

Municipality of Anchorage

MEMORANDUM

DATE: April 14, 2014

TO: Planning and Zoning Commission

THRU: Jerry T. Weaver, Jr., Director
Community Development Department

FROM: *EM* Erika McConnell, Manager
Current Planning Section

SUBJECT: 2014-029--Amending AMC Title 21 to remove the use "Severe Alcohol Dependent Housing"

This proposed ordinance amends both the "old" and "new" versions of Title 21 to remove the use "Severe Alcohol Dependent Housing." The ordinance that created this use was adopted by AO 2010-3 on March 23, 2010. Since that time, there has been only one Severe Alcohol Dependent Housing (SADH) facility created: Karluk Manor located at 5th Avenue and Karluk Street.

In early 2012, three plaintiffs filed suit against the Municipality (*Gesulga et al v MOA*), alleging the ordinance discriminates against alcoholics and that alcoholism is a disability under state and federal law. By joint agreement of the parties, the state law claims in the lawsuit have been stayed while the Municipal Departments of Community Development and Law develop code amendments. We released a draft ordinance in January and forwarded it to representatives of various social service agencies. The draft ordinance was also routed for agency review and to all community councils.

The draft ordinance proposed to delete "Severe Alcohol Dependent Housing" and "Transitional Living" and create a new use called "Supportive Housing." As staff received comments, both orally and in writing, and as further legal research was performed, it became clear that land use provisions relating to supportive and/or group housing is an evolving area in both Planning and Law.

In light of the time frame provided by the stay, it is necessary to proceed with the removal of the SADH provisions. Staff revised the draft ordinance to remove the other earlier proposals for new uses. The intent of Planning Division and Law Department

staff is to continue research and development of new code provisions. We want to look more carefully at what other jurisdictions are doing/have done, both successfully and unsuccessfully, and put forward a new ordinance that is administrable and fair. So far, much of what we have considered is either dependent on a code structure that is too dissimilar to ours, or does too little or too much to properly strike the right balance between legitimate land use concerns and fair housing laws. The goal is to get this right the first time and be able to convincingly explain to the Commission, the Assembly, and the public both what we are doing and why we are doing it, so as to achieve passage of the legislation.

We have not included the January draft of the ordinance in your packet, nor the various comments relating to that draft, as both Planning and Legal staff do not feel that the January draft ordinance is a viable ordinance to move forward. Your packet does include a Joint Statement of the Department of Justice and the Department of Housing and Urban Development, to help you understand the framework of the issues. The packet also includes a resolution from the Turnagain Community Council that is not in support of the current proposal.

The Planning Division recommends approval of this ordinance as a recommendation for the Assembly.

Attachments:

Draft Ordinance (2014-XXX)

Joint Statement of the Department of Justice and the Department of Housing and
Urban Development

Turnagain Community Council Resolution (April 3, 2014)

AO 2010-3

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Depts. of Law and Community
Development
For reading: _____

ANCHORAGE, ALASKA
AO No. 2014-_____

1 AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING
2 ANCHORAGE MUNICIPAL CODE TITLE 21, *LAND USE PLANNING (NEW*
3 *CODE – EFFECTIVE JANUARY 1, 2014)*, TO REMOVE THE GROUP LIVING
4 USE “SEVERE ALCOHOL DEPENDENT HOUSING”; AND AMENDING
5 ANCHORAGE MUNICIPAL CODE TITLE 21, *LAND USE PLANNING (OLD*
6 *CODE – EXPIRES DECEMBER 31, 2014)*, TO REMOVE THE USE “SEVERE
7 ALCOHOL DEPENDENT HOUSING”.

8 **THE ANCHORAGE ASSEMBLY ORDAINS:**

9 **Section 1.** Anchorage Municipal Code (new code) section 21.05.030B.5.,
10 *Severe Alcohol Dependent Housing*, is hereby removed. Section 21.05.030B.6.
11 shall be renumbered to B.5.

12 **Section 2.** Table 21.05-1: *Table of Allowed Uses-Residential, Commercial,*
13 *Industrial and Other Districts* (new code) is amended as provided in the
14 Attachment A.

15 **Section 3.** Table 21.07-4: *Off-Street Parking Spaces Required* (new code) is
16 amended as provided in Attachment B.

17 **Section 4.** Table 21.10-4: *Table of Allowed Uses-Chugiak-Eagle River*
18 *Residential, Commercial, Industrial, and Other Districts* (new code) is amended as
19 provided in Attachment C.

20 **Section 5.** Anchorage Municipal Code (old code) Section 21.35.020 is amended
21 to read as follows (the remaining portions of section 21.35.020 are not affected
22 and are not included):

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24 [SEVERE ALCOHOL DEPENDENT HOUSING MEANS A FACILITY THAT
25 PROVIDES HOUSING 24 HOURS PER DAY, OTHER THAN ON A
26 TEMPORARY BASIS, TO SEVEN OR MORE PERSONS WHO ARE
27 SEVERELY ALCOHOL DEPENDENT. PERSONS UNDER THE
28 JURISDICTION OF THE COURTS MAY RESIDE IN AN SEVERE
29 ALCOHOL DEPENDENT HOUSING FACILITY. IT DOES NOT INCLUDE
30 ANY FACILITY WHICH IS A CORRECTIONAL COMMUNITY
31 RESIDENTIAL CENTER, RESIDENTIAL CARE FACILITY, OR
32 HABILITATIVE CARE FACILITY. THE FACILITY MAY PROVIDE
33 SERVICES ACCESSORY TO THE HOUSING SUCH AS AN ON-SITE
34 RESIDENT MANAGER RESPONSIBLE FOR SAFETY MONITORING,
35 PROPERTY MAINTENANCE AND MONITORING, AND HOUSE RULES
36 MANAGEMENT, AS WELL AS RESIDENTIAL SUPPORT STAFF TASKED
37 TO PROVIDE ASSISTANCE WITH DAILY/INDEPENDENT LIVING SKILLS
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MENTAL HEALTH, REHABILITATION, MEDICAL, AND OTHER SIMILAR SERVICES. FOOD SERVICE, LAUNDRY, COMMUNITY RECREATION ROOM, AND OTHER SUCH RESIDENTIAL-RELATED SERVICES AND FACILITIES MAY BE PROVIDED ON-SITE TO RESIDENTS OF THE FACILITY ONLY. GROUP REHABILITATION SHALL NOT BE PROVIDED WITHIN THE FACILITY AS A PRIMARY USE, BUT MAY BE PROVIDED ON AN OCCASIONAL BASIS, ONLY TO RESIDENTS OF THE FACILITY, IF IT IS NOT A REQUIREMENT OF RESIDING IN THE FACILITY. CASE MANAGEMENT MAY OCCUR ON AN INDIVIDUAL BASIS IN A COMMUNITY ROOM OR PRIVATE DWELLING UNIT OR SLEEPING ROOM.]

