied to housing and mixed-use residential developments in RFAs. An application for municipal fee relief shall be made on a form approved by the planning department and submitted to the director of the planning department for approval by the Assembly. The request shall be subject to the requirements of this section.
 - b. A partial waiver or total exemption from municipal fees listed in this section shall be approved by ordinance. Municipal fee relief does not authorize work to proceed without permits, inspections and land use authorizations required by code.
 - c. If partial waiver or total exemption of a fee is granted, the applicant may be required to pay the municipal fee, subject to refund only if a certificate of occupancy is issued. Municipal fee relief may be granted by the Building Official or Development Services Director for the following fees:
 - i. Building permit fees under AMC 23.10.104.13.2, set out in AMC 21.10 Table 3-A, 1-5 for new construction (commercial); new construction (residential); alterations and/or addition (residential or commercial); change of use only; electrical, mechanical, plumbing (residential or commercial – no structural work).

- ii. Demolition permit fees under AMC 23.10.104.13.2, set out in AMC 23.10 Table 3-G.
- iii. Grading, excavation and fill permit fees under AMC 23.10.1044.12.2, set out in AMC 23.10 Table 3-G.
- iv. Plan review fees under AMC 23.10.104.13.3, set out in AMC 23.10 Table 3-B, 1. Building Permits Plan Review Fees, except that fees for expedited plan review, commercial out-sourcing plan review, and express permitting shall not be granted municipal fee relief by assembly resolution.
- v. Inspection fees for alteration, additions, remodels, and retrofits under AMC 23.10.106, set out in AMC 23.10 Table 3-C.1., inspections or re-inspections hourly fee. Fees for inspections or re-inspections that are unscheduled or outside normal business hours, or for code compliance, or a fine, set out in AMC 23.10 Table 3-C, 2-6 shall not be granted by assembly resolution.
- vi. Electrical Permit fees under AMC 23.10.104.13.2, set out in AMC 23.10 Table 3-D.1.B.
- vii. Plumbing Permit fees under AMC 23.10.104.13.2, set out in AMC 23.10 Table 3-E.1.A.
- viii. Permit and inspection fees under AMC chapter 24.30 for temporary uses during construction.
- ix. Waivers for relevant or applicable items from the schedule of land use fees in AMCR 21.20.001, 21.20.002, 21.20.003, or 21.20.007.

C. Relationship to Other Title 21 Provisions

- 1. Except as provided specifically otherwise in this section, the designation of an RFA shall be subject to and reviewed pursuant to the generally applicable administrative and review procedures by the Planning and Zoning Commission and Assembly set forth in chapters 21.02, *Boards and Commissions*, and Municipal administration, and 21.03, *Review and Approval Procedures*.
- 2. All applicable underlying regulations, requirements, and provisions of Title 21 and municipal code apply to development within an RFA, except where specifically stated otherwise. This chapter, like all other Title 21 chapters, remains subject to Section 21.01.060, *Conflicting Provisions*.

D. Procedure

The Assembly may designate one or more RFAs using the procedures and approval criteria that follow:

- 1. **Initiation:**
An RFA designation may be initiated by the municipality or by petition signed by property owner(s) desiring to be included in an RFA.
- 2. **Required Information Submittal:**
An RFA proposal shall include the following to support the designation of an RFA per the approval criteria of subsection E. These items shall serve as an existing conditions summary and may be waived or adjusted under the approval of a Small Area Implementation Plan requirements in section 21.03.115D.:
 - a. A completed application form provided by the Planning Department;

- b. A map delineating the RFA boundary, along with a legal description, acreage of the proposed petition area, a boundary delineation rationale narrative, and a summary of the existing uses found both inside and directly adjacent to the petition area;
 - c. A summary of available utilities or deficiencies (if known), land use and site plan of any existing development, including but not limited to buildings, streets, sidewalks, alleys, public infrastructure, historic properties or local landmarks, natural hazards, drainage systems and existing site drainage, and trails in the proposed area;
 - d. A narrative summary of general conformance with a comprehensive plan and its elements, utility or park master plans, public facility plans and relevant elements, or other applicable planning documents; and
 - e. A letter of sole or group property owner interest or support for inclusion in a proposed RFA.
3. **Community Meeting and Public Notice:**
A community meeting is required in accordance with subsection 21.03.020C. Public notice shall be provided in accordance with subsection 21.03.020H.
4. **Departmental Review:**
The planning department shall review each proposed RFA with respect to the approval criteria set forth in subsection E. below and distribute the application to impacted departments or agencies. Based on the results of those reviews, the department shall provide a report in accordance with subsection 21.03.020 with recommendations to the planning and zoning commission.
5. **Planning and Zoning Commission Action:**
The commission will review and consider the recommendations of the department and other reviewers and, based upon the approval criteria of subsection E. below, shall recommend approval, approval with modifications, or denial. The commission shall include written findings based on each of the approval criteria.
6. **Assembly Action:**
Upon receipt of the recommendations from the commission, the assembly may, based on the criteria of subsection E. below and at its discretion, hold a public hearing and take one of the following actions:
- a. Approve the RFA as submitted to the planning and zoning commission;
 - b. Approve the RFA with modifications;
 - c. Deny the RFA; or
 - d. Remand the proposed RFA back to the planning and zoning commission or to a committee of the assembly to request additional information or for further review and consideration.
7. **Form and Effect of Assembly Approval:** The assembly approval shall be in form of an assembly ordinance. The ordinance shall include the name, a map, legal description of the RFA boundaries.

E. Approval Criteria for Establishing RFAs

The RFA shall meet all the following criteria for a planning and zoning commission recommendation of approval and assembly approval:

1. General conformity with a comprehensive plan and its elements, utility or park master plans, public facility plans and relevant elements, or other applicable planning documents;
2. The subject area is located in proximity to a commercial, mixed-use, or employment center designated in a comprehensive plan, and is accessible to nearby jobs, stores, restaurants, and other services, amenities, or attractions;
3. The area provides potential to maximize development of additional housing units through infill, re-use, or redevelopment actions;
4. The area is mostly within a ½-mile walking distance of a transit-supportive development corridor or greenway-supported development corridor, as measured from the centerline designated in a comprehensive plan;
5. The area is undergoing growth and change, where development and (re)investment are anticipated to continue;
6. The area has no significant prohibitive constraints to development, area-specific natural or man-made hazards, or sensitive natural features;
7. Existing zoning or future zoning called for in a comprehensive plan would support greater intensity of development or use than occurs today;
8. The area has existing infrastructure, such as water, sewer, road capacity, etc., or where cost/feasibility of upgrading capacity is present to support growth, or where reinvestment in infrastructure is planned or anticipated, which will support growth; and
9. The targeted area is 5 acres or greater in size, unless the Planning director determines a smaller area meets the intent and criteria of this section.

F. Amendments to Approved RFAs

1. Approval Procedure for Major Amendments

Amendment of an RFA approval shall follow the same process required for the standard approval of the RFA, unless the amendment is determined to be a minor amendment as described in subsection F.2. below.

2. Approval Procedure for Minor Amendments

The director may, at any time on their own motion, request an evaluation and approval of a minor amendment to an approved RFA. Minor amendments address items in the original adopting ordinance, and include:

- a. Adding new property to an RFA, not to exceed 15% of existing RFA acreage;
- b. Insubstantial changes to the text for clarifications or corrections;
- c. Changes in a street alignment, if the change furthers the intent of the project and this code, and is acceptable to the municipal engineer; and
- d. Other incidental changes to an existing RFA approved by resolution of the assembly.

3. Additional Considerations for Minor Amendments

Minor amendments cannot affect land use or density in ways that would adversely impact public facilities, utilities, traffic, or other infrastructure or adjacent neighborhoods. The procedure for a minor amendment shall be as follows:

- a. The director shall review the proposed minor amendment and determine if the proposed amendment shall be processed as a minor amendment or major amendment. The applicant may appeal the director's decision in writing to the zoning board of examiners and appeals within 10 days of the decision.
- b. Immediately following the Planning director's determination that a proposed amendment is minor the director shall:
 - i. Issue a minor amendment affidavit, which shall be transmitted to the planning and zoning commission for their information; and
 - ii. Attach a form stating the nature of the modification, date of approval, and bearing the signature of the director to the RFA on file in the department.
 - iii. Review the proposed amendment and shall provide a memo to the planning and zoning commission and the assembly.

G. Designated RFAs

The formal boundaries of an adopted RFA are described in each adopting ordinance and depicted in the Designated RFA Map, having been approved through the procedures and criteria of this chapter. Properties adjacent to but outside of an RFA boundary are not included in an RFA, subject to its standards, and are not eligible for any of its incentives or other provisions. Except as subject to a minor amendment procedure, an RFA boundary can only be amended by assembly ordinance. Specific incentives are established in the ordinances adopted by the assembly approving an RFA.

H. RFA Implementation

1. Purpose

This section provides tools, terms and actions necessary to fulfill and implement terms, conditions, and the goals of the RFA and RFA development agreement. These include, but are not limited to existing Title 21 provisions, including the small area implementation plan, and the use of economic incentives, some of which are promulgated in other sections of the code, and the public improvements. Once an RFA is formerly established, the assembly shall indicate which department or division will implement the area.

2. Administration

An RFA shall be administered, regulated, and maintained by the planning department with the concurrence of development services, and finance departments.

a. *Process for administering an RFA:*

- i. Formal establishment and delineation of an RFA by assembly action.
- ii. RFA language identifies requested financial or regulatory incentives identified in 21.03.116B. above.
- iii. Maintenance of an RFA Map by the Planning department or equivalent division.

(AO 2022-62(S), 10-11-22; AO 2023-77, 7-25-23)

21.03.120 MINOR MODIFICATIONS

A. Purpose and Scope

This section sets out the required review and approval procedures for "minor modifications," which are minor deviations from otherwise applicable standards that may be approved by the director, the planning and zoning commission, or the urban design commission. Minor modifications are to

be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal variance process.

B. Applicability

1. Minor Modifications to General Development and Zoning District Standards

As part of the review and approval of any procedure set forth in this chapter, the director, the planning and zoning commission, or the urban design commission may approve minor modifications of up to a maximum of five percent from the following general development and zoning district standards provided that the approval criteria of subsection D. below are met.

- a. Minimum lot area, setback, step-back or building length requirements set forth in chapter 21.06, *Dimensional Standards and Measurements*;
- b. General development standards set forth in chapter 21.07, *Development and Design Standards*, except for the natural resource protection standards in subsection 21.07.020B.;
- c. The dimensional standards, site development and design standards, and building design standards set forth in chapter 21.09, *Girdwood Land Use Regulations* (sections 21.09.060, 21.09.070, and 21.09.080), in chapter 21.10, *Chugiak-Eagle River* (sections 21.10.060 and 21.10.070), and in chapter 21.11, *Downtown* (sections 21.11.060 and 21.11.070).

2. Exceptions to Authority to Grant Minor Modifications

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

- a. An increase in overall project density;
- b. A change in permitted uses or mix of uses;
- c. A deviation from the district-specific standards set forth in chapter 21.04, *Zoning Districts*, section 21.09.040, *Zoning Districts* (Girdwood), and section 21.10.040, *Zoning Districts* (Chugiak-Eagle River), or the use-specific standards set forth in chapter 21.05, *Use Regulations*, section 21.09.050, *Use Regulations* (Girdwood), section 21.10.050, *Use Regulations* (Chugiak-Eagle River), and section 21.11.050, *Use Regulations* (Downtown); or
- d. A change in conditions attached to the approval of any subdivision plan (section 21.03.200), site plan (section 21.03.180), conditional use (section 21.03.080), or rezone (special limitation) (section 21.03.160).

