

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Dept. of \_\_\_\_\_  
For reading: \_\_\_\_\_

**ANCHORAGE, ALASKA**  
**AO No. 2021-\_\_\_\_\_**

**AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.03.050, APPEALS, AND ANCHORAGE MUNICIPAL CODE OF REGULATIONS 21.10.304, 21.10.503, 21.11.304, 21.11.503, 21.13.340, AND 21.13.530 TO SIMPLIFY LAND USE APPEALS.**

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**WHEREAS**, over the past few years, the municipality has seen a substantial increase in land use appeals; and

**WHEREAS**, there is a strong desire from both the municipality and the public to simplify the process for appealing land use decisions; and

**WHEREAS**, this ordinance proposes several amendments to achieve that goal; now, therefore,

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**Section 1.** Anchorage Municipal Code subsection 21.03.050A – Appeals to the Board of Adjustment, is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**21.03.050 Appeals.**

A. Appeals to the Board of Adjustment.  
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3. Appellees before board.

[A.] Appellees before the board may be:

a[i]. The party in whose favor the lower administrative body's decision was rendered.

b[ii]. Any municipal agency.

c[iii]. Any party of interest for the application, as defined in Chapter 21.15.

[B. AN APPELLEE SHALL FILE A NOTICE OF INTENT TO FILE A BRIEF WITH THE MUNICIPAL CLERK'S OFFICE ON A FORM PRESCRIBED BY THE MUNICIPAL CLERK, WITHIN TEN DAYS AFTER THE DEADLINE FOR FILING AN APPEAL. THE MUNICIPAL CLERK SHALL SERVE NOTICE TO SUCH APPELLEES IN WRITING OF THE DATE THE RECORD IS AVAILABLE AND OF THE DATE THE APPELLANT'S BRIEF IS FILED.]

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4. Notice of intent to appeal [PERFECTION OF APPEAL]; findings of fact and decision; notice of appeal; appeal fee.
- a. Notice of intent to appeal. Any party of interest shall first file with the planning director, within seven days of the board or commission's decision made on the record, a written notice of intent to appeal.
- b. Findings of fact and decision. The director shall prepare proposed written findings of fact and decision to submit to the board or commission at its next regularly scheduled meeting, or as soon thereafter as possible. Review of the written findings of fact and decision shall have priority over regular agenda items, and shall be approved, as amended by the board or commission if necessary, and become the final appealable decision.
- c. Notice of appeal.
- i. Following approval of the written findings of fact and decision, any party of interest may, within 20 days, file an appeal by filing a notice of appeal, and paying the appeal fee and cost bond in accordance with this section.
- ii. The notice of appeal must be filed with the municipal clerk on a form prescribed by the municipality [AND MUST CONTAIN DETAILED AND SPECIFIC ALLEGATIONS OF ERROR]. If the appellant is not the applicant, the appellant's notice of appeal shall include certificate of service on the applicant.
- d. Appeal Fee. The appellant shall pay the current appeal fee. In addition, the appellant shall file a cost bond equal to the estimated cost of preparation of the record. Following completion of the record, the actual cost thereof shall be paid by the appellant. All costs and fees shall be returned to the appellant if the decision of the lower body is reversed in whole or in part.
- [A. EXCEPT AS INDICATED IN SUBSECTION 4.D. BELOW FOR APPEALS REGARDING PRELIMINARY PLATS, AN APPEAL TO THE BOARD OF ADJUSTMENT MUST BE PERFECTED BY THE APPELLANT WITHIN 20 DAYS AFTER THE DATE OF SERVICE OF THE DECISION. THE APPEAL IS PERFECTED BY THE FILING OF A NOTICE OF

1 APPEAL, APPEAL FEE, AND COST BOND IN  
2 ACCORDANCE WITH THIS SECTION.

3 B. THE NOTICE OF APPEAL MUST BE FILED WITH  
4 THE MUNICIPAL CLERK ON A FORM PRESCRIBED  
5 BY THE MUNICIPALITY AND MUST CONTAIN  
6 DETAILED AND SPECIFIC ALLEGATIONS OF  
7 ERROR. IF THE APPELLANT IS NOT THE  
8 APPLICANT, THE APPELLANT'S NOTICE OF  
9 APPEAL SHALL INCLUDE CERTIFICATE OF  
10 SERVICE ON THE APPLICANT.

11 C. THE APPELLANT SHALL PAY THE CURRENT  
12 APPEAL FEE. IN ADDITION, THE APPELLANT  
13 SHALL FILE A COST BOND EQUAL TO THE  
14 ESTIMATED COST OF PREPARATION OF THE  
15 RECORD. FOLLOWING COMPLETION OF THE  
16 RECORD, THE ACTUAL COST THEREOF SHALL BE  
17 PAID BY THE APPELLANT. ALL COSTS AND FEES  
18 SHALL BE RETURNED TO THE APPELLANT IF THE  
19 DECISION OF THE LOWER BODY IS REVERSED IN  
20 WHOLE OR IN PART.