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(GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No. 81-97; AO No. 81-180; AO No. 82-54; AO No. 82-167; AO No. 83-91(S); AO No. 84-14; AO No. 84-52; AO No. 85-58; AO No. 85-159; AO No. 85-91, 10-1-85; AO No. 85-216; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 86-171; AO No. 88-172; AO No. 88-171(S-1), 12-31-88; AO No. 89-35, 4-7-89; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 91-35; AO No. 90-152(S); AO No. 91-90(S); AO No. 91-184; AO No. 92-7(S-2); AO No. 92-26; AO No. 92-93; AO No. 92-128(S); AO No. 92-129(S); AO No. 93-58; AO No. 93-148, § 1, 11-16-93; AO No. 94-62, § 2, 4-12-94; AO No. 95-68(S-1), §§ 2, 3, 8-8-95; AO No. 95-173, § 1, 11-14-95; AO No. 96-41, § 1, 3-5-96; AO No. 96-131(S), § 1, 10-22-96; AO No. 98-106, § 1, 7-21-98; AO No. 98-160, § 3, 12-8-98; AO No. 99-62, § 2, 5-11-99; AO No. 2000-119(S), § 8, 2-20-01; AO No. 2001-79(S), § 1, 5-8-01; AO No. 2001-80, § 1, 5-8-01; AO No. 2001-101(S), § 2, 4-9-02; AO No. 2002-109, § 2, 9-10-02; AO No. 2002-117, § 4, 1-28-03; AO No. 2003-62(S-1), § 3, 10-1-03; AO No. 2003-97, § 1, 9-30-03; AO No. 2003-132, § 1, 10-7-03; AO No. 2003-124(S), § 1, 1-20-04; AO No. 2004-108(S), § 2, 10-26-04; AO No. 2005-9, § 1, 3-1-05; AO No. 2005-150(S-1), § 1, 2-28-06; AO No. 2005-185(S), § 1, 2-28-06; AO No. 2005-124(S-1A), § 4, 4-18-06; AO No. 2006-121, § 1, 9-26-06; AO No. 2006-64(S-1), § 1, 12-12-06; AO No. 2007-62, § 1, 5-15-07; AO No. 2008-80, § 1, 9-16-08; AO No. 2009-22, § 1, 4-14-09; AO No. 2010-3, § 1, 3-23-10; AO No. 2010-50(S), § 1, 8-31-10; AO No. 2011-93(S), § 1, 9-27-11)

Section 6. Anchorage Municipal Code (old code) section 21.40.020, *PLI (public lands and institutions) district*, is hereby amended to read as follows (the remaining portions of section 21.40.020 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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[25. SEVERE ALCOHOL DEPENDENT HOUSING.]

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(GAAB 21.05.050.A; AO No. 77-355; AO No. 79-25; AO No. 81-67(S); AO No. 81-178(S); AO No. 82-24; AO No. 83-78; AO No. 84-34; AO No. 85-18; AO No. 85-28; AO No. 85-78; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-90; AO No. 88-7(S), 7-4-88; AO No. 90-152(S); AO No. 92-93; AO No. 93-148, § 3, 11-16-93; AO No. 95-68(S-1), § 4, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 99-62, § 3, 5-11-99; AO No. 99-131, § 6, 10-26-99; AO No. 99-149, § 1, 12-14-99; AO No. 2002-109, § 3, 9-12-02; AO No. 2003-132, § 2, 10-7-03; AO No. 2005-9, § 2, 3-1-05; AO No. 2005-42(S), § 1, 5-31-05; AO No. 2005-150(S-1), § 2, 2-28-06; AO No. 2005-185(S), § 2, 2-28-06; AO No. 2005-124(S-1A), § 5, 4-18-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-141(S), § 1, 12-11-07; AO No. 2008-80, § 2, 9-16-08; AO No. 2009-22, § 2, 4-14-09; AO No. 2010-3, § 2, 3-23-10; AO No. 2010-50(S), § 2, 8-31-10)

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Section 7. Anchorage Municipal Code Section 21.40.130, *R-O (residential-office) district*, is hereby amended to read as follows (the remaining portions of section 21.40.130 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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[12. SEVERE ALCOHOL DEPENDENT HOUSING.]

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(GAAB 21.05.050.I; AO No. 77-219; AO No. 77-355; AO No. 78-199; AO No. 80-57; AO No. 81-67(S); AO No. 83-226; AO No. 85-18; AO No. 85-23; AO No. 85-69; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 86-171; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 91-97; AO No. 92-114; AO No. 96-131(S), § 3, 10-22-96; AO No. 99-62, § 16, 5-11-99; AO No. 2003-124(S), § 3, 1-20-04; AO No. 2005-175, § 13, 1-10-06; AO No. 2005-178, § 14, 1-24-06; AO No. 2005-185(S), § 15, 2-28-06; AO No. 2005-124(S-1A), § 18, 4-18-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 2, 10-23-07; AO No. 2009-22, § 5, 4-14-09; AO No. 2009-23, § 1, 4-14-09; AO No. 2010-3, § 3, 3-23-10; AO No. 2010-50(S), § 15, 8-31-10)

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Section 8. Anchorage Municipal Code (old code) section 21.40.150, *B-2A (central business—core) district*, is hereby amended to read as follows (the remaining portions of section 21.40.150 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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[17. SEVERE ALCOHOL DEPENDENT HOUSING.]

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(GAAB 21.05.050.W; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 87-148; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 6, 8-8-95; AO No. 98-160, § 4, 12-8-98; AO No. 98-188, §§ 1--3, 1-12-99; AO No. 99-62, § 19, 5-11-99; AO No. 99-131, § 7, 10-26-99; AO No. 2001-80, § 3, 5-8-01; AO No. 2005-185(S), § 18, 2-28-06; AO No. 2005-124(S-1A), § 21, 4-18-06; AO No. 2006-49, § 1, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 5, 10-23-07; AO No. 2008-35(S), § 1, 3-18-08; AO No. 2010-3, § 4, 3-23-10; AO No. 2010-50(S), § 17, 8-31-10)

Section 9. Anchorage Municipal Code (old code) section 21.40.160, *B-2B (central business-intermediate) district*, is hereby amended to read as follows (the remaining portions of section 21.40.160 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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[17. SEVERE ALCOHOL DEPENDENT HOUSING.]

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(GAAB 21.05.050.Y; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 7, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 5, 12-8-98; AO No. 98-188, §§ 4--6, 1-12-99; AO No. 99-62, § 20, 5-11-99; AO No. 99-131, § 8, 10-26-99; AO No. 99-149, § 2, 12-14-99; AO No. 2001-80, § 4, 5-8-01; AO No. 2005-185(S), § 19, 2-28-06; AO No. 2005-124(S-1A), § 22, 4-18-06; AO No. 2006-49, § 2, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 6, 10-23-07; AO No. 2008-35(S), § 2, 3-18-08; AO No. 2009-22, § 8, 4-14-09; AO No. 2010-3, § 5, 3-23-10; AO No. 2010-50(S), § 18, 8-31-10)

Section 10. Anchorage Municipal Code (old code) section 21.40.170, *B-2C (central business—periphery) district*, is hereby amended to read as follows (the remaining portions of section 21.40.170 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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[21. SEVERE ALCOHOL DEPENDENT HOUSING.]

