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## CHAPTER 21.01: GENERAL PROVISIONS

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### 21.01.010 TITLE AND EFFECTIVE DATE

This title shall be officially known as "Title 21, Land Use Planning, of the Anchorage Municipal Code of Ordinances." It also may be called "Title 21," the "Zoning Ordinance," or "the Land Use Ordinance," and is referred to throughout this document as "this title." This title shall become effective on [insert effective date].

### 21.01.020 AUTHORITY

This title is adopted pursuant to authority granted generally by the Alaska Constitution, the Alaska Statutes (A.S.), and the Municipal Charter, and specifically by:

- A. Alaska Constitution, Article X, Sect. 11 (Home rule powers);
- B. Municipal Charter, section 10.02(7) (Requires ordinances for land use controls);
- C. Municipal Charter, section 12.02 (Requires a planning commission); and
- D. A.S. 29.35.180(b) (Requires a home rule borough to provide for planning, platting, and land use regulation).

### 21.01.030 PURPOSE OF THIS TITLE

The purpose of this title is to implement the comprehensive plan in a manner which protects the public health, safety, welfare, and economic vitality by:

- A. Encouraging the efficient use of existing infrastructure and the available land supply in the municipality, including redevelopment of underutilized land;
- B. Promoting a balanced, diverse supply of affordable, quality housing located in safe and livable neighborhoods;
- C. Promoting a balanced supply of non-residential land uses that are compatible with adjacent land uses and have good access to transportation networks;
- D. Promoting well-planned development that creates a sense of place and reflects the municipality's unique northern setting, natural resources, and majestic surroundings;
- E. Providing appropriate development incentives to achieve an economically balanced and diverse community and to promote further economic development in the municipality;
- F. Conserving the value of buildings and land;
- G. Protecting the wide diversity of fish and wildlife habitats by minimizing the adverse impacts of land development on the natural environment;
- H. Protecting development and residents of the municipality from flooding, wildfires, seismic risks, and other hazards;
- I. Encouraging development of a sustainable and accessible system of recreational facilities, parks, trails, and natural open space that meets year-round neighborhood and community-wide needs;
- J. Promoting compact development in city centers and infill areas so as to create efficient travel patterns;

- K. Encouraging the retention of mature vegetation;
- L. Protecting and enhancing livable and distinctive neighborhoods;
- M. Facilitating the adequate and safe provision of transportation, water, sewage, drainage, schools, parks, and other public facilities; and
- N. Encouraging land and transportation development patterns that promote public health and safety and offer transportation choices.

#### **21.01.040 APPLICABILITY AND JURISDICTION**

##### **A. General**

The provisions of this title shall apply to all land, buildings, structures, and uses thereof located within the municipality, unless an exemption is provided by the terms of this title.

##### **B. Application to Governmental Units**

To the extent allowed by law, the provisions of this title shall apply to all land, buildings, structures, and uses owned by government agencies, including all municipal, state, and federal lands, within the corporate limits of the municipality. Where the provisions of this title do not apply to such land, buildings, structures, and uses, such agencies are encouraged to meet the provisions of this title.

##### **C. Compliance Required**

No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with this title. No lot of record that did not exist on the effective date of this title shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this title, unless allowed by section 21.01.090, *Transitional Provisions*.

#### **21.01.050 OFFICIAL ZONING MAP**

##### **A. Incorporation Into this Ordinance**

The official zoning map designates the location and boundaries of the various zone districts established in this title. It consists of a series of map pages adopted by ordinance and any subsequent amendments in accordance with this title. The official zoning map is incorporated herein by reference and referred to as the "zoning map" in this title. The zoning map shall be kept on file in the office of the department and is available for public inspection during normal business hours. The map shall be the final authority as to the current zoning status of lands, water areas, buildings, and other structures in the municipality.

##### **B. Changes to Official Zoning Map**

Changes made in zoning district boundaries or other matters portrayed on the official zoning map shall be made only in accordance with the provisions of section 21.03.160, *Rezoning (Zoning Map Amendments)*.