21 D. TO APPEAL A PLATTING BOARD DECISION  
22 REGARDING THE APPROVAL OR DENIAL OF A  
23 PRELIMINARY PLAT:

24 I. ANY PARTY OF INTEREST SHALL FIRST FILE  
25 WITH THE DIRECTOR, WITHIN SEVEN DAYS  
26 OF THE PLATTING BOARD'S DECISION ON  
27 THE PRELIMINARY PLAT, A WRITTEN  
28 NOTICE OF INTENT TO APPEAL AND A  
29 REQUEST FOR A WRITTEN DECISION  
30 BASED UPON THE RECORD MADE AT THE  
31 HEARING.

32 II. IF SUCH REQUEST IS RECEIVED IN THE  
33 STATED TIME, THE DIRECTOR SHALL  
34 PREPARE PROPOSED WRITTEN FINDINGS  
35 OF FACT AND DECISION TO SUBMIT TO THE  
36 PLATTING BOARD AT ITS NEXT REGULARLY  
37 SCHEDULED MEETING, OR AS SOON  
38 THEREAFTER AS POSSIBLE.

39 III. PLATTING BOARD REVIEW OF THE  
40 WRITTEN FINDINGS OF FACT AND  
41 DECISION SHALL HAVE PRIORITY OVER  
42 REGULAR AGENDA ITEMS, AND SHALL BE  
43 APPROVED, AS AMENDED BY THE BOARD  
44 IF NECESSARY, AND BECOME THE FINAL  
45 APPEALABLE DECISION OF THE BOARD.

46 IV. ONCE THE FINAL APPEALABLE DECISION  
47 OF THE PLATTING BOARD IS ADOPTED,  
48 ANY PARTY OF INTEREST MAY, WITHIN 20  
49 DAYS, FILE AN APPEAL OR ALLEGE NEW  
50 EVIDENCE OR CHANGED CIRCUMSTANCES.

1 THE APPEAL IS PERFECTED BY THE FILING  
2 OF A NOTICE OF APPEAL, APPEAL FEE, AND  
3 COST BOND IN ACCORDANCE WITH THIS  
4 SECTION.]

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6 5[6]. Appeal Record

- 7  
8 a. The appellant shall arrange for the preparation of the  
9 transcript of the board hearing by a court reporter [OR  
10 THE BOARD AND COMMISSION RECORDING  
11 SECRETARY] and shall pay the cost of such  
12 preparation. The appellant shall file the transcript with  
13 the planning director [MUNICIPAL CLERK]. If the  
14 appellant fails to file the transcript within 30 days after  
15 the filing of the notice of appeal, the planning director  
16 [MUNICIPAL CLERK] shall reject the appeal.  
17  
18 b. Upon timely filing [PERFECTION] of an appeal to the  
19 board of adjustment, the planning director  
20 [MUNICIPAL CLERK] shall assemble an appeal  
21 record. The record shall contain:  
22  
23 i. A copy of the notice of appeal filed by the  
24 appellant.  
25 ii. A verbatim transcript of the proceedings before  
26 the administrative body from which the appeal  
27 has been taken.  
28 iii. Copies from the department of all documentary  
29 evidence, memoranda, exhibits,  
30 correspondence, and other written material  
31 submitted to the administrative body prior to the  
32 decision from which the appeal is taken.  
33 iv. A copy from the department of the written  
34 decision of the administrative body, including its  
35 findings and conclusions.  
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37 c. Upon completion of the record, the planning director  
38 shall provide the record to the municipal clerk. T[t]he  
39 municipal clerk shall serve notice on the appellant of  
40 the cost of its preparation. If the appellant fails to pay  
41 the costs within seven days of receiving the notice, the  
42 municipal clerk shall reject the appeal [SHALL BE  
43 REJECTED]. Upon timely payment of costs, the  
44 municipal clerk shall serve a copy of the record on the  
45 appellant. The municipal clerk shall also serve notice  
46 on the appellees who have filed a notice of intent to  
47 file a brief that the record is available for pickup. Upon  
48 request, the municipal clerk shall provide a copy of the  
49 record to an appellee or the public. A copying cost for  
50 the record will be charged as set out in

1 AMCR 3.90.002. The appellee shall also be charged  
2 any mailing costs.  
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4 [NEW EVIDENCE OR CHANGED CIRCUMSTANCES.

5 A. ALLEGATIONS OF NEW EVIDENCE OR CHANGED  
6 CIRCUMSTANCES SHALL NOT BE CONSIDERED  
7 OR DECIDED BY THE BOARD OF ADJUSTMENT.  
8 ALLEGATIONS OF NEW EVIDENCE OR CHANGED  
9 CIRCUMSTANCES SHALL BE RAISED BY WRITTEN  
10 MOTION FOR REHEARING, FILED WITH THE  
11 MUNICIPAL CLERK WITHIN 20 DAYS AFTER THE  
12 DATE OF SERVICE OF THE INITIAL DECISION OF  
13 THE LOWER ADMINISTRATIVE BODY.