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(GAAB 21.05.050.X; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 8, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 6, 12-8-98; AO No. 98-173, § 4, 11-3-98; AO No. 98-188, §§ 7--9, 1-12-99; AO No. 99-62, § 21, 5-11-99; AO No. 99-131, § 9, 10-26-99; AO No. 99-149, § 3, 12-14-99; AO No. 2001-80, § 5, 5-8-01; AO No. 2005-185(S), § 20, 2-28-06; AO No. 2005-124(S-1A), § 23, 4-18-06; AO No. 2006-49, § 3, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 7, 10-23-07; AO No. 2008-35(S), § 3, 3-18-08; AO No. 2009-22, § 9, 4-14-09; AO No. 2010-3, § 6, 3-23-10; AO No. 2010-50(S), § 19, 8-31-10)

Section 11. Anchorage Municipal Code (old code) section 21.40.180, *B-3 (general business) district*, is hereby amended to read as follows (the remaining portions of section 21.40.180 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use and site plan standards and procedures of this title, the following uses may be permitted:

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[14. SEVERE ALCOHOL DEPENDENT HOUSING.]

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(GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132; AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-80, § 6, 5-8-01; AO No. 2004-108(S), § 3, 10-26-04; AO No. 2005-185(S), § 21, 2-28-06; AO No. 2005-124(S-1A), § 24, 4-18-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-7, § 1, 5-1-07; AO No. 2007-121(S-1), § 7, 10-23-07; AO No. 2007-156, § 1, 12-11-07; AO No. 2009-22, § 10, 4-14-09; AO No. 2010-3, § 7, 3-23-10; AO No. 2010-50(S), § 20, 8-31-10)

Section 12. Anchorage Municipal Code (old code) section 21.40.200, *I-1 (light industrial) district*, is hereby amended to read as follows (the remaining portions of section 21.40.200 are not affected and are not included):

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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17. [SEVERE ALCOHOL DEPENDENT HOUSING.

18.] Two or three free-standing small wind energy conversion systems, subject to the requirements of Section 21.50.470.

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(GAAB 21.05.050.O; AO No. 77-355; AO No. 79-95; AO No. 81-67(S); AO No. 82-105; AO No. 84-57; AO No. 85-91, 10-1-85; AO No. 85-95; AO No. 86-50; AO No. 86-90; AO No. 87-32; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 92-114; AO No. 95-68(S-1), § 11, 8-8-95; AO No. 95-76, § 1, 4-4-95; AO No. 95-194, § 1, 1-2-96; AO No. 98-160, § 9, 12-8-98; AO No. 98-173, § 5, 11-3-98; AO No. 99-62, § 24, 5-11-99; AO No. 2001-80, § 8, 5-8-01; AO No. 2004-5, § 1, 1-20-04; AO. No. 2004-108(S), § 5, 10-26-04; AO No. 2004-178(am), § 1, 1-25-05; AO No. 2005-9, § 3, 3-1-05; AO No. 2005-185(S), § 23, 2-28-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 10, 10-23-07; AO No. 2010-3, § 8, 3-23-10; AO No. 2010-50(S), § 21, 8-31-10)

Section 13. Anchorage Municipal Code (old code) section 21.50.510, *Conditional use standards—Severe alcohol dependent housing*, is hereby removed in its entirety.

Section 14. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2014.

Chair of the Assembly

ATTEST:

Municipal Clerk

AO 2014-xxx: AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21, *LAND USE PLANNING* (NEW CODE – EFFECTIVE JANUARY 1, 2014), TO REMOVE THE GROUP LIVING USE “SEVERE ALCOHOL DEPENDENT HOUSING”; AND AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21, *LAND USE PLANNING* (OLD CODE – EXPIRES DECEMBER 31, 2014), TO REMOVE THE USE “SEVERE ALCOHOL DEPENDENT HOUSING”.

ATTACHMENT B

TABLE 21.07-4: OFF-STREET PARKING SPACES REQUIRED ("du" = dwelling unit; "sf" = square feet; "gfa" = gross floor area)			
Use Category	Use Type	Minimum Spaces Required	See Loading Subsection 21.07.090G.
RESIDENTIAL USES			
Group Living	Assisted living facility (9+ client capacity)	1 per 4 beds plus 1 per 350 sf of office area plus requirement for dwelling, if located in a dwelling	X
	Correctional community residential center	1 per 2,000 sf gfa	X
	Habilitative care facility	1 per 400 sf gfa, and 1 passenger loading space, reserved for pickup and delivery of adults, per 800 sf gfa	X
	Roominghouse	0.6 per guestroom	X
	[SEVERE ALCOHOL DEPENDENT HOUSING]	[1 PER 4 ROOMS IF NO ROOMS ARE PROVIDED, 1 PER 4 PILLOWS]	
	Transitional living facility	1 per 2 beds plus 1 per 4 persons in principal assembly area based on maximum occupancy provisions of AMC title 23	X

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



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Cases
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Special Litigation
Voting
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Cases and Matters
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Civil Rights FOIA
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JOINT STATEMENT OF THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GROUP HOMES, LOCAL LAND USE, AND THE FAIR HOUSING ACT

Since the federal Fair Housing Act ("the Act") was amended by Congress in 1988 to add protections for persons with disabilities and families with children, there has been a great deal of litigation concerning the Act's effect on the ability of local governments to exercise control over group living arrangements...

The Fair Housing Act prohibits a broad range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability. The Act does not pre-empt local zoning laws. However, the Act applies to municipalities and other local government entities and prohibits them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities.

The Fair Housing Act makes it unlawful --

- To utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled persons.
To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there.
To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
What constitutes a reasonable accommodation is a case-by-case determination.
Not all requested modifications of rules or policies are reasonable.

The disability discrimination provisions of the Fair Housing Act do not extend to persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender.

HUD and the Department of Justice encourage parties to group home disputes to explore all reasonable dispute resolution procedures, like mediation, as alternatives to litigation.

DATE: AUGUST 18, 1999

Questions and Answers

GENERAL INFORMATION CIVIL RIGHTS DIVISION HOUSING & CIVIL ENFORCEMENT
LEADERSHIP Steven H. Rosenbaum Chief
CONTACT (202) 514-4713 TTY - 202-305-1882 FAX - (202) 514-1116
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on the Fair Housing Act and Zoning

Q. Does the Fair Housing Act pre-empt local zoning laws?

No. "Pre-emption" is a legal term meaning that one level of government has taken over a field and left no room for government at any other level to pass laws or exercise authority in that area. The Fair Housing Act is not a land use or zoning statute; it does not pre-empt local land use and zoning laws. This is an area where state law typically gives local governments primary power. However, if that power is exercised in a specific instance in a way that is inconsistent with a federal law such as the Fair Housing Act, the federal law will control. Long before the 1988 amendments, the courts had held that the Fair Housing Act prohibited local governments from exercising their land use and zoning powers in a discriminatory way.