C. Procedure

1. Limitation on Minor Modifications

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

2. Minor Modifications Approved by Director

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

3. Minor Modifications Approved by Planning and Zoning Commission, or Urban Design Commission

The planning and zoning commission, or urban design commission may approve a minor modification allowed under this section at any time before taking action on a development application.

4. Written Findings Noted on Pending Application

Staff shall specify in writing any approved minor modifications and the finding supporting such modifications on the pending development application for which the modifications were sought, which shall be included as part of the case record.

5. Appeals

Denial of a minor modification may be appealed to the same body as an appeal of the underlying approval process. For instance, denial of a minor modification in a conditional use application may be appealed to the board of adjustment, as the board of adjustment hears appeals of conditional use approvals. Denial of a minor modification associated with a permitted use may be appealed to the zoning board of examiners and appeals.

D. Approval Criteria

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

1. The requested modification is consistent with the comprehensive plan and the stated purpose of this title;
2. The requested modification meets all other applicable building and safety codes;
3. The requested modification does not encroach into a recorded easement;
4. The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated; and
5. The requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if “practical difficulty” exists, the factors set forth in section 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2020-38, 4-28-20; AO 2022-36, 4-26-22)

21.03.130 NEIGHBORHOOD OR DISTRICT PLANS

A. Purpose and Authority

1. Purpose

- a. The purpose of this section is to allow and facilitate the development of neighborhood or district plans by citizen groups that are approved by the assembly. Neighborhood and district plans that are developed by local government are not subject to this section, but rather follow the process of section 21.03.070C., *Comprehensive Plan Amendments, Substantive*.
- b. Neighborhood or district plans shall be guided by the elements of the comprehensive plan, as defined in section 21.01.080. Neighborhood or district plans should give specificity to the goals, objectives, policies, and strategies of the comprehensive plan. These plans shall supplement and elaborate on the comprehensive plan. The goal of a neighborhood or district plan is to protect and

promote the positive elements of neighborhood or district character and identity, while promoting the orderly growth, improvement, and future development of the neighborhood, community, or municipality.

2. Authority

- a. These procedures and minimum standards are established for the creation and review of plans for the development, growth, and improvement of the municipality, and its neighborhoods and communities. The plans may be sponsored, upon express approval of the assembly by resolution, by any group or organization representing the broad public interest, upon express approval by assembly resolution (hereafter called the “sponsor”).
- b. In order to obtain the approval of the assembly as a sponsor, any community council, group of councils, or other groups or organizations shall request a resolution from the assembly authorizing them to proceed with the development of a neighborhood or district plan. The group shall demonstrate, to the reasonable satisfaction of a majority of the assembly, that
 - i. They represent the broad public interest necessary to successfully develop a plan;
 - ii. They have read and understand the requirements of this ordinance, and that their proposed plan will comply with the standards set forth in this ordinance; and
 - iii. They have sufficient financial resources and a sufficient level of knowledge and expertise to warrant the expenditure of public resources as provided herein.

3. Policy Guidance

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

B. Plan Submittal

1. Initiation Meeting

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

2. Work Program

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

3. Submittal

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

C. Threshold Review and Determination

1. Department Review and Determination

Within 90 days of the submittal of a plan, the department shall review the plan and determine whether the plan meets the standards for form, content, and for consistency with sound planning, as set forth in subsection D. below.

- a. If the department determines that the plan does meet the threshold standards of subsection D., the department shall distribute the plan for public review and commission public hearing as described in subsection E.
- b. If the department determines the plan does not meet the threshold standards of subsection D., the staff shall provide written notification to the sponsor of all deficiencies with respect to form, content, process, and any changes, additions, or deletions which, in the opinion of staff, may correct such deficiencies.

2. Coordination of Plan Review

The department may determine, despite a finding of appropriate form, content, and sound planning policy, a proposed plan should not immediately proceed, due to other municipal planning efforts underway which should be coordinated with the plan. In such a case, the department shall develop an appropriate timetable for distributing the plan for public review and commission public hearings.

D. Standards

1. Form and Content

The form and content of all proposed plans shall be consistent with the following:

- a. The plan shall state its sponsoring entity or entities and the names of the individuals who participated in the development of the plan.
- b. A plan shall enhance or implement goals, objectives, policies, and/or strategies of the comprehensive plan and provide further detail and specificity. A plan may take the form of a master plan or targeted plan.
 - i. A master plan for a neighborhood, district, or other geographic area of the municipality may combine elements related to housing, industrial and commercial uses, transportation, land use regulation, open space, recreation, cultural features, health, economic vitality, community facilities, and other infrastructure.
 - ii. A targeted plan may consider one or a small number of elements of neighborhood, district, or municipal-wide problems or needs, and shall focus on issues related to the use, development, and improvement of land within the plan study area.
- c. A plan shall not be limited to a single zoning district or a specific parcel in private ownership. A plan shall cover an identifiable, cohesive geographic area or neighborhood.
- d. Plans shall be presented in clear language and coherent form with elements, chapters, or sections organized in logical sequence.

- e. Plans shall state goals, objectives, or purposes clearly and succinctly. Policy statements or recommendations shall contain documentation and explanation of the data, analysis, or rationale underlying each. Plans shall analyze and propose policies to address identified problems.
- f. A plan shall contain, as applicable:
 - i. Inventories or description and analysis of existing conditions, problems, or needs; projections of future conditions, problems, or needs; and recommended goals and strategies to address those conditions, problems, or needs.
 - ii. Alternatively, or concomitantly with the elements described above, a plan may also contain a vision for a future end state and a strategy(ies) for achieving it.

The level of detail and analysis shall be appropriate to the goals and recommendations presented in the plan. The information and analysis relied upon to support the recommendations shall be sufficiently identified to facilitate later plan review, including accuracy and validity of the information and analysis. Supporting information may be contained in the form of narrative, maps, charts, tables, technical appendices, or the like.

- g. A plan shall contain a land use plan map for the geographic area encompassed by the plan. The land use plan map shall propose appropriate land use categories, which generally include: residential, commercial, industrial, institutional, transportation, community facilities, parks, and natural open space. The land use plan map may provide more specificity than the general categories.
- h. Plans shall be accompanied by documentation showing public participation in the plan formulation and preparation. Public outreach, such as surveys, workshops, hearings, or technical advisory committees, is recommended as a tool for community support and consensus, in addition to department, commission, and assembly approval.

2. Sound Planning Policy

- a. Every plan, regardless of form and content, shall include discussion of:
 - i. Its long-range consequences;
 - ii. Impact on economic and housing opportunity for all persons, particularly low- and moderate-income, and persons with disabilities;
 - iii. Provision of future growth and development opportunities;
 - iv. Ability to improve the physical environment; and
 - v. Effect on the geographic distribution of municipal facilities.
- b. A plan shall set forth goals, objectives, purposes, policies, strategies, and/or recommendations within the legal authority of the municipality.
- c. A plan considering issues under the jurisdiction of specific municipal or state agencies shall disclose all agency comments.
- d. A plan shall analyze its relationship to applicable policy documents, including all adopted elements of the comprehensive plan, as well as its relationship to adjoining neighborhoods and other areas.

- e. A plan shall solicit input from residents, local businesses, agencies, and non-profit organizations local to the neighborhood, and demonstrate it has considered these comments on their merits.

E. Plan Distribution and Review

1. Plan Distribution

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

2. Public, Agency, and Community Council Review

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

3. Department Review

The department shall review the plan during the 120 day review period, and prepare a staff report and recommendation for the commission. The department shall consider the neighborhood, community, and municipal-wide impacts and the long-term effects of the actions or policies recommended by the plan. The department shall also consider the impact of the plan on economic and housing opportunity, future growth and development, and the physical environment, including consistency of the plan with other adopted plans.

F. Planning and Zoning Commission Review

1. Schedule for Review

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

2. Public Notice

Notice shall be provided in accordance with section 21.03.020H.

3. Planning and Zoning Commission Action

The commission shall vote, within 60 days following the close of the public hearing to recommend approval, approval with modifications, remand to the sponsor, or disapproval of the plan. In reviewing the substance of the plan, the commission shall consider the neighborhood, community, and municipal-wide impacts and the potential long-term effects from the actions or policies recommended by the plan. The commission shall consider the impact of the plan on economic and housing opportunity, future growth and development, and the physical environment, including consistency of the plan with other adopted plans, and any other pertinent adopted neighborhood or district plans. Any modifications recommended by the commission shall be consistent with the standards for form, content, and sound planning policy, as set out in subsection D. above.

4. Commission Findings

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

G. Assembly Adoption

1. Transmission to Assembly

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

2. Public Notice

Notice shall be provided in accordance with subsection 21.03.020H.

3. Assembly Action

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

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

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

H. Review and Revision

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

(AO 2012-124(S), 2-26-13)

21.03.140 PUBLIC FACILITY SITE SELECTION

A. Purpose

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

B. Applicability

1. Unless exempted by subsection B.2. below, this section shall apply to the following government facilities that are not exempt by law from municipal land use regulation:
 - a. Any newly constructed building or buildings and any existing building acquired by purchase or lease, in which government operations or activities occupy more than a total of 50,000 square feet of gross floor area;
 - b. Any use of land over 20 acres in area (not including projects covered under section 21.03.190, *Street and Trail Review*);
 - c. Public schools;
 - d. Fire stations, unless such station is determined by the director not to have impacts on the surrounding neighborhood;

- e. Any sports, entertainment, or civic center designed for more than 1,500 spectators;
 - f. Any public snow disposal or landfill site; and
 - g. A facility that, in the judgment of the director, warrants a public process for site selection due to the potential for significant impacts on surrounding properties.
2. This section shall not apply to the following:
- a. Any site that is:
 - i. Designated for the subject use on a municipal plan adopted by the assembly;
 - ii. Part of an area, development, or institutional master plan;
 - iii. Determined by a dedication to the municipality on a final plat approved and recorded in accordance with this title; or
 - iv. Subject to approval of a conditional use under this title.
 - b. Any facility site selection reviewed by the commission or approved by the assembly before January 1, 2014;
 - c. Any facility site selection for which over \$500,000 has been expended for design or construction before January 1, 2014.

C. Community Meeting

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

D. Required Information

The agency proposing a site selection shall submit to the commission all information identified on the application provided by the department. This information shall include, but need not be limited to, an evaluation of alternative sites, or an explanation why no alternative sites were considered.

E. Public Notice

Notice shall be provided in accordance with subsection 21.03.020H.

F. Departmental Review

- 1. The department shall review each proposed site selection application in light of the approval criteria set forth in subsection H. below, and distribute the application to other reviewers as deemed necessary.
- 2. Based on the results of those reviews, the department shall provide a report to the planning and zoning commission.
- 3. For school site sections, the department shall also provide the report to the Anchorage school board for its review and recommendation.

G. Planning and Zoning Commission

- 1. The commission shall review the RFP criteria (or similar guidelines) or the site alternatives for any applicable facility.
- 2. The commission shall hold a public hearing.

3. For school site selections, the school board and the commission may meet in a joint public hearing; however, the school board and the commission shall separately consider and make recommendations to the assembly. Both recommendations shall then be forwarded as a package to the assembly for approval.
4. For site selections of municipal facilities, the commission shall make a recommendation to the assembly, based on the approval criteria of subsection H. below.
5. For all other site selections, the commission shall decide on the proposed site based on the approval criteria of subsection H. below.

H. Assembly Action

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

1. Approve a specific recommended site;
2. Approve a specific evaluated site;
3. Reject some or all recommended sites; or
4. Remand the evaluated and recommended sites to the commission (and the school board if applicable) for further investigation, review, and evaluation.