##### **C. Interpretation of District Boundaries**

In the case of any dispute regarding the zoning classification of property subject to this title, the official zoning map contained in the department shall control, or other official records as provided

below. The director shall use the rules set forth below to interpret the map. Appeals shall be made to the zoning board of examiners and appeals in accordance with section 21.03.040, *Appeals*.

1. Where the zoning map shows a zoning district boundary line located within or following a street or alley right-of-way, utility line right-of-way, or public use easement, the district boundary shall be considered to be in the center of the right-of-way or easement. If the actual location of such right-of-way, or easement, as indicated in a recorded legal description of such, varies slightly from the location shown on the zoning map, then the actual location shall control.
2. Where the zoning map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall control.
3. Where the zoning map shows a district boundary to coincide with a property line or municipal border, the legal property line or municipal border shall be considered to be the district boundary, unless otherwise indicated on the map.
4. Where the zoning map shows a district boundary to not coincide or approximately coincide with any street, alley, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the zoning map.
5. Where the zoning map shows a district boundary dividing an existing lot, each part of the lot shall be used in conformity with the standards established by this title for the zoning district in which that part is located.
6. Where the case record conflicts with the zoning map, the case record shall control. For example, if the zoning map shows a property to be zoned R-1, yet the case record shows that the property was actually zoned I-1, the case record would control and the map would be changed to reflect the case record. Any permits issued in reliance on the erroneous designation shall be considered valid under this title; however, the lot, structure, or use shall be considered nonconforming and governed by chapter 21.12, *Nonconformities*.

#### **21.01.060 CONFLICTING PROVISIONS**

##### **A. Conflict with Other Public Laws, Ordinances, Regulations, or Permits**

This title is intended to complement other municipal, state, and federal regulations that affect land use. This title is not intended to revoke or repeal any other public law, ordinance, regulation, or permit, except as expressly set forth in ordinance. However, where conditions, standards, or requirements imposed by any provision of this title are either more restrictive or less restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern.

##### **B. Conflict with Comprehensive Plan**

It is vital that the more specific design and development standards that are contained in title 21 and are intended to apply to individual development applications apply over the general goals and policies of the comprehensive plan where there may be a potential conflict when dealing with development applications. Where conditions, standards, or requirements imposed by any provision of this title are either more restrictive or less restrictive than any provision found in the comprehensive plan, the provision of this title shall govern.

**C. Conflict with Private Agreements**

This title is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this title are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this title shall govern. Nothing in this title shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this title. In no case shall the municipality be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

**21.01.070 SEVERABILITY**

- A. If any court of competent jurisdiction invalidates any provision of this title, then such judgment shall not affect the validity and continued enforcement of any other provision of this title.
- B. If any court of competent jurisdiction invalidates the application of any provision of this title, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.
- C. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

**21.01.080 COMPREHENSIVE PLAN**

**A. Purpose**

The purpose of the comprehensive plan is to set forth the goals, objectives, strategies, and policies governing land use development of the municipality. As adopted, this section and the documents incorporated in this section constitute the comprehensive plan of the municipality.

**B. Elements**

**1. Adopted Elements**

The comprehensive plan consists of the adopted elements identified in the following table, and which are incorporated in this chapter by reference. Plans or other elements that are not listed below are not official elements of the comprehensive plan, though they may be valid planning tools.

**TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS**

Area/Topic	Plan	Adoption Date [1]	Amendments
<b>Anchorage Bowl</b>	Anchorage 2020, Anchorage Bowl Comprehensive Plan	AO 00-119(S); 2-20-01	AO 02-119; 9-10-02
	Spenard Commercial District Development Strategy	AR 86-121; 6-17-86 AO 87-145; 12-15-87	
	Tudor Road Public Lands and Institutions Plan	AR 86-162; 9-9-86	
	Anchorage Central Business District Comprehensive Development Plan	AR 83-194(S); 9-13-83	
	Utility Corridor Plan	AO 90-13(S); 2-27-90	
	Section 36 Land Use Study (recommending Alternative 2)	AO-92-125; 11-10-92	
	The Ship Creek/Waterfront Land Use Plan (May 1991), including the Transportation Element	AO 91-88; 6-3-91	AIM 91-178

**TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS**

Area/Topic	Plan	Adoption Date [1]	Amendments
	Potter Valley Land Use Analysis	AO 99-144; 12-7-99	
	University-Medical District Plan	AO 03-129; 10-21-03	
<b>Turnagain Arm</b>	Turnagain Arm Comprehensive Plan	AO 87-22; 4-7-87	
	Girdwood Area Plan	AO 94-238(S); 2-28-95	AO 98-176; 11-24-98 AO 06-47; 4-11-06
	Crow Creek Neighborhood Land Use Plan	AO 06-47; 4-11-06	
	Glacier-Winner Creek Access Corridor Study Final Routing Report	AO 97-11; 2-4-97	
	Girdwood-Iditarod Trail Route Study	AR 97-84; 5-20-97	
	Girdwood Commercial Areas and Transportation Master Plan	AO 00-124(S); 2-20-01	
<b>Chugiak; Eagle River; Eklutna</b>	Chugiak-Eagle River Comprehensive Plan	AO 92-133; 1-12-93	AO 96-86; 6-25-96-- amended by Alternative 1 of HLB Parcel 1-085 Land Use Study AO 06-93(S-1); 12-12-06
	Eagle River Greenbelt Plan	AR 85-88; April 1985	
	Chugiak-Eagle River Long-Range Transportation Plan 2002 Update	AO 03-128; 9-23-03	
	Eagle River Central Business District Revitalization Plan	AO 03-74; 5-20-03	
<b>Environmental Quality</b>	Anchorage Coastal Zone Management Plan	AR 79-153; 8-28-79	AO 81-3; 3-3-81
	208 Areawide Water Quality Management Plan	AR-79-151; 7-31-79	AO 82-33(S); 4-20-82
	Eagle River PM-10 Control Plan	AR 90-30; 2-6-90	AR 91-197; 9-24-91
	Hillside Wastewater Management Plan	AO 82-52; 5-18-82	AO 85-167; 9-24-85 AO 85-168; 9-24-85 AO 93-203; 12-7-93 AO 97-64; 6-3-97 AO 98-78; 6-2-98 AO 98-90; 8-18-98 AO 99-51; 3-23-99 AO 01-141(S); 10-23-01 AO 04-150; 11-16-04
	1992 Air Quality Attainment Plan for Anchorage, Alaska	AR 92-279; 12-8-92	
	Anchorage Wetlands Management Plan	AO 82-33(S); 4-20-82	AO 84-16(SA); 2-28-84 AO 84-130(S); 8-14-84 AO 84-163; 7-31-84 AO 95-129; 3-12-96
<b>Transportation</b>	Street and Highway Landscape Plan	AO 81-180; 11-3-81	
	Areawide Trails Plan	AO 96-140; 4-8-97	
	Official Streets and Highways Plan	AO 79-10; 6-19-79	AO 83-200; 12-6-83 AO 84-255; 1-22-85 AO 86-132; 8-19-86 AO 96-97(S); 8-13-96 AO 97-85; 6-3-97 AO 00-122; 8-15-00 AO 05-115; 10-25-05
	Anchorage Long-Range Transportation Plan 2025	AO 05-115; 10-25-05	

**TABLE 21.01-1: COMPREHENSIVE PLAN ELEMENTS**

Area/Topic	Plan	Adoption Date [1]	Amendments
<b>Parks, Greenbelts, and Recreational Facilities</b>	Anchorage Bowl Park, Natural Resource, and Recreation Facility Plan	AO 05-122; 4-18-06	
	Areawide Library Facilities Plan	AR 84-83; 4-10-84	
	Updated Far North Bicentennial Park Plan	AR 85-87; 5-14-85	AO 02-165; 12-10-02
	Campbell Creek Park System Acquisition and Development Plan	GAAB Resolution No. R86-72	
	Rabbit Creek Greenbelt Plan	AR 87-16; 3-31-87	
	Chester Creek Greenbelt	AR 11-75; October 1975	

[1] AO 2000-119(S), at section 9, provides that elements of the comprehensive plan that were originally adopted by resolution are hereby ratified and confirmed, and shall be deemed to have been adopted on the date that they were adopted by resolution.

