

Submitted by: Assembly Member
Volland

Assembly Member Brawley
Assembly Vice Chair Zaletel

Prepared by: Assembly Counsel's Office
For reading:

**ANCHORAGE, ALASKA
AO No. 2024-99**

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.03.160 TO PROHIBIT THE APPLICATION FOR OR RECOMMENDATION OF SPECIAL LIMITATIONS IN APPROVING AN AMENDMENT TO THE ZONING MAP AND WAIVING PLANNING AND ZONING COMMISSION REVIEW.

WHEREAS, a special limitation is a legal mechanism under Title 21 enabling the municipal government to restrict certain land uses otherwise allowed on private property within the zoning district; and

WHEREAS, special limitations are frequently project specific to that moment, current code at that time, and are parcel or location specific; and

WHEREAS, special limitations are approved by ordinance, are not recorded in the State Recorder's Office Anchorage Recording District, and attach to the zoning map, not the individual parcels of property within the zone, making them a permanent constraint to the subject properties; and

WHEREAS, the persistent and consistent use of special limitations constitute stop-gap measures designed to address an immediate issue at the expense of indefinitely burdening property owners; and

WHEREAS, special limitations have been utilized in a variety of ways to place conditions on development, but there are many other planning and land use regulation tools already in the Anchorage Municipal Code and built into the plan review and permitting process that can achieve the same community objectives; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 21.03.160 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.03.160 Rezoning (zoning map amendments).

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D. *General procedure.*

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- 1 4. *Application submittal.* Applications for a rezoning shall be
2 submitted to the director on a form provided by the department
3 and shall contain the information specified on the application
4 form. Additional materials may be required for certain types of
5 rezoning[, SUCH AS REZONING WITH SPECIAL
6 LIMITATIONS].
7
- 8 5. *Public notice.* Notice shall be provided in accordance with
9 subsection 21.03.020 H. In addition, the published and written
10 (mailed) notice for the public hearing before the assembly shall
11 list the protest provisions set forth in subsection D.9. below.
12
- 13 6. *Departmental review.* The department shall review each
14 proposed rezoning in light of the approval criteria in subsection
15 E. below and distribute the application to other reviewers as
16 deemed necessary. Based on the results of those reviews, the
17 department shall provide a report to the planning and zoning
18 commission.
19
- 20 7. *Planning and zoning commission action.*
21
 - 22 a. The planning and zoning commission shall hold a public
23 hearing on the proposed rezoning and, at the close of
24 the hearing, taking into account the recommendations of
25 the department and public input, and based upon the
26 approval criteria of subsection E. below, shall
27 recommend approval, approval with [SPECIAL
28 LIMITATIONS OR OTHER] modifications (at least as
29 restrictive as submitted in the application), or denial. The
30 commission shall include written findings based on each
31 of the approval criteria. The planning and zoning
32 commission shall supplement any denial
33 recommendation with a summary of critical issues
34 related to the application, based upon public input and
35 the commission's deliberations. This information will be
36 available to assist the assembly if an ordinance is
37 submitted under subsection 7.c. below.
38
 - 39 b. If the commission recommends approval or approval
40 with [SPECIAL LIMITATIONS OR OTHER]
41 modifications, within 60 days of the commission's written
42 resolution, the director shall forward the
43 recommendation to the assembly with an ordinance to
44 amend the official zoning map in accordance with the
45 recommendation.
46
 - 47 c. If the commission recommends denial, the amendment
48 shall be deemed disapproved unless, within 15 days of
49 the commission's written resolution recommending
50 denial, the applicant files a written statement with the
51 municipal clerk requesting that an ordinance amending

the zoning map as set out in the application be submitted for action by the assembly. The draft ordinance shall be appended to an Assembly Informational Memorandum (AIM) for consideration by the assembly.

8. *Assembly action.* The assembly shall hold a public hearing on the proposed rezoning and shall, at the close of the hearing, taking into account the recommendations of the department, planning and zoning commission, and public input, and based upon the approval criteria of subsection E. below:

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

*** *** ***
 11. *Form of amending ordinance.* An ordinance amending the zoning map shall contain the following:

- a. The names of the current and the requested zoning districts;
- b. The legal description of the subject property; and
- c. [ANY SPECIAL LIMITATIONS BEING APPLIED TO THE SUBJECT PROPERTY; AND
- D.] An effective clause.