Q. What is a group home within the meaning of the Fair Housing Act?

The term "group home" does not have a specific legal meaning. In this statement, the term "group home" refers to housing occupied by groups of unrelated individuals with disabilities.⁽³⁷⁾ Sometimes, but not always, housing is provided by organizations that also offer various services for individuals with disabilities living in the group homes. Sometimes it is this group home operator, rather than the individuals who live in the home, that interacts with local government in seeking permits and making requests for reasonable accommodations on behalf of those individuals.

The term "group home" is also sometimes applied to any group of unrelated persons who live together in a dwelling -- such as a group of students who voluntarily agree to share the rent on a house. The Act does not generally affect the ability of local governments to regulate housing of this kind, as long as they do not discriminate against the residents on the basis of race, color, national origin, religion, sex, handicap (disability) or familial status (families with minor children).

Q. Who are persons with disabilities within the meaning of the Fair Housing Act?

The Fair Housing Act prohibits discrimination on the basis of handicap. "Handicap" has the same legal meaning as the term "disability" which is used in other federal civil rights laws. Persons with disabilities (handicaps) are individuals with mental or physical impairments which substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The Fair Housing Act also protects persons who have a record of such an impairment, or are regarded as having such an impairment.

Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status.

The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

Q. What kinds of local zoning and land use laws relating to group homes violate the Fair Housing Act?

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to six unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission. If that ordinance also disallows a group home for six or fewer people with disabilities in a certain district or requires this home to seek a use permit, such requirements would conflict with the Fair Housing Act. The ordinance treats persons with disabilities worse than persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together as long as the restrictions are imposed on all such groups. Thus, in the case where a family is defined to include up to six unrelated people, an ordinance would not, on its face, violate the Act if a group home for seven people with disabilities was not allowed to locate in a single family zoned

neighborhood, because a group of seven unrelated people without disabilities would also be disallowed. However, as discussed below, because persons with disabilities are also entitled to request reasonable accommodations in rules and policies, the group home for seven persons with disabilities would have to be given the opportunity to seek an exception or waiver. If the criteria for reasonable accommodation are met, the permit would have to be given in that instance, but the ordinance would not be invalid in all circumstances.

Q. What is a reasonable accommodation under the Fair Housing Act?

As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling.

Even though a zoning ordinance imposes on group homes the same restrictions it imposes on other groups of unrelated people, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents who have mobility impairments. A similar waiver might not be required for a different type of group home where residents do not have difficulty negotiating steps and do not need a setback in order to have an equal opportunity to use and enjoy a dwelling.

Not all requested modifications of rules or policies are reasonable. Whether a particular accommodation is reasonable depends on the facts, and must be decided on a case-by-case basis. The determination of what is reasonable depends on the answers to two questions: First, does the request impose an undue burden or expense on the local government? Second, does the proposed use create a fundamental alteration in the zoning scheme? If the answer to either question is "yes," the requested accommodation is unreasonable.

What is "reasonable" in one circumstance may not be "reasonable" in another. For example, suppose a local government does not allow groups of four or more unrelated people to live together in a single-family neighborhood. A group home for four adults with mental retardation would very likely be able to show that it will have no more impact on parking, traffic, noise, utility use, and other typical concerns of zoning than an "ordinary family." In this circumstance, there would be no undue burden or expense for the local government nor would the single-family character of the neighborhood be fundamentally altered. Granting an exception or waiver to the group home in this circumstance does not invalidate the ordinance. The local government would still be able to keep groups of unrelated persons without disabilities from living in single-family neighborhoods.

By contrast, a fifty-bed nursing home would not ordinarily be considered an appropriate use in a single-family neighborhood, for obvious reasons having nothing to do with the disabilities of its residents. Such a facility might or might not impose significant burdens and expense on the community, but it would likely create a fundamental change in the single-family character of the neighborhood. On the other hand, a nursing home might not create a "fundamental change" in a neighborhood zoned for multi-family housing. The scope and magnitude of the modification requested, and the features of the surrounding neighborhood are among the factors that will be taken into account in determining whether a requested accommodation is reasonable.

Q. What is the procedure for requesting a reasonable accommodation?

Where a local zoning scheme specifies procedures for seeking a departure from the general rule, courts have decided, and the Department of Justice and HUD agree, that these procedures must ordinarily be followed. If no procedure is specified, persons with disabilities may, nevertheless, request a reasonable accommodation in some other way, and a local government is obligated to grant it if it meets the criteria discussed above. A local government's failure to respond to a request for reasonable accommodation or an inordinate delay in responding could also violate the Act.

Whether a procedure for requesting accommodations is provided or not, if local government officials have previously made statements or otherwise indicated that an application would not receive fair consideration, or if the procedure itself is discriminatory, then individuals with disabilities living in a group home (and/or its operator) might be able to go directly into court to request an order for an accommodation.

Local governments are encouraged to provide mechanisms for requesting reasonable accommodations that operate promptly and efficiently, without imposing significant costs or delays. The local government should also make efforts to insure that the availability of such mechanisms is well known within the community.

Q. When, if ever, can a local government limit the number of group homes that can locate in a certain area?

A concern expressed by some local government officials and neighborhood residents is that certain jurisdictions, governments, or particular neighborhoods within a jurisdiction, may come to have more than their "fair share" of group homes. There are legal ways to address this concern. The Fair Housing Act does not prohibit most governmental programs designed to encourage people of a particular race to move to neighborhoods occupied predominantly by people of another race. A local government that believes a particular area within its boundaries has its "fair share" of group homes, could offer incentives to providers to locate future homes in other neighborhoods.

However, some state and local governments have tried to address this concern by enacting laws requiring that group homes be at a certain minimum distance from one another. The Department of Justice and HUD take the position, and most courts that have addressed the issue agree, that density restrictions are generally inconsistent with the Fair Housing Act. We also believe, however, that if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community. Especially in the licensing and regulatory process, it is appropriate to be concerned about the setting for a group home. A consideration of over-concentration could be considered in this context. This objective does not, however, justify requiring separations which have the effect of foreclosing group homes from locating in entire neighborhoods.

Q. What kinds of health and safety regulations can be imposed upon group homes?

The great majority of group homes for persons with disabilities are subject to state regulations intended to protect the health and safety of their residents. The Department of Justice and HUD believe, as do responsible group home operators, that such licensing schemes are necessary and legitimate. Neighbors who have concerns that a particular group home is being operated inappropriately should be able to bring their concerns to the attention of the responsible licensing agency. We encourage the states

to commit the resources needed to make these systems responsive to resident and community needs and concerns.

Regulation and licensing requirements for group homes are themselves subject to scrutiny under the Fair Housing Act. Such requirements based on health and safety concerns can be discriminatory themselves or may be cited sometimes to disguise discriminatory motives behind attempts to exclude group homes from a community. Regulators must also recognize that not all individuals with disabilities living in group home settings desire or need the same level of services or protection. For example, it may be appropriate to require heightened fire safety measures in a group home for people who are unable to move about without assistance. But for another group of persons with disabilities who do not desire or need such assistance, it would not be appropriate to require fire safety measures beyond those normally imposed on the size and type of residential building involved.

