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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.

## 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. The word "director" means the director of the planning department or his or her designee.

### 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.

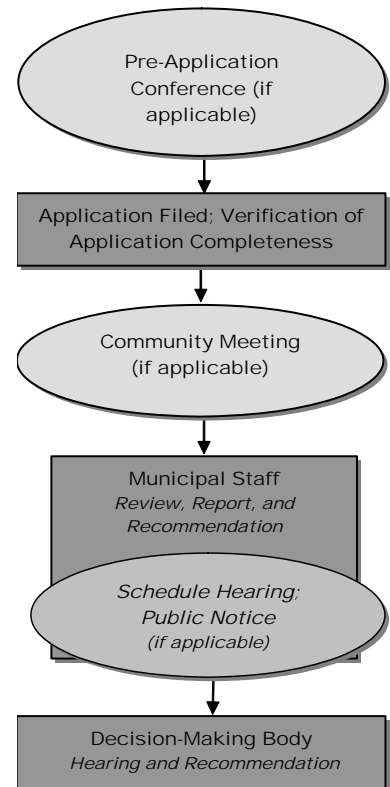
#### 2. Applicability

##### 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 Abbreviated Plats (section 21.03.200);
- iii. Conditional Uses (section 21.03.080);
- iv. Major Site Plan Review (section 21.03.180C);
- v. Public Facility Site Selection (section 21.03.140); and
- vi. Projects involving Class A or B wetlands.

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.



Common Procedures

- 1                   **b.     *Exception for Some Changes to Already-Approved Applications***  
2                   Pre-application conferences are not required for changes to already-approved  
3                   conditional use permits, major site plans, and subdivision plans if the following  
4                   conditions are met:
- 5                   i.       For non-residential development, the proposed increase in building  
6                   square footage is less than 25% of the approved building square  
7                   footage.
- 8                   ii.      For residential development, the proposed increase in the number of  
9                   units or lots is not more than 25% of the approved number of units or  
10                  lots.
- 11                  **c.     *Optional for All Other Applications***  
12                  A pre-application conference is optional prior to submittal of any other application  
13                  under this title not listed in subsection 2.a. above.
- 14                  **d.     *Waiver***  
15                  The director may waive the pre-application requirement if the director finds that  
16                  the projected size, complexity, anticipated impacts, or other factors associated  
17                  with the proposed development clearly, in his or her judgment, make a pre-  
18                  application conference unnecessary. The waiver shall be made in writing and  
19                  shall become a part of the case record for the application.
- 20                  **3.     Initiation of Pre-Application Conference**  
21                  The potential applicant shall request a pre-application conference, in the manner  
22                  prescribed in the user's guide, with the director. Prior to the pre-application conference,  
23                  the applicant shall provide to the director a description of the character, location, and  
24                  magnitude of the proposed development and any other supporting documents such as  
25                  maps, drawings, models, and the type of entitlement sought. It is the applicant's  
26                  responsibility to provide sufficiently detailed plans and descriptions of the proposal to  
27                  enable staff to make the informal recommendations discussed below.
- 28                  **4.     Pre-Application Conference Content**  
29                  **a.**       The director shall schedule a pre-application conference after receipt of a proper  
30                  request. At the conference, the applicant, the director, and any other persons the  
31                  director deems appropriate and available to attend shall discuss the proposed  
32                  development. Based upon the information provided by the applicant and the  
33                  provisions of this title, the parties should discuss in general the proposed  
34                  development and the applicable requirements and standards of this title.
- 35                  **b.**       The conference attendees shall discuss the desired development activities with  
36                  respect to the following items:
- 37                  i.       Applicability of municipality policies, plans, and requirements as they  
38                  apply to the proposed development.
- 39                  ii.      Appropriateness of the development with respect to the policies set forth  
40                  in the comprehensive plan and the regulations in this title.
- 41                  iii.     Need, if any, to prepare a subdivision plat.
- 42                  iv.     Any site plan considerations or requirements.

- 1 v. Any concerns or requirements related to the anticipated impact upon  
2 public rights-of-way and public improvements, and appropriate  
3 requirements to mitigate those impacts, including but not limited to traffic  
4 impact analyses.
- 5 vi. Any concerns related to neighborhood impacts, land use, landscaping  
6 concepts, and overall project design.
- 7 vii. Possible alternatives or modifications related to the proposed application.
- 8 viii. Procedures that will need to be completed to review and act on the  
9 proposed change.
- 10 c. A checklist of discussion items indicating topics discussed at the pre-application  
11 conference shall be mailed to the applicant within ten days of the conference.  
12 The checklist shall be considered proprietary information until an application has  
13 been submitted.

14 **5. Informal Review Comments Not Binding**

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

21 **6. Application Required Within Six Months**

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

27 **C. Authority to File Applications**

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

33 **D. Application Contents, Submittal Schedule, and Fees**

34 **1. Title 21 User's Guide**

35 The director shall compile the requirements for application contents, forms, fees, and the  
36 submittal and review schedule (including typical time frames for review) in a user's guide,  
37 which shall be made available to the public. The director may amend and update the  
38 user's guide from time to time.

39 **2. Form of Application**

40 Applications required under this chapter shall be submitted in a form and in such number  
41 as required in the user's guide.

- 1           **3. Processing Fees**  
2           Applications shall be accompanied by the fee amount established by the assembly and  
3           listed in the user's guide. Fees are not subject to waivers and are non-refundable.
- 4           **4. Waivers**  
5           The director may waive certain submittal requirements in order to reduce the burden on  
6           the applicant and to tailor the requirements to the information necessary to review a  
7           particular application. The director may waive such requirements where he or she finds  
8           that the projected size, complexity, anticipated impacts, or other factors associated with  
9           the proposed development clearly, in his or her opinion, support such waiver. The waiver  
10          shall be made in writing and shall become a part of the case record for the application.
- 11       **E. Verification of Application Completeness**
- 12           **1.**       The director shall only initiate the review and processing of an application if such  
13           application is complete. The director shall make a determination of application  
14           completeness and notify the applicant in writing within 15 days of application filing. If the  
15           application is determined to be complete, the application shall then be processed  
16           according to this title. If an application is determined to be incomplete, the director shall  
17           provide an explanation of the application's deficiencies. No further processing of an  
18           incomplete application shall occur until the deficiencies are corrected.
- 19           **2.**       An application shall be considered complete if it is submitted in the required form,  
20           includes all mandatory information, including all supporting materials specified in the title  
21           21 user's guide, and is accompanied by the applicable fee. A pre-application conference  
22           shall have been held, if required, pursuant to section 21.03.020B, *Pre-Application*  
23           *Conferences*.
- 24           **3.**       As a consequence for any false or misleading information submitted or supplied by an  
25           applicant on an application, that application shall be deemed incomplete.
- 26       **F. Additional Information**
- 27           **1. Requested Information**  
28           Nothing in this section prohibits the department or the decision-making body on the  
29           application from requesting additional information deemed necessary for review, after the  
30           application is complete. Any supplemental technical reports, special studies, and/or  
31           revised application materials that are requested following the original application must be  
32           received at least thirty days prior to a public hearing. The municipality may postpone and  
33           reschedule a public hearing or approval deadline if such reports and studies are  
34           submitted less than thirty days prior to a public hearing, unless the applicable board or  
35           commission waives this time limit in a specific case for cause. Copies of such additional  
36           materials shall be delivered to all reviewers who received the original application packet.
- 37           **2. Voluntary Information**  
38           Any supplemental information, such as revised application materials, that is voluntarily  
39           submitted by the applicant, should be submitted before the departmental report is  
40           finalized. Any such information submitted after the departmental report is finalized shall  
41           cause the application to be automatically postponed to the next regular meeting in order  
42           for the department to have time to review the new information, unless the board or  
43           commission determines that the new information does not significantly alter the  
44           application.



1 **G. Community Meetings**

2 **1. Purpose**

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

8 **2. Applicability**

9 **a. Types of Applications**

10 The applicant shall hold a community meeting for any of the following types of  
11 applications, unless a waiver is granted by the director pursuant to subsection  
12 2.b. below.

- 13 i. Rezoning (Zoning Map Amendments);
- 14 ii. Subdivisions, except for Abbreviated Plats;
- 15 iii. Conditional Uses;
- 16 iv. Major Site Plan Review; and
- 17 v. Public Facility Site Selection (including schools).

18 **b. Waiver**

19 An applicant may request, with justification, a waiver of the community meeting  
20 along with his or her application. The director may waive the community meeting  
21 requirement if he or she determines that the proposed development or  
22 subdivision will not have significant community impacts in any of the areas listed  
23 below. The waiver shall be in writing, provided along with the verification of  
24 application completeness, and shall be included as part of the case record.

- 25 i. Traffic;
- 26 ii. Impacts upon natural resources protected under chapter 21.07 of this  
27 code;
- 28 iii. Provision of public services such as police and/or fire service, schools, or  
29 parks;
- 30 iv. Compatibility of building design or scale; or
- 31 v. Operational compatibility, such as lighting, hours of operation, odors,  
32 noise, litter, or glare.

33 **3. Timing and Number of Community Meetings**

34 When required, there shall be at least one community meeting held after the pre-  
35 application conference (if applicable), but prior to the submittal of an application.

36 **4. Notice of Community Meeting**

37 The applicant shall provide written (mailed) notice of the community meeting in  
38 accordance with subsection H.4. below, at least 21 days prior to the community meeting.

1           **5. Attendance at Community Meeting**

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

8           **6. Summary of Community Meeting**

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

- 13           **a.** Dates and locations of all meetings where citizens were invited to discuss the  
14 applicant's proposals;
- 15           **b.** Content, dates mailed, and number of mailings, including letters, meeting  
16 notices, and any other written material;
- 17           **c.** The number of people that participated in the meetings;
- 18           **d.** A summary of concerns, issues, and problems expressed during the meetings,  
19 including:
- 20               **i.** The substance of the concerns, issues, and problems;
- 21               **ii.** How the applicant has addressed or intends to address concerns,  
22 issues, and problems expressed at the meetings; and
- 23               **iii.** Concerns, issues, and problems the applicant is unwilling or unable to  
24 address and why.

25           **H. Notice**

26           **1. Content of Notices**

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

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

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**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		
		Mailed	Published	Posted
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	-	✓	-
Appeal of an Enforcement Order	21.13	-	-	✓
Appeals to ZBEA	21.03.050B.	✓	✓	-
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-
Conditional Uses	21.03.080	✓	✓	✓
Master Plan, Institutional	21.03.110	✓	✓	✓
Neighborhood or District Plans	21.03.130	-	✓	-
Public Facility Site Selection (except schools)	21.03.140	✓	✓	✓
Rezoning (Zoning Map Amendments)	21.03.160	✓	✓	✓
Site Plan Review, Major	21.03.180C	✓	✓	✓
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	✓	✓	✓

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**3. Written (Mailed) Notice**

When table 21.03-1 requires that written notice be provided, the director shall deposit such notice into first class mail at least 21 days prior to the scheduled date of the hearing. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted. Written notice shall be provided to the following persons or groups:

- 1           a.     **Owners of Subject Property**  
2                     All persons listed on the records of the municipal assessor as owners of land  
3                     subject to the application, at the mailing addresses of such persons in the  
4                     records of the municipal assessor.
- 5           b.     **Adjacent Property Owners**  
6                     All persons listed on the records of the municipal assessor as owners of any land  
7                     within 500 feet of the outer boundary of the land subject to the application, or  
8                     owners of the 50 parcels nearest to the outer boundary of the land subject to the  
9                     application, whichever is the greater number of parcels, at the mailing addresses  
10                    of such persons in the records of the municipal assessor.
- 11          c.     **Community Councils**  
12                    Any officially recognized community council whose boundary includes any part of  
13                    the subject property, and any additional such council whose boundary lies within  
14                    1,000 feet of any part of the subject property. Furthermore, the department shall  
15                    provide notice to additional community councils in the following instances:
- 16                    i.     Each recognized community council within the municipality shall receive  
17                    written notice where the subject parcel is one of the following regional  
18                    public lands or facilities: Ted Stevens Anchorage International Airport;  
19                    Merrill Field Airport; Far North/Bicentennial Park; Kincaid Park; Chugach  
20                    State Park; Anchorage Coastal Wildlife Refuge; BLM tract(s) near Far  
21                    North/Bicentennial Park.
- 22                    ii.    If the subject parcel is a branch public facility that serves a specific  
23                    delineated area, such as a public school or fire station, then any  
24                    community council whose boundaries lie within the delineated district of  
25                    service of a branch public facility shall receive written notice. This  
26                    requirement shall only take effect after the municipality has established  
27                    maps delineating areas of service for the type of branch facility, and has  
28                    adopted procedures and responsibilities for updating service area  
29                    boundaries.
- 30                    iii.   Any community council whose boundaries lie beyond the minimum  
31                    notification distance shall receive notice regarding proposals of  
32                    potentially major scope or controversy that, in the opinion of the director,  
33                    are likely to have a significant impact on the residents of the community  
34                    council beyond the minimum notification distance.
- 35                    iv.   All community councils shall receive notice of substantive amendments  
36                    to the comprehensive plan and amendments to the text of title 21.
- 37          d.     **Additional Persons**  
38                    Such additional persons or geographic areas as the director may designate.
- 39          4.     **Published Notice**  
40                    When table 21.03-1 requires that notice be published, the director shall cause a notice to  
41                    be published in a newspaper having general circulation. The notice shall be published at  
42                    least 21 days before the scheduled hearing date. In computing such period, the day of  
43                    publication shall not be counted, but the day of the hearing shall be counted.

1           **5.     Posted Notice**

2           When table 21.03-1 requires that notice be posted, the applicant shall cause a notice(s),  
3           on a form(s) provided by the department, to be posted on the property, visible from each  
4           developed right-of-way adjacent to the property, for at least 21 days before the scheduled  
5           public hearing date. In computing such period, the day of posting shall not be counted,  
6           but the day of the public hearing shall be counted. If no part of the subject property is  
7           visible from the public right-of-way, the notice shall be posted along the nearest street in  
8           the public right-of-way. Posted notices shall include all the content specified in  
9           subsection H.1. above except for the legal description. Before the public hearing, the  
10          applicant shall submit to the department an affidavit, signed by the person who did the  
11          posting or the person who caused the posting to be done, that notice was posted as  
12          required by this subsection. Posted notices shall be removed by the applicant within 30  
13          days after the close of the public hearing on the application.

14          **6.     Constructive Notice**

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

25          **7.     Presumption of Notice**

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

29    **I.     Departmental Report**

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

35    **J.     Referrals**

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

40    **K.     Concurrent Processing**

41          1.       Where possible without creating an undue administrative burden on the municipality's  
42          decision-making bodies and staff, this title intends to accommodate the simultaneous  
43          processing of applications for different permits and approvals that may be required for the  
44          same development project in order to expedite the overall review process. Review and  
45          decision-making bodies considering applications submitted simultaneously shall render  
46          separate reports, recommendations, and decisions on each application based on the  
47          specific standards applicable to each approval.

1           2.       Some forms of approval depend on the applicant having previously received another form  
2                   of approval, or require the applicant to take particular action within some time period  
3                   following the approval in order to avoid having the approval lapse. Therefore, even  
4                   though this title intends to accommodate simultaneous processing, applicants should  
5                   note that each of the permits and approvals set forth in this title has its own timing and  
6                   review sequence.

7           3.       The expected time frame and approval process for a consolidated application shall follow  
8                   the longest time frame and approval process required from among the joined application  
9                   types.

10 **L.       Postponements**

11           1.       If only five or fewer board or commission members are in attendance at the hearing, the  
12                   applicant may request a postponement of his or her case, and the fee for the first  
13                   postponement request shall be waived.

14           2.       The applicant may request a postponement of his or her case for any other reason. If the  
15                   decision-making body grants the postponement request, the applicant shall pay the  
16                   postponement fee listed in the user's guide, and a new hearing date shall be determined  
17                   by the department.

18           a.       If public notice pursuant to subsection H. above has not been given, the director  
19                   is the decision-making body for the purpose of granting a postponement.

20           b.       If public notice pursuant to subsection H. above has been given, the decision-  
21                   making body is the board or commission identified in this chapter for the  
22                   entitlement requested.

23           3.       Re-notice of the new time for hearing is only required if the postponement is for more  
24                   than 30 days, or if no date certain is set for the hearing at the time of postponement.  
25

26

28 **M.       Conditions of Approval**

29           1.       The decision-making body is authorized to impose such conditions upon the entitlement  
30                   as may be necessary to conform to the standards of this title, reduce or minimize any  
31                   potential adverse impact upon other property in the area, or to carry out the general  
32                   purpose and intent of the comprehensive plan and this title. In such cases, any  
33                   conditions attached to approvals shall be directly related to the impacts of the proposed  
34                   use or development and shall be roughly proportional in both extent and amount to the  
35                   anticipated impacts of the proposed use or development.

36           2.       No conditions of approval, except for those attached to variance approvals, shall be less  
37                   restrictive than the requirements of this title or applicable special limitations.

38           3.       Unless there is a time schedule stated as part of the condition, all conditions of approval  
39                   shall be met within one year of the date of approval (unless the condition is ongoing, such  
40                   as a specification of hours of operation).

41 **N.       Decision**

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

1 **O. Lapse of Approval**

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

10 **P. New Application Required**

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

13 **21.03.030 ADMINISTRATIVE PERMITS**

14 **A. Applicability**

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

17 **B. Administrative Permits**

18 A permit issued by the director and pursuant to this section shall be valid between January 1 or  
19 the date of issuance and December 31 of the year in which it is issued, except that permits for  
20 bed and breakfasts shall be valid between the date of issuance and December 31 of the year  
21 after the permit was issued. An application for renewal of a permit shall be submitted in the same  
22 manner as the original application and no later than December 1 immediately preceding the  
23 expiration date of that permit.

24 **C. Regulations**

25 The director may promulgate regulations to implement this section, as provided in AMC chapter  
26 3.40. Permits shall be issued and renewed as outlined in the title 21 user's guide.

27 **D. Appeals**

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

30 **21.03.040 ALCOHOL—SPECIAL LAND USE PERMIT**

31 **A. Applicability**

- 32 1. Any use that includes the retail sale of alcoholic beverages is subject to the review  
33 process set forth in this section. This process shall apply to such a use regardless of  
34 whether it is listed in the use tables in section 21.05.010 as being permitted as a matter  
35 of right or subject to site plan review or the conditional use process. The applicant shall

- 1 be required to obtain approval through both the process in this section and the separate  
2 process referenced in the use table.
- 3 2. Notwithstanding A.1. above, catering and special event permits issued by the state  
4 Alcoholic Beverage Control Board, and held no more than 12 times in a calendar year at  
5 the same physical location, are exempt from these approval requirements, but shall meet  
6 AMC title 10 requirements.
- 7 3. No modification of an existing special land use permit for alcohol shall be required for the  
8 first duplicate liquor license provided:
- 9 a. There is no increase in the square footage of the premise licensed for the retail  
10 sale or dispensing of alcoholic beverages; or
- 11 b. If there is an increase in the square footage of the licensed premise, such  
12 increase is five hundred square feet or less, whether or not the area of increase  
13 is used year-round. In such case the licensed business shall request a minor  
14 modification to their approval by submitting a site plan for department review,  
15 along with the fee specified in the user's guide. The department shall review the  
16 site plan for potential impacts including, but not limited to, parking, lighting, noise,  
17 and traffic.

18 **B. General Standards**

19 The following provisions apply to all uses, in all districts, involving the retail sale, dispensing, or  
20 service of alcoholic beverages including, but not limited to, liquor stores, restaurants, bars, dinner  
21 theaters, movie theaters, brew pubs, tearooms, and cafes.

- 22 1. Any use, whether principal or accessory, involving the retail sale or dispensing of  
23 alcoholic beverages is permitted only by approval of the assembly under this section.  
24 This requirement applies only to the retail sale or dispensing of alcoholic beverages and  
25 not to related principal or accessory uses.
- 26 2. Notwithstanding any other provision of this title to the contrary, an approval for uses  
27 involving the retail sale of alcoholic beverages shall only require the approval of the  
28 assembly.

29 **C. Application and Review Procedure**

30 1. **Application Submittal**  
31 Applications for assembly alcohol approval shall be submitted to the director within seven  
32 days after application is made to the state alcoholic beverage control board for issue or  
33 transfer of location of a liquor license. Applications shall contain a zoning map showing  
34 the proposed location. The assembly may promulgate regulations concerning the  
35 mandatory information to be submitted with the application for a special land use permit  
36 for alcohol.

37 2. **Departmental Review**  
38 The department shall prepare and submit a report and a list of all licenses located within  
39 a minimum of 1,000 feet of the proposed use to the assembly, and shall address the  
40 conformity of the proposed application with this title and AMC chapter 10.50. The  
41 department shall also submit a proposed resolution for assembly consideration in  
42 connection with liquor license applications.