I. Approval Criteria

The commission shall review the proposed site for consistency with the goals, policies, and land use designations of the comprehensive plan and other municipal plans adopted by the assembly, conformity to the requirements of this title, and the effects of the proposal on the area surrounding the site. The following specific criteria shall be considered:

1. Whether the site will allow development that is compatible with current and projected land uses;
2. Whether the site is large enough to accommodate the proposed use and future additions or another planned public facility;
3. Whether the proposed government use and its intensity is compatible with the surrounding district and adopted policies for future development in the district;
4. Whether adequate utility and transportation infrastructure is available to the site;
5. Whether the site is located near a transit route, if applicable;
6. Whether there are existing or planned walkways connecting the site to transit stops and surrounding residential areas, where applicable;
7. The environmental suitability of the site;
8. The financial feasibility of the site, including maintenance and operations; and
9. Whether the proposed site for major municipal, state, and federal administrative offices conforms with the adopted policy priority for locating in the Central Business District (Downtown Anchorage). Satellite government offices and other civic functions are encouraged to locate in regional or town centers if practicable.

J. Request for Assembly Hearing

1. Decisions by the planning and zoning commission are final unless, within 20 days of the date of service, any party of interest requests an assembly hearing in a letter sent to the director.
2. The assembly may hold a public hearing on the case at its discretion.

(AO 2012-124(S), 2-26-13; AO 2020-38, 4-28-20; AO 2021-89(S), 2-15-2022)

21.03.150 RECORD OF SURVEY MAPS

A. Purpose and Authorization

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

B. Use of Record of Survey Maps

1. A record of survey map is a map depicting the exterior boundaries of a legally created lot, parcel, or tract, and includes a correction to a record of survey map.
2. A record of survey map shall not be used to depict the boundaries of a lot, parcel, or tract, which lot, parcel, or tract was created or subdivided contrary to law. A record of survey map shall not subdivide property or recombine lots into acreage, and any record of survey map purporting to do so shall be null and void.

C. Application Submittal

Applications for approval of a record of survey map shall be submitted to the platting officer on a form provided by the department and shall contain the information specified on the application form.

D. Monuments

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

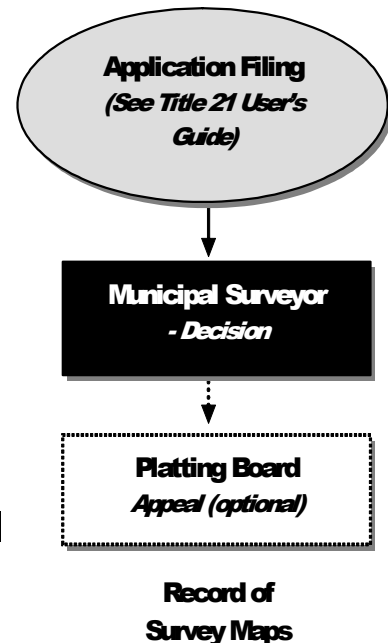
E. Approval

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

F. Appeals

All decisions of the municipal surveyor under this section shall be final unless appealed to the platting board within 15 days of the date of approval.

(AO 2012-124(S), 2-26-13; AO 2021-89(S), 2-15-2022)



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. Zoning is not effective if it is too easily or frequently changed. Zoning is intended to provide a degree of certainty that is important for long-term investment and neighborhood cohesion and stability. The purpose of rezoning is not to relieve particular hardships, nor to confer special

privileges or rights on any person, but to make adjustments to the official zoning map 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. Rezoning shall not be used as a way to legitimize nonconforming uses or structures, and should not be used when a conditional use, variance, or minor modification could be used to achieve the same result.

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, GOS, CE-PLI, CE-PR, or CE-DR zoning district.
3. A rezoning into the B-1A or R-3A district.

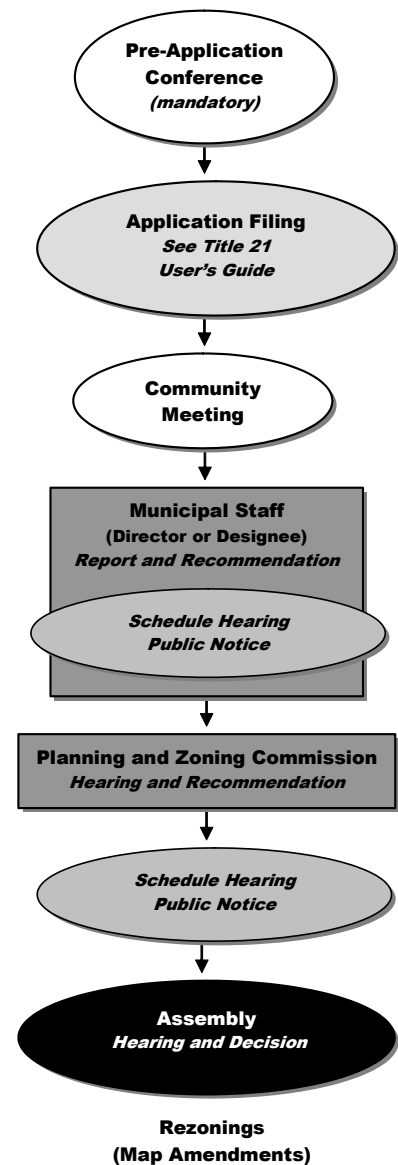
C. When a Comprehensive Plan Map Amendment is Required

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 first. Both amendments may be processed concurrently, as provided in subsection 21.03.070C.3.

D. General Procedure

1. Initiation

- a. A rezoning may be initiated by the assembly, the planning and zoning commission, or by the administration.
- 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.



- d. Rezoning shall precede corps of engineers wetland permit applications.
2. **Pre-Application Conference**
Before filing an application, a private-party applicant shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.
3. **Community Meeting**
A community meeting is required in accordance with subsection 21.03.020C.
4. **Application Submittal**
Applications for a rezoning shall be submitted to the director on a form provided by the department and shall contain the information specified on the application form. Additional materials may be required for certain types of rezoning, such as rezoning with special limitations.
5. **Public Notice**
Notice shall be provided in accordance with section 21.03.020H. In addition, the published and written (mailed) notice for the public hearing before the assembly shall list the protest provisions set forth in subsection D.9. below.
6. **Departmental Review**
The department shall review each proposed rezoning in light of the approval criteria in subsection E. 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.
7. **Planning and Zoning Commission Action**
 - a. The planning and zoning commission shall hold a public hearing on the proposed rezoning and, at the close of the hearing, taking into account the recommendations of the department and public input, and based upon the approval criteria of subsection E. below, shall recommend approval, approval with special limitations or other modifications (at least as restrictive as submitted in the application), or denial. The commission shall include written findings based on each of the approval criteria. The planning and zoning commission shall supplement any denial recommendation with a summary of critical issues related to the application, based upon public input and the commission's deliberations. This information will be available to assist the assembly if an ordinance is submitted under subsection 7.c. below.
 - b. If the commission recommends approval or approval with special limitations or other modifications, within 60 days of the commission's written resolution, the director shall forward the recommendation to the assembly with an ordinance to amend the official zoning map in accordance with the recommendation.
 - c. If the commission recommends denial, the amendment shall be deemed disapproved unless, within 15 days of the commission's written resolution recommending denial, the applicant files a written statement with the municipal clerk requesting that an ordinance amending the zoning map as set out in the application be submitted for action by the assembly. The draft ordinance shall be appended to an Assembly Informational Memorandum (AIM) for consideration by the assembly.
8. **Assembly Action**
The assembly shall hold a public hearing on the proposed rezoning and shall, at the close of the hearing, taking into account the recommendations of the department, planning and zoning commission, and public input, and based upon the approval criteria of subsection E. below:

- a. Approve the zoning map amendment as submitted in the application to the planning and zoning commission;
- b. Approve the zoning map amendment with special limitations (see subsection G.) or other modifications at least as restrictive as those submitted in the application, provided that an ordinance approving an amendment initiated under this section shall become effective only with the written consent of the property owner(s) to the special limitations or other modifications;
- c. Deny the amendment; or
- d. Remand the proposed amendment to the planning and zoning commission or to a committee of the assembly for further consideration.

9. Protests

- a. Any owner of property subject to a proposed rezoning may protest the rezoning by filing a written protest with the clerk pursuant to this subsection.
- b. Any owner of property within 300 feet of the outer boundary of the land to which the amendment applies may protest the rezoning by filing a written protest with the clerk that is signed by the owners of at least one-third of the property, excluding rights-of-way, of:
 - i. The land to which the amendment applies; or
 - ii. The land within 300 feet of the outer boundary of the land to which the amendment applies;excluding land owned by the municipality, except where the municipality joins in the protest.
- c. To be valid, the protest shall state the factual and/or legal basis for the protest, contain a legal description of the property on behalf of which the protest is made, be signed by the owner of that property, and be received by the municipal clerk after notice of a public hearing before the assembly on a zoning map amendment and at least three business days before the time set for the assembly public hearing on the amendment.
- d. Assembly approval of a rezoning subject to a valid protest under this subsection shall require an affirmative vote of eight assembly members.

10. Waiting Period for Reconsideration

Following denial of a rezoning request, no new application for the same or substantially the same rezoning shall be accepted within two years of the date of denial, unless denial is made without prejudice.

11. Form of Amending Ordinance

An ordinance amending the zoning map shall contain the following:

- a. The names of the current and the requested zoning districts;
- b. The legal description of the subject property;
- c. Any special limitations being applied to the subject property; and
- d. An effective clause.

E. Approval Criteria

The planning and zoning commission may recommend approval, and the assembly may approve a rezoning, if the rezoning meets all of the following criteria:

1. The rezoning shall be in the best interest of the citizens of Anchorage and shall promote the public health, safety, and general welfare;
2. The rezoning complies with and conforms to the comprehensive plan, including the comprehensive plan map(s);
3. The rezoning is generally consistent with the zoning district purpose in the requested zone, and the purpose of this title;
4. The rezoning is compatible with surrounding zoning and development, and protects areas designated for specific uses on the zoning map from incompatible land uses or development intensities;
5. Facilities and services (including roads and transportation, water, gas, electricity, police and fire protection, and sewage and waste disposal, as applicable) are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, while maintaining adequate levels of service to existing development;
6. The rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts shall be substantially mitigated;
7. The proposed rezoning is not likely to result in significant adverse impacts upon adjacent land uses, or such impacts shall be mitigated through stipulations;
8. The rezone does not extend or exacerbate a land use pattern that is inconsistent with the comprehensive plan; and
9. The rezoning shall not result in a split-zoned lot.

F. Flexibility of Interpretation

The comprehensive plan map and the approval criteria of subsection E. above may be interpreted with flexibility within the following parameters:

1. A proposed rezoning that is to a district that does not correspond to the comprehensive plan map may be considered if processed concurrently with a related amendment to the comprehensive plan map following the procedures of subsection 21.03.070, *Comprehensive Plan Amendments*.
2. Where the location of comprehensive plan map designation boundaries appear generalized or uncertain, proposed zoning amendments on or near the boundaries shall be treated as follows:
 - a. Areas clearly within a particular comprehensive plan map designation shall follow the standards of that designation.
 - b. The designation of areas at or near boundaries on the comprehensive plan map shall be interpreted in accordance with the goals, objectives, policies, and guidelines of the comprehensive plan, including locational criteria for designations on the comprehensive plan map.
3. Interpretation shall not be a basis for cumulative encroachment by incompatible land uses.

G. Rezoning with Special Limitations

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

1. Purposes

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

- a. To prohibit structures, or uses of land or structures, that would adversely affect the surrounding neighborhood or conflict with the comprehensive plan.
- b. To conform the zoning map amendment to the comprehensive plan, or to further the goals and policies of the comprehensive plan.
- c. To conform development under the zoning map amendment to existing patterns of development in the surrounding neighborhood.
- d. To mitigate the adverse effects of development under the zoning map amendment on the natural environment, the surrounding neighborhood, and on public facilities and services.