Q. Can a local government consider the feelings of neighbors in making a decision about granting a permit to a group home to locate in a residential neighborhood?

In the same way a local government would break the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities, a local government can violate the Fair Housing Act if it blocks a group home or denies a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers are not themselves personally prejudiced against persons with disabilities. If the evidence shows that the decision-makers were responding to the wishes of their constituents, and that the constituents were motivated in substantial part by discriminatory concerns, that could be enough to prove a violation.

Of course, a city council or zoning board is not bound by everything that is said by every person who speaks out at a public hearing. It is the record as a whole that will be determinative. If the record shows that there were valid reasons for denying an application that were not related to the disability of the prospective residents, the courts will give little weight to isolated discriminatory statements. If, however, the purportedly legitimate reasons advanced to support the action are not objectively valid, the courts are likely to treat them as pretextual, and to find that there has been discrimination.

For example, neighbors and local government officials may be legitimately concerned that a group home for adults in certain circumstances may create more demand for on-street parking than would a typical family. It is not a violation of

the Fair Housing Act for neighbors or officials to raise this concern and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the application, if another type of facility would ordinarily be denied a permit for such parking problems. However, if a group of individuals with disabilities or a group home operator shows by credible and un rebutted evidence that the home will not create a need for more parking spaces, or submits a plan to provide whatever off-street parking may be needed, then parking concerns would not support a decision to deny the home a permit.

Q. What is the status of group living arrangements for children under the Fair Housing Act?

In the course of litigation addressing group homes for persons with disabilities, the issue has arisen whether the Fair Housing Act also provides protections for group living arrangements for children. Such living arrangements are covered by the Fair Housing Act's provisions prohibiting discrimination against families with children. For example, a local government may not enforce a zoning ordinance which treats group living arrangements for children less favorably than it treats a similar group living arrangement for unrelated adults. Thus, an ordinance that defined a group of up to six unrelated adult persons as a family, but specifically disallowed a group living arrangement for six or fewer children, would, on its face, discriminate on the basis of familial status. Likewise, a local government might violate the Act if it denied a permit to such a home because neighbors did not want to have a group facility for children next to them.

The law generally recognizes that children require adult supervision. Imposing a reasonable requirement for adequate supervision in group living facilities for children would not violate the familial status provisions of the Fair Housing Act.

Q. How are zoning and land use matters handled by HUD and the Department of Justice?

The Fair Housing Act gives the Department of Housing and Urban Development the power to receive and investigate complaints of discrimination, including complaints that a local government has discriminated in exercising its land use and zoning powers. HUD is also obligated by statute to attempt to conciliate the complaints that it receives, even before it completes an investigation.

In matters involving zoning and land use, HUD does not issue a charge of discrimination. Instead, HUD refers matters it believes may be meritorious to the Department of Justice which, in its discretion, may decide to bring suit against the respondent in such a case. The Department of Justice may also bring suit in a case that has not been the subject of a HUD complaint by exercising its power to initiate litigation alleging a "pattern or practice" of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

The Department of Justice's principal objective in a suit of this kind is to remove significant barriers to the housing opportunities available for persons with disabilities. The Department ordinarily will not participate in litigation to challenge discriminatory ordinances which are not being enforced, unless there is evidence that the mere existence of the provisions are preventing or discouraging the development of needed housing.

If HUD determines that there is no reasonable basis to believe that there may be a violation, it will close an investigation without referring the matter to the Department of Justice. Although the Department of Justice would still have independent "pattern or practice" authority to take enforcement action in the matter that was the subject of the closed HUD investigation, that would be an unlikely event. A HUD or Department of Justice decision not to proceed with a zoning or land use matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to group home disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation. HUD attempts to conciliate all Fair Housing Act complaints that it receives. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

1. The Fair Housing Act uses the term "handicap." This document uses the term "disability" which has exactly the same legal meaning.

2. There are groups of unrelated persons with disabilities who choose to live together who do not consider their living arrangements "group homes," and it is inappropriate to consider them "group homes" as that concept is discussed in this statement.

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Turnagain Community Council Resolution Regarding Amendments to Municipal Code Title 21, Severe Alcohol Dependent Housing

WHEREAS, the Municipality of Anchorage Departments of Law and Community Development have released a revised draft proposal to amend Anchorage Municipal Code Title 21, *Land Use Planning* (new code – effective January 1, 2014), to remove the group living use "Severe Alcohol Dependent Housing"; and amend Anchorage Municipal Code Title 21, *Land Use Planning* (old code – expires December 31, 2014), to remove the use "Severe Alcohol Dependent Housing," but makes no other changes to this section of Title 21 at this time; and

WHEREAS, the Turnagain Community Council (TCC), through its February 6, 2014 Resolution, is on record supporting the previous draft amendments, which would have created a new "Supportive Housing" use category, required a Conditional Use Permit, including formal public notice and public hearing, before the Planning and Zoning Commission for housing proposals similar to the proposed Long House housing development; and

WHEREAS, the latest draft amending Title 21 was not received in a timely manner before the April 14, 2014, Planning and Zoning Commission public hearing to allow TCC adequate time to review and comment on the impacts of deleting one section, but not comprehensively making all large Group Living uses conditional in all residential neighborhoods and incorporating additional Conditional Use Standards and Procedures TCC previously recommended;

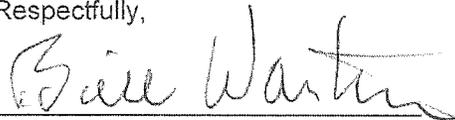
NOW, THEREFORE, BE IT RESOLVED THAT the Turnagain Community Council:

- 1) Does not support the revised draft provided to TCC April 1, 2014, that repeals only sections of Title 21 that refer to "Severe Alcohol Dependent Housing," without additional amendments, including TCC's recommendations;
- 2) Requests that the scheduled Planning and Zoning April 14th, 2014, public hearing on the revised draft ordinance be postponed indefinitely, so that TCC can have additional time to review and comment on potential impact(s) of the revised draft ordinance;
- 3) Requests a meeting with Erika McConnell, Manager, Current Planning Section, to discuss the revised, proposed draft and the Municipal Code revision process to Title 21, Group Living Uses section.

PASSED AND APPROVED by Turnagain Community Council at its regularly scheduled meeting this 3rd day of April, 2014.

This resolution passed by a vote of 11 in favor, 4 opposed.