- 1           **3. Public Notice**  
2           Notice of all public hearings shall be provided in accordance with section 21.03.020H.,  
3           *Notice*.
- 4           **4. Assembly Action**  
5           After holding a public hearing, the assembly shall approve, approve conditionally, or deny  
6           the application. In considering action, the assembly shall apply the criteria set forth in  
7           this title for conditional uses in section 21.03.080C., *Approval Criteria*. The assembly  
8           shall not take into consideration the sum paid by any person to acquire the license for  
9           which a permit is requested.
- 10          **5. Conditions of Approval**  
11          **a.**       The assembly may, in connection with an approval under this section, impose  
12               such special terms and conditions or modify existing conditions governing  
13               operation of that license as are in the public interest, and are consistent with the  
14               purposes of this title.
- 15          **b.**       Conditions of approvals under this section are enforceable under the provisions  
16               of this title. The assembly may revoke such an approval for failure to comply with  
17               conditions of the permit, provided a public hearing with notice to the owner  
18               affected is first held.
- 19          **c.**       A copy of the conditions imposed by the assembly in connection with approval  
20               under this section shall be maintained on the premises involved at a location  
21               visible to the public.
- 22          **6. Effect of Denial**  
23          An application for approval under this section that has been denied by the assembly shall  
24          not be accepted for rehearing for a period of one year following such denial if the director  
25          finds the proposed application is substantially the same as that denied by the assembly,  
26          and if no substantially new evidence or change in circumstances has occurred. This  
27          paragraph shall not apply to an application filed under assembly direction at a hearing at  
28          which a like application was considered. This paragraph does not apply if the alcoholic  
29          beverage control board remands a case that was previously denied by the assembly.
- 30          **7. Expiration**  
31          An approval granted under this section shall expire:
- 32          **a.**       One hundred twenty days after the transfer of the license to sell alcoholic  
33               beverages from the premises has been approved by the state Alcoholic  
34               Beverage Control Board, unless there is an application filed with the Control  
35               Board prior to the expiration of the 120 day period; or
- 36          **b.**       If the operation of the business becomes substantially different from the business  
37               and operation reviewed by the assembly when the alcohol approval was granted  
38               under this section, unless the licensee applies for and receives assembly  
39               approval for a modification of the existing alcohol approval to reflect the change.
- 40          For the purposes of this section, “substantially different” means any material change in  
41          the operation of the business which could result in significant impact on the use and  
42          enjoyment of adjacent properties by property owners or occupants. A material change  
43          includes, without limitation, an increase in the late night or early morning hours of  
44          operation; a change involving the type of entertainment presented which results in an  
45          increase in noise level at the property line; or a change from a business which meets the

1 requirements of the state Alcoholic Beverage Control board statutes and regulations for a  
2 restaurant designation permit to a business which would not meet such requirements.

3 **21.03.050 APPEALS**

4 **A. Appeals to Board of Adjustment**

5 **1. Jurisdiction of Board**

6 The board of adjustment shall decide appeals:

- 7 **a.** From decisions regarding the approval or denial of a preliminary plat (subsection  
8 21.03.200C.);
- 9 **b.** From decisions regarding the approval or denial of a variance from the provisions  
10 of subsection 21.05.040K, *Telecommunication Facilities*; section 21.07.050,  
11 *Utility Distribution Facilities*; chapter 21.08, *Subdivision Standards*; and chapter  
12 21.11, *Signs*;
- 13 **c.** From decisions regarding the approval or denial of vacations of public and  
14 private interest in land where the platting board is the platting authority (section  
15 21.03.230);
- 16 **d.** From decisions regarding the approval or denial of a development master plan  
17 (subsection 21.09.030F.);
- 18 **e.** From decisions regarding the approval or denial of applications for conditional  
19 uses (section 21.03.080); and
- 20 **f.** From decisions regarding the approval or denial of applications for major site  
21 plan reviews (subsection 21.03.180C).

22 **2. Initiation of Appeal**

23 Decisions may be appealed to the board of adjustment by:

- 24 **a.** Any governmental agency or unit; or
- 25 **b.** Any party of interest for the application.

26 **3. Appellees Before Board**

- 27 **a.** An appellee brief may be filed as provided in section subsection A.7. by:
- 28 **i.** The party in whose favor the lower administrative body's decision was  
29 rendered.
- 30 **ii.** Any municipal agency.
- 31 **iii.** Any party of interest for the application, as defined in chapter 21.14.
- 32 **b.** Appellees who wish to be notified by the municipal clerk's office of the date the  
33 record is available and of the date the appellant's brief is filed must file a notice of  
34 intent to file a brief with the municipal clerk's office on a form prescribed by the  
35 municipal clerk within 20 days after the decision of the lower administrative body  
36 from which the appeal is taken. An applicant for a site plan, conditional use, or  
37 subdivision, who is not the appellant, must file a notice of intent to file a brief with

1 the municipal clerk's office within seven days of receipt of the appellant's notice  
2 of appeal to become an appellee.

3 **4. Perfection of Appeal; Notice of Appeal; Appeal Fee**

4 a. An appeal to the board of adjustment must be perfected by a party of interest for  
5 the application no later than 20 days from the date the written findings of fact and  
6 decision of the administrative body from which the appeal is taken is approved,  
7 on the record, and becomes a final, appealable decision, is mailed or otherwise  
8 distributed or delivered to the applicant. The appeal is perfected by the filing of a  
9 notice of appeal, appeal fee, and cost bond in accordance with this section.

10 b. The notice of appeal must be filed with the municipal clerk on a form prescribed  
11 by the municipality and must contain detailed and specific allegations of error. If  
12 the appellant is not the applicant, the appellant shall, within three days after filing  
13 the notice of appeal, serve a copy of the notice of appeal on the applicant by  
14 certified mail to the applicant's last known address. Proof the notice was served  
15 shall be provided to the municipal clerk.

16 c. The appellant shall pay an appeal fee as provided in the user's guide. In  
17 addition, the appellant shall file a cost bond equal to the estimated cost of  
18 preparation of the record. Following completion of the record, the actual cost  
19 thereof shall be paid by the appellant. All costs and fees shall be returned to the  
20 appellant if the decision of the lower body is reversed in whole or in part.

21 **5. New Evidence or Changed Circumstances**

22 a. Allegations of new evidence or changed circumstances shall not be considered  
23 or decided by the board of adjustment. Allegations of new evidence or changed  
24 circumstances shall be raised by written motion for rehearing, filed with the  
25 municipal clerk no later than 20 days after the lower administrative body's initial  
26 decision becomes final.

27 i. The municipal clerk shall automatically reject any motion filed more than  
28 20 days after the lower administrative body's initial decision becomes  
29 final, without hearing or reconsideration by the lower administrative body.

30 ii. A decision of the lower administrative body on any issues remanded  
31 from the board of adjustment is not an initial decision as described in  
32 subsection 5.a. above. The municipal clerk shall automatically reject,  
33 without hearing or reconsideration, any motion alleging new evidence or  
34 changed circumstances filed in response to a lower administrative body's  
35 decision on any issue(s) presented on remand.

36 b. If the written motion is filed in a timely manner, the administrative body from  
37 which the appeal is taken shall decide whether to reopen and rehear the matter.  
38 A rehearing shall be held if the lower administrative body determines:

39 i. If true, that the alleged new evidence or changed circumstances would  
40 substantially change the decision of the body, and

41 ii. The party alleging new evidence or changed circumstances acted  
42 promptly and with diligence in bringing the information to the body's  
43 attention.

1           **6. Appeal Record**

2           **a.** Upon timely perfection of an appeal to the board of adjustment, the municipal  
3 clerk shall prepare an appeal record. The record shall contain:

4                   **i.** A verbatim transcript of the proceedings before the administrative body  
5 from which the appeal has been taken.

6                   **ii.** Copies of all documentary evidence, memoranda, exhibits,  
7 correspondence, and other written material submitted to the  
8 administrative body prior to the decision from which the appeal is taken.

9                   **iii.** A copy of the written decision of the administrative body, including its  
10 findings and conclusions.

11           **b.** The appellant shall arrange for the preparation of the transcript of the board  
12 hearing by a court reporter or the current board and commission recording  
13 secretary and shall pay the cost of such preparation. The appellant shall file the  
14 transcript with the municipal clerk. If the appellant fails to file the transcript within  
15 30 days of the filing of the notice of appeal, the appeal shall be automatically  
16 denied.

17           **c.** Upon completion of the record, the municipal clerk shall notify the appellant by  
18 certified mail of the cost of its preparation. If the appellant fails to pay the costs  
19 within seven days of receiving the notice, the appeal shall be automatically  
20 denied. Upon timely payment of costs, the municipal clerk shall, by certified mail,  
21 serve a copy of the record on the appellant. The municipal clerk shall also notify  
22 by certified mail the appellees who have filed a notice of intent to file a brief that  
23 the record is available for pickup. Upon request, the municipal clerk shall provide  
24 a copy of the record to an appellee or the public. A copying cost for the record  
25 will be charged as set out in AMCR 3.90.002. The appellee shall also be  
26 charged any mailing costs, including the cost of mailing the notice of record  
27 availability.

28           **7. Written Arguments**

29           **a. *Brief of Appellant***

30           The appellant to the board of adjustment may file a written brief of points and  
31 authorities in support of those allegations of error specified in the notice of appeal  
32 with the municipal clerk's office not later than 15 days after service of the appeal  
33 record. The municipal clerk shall deliver a copy of the appellant's brief to the  
34 municipal staff assigned responsibility for the appeal. The municipal clerk shall  
35 also notify by certified mail those appellees who have filed a notice of intent to file  
36 a brief that the appellant's brief is available for pickup. Upon request, the  
37 municipal clerk shall provide a copy of the appellant's brief to appellees, who  
38 shall be charged copying costs as provided in AMCR 3.90.002 and any mailing  
39 costs applicable.

40           **b. *Brief of Appellee***

41           An appellee who has filed a notice of intent to file a brief may also file with the  
42 municipal clerk's office a written reply to the notice of points on appeal and any  
43 brief in support thereof no later than 30 days after the service of the appeal  
44 record. The municipal clerk shall notify the appellant by certified mail that  
45 appellee briefs have been filed. The director may prepare and submit to the  
46 municipal clerk a written reply to the notice of appeal and any brief in support  
47 thereof no later than 30 days after service of the appeal record.

- 1                   c.     **Reply Brief**  
2                   An appellant may file a written reply brief to appellee briefs submitted pursuant to  
3                   subsection 7.b. The appellant's reply brief is due no later than 10 days after  
4                   service of notice that the appellee briefs have been filed.
- 5                   d.     **Timing of Briefs**  
6                   If a brief is not filed within the time prescribed above, the municipal clerk shall  
7                   notify the board of adjustment that the brief was filed late. The board shall  
8                   determine whether to accept a late brief and whether to allow additional time for  
9                   any qualified opposing party to file reply or rebuttal briefs if allowed.
- 10                  e.     **Form of Briefs**  
11                  All briefs shall be prepared to specifications set forth in the title 21 user's guide.  
12                  The municipal clerk shall not accept a brief unless it is in the form prescribed by  
13                  the user's guide.
- 14                  8.     **Appeal Packet; Notice of Hearing**  
15                  Following the time set for the receipt of written argument from the appellant, the appellee,  
16                  and the municipal staff under this subsection, the municipal clerk shall prepare and  
17                  distribute to the members of the board of adjustment an appeal packet containing only  
18                  the notice of appeal, the appeal record and any briefs filed in accordance with subsection  
19                  A.7. above. Following distribution of the packets, a date shall be set for consideration of  
20                  the appeal. Notice of consideration on the appeal shall be published in a newspaper of  
21                  general circulation and shall be served by mail on the appellant and those appellees who  
22                  have submitted briefs. Appeal packets shall be made available to the public upon  
23                  demand with costs payable by the public as provided in AMCR 3.90.002.
- 24                  9.     **Conduct of Hearing**  
25                  a.     The meeting at which the board of adjustment deliberates and decides an appeal  
26                  shall be open to the public and a record of the hearing shall be made.
- 27                  b.     The board of adjustment may hear oral argument from the appellant and any  
28                  other party who has submitted a brief. The board of adjustment shall not take  
29                  testimony or consider new evidence that was not introduced in the original  
30                  proceeding.
- 31                  10.    **Scope of Review**  
32                  a.     The board of adjustment shall hear an appeal solely on the basis of the record  
33                  established before the lower administrative body, the notice of appeal, the  
34                  appellant's argument, and the reply to that argument.
- 35                  b.     The board of adjustment may exercise its independent judgment on legal issues  
36                  raised by the appellant. The term "legal issues," as used in this section, means  
37                  those matters that relate to the interpretation or construction of ordinances or  
38                  other provisions of law.
- 39                  c.     The board of adjustment shall, unless it substitutes its independent judgment  
40                  pursuant to subsection d. below, defer to the judgment of the lower administrative  
41                  body regarding disputed issues or findings of fact. Findings of fact adopted  
42                  expressly or by necessary implication by the lower administrative body may be  
43                  considered as true if they are supported in the record by substantial evidence.  
44                  The term "substantial evidence," for the purpose of this section, means such  
45                  relevant evidence as a reasonable mind might accept as adequate to support a  
46                  conclusion. If the record affords a substantial basis of fact from which the fact in

1 issue may be reasonably inferred, it shall be considered that the fact is supported  
2 by substantial evidence.

3 d. Notwithstanding the provisions of subsection 10.c. above, the board of  
4 adjustment may, by an affirmative vote of two-thirds of the fully constituted board,  
5 substitute its independent judgment for that of the lower administrative body on  
6 any disputed issues or findings of fact. Such judgment must be supported on the  
7 record by substantial evidence. For the purpose of this subsection, the fully  
8 constituted board of adjustment shall not include those members who do not  
9 participate in the appeal.

10 **11. Decision**

11 a. The board of adjustment may affirm or reverse the decision of the lower  
12 administrative body in whole or in part. It shall decide an appeal on the basis of  
13 the record on appeal and the briefs of the parties to the appeal. A majority vote  
14 of the fully constituted board is required to reverse or modify the decision  
15 appealed from. For the purpose of this section, the fully constituted board shall  
16 not include those members who do not participate in the proceedings. A decision  
17 reversing or modifying the decision appealed from shall be in a form which finally  
18 disposes of the case on appeal except where the case is remanded in  
19 accordance with subsection 12.a. below.

20 b. Every decision of the board of adjustment to affirm or reverse the decision of the  
21 lower administrative body pursuant to subsection 11.a. above shall be based  
22 upon and include written findings and conclusions adopted by the board. Such  
23 findings must be reasonably specific so as to provide the community, and, where  
24 appropriate, reviewing authorities, a clear and precise understanding of the  
25 reason for the board's decision. The board may seek the assistance of the  
26 municipal staff in the preparation of findings.

27 c. Every final decision of the board of adjustment shall clearly state on its face it is a  
28 final decision with respect to all issues involved in the case, and that the parties  
29 have 30 days from the date of mailing, or other distribution of the decision, to file  
30 an appeal to the superior court.

31 **12. Remand**

32 a. Where the board of adjustment reverses or modifies a decision of the lower  
33 administrative body in whole or in part, its decision shall finally dispose of the  
34 matter on appeal, except that the case shall be remanded to the lower body  
35 where the board of adjustment determines either that:

36 i. There is insufficient evidence in the record on an issue material to the  
37 decision of the case; or

38 ii. There has been a substantial procedural error that requires further public  
39 hearing.

40 A decision remanding a case shall describe any issue upon which further  
41 evidence should be taken, and shall set forth any further directions the board  
42 deems appropriate for the guidance of the lower administrative body.

43 b. The lower administrative body shall act on the case upon remand in accordance  
44 with the decision of the board of adjustment in the minimum time allowed by the  
45 circumstances. Cases on remand following a decision of the board shall take

1 precedence over all other matters on the agenda of the lower administrative  
2 body.

3 c. A board of adjustment decision remanding a case on one or more issues is not a  
4 final decision with respect to any issues involved in the appeal. The board of  
5 adjustment's decision remanding the case shall be the final decision with respect  
6 to all matters affirmed by the board of adjustment's decision, when, following the  
7 lower administrative body's decision on remand, no appeal is perfected within the  
8 period specified in subsection 21.03.050A.4.

9 d. A board of adjustment decision remanding a case on one or more issues shall  
10 state that the decision is the final decision with respect to all matters affirmed  
11 therein when, following the lower administrative body's decision on remand, no  
12 appeal is perfected within the time period specified in section 21.03.050A.4., and  
13 shall also state the parties have 30 days from the expiration of said period to  
14 appeal to the superior court.

15 **B. Appeals to Zoning Board of Examiners and Appeals**

16 **1. Jurisdiction of Board**

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

19 a. Enforcement orders issued under chapter 21.13, *Enforcement*.

20 b. Denial of an application for a flood hazard permit under section 21.03.090.

21 c. Denial of an application for a building or land use permit when such denial is  
22 based on the requirements of title 21.

23 d. Denial of an application for a sign permit when such denial is based on the  
24 requirements of title 21.

25 e. Denial of a minor modification under section 21.03.120.

26 f. Denial of a verification of legal nonconforming status under section 21.03.250.

27 g. Denial of or imposition of conditions on a certificate for legalization of  
28 nonconforming dimensional setback encroachment under section 21.12.030, or a  
29 certificate for legalization of lots created prior to September 16, 1975 under  
30 subsection 21.12.050C.

31 h. Interpretation of zoning district boundaries under subsection 21.01.050C.

32 i. Denial of a certificate of zoning compliance under section 21.03.060.

33 j. Denial of an administrative permit under section 21.03.030.

34 k. Denial of administrative approval to reinstate a damaged nonconforming use  
35 under subsection 21.12.030C., or to rebuild a damaged nonconforming structure  
36 under subsection 21.12.040D.1.a.

37 l. Overcoming presumption of abandonment under subsection 21.12.030E.

- 1            **m.**      Compliance with an institutional master plan under subsection 21.03.110F.
- 2            **n.**      Interpretation of general definitions and use definitions.
- 3            **2.      Initiation of Appeal**
- 4            Appeals to the zoning board of examiners and appeals may be brought by any party of
- 5            interest for the application.
- 6            **3.      Time Limit for Filing; Notice of Appeal; Appeal Fee**
- 7            **a.**      An appeal of an administrative decision to the zoning board of examiners and
- 8            appeals, as set out in subsection B.1. above, must be filed no later than 20 days
- 9            after written notification of the decision.
- 10           **b.**      Notice of appeal must be filed with the municipal clerk on a form prescribed by
- 11           the municipality and must contain detailed and specific allegations of error.
- 12           **c.**      The appellant shall pay an appeal fee as set by the assembly, which shall
- 13           accompany the filing of the notice of appeal. The appeal fee shall be returned to
- 14           the appellant if the decision of the lower administrative body is reversed in whole,
- 15           and one-half of the fee shall be returned if the decision is reversed in part.
- 16           **4.      Scope of Review**
- 17           The zoning board of examiners and appeals shall conduct a full evidentiary hearing on an
- 18           appeal and make its decision on the basis of this title, the evidence, and the argument
- 19           presented.
- 20           **5.      Notice and Public Hearing**
- 21           **a.**      A public hearing shall be held within 60 days of the filing of a proper notice of
- 22           appeal.
- 23           **b.**      Notice of the appeal hearing shall be published in a newspaper of general
- 24           circulation at least 14 days prior to the hearing, and, in addition, the appellant
- 25           shall be sent a notice by mail at least 14 days prior to the hearing.
- 26           **c.**      The zoning board of examiners and appeals may prescribe rules of procedure for
- 27           additional notification in cases where a decision of the board would have a
- 28           substantial effect on the surrounding neighborhood.
- 29           **6.      Decision**
- 30           **a.**      The zoning board of examiners and appeals may affirm or reverse the decision of
- 31           the decision-making body in whole or in part. It shall require a majority of the full
- 32           membership, minus those members who disqualify themselves with conflicts of
- 33           interest in accordance with AMC title 4.
- 34           **b.**      Every decision of the zoning board of examiners and appeals to affirm or reverse
- 35           an administrative action shall be in writing and based on and include written
- 36           findings and conclusions adopted by the board. Such findings must be
- 37           reasonably specific so as to provide the community and, where appropriate,
- 38           reviewing authorities, with a clear and precise understanding of the reasons for
- 39           the board's decision.
- 40           **c.**      Every final decision of the zoning board of examiners and appeals shall clearly
- 41           state it is a final decision and that the parties have 30 days from the date of
- 42           mailing, or other distribution of the decision to file an appeal to the superior court.



1 **C. Judicial Appeals**

2 **1. Judicial Review Authorized**

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

6 **a.** A final decision of the board of adjustment on an appeal from a decision  
7 regarding the approval or denial of an application for a conditional use.

8 **b.** A final decision of the board of adjustment on an appeal from the platting board  
9 regarding an application for a subdivision.

10 **c.** A final decision of the zoning board of examiners and appeals.

11 **d.** Any final action or decision under this title that is appealable to the superior court  
12 under the *Alaska Rules of Court* and/or laws of the state of Alaska.

13 **21.03.060 CERTIFICATE OF ZONING COMPLIANCE**

14 **A. Purpose**

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

18 **B. Applicability**

19 A certificate of zoning compliance shall be required prior to the occupancy of any building,  
20 structure, or land, except that temporary uses and structures in accordance with section  
21 21.05.080, *Temporary Uses and Structures*, shall be exempt from certificate of zoning  
22 compliance requirements. Where issued, a certificate of occupancy shall be considered the  
23 certificate of zoning compliance.