14 I. THE MUNICIPAL CLERK SHALL REJECT ANY  
15 MOTION FILED MORE THAN 20 DAYS AFTER  
16 THE DATE OF SERVICE OF THE INITIAL  
17 DECISION OF THE LOWER ADMINISTRATIVE  
18 BODY, WITHOUT HEARING OR  
19 RECONSIDERATION BY THE LOWER  
20 ADMINISTRATIVE BODY.

21 II. A DECISION OF THE LOWER  
22 ADMINISTRATIVE BODY ON ANY ISSUES  
23 REMANDED FROM THE BOARD OF  
24 ADJUSTMENT IS NOT AN INITIAL DECISION  
25 AS DESCRIBED IN SUBSECTION 5.A. ABOVE.

26 III. THE MUNICIPAL CLERK SHALL REJECT ANY  
27 MOTION ALLEGING NEW EVIDENCE OR  
28 CHANGED CIRCUMSTANCES FILED IN  
29 RESPONSE TO A LOWER ADMINISTRATIVE  
30 BODY'S DECISION ON ANY ISSUE(S)  
31 PRESENTED ON REMAND.

32 B. IF THE WRITTEN MOTION FOR REHEARING IS  
33 FILED IN A TIMELY MANNER, THE  
34 ADMINISTRATIVE BODY FROM WHICH THE  
35 APPEAL IS TAKEN SHALL DECIDE WHETHER TO  
36 REOPEN AND REHEAR THE MATTER. A  
37 REHEARING SHALL BE HELD IF THE LOWER  
38 ADMINISTRATIVE BODY DETERMINES:

39 I. IF TRUE, THAT THE ALLEGED NEW  
40 EVIDENCE OR CHANGED CIRCUMSTANCES  
41 WOULD SUBSTANTIALLY CHANGE THE  
42 DECISION OF THE BODY, AND

43 II. THE PARTY ALLEGING NEW EVIDENCE OR  
44 CHANGED CIRCUMSTANCES ACTED  
45 PROMPTLY AND WITH DILIGENCE IN  
46 BRINGING THE INFORMATION TO THE  
47 BODY'S ATTENTION.

48 C. AFTER A DECISION BY THE LOWER  
49 ADMINISTRATIVE BODY ON ALLEGED NEW  
50 EVIDENCE OR CHANGED CIRCUMSTANCES, THE

1 TIME FOR APPEAL SHALL BEGIN TO RUN. ANY  
2 PARTY OF INTEREST MAY FILE AN APPEAL  
3 WITHIN TEN DAYS AFTER THE DATE OF SERVICE  
4 OF THE DECISION.]  
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6 6[7]. Written appeal briefs [ARGUMENTS].  
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- 8 a. *Brief of appellant.* The appellant may file a written brief  
9 of points and authorities in support of those allegations  
10 of error specified in the notice of appeal with the  
11 municipal clerk's office within 15 days after service of  
12 the appeal record. If the appellant files a brief,  
13 allegations of error specified in the notice of appeal and  
14 not included in the appellant's brief may be deemed  
15 waived or abandoned. The municipal clerk shall deliver  
16 a copy of the appellant's brief to the municipal staff  
17 assigned responsibility for the appeal. The municipal  
18 clerk shall also serve notice on those appellees who  
19 have filed a notice of intent to file a brief that the  
20 appellant's brief is available for pickup. Upon request,  
21 the municipal clerk shall provide a copy of the  
22 appellant's brief to appellees, who shall be charged  
23 copying costs as provided in AMCR 3.90.002 and any  
24 mailing costs applicable.  
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- 26 b. *Brief of appellee.* An appellee who has filed a notice of  
27 intent to file a brief may also file with the municipal  
28 clerk's office a written response (appellee's brief) to the  
29 notice of points on appeal and any brief in support  
30 thereof within 15 days after service of notice by the  
31 municipal clerk that the appellant's brief is available for  
32 pick-up. The municipal clerk shall serve notice on the  
33 appellant that appellee briefs have been filed. The  
34 director may prepare and submit to the municipal clerk  
35 a written response (staff's brief) to the notice of appeal  
36 and any brief in support thereof within 15 days after  
37 service of notice by the municipal clerk that the  
38 appellant's brief is available for pick-up.  
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- 40 c. *Reply brief.* An appellant may file a written reply brief to  
41 appellee briefs submitted pursuant to subsection 7.b.  
42 The appellant's reply brief is due within 15 days after  
43 service of notice by the municipal clerk that the  
44 appellee's brief is available for pick-up.  
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- 46 d. *Form of briefs.* The municipal clerk shall only accept  
47 the timely filing of the briefs described in subsections  
48 a., b., and c. above and only [NOT ACCEPT A BRIEF  
49 UNLESS IT IS] in the form prescribed by this  
50 subsection.