Respectfully,



Bill Wortman, President
Turnagain Community Council

Submitted by: Assembly Chair Flynn
Assembly Member Coffey
Prepared by: Regulations and Education
Group, subset of
Homelessness Leadership
Team Work Groups
For reading: January 12, 2010

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 3-2-10

NOTICE OF RECONSIDERATION WAS
GIVEN BY MR. COFFEY 3-3-10; RECONSIDERED 3-23-10; AMENDED AND APPROVED 3-23-10
Anchorage, Alaska
AO 2010-3

**AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS
21.35 AND 21.40 TO ALLOW SEVERE ALCOHOL DEPENDENT HOUSING,
AMENDING 21.45.080 TO ADD PARKING REQUIREMENTS FOR SEVERE
ALCOHOL DEPENDENT HOUSING, AND ADDING A NEW SECTION 21.50.510
PROVIDING CONDITIONAL USE STANDARDS FOR SEVERE ALCOHOL
DEPENDENT HOUSING.**

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 21.35.020B. is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out*):

21.35.020 Definitions and rules of construction.

*** *** ***

B. The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*** *** ***

Severe alcohol dependent housing means a facility that provides housing twenty-four (24) hours per day, other than on a temporary basis, to seven or more persons who are severely alcohol dependent. Persons under the jurisdiction of the courts may reside in an severe alcohol dependent housing facility. It does not include any facility which is a correctional community residential center, residential care facility, or habilitative care facility. The facility may provide services accessory to the housing such as an on-site resident manager responsible for safety monitoring, property maintenance and monitoring, and house rules management, as well as residential support staff tasked to provide assistance with daily/independent living skills training and to provide referrals for services such as mental health, rehabilitation, medical, and other similar services.

Food service, laundry, community recreation room, and other such residential-related services and facilities may be provided on-site to residents of the facility only. Group rehabilitation shall not may-not be provided within the facility as a primary use, but may be provided on an occasional basis, only to residents of the facility, if it is not a requirement of residing in the facility. Case management may occur on an individual basis in a community room or private dwelling unit or sleeping room.

*** *** ***

(GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No. 81-97; AO No. 81-180; AO No. 82-54; AO No. 82-167; AO No. 83-91(S); AO No. 84-14; AO No. 84-52; AO No. 85-58; AO No. 85-159; AO No. 85-91, 10-1-85; AO No. 85-216; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 86-171; AO No. 88-172; AO No. 88-171(S-1), 12-31-88; AO No. 89-35, 4-7-89; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 91-35; AO No. 90-152(S); AO No. 91-90(S); AO No. 91-184; AO No. 92-7(S-2); AO No. 92-26; AO No. 92-93; AO No. 92-128(S); AO No. 92-129(S); AO No. 93-58; AO No. 93-148, § 1, 11-16-93; AO No. 94-62, § 2, 4-12-94; AO No. 95-68(S-1), §§ 2, 3, 8-8-95; AO No. 95-173, § 1, 11-14-95; AO No. 96-41, § 1, 3-5-96; AO No. 96-131(S), § 1, 10-22-96; AO No. 98-106, § 1, 7-21-98; AO No. 98-160, § 3, 12-8-98; AO No. 99-62, § 2, 5-11-99; AO No. 2000-119(S), § 8, 2-20-01; AO No. 2001-79(S), § 1, 5-8-01; AO No. 2001-80, § 1, 5-8-01; AO No. 2002-101(S), § 2, 4-9-02; AO No. 2002-109, § 2, 9-10-02; AO No. 2002-117, § 4, 1-28-03; AO No. 2003-62(S-1), § 3, 10-1-03; AO No. 2003-97, § 1, 9-30-03; AO No. 2003-132, § 1, 10-7-03; AO No. 2003-124(S), § 1, 1-20-04; AO No. 2004-108(S), § 2, 10-26-04; AO No. 2005-9, § 1, 3-1-05; AO No. 2005-150(S-1), § 1, 2-28-06; AO No. 2005-185(S), § 1, 2-28-06; AO No. 2005-124(S-1A), § 4, 4-18-06; AO No. 2006-121, § 1, 9-26-06; AO No. 2006-64(S-1), § 1, 12-12-06; AO No. 2007-62, § 1, 5-15-07; AO No. 2008-80, § 1, 9-16-08)

Section 2. Anchorage Municipal Code section 21.40.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out*):

21.40.020 PLI Public lands and institutions district.

*** *** ***

D. Conditional uses. Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

23. Severe alcohol dependent housing.

*** *** ***

1 (GAAB 21.05.050.A; AO No. 77-355; AO No. 79-25; AO No. 81-67(S); AO No. 81-
 2 178(S); AO No. 82-24; AO No. 83-78; AO No. 84-34; AO No. 85-18; AO No. 85-28;
 3 AO No. 85-78; AO No. 85-23; AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-90;
 4 AO No. 88-7(S), 7-4-88; AO No. 90-152(S); AO No. 92-93; AO No. 93-148, § 3, 11-
 5 16-93; AO No. 95-68(S-1), § 4, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No.
 6 99-62, § 3, 5-11-99; AO No. 99-131, § 6, 10-26-99; AO No. 99-149, § 1, 12-14-99;
 7 AO No. 2002-109, § 3, 9-12-02; AO No. 2003-132, § 2, 10-7-03; AO No. 2005-9, §
 8 2, 3-1-05; AO No. 2005-42(S), § 1, 5-31-05; AO No. 2005-150(S-1), § 2, 2-28-06;
 9 AO No. 2005-185(S), § 2, 2-28-06; AO No. 2005-124(S-1A), § 5, 4-18-06; AO No.
 10 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-141(S), § 1, 12-11-07; AO No. 2008-
 11 80, § 2, 9-16-08; AO No. 2009-22, § 2, 4-14-09)

12
 13 **Section 3.** Anchorage Municipal Code section 21.40.130 is hereby amended to
 14 read as follows (*the remainder of the section is not affected and therefore is not set*
 15 *out*):

16
 17 **21.40.130 R-O Residential-office district.**

18 *** **

19
 20 D. Conditional uses. Subject to the requirements of the conditional use
 21 standards and procedures of this title, the following uses may be
 22 permitted:

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24 **11. Severe alcohol dependent housing.**

25 *** **

26
 27 (GAAB 21.05.050.I; AO No. 77-219; AO No. 77-355; AO No. 78-199; AO No. 80-57;
 28 AO No. 81-67(S); AO No. 83-226; AO No. 85-18; AO No. 85-23; AO No. 85-69; AO
 29 No. 85-91, 10-1-85; AO No. 86-90; AO No. 86-171; AO No. 88-171(S-1), 12-31-88;
 30 AO No. 88-147(S-2); AO No. 91-97; AO No. 92-114; AO No. 96-131(S), § 3, 10-22-
 31 96; AO No. 99-62, § 16, 5-11-99; AO No. 2003-124(S), § 3, 1-20-04; AO No. 2005-
 32 175, § 13, 1-10-06; AO No. 2005-178, § 14, 1-24-06; AO No. 2005-185(S), § 15, 2-
 33 28-06; AO No. 2005-124(S-1A), § 18, 4-18-06; AO No. 2006-64(S-1), §§ 2, 3, 12-
 34 12-06; AO No. 2007-121(S-1), § 2, 10-23-07; AO No. 2009-22, § 5, 4-14-09; AO No.
 35 2009-23, § 1, 4-14-09)

36
 37
 38 **Section 4.** Anchorage Municipal Code section 21.40.150 is hereby amended to
 39 read as follows (*the remainder of the section is not affected and therefore is not set*
 40 *out*):