24 **C. Issuance**

25 **1. Certificate**

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

29 **2. Conditional Certificate**

30 Upon approval by the director, the building official may issue a conditional certificate of  
31 zoning compliance, which shall be valid only for the period of time stated in the certificate,  
32 for a specified portion or portions of a building that may safely be occupied prior to final  
33 completion of the entire building and/or site. Conditions that are attached to the  
34 conditional certificate of zoning compliance must be completed prior to the expiration of  
35 the certificate. When such conditions have not been completed prior to the expiration  
36 date of the conditional certificate, the certificate of zoning compliance shall immediately  
37 expire. Upon receipt of a written application to the building official stating satisfactory  
38 reasons for the failure to complete work within the given time period, the building official  
39 may renew the certificate for a specified period of time, not to exceed 180 days.

1           **3. Appeals**

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

4           **D. Standards**

5           The building official shall issue a certificate of zoning compliance when, after examination of the  
6           building, structure, landscaping, and/or other improvements or changes to the property, the  
7           municipality finds that the building complies with the applicable provisions of this title and other  
8           applicable ordinances and construction codes of the municipality. This review shall include, but is  
9           not limited to: off-street parking, landscaping, and other development standards listed in chapter  
10          21.07, *Development and Design Standards*.

11           **21.03.070 COMPREHENSIVE PLAN AMENDMENTS**

12          **A. Purpose and Scope**

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

16          **B. Levels of Plan Review**

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

22               **1. Complete Plan Revision (20-year Intervals)**

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

32               **2. Targeted Plan Review (10-year Intervals)**

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

37               **3. Other Plan Amendments**

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

42          **C. Procedure for Substantive Amendments**

1 **1. Procedure**

2 **a. Initiation**

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

6 **b. Public Notice**

7 Notice of all public hearings shall be provided in accordance with section  
 8 21.03.020H.

9 **c. Departmental Review**

10 The department shall review each proposed substantive amendment in light of  
 11 the approval criteria set forth in subsection C.2. below and distribute the  
 12 application to other reviewers as deemed necessary. Based on the results of  
 13 those reviews, the department shall provide a report to the planning and zoning  
 14 commission. This report shall include a discussion of all plans and policies that  
 15 have been adopted by the municipality and are relevant to the proposed  
 16 amendment.

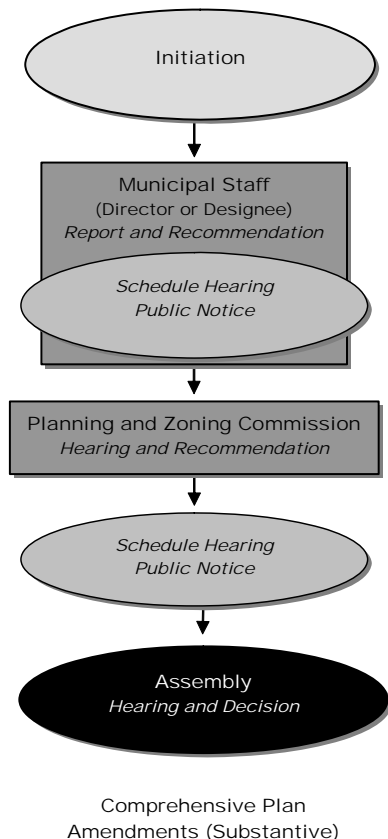
17 **d. Planning and Zoning Commission Action**

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

25 **e. Assembly Action**

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

- 31 **i.** Approve the amendment by ordinance,  
 32 either as submitted or with modifications  
 33 suggested by staff, the planning and  
 34 zoning commission, or the assembly;
- 35 **ii.** Reject the proposed amendment; or
- 36 **iii.** Refer the proposed amendment, and/or  
 37 any substantial modifications proposed  
 38 by the assembly, back to the planning  
 39 and zoning commission or to a  
 40 committee of the assembly for further  
 41 consideration.



42 **2. Approval Criteria**

43 The planning and zoning commission may submit a recommendation for approval, and  
 44 the assembly may approve an amendment only if the amendment meets the following  
 45 approval criteria:

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- 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 21.03.170E.
  - 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.

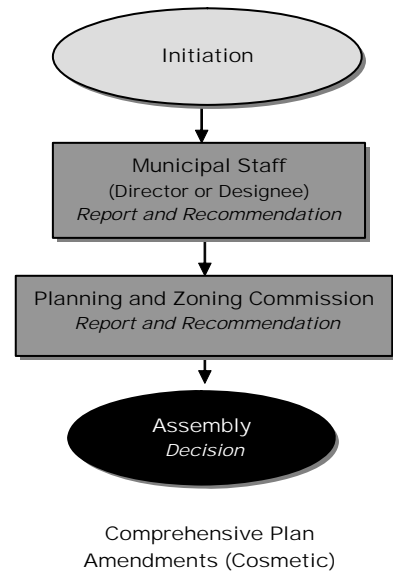
**3. Planning and Zoning Commission Action**

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.



**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. Procedure**

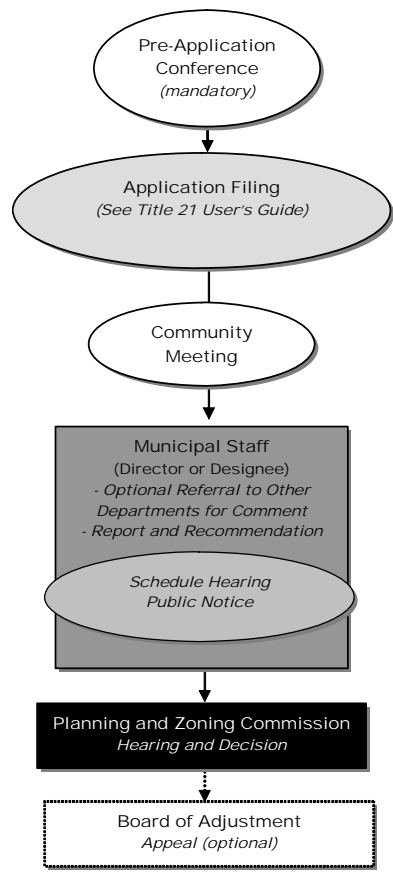
**1. Initiation**

An application for a conditional use permit 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.

- 1           **3. Application Submittal**  
 2           Applications for a conditional use approval shall contain the information specified in the  
 3           title 21 user’s guide, and shall be submitted to the director on a form provided by the  
 4           department.
- 5           **4. Community Meeting**  
 6           A community meeting is required in accordance with subsection 21.03.020G.
- 7           **5. Public Notice**  
 8           Notice of all public hearings shall be provided in accordance with section 21.03.020H.
- 9           **6. Departmental Review**  
 10          The department shall review each proposed  
 11          conditional use permit application in light of the  
 12          approval criteria of subsection C. below and distribute  
 13          the application to other reviewers as deemed  
 14          necessary. Based on the results of those reviews, the  
 15          department shall provide a report to the planning and  
 16          zoning commission.
- 17          **7. Planning and Zoning Commission Action**  
 18          The planning and zoning commission shall hold a  
 19          public hearing on the proposed application and act to  
 20          approve, approve with conditions, or deny the  
 21          proposed conditional use permit, based on the  
 22          approval criteria of subsection C. below.
- 23          **8. Appeal**  
 24          Decisions on conditional use permits may be appealed  
 25          to the board of adjustment in accordance with  
 26          subsection 21.03.050A.
- 27      **C. Approval Criteria**  
 28          The planning and zoning commission may approve a  
 29          conditional use permit application only upon finding that all of  
 30          the following criteria have been met:
- 31          1.       The proposed use is consistent with the  
 32          comprehensive plan and all applicable provisions of  
 33          this title and applicable state and federal regulations;
- 34          2.       The proposed use is consistent with the purpose and  
 35          intent of the zoning district in which it is located,  
 36          including any district-specific standards set forth in  
 37          chapter 21.04;
- 38          3.       The proposed use is consistent with any applicable use-specific standards set forth in  
 39          chapter 21.05;
- 40          4.       The site size and dimensions provide adequate area for the needs of the proposed use;



Conditional Uses

- 1           **5.**     The proposed use will not alter the character of the surrounding area in a manner which  
2                   substantially limits, impairs, or prevents the use of surrounding properties of the permitted  
3                   uses listed in the underlying zoning district;
- 4           **6.**     The proposed use is compatible with uses allowed on adjacent properties, in terms of its  
5                   scale, site design, operating characteristics (hours of operation, traffic generation,  
6                   lighting, noise, odor, dust, and other external impacts);
- 7           **7.**     The potential impacts of the proposed use of the site can be accommodated considering  
8                   size, shape, location, topography, and natural features;
- 9           **8.**     Any significant adverse impacts anticipated to result from the use will be mitigated or  
10                  offset to the maximum extent feasible;
- 11          **9.**     The proposed use is appropriately located with respect to the transportation system,  
12                  including but not limited to existing and/or planned street designations and  
13                  improvements, street capacity, access to collectors or arterials, connectivity, off-site  
14                  parking impacts, transit availability, impacts on pedestrian, bicycle, and transit circulation,  
15                  and safety for all modes; and
- 16          **10.**    The proposed use is appropriately located with respect to existing and/or planned water  
17                  supply, fire and police protection, wastewater disposal, storm water disposal, and similar  
18                  facilities and services.

19   **D.     Changes to Terms and Conditions of Approval**

20           Any changes to the terms and conditions of approval of the conditional use that cannot be made  
21           using the minor modification process (see section 21.03.120) shall require separate review and  
22           approval by the planning and zoning commission. Any application for approval of such changes  
23           shall be filed, processed, reviewed, and approved or denied in the manner set forth in this section  
24           for the original application. This section shall not apply, however, to modifications to the  
25           approved site plan for the conditional use, which are governed by section 21.03.180G.,  
26           *Amendments to Approved Site Plans.*

27   **E.     Platting for Conditional Uses**

- 28          **1.**     If development under an approval under this section creates a subdivision or requires the  
29                  vacation of a dedicated public area, the approval is not effective until a final plat for the  
30                  subdivision or vacation is approved and recorded in accordance with this title. A  
31                  preliminary plat required under this section is subject to approval as required by section  
32                  21.03.200, *Subdivisions.*
- 33          **2.**     Unless the planning and zoning commission directs in the final approval that it shall act  
34                  as the platting authority, the platting board is the platting authority for subdivisions under  
35                  this subsection.

36   **F.     Conditional Use for a Residential Planned Unit Development**

- 37          **1.     Intent and Approval**  
38                  A residential planned unit development (PUD) is intended to allow flexibility for residential  
39                  development in the zoning ordinance and to achieve the creation of a more desirable  
40                  environment that would be possible through a strict application of the zoning ordinance.  
41                  The planning and zoning commission shall evaluate the proposed planned unit

1 development in accordance with the conditional use approval criteria at C. above, and the  
2 following additional criteria:

- 3 a. Creative use of the land, imaginative architectural design, a consolidation of  
4 usable open space and recreation areas, and the preservation of natural  
5 features.
- 6 b. The mixing of compatible land uses, residential densities, and housing types  
7 within the neighborhood.
- 8 c. The efficiency of the configuration of utilities, vehicular circulation, and parking  
9 facilities.
- 10 d. Enhancing the surrounding environment.
- 11 e. Maintaining population densities and lot coverage that are consistent with  
12 available public services and the comprehensive plan.

13 **2. Minimum Standards**

14 All planned unit developments shall meet the following minimum standards. In addition,  
15 the planning and zoning commission may require compliance with such other design  
16 standards relating to the construction, design, and placement of buildings, landscaping,  
17 streets, roadways, walkways, drainageways, and other site design features as it may  
18 deem necessary. The user's guide may include guidelines to assist developers in  
19 meeting such standards.

20 a. **Minimum Site Area**

21 The minimum site area for a PUD shall be 2.0 acres for PUDs located entirely in  
22 the R-2F, R-2M, R-3, R-4, and R-4A zoning districts. If any portion of a proposed  
23 PUD is located within the R-1, R-1A, R-2A, R-2D, R-5, R-6, R-7, R-8, or R-9  
24 zoning districts, the minimum site area shall be 5.0 acres.

25 b. **Open Space**

26 A minimum of 30% of the site shall be reserved as usable open space which  
27 shall meet the following standards:

- 28 i. At least one-half of such usable open space shall be contiguous;
- 29 ii. No portion of the required open space shall be less than 2,000 square  
30 feet in area or less than 30 feet in its smallest dimension;
- 31 iii. A minimum of 12% and a maximum of 50% of required open space shall  
32 consist of yards which shall be reserved for the residents of individual  
33 dwelling units; and
- 34 iv. In multistory buildings, balconies or decks may be used in lieu of  
35 individual yards provided that the total area of all balconies or decks is  
36 not less than the total yard area otherwise required.

37 c. **Design**

- 38 i. Any nonresidential use permitted in a PUD shall be compatible with the  
39 residential nature of the development. Parking areas which are intended  
40 to serve nonresidential uses shall be separated from those designed to  
41 serve residential areas. Unless nonresidential and residential uses are



- 1 combined within a single structure, nonresidential uses shall be  
 2 separated from dwelling units by L4 screening landscaping.
- 3 ii. Pedestrian walkways shall connect residential and nonresidential uses  
 4 within a PUD.
- 5 iii. Level 3 buffer landscaping shall be planted along each boundary of the  
 6 PUD adjacent to a nonresidential district or a right-of-way designated for  
 7 collector or greater capacity on the *Official Streets And Highways Plan*.
- 8 iv. Any two adjacent buildings within a PUD shall be separated from each  
 9 other by a distance equal to one-half the height of the taller building.
- 10 v. Each unit shall be provided with either heated parking, or at least one  
 11 electrical outlet that is convenient to the required parking space(s).
- 12 d. **Traffic Access**  
 13 Major internal streets which are intended to serve a PUD shall be functionally  
 14 connected to existing or proposed streets to provide adequate ingress and  
 15 egress.
- 16 e. **Utility Installation**  
 17 All new utilities shall be installed underground.
- 18 f. **Homeowners' Agreements**  
 19 Any PUD which will involve the formation of a horizontal property regime under  
 20 the terms of AS 34.07.030 et seq. or any mandatory homeowners' or similar  
 21 association shall submit for review by the commission the articles of  
 22 incorporation and bylaws of any such association prior to the sale of any property  
 23 subject to the association. The commission may require any provisions  
 24 necessary to ensure that the provisions and intent of this title are met.

25 **3. Development Options**

26 The following provisions allow the developer of the PUD to propose changes from the  
 27 provisions of the underlying zoning district with regard to density, allowed uses, and  
 28 dimensional standards. The extend of the changes to the standards shall be determined  
 29 by the planning and zoning commission in accordance with the approval criteria of  
 30 subsection F.1. above.

31 a. **Density**

32 The number of dwelling units per acre allowable on the gross are of a PUD shall  
 33 be determined by the planning and zoning commission. However, in no event  
 34 shall the number of dwelling units per acre exceed the maximums established by  
 35 the following schedule:

TABLE 21.03-2	
Zoning District	Dwelling Units per Acre (gross area)
R-1 and R-5	8
R-1A	6
R-2A	12

TABLE 21.03-2	
Zoning District	Dwelling Units per Acre (gross area)
R-2D	15
R-2F and R-2M	22
R-3	55
R-4 and R-4A	110
R-6	2
R-7	4.5
R-8	0.5
R-9	1.0

**b. Uses**

The applicant may propose any residential use and any commercial use that is allowed in the R-4 district in table 21.05-1. A PUD may not include the storage or use of mobile homes or quonset huts. Any nonresidential use must be specifically authorized as to its exact location, type, and size. In no even shall the total gross floor area of all nonresidential uses exceed 10% of the total gross floor area of the PUD.

**c. Dimensional Standards**

- i. Height limitations in the R-1, R-1A, R-2A, R-2D, R-2F, R-2M, R-6, R-7, R-8, or R-9 zoning districts may be exceeded by an additional five feet. Height limitations in the R-3, R-4, and R-4A districts may be exceeded by an additional 10 feet.
- ii. The applicant may propose changes to minimum lot area, maximum lot coverage, and minimum setbacks for the PUD.

**4. Planned Unit Developments in the Turnagain Arm District**

PUDs in the TA district shall conform, with regard to uses and residential density, to the land use plans of the Turnagain Arm Area Plan and the standards of this section.

**G. Abandonment of Conditional Use**

An otherwise lawful conditional use permit 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 permit. A conditional use shall not be abandoned under this subsection if the result of the abandonment is the creation of a nonconforming land use.

**21.03.090 FLOOD HAZARD PERMITS**

**A. Applicability**

Any use, structure, or activity listed in the floodplain regulations (section 21.04.060D., *Flood Hazard Overlay District*) 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 21.04.060D.7., *Construction Requirements (in Flood Hazard Overlay District)*; 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**

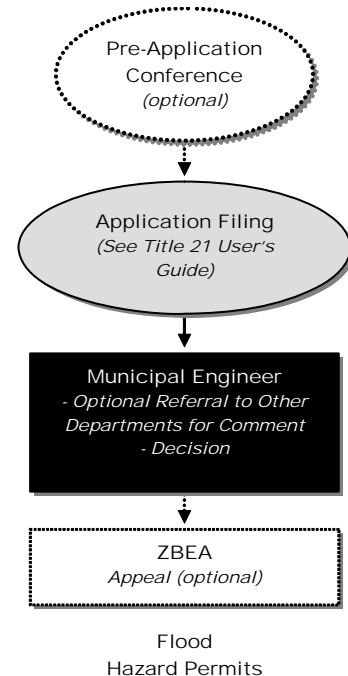
Upon receipt of an application for a flood hazard permit, the municipal engineer shall transmit copies of the application, together with pertinent information, to interested and affected departments and agencies within the municipality, requesting technical assistance in evaluating the proposed application. 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



1 contents to flood damage is minimal;

2 4. There will be adequate access to the property in times of flood for ordinary and  
3 emergency vehicles;

4 5. The proposed use, structure, or activity is in conformance with all applicable land use  
5 regulations; and

6 6. All necessary floodproofing will be provided.

7 **E. Time for Acting on Application**

8 The municipal engineer shall act on an application in the manner described in this section within  
9 30 days from receiving the application, except that, where additional information is required, the  
10 official shall act within 30 days of the receipt of such additional requested information.

11 **F. Notice on Subdivision Plats**

12 Where any portion of a subdivision is situated within a flood hazard district, a note shall be placed  
13 on the plat that reads as follows: "Portions of this subdivision are situated within the flood hazard  
14 district as it exists on the date hereof. The boundaries of the flood hazard district may be altered  
15 from time to time in accordance with the provisions of section 21.04.060D.3., *Creation of Flood  
16 Hazard Overlay District; Official Flood Hazard Reports and Maps*. All construction activities and  
17 any land use within the flood hazard district shall conform to the requirements of section  
18 21.04.060D., *Flood Hazard Overlay District*."

19 **G. Appeals**

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

22 **21.03.100 LAND USE PERMITS**

23 **A. Purpose**

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

28 **B. Applicability**

29 **1. In the Municipality**

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

31 a. Construction or placement of a building or addition to an existing building whose  
32 floor area is 120 square feet or greater;

33 b. Installation of telecommunication towers;

34 c. Construction of a fence over eight feet in height;

35 d. Excavation of more than 50 cubic yards on any lot or tract;

36 e. Filling or grading more than 50 cubic yards on any lot or tract;

1 f. Changing the principal use of a building, as defined by “change of use” in chapter  
2 21.14; or

3 g. Clearing more than two contiguous acres.

4 **2. Inside Building Safety Service Area**

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

9 **C. Procedures**

10 **1. Application Submittal**

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

13 **2. Approval Procedure**

14 a. The building official shall review each application for a land use permit.

15 b. The building official shall determine whether the application complies with all  
16 requirements of title 23. The director shall determine whether the application  
17 complies with all requirements of title 21, and shall inform the building official of  
18 his or her determination.

19 c. The building official shall issue a land use permit upon finding that the application  
20 and the proposed work complies with the approval criteria of subsection D.  
21 below.

22 d. A land use permit shall become null and void unless the work approved by the  
23 permit is commenced within 12 months after the date of issuance. No work shall  
24 be considered to have commenced for the purposes of this paragraph until an  
25 inspection has been made and recorded. If after commencement the work is  
26 discontinued for a period of 12 months, the permit therefore shall immediately  
27 expire. No work authorized by any permit that has expired shall thereafter be  
28 performed until a permit has been reinstated, or until a new permit has been  
29 secured.

30 **3. Changes to Approved Permits**

31 a. After a land use permit has been issued, no substantial changes or deviations  
32 from the terms of the permit or the application and accompanying plans and  
33 specifications shall be made without the specific written approval of such  
34 changes or deviations by the building official.

35 b. An amendment to a land use permit that requires payment of an additional fee,  
36 either because of an increase in the size of the buildings, a change in the scope  
37 of work, or an increase in the estimated cost of the proposed work, shall not be  
38 approved until the applicant has paid the additional fees and the amendment has  
39 been properly reviewed and approved for conformance with applicable codes.