*** *** ***
 G. Rezoning with special limitations. Pursuant to this subsection, the department and planning and zoning commission shall not recommend, nor should the assembly approve, the imposition of special limitations as part of a proposed rezone. An application for a rezoning received after [insert date of passage] may not include special limitations that restrict some aspects of development, to a greater degree than otherwise provided for a zoning district applied by

1 the rezoning.
2

3 [1. *PURPOSES.* A REZONING MAY INCLUDE SPECIAL
4 LIMITATIONS FOR ONE OR MORE OF THE FOLLOWING
5 PURPOSES:
6

7 A. TO PROHIBIT STRUCTURES, OR USES OF LAND OR
8 STRUCTURES, THAT WOULD ADVERSELY AFFECT
9 THE SURROUNDING NEIGHBORHOOD OR
10 CONFLICT WITH THE COMPREHENSIVE PLAN.
11

12 B. TO CONFORM THE ZONING MAP AMENDMENT TO
13 THE COMPREHENSIVE PLAN, OR TO FURTHER THE
14 GOALS AND POLICIES OF THE COMPREHENSIVE
15 PLAN.
16

17 C. TO CONFORM DEVELOPMENT UNDER THE ZONING
18 MAP AMENDMENT TO EXISTING PATTERNS OF
19 DEVELOPMENT IN THE SURROUNDING
20 NEIGHBORHOOD.
21

22 D. TO MITIGATE THE ADVERSE EFFECTS OF
23 DEVELOPMENT UNDER THE ZONING MAP
24 AMENDMENT ON THE NATURAL ENVIRONMENT,
25 THE SURROUNDING NEIGHBORHOOD, AND ON
26 PUBLIC FACILITIES AND SERVICES.
27

28 2. *TYPES OF LIMITATIONS.* A SPECIAL LIMITATION SHALL
29 DO ONE OR MORE OF THE FOLLOWING:
30

31 A. LIMIT RESIDENTIAL DENSITY; OR PROHIBIT
32 STRUCTURES, OR USES OF LAND OR
33 STRUCTURES, OTHERWISE PERMITTED IN A
34 ZONING DISTRICT.
35

36 B. REQUIRE COMPLIANCE WITH DESIGN STANDARDS
37 FOR STRUCTURES AND OTHER SITE FEATURES.
38

39 C. REQUIRE COMPLIANCE WITH A SITE PLAN
40 APPROVED UNDER THIS TITLE.
41

42 D. REQUIRE THE CONSTRUCTION AND
43 INSTALLATION OF IMPROVEMENTS, INCLUDING
44 PUBLIC IMPROVEMENTS.
45

46 E. IMPOSE TIME LIMITS FOR TAKING SUBSEQUENT
47 DEVELOPMENT ACTIONS.
48

49 3. *EFFECT OF APPROVAL.*
50

51 A. A ZONING DISTRICT SUBJECT TO SPECIAL

LIMITATIONS SHALL BE IDENTIFIED ON THE ZONING MAP BY THE SUFFIX "SL," AND THE NUMBER OF THE ORDINANCE APPLYING THE SPECIAL LIMITATIONS SHALL BE PRINTED ON THE ZONING MAP.

B. WHERE A SPECIAL LIMITATION IN A ZONING MAP AMENDMENT CONFLICTS WITH ANY LESS RESTRICTIVE PROVISION OF THIS TITLE, THE SPECIAL LIMITATION GOVERNS.]

*** **

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2017-176, § 1, 1-9-18; AO No. 2021-89(S), § 21, 2-15-22; AO No. 2022-38, § 2, 4-12-22)

Section 2. All special limitations approved prior to passage of this ordinance shall remain valid and unaffected.

Section 3. The Assembly hereby petitions the Planning Department to initiate a comprehensive review of the official zoning map to identify all zones and parcels within the municipality containing special limitations and to report its findings to the Assembly detailing the zones, number of parcels within each zone, and the special limitations imposed. Additionally, in rendering its report, the Department should make recommendations for zones and parcels to be considered in a later ordinance removing the special limitations it finds no longer serve the interests of the community.

Section 4. Pursuant to AMC subsection 21.03.210C., this ordinance shall not require planning and zoning commission review prior to assembly action, and the 21-day published notice requirement of AMC subsection 21.03.020H.4. is waived; this ordinance shall comply with charter § 10.01(b) notice requirements.

Section 5. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2024.

Chair

ATTEST:

Municipal Clerk