41
 42 **21.40.150 B-2A Central business district core.**

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D. Conditional uses. [SUBJECT TO THE REQUIREMENTS OF THE CONDITIONAL USE AND SITE PLAN STANDARDS AND PROCEDURES OF THIS TITLE, AND TO THE USE'S CONFORMITY TO THE CBD COMPREHENSIVE DEVELOPMENT PLAN, THE FOLLOWING USES MAY BE PERMITTED] Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

17. Severe alcohol dependent housing.

*** *** ***

(GAAB 21.05.050.W; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 87-148; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 6, 8-8-95; AO No. 98-160, § 4, 12-8-98; AO No. 98-188, §§ 1-3, 1-12-99; AO No. 99-62, § 19, 5-11-99; AO No. 99-131, § 7, 10-26-99; AO No. 2001-80, § 3, 5-8-01; AO No. 2005-185(S), § 18, 2-28-06; AO No. 2005-124(S-1A), § 21, 4-18-06; AO No. 2006-49, § 1, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 5, 10-23-07; AO No. 2008-35(S), § 1, 3-18-08)

Section 5. Anchorage Municipal Code section 21.40.160 is hereby amended to read as follows *(the remainder of the section is not affected and therefore is not set out)*:

21.40.160 B-2B Central business district, intermediate.

*** *** ***

D. Conditional uses. Subject to the requirements of the conditional use [AND SITE PLAN] standards and procedures of this title, the following uses may be permitted:

*** *** ***

17. Severe alcohol dependent housing

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(GAAB 21.05.050.Y; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 7, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 5, 12-8-98; AO No. 98-188, §§ 4-6, 1-12-99; AO No. 99-62, § 20, 5-11-99; AO No. 99-131, § 8, 10-26-99; AO No. 99-149, § 2, 12-14-99; AO No. 2001-80, § 4, 5-8-01; AO

No. 2005-185(S), § 19, 2-28-06; AO No. 2005-124(S-1A), § 22, 4-18-06; AO No. 2006-49, § 2, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 6, 10-23-07; AO No. 2008-35(S), § 2, 3-18-08; AO No. 2009-22, § 8, 4-14-09)

Section 6. Anchorage Municipal Code section 21.40.170 is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out*):

21.40.170 B-2C Central business district, periphery.

*** *** ***

D. Conditional uses. Subject to the requirements of the conditional use [AND SITE PLAN] standards and procedures of this title, the following uses may be permitted:

*** *** ***

21. Severe alcohol dependent housing.

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(GAAB 21.05.050.X; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 8, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 6, 12-8-98; AO No. 98-173, § 4, 11-3-98; AO No. 98-188, §§ 7--9, 1-12-99; AO No. 99-62, § 21, 5-11-99; AO No. 99-131, § 9, 10-26-99; AO No. 99-149, § 3, 12-14-99; AO No. 2001-80, § 5, 5-8-01; AO No. 2005-185(S), § 20, 2-28-06; AO No. 2005-124(S-1A), § 23, 4-18-06; AO No. 2006-49, § 3, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 7, 10-23-07; AO No. 2008-35(S), § 3, 3-18-08; AO No. 2009-22, § 9, 4-14-09)

Section 7. Anchorage Municipal Code section 21.40.180 is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out*):

21.40.180 B-3 General business district.

*** *** ***

D. Conditional uses. Subject to the requirements of the conditional use and site plan standards and procedures of this title, the following uses may be permitted:

*** *** ***

14. Severe alcohol dependent housing.

1 *** *** ***
 2 (GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132;
 3 AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No.
 4 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO
 5 No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO
 6 No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3,
 7 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-
 8 80, § 6, 5-8-01; AO. No. 2004-108(S), § 3, 10-26-04; AO No. 2005-185(S), § 21, 2-
 9 28-06; AO No. 2005-124(S-1A), § 24, 4-18-06; AO No. 2006-64(S-1), §§ 2, 3, 12-
 10 12-06; AO No. 2007-7, § 1, 5-1-07; AO No. 2007-121(S-1), § 7, 10-23-07; AO No.
 11 2007-156, § 1, 12-11-07; AO No. 2009-22, § 10, 4-14-09)

12
 13 **Section 8.** Anchorage Municipal Code section 21.40.200 is hereby amended to
 14 read as follows (*the remainder of the section is not affected and therefore is not set*
 15 *out*):

16
 17 **21.40.200** **I-1 Light industrial district.**

18 *** *** ***
 19
 20 D. Conditional uses. Subject to the requirements of the conditional use
 21 standards and procedures of this title, the following uses may be
 22 permitted:

23
 24 *** *** ***
 25 **17.** **Severe alcohol dependent housing.**

26
 27 *** *** ***
 28 (GAAB 21.05.050.O; AO No. 77-355; AO No. 79-95; AO No. 81-67(S); AO No. 82-
 29 105; AO No. 84-57; AO No. 85-91, 10-1-85; AO No. 85-95; AO No. 86-50; AO No.
 30 86-90; AO No. 87-32; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 92-114; AO
 31 No. 95-68(S-1), § 11, 8-8-95; AO No. 95-76, § 1, 4-4-95; AO No. 95-194, § 1, 1-2-
 32 96; AO No. 98-160, § 9, 12-8-98; AO No. 98-173, § 5, 11-3-98; AO No. 99-62, § 24,
 33 5-11-99; AO No. 2001-80, § 8, 5-8-01; AO No. 2004-5, § 1, 1-20-04; AO. No. 2004-
 34 108(S), § 5, 10-26-04; AO No. 2004-178(am), § 1, 1-25-05; AO No. 2005-9, § 3, 3-
 35 1-05; AO No. 2005-185(S), § 23, 2-28-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06;
 36 AO No. 2007-121(S-1), § 10, 10-23-07))

37
 38 **Section 9.** Anchorage Municipal Code section 21.45.080 is hereby amended to
 39 read as follows (*the remainder of the section is not affected and therefore is not set*
 40 *out*):

41
 42 **21.45.080** **Off-street parking requirements.**

43 *** *** ***
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BB. Severe alcohol dependent housing. One parking space is required for every four rooms. If no rooms are provided, one parking space shall be provided for every four beds.

*** **

(GAAB 21.05.060.G; AO No. 77-355; AO No. 78-118; AO No. 81-106; AO No. 81-178(S); AO No. 82-69; AO No. 84-90; AO No. 84-117(S); AO No. 85-91, 10-1-85; AO No. 87-31, 7-18-87; AO No. 89-30; AO No. 90-152(S); AO No. 93-172, § 1, 11-16-93; AO No. 96-68, § 1, 5-28-96; AO No. 99-131, § 12, 10-26-99; AO No. 2004-108(S), § 6, 10-26-04; AO No. 2005-9, § 4, 3-1-05; AO No. 2005-185(S), § 28, 2-28-06; AO No. 2005-124(S-1A), § 29, 4-18-06; AO No. 2006-87(S-1), § 1, 1-9-07; AO No. 2009-22, § 11, 4-14-09)

Section 10. Anchorage Municipal Code chapter 21.50 is hereby amended to add a new section to read as follows:

21.50.510 Conditional use standards - Severe alcohol dependent housing.

A. Unless ~~increased~~, waived or reduced by the Planning and Zoning Commission, the lot line for a severe alcohol dependent housing use **shall not be located within the following distances of the lot line of the following uses:** may not be located within ~~1,250 feet of the lot line of any other severe alcohol dependent housing use and from all of the following uses:~~

- 1. 2,500 feet from another severe alcohol dependent housing use**
- 2. 500 200 feet from a school**
- 3. 500 200 feet from a child care center**
- 4. 500 200 feet from a public park**

1. — School
2. — Public park

If the Commission ~~increases~~, waives or reduces the separation distance, it shall adopt findings of the facts upon which such **increase** reduction is based.