40 **4. Revocation of Land Use Permit**

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

- 1           a.     Any material departure from the approved application, plans, or specifications;
- 2           b.     Refusal or failure to comply with the requirements of this title or any other  
3           applicable state or local laws;
- 4           c.     False statements or misrepresentations made in securing such permit.
- 5           **5.     Appeals**
- 6           a.     Denials or revocations of a land use permit relating to title 21 compliance, with  
7           the exception of those relating to subsection 21.03.100E, may be appealed to the  
8           zoning board of examiners and appeals in accordance with subsection  
9           21.03.050B.
- 10          b.     Denials or revocations of a land use permit relating to title 23 compliance may be  
11          appealed to the building board of examiners and appeals.
- 12   **D.     Approval Criteria**
- 13          No land use permit shall be issued unless the building official determines that all required  
14          approvals have been granted and the plans comply with all applicable provisions of title 23, and  
15          the director determines the plans comply with all applicable provisions of this title.
- 16   **E.     Improvements Associated with Land Use Permits**
- 17          **1.     Improvements Required**
- 18          The issuance of a land use permit under this section for the construction of a residential,  
19          commercial, or industrial structure on a lot, shall be subject to the permit applicant  
20          providing the easements, dedications, and improvements required for a subdivision in the  
21          same improvement area under chapter 21.08, *Subdivision Standards*. In applying the  
22          provisions of chapter 21.08, *Subdivision Standards*, under this section, the term "lot" shall  
23          be substituted for the term "subdivision," the term "permit applicant" shall be substituted  
24          for the term "subdivider," and the term "municipal engineer" shall be substituted for the  
25          term "platting authority."
- 26          **2.     Exceptions**
- 27          The requirements in subsection E.1. above shall not apply to a land use permit to the  
28          extent that:
- 29          a.     All construction associated with a single dwelling unit is located on a single lot,  
30          tract, or parcel, regardless of zoning district.;
- 31          b.     The traffic engineer determines that a street dedication or improvement is not  
32          required for traffic circulation;
- 33          c.     A dedication or improvement has been provided to the applicable standard in  
34          chapter 21.08, *Subdivision Standards*;
- 35          d.     A dedication or improvement will be provided under a subdivision agreement that  
36          has been entered into under section 21.08.060, *Subdivision Agreements*, or  
37          under an established assessment district;
- 38          e.     The municipality has already appropriated funds to construct an improvement; or

- 1 f. The permit is for repairs, maintenance, emergencies, electrical, mechanical, or  
2 plumbing.

3 **3. Standards for Requiring Dedications and Improvements**

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

- 9 a. The dedication or improvement shall be reasonably related to the anticipated  
10 impact on public facilities and adjacent areas that will result from the use and  
11 occupancy of the structure that is the subject of the building or land use permit.  
12 Any required public use easement shall be removed when calculating density or  
13 lot coverage per the applicable zoning district. The municipal engineer may  
14 require the permit applicant to provide information or analyses to determine  
15 impacts as set out in the comprehensive plan's policies for transportation,  
16 transportation design and maintenance, and water resources on public facilities  
17 and adjacent areas, including without limitation the following:

- 18 i. A traffic impact analysis, or similar information. The traffic engineer may  
19 require a traffic impact analysis if the same would be required for  
20 approval of a subdivision, conditional use, or site plan for similar  
21 development under this title.

- 22 ii. A drainage study, or similar information. A drainage study may be  
23 required if the same would be required for approval of a subdivision,  
24 conditional use, or site plan for similar development under this title.

- 25 iii. An estimate of the financial costs of impacts on public facilities and  
26 adjacent areas without the required improvements, including without  
27 limitation continuity of improvements, maintenance costs of public  
28 facilities, parking, drainage, noise and dust control, pedestrian and  
29 vehicle safety and access, and emergency vehicle access and response  
30 time.

- 31 iv. Information concerning the consistency of the impacts of the proposed  
32 development with the comprehensive plan.

- 33 v. A design of internal streets and location of fire hydrants satisfactory to  
34 the fire marshal for purposes of fire protection within the development.

- 35 b. The estimated cost of constructing the improvement shall be reasonable when  
36 compared to the estimated cost of the proposed development under the land use  
37 permit. The determination of reasonableness shall be based on cost estimates  
38 for the improvement and the proposed development that the permit applicant or  
39 applicant's agent submits under penalty of perjury. If the municipal engineer  
40 determines that the estimated cost to the applicant to complete all the  
41 improvements required by this section is unreasonable in relation to the  
42 estimated cost of the proposed development, the municipal engineer may reduce  
43 or eliminate required improvements as necessary to make the relationship  
44 between such costs reasonable.

1           c.     The municipal engineer shall consider the potential development of all adjacent  
2 parcels, lots, or tracts under common ownership, in addition to the lot, parcel, or  
3 tract that is the subject of the permit application, and the impacts associated  
4 therewith, in applying the standards in this subsection.

5           d.     The municipal engineer may approve adjustments to the improvement  
6 requirements under this section to the extent that compliance with the standards  
7 would result in an adverse impact on natural features such as wetlands, steep  
8 slopes, or existing mature vegetation; existing development; or public safety.

9           **4.     Phasing of Installation**

10           Except as provided in this section, all required improvements shall be constructed and  
11 accepted by the municipality before any certificate of zoning compliance is issued for the  
12 permitted construction. If the municipal engineer determines that it is not reasonable to  
13 require compliance with the preceding sentence, no permit may be issued until the  
14 applicant enters into an agreement for construction of the required improvements, with  
15 performance guarantees, in the form required for subdivision improvements under  
16 section 21.08.050, *Improvements*.

17           **5.     Warranty**

18           All improvements required under this section shall be subject to the warranty and  
19 guarantee of warranty requirements provided for subdivision improvements in section  
20 21.08.050, *Improvements*.

21           **6.     Oversizing**

22           If an improvement exceeding the requirements of this section is requested by the  
23 municipality and is necessary for the adequate and efficient development of surrounding  
24 areas, the municipality may require the applicant to install or accommodate oversizing. In  
25 such event the municipality shall reimburse the applicant for the cost of the oversizing at  
26 least as soon as budgeted funds are available after completion and acceptance of the  
27 improvements. This subsection shall not be a limitation on the municipality's ability to  
28 require a utility to oversize its facilities or a limitation on the manner in which the  
29 municipality may pay its proportionate share of the costs of oversizing.

30           **7.     Fee in Lieu**

31           A fee in lieu of the required improvements may be accepted if the municipal engineer  
32 determines:

33           a.     That the improvements or construction activities associated therewith would  
34 create a potential undue safety hazard to motorists or pedestrians; or

35           b.     Due to the nature of existing development on adjacent properties it is unlikely  
36 that improvements would be extended in the foreseeable future and the  
37 improvements associated with the development under review do not, by  
38 themselves, provide a sufficient improvement to safety or capacity or a sufficient  
39 benefit to the property to be developed under the building or land use permit to  
40 warrant construction.

41           c.     Any fee paid pursuant to this section shall be accounted for separately, and the  
42 fee paid shall be dedicated and used only for the purpose of constructing the  
43 public facilities which were identified by the municipal engineer and for which the  
44 fee was paid.



1           **8.     Fee Amount**

2           The amount of the fee in lieu shall be the lesser of 75% of the cost of the improvements  
3           as estimated by an engineer registered as a professional engineer in Alaska or as  
4           provided in a fee schedule adopted by regulation by the municipal engineer, which fee  
5           schedule may be adjusted by regulation annually to account for increases in construction  
6           costs in the Anchorage area. In the event the applicant or successor in interest later  
7           elects or is required to install improvements for which the fee was paid, the fee shall be  
8           refunded (without interest), so long as the claim for refund is filed within two years from  
9           the date of initial payment.

10           **9.     Appeals of Improvement Standards**

11           A permit applicant may appeal a decision of the municipal engineer concerning required  
12           improvements under this section to the platting board by filing a written notice of appeal  
13           with the secretary of the platting board not later than 10 days after receipt of written  
14           notice of the decision. The appeal shall be placed on the agenda of the next regularly  
15           scheduled platting board meeting that occurs not less than 60 days after the filing of the  
16           appeal. The platting board shall hear the appeal.

17   **21.03.110     MASTER PLANNING, INSTITUTIONAL**

18   **A.     Purpose**

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

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

39   **B.     Applicability**

40           An institutional master plan may be submitted and approved, in accordance with the procedures  
41           of this section, for any multi-building development site of 25 contiguous acres or more in common  
42           ownership in any zoning district or combination of districts. The process provides an alternative  
43           to the procedures and development and design standards of this title for institutions seeking to

1 develop large, complex sites with multiple buildings and uses following a uniform and cohesive  
2 design theme.

3 **C. Institutional Master Plan Requirements**

4 **1. Planning Area**

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

8 **2. Submittal Requirements**

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

14 **a. Boundaries**

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

19 **b. Mission and Objectives**

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

30 **c. Existing Property and Uses**

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

35 **i.** Illustrative site plans showing the footprints of each building and  
36 structure, together with roads, sidewalks, parking, landscape features,  
37 and other significant site improvements;

38 **ii.** Land and building uses;

39 **iii.** Gross floor area in square feet of each individual building;

40 **iv.** Building height in stories and feet of each individual building; and

41 **v.** A description of parking and loading areas and facilities, including a  
42 statement of the approximate number of parking spaces in each area or  
43 facility.

1           **d.     *Needs of the Institution***

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

- 5           i.     Academic;
- 6           ii.    Support services;
- 7           iii.   Research;
- 8           iv.    Office;
- 9           v.     Housing;
- 10          vi.   Patient care;
- 11          vii.   Assembly for public events, worship, cultural events, and the like;
- 12          viii.   Recreation and athletics;
- 13          ix.    Transit;
- 14          x.     Parking; and
- 15          xi.    Commercial spaces and/or uses over 1,000 square feet.

16           **e.     *Ten-Year Development Envelope***

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

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

28           **f.     *Development and Design Standards***

29           The institutional master plan shall include the elements listed below. These  
30           elements may set different standards than those found in chapter 21.05, *Use*  
31           *Regulations*; chapter 21.06, *Dimensional Standards and Measurements*; and  
32           chapter 21.07, *Development and Design Standards*. The plan shall provide  
33           rationale for any different standards proposed. Where different standards are  
34           approved in the institutional master plan, those standards shall be applied  
35           instead of the corresponding standards in title 21.

- 36           i.     *Borders and Boundaries*  
37           Treatment along public rights-of-way and boundaries with other  
38           landowners, with regard to building setbacks and landscape buffers.

- 1  
2  
3  
4
- 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.
- 5  
6  
7  
8  
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10  
11
- 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.
- 12  
13  
14  
15  
16  
17
- 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.
- 18  
19  
20
- v. *Site and Building Design Standards*  
Institutional design standards and objectives, identified through written and graphic materials, that address the following issues:
- 21  
22
- (A) Dimensional standards for building setbacks, height, and lot coverage;
- 23
- (B) Site design and circulation;
- 24
- (C) Landscaping and site amenities;
- 25
- (D) Building orientation;
- 26
- (E) Building massing and articulation;
- 27
- (F) Building sustainability; and
- 28
- (G) Northern climate design.
- 29  
30  
31
- vi. *Wayfinding and Signage*  
A wayfinding and signage plan including building, vehicular, and pedestrian signage.
- 32  
33
- vii. *Timing*  
A conceptual development schedule and phasing plan.
- 34  
35  
36  
37  
38  
39
- 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 scale of anticipated development that may occur within a 20 year period.

- 
- 1 **D. Procedures for Master Plan Approval**
- 2 **1. Pre-Application Conference**
- 3 Before filing an application, an applicant shall request a pre-application conference with
- 4 the director. See section 21.03.020B.
- 5 **2. Community Meeting**
- 6 A community meeting is required in accordance with subsection 21.03.020G.
- 7 **3. Initiation**
- 8 An application for approval of an institutional master plan shall be initiated by the owner
- 9 or managing agent of the subject property.
- 10 **4. Application Submittal**
- 11 Applications for institutional master plan approval shall contain all information and
- 12 supporting materials specified in the title 21 user's guide and in subsection C.2. above,
- 13 and shall be submitted to the director on a form provided by the department. The director
- 14 may require the submittal of such other information as may be necessary to permit the
- 15 informed exercise of judgment under the criteria for the review of the plan, as set out in
- 16 subsection E. below.
- 17 **5. Departmental Review**
- 18 The department shall review the proposed institutional master plan in light of the approval
- 19 criteria set forth in subsection E. below, and shall distribute the application to other
- 20 reviewers as deemed necessary. Based on the results of those reviews, the department
- 21 shall provide a report to the planning and zoning commission.
- 22 **6. Public Notice**
- 23 Notice of all public hearings shall be provided in accordance with section 21.03.020H.
- 24 **7. Planning and Zoning Commission Action**
- 25 **a.** The planning and zoning commission shall hold a public hearing on the proposed
- 26 institutional master plan and, at the close of the hearing, recommend that the
- 27 assembly approve the plan as submitted, approve the plan subject to conditions
- 28 or modifications, or deny the plan, based on the approval criteria of subsection E.
- 29 below.
- 30 **b.** If the planning and zoning commission recommends that the assembly approve a
- 31 plan as submitted or with conditions or modifications, within 60 days of the
- 32 commission's action the director shall forward the recommendation to the
- 33 assembly.
- 34 **c.** If the planning and zoning commission recommends denial of a plan, that action
- 35 is final unless, within 20 days of the commission's action, the applicant files a
- 36 written statement with the municipal clerk requesting that the proposed
- 37 institutional master plan be submitted to the assembly.
- 38 **8. Assembly Action**
- 39 The assembly shall hold a public hearing on the proposed institutional master plan. At
- 40 the close of the hearing, taking into account the recommendations of the director and the
- 41 planning and zoning commission, any public comment, and based on the approval
- 42 criteria of subsection E. below, the assembly shall, within 90 days, approve the plan,
- 43 approve the plan with modifications or conditions, deny the plan, or refer the plan back to
- 44 the planning and zoning commission.

1 **E. Approval Criteria**

2 An institutional master plan may be approved if the assembly finds that it is consistent with the  
3 comprehensive plan, compatible with any adopted neighborhood plans for adjacent areas, and  
4 will achieve the following:

- 5 1. Provides flexibility to the institution to plan and implement long-range development  
6 programs to achieve its institutional mission and objectives;
- 7 2. Facilitates the continuation of the institution as a major source of service and employment  
8 that is easily accessible and well integrated with surrounding neighborhoods and the  
9 public transportation system;
- 10 3. Ensures that institutional facilities, especially those that are publicly funded, are well  
11 designed and constructed, include urban amenities, and are efficient to operate over their  
12 life-cycles;
- 13 4. Protects and mitigates effects of development on sensitive portions of the natural  
14 environment; and
- 15 5. Recognizes and addresses potential significant adverse impacts of institutional  
16 development on adjacent built environments, neighborhoods, and the community at  
17 large.

18 **F. Compliance with Institutional Master Plan**

- 19 1. Projects developed under the auspices of an approved institutional master plan are  
20 exempt from the review and approval procedures required in table 21.05-2.
- 21 2. Before a building permit or land use permit is issued for any project within an area  
22 covered by an approved institutional master plan, the director shall certify that the  
23 proposed project is consistent with the approved institutional master plan. The applicant  
24 shall submit a request for certification of consistency on a form provided by the  
25 department.
- 26 3. Such a certification shall be found if the proposed project is consistent or substantially  
27 consistent with the approved institutional master plan, or if the project is found to be not  
28 consistent with the approved institutional master plan, but the director finds the proposed  
29 project creates minimal impact according to the following criteria:
- 30 a. Not more than 25% of the proposed project is located outside the development  
31 areas depicted on the site functional use map;
- 32 b. The proposed project does not result in the addition of more than 10% additional  
33 square footage on a cumulative basis to the estimated total square footage of the  
34 affected site functional use category;
- 35 c. The project does not result in the creation of or the need for additional parking  
36 beyond that covered in the approved transportation and parking management  
37 element; and
- 38 d. The project does not result in the coverage of more than 25,000 square feet of  
39 site area.

- 1           4.     A certification of consistency, finding of inconsistency, or finding of consistency subject to  
2           conditions, shall be issued within 45 days of receipt of an application for such  
3           certification.
- 4           5.     If the director finds that a project is not consistent with the approved institutional master  
5           plan, the director shall issue a detailed list of reasons and recommended actions to  
6           achieve compliance.
- 7           6.     The director may issue a finding of inconsistency, or a finding of consistency subject to  
8           conditions, only where the director finds that the matters resulting in the inconsistency, or  
9           the conditions to which the certification is made subject, are required by specific terms of  
10          the approved institutional master plan or any applicable title 21 provisions.
- 11          7.     The director's decision may be appealed to the planning and zoning commission.

12   **G.     Modifications to Approved Institutional Master Plans**

13          1.     **Minor Amendments**

14                 The director may administratively approve amendments to an approved institutional  
15                 master plan upon written application, unless the assembly determines the amendment is  
16                 a major amendment. Minor amendments are defined generally as modifications to  
17                 approved plans that do not affect land use or density in ways that would have significant  
18                 adverse impacts on public facilities, utilities, traffic circulation, or other major  
19                 infrastructure systems; or on surrounding neighborhoods or development.

20          2.     **Major Amendments**

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

23   **21.03.120     MINOR MODIFICATIONS**

24   **A.     Purpose and Scope**

25                 This section sets out the required review and approval procedures for "minor modifications,"  
26                 which are minor deviations from otherwise applicable standards that may be approved by the  
27                 director, the assembly, the planning and zoning commission, the platting board, or the urban  
28                 design commission. Minor modifications are to be used when the small size of the modification  
29                 requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood,  
30                 make it unnecessary to complete a formal variance process.

31   **B.     Applicability**

32          1.     **Minor Modifications to General Development and Zoning District Standards**

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

38                 a.     Minimum lot area or setback requirements set forth in chapter 21.06,  
39                 *Dimensional Standards and Measurements*;

40                 b.     General development standards set forth in chapter 21.07, *Development and*  
41                 *Design Standards*, except for the natural resource protection standards in  
42                 subsection 21.07.020;

- 1                   c.       Subdivision standards set forth in chapter 21.08, *Subdivision Standards*, except  
2                   for the improvement standards in subsection 21.08.050;
- 3                   d.       The dimensional standards, site development and design standards, and building  
4                   design standards set forth in chapter 21.09, *Girdwood Land Use Regulations*  
5                   (sections 21.09.060, 21.09.070, and 21.09.080).
- 6                   **2.       Exceptions to Authority to Grant Minor Modifications**  
7                   In no circumstance shall any decision-making body approve a minor modification that  
8                   results in:
- 9                   a.       An increase in overall project density;
- 10                  b.       A change in permitted uses or mix of uses;
- 11                  c.       A deviation from the district-specific standards set forth in chapter 21.04, *Zoning*  
12                  *Districts*, or the use-specific standards set forth in chapter 21.05, *Use*  
13                  *Regulations*; or
- 14                  d.       A change in conditions attached to the approval of any subdivision plan (section  
15                  21.03.200), site plan (section 21.03.180), or conditional use permit (section  
16                  21.03.080).
- 17                  **C.       Procedure**
- 18                  **1.       Limitation on Minor Modifications**
- 19                  a.       An applicant may request application of the minor modification process to his or  
20                  her development only once during the review process.
- 21                  b.       In no instance may an applicant use the minor modification process to obtain  
22                  approval for more than three standards applicable to the same development.
- 23                  **2.       Minor Modifications Approved by Director**  
24                  For uses allowed by-right or when he or she is the decision-maker, the director may  
25                  approve a minor modification allowed under this section at any time prior to final decision.
- 26                  **3.       Minor Modifications Approved by Assembly, Planning and Zoning Commission,**  
27                  **Platting Board or Urban Design Commission**  
28                  The assembly, planning and zoning commission, platting board, or urban design  
29                  commission may approve a minor modification allowed under this section at any time  
30                  before taking action on a development application.
- 31                  **4.       Written Findings Noted on Pending Application**  
32                  Staff shall specify in writing any approved minor modifications and the finding supporting  
33                  such modifications on the pending development application for which the modifications  
34                  were sought, which shall be included as part of the case record.
- 35                  **5.       Appeals**  
36                  Denial of a minor modification application may be appealed to the zoning board of  
37                  examiners and appeals in accordance with subsection 21.03.050B.



1 **D. Approval Criteria**

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

- 4 1. The requested modification is consistent with the comprehensive plan and the stated  
5 purpose of this title;
- 6 2. The requested modification meets all other applicable building and safety codes;
- 7 3. The requested modification does not encroach into a recorded easement;
- 8 4. The requested modification will have no significant adverse impact on the health, safety,  
9 or general welfare of surrounding property owners or the general public, or such impacts  
10 will be substantially mitigated; and
- 11 5. The requested modification is necessary to either: (a) compensate for some practical  
12 difficulty or some unusual aspect of the site of the proposed development not shared by  
13 landowners in general; or (b) accommodate an alternative or innovative design practice  
14 that achieves to the same or better degree the objective of the existing design standard  
15 to be modified. In determining if "practical difficulty" exists, the factors set forth in section  
16 21.03.240G., *Approval Criteria (for Variances)* shall be considered.