2. Types of Limitations

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

- a. Limit residential density; or prohibit structures, or uses of land or structures, otherwise permitted in a zoning district.
- b. Require compliance with design standards for structures and other site features.
- c. Require compliance with a site plan approved under this title.
- d. Require the construction and installation of improvements, including public improvements.
- e. Impose time limits for taking subsequent development actions.

3. Effect of Approval

- a. A zoning district subject to special limitations shall be identified on the zoning map by the suffix "SL," and the number of the ordinance applying the special limitations shall be printed on the zoning map.
- b. Where a special limitation in a zoning map amendment conflicts with any less restrictive provision of this title, the special limitation governs.

H. Rezoning to Create, Alter, or Eliminate Overlay Districts

1. Purpose and Applicability

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

- a. Permit, require, prohibit, or restrict structures or the use of land or structures;
- b. Alter the provisions of the use-specific requirements as applied to property within the overlay district;

- c. Require new development or attributes of new development to conform to a specific architectural or design theme;
- d. Require a design review approval process; and/or
- e. Alter the development standards of the underlying district by decreasing or increasing the requirements with regard to building height, setbacks, lot area, lot width, lot coverage, and lot densities of the underlying district.

2. Minimum Area Requirements

- a. No overlay district zoning map amendment shall be considered or approved that applies an overlay district to an area less than 1.75 acres, excluding rights-of-way, except for an amendment extending the boundaries of an existing overlay district.
- b. Overlay districts shall not be created to apply to property owned by a single person, unless the property is at least 30 acres.

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

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

a. Contents of Adopting Ordinance

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

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

b. Effect of Approval

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

c. Map of Overlay Districts

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

I. Rezoning to Planned Community Development District (PCD)

1. Purpose

The assembly may, through the rezoning process, adopt a regulatory zoning strategy that is customized for a specific property or group of properties. The zoning strategy may substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07

(see subsection I.4. below) in order to allow the development to achieve the goals of the comprehensive plan and title 21 in a unique way. The assembly must find that the proposed strategy will result in development that is compatible with that which would occur with conventional application of the requirements of chapters 21.05, 21.06, and 21.07.

2. Procedure

Rezoning to PCD districts shall follow the general rezoning procedure set forth in section D. above, except as modified by this section.

3. Minimum Area Requirements

No PCD district zoning map amendment shall be considered or approved that is equal to an area of less than 30 acres. These limits exclude rights-of-way and do not apply to amendments that extend the boundaries of an existing PCD district.

4. In-Lieu Standards Allowed

a. The use of standards that are different from standards stated in title 21 is intended to allow a developer some flexibility and creativity in meeting the intents and purposes of the code.

b. In-lieu standards for the following sections may be proposed for the PCD district:

- i. Chapter 21.05, *Use Regulations*;
- ii. Chapter 21.06, *Dimensional Standards*;
- iii. Subsection 21.07.020C., *Steep Slope Development*;
- iv. Section 21.07.030, *Open Space*;
- v. Section 21.07.060, *Transportation and Connectivity*;
- vi. Section 21.07.080, *Landscaping, Screening, and Fencing*;
- vii. Section 21.07.090, *Off-Street Parking and Loading*;
- viii. Section 21.07.100, *Exterior Lighting*;
- ix. Section 21.07.110, *Residential Design Standards*;
- x. Section 21.07.120, *Large Establishments*; and
- xi. Subsection 21.08.050D., *Interior Streets*.

c. Along with the application and documentation information required in I.5. below, the applicant must also submit the following information with regard to any proposed in-lieu standards.

- i. Clear specification of the proposed in-lieu standards, and the title 21 standards for which the proposed in-lieu standards are a substitute. Any title 21 standards that are not replaced with approved in-lieu standards shall apply in the PCD district.
- ii. A statement of why compliance with title 21 standards would interfere with the goals, purposes, or functions of development in the proposed PCD district.
- iii. A demonstration of how the proposed in-lieu standards would be at least as effective as the title 21 standards in fulfilling the intents and purposes

of title 21, and furthering the goals and policies of the comprehensive plan, including any applicable neighborhood or district plans.

iv. A statement of the expected benefits of the proposed in-lieu standards.

d. The planning and zoning commission may recommend approval, and the assembly may approve a rezone to the PCD district with in-lieu standards if they find that the in-lieu standards will result in development that is compatible with the intents and purposes of title 21 and the goals and policies of the comprehensive plan, and do not compromise public health, safety, or welfare.

5. Application and Documentation

Applications for rezoning to a PCD district shall contain the information specified on the application form, and the following:

a. If proposing in-lieu standards for subsection 21.07.020C., *Steep Slope Development*, the information required in subsection 21.07.020C.

b. Development Areas: a PCD district that proposes to segregate differing land uses and/or different project phases shall provide and maintain a map that clearly distinguishes the boundaries of each development area. The development areas shall be identified with an alpha, numeric, or alphanumeric coding system to allow for easy identification of each area. Different in-lieu standards may be proposed for each development area.

c. Table of allowed uses and use definitions:

i. The PCD district shall establish a table of allowed uses and a table of accessory uses. The table shall be formatted in the same manner as the tables depicted in chapter 21.05 listing the land use, and if development areas are proposed, noting each with its designated land uses. The table abbreviations set forth at 21.05.010A. shall be used.

ii. The land uses listed in the table of allowed uses or the table of accessory uses shall be defined in chapter 21.05, or the PCD district shall provide a use definition for those uses not listed in sections 21.05.020 through 21.05.080.

d. Dimensional standards and measurements:

i. The PCD district shall establish a table of dimensional standards. The table shall be formatted in the same manner as the tables depicted in chapter 21.06 listing the dimensional standards, and if development areas are proposed, noting each with its designated dimensional standards.

ii. Unless specifically provided otherwise (see subsection I.4. above), the measurements and exceptions section 21.06.030 shall apply.

6. Relationship to Other Requirements

When there is a conflict between the PCD district requirements and other requirements of this title, the PCD district requirements control. The specific requirements of this title apply unless the PCD district provides other requirements for the same specific topic.

7. Changes to an Approved PCD District

a. Approval by Assembly

Approval of a zoning map amendment in accordance with section 21.03.160 is required for the following amendments to the PCD district:

- i. Any increase in the total number of authorized dwelling units;
- ii. Any decrease in the total open space acreage;
- iii. Any increase in the total gross building area of commercial or industrial structures;
- iv. Any addition or deletion of any permitted principal use, conditional use, or accessory use;
- v. Any changes in the development standards;
- vi. Any density transfer between development areas that will result in a 25 percent or greater cumulative increase or decrease in the number of dwelling units in any development area; or
- vii. Any change in the acreage of a development area equal to or more than 25 percent of the total acreage of the development area.

b. Approval by the Planning and Zoning Commission

Approval by the planning and zoning commission is required for the following amendments to the PCD district:

- i. Any density transfer between development areas that will result in a cumulative increase or decrease of more than 10 percent but less than 25 percent in the number of dwelling units in any development area; or
- ii. Any change in the acreage of a development area of more than 10 percent but less than 25 percent of the total acreage of the development area.

c. Approval by the Director

Approval by the director is required for the following amendments to the PCD district:

- i. Any density transfer between development areas that will result in a cumulative increase or decrease of 10 percent or less in the number of dwelling units in any development area; or
- ii. Any change in the acreage of a development area of 10 percent or less of the total acreage of the development area.

J. Platting for Rezonings

A final plat shall not be recorded until the rezoning has been effectuated if the subdivision fails to conform under the existing zoning. A preliminary plat required under this section is subject to approval as required by section 21.03.200, *Subdivisions*.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2017-176, 1-9-18; AO 2021-89(S), 2-15-2022; AO 2022-38, 4-12-2022)

21.03.170 SIGN PERMITS

A. Applicability

No person shall erect, locate, move, alter, or replace any sign or cause a sign to be located or maintained, unless all applicable provisions of this section and chapter 21.12, *Signs*, have been met.

B. Approval Requirements for Signs

Proposed signs shall be required to receive a permit from the building official as set forth in the table below.

TABLE 21.03-3: SIGN PERMIT REQUIREMENTS		
	Permit required by Title 21	No permit required by Title 21; permit may be required by Title 23
Sign Plate		X
Permanent Building Sign	X	
Permanent Freestanding Sign	X	
Entrance/Exit		X
Instructional		X
Temporary – on a parcel		X
Temporary – for a business		X
Construction signs		X
Temporary for any Residential Unit		X

C. Application Submittal

An application for a sign permit shall be made to the building official on the form provided. When any person other than the owner of the property submits a sign application, the owner of the property or a designated agent for the owner shall also sign such application.

D. Review and Approval

Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in 21.03.100C.2, *Approval Procedure (for Land Use Permits)*.

E. Appeals

1. Denial of a sign permit relating to title 21 compliance may be appealed to the zoning board of examiners and appeals in accordance with subsection 21.03.050B.
2. Denial of a sign permit relating to title 23 compliance may be appealed to the building board of examiners and appeals.

(AO 2012-124(S), 2-26-13)

21.03.180 SITE PLAN REVIEW

A. Purpose

The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of this title, and to encourage quality development in the municipality reflective of the goals, policies, and objectives of the comprehensive plan. For land uses requiring a site plan review, such uses may be established in the municipality, and building or land use permits may be issued, only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this title.

B. General Applicability

This section shall not apply to remodeling, renovation, or repair to interior portions of structures that are subject to site plan review under this title, except those interior areas that affect conformity to the approval criteria for site plan review or the development and design requirements of this title.

C. Administrative Site Plan Review

1. Applicability

Land uses requiring administrative site plan review are identified in table 21.05-1, *Table of Allowed Uses*, table 21.05-3, *Table of Allowed Accessory Uses*, table 21.09-1, *Table of Allowed Uses* (Girdwood), table 21.09-2, *Table of Accessory Uses* (Girdwood), table 21.10-4, *Table of Allowed Uses* (Chugiak-Eagle River), table 21.10-5, *Table of Accessory Uses* (Chugiak-Eagle River), table 21.11-2, *Table of Allowed Uses* (Downtown), and table 21.11-3, *Table of Accessory Uses* (Downtown).

2. Procedure

a. Application Submittal

Applications for an administrative site plan review shall be submitted to the director on a form provided by the department and shall contain the information specified on the application form.

b. Public Notice

Notice shall be provided in accordance with subsection 21.03.020H.

c. Departmental Review and Director's Action

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

d. Appeals

Decisions on administrative site plans may be appealed to the urban design commission, in which case it shall be treated as a major site plan review application under subsection D. below.

3. Administrative Site Plan Review With Notice

When a section of title 21 calls for administrative site plan review with notice, written (mailed) notice and posted notice shall be provided at least 45 days before the date of decision, along with other notice required by table 21.03-1.

D. Major Site Plan Review

1. Applicability

Land uses requiring major site plan review are identified in table 21.05-1, *Table of Allowed Uses*, table 21.09-1, *Table of Allowed Uses* (Girdwood), table 21.10-4, *Table of Allowed Uses* (Chugiak-Eagle River), and table 21.11-2, *Table of Allowed Uses* (Downtown).

2. Decision-Making Authority

For non-residential development with a gross floor area of 100,000 square feet or greater, and for residential development of 140 units or more, the decision-making body shall be the planning and zoning commission. For all other major site plan reviews, the decision-making body shall be the urban design commission.