- B. On-site services shall be for residents of the facility only.
- C. To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious within other buildings in the neighborhood.

- 1
2 D. If required by the Planning and Zoning Commission, an appropriate
3 transition area between the use and adjacent property shall be provided
4 by landscaping, screening, and other site improvements consistent with
5 the character of the neighborhood.
6
- 7 E. The operator shall submit a management plan for the facility and a floor
8 plan showing all uses and services, including any sleeping areas/rooms
9 and/or residential dwelling or units. **The management plan shall also**
10 **include provisions regarding operations, on-site staffing, rules and**
11 **regulations for tenants including hours for and number of guests**
12 **per client at one time, methods to manage impacts on the adjacent**
13 **neighborhoods, an outreach requirement to the surrounding area,**
14 **provision of staff contact names and numbers to the local**
15 **community council and surrounding neighbors, and other such**
16 **items determined by the Commission to lessen the potential**
17 **impacts on adjacent residents and businesses. The management**
18 **plan shall demonstrate that local community councils have been**
19 **provided the opportunity to review and comment on the**
20 **management plan, before hearing by the Commission.** Any group
21 rehabilitation provided **shall** may only be for residents of the facility, and
22 **shall** may not be a primary use of the facility, and **shall** may not be a
23 requirement of residency in the facility. Such group rehabilitation **shall**
24 must be described within the management plan for the facility. **Once**
25 **accepted, the provisions of the management plan shall be deemed**
26 **incorporated as continuing conditions of use.**
27
- 28 F. The lot shall abut a street designated as a Class I Collector or greater on
29 the *Official Streets and Highways Plan*.
30
- 31 **G. On a three year cycle from the date of approval of the conditional**
32 **use, the operator shall schedule a non-public hearing before the**
33 **Planning and Zoning Commission to discuss the effectiveness of**
34 **management and the management plan in addressing public**
35 **concerns and lessening potential and observed negative impact on**
36 **the neighborhood. If significant concerns are not being met, the**
37 **Planning and Zoning Commission may require a public hearing.**
38 **The Planning and Zoning Commission may require revisions to the**
39 **management plan, with or without public hearing. It is the**
40 **responsibility of the operator to ensure that a non-public hearing is**
41 **held with the Commission at least once every three years**
42 **(36 months) during operation under the conditional use.**
43

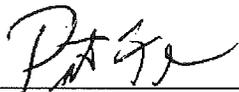
44 **Section 11.** The Planning and Zoning Commission shall review this ordinance
45 within eighteen months after approval.

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Section 12. Anchorage Municipal Code section 21.10.015 notwithstanding, this ordinance shall not require Planning and Zoning Commission review.

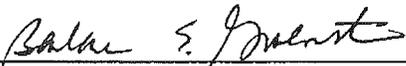
Section 13. This ordinance shall be effective immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 23rd day of March 2010.



Chair

ATTEST:



Municipal Clerk



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 31-2010

Meeting Date: January 12, 2010

From: ASSEMBLY CHAIR FLYNN
ASSEMBLY MEMBER COFFEY

Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.35 AND 21.40 TO ALLOW SEVERE ALCOHOL DEPENDENT HOUSING, AMENDING 21.45.080 TO ADD PARKING REQUIREMENTS FOR SEVERE ALCOHOL DEPENDENT HOUSING, AND ADDING A NEW SECTION 21.50.510 PROVIDING CONDITIONAL USE STANDARDS FOR SEVERE ALCOHOL DEPENDENT HOUSING.

1 On August 31, 2009, Mayor Sullivan released his strategy for a comprehensive
2 review of the issues associated with chronic alcohol abuse and homelessness
3 within the Municipality of Anchorage. To create and implement effective
4 solutions for this specific population, the Homeless Leadership Team was
5 created. To meet these objectives, the Team formed five work groups that
6 were tasked with creating supportable action plans.

7 The goal was to see a significant reduction in the number of homeless chronic
8 public inebriates within the Municipality. The specific objectives are to reduce
9 the death and violence rates for the homeless population with alcohol abuse
10 and related issues, and to make our neighborhoods, parks and other public
11 places a safe place for all those who live and work in our city.

12 Group 5 of the Homeless Leadership Team (Regulatory Barriers/Public
13 Education) was tasked with working with the land use regulations to create an
14 effective solution for this specific population in order to provide for immediate
15 housing. Staff did considerable research into the effects of such housing in
16 other communities, as well as research into land use requirements in these
17 communities. Staff has prepared this ordinance after reviewing other
18 communities ordinances. This includes Seattle, Minneapolis, Denver, Ford
19 Township in Minnesota, and Long Beach, California.

20 In the process established by the Mayor, it was learned that there has been
21 litigation concerning this type of housing in Seattle and Minneapolis. The
22 purpose of this ordinance is both to clarify existing provisions of title 21 and to
23 provide a forum for a public discussion on this topic prior to going down the path
24 of "Housing First". While Housing First appears to be a very cost effective way
25 of dealing with this problem (see attached report in the Journal of the American

1 Medical Association), it is appropriate for there to be a public discussion about
2 this approach. This ordinance will provide that opportunity.

3
4 The ordinance provides for severe alcohol dependant housing as a conditional
5 use in the PLI, R-O, B-2A, B-2B, B-2C, B-3, and I-1 zoning districts. The
6 proposed standards require the use to be on a street designated as collector or
7 greater on the *Official Streets and Highways Plan*, and provides for separation
8 requirements from similar uses and certain land uses such as parks. These
9 locational requirements will provide assurance that these uses are distributed
10 throughout the community, and situationally located within neighborhoods and
11 Community Council areas.

12

13 **THE ADMINISTRATION RECOMMENDS ADOPTION OF THE ORDINANCE**
14 **AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.35 AND 21.40**
15 **TO ALLOW SEVERE ALCOHOL DEPENDENT HOUSING, AMENDING**
16 **21.45.080 TO ADD PARKING REQUIREMENTS FOR SEVERE ALCOHOL**
17 **DEPENDENT HOUSING, AND ADDING A NEW SECTION 21.50.510**
18 **PROVIDING CONDITIONAL USE STANDARDS FOR SEVERE ALCOHOL**
19 **DEPENDENT HOUSING.**

20

21 Prepared by: Regulations and Education Group, subset of
22 Homelessness Leadership Team Work Groups

23 Respectfully submitted: Assembly Chair Flynn and Assembly Member Coffey

24

25