17 **21.03.130 NEIGHBORHOOD OR DISTRICT PLANS**

18 **A. Purpose and Authority**

19 **1. Purpose**

20 Neighborhood or district plans shall be guided by the elements of the comprehensive  
21 plan, as defined in section 21.01.080. Neighborhood or district plans should give  
22 specificity to the goals, objectives, policies, and strategies of the comprehensive plan.  
23 These plans shall supplement and elaborate on the comprehensive plan. The goal of a  
24 neighborhood or district plan is to promote the orderly growth, improvement, and future  
25 development of the neighborhood, community, or municipality.

26 **2. Authority**

27 **a.** These procedures and minimum standards are established for the creation and  
28 review of plans for the development, growth, and improvement of the  
29 municipality, and its neighborhoods and communities. The plans may be  
30 sponsored by the mayor, the assembly, the planning and zoning commission, the  
31 department, the community development division, or upon express approval of  
32 the assembly by resolution, any community council, group of councils, or other  
33 groups or organizations representing the broad public interest recognized by the  
34 assembly to sponsor a neighborhood or district plan (hereafter called the  
35 "sponsor").

36 **b.** In order to obtain the approval of the assembly as a sponsor, any community  
37 council, group of councils, or other groups or organizations shall request a  
38 resolution from the assembly authorizing them to proceed with the development  
39 of a neighborhood or district plan. The group shall demonstrate, to the  
40 reasonable satisfaction of a majority of the assembly, that

41 **i.** They represent the broad public interest necessary to successfully  
42 develop a plan;

- 1                   ii.     They have read and understand the requirements of this ordinance; that  
2                                   their proposed plan will comply with the standards set forth in this  
3                                   ordinance; and
- 4                   iii.     They have sufficient financial resources and a sufficient level of  
5                                   knowledge and expertise to warrant the expenditure of public resources  
6                                   as provided herein.

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

19   **B.     Plan Submittal**

20           **1.     Initiation Meeting**  
21           The sponsor of a plan shall meet with the department at the initiation of the planning  
22           process to discuss and clarify content requirements, scheduling, and other relevant  
23           issues. Periodically, the department shall report to the commission, and to the assembly  
24           by an Assembly Information Memorandum (AIM) requiring no further action, on the  
25           progress of neighborhood or district plans underway.

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

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

36   **C.     Threshold Review and Determination**

37           **1.     Department Review and Determination**  
38           Within 90 days of the submittal of a plan, the department shall review the plan and  
39           determine whether the plan meets the standards for form, content, and for consistency  
40           with sound planning, as set forth in subsection D. below.

41           a.     If the department determines that the plan does meet the threshold standards of  
42                   subsection D., the department shall distribute the plan for public review and  
43                   commission public hearing as described in subsection E.

- 1                   **b.**     If the department determines the plan does not meet the threshold standards of  
2                   subsection D., the staff shall provide written notification to the sponsor of all  
3                   deficiencies with respect to form, content, process, and any changes, additions,  
4                   or deletions which, in the opinion of staff, may correct such deficiencies. The  
5                   sponsor may indicate its willingness to make such changes, additions, or  
6                   deletions. Only in such event may the sponsor be permitted to continue with the  
7                   plan.

8                   **2.     Coordination of Plan Review**

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

14                  **D.     Standards**

15                  **1.     Form and Content**

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

- 17                  **a.**     The plan shall state its sponsoring entity or entities and the names of the  
18                  individuals who participated in the development of the plan.

- 19                  **b.**     A plan shall enhance or implement goals, objectives, policies, and/or strategies  
20                  of the comprehensive plan and provide further detail and specificity. A plan may  
21                  take the form of a master plan or targeted plan.

- 22                               **i.**     A master plan for a neighborhood, district, or other geographic area of  
23                               the municipality may combine elements related to housing, industrial and  
24                               commercial uses, transportation, land use regulation, open space,  
25                               recreation, cultural features, health, economic vitality, community  
26                               facilities, and other infrastructure.

- 27                               **ii.**    A targeted plan may consider one or a small number of elements of  
28                               neighborhood, district, or municipal-wide problems or needs, and shall  
29                               focus on issues related to the use, development, and improvement of  
30                               land within the plan study area.

- 31                  **c.**     A plan shall not be limited to a single zoning district or a specific parcel in private  
32                  ownership. A plan shall cover an identifiable, cohesive geographic area or  
33                  neighborhood.

- 34                  **d.**     Plans shall be presented in clear language and coherent form with elements,  
35                  chapters, or sections organized in logical sequence.

- 36                  **e.**     Plans shall state goals, objectives, or purposes clearly and succinctly. Policy  
37                  statements or recommendations shall contain documentation and explanation of  
38                  the data, analysis, or rationale underlying each. Plans shall analyze and propose  
39                  policies to address identified problems.

- 40                  **f.**     A plan shall contain, as applicable:

- 41                               **i.**     Inventories or description and analysis of existing conditions, problems,  
42                               or needs; projections of future conditions, problems, or needs; and

1 recommended goals and strategies to address those conditions,  
2 problems, or needs.

3 ii. Alternatively, or concomitantly with the elements described above, a plan  
4 may also contain a vision for a future end state and a strategy(ies) for  
5 achieving it.

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

12 g. A plan shall contain a land use plan map for the geographic area encompassed  
13 by the plan. The land use plan map shall propose appropriate land use  
14 categories, which generally include: residential, commercial, industrial,  
15 institutional, transportation, community facilities, parks, and natural open space.  
16 The land use plan map may provide more specificity than the general categories.

17 h. Plans shall be accompanied by documentation showing public participation in the  
18 plan formulation and preparation. Public outreach, such as surveys, workshops,  
19 hearings, or technical advisory committees, is recommended as a tool for  
20 community support and consensus, in addition to department, commission, and  
21 assembly approval.

22 **2. Sound Planning Policy**

23 a. Every plan, regardless of form and content, shall include discussion of:

24 i. Its long-range consequences;

25 ii. Impact on economic and housing opportunity for all persons, particularly  
26 low- and moderate-income, and persons with disabilities;

27 iii. Provision of future growth and development opportunities;

28 iv. Ability to improve the physical environment; and

29 v. Effect on the geographic distribution of municipal facilities.

30 b. A plan shall set forth goals, objectives, purposes, policies, strategies, and/or  
31 recommendations within the legal authority of the municipality.

32 c. A plan considering issues under the jurisdiction of specific municipal or state  
33 agencies shall disclose all agency comments.

34 d. A plan shall analyze its relationship to applicable policy documents, including all  
35 adopted elements of the comprehensive plan, as well as its relationship to  
36 adjoining neighborhoods and other areas.

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

1 **E. Plan Distribution and Review**

2 **1. Plan Distribution**

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

9 **2. Public, Agency, and Community Council Review**

10 **a.** Each community council may conduct its own review of the plan. Within a period  
11 of 120 days following receipt of the plan, the community council may provide  
12 written recommendation(s) to the department and the sponsor.

13 **b.** Members of the public and other municipal or state agencies may provide written  
14 comments to the department during the 120 day review period.

15 **3. Department Review**

16 When the department is not the sponsor of a plan, it shall review the plan during the 120  
17 day review period, and prepare a staff report and recommendation for the commission.  
18 The department shall consider the neighborhood, community, and municipal-wide  
19 impacts and the long-term effects of the actions or policies recommended by the plan.  
20 The department shall also consider the impact of the plan on economic and housing  
21 opportunity, future growth and development, and the physical environment, including  
22 consistency of the plan with other adopted plans.

23 **F. Planning and Zoning Commission Review**

24 **1. Schedule for Review**

25 At the conclusion of the 120 day review period, the commission shall schedule a public  
26 hearing within 60 days following the final day of the public review period.

27 **2. Public Notice**

28 Notice of all public hearings shall be provided in accordance with section 21.03.020H.

29 **3. Planning and Zoning Commission Action**

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

40 **4. Commission Findings**

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

1 **G. Assembly Adoption**

2 **1. Transmission to Assembly**

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

6 **2. Public Notice**

7 Notice of all public hearings shall be provided in accordance with subsection 21.03.020H.

8 **3. Assembly Action**

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

- 10 **a.** Adopt the plan;
- 11 **b.** Adopt the plan with modifications;
- 12 **c.** Remand the plan to the commission; or
- 13 **d.** Not adopt the plan.

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

18 **H. Review and Revision**

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

25 **21.03.140 PUBLIC FACILITY SITE SELECTION**

26 **A. Purpose**

27 This section sets forth a process by which the planning and zoning commission shall review and  
28 decide upon acquisition of sites, including acquisition by lease, before certain public facilities may  
29 be authorized, or publicly owned land is designated as the site for certain public facilities.

30 **B. Applicability**

31 **1.** Unless exempted by subsection B.2. below, the planning and zoning commission shall  
32 review and decide the selection of sites for any of the following facilities that are to be  
33 owned, or leased by a government agency not exempt by law from municipal land use  
34 regulation:

- 35 **a.** Any newly constructed building or buildings and any existing building acquired by  
36 purchase or lease, in which government operations or activities occupy more  
37 than a total of 100,000 square feet on the site;



1 **G. Planning and Zoning Commission Action**

2 The commission shall hold a public hearing on any site selection that is subject to review under  
3 this section. At the close of the hearing, the commission shall decide on the proposed site based  
4 on the approval criteria of subsection H. below.

5 **H. Approval Criteria**

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

- 10 1. Whether the site will allow development that is compatible with current and projected land  
11 uses;
- 12 2. Whether the site is large enough to accommodate the proposed use and future additions  
13 or another planned public facility;
- 14 3. Whether adequate utility and transportation infrastructure is available to the site;
- 15 4. Whether the site is located near a transit route, if applicable;
- 16 5. Whether there are existing or planned walkways connecting the site to transit stops and  
17 surrounding residential areas, where applicable;
- 18 6. The environmental suitability of the site;
- 19 7. The financial feasibility of the site, including maintenance and operations; and
- 20 8. Major municipal, state, and federal administrative offices shall locate in the Central  
21 Business District. Satellite government offices and other civic functions are encouraged  
22 to locate in regional or town centers if practicable.

23 **I. Appeal**

24 Decisions on public facility site selections may be appealed to the assembly.

25 **21.03.150 RECORD OF SURVEY MAPS**

26 **A. Purpose and Authorization**

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

30 **B. Use of Record of Survey Maps**

- 31 1. A record of survey map is a map depicting the exterior boundaries of a legally created lot,  
32 parcel, or tract, and includes a correction to a record of survey map.
- 33 2. A record of survey map shall not be used to depict the boundaries of a lot, parcel, or  
34 tract, which lot, parcel, or tract was created or subdivided contrary to law. A record of  
35 survey map shall not subdivide property or recombine lots into acreage, and any record  
36 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 contain the information specified in the title 21 user's guide, and shall be submitted to the director on a form provided by the department.

**D. Monuments**

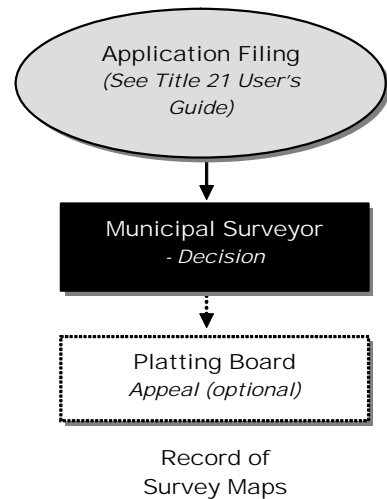
Monuments set for the survey shall conform to the standards of the department of project management and engineering.

**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.



**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. The purpose 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, or DR zoning district.
3. A rezoning into the NC 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

1 plan map. If an amendment to the comprehensive plan map is required, the zoning map  
 2 amendment can only be made if the amendment to the comprehensive plan map is approved  
 3 first. Both amendments may be processed concurrently, as provided in subsection 21.03.070C.3.

4 **D. General Procedure**

5 **1. Initiation**

6 **a.** A rezoning may be initiated by the assembly, the planning and zoning  
 7 commission, or by the director of any municipal department.

8 **b.** In addition, any person may initiate a rezoning by submitting a petition favoring  
 9 the rezoning signed by the owners of at least 51% of the area within the property  
 10 to be rezoned. For the purposes of this subsection, an owner of property subject  
 11 to the Horizontal Property Regimes Act (A.S.  
 12 34.07) owns a percentage of the appurtenant  
 13 common areas equal to the percentage for that  
 14 property stated in the recorded declaration  
 15 committing the property to the Horizontal  
 16 Property Regimes Act.

17 **c.** A rezoning application shall expire one year  
 18 after submittal unless a public hearing on the  
 19 application has been held by the assembly on  
 20 or before that date; provided, however, that the  
 21 director or designee may extend the  
 22 application for six months if the reason for the  
 23 delay was due to circumstances beyond the  
 24 control of the applicant.

25 **d.** Rezoning shall precede corps of engineers  
 26 wetland permit applications.

27 **2. Pre-Application Conference**

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

31 **3. Application Submittal**

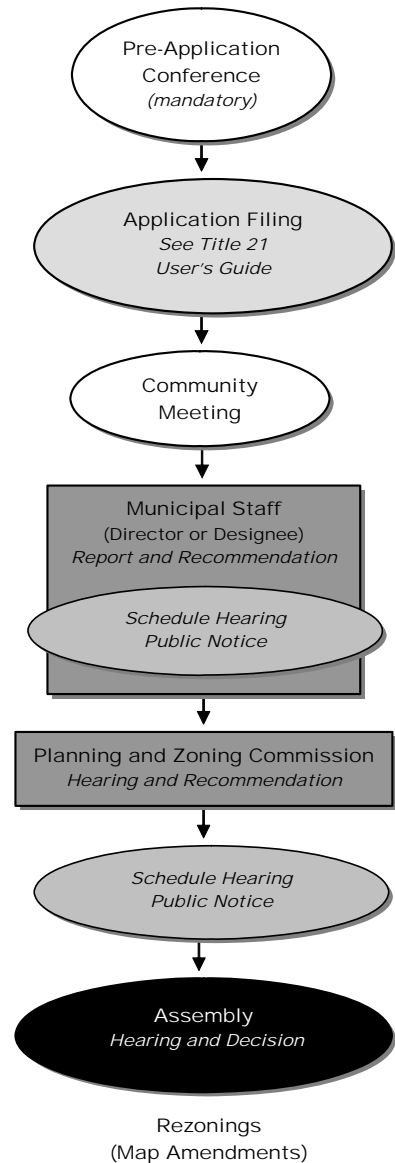
32 Applications for a rezoning shall contain the  
 33 information specified in the title 21 user's guide, and  
 34 shall be submitted to the director on a form provided by  
 35 the department. Additional materials may be required  
 36 for certain types of rezoning, such as rezoning with  
 37 special limitations.

38 **4. Community Meeting**

39 A community meeting is required in accordance with  
 40 subsection 21.03.020G.

41 **5. Public Notice**

42 Notice of all public hearings shall be provided in  
 43 accordance with section 21.03.020H. In addition, the  
 44 published and written (mailed) notice for the public



1 hearing before the assembly shall list the protest provisions set forth in subsection D.9.  
2 below.

3 **6. Departmental Review**

4 The department shall review each proposed rezoning in light of the approval criteria in  
5 subsection E. below and distribute the application to other reviewers as deemed  
6 necessary. Based on the results of those reviews, the department shall provide a report  
7 to the planning and zoning commission.

8 **7. Planning and Zoning Commission Action**

9 **a.** The planning and zoning commission shall hold a public hearing on the proposed  
10 rezoning and, at the close of the hearing, recommend approval, approval with  
11 special limitations or other modifications, or denial. The commission shall base  
12 its recommendation on the approval criteria in subsection E. below, and shall  
13 include written findings based on each of the approval criteria.

14 **b.** If the commission recommends approval or approval with special limitations or  
15 other modifications, within 60 days of the commission's written resolution, the  
16 director shall forward the recommendation to the assembly with an ordinance to  
17 amend the official zoning map in accordance with the recommendation.

18 **c.** If the commission recommends denial, that action is final unless, within 15 days  
19 of the commission's written resolution recommending denial, the applicant files a  
20 written statement with the municipal clerk requesting that an ordinance amending  
21 the zoning map in accordance with the application be submitted to the assembly.  
22 The draft ordinance shall be appended to an Assembly Informational  
23 Memorandum (AIM) for consideration by the assembly.

24 **8. Assembly Action**

25 The assembly shall hold a public hearing on the proposed rezoning and shall, at the  
26 close of the hearing, taking into account the recommendations of the director, planning  
27 and zoning commission, and public input, and based upon the approval criteria of  
28 subsection E. below:

29 **a.** Approve the zoning map amendment as submitted;

30 **b.** Approve the zoning map amendment by ordinance with special limitations (see  
31 subsection G.) or other modifications at least as restrictive as those  
32 recommended by the planning and zoning commission;

33 **c.** Deny the amendment; or

34 **d.** Remand the proposed amendment to the planning and zoning commission or to  
35 a committee of the assembly for further consideration.

36 **9. Protests**

37 **a.** Any owner of property subject to a proposed rezoning may protest the rezoning  
38 by filing a written protest with the clerk pursuant to this subsection.

39 **b.** Any owner of property within 300 feet of the outer boundary of the land to which  
40 the amendment applies may protest the rezoning by filing a written protest with  
41 the clerk that is signed by the owners of at least one-third of the property,  
42 excluding rights-of-way, of:

- 1                   i.       The land to which the amendment applies; or
- 2                   ii.       The land within 300 feet of the outer boundary of the land to which the
- 3                               amendment applies;
- 4                               excluding land owned by the municipality, except where the municipality joins in
- 5                               the protest.
- 6                   c.       To be valid, the protest shall state the factual and/or legal basis for the protest,
- 7                               contain a legal description of the property on behalf of which the protest is made,
- 8                               be signed by the owner of that property, and be received by the municipal clerk
- 9                               after notice of a public hearing before the assembly on a zoning map amendment
- 10                              and at least three business days before the time set for the assembly public
- 11                              hearing on the amendment.
- 12                   d.       Assembly approval of a rezoning subject to a valid protest under this subsection
- 13                              shall require an affirmative vote of eight assembly members.

14                   **10.     Waiting Period for Reconsideration**

15                              Following denial of a rezoning request, no new application for the same or substantially

16                              the same rezoning shall be accepted within one year of the date of denial, unless denial

17                              is made without prejudice.

18                   **11.     Form of Amending Ordinance**

19                              An ordinance amending the zoning map shall contain the following:

20                              a.       The names of the current and the requested zoning districts;

21                              b.       The legal description of the subject property;

22                              c.       Any special limitations being applied to the subject property; and

23                              d.       An effective clause.

24                   **E.     Approval Criteria**

25                              The planning and zoning commission may recommend approval, and the assembly may approve

26                              a rezoning, if the rezoning meets all of the following criteria:

- 27                   1.       The rezoning promotes the public health, safety, and general welfare;
- 28                   2.       The rezoning complies with and conforms to the comprehensive plan and the purposes of
- 29                              this title;
- 30                   3.       The proposed rezoning conforms to the comprehensive plan map, as follows:
- 31                              a.       The rezoning shall be to a zone corresponding to the comprehensive plan map,
- 32                              including the zoning consistency table, except as provided in F. below.
- 33                              b.       When the comprehensive plan map designation has more than one
- 34                              corresponding zone, it shall be shown that the proposed zone is the most
- 35                              appropriate, taking into consideration the purposes of each zone and the zoning
- 36                              pattern of surrounding land.

- 1           **4.**     The rezoning is consistent with the stated purpose of the proposed zoning district;
- 2           **5.**     Facilities and services (including roads and transportation, water, gas, electricity, police  
3           and fire protection, and sewage and waste disposal, as applicable) are capable of  
4           supporting the uses allowed by the zone or will be capable by the time development is  
5           complete, while maintaining adequate levels of service to existing development;
- 6           **6.**     The rezoning is not likely to result in significant adverse impacts upon the natural  
7           environment, including air, water, noise, storm water management, wildlife, and  
8           vegetation, or such impacts will be substantially mitigated;
- 9           **7.**     The rezoning is not likely to result in significant adverse impacts upon other property in  
10          the vicinity of the subject tract;
- 11          **8.**     The rezoning does not result in a split-zoned lot;
- 12          **9.**     The applicant has demonstrated, to the satisfaction of the commission and the assembly,  
13          that the supply of land in the desired zoning district in the general area is insufficient or  
14          inadequate for the intended purpose, and that sufficient land of the existing zoning district  
15          remains in the area to meet the needs of the community; and
- 16          **10.**    The proposed rezoning maintains and preserves the compatibility of surrounding zoning  
17          and development, and protects areas designated for specific uses on the zoning map  
18          from incompatible land uses or development intensities.