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- i. *Required attachments.* All briefs shall be filed with an attached copy of the ordinances and regulations principally relied upon, set out verbatim. All briefs shall also include an excerpt of record of the pages on which the brief relies.
  - ii. *Text of brief, exclusive of attachments.* Briefs shall be typewritten on 8½- by 11-inch pages, double-spaced, with quotations over two lines being single-spaced and indented.
  - iii. *Page limitation.* The brief of appellant and the brief of appellee are each limited to 25 pages exclusive of exhibits and attachments. The reply brief is limited to ten pages exclusive of exhibits.

16 7[8]. Appeal packet; notice of hearing.  
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19 **[NOTE TO CODE REVISOR: Renumber subsections 8 through 13 accordingly.]**  
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21 **Section 2.** Anchorage Municipal Code of Regulations, Regulation 21.10 –  
22 Planning and Zoning Commission Rules of Procedure, Section 21.10.304 –  
23 Decision, is hereby amended to read as follows:  
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25 **21.10.304 Decision.**  
26

- 27 A. Every decision made by the commission shall be based on and  
28 include findings of fact and conclusions. Every finding of fact shall  
29 be supported in the record of the proceedings. The findings shall be  
30 sufficient to provide a reasonable basis for understanding the  
31 reasons for the decision. In considering and applying any applicable  
32 approval criteria, the commission shall make specific findings as to  
33 why the criteria have or have not been met.  
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- 35 B. I[T]he secretary shall prepare proposed written findings of fact and  
36 decision to submit to the board at its next regularly scheduled  
37 meeting, or as soon thereafter as feasible.  
38

39 [THE FINDINGS OF FACT AND DECISION OF THE COMMISSION  
40 AT THE SCHEDULED HEARING SHALL BECOME FINAL SEVEN  
41 (7) CALENDAR DAYS AFTER THE DATE THE DECISION IS MADE  
42 ON THE RECORD, UNLESS:  
43

- 44 1. PRIOR TO THE EXPIRATION OF THE SEVENTH DAY, A  
45 WRITTEN REQUEST IS RECEIVED BY THE SECRETARY  
46 TO:  
47
- 48 A. PREPARE A WRITTEN DECISION BASED UPON  
49 THE RECORD MADE AT THE HEARING; AND

1 B. THE REQUEST IS ACCOMPANIED BY A WRITTEN  
2 NOTICE OF INTENT TO APPEAL.

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4 C. IF A WRITTEN REQUEST IS RECEIVED WITHIN SEVEN (7)  
5 CALENDAR DAYS OF THE COMMISSION'S DECISION ON THE  
6 RECORD,]

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8 C[D]. Commission review of the written findings of fact and decision shall  
9 have priority over regular agenda items, and shall be approved, as  
10 amended by the commission if necessary, and become the final  
11 appealable decision of the commission.

12  
13 D[E]. Within twenty (20) days of the approval of the final appealable  
14 decision pursuant to subsection C[D]. above, a party of interest [AN  
15 APPLICANT OR OTHER INTERESTED PERSON] must file [WITH  
16 THE MUNICIPAL CLERK EITHER:

- 17  
18 1. A WRITTEN MOTION ALLEGING NEW EVIDENCE OR  
19 CHANGED CIRCUMSTANCES, PURSUANT TO SECTION  
20 21.10.503; OR  
21 2.] a[A]n appeal of the commission's final appealable decision,  
22 pursuant to municipal code chapter 21.03 [21.30].

23  
24 [F. IF A MOTION ALLEGING NEW EVIDENCE OR CHANGED  
25 CIRCUMSTANCES IS TIMELY FILED PURSUANT TO  
26 SUBSECTION E.1. ABOVE, THE TIME FOR APPEAL IS STAYED  
27 PENDING A DECISION ON THE MOTION. IN THE EVENT THE  
28 COMMISSION DETERMINES TO REOPEN AND/OR REHEAR  
29 NEW EVIDENCE OR CHANGED CIRCUMSTANCES, TIME FOR  
30 APPEAL IS STAYED PENDING A DECISION ON REHEARING.

- 31  
32 1. A COMMISSION DECISION ON A MOTION, WITH OR  
33 WITHOUT REHEARING, IS NOT A FINAL APPEALABLE  
34 DECISION FOR PURPOSES OF A SUBSEQUENT MOTION  
35 ALLEGING NEW EVIDENCE OR CHANGED  
36 CIRCUMSTANCES. A SUBSEQUENT MOTION ALLEGING  
37 NEW EVIDENCE OR CHANGED CIRCUMSTANCES SHALL  
38 BE AUTOMATICALLY REJECTED BY THE MUNICIPAL  
39 CLERK WITHOUT HEARING OR RECONSIDERATION BY  
40 THE COMMISSION.