**2. New Elements**

Procedures for amending the comprehensive plan are set forth in section 21.03.070, *Comprehensive Plan Amendments*. That process may be used to amend existing elements of the plan or to adopt new plan elements, including, but not limited to:

- a. Plan elements that address new topic areas, such as, but not limited to, housing or public utilities;
- b. Neighborhood plans;
- c. Town center, district, or small-area plans; and
- d. Land use maps or residential intensity maps.

**C. Periodic Review**

The comprehensive plan shall be subject to periodic review in accordance with the procedure described in section 21.03.070, *Comprehensive Plan Amendments*.

**D. Implementation—Conformity to Plans**

The elements of the comprehensive plan shall be implemented as provided in this section and as provided in the remainder of this title. Zoning map amendments, land use approvals, and subdivisions shall conform to the comprehensive plan elements listed in this section. Where comprehensive plan elements conflict, the most recently adopted shall govern.

**21.01.090 TRANSITIONAL PROVISIONS**

The purpose of transitional provisions is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this title.

**A. Violations Continue**

Any violation of the previous title 21 ordinance shall continue to be a violation under this title and shall be subject to the penalties and enforcement set forth in chapter 21.13, *Enforcement*, unless the use, development, construction, or other activity complies with the provisions of this title.

**B. Uses, Characteristics of Use, Structures, and Lots Rendered Conforming**

A use, characteristic of use, structure, or lot not lawfully existing at the time of the adoption of this title is deemed lawful as of the effective date of this title, provided it conforms to all of the requirements of this title.

**C. Uses, Structures, and Lots Rendered Nonconforming**

1. When a lot is used for a purpose that was a lawful use before the effective date of this title, and this title no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by chapter 21.12, *Nonconformities*.
2. Buildings, structures, and lots that legally existed on the effective date of this title may become nonconforming, based on the provisions of chapter 21.12, *Nonconformities*.

**D. Processing of Applications Commenced or Approved Under Previous Ordinances**

**1. Pending Applications**

- a. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this title, shall, within twelve months of the date of acceptance for completeness, be reviewed in accordance with the provisions of the ordinance in effect on the date the application was deemed complete. However, in such cases, if the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this title. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- b. For multi-phase projects, this subsection shall apply only to those phases for which complete applications have been submitted for approval but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this title.
- c. An applicant with an approved pending application may waive review available under prior ordinances through a written letter to the director and request for review under this title.

**2. Preliminary Plats**

- a. Any complete preliminary plat application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this title, shall, within twelve months of the date of acceptance for completeness, be reviewed in accordance with the provisions of the ordinance in effect on the date the application was deemed complete. Subsequently, the final plat for such subdivision applications also shall be processed and reviewed according to the provisions of the ordinance applicable at the time of submission of the complete application for preliminary plat.
- b. An application for which preliminary approval of a plat was granted prior to the effective date of this title may be processed for a final decision in accordance with the preliminary approval, applicable terms of the ordinance in place at the time of preliminary approval, and any other approved permits and conditions,



even if the application does not comply with one or more requirements set forth in this title. Preliminary approvals granted under the previous title 21 may be extended no more than once, and for no longer than 24 months (12 months for abbreviated plats), pursuant to the extension procedures applicable under the previous ordinance.

**3. Approved Projects**

- a. Conditional use permits, subdivision plats, site plan approvals, grading permits, building permits, land use permits, sign permits, and variances, any of which are valid on [--- insert effective date] shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.
- b. Any building or development for which a building permit or land use permit was granted prior to the effective date of this title shall be permitted to proceed to construction even if such building or development does not conform to the provisions of this title.
- c. If the development for which the building permit or land use permit is issued prior to the effective date of this title fails to comply with the time frames for development established for the permit, including any approved extensions, the building or land use permit shall expire and future development shall be subject to the requirements of this title.

**4. Remanded Cases**

If the board of adjustment remands a case to another decision-making body, that body shall process the case under the rules applicable at the time the original complete application was submitted for approval, unless the applicant has waived review under previous ordinances pursuant to subsection D.1.c. above.

**E. Investment-Backed Expectations**

[RESERVED]