19   **F.     Flexibility of Interpretation**

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

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

1 **G. Rezoning with Special Limitations**

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

5 **1. Purposes**

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

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

16 **2. Types of Limitations**

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

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

25 **3. Effect of Approval**

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

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

32 **1. Purpose and Applicability**

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

- 1           a.     Permit, require, prohibit, or restrict structures or the use of land or structures;
- 2           b.     Alter the provisions of the use-specific requirements as applied to property within  
3           the overlay district;
- 4           c.     Require new development or attributes of new development to conform to a  
5           specific architectural or design theme;
- 6           d.     Require a design review approval process; and/or
- 7           e.     Alter the development standards of the underlying district by decreasing or  
8           increasing the requirements with regard to building height, setbacks, lot area, lot  
9           width, lot coverage, and lot densities of the underlying district.
- 10        **2.     Minimum Area Requirements**  
11        No overlay district zoning map amendment shall be considered or approved that applies  
12        an overlay district to an area less than 1.75 acres, excluding rights-of-way, except for an  
13        amendment extending the boundaries of an existing overlay district.
- 14        **3.     General Procedure for Creating, Altering, or Eliminating Overlay Districts**  
15        Overlay districts shall be established, altered, or eliminated using the general rezoning  
16        procedure set forth in subsection D. above, *General Procedure*, except as modified by  
17        the following provisions:
- 18        a.     ***Contents of Adopting Ordinance***  
19        An ordinance amending the zoning map for an overlay district shall contain the  
20        following:
- 21           i.     The name of the overlay district that the ordinance applies;
- 22           ii.    The legal description of the land within the overlay district applied by the  
23           ordinance; and
- 24           iii.   All standards of development to be governed by the overlay district.
- 25        b.     ***Effect of Approval***
- 26           i.     Where a specification in an overlay zoning map amendment conflicts  
27           with any provision of this title, the overlay zoning map amendment shall  
28           govern.
- 29           ii.    An overlay district adopted in the same manner as the original ordinance  
30           remains effective until repealed or amended. The assembly may set a  
31           time for the overlay district to expire if it finds the planning objectives will  
32           be met or completed within a specific time period.
- 33        c.     ***Map of Overlay Districts***
- 34           i.     Each overlay district shall be annotated on the zoning map with a symbol  
35           unique to the overlay district and shall be identified on the zoning map by  
36           the suffix "OV" and the number of the ordinance applying the overlay  
37           district shall be printed on the zoning map within the boundaries of the  
38           overlay district.

- 1                                   ii.     The department shall maintain, for inspection by the public, maps  
2    showing the location of the overlay districts and records of the  
3    assembly's purpose and intent in establishing each district.

4                   **4.     Establishment or Modification of Airport Height Overlay Districts**

5                   In addition to the standard submittals required to initiate an overlay map amendment,  
6                   establishment of an Airport Height Overlay District also shall require preparation of an  
7                   airport height map as set forth in section 21.04.060C.

8   **I.     Rezoning to Planned Community Development District (PCD)**

9                   **1.     Purpose**

10                   The assembly may, through the rezoning process, adopt a regulatory zoning strategy that  
11                   is customized for a specific property or group of properties. The zoning strategy may  
12                   substitute, alter, or adopt the specific requirements of chapters 21.05, 21.06, and 21.07  
13                   (see subsection I.4. below) in order to meet the unique needs of the development. The  
14                   assembly must find that the proposed strategy will result in development that is  
15                   compatible with that which would occur with conventional application of the requirements  
16                   of chapters 21.05, 21.06, and 21.07.

17                   **2.     Procedure**

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

20                   **3.     Minimum Area Requirements**

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

24                   **4.     In-Lieu Standards Allowed**

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

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

29                                   i.     Chapter 21.05, *Use Regulations*;

30                                   ii.    Chapter 21.06, *Dimensional Standards*;

31                                   iii.   Subsection 21.07.020C., *Steep Slope Development*;

32                                   iv.    Section 21.07.030, *Open Space*;

33                                   v.     Section 21.07.060, *Transportation and Connectivity*;

34                                   vi.    Section 21.07.080, *Landscaping, Screening, and Fencing*;

35                                   vii.   Section 21.07.090, *Off-Street Parking and Loading*;

36                                   viii.  Section 21.07.100, *Residential Design Standards*;

37                                   ix.    Section 21.07.110, *Public/Institutional and Commercial Design*  
38    Standards;



- 1                                   x.     Section 21.07.120, *Large Commercial Establishments*;
- 2                                   xi.    Section 21.07.130, *Exterior Lighting*; and
- 3                                   xii.  Subsection 21.08.050D., *Interior Streets*.
- 4                               c.     Along with the application and documentation information required in I.5. below,  
5                               the applicant must also submit the following information with regard to any  
6                               proposed in-lieu standards.
- 7                                   i.     Clear specification of the proposed in-lieu standards, and the title 21  
8                                   standards for which the proposed in-lieu standards are a substitute. Any  
9                                   title 21 standards that are not replaced with approved in-lieu standards  
10                                  shall apply in the PCD district.
- 11                                  ii.    A statement of why compliance with title 21 standards would interfere  
12                                  with the goals, purposes, or functions of development in the proposed  
13                                  PCD district.
- 14                                  iii.  A demonstration of how the proposed in-lieu standards would be at least  
15                                  as effective as the title 21 standards in fulfilling the intents and purposes  
16                                  of title 21, and furthering the goals and policies of the comprehensive  
17                                  plan, including any applicable neighborhood or district plans.
- 18                                  iv.   A statement of the expected benefits of the proposed in-lieu standards.
- 19                               d.     The planning and zoning commission may recommend approval, and the  
20                               assembly may approve a rezone to the PCD district with in-lieu standards if they  
21                               find that the in-lieu standards will result in development that is compatible with  
22                               the intents and purposes of title 21 and the goals and policies of the  
23                               comprehensive plan, and do not compromise public health, safety, or welfare.
- 24                               **5.     Application and Documentation**
- 25                               Applications for rezoning to a PCD district shall contain the information specified in the  
26                               title 21 user's guide, and the following:
- 27                               a.     If proposing in-lieu standards for subsection 21.07.020C., *Steep Slope*  
28                               *Development*, the information required in subsection 21.07.020C.;
- 29                               b.     Development Areas: a PCD district that proposes to segregate differing land  
30                               uses and/or different project phases shall provide and maintain a map that clearly  
31                               distinguishes the boundaries of each development area. The development areas  
32                               shall be identified with an alpha, numeric, or alphanumeric coding system to  
33                               allow for easy identification of each area. Different in-lieu standards may be  
34                               proposed for each development area.
- 35                               c.     Table of allowed uses and use definitions:
- 36                                   i.     The PCD district shall establish a table of allowed uses and a table of  
37                                   accessory uses. The table shall be formatted in the same manner as the  
38                                   tables depicted in chapter 21.05 listing the land use, and if development  
39                                   areas are proposed, noting each with its designated land uses. The  
40                                   table abbreviations set forth at 21.05.010A. shall be used.

- 1                   ii.     The land uses listed in the table of allowed uses or the table of  
2                   accessory uses shall be defined in chapter 21.05, or the PCD district  
3                   shall provide a use definition for those uses not listed in sections  
4                   21.05.020 through 21.05.080.
- 5                   d.     Dimensional standards and measurements:
- 6                   i.     The PCD district shall establish a table of dimensional standards. The  
7                   table shall be formatted in the same manner as the tables depicted in  
8                   chapter 21.06 listing the dimensional standards, and if development  
9                   areas are proposed, noting each with its designated dimensional  
10                  standards.
- 11                  ii.    Unless specifically provided otherwise (see subsection I.4. above), the  
12                  measurements and exceptions section 21.06.030 shall apply.
- 13                  **6.     Relationship to Other Requirements**  
14                  When there is a conflict between the PCD district requirements and other requirements of  
15                  this title, the PCD district requirements control. The specific requirements of this title  
16                  apply unless the PCD district provides other requirements for the same specific topic.
- 17                  **7.     Changes to an Approved PCD District**
- 18                  a.     **Approval by Assembly**  
19                  Approval of a zoning map amendment in accordance with section 21.03.160 is  
20                  required for the following amendments to the PCD district:
- 21                  i.     Any increase in the total number of authorized dwelling units;
- 22                  ii.    Any decrease in the total open space acreage;
- 23                  iii.   Any increase in the total gross building area of commercial or industrial  
24                  structures;
- 25                  iv.    Any addition or deletion of any permitted principal use, conditional use,  
26                  or accessory use;
- 27                  v.     Any changes in the development standards;
- 28                  vi.    Any density transfer between development areas that will result in a 25%  
29                  or greater cumulative increase or decrease in the number of dwelling  
30                  units in any development area; or
- 31                  vii.   Any change in the acreage of a development area equal to or more than  
32                  25% of the total acreage of the development area.
- 33                  b.     **Approval by the Planning and Zoning Commission**  
34                  Approval by the planning and zoning commission is required for the following  
35                  amendments to the PCD district:
- 36                  i.     Any density transfer between development areas that will result in a  
37                  cumulative increase or decrease of more than 10% but less than 25% in  
38                  the number of dwelling units in any development area; or

ii. Any change in the acreage of a development area of more than 10% but less than 25% 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% 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% or less of the total acreage of the development area.

**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 21.11, *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.

1 **D. Review and Approval**  
2 Sign permit applications shall be reviewed and approved pursuant to the procedure outlined in  
3 21.03.100C.2, *Approval Procedure (for Land Use Permits)*.

4 **E. Appeals**  
5 1. Denial of a sign permit relating to title 21 compliance may be appealed to the zoning  
6 board of examiners and appeals in accordance with subsection 21.03.050B.  
7 2. Denial of a sign permit relating to title 23 compliance may be appealed to the building  
8 board of examiners and appeals.

9 **21.03.180 SITE PLAN REVIEW**

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

17 **B. Administrative Site Plan Review**  
18 1. **Applicability**  
19 Land uses requiring administrative site plan review are identified in section 21.05.010,  
20 *Tables of Allowed Uses*.

21 2. **Procedure**  
22 a. **Application Submittal**  
23 Applications for an administrative site plan review shall contain the information  
24 specified in the title 21 user's guide, and shall be submitted to the director on a  
25 form provided by the department.

26 b. **Departmental Review and Director's Action**  
27 The department shall review each proposed administrative site plan application  
28 in light of the approval criteria of subsection E. below and distribute the  
29 application to other reviewers as deemed necessary. Based on the results of  
30 those reviews, the director shall take final action on the site plan application and  
31 approve, approve with conditions, or deny the application. The department's  
32 review and the director's action, including referral to other agencies and bodies,  
33 shall be completed within 60 days of verification of a complete application.

34 c. **Appeals**  
35 Denial of an administrative site plan may be appealed to the urban design  
36 commission, in which case it shall be treated as a major site plan review  
37 application under subsection C. below.

38 **C. Major Site Plan Review**  
39 1. **Applicability**  
40 Land uses requiring major site plan review are identified in section 21.05.010, *Tables of*  
41 *Allowed Uses*.

- 
- 1           **2. Procedure**
- 2           **a. Pre-Application Conference**
- 3           Before filing an application, the applicant shall request a pre-application
- 4           conference with the director, in accordance with subsection 21.03.020B.
- 5
- 6           **b. Application Submittal**
- 7           Applications for a major site plan review shall contain the information specified in
- 8           the title 21 user's guide, and shall be submitted to the director on a form provided
- 9           by the department.
- 10
- 11          **c. Community Meeting**
- 12          A community meeting is required in accordance with subsection 21.03.020G.
- 13
- 14          **d. Public Notice**
- 15          Notice of all public hearings shall be provided in accordance with subsection
- 16          21.03.020H.
- 17
- 18          **e. Departmental Review**
- 19          The department shall review each proposed major site plan application in light of
- 20          the approval criteria of subsection E. below and distribute the application to other
- 21          reviewers as deemed necessary. Based on the results of those reviews, the
- 22          department shall provide a report to the urban design commission.
- 23
- 24          **f. Urban Design Commission Action**
- 25          The urban design commission shall hold a public hearing on the proposed
- 26          application and act to approve, approve with conditions, or deny the proposed
- 27          major site plan, based on the approval criteria of subsection E. below.
- 28
- 29          **g. Appeals**
- 30          Denial of a major site plan may be appealed to the board of adjustment in
- 31          accordance with subsection 21.03.050A.
- 32
- 33          **D. Expiration**
- 34
- 35          **1. General**
- 36          A site plan approval shall automatically expire at the end of 24 months after the effective
- 37          date unless a building or land use permit for at least one building in the development
- 38          proposed in the site plan is approved and construction has begun (see the definition of
- 39          "start of construction" in chapter 21.14). A change in ownership of the property does not
- 40          affect this time frame.
- 41
- 42          **2. Extension**
- 43
- 44          **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

1 not to exceed 12 months. The approval shall be deemed extended until the  
2 commission has acted upon the request for extension.

3 **E. Approval Criteria**

4 An application for administrative or major site plan review shall be approved upon a finding that  
5 the site plan meets all of the following criteria:

- 6 1. The site plan is consistent with any previously approved subdivision plat, planned  
7 development master plan, or any other precedent plan or land use approval;
- 8 2. The site plan complies with all applicable development and design standards set forth in  
9 this title, including but not limited to the provisions in chapter 21.04, *Zoning Districts*,  
10 chapter 21.05, *Use Regulations*, chapter 21.06, *Dimensional Standards and*  
11 *Measurements*, and chapter 21.07, *Development and Design Standards*;
- 12 3. The site plan addresses any significant adverse impacts that can reasonably be  
13 anticipated to result from the use, by mitigating or offsetting those impacts to the  
14 maximum extent feasible; and
- 15 4. The development proposed in the site plan is consistent with the goals, objectives, and  
16 policies of the comprehensive plan.

17 **F. Platting for Site Plans**

- 18 1. If development under an approval under this section will create a subdivision or requires  
19 the vacation of a dedicated public area, the approval is not effective until a final plat for  
20 the subdivision or vacation is approved and recorded in accordance with this title. A  
21 preliminary plat required under this section is subject to approval as required by section  
22 21.03.200, *Subdivisions*.
- 23 2. Unless the authority granting approval directs in the approval that it shall act as the  
24 platting authority, the director is the platting authority for subdivisions under this  
25 subsection.

26 **G. Amendments to Approved Site Plans**

- 27 1. **Original Procedure Applies for Most Amendments**  
28 Amendment of a site plan shall follow the same process required for the original approval  
29 of a site plan, unless the amendment is determined to be a minor amendment as  
30 described in subsection G.2. below.
- 31 2. **Administrative Approval of Minor Amendments**  
32 The director may approve administratively minor amendments to any approved site plan  
33 upon written application and documentation by the applicant, and upon the director's  
34 determination that the amendment is a minor amendment.
  - 35 a. **Procedure**
    - 36 i. Upon receiving a written request from the applicant for a site plan  
37 amendment, the director shall determine if the proposed amendment will  
38 be processed as a minor amendment or major amendment. The  
39 applicant may appeal the director's decision, in writing to the zoning  
40 board of examiners and appeals within 10 days of the decision.



- 1                   **b.**     As applicable, the commission’s review of the project shall include but not be  
2                   limited to:
- 3                   i.       Compliance with the comprehensive plan and its elements;
- 4                   ii.      Compliance with this title;
- 5                   iii.     Long-term impact on existing and projected adjacent land uses;
- 6                   iv.     Preferred route selection;
- 7                   v.      Short-term and long-term impact of property acquisition for right-of-way;  
8                   and
- 9                   vi.     Impacts on utilities including undergrounding of overhead utilities.
- 10                  **c.**     The commission may request that subsequent design documents be returned to  
11                  the commission for review. Any such requested design documents shall be  
12                  presented to the commission at the earliest opportunity that permits any  
13                  additional commission recommendations to be implemented in design revisions.

14 **C.       Urban Design Commission Review and Action**

15                  **1.       Applicability**

16                  The urban design commission shall review and approve all landscaping and streetscape  
17                  and pedestrian facilities for streets of collector classification or greater in the *Official*  
18                  *Streets and Highways Plan*, and for trail projects involving all trails that are over one-half  
19                  mile in length and any portion of which utilizes publicly-owned land, easements, or right-  
20                  of-way.

21                  **2.       Review and Action**

22                  **a.**     The urban design commission shall approve, approve with conditions, or reject  
23                  the landscaping, streetscape, and pedestrian design plans at a stage no greater  
24                  than 65% designed, for all applicable street and trail projects. A public hearing is  
25                  not required but may be held at the commission’s discretion.

26                  **b.**     As applicable, the commission’s action shall be based on, but is not limited to,  
27                  the following considerations:

28                  i.       Compliance with this title;

29                  ii.     Context of the area and the long-term impact on existing and projected  
30                  adjacent land uses;

31                  iii.    Initial cost of materials including installation;

32                  iv.    Long term costs associated with operation and maintenance;

33                  v.     Adherence to a design theme established through local area plans or  
34                  prior public improvements;

35                  vi.    Effectiveness in meeting community design goals; and

36                  vii.   Accommodation of pedestrians.



1                   c.     The commission may request that subsequent design documents be returned to  
2                   the commission for review. Any such requested design documents shall be  
3                   presented to the commission at the earliest opportunity that permits any  
4                   additional commission recommendations to be implemented in design revisions.

5                   **3.     Appeal**

6                   Decisions may be appealed to the planning and zoning commission, which shall be  
7                   required to hold a public hearing only if the urban design commission did not hold a  
8                   public hearing.

9                   **21.03.200     SUBDIVISIONS**

10                  **A.     Purpose**

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

15                  **B.     Applicability**

16                   **1.     General**

17                   The procedures of this section, and the standards and requirements set forth in chapter  
18                   21.08, *Subdivision Standards*, shall apply to all subdivisions or resubdivisions that result  
19                   in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land,  
20                   including subdivisions or resubdivisions created by an exercise of the power of eminent  
21                   domain by an agency of the state or municipality. All subdivisions applications shall be  
22                   reviewed according to the process set forth in subsection C. below, unless they qualify for  
23                   the abbreviated plat procedure.

24                   **2.     Abbreviated Plat**

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

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

29                   i.     Result in an increase in the permitted density of residential units within  
30                   the area being subdivided or resubdivided.

31                   ii.    Allow a change in the permitted use to which the lot or tract may be  
32                   devoted under existing zoning.

33                   iii.   Deny adequate access to and from all lots or tracts created by the  
34                   subdivision or those adjacent to it.

35                   b.    The subdivision of a single tract, parcel, or lot into no more than three tracts or  
36                   eight lots, provided that the subdivision does not:

37                   i.     Allow a change in the permitted use to which the lot or tract may be  
38                   devoted under existing zoning.

39                   ii.    Deny adequate access to and from all lots or tracts created by the  
40                   subdivision or those adjacent to it.

- 1                           iii.     Divide a tract, parcel or lot:
- 2                           (A)     Created within the previous 48 months pursuant to the approval  
3   of a preliminary plat under this section;
- 4                           (B)     Contiguous to or having an owner either in an individual capacity  
5   or as an owner of a corporation, partnership, or other legal entity  
6   of a preliminary plat approved within the previous 48 months; or
- 7                           (C)     That is 10 acres or more in the R-6, R-7, R-8, R-9, and R-10  
8   zoning districts or that is governed by AO 84-21 (G-5 areawide  
9   rezoning).
- 10                       c.     Vacations and relocations under section 21.03.230.C.1.
- 11                       d.     Subdivision of a cemetery into burial plots.
- 12                       e.     A plat required by section 21.03.080F. for approval of a conditional use, or  
13   section 21.03.180F. for approval of a site plan.
- 14                       f.     A plat depicting the creation of two attached single-family lots.
- 15                       3.     **Subdivision Approval is Prerequisite to Other Approvals**
- 16                           a.     No building permit, land use permit, certificate of zoning compliance, or certificate  
17   of occupancy may be issued for any building, structure, or improvement located  
18   within a subdivision, and no plat for a subdivision may be recorded with the state  
19   of Alaska, until all required dedications of land have been made, and all required  
20   improvements have been installed in accordance with the procedures and  
21   requirements of this section, or an approved subdivision agreement is in place  
22   pursuant to section 21.08.060, *Subdivision Agreements*.
- 23                           b.     The municipality shall not accept or maintain any street, and shall not extend or  
24   connect any street lighting, water service, or sanitary sewer service to any  
25   subdivision of land, until and unless a plat for the subdivision has been approved  
26   and recorded in accordance with the requirements set forth in this section.
- 27                       4.     **Restriction on Sale or Transfer of Subdivided Land Without Approved Plat**
- 28                           Any person who transfers or sells any land located within the municipality by reference to  
29                           a plat that has not been approved by the municipality and recorded by the state of Alaska  
30                           shall be guilty of a violation of this title. The description by metes and bounds in the  
31                           instrument of transfer or other document used in the process of selling or transferring  
32                           shall not exempt the transaction from such penalties. The municipality also may enjoy  
33                           such transfer or sale by filing an action for an injunction.
- 34                       5.     **Existing Lots of Record**
- 35                           No provision of chapter 21.08, *Subdivision Standards*, applies to any lot of record in a  
36                           subdivision legally created and filed before the effective date of this title, unless the lot is  
37                           further subdivided or resubdivided.
- 38                       C.     **Review and Approval of Subdivision Plans**
- 39                           1.     **Applicability**
- 40   This section shall apply to all subdivisions not meeting the eligibility criteria for the  
41   abbreviated plat procedure.

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**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 director, in accordance with subsection 21.03.020B.

**3. Application Submittal**

a. Unless waived by the director, 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 contain the information specified in the title 21 user's guide, and shall be submitted to the director on a form provided by the department.

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.