41  
42 G. AFTER A DECISION BY THE COMMISSION ON A TIMELY FILED  
43 MOTION ALLEGING NEW EVIDENCE OR CHANGED  
44 CIRCUMSTANCES, THE TIME FOR APPEAL SHALL BEGIN TO  
45 RUN. AN APPLICANT OR OTHER INTERESTED PERSON MUST  
46 FILE AN APPEAL WITHIN TEN (10) DAYS AFTER THE DATE OF  
47 THE COMMISSION'S DECISION, OR THE INITIAL DECISION OF  
48 THE COMMISSION SHALL BECOME FINAL.]  
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1 (AR No. 81-6; AR No. 83-126; AR No. 84-227; AR No. 2004-215(S), § 5,  
2 12-7-04; AR No. 2005-15, § 2, 2-15-05)  
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4 **Authority**—Anchorage Municipal Code 3.40, 4.05.120, 21.10.035.  
5

6 **Section 3.** Anchorage Municipal Code of Regulations Regulation 21.10 –  
7 Planning and Zoning Commission Rules of Procedure, Section 21.10.503 – New  
8 evidence-Changed circumstances, is hereby repealed in its entirety as follows:  
9

10 **21.10.503 Repealed. [NEW EVIDENCE—CHANGED**  
11 **CIRCUMSTANCES.]**  
12

- 13 [A. AN ALLEGATION OF NEW EVIDENCE OR CHANGED  
14 CIRCUMSTANCES MAY BE THE BASIS FOR REOPENING THE  
15 PUBLIC HEARING OR A REHEARING OF A MATTER  
16 PREVIOUSLY DECIDED BY THE COMMISSION. ANY SUCH  
17 ALLEGATIONS SHALL BE RAISED BY WRITTEN MOTION FOR  
18 REHEARING OR REOPENING THE HEARING, AND SHALL BE  
19 FILED WITH THE MUNICIPAL CLERK NO LATER THAN TWENTY  
20 (20) DAYS AFTER THE COMMISSION'S INITIAL DECISION  
21 BECOMES FINAL PURSUANT TO SECTION 21.10.304D.  
22
- 23 B. UPON THE FILING OF A MOTION UNDER THIS SECTION, THE  
24 COMMISSION SHALL EXPEDITE ITS CONSIDERATION OF THE  
25 MOTION AND SHALL DETERMINE WHETHER TO REHEAR OR  
26 REOPEN THE MATTER. THE COMMISSION SHALL REOPEN  
27 THE PUBLIC HEARING OR REHEAR THE MATTER  
28 PREVIOUSLY DECIDED IF THE COMMISSION DETERMINES:  
29 1. IF TRUE, THAT THE ALLEGED NEW EVIDENCE OR  
30 CHANGED CIRCUMSTANCES WOULD SUBSTANTIALLY  
31 CHANGE THE DECISION OF THE COMMISSION; AND  
32 THAT  
33 2. THE PERSON ALLEGING THE NEW EVIDENCE OR  
34 CHANGED CIRCUMSTANCES ACTED PROMPTLY AND  
35 WITH DILIGENCE IN BRINGING THE INFORMATION TO  
36 THE COMMISSION'S ATTENTION.  
37
- 38 C. IF THE COMMISSION HOLDS A REHEARING, IT SHALL  
39 DETERMINE THE EXTENT OF THE SUBJECT MATTER TO BE  
40 PRESENTED AND SHALL INDICATE THE LIMITATIONS ON THE  
41 PUBLIC HEARING.  
42
- 43 D. A DECISION MADE BY THE COMMISSION, AS THE RESULT OF  
44 A MOTION OR REHEARING UNDER THIS SECTION, IS NOT AN  
45 INITIAL DECISION PURSUANT TO SUBSECTION A. ABOVE;  
46 SUBSEQUENT MOTIONS ALLEGING NEW EVIDENCE OR  
47 CHANGED CIRCUMSTANCES SHALL BE AUTOMATICALLY  
48 REJECTED BY THE MUNICIPAL CLERK WITHOUT HEARING OR  
49 RECONSIDERATION BY THE COMMISSION.]  
50

(AR No. 82-258; AR No. 86-39; AR No. 2004-215(S), § 3, 12-7-04)

**Authority**—Anchorage Municipal Code 3.40, 4.05.120, 21.10.035.

**Section 4.** Anchorage Municipal Code of Regulations Regulation 21.11 – Platting Board Rules of Procedure, Section 21.11.304 – Decision, is hereby amended to read as follows:

**21.11.304 Decision.**

- A. Every decision made by the board shall be based on and include findings of fact and conclusions. Every finding of fact shall be supported in the record of the proceedings. The findings shall be sufficient to provide a reasonable basis for understanding the reasons for the decision. In considering and applying any applicable approval criteria, the board shall make specific findings as to why the criteria have or have not been met.
- B. Any party of interest wishing to appeal shall first file with the planning director, within seven days of the board's decision made on the record, a written notice of intent to appeal, in accordance with 21.03.050A.4.a.