3. Procedure

a. Pre-Application Conference

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

b. Community Meeting

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

- c. **Application Submittal**
Applications for a major site plan review shall be submitted to the director on a form provided by the department and shall contain the information specified on the application form.
- d. **Public Notice**
Notice shall be provided in accordance with subsection 21.03.020H.
- e. **Departmental Review**
The department shall review each proposed major site plan application in light of the approval criteria of subsection F. 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 applicable commission.
- f. **Commission Action**
The applicable commission shall hold a public hearing on the proposed application and, taking into account the recommendations of the department and public input, shall act to approve, approve with conditions, or deny the proposed major site plan, based on the approval criteria of subsection E. below.
- g. **Appeals**
Decisions on major site plans may be appealed to the board of adjustment in accordance with subsection 21.03.050A.

E. Expiration

- 1. **General**
A site plan approval shall automatically expire at the end of 24 months after the effective date unless a building or land use permit for at least one building in the development proposed in the site plan is approved and construction has begun (see the definition of "start of construction" in chapter 21.15). A change in ownership of the property does not affect this time frame.
- 2. **Extension**
 - a. **First Extension**
Upon written application submitted by the applicant at least 30 days prior to the expiration of the permit period and upon a showing of good cause, the director may grant one extension not to exceed 12 months. The approval shall be deemed extended until the director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the site plan approval void.
 - b. **Further Extensions**
Upon written application submitted at least 30 days prior to the expiration of the previous extensions and upon a showing of good cause, the urban design commission, without a public hearing, may grant additional extensions, each one not to exceed 12 months. The approval shall be deemed extended until the commission has acted upon the request for extension.

F. Approval Criteria - General

Except as provided otherwise in G., an application for administrative or major site plan review shall be approved upon a finding that the site plan meets all of the following criteria:

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

chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional Standards and Measurements*, and chapter 21.07, *Development and Design Standards*;

3. The site plan addresses any significant adverse impacts that can reasonably be anticipated to result from the use, by mitigating or offsetting those impacts to the maximum extent feasible; and
4. The development proposed in the site plan is consistent with the goals, objectives, and policies of the comprehensive plan.

G. Approval Criteria – Topic-Specific Site Plan Reviews

1. Administrative site plan review approval criteria for proposals to exceed the two-and-one-half story height limit in the R-2A, R-2D, and R-2M districts are listed in 21.06.030D.7.d.

H. Platting for Site Plans

1. If development under an approval under this section will create a subdivision or requires the vacation of a dedicated public area, the approval is not effective until a final plat for the subdivision or vacation is approved and recorded in accordance with this title. A preliminary plat required under this section is subject to approval as required by section 21.03.200, *Subdivisions*.
2. Unless the authority granting approval directs in the approval that it shall act as the platting authority, the director is the platting authority for subdivisions under this subsection.

I. Amendments to Approved Site Plans

1. Original Procedure Applies for Most Amendments

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

2. Administrative Approval of Minor Amendments

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

a. Procedure

- i. Upon receiving a written request from the applicant for a site plan amendment, the director shall determine if the proposed amendment will be processed as a minor amendment or major amendment. The applicant may appeal the director's decision, in writing to the zoning board of examiners and appeals within 10 days of the decision.
- ii. Immediately following the director's determination that a proposed amendment is minor, the director shall:
 - (A) Issue a minor amendment affidavit, which shall be transmitted to the urban design commission for their information; and
 - (B) Attach a form stating the nature of the modification, date of approval, and bearing the signature of the director to the site plan on file in the department.
- iii. If the original approval had been recorded, the amended plan shall be recorded by the municipality at the applicant's expense.

b. Types of Minor Amendments

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

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in street alignment if such changes further the intent of the plan and this code, and are acceptable to the municipal engineer.
- iii. Changes of 10 percent or less in building envelope, setback, and similar provisions.
- iv. Incidental changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the plan and this code.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2015-142(S-1), 6-21-16; AO 2021-89(S), 2-15-22; AO 2022-36, 4-25-22)

21.03.185 STREET NAME ALTERATIONS

A. Generally

A street name alteration may be proposed by petition or by a government agency. The petition or proposal shall be submitted to the department. The department shall reject any street name alteration that does not conform to the standards of section 21.08.030, *Design Standards*, and any applicable regulations. The criteria established in AMC 3.97.025 for honorary renaming shall apply.

B. Procedure

1. Petition for Alteration

a. A petition for street name alteration shall include:

- i. The existing street name;
- ii. The proposed street name;
- iii. Signatures of 51 percent of the owners of property fronting the street, and the legal description of each signatory's property; and
- iv. A map showing the location of the subject street.

b. The department shall determine whether a petition conforms to subsection 1.a. above. For the purposes of this section, the person listed on the current municipal property tax rolls as the owner of a lot or parcel shall be presumed to be the present owner of the lot or parcel.

2. Government Agency Proposal for Alteration

A proposal for street name alteration by a government agency shall include the existing street name, an explanation of the need for the street name alteration, and a map showing the location of the subject street. The department shall work with the owners of property fronting the street to determine a proposed new street name.

3. Public Notice

Notice shall be provided in accordance with section 21.03.020H.

4. Departmental Review

The director shall review each petition/proposal and provide a recommendation to approve or disapprove the alteration and the reasons therefore.

5. Action by Mayor

The recommendation of the director shall be submitted to the mayor. The mayor shall issue an executive order either approving or disapproving the alteration. The municipal clerk shall mail notice of the issuance of the executive order to all owners and residents of property fronting on the subject street, and to the person who submitted the petition/proposal for street name alteration. The notice shall include the procedure for protesting the executive order under subsection B.6. below.

6. Protests

- a. A protest may be filed at the municipal clerk's office within 30 days of the date the municipal clerk mails notice of the executive order. Absent a protest, the executive order shall become effective at the end of the 30 day protest period. If a protest is filed, the executive order shall be suspended pending the resolution of the protest in accordance with this subsection.
- b. Upon the timely filing of a protest petition signed by 33 percent of the owners of property fronting on the subject street protesting the issuance of an executive order under subsection B.5. above, the municipal clerk shall schedule a p
- c. The municipal clerk shall notify all owners and residents of property fronting on the subject street, and, in the case of a duplicate street name, all owners of property fronting on the unaffected street, of the public hearing not less than 14 days before the hearing.
- d. The question before the assembly shall be whether or not to ratify the executive order. The executive order shall become effective upon the passage of a resolution of ratification. If a resolution of ratification fails to pass, the executive order shall be void.

(AO 2015-131, 1-12-16; AO 2020-38, 4-28-20)

21.03.190 STREET AND TRAIL REVIEW

A. Purpose

Streets are a significant investment in the municipality's infrastructure and establish long-term land use impacts on nearby properties and the community at large. Streets and trails are not only utilitarian, but also add lasting value to the community and convey the image of the municipality to all users. These important parts of the municipality's fabric benefit by oversight and concurrence in the design decisions by citizen bodies that are represented by the planning and zoning commission and the urban design commission. All transportation projects are required to identify functional and design issues early in the process and include public input at various stages of the project. In addition, projects meeting certain thresholds are required to include the planning and zoning commission and urban design commission in the review and approval process.

B. Street Review

1. Applicability and Overview

All MOA transportation projects are required to follow *A Strategy for Developing Context Sensitive Transportation Projects*. New construction and reconstruction of street and intersection projects involving streets of collector classification or greater in the *Official Streets and Highways Plan* are required to follow a review process by the planning and zoning commission, as indicated below and in table 21.03-4. The stages are:

- a. The concept report or equivalent, distributed to the planning and zoning commission as an information item;
- b. The draft design study report, reviewed by the planning and zoning commission; and

- c. The plans in hand design drawings, reviewed by the urban design commission.

TABLE 21.03-4: STREET AND INTERSECTION PROJECT REVIEW		
REVIEW	REVIEW BODY	PRIMARY DECISION
Concept Report	Project Management Team	Issue identification, "go, no-go" decision
Draft Design Study Report	Planning and Zoning Commission	Alternatives development, evaluation and screening criteria, alternative decision
Plans in Hand Design Drawings	Urban Design Commission	Approval of plans at 65 percent stage, including landscaping "theme"

2. Procedure for Design Study Report and Plans in Hand Review

- a. **Pre-Application Conference**
 The project management team shall request a pre-application conference with the director, in accordance with subsection 21.03.020B.
- b. **Community Meeting**
 Public outreach is an essential part of context-sensitive solutions (CSS), and is expected to have been conducted prior to submitting an application. Depending on the project, a community meeting may also be held at the application stage; if so, it shall be in accordance with subsection 21.03.020C.
- c. **Application Submittal**
 Applications shall contain the information specified in *A Strategy for Developing Context Sensitive Transportation Projects* and the information specified on the application form for a Context Sensitive Solutions Transportation Project Site Plan Review.
- 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.
- f. **Commission Review**
 A public hearing at the draft design study report and plans in hand design drawings phases will be held at the discretion of the planning and zoning commission. The planning and zoning commission will review and act to approve, approve with conditions, or return the application to the project management team for additional work. Concerns and conditions raised by the commission shall be specifically addressed in subsequent submittals.

3. Concept Report

The concept report shall be distributed to the planning and zoning commission as an information item. The commission shall take no formal action on the report.

4. Draft Design Study Report Review

a. The planning and zoning commission shall review the draft design study report or equivalent document, for all applicable street projects, and shall issue a decision. A public hearing is not required but may be held at the commission's discretion.

b. As applicable, the commission's review of the project draft design study report shall include but not be limited to:

- i.** Existing conditions, including but not limited to traffic volumes;
- ii.** Design standards and criteria, with specific attention to any requests for variances from the criteria;
- iii.** Alternatives identification, evaluation, and recommended alternative;
- iv.** Compliance with this title;
- v.** Long-term impact on existing and projected land uses in the vicinity;
- vi.** Short-term and long-term impact of property acquisition for right-of-way;
- vii.** Impacts on utilities and other public infrastructure, including undergrounding of overhead utilities;
- viii.** Street illumination;
- ix.** Maintenance considerations;
- x.** Environmental constraints;
- xi.** Pedestrian and other non-motorized access;
- xii.** Public involvement summary; and
- xiii.** Cost estimate.

c. Decisions may be appealed to the board of adjustment pursuant to subsection 21.03.050A.

5. Plans in Hand Design Drawings Review

a. The urban design commission shall review and approve all landscaping and streetscape and pedestrian facilities for streets of collector classification or greater in the Official Streets and Highways Plan.

b. The urban design commission shall approve, approve with conditions, or reject the landscaping, streetscape, and pedestrian design plans at a stage no greater than 65 percent designed, for all applicable street projects. A public hearing is not required but may be held at the commission's discretion.

c. As applicable, the commission's review of the plans in hand design drawings shall include but not be limited to:

- i.** Compliance with this title;

- ii. Context of the area and the long-term impact on existing and projected adjacent land uses;
- iii. Initial cost of materials including installation;
- iv. Long-term costs associated with operation and maintenance;
- v. Adherence to a design theme established through local area plans or prior public improvements;
- vi. Effectiveness in meeting community design goals; and
- vii. Accommodation of pedestrians and non-motorized users.

6. Conformance with Recommendations

No agency may proceed with a project that does not conform to the applicable commission's decisions under this section, unless the agency furnishes the commission and the assembly a written statement of the reasons for its decision to proceed, at least 30 days before implementing the decision.

C. Trail Review

1. Purpose

Trails are a basic part of the infrastructure of the municipality. They are used for transportation, for recreation and leisure, and also provide aesthetic and psychological benefits. Significant additions or revisions to the municipality's trail network benefit by oversight and concurrence in design decisions by the urban design commission.