**4. Community Meeting**

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

**5. Public Notice**

Notice of all public hearings 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.

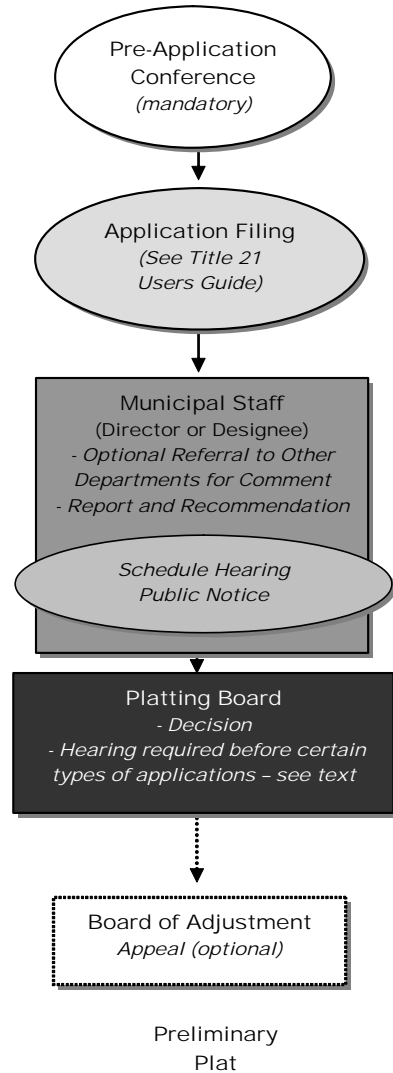
**7. Action on Preliminary Plat**

**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



1 within 90 days after the submittal date, or shall return the plat to the applicant for  
2 modification or correction. The reasons for denial of a plat shall be stated in the  
3 records of the platting authority.

4 **c. Referral to Other Agency**

5 If the platting authority finds that:

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

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

17 **d. Public Hearing**

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

- 20 i. Approval of a preliminary plat, except applications allowed to use the  
21 abbreviated plat procedure;
- 22 ii. Approval of a final plat that differs from the preliminary plat (see section  
23 21.03.200C.8.b.);
- 24 iii. Modification or deletion of a condition of plat approval;
- 25 iv. Granting of a variance from the provisions of chapter 21.08, *Subdivision*  
26 *Standards*; and
- 27 v. Vacation of dedicated right-of-way; BLM and section line easements; or  
28 platted landscape, drainage, slope, or protective well radii easements.

29 **e. Approval Period; Time Extensions**

30 i. Notwithstanding any subsequent change in the subdivision regulations,  
31 zoning regulations, and zoning districts, the approval of the preliminary  
32 plat shall be effective:

33 **(A)** For at least 24 months and up to 60 months from the date of  
34 approval, when it pertains to a development of no less than 10  
35 acres and includes a phasing plan. The length of the approval  
36 period shall be based upon the platting board's evaluation of the  
37 size, complexity, and phasing elements of the development.

38 **(B)** For 24 months from the date of approval when it pertains to a  
39 development of less than 10 acres or does not include a phasing  
40 plan.

- 1                                   ii.     The preliminary plat shall become null and void after the approval period  
2    unless an extension of time is granted by the platting authority. A  
3    request for a time extension must be made in writing by the subdivider.  
4    The extension request must be received by the director prior to the  
5    expiration of the preliminary plat to be eligible for consideration by the  
6    platting authority.
- 7                                   iii.     Such a time extension shall be granted only if the authority finds that  
8    current conditions are substantially the same as those that existed when  
9    the preliminary plat was originally approved. The director shall conduct  
10    the reevaluation for every extension request that does not raise the total  
11    time of extension for a particular plat beyond 24 months and present his  
12    or her findings to the authority. Every extension request that raises the  
13    total time of extension for a particular plat beyond 24 months shall be  
14    evaluated in the same manner as an original plat application, including  
15    payment of the applicable fee.
- 16                                   iv.     Only two time extensions may be approved for a preliminary plat  
17    approved by the platting authority. Approval of the second extension  
18    shall require a noticed public hearing.
- 19                                   v.     Preliminary plats being finalized in portions or phases shall not be  
20    construed to automatically extend the original approval period. Such an  
21    extension may only be granted by the platting authority in accordance  
22    with the procedures set out in this subsection.
- 23                                   f.     **Appeals**  
24    All decisions as to approval or denial of a preliminary plat by the platting authority  
25    shall be final unless appealed to the board of adjustment.
- 26                                   g.     **Resubmittal Following Denial**  
27    No new application for the same or substantially the same preliminary plat shall  
28    be accepted by the platting authority within one year of denial of the original  
29    application. The waiting period required by this section may be waived in an  
30    individual case, based upon new evidence or changed circumstances, by the  
31    affirmative vote of a majority of the platting authority.
- 32                                   8.     **Final Plat**  
33                                   a.     **Procedure When Final Plat Corresponds to Preliminary Plat as Approved**  
34    i.     A hearing on the final plat shall not be required when such plat  
35    essentially conforms to the preliminary plat approved by the platting  
36    board. The final plat shall, in addition, meet all conditions imposed by  
37    the board in approving the preliminary plat.
- 38    ii.    The final plat map shall constitute only that portion of the approved  
39    preliminary plat that is proposed to be recorded and developed at the  
40    time. If only a portion of the approved preliminary plat is proposed for  
41    final plat approval, such portions shall conform to all requirements of this  
42    section and chapter 21.08, *Subdivision Standards*.
- 43    iii.   The following procedure shall be followed for the final plat:
- 44    (A)   The final plat shall be submitted to the department for  
45    examination as to compliance with all terms of the preliminary

- 1 plat as approved by the platting authority. If all conditions have  
2 been met, a statement to that effect, appearing on the final plat,  
3 shall be signed by the platting authority. The final plat shall not  
4 be signed until the documents described in paragraph a.iv. and  
5 a.v. below have been received.
- 6 (B) Upon acceptance of the final plat, the department shall forward  
7 the final plat to the project management and engineering  
8 department for final checking and inspection before final  
9 approval is given. If requested, a subdivision survey shall be  
10 submitted to the project management and engineering  
11 department with a complete set of field and computation notes  
12 showing the original or reestablished corners of the plat and of  
13 lots within the plat. Traverse sheets and work sheets showing  
14 the closure within the allowable limits of error of the exterior  
15 boundaries of each irregular block and lot of the subdivision may  
16 also be required. Final approval by the project management and  
17 engineering department shall be indicated by a statement  
18 appearing on the plat.
- 19 iv. Final approval by the platting board shall be dependent upon receipt of  
20 the following material:
- 21 (A) A statement from the development services department stating  
22 that all conditions imposed by the department on the preliminary  
23 plat and approved by the platting board have been met. This  
24 approval by the development services department shall not  
25 affect any subsequent requirements relating to sewage disposal  
26 and water supply as they apply to any lots within the plat.
- 27 (B) A certificate from the tax collecting official or a note on the face  
28 of the plat stating that all municipal real property taxes levied  
29 against the property are paid in full, or, if approval is sought  
30 between January 1 and the tax due date, that there is on deposit  
31 with the chief fiscal officer an amount sufficient to pay estimated  
32 real property tax for the current year.
- 33 (C) A certificate to plat showing the legal and equitable owners,  
34 including mortgagees, contract purchasers and fee owners, of  
35 the land to be platted, plus all grants, reservations, covenants,  
36 deed restrictions, and easements of record which may condition  
37 the use of the property.
- 38 v. If the subdivision is to be served by a community water or sewer system,  
39 the development services department may require the subdivider to  
40 provide the following before the platting board finally approves the plat:
- 41 (A) Any approvals or certificates required by the state departments  
42 of environmental conservation and natural resources.
- 43 (B) An agreement under the standards and procedures set out in  
44 section 21.08.060, *Subdivision Agreements*, to ensure that the  
45 system installed will be compatible with existing public water and  
46 sewer systems.

- 1 (C) Approval of the plans, specifications, and installation and  
2 operating procedures for the system by the municipal water and  
3 wastewater utility pursuant to chapter 21.08, *Subdivision*  
4 *Standards*, and regulations promulgated thereunder.
- 5 vi. Final plats affecting land neither supplied, nor under subdivision  
6 agreement to be supplied, both with public water and public sewer, shall  
7 be submitted to the development services department for a  
8 determination that all lots and proposed water and wastewater facilities  
9 conform to AMC chapter 15.65 at the time of determination.
- 10  
11 b. **Procedure When Final Plat Differs from Preliminary Plat**  
12 When the final plat differs from the preliminary plat, the plat shall be considered a  
13 new application for preliminary plat approval under this subsection C., except that  
14 all decisions as to approval or denial of this plat by the platting board as  
15 submitted under this section shall be final unless appealed to superior court.
- 16 c. **Requirements for Final Plat**  
17 The final plat shall be prepared to the technical specifications, and shall be  
18 accompanied by appropriate supporting materials, as specified in the title 21  
19 user's guide.
- 20 d. **Subdivision Agreements and Cost Estimates**  
21 All final plats requiring public improvements, except those requiring  
22 monumentation only, shall be accompanied by a subdivision agreement between  
23 the subdivider and the municipality and an engineer's estimate of the cost of all  
24 required public improvements. Requirements for such an agreement are further  
25 described in section 21.08.060, *Subdivision Agreements*.
- 26 e. **Notes, Restrictions, and Covenants**  
27 The platting board may place such conditions upon granting of final plat approval  
28 as are necessary to preserve the public welfare in accordance with the  
29 subdivision regulations. (See section 21.03.020M.) When such a condition of  
30 approval entails a restriction upon the use of all or part of the property being  
31 subdivided, a note specifying such restrictions shall be placed on the face of the  
32 plat. Such note shall constitute a restrictive covenant in favor of the municipality  
33 and the public and shall run with the land, enforceable against all subsequent  
34 owners. Any such restrictive covenant may be enforced against the subdivider or  
35 any subsequent owner by the municipality or by any specifically affected member  
36 of the public.
- 37 9. **Approval Criteria**  
38 The platting board may approve a preliminary or final plat only if it finds that the plat  
39 conforms to chapters 21.06, *Dimensional Standards and Measurements*, 21.07,  
40 *Development and Design Standards*, and 21.08, *Subdivision Standards*, and, to the  
41 maximum extent feasible:
- 42 a. Promotes the public health, safety, and welfare;
- 43 b. Mitigates the effects of incompatibilities between the land uses or residential  
44 densities in the subdivision and the land uses and residential densities in the  
45 surrounding neighborhood, including but not limited to visual, noise, traffic, and  
46 environmental effects;

- 1           c.     Provides for the proper arrangement of streets in relation to existing or proposed
- 2                 streets;
- 3           d.     Provides for adequate and convenient open space;
- 4           e.     Provides for the efficient movement of vehicular and pedestrian traffic;
- 5           f.     Ensures adequate and properly placed utilities;
- 6           g.     Provides access for firefighting apparatus;
- 7           h.     Provides opportunities for recreation, light, and air, and avoids congestion;
- 8           i.     Facilitates the orderly and efficient layout and use of the land;
- 9           j.     Does not create a split-zoned lot; and
- 10          k.     Furthers the goals and policies of the comprehensive plan and conforms to the
- 11                 comprehensive plan in the manner required by section 21.01.080,
- 12                 *Comprehensive Plan.*

13   **D.     Abbreviated Plat Procedure**

14    **1.     Authorization**

15         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.

24    **2.     Application Submittal**

25         Applications for abbreviated plats shall contain all of the submittal requirements that are listed in the title 21 user's guide. Applications shall be submitted to the director on a form provided by the department.

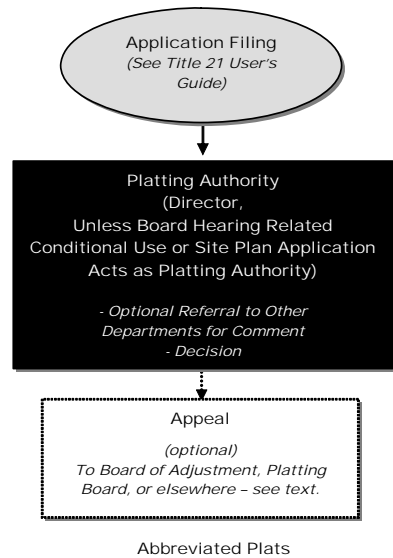
29    **3.     Public Notice**

30         Before acting on an abbreviated plat application under this section, the director shall provide notice in accordance with section 21.03.020H.

33    **4.     Action on Plat**

34      **a.     *Platting Authority***

35         The director 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 director 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.





1           **b.     Review and Decision**

2           The platting authority shall review each proposed subdivision in light of the  
3           approval criteria of subsection C.9. above and shall consult other municipal  
4           offices or agencies as necessary. Based on the results of that review, the  
5           platting authority shall act to approve, approve with conditions, or deny the plat.

6           **c.     Variances**

7           i.       When acting as the platting authority under this section, the director may  
8           not grant variances from the provisions of chapter 21.08, *Subdivision*  
9           *Standards*.

10          ii.      When acting as the platting authority under section 21.03.080F., *Platting*  
11          *for Conditional Uses*, or 21.03.180F., *Platting for Site Plans*, the board or  
12          commission hearing an application for conditional use or site plan  
13          approval may grant variances from the provisions of chapter 21.08,  
14          *Subdivision Standards*, in accordance with section 21.03.240, *Variances*.

15          **d.     Duration of Preliminary Approval**

16          Abbreviated plat approval expires after 24 months; provided that the board  
17          hearing an application for conditional use or site plan approval may extend the  
18          expiration of abbreviated plat approval in conjunction with extending the time for  
19          implementing the conditional use or site plan.

20          **e.     Time Extensions**

21          The abbreviated plat shall become null and void after the preliminary approval  
22          period unless an extension of time is granted by the director. A request for a  
23          time extension must be made in writing by the subdivider. Such a time extension  
24          shall be granted only if the director finds that current conditions are substantially  
25          the same as those that existed when the preliminary plat was approved. Only  
26          one extension of no more than 24 months may be approved.

27          **f.     Appeals**

28          Decisions of the director under this section are final unless appealed within 15  
29          days to the platting board, in which case the appeal shall be treated as an  
30          application for preliminary plat approval pursuant to subsection 21.03.200C.

31          **g.     Approval of Final Plat**

32          A final plat submitted pursuant to the approval of an abbreviated plat under this  
33          section is subject to approval in accordance with subsection C.8. above, provided  
34          that the municipal surveyor may waive a field survey for a final plat that merely  
35          eliminates interior lot lines.

36    **E.     Commercial Tract Plats**

37          **1.     Applicability**

38          A commercial tract may be created and divided into fragment lots in order to facilitate  
39          construction of commercial developments requiring multiple phases of construction.  
40          Designation of commercial tracts shall be allowed only in the B-3, RO, NMU, CMU, RMU,  
41          MT-1, MT-2, I-1, I-2, PCD, MC, and MI zoning districts.

42          **2.     Platting Authority**

43          The urban design commission shall be the platting authority for a commercial tract whose  
44          site plan includes a large commercial establishment. The platting board shall be the  
45          platting authority for all other commercial tracts.

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

2           **a. Application Submittal**

3           Applications for a commercial tract plat shall contain the information specified in  
4           the title 21 user's guide, and shall be submitted to the director on a form provided  
5           by the department. An application for approval of a commercial tract shall be  
6           signed by the owners of the property involved.

7           **b. Action by Platting Authority**

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

12          ii.       Except as provided in E.3.b.i. above, the platting authority shall act upon  
13          the application for commercial tract approval following the review and  
14          approval procedures of a preliminary plat in accordance with subsection  
15          21.03.200C.7.

16          **c. Recording of Site Plan**

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

21          **d. Conformance with Site Plan**

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

27          **e. Alteration of Boundaries**

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

31          **f. Amendment of Site Plan**

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

34       **4. Division of Tract**

35       The owner of a commercial tract may divide the tract into fragment lots provided that  
36       such division is consistent with the approved commercial tract site plan and recorded  
37       declarations, covenants, and restrictions applicable to the commercial tract. Any property  
38       description used to divide an area of the commercial tract into a fragment lot shall not be  
39       considered a lot or tract under the terms of this title or title 23, but shall be otherwise a  
40       lawful lot or tract. Any fragment lot created under this section shall contain the minimum  
41       area, width, and depth otherwise required for lots in the zoning district in which the  
42       fragment lot is located.

- 
- 1 **F. Right-of-Way Acquisition Plat**
- 2       **1. Generally**
- 3           A plat for a subdivision created by a government agency's acquisition of a street or trail
- 4           right-of-way is subject to approval under this section and is not subject to any other
- 5           approval procedure for plats under this title.
- 6       **2. Application Submittal**
- 7           Applications for a right-of-way acquisition plat shall contain the information specified in
- 8           the title 21 user's guide, and shall be submitted to the director on a form provided by the
- 9           department.
- 10       **3. Applicability of Requirements**
- 11           **a.**       A right-of-way acquisition plat is not subject to section 21.08.050, *Improvements*.
- 12           **b.**       Survey requirements for a right-of-way acquisition plat shall be established by
- 13           agreement between the municipal surveyor and the government agency applying
- 14           for plat approval, or, if there is no such agreement, by the provisions of this title.
- 15       **4. Action**
- 16           **a. *Platting Authority***
- 17           The director shall act as the platting authority unless the government agency
- 18           applying for plat approval requests a public hearing before the platting board.
- 19           **b. *Duration of Approval***
- 20           The preliminary approval of the right-of-way acquisition plat shall be for a period
- 21           of 60 months; provided, however, that the director may grant an extension of time
- 22           for filing the final plat upon a finding that it is in the public interest to do so.
- 23           **c. *Appeals***
- 24           All decisions of the director under this section shall be final unless appealed to
- 25           the platting board within 15 days. An appeal under this subsection shall be
- 26           treated as an application for preliminary plat approval pursuant to section
- 27           21.03.200C.
- 28       **5. Requirements for Final Plat**
- 29           Requirements for final right-of-way acquisition plats shall be established by agreement
- 30           between the director and the government agency applying for plat approval, or, if there is
- 31           no such agreement, by the provisions of this title.
- 32 **G. Modification or Removal of Plat Notes**
- 33       **1. Purpose**
- 34           This section sets forth a process by which the platting board may modify or remove plat
- 35           notes from recorded plats.
- 36       **2. Initiation**
- 37           Applications for modifying or removing a plat note(s) may be initiated by the owner(s) of
- 38           land encumbered by the plat note. If the applicable plat note encumbers more than one
- 39           lot, the owners of all encumbered lots shall be a party to the application.

- 1           **3.     Application**  
2           Applications for modifying or removing a plat note(s) shall contain the information  
3           specified in the title 21 user's guide, and shall be submitted to the director on a form  
4           provided by the department.
- 5           **4.     Public Notice**  
6           Notice of all public hearings shall be provided in accordance with section 21.03.020H.
- 7           **5.     Departmental Review**  
8           The department shall review the proposed modification or removal of a plat note(s) in  
9           light of the approval criteria of subsection G.9. below and distribute to other reviewers as  
10          deemed necessary. Based on the results of those reviews, the department shall provide  
11          a report to the platting board.
- 12          **6.     Action by the Platting Board**  
13          The platting board shall hold a public hearing on the proposed application and act to  
14          approve, approve with alterations, or deny the proposed modification or removal of a plat  
15          note(s), based on the approval criteria of subsection G.9. below.
- 16          **7.     Recordation**  
17          Once approved by the platting board, a plat with modified or deleted plat notes shall be  
18          re-recorded in accordance with the procedures of the district recorder's office.
- 19          **8.     Appeal**  
20          Decisions on modifying or removing a plat note(s) may be appealed to the board of  
21          adjustment in accordance with subsection 21.03.050A.
- 22          **9.     Approval Criteria**  
23          Plat note modifications or deletions may be approved if the platting board finds that all of  
24          the following approval criteria have been met:
- 25                 **a.**         Conditions that required the plat note(s) on the original plat have changed and  
26                 the need for the plat note has been negated;
- 27                 **b.**         Modification or removal of the plat note(s) will not have a negative impact on  
28                 adjacent or nearby properties; and
- 29                 **c.**         Despite modification or removal of the plat note(s), the plat continues to meet the  
30                 approval criteria of subsection 21.03.210C.9.

31   **21.03.210     TITLE 21 – TEXT AMENDMENTS**

32   **A.     Purpose and Scope**

33           The assembly may amend the text of this title in accordance with the procedures set forth in this  
34           section. The purpose of text amendments is not to relieve particular hardships, nor to confer  
35           special privileges or rights on any person, but rather to make adjustments to text that are  
36           necessary in light of changed conditions or changes in public policy, or that are necessary to  
37           advance the general welfare of the municipality.