[THE FINDINGS OF FACT AND DECISION OF THE BOARD AT THE SCHEDULED HEARING SHALL BECOME FINAL SEVEN (7) CALENDAR DAYS AFTER THE DATE THE DECISION IS MADE ON THE RECORD, UNLESS:

1. PRIOR TO THE EXPIRATION OF THE SEVENTH DAY, A WRITTEN REQUEST IS RECEIVED BY THE SECRETARY TO:
  - A. PREPARE A WRITTEN DECISION BASED UPON THE RECORD MADE AT THE HEARING; AND
  - B. THE REQUEST IS ACCOMPANIED BY A WRITTEN NOTICE OF INTENT TO APPEAL.]
- C. [IF A WRITTEN REQUEST IS RECEIVED WITHIN SEVEN (7) CALENDAR DAYS OF THE BOARD'S DECISION ON THE RECORD,] ~~[[T]he secretary shall prepare proposed written findings of fact and decision to submit to the board at its next regularly scheduled meeting, or as soon thereafter as feasible.~~
- D. Board review of the written findings of fact and decision shall have priority over regular agenda items, and shall be approved, as amended by the board if necessary, and become the final appealable decision of the commission.
- E. Within twenty (20) days of the approval of the final appealable decision pursuant to subsection D. above, a party of interest [AN

1 APPLICANT OR OTHER INTERESTED PERSON] must file [WITH  
2 THE MUNICIPAL CLERK EITHER:

- 3  
4 1. A WRITTEN MOTION ALLEGING NEW EVIDENCE OR  
5 CHANGED CIRCUMSTANCES, PURSUANT TO SECTION  
6 21.10.503; OR  
7 2.] a[A]n appeal of the board's final appealable decision, pursuant  
8 to municipal code chapter 21.03 [21.30].  
9

10 [F. IF A MOTION ALLEGING NEW EVIDENCE OR CHANGED  
11 CIRCUMSTANCES IS TIMELY FILED PURSUANT TO  
12 SUBSECTION E.1. ABOVE, THE TIME FOR APPEAL IS STAYED  
13 PENDING A DECISION ON THE MOTION. IN THE EVENT THE  
14 BOARD DETERMINES TO REOPEN AND/OR REHEAR NEW  
15 EVIDENCE OR CHANGED CIRCUMSTANCES, TIME FOR  
16 APPEAL IS STAYED PENDING A DECISION ON REHEARING.  
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- 18 1. A BOARD DECISION ON A MOTION, WITH OR WITHOUT  
19 REHEARING, IS NOT A FINAL APPEALABLE DECISION  
20 FOR PURPOSES OF A SUBSEQUENT MOTION ALLEGING  
21 NEW EVIDENCE OR CHANGED CIRCUMSTANCES. A  
22 SUBSEQUENT MOTION ALLEGING NEW EVIDENCE OR  
23 CHANGED CIRCUMSTANCES SHALL BE  
24 AUTOMATICALLY REJECTED BY THE MUNICIPAL CLERK  
25 WITHOUT HEARING OR RECONSIDERATION BY THE  
26 BOARD.  
27

28 G. AFTER A DECISION BY THE BOARD ON A TIMELY FILED  
29 MOTION ALLEGING NEW EVIDENCE OR CHANGED  
30 CIRCUMSTANCES, THE TIME FOR APPEAL SHALL BEGIN TO  
31 RUN. AN APPLICANT OR OTHER INTERESTED PERSON MUST  
32 FILE AN APPEAL WITHIN TEN (10) DAYS AFTER THE DATE OF  
33 THE BOARD'S DECISION, OR THE INITIAL DECISION OF THE  
34 BOARD SHALL BECOME FINAL.]  
35

36 (AR No. 82-258; AR No. 86-39; AR No. 2004-215(S), § 2, 12-7-04; AR No.  
37 2005-15, §1, 2-15-05)  
38

39 **Authority**—Anchorage Municipal Code 3.40, 4.05.120, 21.10.035.  
40

41 **Section 5.** Anchorage Municipal Code of Regulations Regulation 21.11 – Platting  
42 Board Rules of Procedure, Section 21.11.503 – New evidence-Changed  
43 Circumstances, is hereby repealed in its entirety as follows:  
44

45 **21.11.503** **Repealed. [NEW EVIDENCE—CHANGED**  
46 **CIRCUMSTANCES.]**  
47

48 [A. AN ALLEGATION OF NEW EVIDENCE OR CHANGED  
49 CIRCUMSTANCES MAY BE THE BASIS FOR REOPENING THE  
50 PUBLIC HEARING OR FOR REHEARING A MATTER

1 PREVIOUSLY DECIDED BY THE BOARD. ANY SUCH  
 2 ALLEGATIONS SHALL BE RAISED BY WRITTEN MOTION FOR  
 3 REHEARING OR REOPENING THE HEARING, AND SHALL BE  
 4 FILED WITH THE MUNICIPAL CLERK NO LATER THAN TWENTY  
 5 (20) DAYS AFTER THE BOARD'S INITIAL DECISION BECOMES  
 6 FINAL PURSUANT TO SECTION 21.11.304D.