2. Applicability

a. This section applies to new construction and reconstruction of the following types of trails:

- i. Major multi-use trails that extend between multiple neighborhoods, such as the Chester and Campbell Creek Trails, the Ship Creek Trail, and the Coastal Trail.
- ii. Trails over one-half mile in length in parks classified by the *Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan* as community use area, special use area, or natural resource use area; or in parks classified by the *Anchorage Park, Greenbelt and Recreation Facility Plan Volume 2: "Eagle River-Chugiak-Eklutna"* as community, large urban, or regional parks.
- iii. Trails over one-half mile in length along streams, or connecting subdivisions or other developments.
- iv. Trails internal to parks and schools shall also be reviewed by the appropriate park board and/or the school district.

b. Notwithstanding the criteria of 2.a. above, the director may exempt new trails or trail reconstruction projects from this section if the director finds, in writing, that the project is minor in scope and not likely to cause impacts on surrounding properties and neighborhoods. The director may also require new trails or trail reconstruction projects that do not meet the criteria of 2.a. above to be reviewed in accordance with this section, if the trail project is likely to create significant public interest, or cause impacts on surrounding properties and neighborhoods.

3. Review and Action

a. ***Pre-Application Conference***

The project management team shall request a pre-application conference with the direction, in accordance with subsection 21.03.020B.

b. Application Submittal

Applications for trail review shall contain the information specified on the application form for A Context Sensitive Solutions Transportation Project Site Plan Review.

c. Public Notice

Notice shall be provided in accordance with section 21.03.020H.

d. Department Review

The department shall review each proposed application 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.

e. Urban Design Commission Action

The urban design commission shall hold a public hearing on the proposed application and act to approve, approve with conditions, or reject the application.

4. Appeals

Decisions may be appealed to the planning and zoning commission.

5. Trails As Part of Subdivision Development or Conditional Use

Only when a trail is to be constructed concurrently with a subdivision development or conditional use shall the trail review requirement of this section be the responsibility of the planning and zoning commission.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2021-89(S), 2-15-2022)

21.03.200 SUBDIVISIONS

A. Purpose

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

B. Applicability

1. General

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

2. Abbreviated Plat

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

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

- i. Result in an increase in the permitted density of residential units within the area being subdivided or resubdivided, unless the platting officer issues a written determination that a public hearing is not warranted.
 - 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.
- b. The subdivision of a single tract, parcel, or lot into no more than three tracts, eight lots, or eight unit lots (see subsection 21.08.070E.), provided that the subdivision does not:
- i. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
 - ii. Deny adequate access to and from all lots or tracts created by the subdivision or those adjacent to it.
 - iii. Divide a tract, parcel or lot:
 - (A) Created within the previous 48 months (except when considering unit lot subdivisions under AMC 21.08.070E.) pursuant to the approval of a preliminary plat under this section;
 - (B) Contiguous to or having an owner either in an individual capacity or as an owner of a corporation, partnership, or other legal entity of a preliminary plat approved within the previous 48 months; or
 - (C) That is 10 acres or more in the R-6, R-7, R-8, R-9, and R-10 zoning districts or that is governed by AO 84-21 (G-5 areawide rezoning).
- c. Vacations and relocations under section 21.03.230C.1.
- d. Subdivision of a cemetery into burial plots.
- e. A plat required by section 21.03.080F. for approval of a conditional use, or section 21.03.180F. for approval of a site plan.
- f. A plat depicting the creation of two attached single-family lots.

3. Subdivision Approval is Prerequisite to Other Approvals

- a. No building permit, land use permit, certificate of zoning compliance, or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded with the state of Alaska, until all required dedications of land have been made, and all required improvements have been installed in accordance with the procedures and requirements of this section, or an approved subdivision agreement is in place pursuant to section 21.08.060, *Subdivision Agreements*.

- b. The municipality shall not accept or maintain any street, and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a plat for the subdivision has been approved and recorded in accordance with the requirements set forth in this section.

4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat

Any person who transfers or sells any land located within the municipality by reference to a plat that has not been approved by the municipality and recorded by the state of Alaska shall be guilty of a violation of this title. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The municipality also may enjoin such transfer or sale by filing an action for an injunction.

5. Existing Lots of Record

No provision of chapter 21.08, *Subdivision Standards*, applies to any lot of record in a subdivision legally created and filed before the effective date of this title, 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

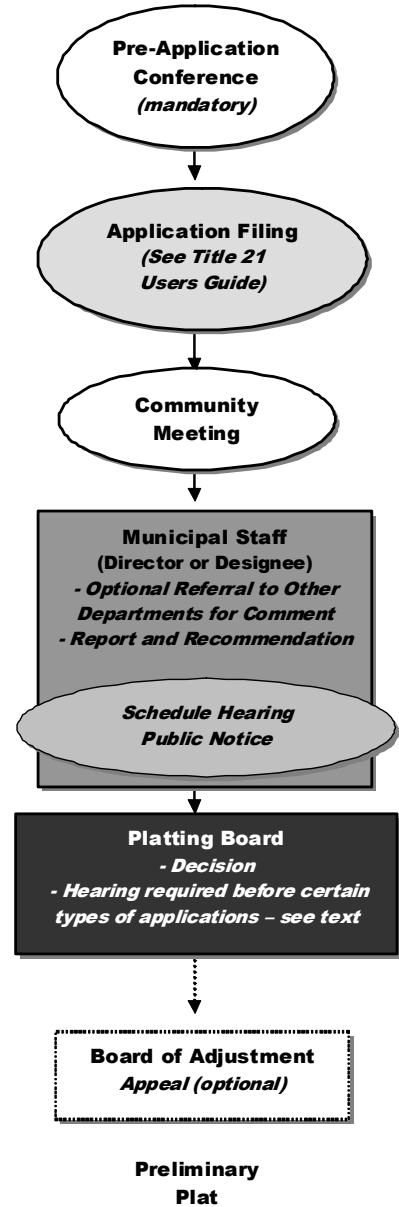
Before filing an application for a new subdivision or a modification of an already-approved subdivision, the applicant shall request a pre-application conference with the platting officer, in accordance with subsection 21.03.020B.

3. Community Meeting

A community 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 be submitted to the platting officer on a form provided by the department and shall contain the information specified on the application form.



- 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*

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

c. *Referral to Other Agency*

If the platting authority finds that:

- i. It cannot determine whether a preliminary plat conforms to the approval criteria of subsection C.9. below, because a specific controlling land use, public facility, or other public policy issue has not been resolved; and
- ii. An official board, commission or legislative body of the municipality or another government has been identified as being responsible for resolving that issue;

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

d. *Public Hearing*

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

- i. Approval of a preliminary plat, except applications allowed to use the abbreviated plat procedure;
- ii. Approval of a final plat that differs from the preliminary plat (see section 21.03.200C.8.b.);
- iii. Modification or deletion of a condition of plat approval;
- iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision Standards*; and

- v. Vacation of dedicated right-of-way; BLM and section line easements; or platted landscape, drainage, slope, or protective well radii easements.
- e. **Approval Period; Time Extensions**
 - i. Notwithstanding any subsequent change in the subdivision regulations, zoning regulations, and zoning districts, the approval of the preliminary plat shall be effective:
 - (A) For at least 24 months and up to 60 months from the date of approval, when it pertains to a development of no less than 10 acres and includes a phasing plan. The length of the approval period shall be based upon the platting board's evaluation of the size, complexity, and phasing elements of the development.
 - (B) For 24 months from the date of approval when it pertains to a development of less than 10 acres or does not include a phasing plan.
 - 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 platting officer 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. Notwithstanding subsection e.iii. above, preliminary plats that include a phasing plan and a full layout plan may be approved for up to 60 months, with the option of one 60 month extension by the platting board (on the consent agenda) and an additional 60 month extension by the platting board (with a public hearing in accordance with subsection e.iv. above). Such extensions 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.
- 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*.
- iii. The following procedure shall be followed for the final plat:
 - (A) The final plat shall be submitted to the platting officer for examination as to compliance with all terms of the preliminary plat as approved by the platting authority. If all conditions have been met, a statement to that effect, appearing on the final plat, shall be signed by the platting authority. The final plat shall not be signed until the documents described in paragraph a.iv. and a.v. below have been received.
 - (B) Upon acceptance of the final plat, the department shall forward the final plat to the public works department for final checking and inspection before final approval is given. If requested, a subdivision survey shall be submitted to the public works department with a complete set of field and computation notes showing the original or reestablished corners of the plat and of lots within the plat. Traverse sheets and work sheets showing the closure within the allowable limits of error of the exterior boundaries of each irregular block and lot of the subdivision may also be required. Final approval by the public works department shall be indicated by a statement appearing on the plat.
- iv. Final approval by the platting board shall be dependent upon receipt of the following material:
 - (A) A statement from the development services department stating that all conditions imposed by the department on the preliminary plat and approved by the platting board have been met. This approval by the development services department shall not affect any subsequent requirements relating to sewage disposal and water supply as they apply to any lots within the plat.
 - (B) A certificate from the tax collecting official or a note on the face of the plat stating that all municipal real property taxes levied against the property are paid in full, or, if approval is sought between January 1 and the tax due date, that there is on deposit with the chief fiscal officer an amount sufficient to pay estimated real property tax for the current year.
 - (C) A certificate to plat showing the legal and equitable owners, including mortgagees, contract purchasers and fee owners, of the land to be platted, plus all grants, reservations, covenants, deed

restrictions, and easements of record which may condition the use of the property.

- v. If the subdivision is to be served by a community water or sewer system, the development services department may require the subdivider to provide the following before the platting board finally approves the plat:
 - (A) Any approvals or certificates required by the state departments of environmental conservation and natural resources.
 - (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.
 - (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.
- 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.

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.

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 AO 2015-94 and by direction from the Municipal surveyor.

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*.

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.

9. Approval Criteria

The platting board may approve a preliminary or final plat only if it finds that the plat conforms to the applicable dimensional standards and measurements, chapters 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
- k. Furthers the goals and policies of the comprehensive plan and conforms to the comprehensive plan in the manner required by section 21.01.080, *Comprehensive Plan*.

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 shall be submitted to the platting officer on a form provided by the department and shall contain the information specified on the application form.

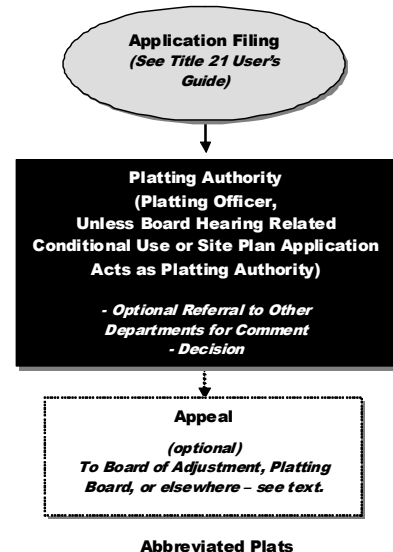
3. Public Notice

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

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.

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.

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*.

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*.

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.

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.

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.

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.

E. Commercial Tract Plats

1. Applicability

A commercial tract may be created and divided into fragment lots in order to facilitate construction of commercial developments requiring multiple phases of construction. Designation of commercial tracts shall be allowed only in the B-3, RO, DT, I-1, I-2, PCD, MC, MI, GC-1 through GC-10, GI-1, GI-2, GRST-1, and GRST-2 zoning districts.

2. Platting Authority

The planning and zoning commission or the urban design commission shall be the platting authority for a commercial tract whose site plan includes a large commercial establishment (see section 21.03.180C. for applicable commission). The planning and zoning commission shall be the platting authority for a commercial tract whose site plan includes

a mixed-use development. The platting board shall be the platting authority for all other commercial tracts.