**B. Procedure**

**1. Initiation**

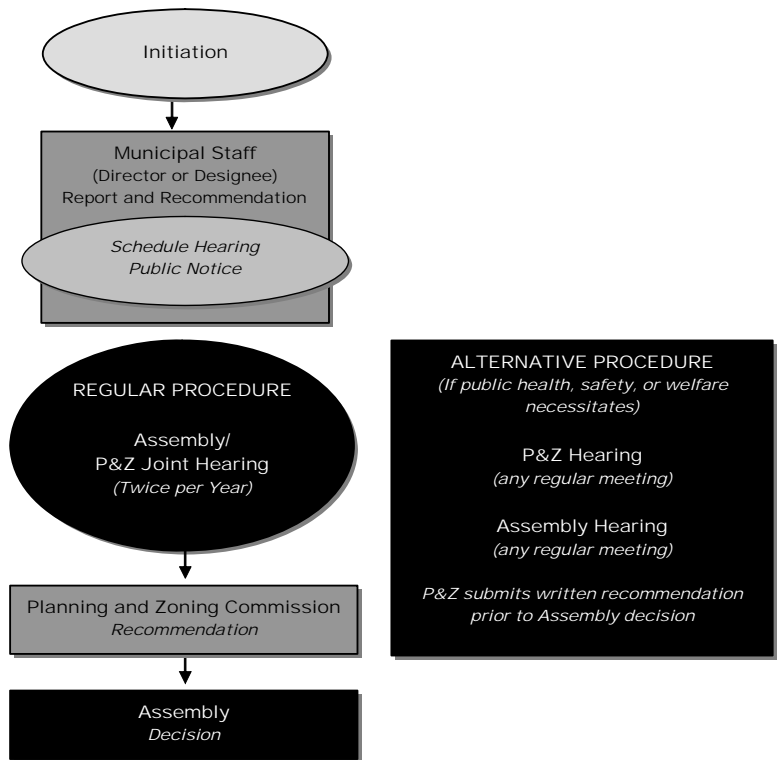
A petition for amendment to the text of this title may be initiated by any review or decision-making body.

**2. Application Submittal**

Petitions for text amendment shall be filed with the director in a form established in the title 21 user's guide.

**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. Joint Public Hearing**

a. Written and published notice of public hearings on text amendments shall be provided pursuant to the general notice provisions of section 21.03.020H.

b. Text amendments shall be considered two times per year at a joint public hearing of the planning and zoning commission and the assembly. However, where the assembly determines by a majority vote that the public health, safety, or welfare necessitates, text amendments may be considered at any regularly scheduled meeting of the assembly, provided that the assembly holds a public hearing on the proposed amendment and the planning and zoning commission holds a

Amendments to Text of Title 21

1 public hearing and provides a written report and recommendation on the  
2 proposed amendment prior to the assembly's decision.

3 **6. Planning and Zoning Commission Action**

4 a. As soon as possible after the public hearing, but no later than 60 days, the  
5 planning and zoning commission shall make a recommendation to the assembly  
6 to approve or deny the text amendment based on the approval criteria of  
7 subsection C. below.

8 b. If the commission recommends approval of the amendment, the director shall  
9 submit the draft ordinance to the assembly.

10 c. If no recommendation is made within 60 days, then the planning and zoning  
11 commission may request an extension of time from the assembly. If no  
12 recommendation is made and no extension is granted, then the assembly may  
13 act on the proposed amendment without a recommendation from the planning  
14 and zoning commission.

15 **7. Assembly Action**

16 After reviewing the reports and recommendations of the director and the planning and  
17 zoning commission, the assembly shall vote to approve, approve with amendments, or  
18 deny the proposed amendment, based on the approval criteria of subsection C. below.  
19 The assembly also may refer the proposed amendment back to the planning and zoning  
20 commission or to a committee of the assembly for further consideration. Text  
21 amendments shall be approved in the form of ordinances.

22 **C. Approval Criteria**

23 Text amendments may be approved if the assembly finds that all of the following approval criteria  
24 have been met:

- 25 1. The proposed amendment will promote the public health, safety, and general welfare;
- 26 2. The proposed amendment is consistent with the comprehensive plan and the stated  
27 purposes of this title; and
- 28 3. The proposed amendment is necessary or desirable because of changing conditions,  
29 new planning concepts, or other social or economic conditions.

30 **D. Successive Applications**

31 Following denial of a text amendment request, no new application for the same or substantially  
32 the same amendment shall be accepted within one year of the date of denial. This provision may  
33 be waived in an individual case, for good cause shown, by the affirmative vote of two-thirds of the  
34 members of the assembly.

35 **21.03.220 USE CLASSIFICATION REQUESTS**

36 **A. Purpose and Applicability**

- 37 1. The use classifications set forth and defined in chapter 21.05, *Use Regulations*, describe  
38 one or more uses having similar characteristics, but do not list every use or activity that  
39 may fall within the classification. This section shall be used to determine all questions or  
40 disputes whether a specific use is deemed to be within a use classification permitted in a  
41 zoning district.

1           2.       The provisions of this section shall not apply to permit any specific use that is expressly  
2                   prohibited in a zoning district.

3   **B.       Procedures for Use Classification Request**

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

5           1.       **Application Submittal and Action**

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

13          2.       **Appeals**

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

16          3.       **Form of Determination**

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

19   **C.       Standards for Review**

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

26          1.       The primary activity of the establishment and its relationship to existing use categories  
27                  and use types. The primary activity may be the principal product or group of products  
28                  produced or distributed, or services rendered. It may be the share of production costs,  
29                  capital investment, revenue, shipments, or employment, if evaluating the relative  
30                  significance of multiple activities;

31          2.       The volume and type of sales (retail or wholesale) on the premises, and the size and type  
32                  of items sold and nature of inventory on the premises;

33          3.       Any processing done on the premises, including assembly, manufacturing, final  
34                  production, warehousing, shipping, and distribution;

35          4.       Any dangerous, hazardous, toxic, or explosive materials used in the processing on the  
36                  premises;

37          5.       The nature and location of storage and outdoor display of merchandise (enclosed, open,  
38                  inside or outside the principal building); and predominant types of items stored (such as  
39                  business vehicles, work-in-process, inventory and merchandise, construction materials,  
40                  scrap and junk, and raw materials including liquids and powders);

41          6.       The type, size, height, and nature of buildings and structures;

- 1           7.       The number and density of employees and customers per unit area of site in relation to  
2           business hours and employment shifts;
- 3           8.       Transportation requirements, including the modal split for people and freight, by volume  
4           type and characteristic of traffic generation to and from the site, trip purposes, and  
5           whether trip purposes can be shared by other uses on the site;
- 6           9.       Parking requirements, turnover and generation, ratio of the number of spaces required  
7           per unit area or activity, and the potential for shared parking with other uses;
- 8           10.      The amount and nature of any nuisances generated on the premises, including but not  
9           limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
- 10          11.      Any special public utility requirements for serving the proposed use, including but not  
11          limited to water supply, waste water output, pre-treatment of wastes and emissions  
12          required or recommended, and any significant power structures and communications  
13          towers or facilities; and
- 14          12.      The impact on adjacent properties created by the proposed use will not be greater than  
15          that of other uses in the zoning district.

16   **D.       Effects of Findings by the Director**

- 17          1.       **Typical Uses: Amendment to this Title**  
18               If the director finds that the particular use or category of use(s) that was the subject of the  
19               use classification request is likely to be common or to recur frequently, or that omission  
20               from this title is likely to lead to public uncertainty and confusion, the director shall initiate  
21               an amendment to this title under section 21.03.210, *Title 21-Text Amendments*. The  
22               determination of the director shall be binding on all officers and departments of the  
23               municipality.
- 24          2.       **Atypical Uses: Determination Binding**  
25               If the director finds that the particular use or category of use(s) that was the subject of the  
26               use classification request is of an unusual or transitory nature, or is unlikely to recur  
27               frequently, the director may approve the use without initiating an amendment to this title.  
28               However, the director's determination shall thereafter be binding on all officers and  
29               departments of the municipality.

30   **E.       Official Record of Use Classification Determinations**

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

34   **21.03.230       VACATION OF PUBLIC AND PRIVATE INTEREST IN LANDS**

35   **A.       Authority**

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



**B. Application Submittal**

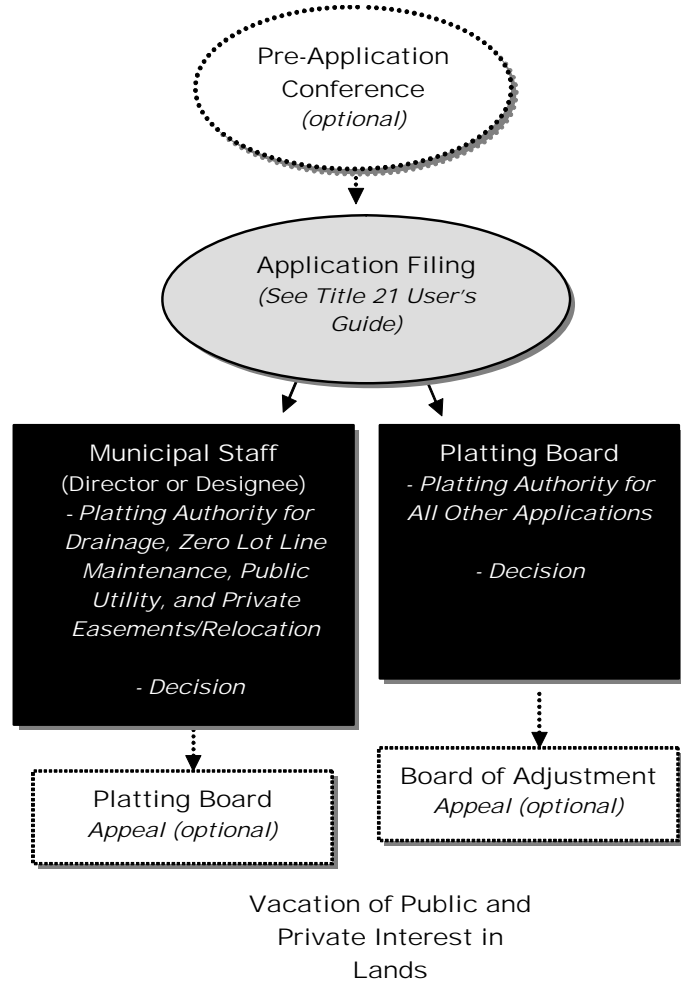
Applications for vacation requests shall contain the information specified in the title 21 user's guide, and shall be submitted to the director on a form provided by the department.

**C. Decision-Making Responsibilities for Vacations**

1. The director is the platting authority for applications to vacate the following platted interests:

- a. Drainage easements granted under section 21.08.050M.
- 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 director 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.

1 **F. Appeals**

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

5 **G. Title to Vacated Area**

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

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

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

22 **21.03.240 VARIANCES**

23 **A. Purpose and Scope**

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

32 **B. Decision-Making Bodies Authorized to Consider Variance Requests**

33 1. The platting board shall be authorized to review and consider all requests for variances to  
34 standards of the following sections:

- 35 a. Chapter 21.08, *Subdivision Standards*;
- 36 b. Subsection 21.07.020C., *Steep Slope Development*; and
- 37 c. Section 21.07.060, *Transportation, Connectivity, and Pedestrian Facilities*;

38 2. The planning and zoning commission shall be authorized to review and consider all  
39 requests for variances of standards of the following sections:

- 40 a. Section 21.07.050, *Utility Distribution Facilities* ; and

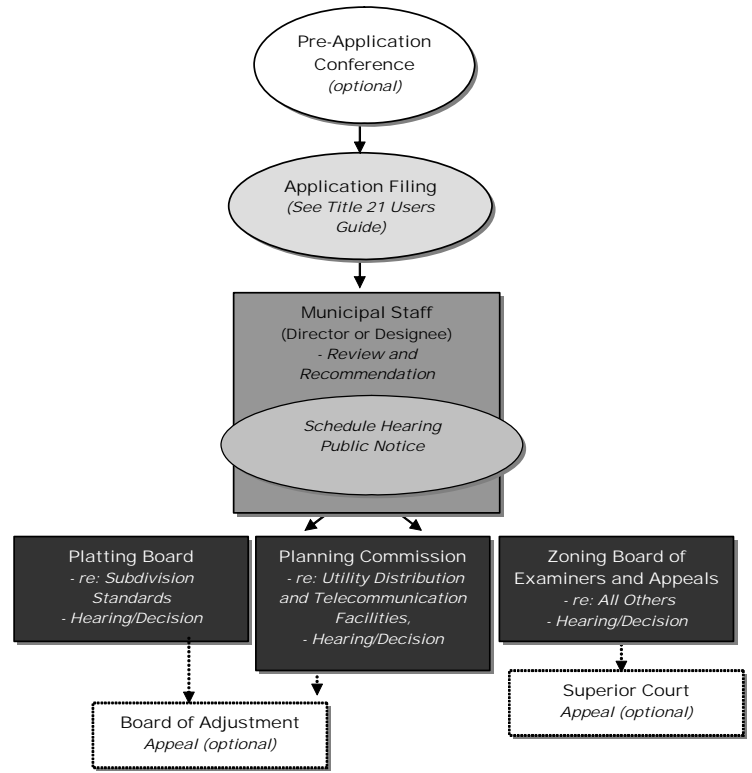
- 1           **b.**       Subsection 21.05.040K., *Telecommunication Facilities*.
- 2           **3.**       Requests for variances from the airport height zoning regulations set forth in section  
 3           21.04.060C. shall be referred to the Federal Aviation Administration.
- 4           **4.**       The urban design commission shall be authorized to review and consider all requests for  
 5           variances to standards of the  
 6           following sections:

- 7           **a.**       Chapter 21.11, *Signs*; and
- 8           **b.**       Section        21.07.080,  
 9           *Landscaping*.

- 10          **5.**       The zoning board of examiners  
 11          and appeals shall be authorized to  
 12          review and consider variance  
 13          requests from all other provisions  
 14          of this title. The zoning board may  
 15          only grant variances from  
 16          dimensional standards. No  
 17          variance may be granted from the  
 18          definitions set forth in chapter  
 19          21.14.

20          **C.       Application Submittal**

21          Applications for a variance shall contain  
 22          the information specified in the title 21  
 23          user’s guide, and shall be submitted to the  
 24          director on a form provided by the  
 25          department.



26          **D.       Public Notice**

27          Notice of all public hearings shall be provided in accordance with section 21.03.020H.

28          **E.       Departmental Review**

29          The department shall review each proposed variance in light of the approval criteria of subsection  
 30          G. below and distribute to other reviewers as deemed necessary. Based on the results of those  
 31          reviews, the department shall provide a report to the decision-making body.

32          **F.       Action by the Decision-Making Body**

- 33          **1.**       Once the application is complete, the director shall schedule the application for  
 34          consideration at a public hearing, and shall transmit to the appropriate decision-making  
 35          body all applications and other records pertaining to the variance prior to the hearing.  
 36          Upon receiving the application materials from the director, the decision-making body shall  
 37          hold a public hearing on the proposed variance.
- 38          **2.**       In considering the application, the decision-making body shall review the application  
 39          materials, the approval criteria of subsection G., and all testimony and evidence received  
 40          at the public hearing.



1           **2.     Variances from Subdivision Regulations**

- 2           **a.**     There are special circumstances or conditions affecting the property such that  
3                     the strict application of the provisions of the subdivision regulations would clearly  
4                     be impractical, unreasonable, or undesirable to the general public;
- 5           **b.**     The granting of the specific variance will not be detrimental to the public welfare  
6                     or injurious to other property in the area in which such property is situated;
- 7           **c.**     Such variance will not have the effect of nullifying the intent and purpose of the  
8                     subdivision regulations or the comprehensive plan of the municipality; and
- 9           **d.**     Undue hardship would result from strict compliance with specific provisions or  
10                    requirements of the subdivision regulations. The applicant may supplement the  
11                    form with supporting documents.

12           **3.     Variances from Airport Height Zoning Regulations**

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

15 **H.     Lapse of Approval**

16           Any variance granted shall become null and void if:

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

20 **I.     Appeals**

- 21           **1.**     An appeal from a decision of the platting board or the urban design commission shall be  
22                    brought to the board of adjustment in accordance with sections 21.03.050A.
- 23           **2.**     An appeal from a decision of the planning and zoning commission or the zoning board of  
24                    examiners and appeals shall be brought in accordance with section 21.03.050C.

25 **J.     Administrative Variances from Occupancy Limits For Assisted Living Facilities**

26           **1.     Intent**

27           The intent of this section is to provide a procedure to allow persons with disabilities and  
28           assisted living providers to request reasonable accommodation from the department  
29           when access to decent safe, accessible and affordable housing with assisted living would  
30           not be available absent a reasonable accommodation. This administrative variance  
31           procedure is available to address application for minor variance in dimensional and  
32           setback requirements to accommodate special needs of persons with disabilities and to  
33           address application for variance in occupancy limits of no more than three persons.

34           **2.     Application**

35           Application for minor variance in dimensional and setback requirements to accommodate  
36           special needs of persons with disabilities and application for variance in occupancy limits  
37           of no more than three persons shall be made to the director on a form provided by the  
38           department, shall be executed by or on behalf of the person with disabilities seeking the  
39           reasonable accommodation, or the owner of the real property, or the lessee with proof of

1 the owner's consent, and shall be complete in all respects prior to review under this  
2 section.

3 **3. Public Notice Of Application For Variance In Occupancy Limits**

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

5 **4. Time for approval**

6 The department shall make a determination on an application within 60 days of submittal.  
7 Notification of approval or denial shall be posted electronically on the department's  
8 municipal web site and furnished in writing to the applicant by mail or delivered by  
9 electronic means.

10 **5. Standards.**

11 In deciding to approve or deny an application, the department shall review the application  
12 and written comments addressing factors relevant to the request for reasonable  
13 accommodation, including but not limited to, the extent to which the application  
14 demonstrates the following, as related to the particular request of the applicant:

15 **a.** For administrative variance applications to increase occupancy limits in R-1, R-  
16 1A, R-2A and R-2D districts, the extent to which the accommodation and the  
17 assisted living provider seek to protect and preserve the primarily residential  
18 character of the district. Factors may include traffic patterns, on-street parking  
19 patterns, the control exercised by the assisted living provider to mitigate  
20 environmental disturbance associated with ingress and egress of facility staff  
21 workers at shift change, and any other measures taken by the assisted living  
22 provider to ensure the commercial aspects of the facility do not detract from its  
23 residential purpose and the primarily residential character of the district. An  
24 example of a commercial aspect is if residential trash containers were standard  
25 in the neighborhood and the assisted living provider used one or more dumpsters  
26 due to volume. An example of a mitigation measure for this aspect the assisted  
27 living provider might take is to screen the dumpster.

28 **b.** For administrative variance applications to increase occupancy limits, economic  
29 hardship on the intended occupants if the variance is denied. Cost and  
30 availability of other housing alternatives may be addressed in preparation and  
31 review of the application.

32 **c.** Whether the requested accommodation and the assisted living provider are  
33 implementing accident prevention and safety measures specific to the needs of  
34 the residents, including but not limited to safety measures in state law and  
35 regulation, and in municipal fire code adopted under title 23.

36 **d.** Whether the accommodation requested is advancing housing opportunities for  
37 disabled individuals in a residential community without jeopardizing residential  
38 aspects of the neighborhood with commercial aspects of operation.

39 **e.** For administrative variance applications to increase occupancy limits, whether  
40 the proposed size of the facility is necessary for the facility's financial viability.

41 **f.** External characteristics and impacts of the proposed facility, including without  
42 limitation appearance, projected contribution to traffic volumes and on-street  
43 parking within the neighborhood, available street lighting and sidewalks.

- 1                    **g.**     Quantifiable risks to the health, safety, and quality of life of area residents and  
2                    users.
- 3                    **h.**     Administrative and economic burden on the municipality, in either approval or  
4                    denial of the variance.
- 5                    **i.**     Other factors deemed relevant to the applicant or the department in review of the  
6                    application.
- 7                    **6.     Conditions**  
8                    In approving a variance, the department may impose reasonable conditions designed to  
9                    address the standards in subsection J.5. or mitigate impacts created by the variance.
- 10                   **7.     Appeal**  
11                   All decisions of the department under this section shall be final unless an appeal is filed  
12                   in a timely manner. Appeals of the decision to approve or deny a variance under this  
13                   section shall be to the zoning board of examiners and appeals, pursuant to the provisions  
14                   of subsection 21.03.050B., except an appeal may be brought by any person with  
15                   standing to request reasonable accommodation under the Fair Housing Act, 42 U.S.C. §  
16                   3604(f).

17                   **21.03.250     VERIFICATION OF NONCONFORMING STATUS**

18                   **A.     Process**

19                   Owners of lots, uses, or structures that may not conform to the requirements of this title may  
20                   request a verification of nonconforming status by filing an application with the director in  
21                   accordance with this section. Owners of signs that do not conform to the requirements of this title  
22                   shall comply with section 21.12.070, *Nonconforming Signs*.

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

33                   **B.     Exceptions**

34                   Notwithstanding subsection A. above:

- 35                   **1.**     Where the contention for nonconforming use is raised in a court in any action brought to  
36                   enforce this title before an application for determination has been filed under this section,  
37                   this section shall not be applicable and the court shall have jurisdiction to determine the  
38                   issue.

1           **2.**       Nothing in this section shall be construed to deprive the director the right to make a  
2                    decision regarding a claimed nonconforming use or status as incident to a valid pending  
3                    application for a land use permit.

4   **C.        Appeals**

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

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<sup>1</sup> PRD#2 NOTE: This provision is in state law. There is no definition of "public square" in state law.