7  
 8 B. UPON THE FILING OF A MOTION UNDER THIS SECTION, THE  
 9 BOARD SHALL EXPEDITE ITS CONSIDERATION OF THE  
 10 MOTION AND SHALL DETERMINE WHETHER TO REHEAR OR  
 11 REOPEN THE MATTER. THE BOARD SHALL REOPEN A PUBLIC  
 12 HEARING OR REHEAR THE MATTER PREVIOUSLY DECIDED IF  
 13 THE BOARD DETERMINES THAT:

- 14 1. IF TRUE, THAT THE ALLEGED NEW EVIDENCE OR  
 15 CHANGED CIRCUMSTANCES WOULD SUBSTANTIALLY  
 16 CHANGE THE DECISION OF THE BOARD; AND THAT
- 17 2. THE PERSON ALLEGING THE NEW EVIDENCE OR  
 18 CHANGED CIRCUMSTANCES ACTED PROMPTLY AND  
 19 WITH DILIGENCE IN BRINGING THE INFORMATION TO  
 20 THE BOARD'S ATTENTION.

21 C. IF THE BOARD DETERMINES TO REOPEN A PUBLIC HEARING  
 22 OR REHEAR A MATTER PREVIOUSLY DECIDED, IT SHALL ALSO  
 23 DETERMINE THE EXTENT OF THE SUBJECT MATTER TO BE  
 24 HEARD AND INDICATE THAT IN THE PUBLIC NOTICE OF THE  
 25 HEARING.

26 D. A DECISION MADE BY THE BOARD, AS THE RESULT OF  
 27 REHEARING UNDER THIS SECTION, IS NOT AN INITIAL  
 28 DECISION PURSUANT TO SUBSECTION A. ABOVE;  
 29 SUBSEQUENT MOTIONS ALLEGING NEW EVIDENCE OR  
 30 CHANGED CIRCUMSTANCES SHALL BE AUTOMATICALLY  
 31 REJECTED BY THE MUNICIPAL CLERK WITHOUT HEARING OR  
 32 RECONSIDERATION BY THE BOARD.]

33 (AR No. 81-6; AR No. 83-126; AR No. 2004-215(S), § 6, 12-7-04)

34 **Authority**—Anchorage Municipal Code 3.40, 4.05.120, 21.10.035.

35 **Section 6.** Anchorage Municipal Code of Regulations Regulation 21.13 – Urban  
 36 Design Commission Rules of Procedure, Section 21.13.340 – Decision, is hereby  
 37 amended to read as follows:

38 **21.13.340 Decision.**

39 A. Every decision made by the commission shall be based on and  
 40 include findings of fact and conclusions. Every finding of fact shall  
 41 be supported in the record of the proceedings. The findings shall be

1 sufficient to provide a reasonable basis for understanding the  
2 reasons for the decision. In considering and applying any applicable  
3 approval criteria, the commission shall make specific findings as to  
4 why the criteria have or have not been met.  
5

- 6 B. I[T]he secretary shall prepare proposed written findings of fact and  
7 decision to submit to the board at its next regularly scheduled  
8 meeting, or as soon thereafter as feasible.  
9

10 [THE FINDINGS OF FACT AND DECISION OF THE COMMISSION  
11 AT THE SCHEDULED HEARING SHALL BECOME FINAL SEVEN  
12 (7) CALENDAR DAYS AFTER THE DATE THE DECISION IS MADE  
13 ON THE RECORD, UNLESS:  
14

- 15 1. PRIOR TO THE EXPIRATION OF THE SEVENTH DAY, A  
16 WRITTEN REQUEST IS RECEIVED BY THE SECRETARY  
17 TO:  
18

- 19 A. PREPARE A WRITTEN DECISION BASED UPON  
20 THE RECORD MADE AT THE HEARING; AND  
21 B. THE REQUEST IS ACCOMPANIED BY A WRITTEN  
22 NOTICE OF INTENT TO APPEAL.  
23

- 24 C. IF A WRITTEN REQUEST IS RECEIVED WITHIN SEVEN (7)  
25 CALENDAR DAYS OF THE COMMISSION'S DECISION ON THE  
26 RECORD,]  
27

- 28 C[D]. Commission review of the written findings of fact and decision shall  
29 have priority over regular agenda items, and shall be approved, as  
30 amended by the commission if necessary, and become the final  
31 appealable decision of the commission.  
32

- 33 D[E]. Within twenty (20) days of the approval of the final appealable  
34 decision pursuant to subsection C[D]. above, a party of interest [AN  
35 APPLICANT OR OTHER INTERESTED PERSON] must file [WITH  
36 THE MUNICIPAL CLERK EITHER:  
37

- 38 1. A WRITTEN MOTION ALLEGING NEW EVIDENCE OR  
39 CHANGED CIRCUMSTANCES, PURSUANT TO SECTION  
40 21.10.503; OR  
41 2.] a[A]n appeal of the commission's final appealable decision,  
42 pursuant to municipal code chapter 21.03 [21.30].  
43

- 44 [F. IF A MOTION ALLEGING NEW EVIDENCE OR CHANGED  
45 CIRCUMSTANCES IS TIMELY FILED PURSUANT TO  
46 SUBSECTION E.1. ABOVE, THE TIME FOR APPEAL IS STAYED  
47 PENDING A DECISION ON THE MOTION. IN THE EVENT THE  
48 COMMISSION DETERMINES TO REOPEN AND/OR REHEAR  
49 NEW EVIDENCE OR CHANGED CIRCUMSTANCES, TIME FOR  
50 APPEAL IS STAYED PENDING A DECISION ON REHEARING.