3. Review, Approval, and Modification of Commercial Tract Plats

a. Application Submittal

Applications for a commercial tract plat shall be submitted to the platting officer on a form provided by the department and shall contain the information specified on the application form. An application for approval of a commercial tract shall be signed by the owners of the property involved.

b. Action by Platting Authority

i. The platting authority shall act upon the application for approval of a commercial tract whose site plan includes a large commercial establishment as part of the major site plan review for the large commercial establishment under subsection 21.03.180C.

ii. Except as provided in E.3.b.i. above, the platting authority shall act upon the application for commercial tract approval following the review and approval procedures of a preliminary plat in accordance with subsection 21.03.200C.7.

c. Recording of Site Plan

Upon approval of a commercial tract under subsection E.3.b. above, the platting officer shall, after notice to the petitioner, record the commercial tract site plan as approved, together with any declarations, covenants, and restrictions, with the district recorder's office.

d. Conformance with Site Plan

It shall be unlawful for any person to construct, erect, or maintain any structure, building, fence, or improvement, including landscaping, parking, and other facilities, on property designated as a commercial tract, unless such improvements are constructed or reconstructed in a manner consistent with the approved commercial tract site plan.

e. Alteration of Boundaries

The process for amending or altering the boundaries of an approved commercial tract shall be the same process as that of the original approval of the commercial tract plat.

f. Amendment of Site Plan

Any amendment or alteration of an approved commercial tract site plan shall be made only upon approval of the platting authority as provided in this section.

4. Division of Tract

The owner of a commercial tract may divide the tract into fragment lots provided that such division is consistent with the approved commercial tract site plan and recorded declarations, covenants, and restrictions applicable to the commercial tract. Any property description used to divide an area of the commercial tract into a fragment lot shall not be considered a lot or tract under the terms of this title or title 23, but shall be otherwise a lawful lot or tract. Any fragment lot created under this section shall contain the minimum area, width, and depth otherwise required for lots in the zoning district in which the fragment lot is located before it can be removed from the commercial tract. Otherwise a fragment lot is exempt from the minimum dimensional requirements of the zoning district.

F. Right-of-Way Acquisition Plat

1. Generally

A plat for a subdivision created by a government agency's acquisition of a street or trail right-of-way is subject to approval under this section and is not subject to any other approval procedure for plats under this title.

2. Application Submittal

Applications for a right-of-way acquisition plat shall be submitted to the platting officer on a form provided by the department and shall contain the information specified on the application form.

3. Applicability of Requirements

- a. A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.
- b. Survey requirements for a right-of-way acquisition plat shall be established by agreement between the municipal surveyor and the government agency applying for plat approval, or, if there is no such agreement, by the provisions of this title.

4. Action

a. *Platting Authority*

The platting officer shall act as the platting authority unless the government agency applying for plat approval requests a public hearing before the platting board.

b. *Duration of Approval*

The preliminary approval of the right-of-way acquisition plat shall be for a period of 60 months; provided, however, that the platting officer may grant an extension of time for filing the final plat upon a finding that it is in the public interest to do so.

c. *Appeals*

All decisions of the platting officer under this section shall be final unless appealed to the platting board within 15 days. An appeal under this subsection shall be treated as an application for preliminary plat approval pursuant to section 21.03.200C.

5. Requirements for Final Plat

Requirements for final right-of-way acquisition plats shall be established by agreement between the director and the government agency applying for plat approval, or, if there is no such agreement, by the provisions of this title.

G. Modification or Removal of Plat Notes

1. Purpose

This section sets forth a process by which the platting board may modify or remove plat notes from recorded plats.

2. Initiation

Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of land encumbered by the plat note. If the applicable plat note encumbers more than one lot, the owners of all encumbered lots shall be a party to the application.

3. Application

Applications for modifying or removing a plat note(s) shall be submitted to the platting officer on a form provided by the department and shall be accompanied by the information specified on the application form.

4. Public Notice

Notice shall be provided in accordance with section 21.03.020H.

5. **Departmental Review**
The department shall review the proposed modification or removal of a plat note(s) in light of the approval criteria of subsection G.9. below and distribute to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the platting board.
6. **Action by the Platting Board**
The platting board shall hold a public hearing on the proposed application and act to approve, approve with alterations, or deny the proposed modification or removal of a plat note(s), based on the approval criteria of subsection G.9. below.
7. **Recordation**
Once approved by the platting board, a plat with modified or deleted plat notes shall be re-recorded in accordance with the procedures of the district recorder's office.
8. **Appeal**
Decisions on modifying or removing a plat note(s) may be appealed to the board of adjustment in accordance with subsection 21.03.050A.
9. **Approval Criteria**
Plat note modifications or deletions may be approved if the platting board finds that all of the following approval criteria have been met:
 - a. Conditions that required the plat note(s) on the original plat have changed and the need for the plat note has been negated;
 - b. Modification or removal of the plat note(s) will not have a negative impact on adjacent or nearby properties; and
 - c. Despite modification or removal of the plat note(s), the plat continues to meet the approval criteria of subsection 21.03.200C.9.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2017-75, 5-9-2017; AO 2020-38, 4-28-20; AO 2021-89(S), 2-15-2022)

21.03.210 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.

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.

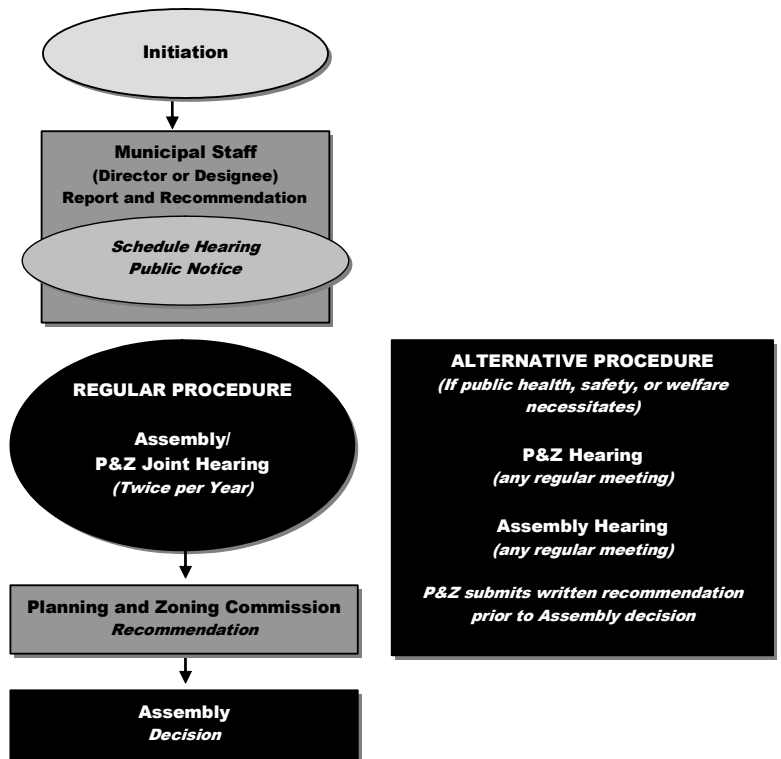
4. Review by Other Boards or Commissions

- 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 of Amendments

- a. Notice shall be provided in accordance with section 21.03.020H.
- b. Title 21 text amendments to be considered by the planning and zoning commission shall be available for public review at least 21 days in advance of the public hearing.

c. If, the director determines that a technical amendment to title 21 is needed to address conflicting provisions, inconsistencies, or unintended consequences associated with the Title 21 Rewrite Project (2002-2012), the director may forward a corrective amendment to the assembly, which may adopt the amendment without planning and zoning commission review; provided, however, that the director shall notify the commission at the time the proposed amendment is submitted to the assembly, so that the commission can forward its opinion on the proposed change to the assembly for consideration. All other amendments shall be processed through the planning and zoning commission for review and recommendation to the assembly.



Amendments to Text of Title 21

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, 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.

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.

(AO 2012-124(S), 2-26-13; AO 2016-136, 11-15-16; AO 2019-58. 5-7-19)

21.03.220 USE CLASSIFICATION REQUESTS

A. Purpose and Applicability

1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*, section 21.09.050, *Use Regulations* (Girdwood), section 21.10.050, *Use Regulations* (Chugiak-Eagle River), and section 21.11.050, *Use Regulations* (Downtown), 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.

B. Procedures for Use Classification Request

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

1. Application Submittal and Action

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

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

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

C. Standards for Review

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

1. The primary activity of the establishment and its relationship to existing use categories and use types. The primary activity may be the principal product or group of products produced or distributed, or services rendered. It may be the share of production costs, capital investment, revenue, shipments, or employment, if evaluating the relative significance of multiple activities.
2. The volume and type of sales (retail or wholesale) on the premises, and the size and type of items sold and nature of inventory on the premises.
3. Any processing done on the premises, including assembly, manufacturing, final production, warehousing, shipping, and distribution.
4. Any dangerous, hazardous, toxic, or explosive materials used in the processing on the premises.
5. The nature and location of storage and outdoor display of merchandise (enclosed, open, inside or outside the principal building); and predominant types of items stored (such as business vehicles, work-in-process, inventory and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders).
6. The type, size, height, and nature of buildings and structures.
7. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts.
8. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes, and whether trip purposes can be shared by other uses on the site.
9. Parking provided, turnover and generation, ratio of the number of spaces per unit area or activity, and the potential for shared parking with other uses.
10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes.
11. Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities.
12. The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

D. Effects of Findings by the Director

1. Typical Uses: Amendment to this Title

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

2. Atypical Uses: Determination Binding

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

E. Official Record of Use Classification Determinations

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

(AO 2012-124(S), 2-26-13; AO 2020-38, 4-28-20; AO 2024-24, 4-23-24)

21.03.230 VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS

A. Authority

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

B. Application Submittal

Applications for vacation requests shall be submitted to the platting officer on a form provided by the department and shall be accompanied by the information specified on the application form.

C. Decision-Making Responsibilities for Vacations

1. The platting officer is the platting authority for applications to vacate the following platted interests:
 - a. Drainage easements granted under section 21.08.050L.
 - b. Zero lot line maintenance easements.
 - c. Public utility easements.
 - d. Private easements, but only upon the written concurrence of the beneficiaries.
 - e. Relocation of any of the above-described interests.
2. The platting board is the platting authority for all other applications to vacate a dedicated public area.

D. Action

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

E. Approval Period

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

F. Appeals

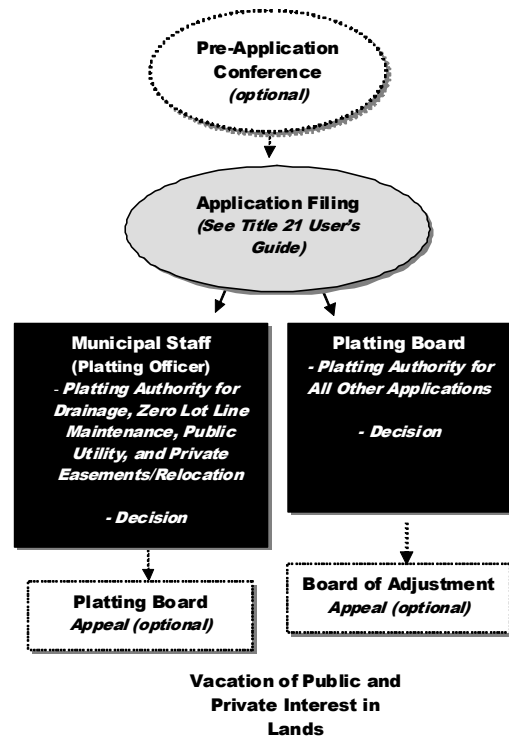
Appeals of the platting officer's decision on a vacation under his or her jurisdiction shall be treated as an application for preliminary plat approval pursuant to section 21.03.200C. Appeals of the platting board's decision on a vacation under its jurisdiction shall be to the board of adjustment.

G. Title to Vacated Area

1. The title to the street or other public right-of-way vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that, if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street that lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the municipality.

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

3. The provisions of paragraph G.1. of this section notwithstanding, the platting board may determine that all or a portion of the area vacated should be devoted to another public purpose and, if so, title to the area vacated and held for another public purpose does not vest as provided in paragraph G.1. but remains in the municipality.