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2 2. A COMMISSION DECISION ON A MOTION, WITH OR  
3 WITHOUT REHEARING, IS NOT A FINAL APPEALABLE  
4 DECISION FOR PURPOSES OF A SUBSEQUENT MOTION  
5 ALLEGING NEW EVIDENCE OR CHANGED  
6 CIRCUMSTANCES. A SUBSEQUENT MOTION ALLEGING  
7 NEW EVIDENCE OR CHANGED CIRCUMSTANCES SHALL  
8 BE AUTOMATICALLY REJECTED BY THE MUNICIPAL  
9 CLERK WITHOUT HEARING OR RECONSIDERATION BY  
10 THE COMMISSION.

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12 G. AFTER A DECISION BY THE COMMISSION ON A TIMELY FILED  
13 MOTION ALLEGING NEW EVIDENCE OR CHANGED  
14 CIRCUMSTANCES, THE TIME FOR APPEAL SHALL BEGIN TO  
15 RUN. AN APPLICANT OR OTHER INTERESTED PERSON MUST  
16 FILE AN APPEAL WITHIN TEN (10) DAYS AFTER THE DATE OF  
17 THE COMMISSION'S DECISION, OR THE INITIAL DECISION OF  
18 THE COMMISSION SHALL BECOME FINAL.]

19  
20 (AR No. 2003-342, § 1, 1-6-04; AR No. 2004-215(S), § 10, 12-7-04; AR  
21 No. 2005-15, § 3, 2-15-05)

22  
23 **Section 7.** Anchorage Municipal Code of Regulations Regulation 21.13 – Urban  
24 Design Commission Rules of Procedure, Section 21.13.530 – New evidence-  
25 Changed Circumstances, is hereby repealed in its entirety as follows:

26  
27 **21.13.530 Repealed. [NEW EVIDENCE—CHANGED**  
28 **CIRCUMSTANCES.]**

29  
30 [A. AN ALLEGATION OF NEW EVIDENCE OR CHANGED  
31 CIRCUMSTANCES MAY BE THE BASIS FOR REOPENING THE  
32 PUBLIC HEARING OR FOR REHEARING A MATTER  
33 PREVIOUSLY DECIDED BY THE COMMISSION. ANY SUCH  
34 ALLEGATIONS SHALL BE RAISED BY WRITTEN MOTION FOR  
35 REHEARING OR REOPENING THE HEARING, AND SHALL BE  
36 FILED WITH THE MUNICIPAL CLERK NO LATER THAN TWENTY  
37 (20) DAYS AFTER THE COMMISSION'S INITIAL DECISION  
38 BECOMES FINAL PURSUANT TO SECTION 21.11.340D.

39  
40 B. UPON THE FILING OF A MOTION UNDER THIS SECTION, THE  
41 COMMISSION SHALL EXPEDITE ITS CONSIDERATION OF THE  
42 MOTION AND SHALL DETERMINE WHETHER TO REHEAR OR  
43 REOPEN THE MATTER. THE COMMISSION SHALL REOPEN A  
44 PUBLIC HEARING OR REHEAR THE MATTER PREVIOUSLY  
45 DECIDED IF THE COMMISSION DETERMINES THAT:

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47 1. IF TRUE, THAT THE ALLEGED NEW EVIDENCE OR  
48 CHANGED CIRCUMSTANCES WOULD SUBSTANTIALLY  
49 CHANGE THE DECISION OF THE COMMISSION; AND  
50 THAT

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2. THE PERSON ALLEGING THE NEW EVIDENCE OR CHANGED CIRCUMSTANCES ACTED PROMPTLY AND WITH DILIGENCE IN BRINGING THE INFORMATION TO THE COMMISSION'S ATTENTION.

C. IF THE COMMISSION DETERMINES TO REOPEN A PUBLIC HEARING OR REHEAR A MATTER PREVIOUSLY DECIDED, IT SHALL ALSO DETERMINE THE EXTENT OF THE SUBJECT MATTER TO BE HEARD AND INDICATE THAT IN THE PUBLIC NOTICE OF THE HEARING.

D. A DECISION MADE BY THE COMMISSION, AS THE RESULT OF REHEARING UNDER THIS SECTION, IS NOT AN INITIAL DECISION PURSUANT TO SUBSECTION A. ABOVE; SUBSEQUENT MOTIONS ALLEGING NEW EVIDENCE OR CHANGED CIRCUMSTANCES SHALL BE AUTOMATICALLY REJECTED BY THE MUNICIPAL CLERK WITHOUT HEARING OR RECONSIDERATION BY THE COMMISSION.]

(AR No. 2003-342 § 1, 1-6-04; AR No. 2004-215(S), § 11, 12-7-04)

**Section 8.** This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Chair of the Assembly

ATTEST:

\_\_\_\_\_  
Municipal Clerk