(AO 2012-124(S), 2-26-13; AO 2021-89(S), 2-15-2022)

21.03.240 VARIANCES

A. Purpose and Scope

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

B. Decision-Making Bodies for Variance Requests

1. The planning and zoning commission shall be authorized to review and decide all requests for variances to standards of the following sections:
 - a. Bulk and maximum lot coverage regulations in 21.11.060B. (Table 21.11-4) and building tower dimensions regulations in 21.11.060C. (Table 21.11-5) for all B-2A development sites; and
 - b. Bulk and maximum lot coverage regulations in 21.11.060B. (Table 21.11-4) and building tower dimensions regulations in 21.11.060C. (Table 21.11-5) for B-2B and B-2C development sites larger than 26,000 square feet.
2. The platting authority shall be authorized to review and decide all requests for variances to standards of the following sections:
 - a. Subsection 21.07.020C., *Steep Slope Development*;
 - b. Section 21.07.060, *Transportation and Connectivity*;
 - c. Chapter 21.08, *Subdivision Standards*;
 - d. Subsection 21.09.070C., *Hazard Areas*;
 - e. Subsection 21.09.070F., *Transportation and Connectivity*;
 - f. Subsection 21.09.070G.1., *Street and Trail Lighting Standards*;
 - g. Subsection 21.09.070H., *Pedestrian Circulation*;
 - h. Subsection 21.10.070B., *Transportation and Connectivity*; and
 - i. Section 21.10.080, *Subdivision Standards*.
3. Requests for variances from the airport height regulations set forth in section 21.06.030D.9. shall be referred to the Federal Aviation Administration.
4. The urban design commission, and planning and zoning commission when the variance is accompanied by a conditional use or major site plan review, shall be authorized to review and decide all requests for variances to standards of the following sections:
 - a. District-specific standards of chapter 21.04, *Zoning Districts*, section 21.09.040, *Zoning Districts* (Girdwood), and section 21.10.040, *Zoning Districts* (Chugiak-Eagle River);

- b. 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* (Girdwood), and section 21.10.050, *Use Regulations*;
 - c. Chapter 21.07, *Development and Design Standards* (except subsections 21.07.020B., *Watercourse, Water Body, and Wetland Protection*, 21.07.020C., *Steep Slope Development*, 21.07.050, *Utility Distribution Facilities*, and 21.07.060, *Transportation and Connectivity*);
 - d. Those subsections of section 21.09.070 that are not reserved 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* (Chugiak-Eagle River) (except subsection 21.10.070B., *Transportation and Connectivity*);
 - g. Section 21.11.070, *Development and Design Standards* (Downtown); and
 - h. Chapter 21.12, *Signs*, including the maximum sign area, the maximum sign height, the location of the sign, and the number of signs on the parcel.
5. The zoning board of examiners and appeals shall be authorized to review and decide variance requests from:
- a. Subsection 21.05.040K., *Telecommunication Facilities*;
 - b. Chapter 21.06, *Dimensional Standards and Measurements* (except subsection 21.06.030D.9., *Airport Height Regulations*);
 - c. Subsection 21.07.020B., *Watercourse, Water Body, and Wetland Protection*;
 - d. Subsection 21.07.050, *Utility Distribution Facilities*;
 - e. Section 21.09.060, *Dimensional Standards*;
 - f. Subsection 21.09.070J., *Utilities and Utility Equipment Standards*;
 - g. Section 21.10.060, *Dimensional Standards*;
 - h. Section 21.11.060, *Dimensional Standards for Sites and Buildings* (Downtown), except 21.11.060C. in the B-2A district, and except 21.11.060C. for development sites larger than 26,000 square feet in the B-2B and B-2C district; and
 - i. Chapter 21.13, *Nonconformities*.
- The zoning board may only grant variances from dimensional standards.
6. No variance may be granted from the definitions set forth in chapter 21.15.



Variances

C. Application Submittal

Applications for a variance shall be submitted to the director on a form provided by the department and shall be accompanied by the information specified on the application form.

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 resolution, accompanied by written findings of fact that the variance meets or does not meet each of the applicable criteria set forth in subsection G., stating the reasons for such findings. A concurring vote of a majority of the fully constituted membership of the entity, minus those excused by conflicts of interest, shall be required to grant a variance.
4. Under no circumstances shall the decision-making body grant a variance to allow a use not permitted in the zoning district containing the property for which the variance is sought.
5. Under no circumstances shall the decision-making body grant a variance from any written conditions attached by another decision-making body to the approval of a conditional use, subdivision plat, site plan, or rezone (special limitation).

G. Approval Criteria

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

1. **Approval Criteria for Variances Decided by the Urban Design Commission or the Planning and Zoning Commission**
 - a. The proposed alternative achieves the intent of the subject design standard to the same or better degree than the subject standard;
 - b. The proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;
 - c. The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard;
 - d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;

- e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;
- f. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation; and
- g. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality.
- h. In evaluating the request for a variance from 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.

2. Approval Criteria for Variances Decided by the Zoning Board of Examiners and Appeals

- a. There exist exceptional or extraordinary physical circumstances of the subject property including, but not limited to, streams, wetlands, or slope, and those circumstances are not applicable to other land in the same zoning district;
- b. Because of these physical circumstances, the strict application of the code creates an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance;
- c. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience;
- d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;
- e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;
- f. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality;
- g. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation; and
- h. The variance granted is the minimum variance that will make possible a reasonable use of the land.

3. Approval Criteria for Variances Decided by the Platting Authority

- a. There are special circumstances or conditions affecting the property such that the strict application of the provisions of the subdivision regulations would clearly be impractical, unreasonable, or undesirable to the general public;
- b. The granting of the specific variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated;
- c. Such variance will not have the effect of nullifying the intent and purpose of the subdivision regulations or the comprehensive plan of the municipality; and

- d. Undue hardship would result from strict compliance with specific provisions or requirements of the subdivision regulations. The applicant may supplement the form with supporting documents.

4. Variances from Airport Height Regulations

The Federal Aviation Administration shall complete an airspace determination that concludes that the proposed variance would not create a hazard.

H. Lapse of Approval

Any variance granted shall become null and void if:

- 1. The variance is not exercised within one year of the date it is granted or as otherwise conditioned, or
- 2. Any building, structure, or characteristic of use permitted by variance is moved or altered so as to enlarge the variance or discontinue it.

I. Appeals

- 1. An appeal from a decision of the platting authority or the urban design commission shall be brought to the board of adjustment in accordance with sections 21.03.050A.
- 2. An appeal from a decision of the zoning board of examiners and appeals shall be brought in accordance with section 21.03.050D.

J. Administrative Variances

1. Process

a. Application Submittal

Applications for an administrative variance shall be submitted to the director on a form provided by the department and shall contain the information specified on the application form.

b. Notice

Notice shall be provided in accordance with section 21.03.020H.

c. Time For Approval

The director shall make a determination on an application within 45 days of submittal, and shall provide written findings of the decision. Notification of approval or denial shall be posted electronically on the department's municipal web site and furnished in writing to the applicant by mail or delivered by electronic means.

d. Appeals

If the request for an administrative variance is denied, the applicant may apply for a public hearing variance before the urban design commission under this section 21.03.240. Additionally, denial of requests for reasonable accommodation may be appealed by any person with standing to request reasonable accommodation under the Fair Housing Act, 42 U.S.C. § 3604(f).

2. Reasonable Accommodation

a. Intent

The intent of this section is to provide a procedure to allow persons with disabilities and assisted living providers to request reasonable accommodation from the department in accordance with 42 USC 3604(f)(3)(B).

b. Standards

In deciding to approve or deny an application, the department shall review the application and written comments addressing factors relevant to the request for

reasonable accommodation, including but not limited to, the extent to which the application demonstrates the following, as related to the particular request of the applicant:

- i. Whether the requested accommodation is implementing safety measures specific to the needs of the residents, including but not limited to safety measures in state law and regulation, and in municipal fire code adopted under title 23.
- ii. Whether the accommodation requested is advancing housing opportunities for disabled individuals in a residential community without jeopardizing residential aspects of the neighborhood.
- iii. Whether the requested accommodation is necessary to comply with the provisions of the federal Fair Housing Act.
- iv. External characteristics and impacts of the proposed accommodation, including without limitation appearance, projected contribution to traffic volumes and on-street parking within the neighborhood, available street lighting and sidewalks.
- v. Quantifiable risks to the health, safety, and quality of life of area residents and users.
- vi. Administrative and economic burden on the municipality, in either approval or denial of the variance.
- vii. Other factors deemed relevant to the applicant or the department in review of the application.

c. Conditions

In approving a variance, the department may impose reasonable conditions designed to address the standards in subsection J.2.b. or mitigate impacts created by the variance.

3. For Signs

The director may grant an administrative variance from the height restrictions and/or setback requirements for freestanding signs, provided:

- a. Special topographic circumstances exist that would result in a material impairment of visibility of a conforming sign from the adjacent roadway;
- b. There is no reasonable conforming alternative to the variance; and
- c. Any setback variance does not result in an encroachment into a public right-of-way.

4. For Large Domestic Animal Facility

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

5. For Refuse Receptacle Location and Screening

- a. The director shall seek and document comments from the applicable refuse service providers.
- b. Approval criteria for this administrative variance is listed in subsection 21.07.080G.2.h.

6. For Height Encroachments into Step-backs and Step-back Planes

The director may grant an administrative variance from height/bulk transition requirements including building height step-back planes or limitations on building elevation length in Chapter 21.06, provided:

- a. There exist physical circumstances of the subject property such as topography or exceptional lot configuration not shared by landowners in general;
- b. Because of these physical circumstances, the strict application of the height/bulk transition or step-back plane would create an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance;
- c. The hardship is not self-imposed, the special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience; and
- d. The administrative variance granted is the minimum deviation or encroachment necessary to address the hardship and development rights, and will cause the least interference possible with the intended solar access protections.

7. For Front Driveways on Multifamily and Townhouse Lots with Alleys.

Where a multifamily or townhouse development site is served by an alley and is within an area subject to the Urban Neighborhood Development Context Standards (21.07.010E.), the director and traffic engineer may grant an administrative variance from subsection 21.07.090H.9.b., *Alley Access Requirement*, provided:

- a. There exist physical circumstances of the subject property such as topography, absence of alley improvements, exceptional lot configuration not shared by landowners in general, or adjoining street traffic patterns, and the traffic engineer determines that alley improvement and/or vehicle access are not feasible or would create a traffic impact or safety hazard;
- b. Because of these physical circumstances, the strict application of the alley access requirement in 21.07.090H.9.b. would create an exceptional or undue hardship upon the property owner, and would deprive the owner of rights commonly enjoyed by other properties in the same zoning district;
- c. The hardship is not self-imposed, the conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience; and
- d. The administrative variance granted for additional driveway access shall be the minimum the traffic engineer determines is necessary to provide access for the development.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2015-36, 5-14-15; AO 2015-133(S), 2-23-16; AO 2017-55, 4-11-17; 2018-67(S-1), 10-9-18; AO 2020-38, 4-28-20; AO 2021-89(S), 2-15-2022; AO 2022-38, 4-12-22; 2022-36, 4-26-22; AO 2023-50, 7-11-23; AO 2024-24, 4-23-24)

21.03.250 VERIFICATION OF NONCONFORMING STATUS

A. Process

Owners of lots, uses, or structures that may not conform to the requirements of this title may request a verification of nonconforming status by filing an application with the director in accordance with this section. Owners of signs that do not conform to the requirements of this title shall comply with section 21.13.070, *Nonconforming Signs*.

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

B. Exceptions

Notwithstanding subsection A. above:

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

C. Appeals

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

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)