

Submitted by: Chair at the Request of the Mayor
Prepared by: Dept. of Community Development
For reading: _____

ANCHORAGE, ALASKA
AO No. 2014-_____

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21, *LAND*
2 *USE PLANNING* (NEW CODE – EFFECTIVE JANUARY 1, 2014), TO PROVIDE
3 VARIANCE AUTHORITY FOR VARIOUS SECTIONS OF CODE, TO MAKE
4 CHANGES TO THE VARIANCE SECTION FOR CLARITY, AND TO MOVE
5 STANDARDS FOR PLANNED UNIT DEVELOPMENTS FROM CHAPTER 3 TO
6 CHAPTER 7.
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8
9 **WHEREAS**, variance authority for sections of chapter 21.09 and chapter 21.10 was not adequately
10 addressed in the “new” Title 21; and
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12 **WHEREAS**, variance authority was laid out in a confusing manner; and
13

14 **WHEREAS**, a standard for sign variances was located in a section related to variance authority; and
15

16 **WHEREAS**, there was no variance authority for the requirements for a planned unit development, as
17 those requirements were located in the section of code relating to procedures.
18

19 **THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:**
20

21 **Section 1.** Section 21.02.020, Table 21.02-1 is amended as follows (*the remainder of the section*
22 *is not affected and therefore not set out*):
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TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES

NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.

A = APPEAL = Authority to Hear and Decide Appeals
D = DECISION = Responsible for Review and Final Decision
H = HEARING = Public Hearing Required
R = REVIEW = Responsible for Review and/or Recommendation Only

	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
*** *** ***	***	***	***	***	***	***	***	***
Variances from the provisions of 21.05.040K., <i>Telecommunication Facilities</i> ; 21.06, <i>Dimensional Standards and Measurements (except subsection 21.06.030D.9., Airport Height Regulations)</i> ; 21.07.050, <i>Utility Distribution Facilities</i> ; 21.09.060, <i>Dimensional Standards</i> ; 21.09.070J., <i>Utilities and Utility Equipment Standards</i> ; 21.10.060, <i>Dimensional Standards</i> ; 21.12, <i>Nonconformities</i> .	21.03. 240					D-H		R
Variances from the provisions of 21.07.020C., <i>Steep Slope Development</i> ; 21.07.060, <i>Transportation and Connectivity</i> ; 21.08, <i>Subdivision Standards</i> ; 21.09.070C., <i>Hazard Areas</i> ; 21.09.070F., <i>Transportation and Connectivity</i> ; 21.09.070G.1., <i>Street and Trail Lighting Standards</i> ; 21.09.070H., <i>Pedestrian Circulation</i> ; 21.10.070B., <i>Transportation and Connectivity</i> ; 21.10.080, <i>Subdivision Standards</i> .	21.03. 240		D- H ¹³	D- H ¹³	D- H		A	R

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	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Variances from								
the district-specific standards of 21.04, <i>Zoning Districts</i> ; 21.09.040, <i>Zoning Districts</i> ; 21.10.040, <i>Zoning Districts</i> .								
the use-specific standards of 21.05, <i>Use Regulations</i> (except subsection 21.05.040K., <i>Telecommunication Facilities</i>); 21.09.050, <i>Use Regulations</i> ; 21.10.050, <i>Use Regulations</i> .								
21.07, <i>Development and Design Standards</i> (except 21.07.020C., <i>Steep Slope Development</i> , 21.07.050, <i>Utility Distribution Facilities</i> , and 21.07.060, <i>Transportation and Connectivity</i>);	21.03.240			D-H			A	R
those subsections of section 21.09.070, <i>Site Development and Design Standards</i> , not reserved to the platting authority or the zoning board of examiners and appeals: [21.09.070E., <i>LANDSCAPING, VEGETATION, AND TREE RETENTION</i> ; 21.09.070G.2., <i>EXTERIOR SITE LIGHTING</i> ; 21.09.070I., <i>FENCES AND WALLS</i> ; 21.09.070K., <i>SNOW MANAGEMENT</i> ; 21.09.070L., <i>OFF-STREET PARKING STANDARDS</i> ; 21.09.070M., <i>SIGNAGE</i> ; 21.09.070O., <i>TRASH MANAGEMENT IN MULTIFAMILY, COMMERCIAL, INDUSTRIAL, AND RESORT DISTRICTS</i> ;] 21.09.080, <i>Building Design Standards</i> ;								
21.10.070, <i>Development and Design Standards</i> (except 21.10.070B., <i>Transportation and Connectivity</i>);								
21.11, <i>Signs</i>								
*** *** ***	***	***	***	***	***	***	***	***

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

Section 2. Section 21.02.040A. is amended as follows (*the remainder of the section is not affected and therefore not set out*):

A. Decision-Making Authority

The urban design commission has decision-making authority over the following:

*** *** ***

6. Variances from:

a. the district-specific standards of chapter 21.04, *Zoning Districts*, section 21.09.040, *Zoning Districts*, and section 21.10.040, *Zoning Districts*;

b. the use-specific standards of chapter 21.05, *Use Regulations* (except subsection 21.05.040K., *Telecommunication Facilities*),

section 21.09.050, Use Regulations, and section 21.10.050, Use Regulations;

c. [THE PROVISIONS OF]C[C]hapter 21.07, Development and Design Standards (except subsections 21.07.020C., Steep Slope Development, 21.07.050, Utility Distribution Facilities, and 21.07.060, Transportation and Connectivity);

d. I[T]hose provisions of section[S] 21.09.070, Site Development and Design Standards, for which variance authority is not given to the platting authority or the zoning board of examiners and appeals; [AND]

e. Section 21.09.080, Building Design Standards;

f. Section 21.10.070, Development and Design Standards (except subsection 21.10.070B., Transportation and Connectivity); and

g. C[C]hapter 21.11, Signs. [AND]

7. Appeals of the director's decision regarding subsection 21.12.060B., Bringing Characteristics Into Compliance (21.03.050).

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

Section 3. Section 21.02.050A. is amended as follows (*the remainder of the section is not affected and therefore not set out*):

A. Decision-Making Authority

The platting board has decision-making authority over the following:

*** *** ***
1. Preliminary plats (except for abbreviated plats [see 21.03.200B.2.] and in those situations where a different board or commission acts as the platting authority—see subsections 21.03.080F., Platting for Conditional Uses, and 21.03.180F., Platting for Site Plans) (21.03.200);

*** *** ***
4. Variances from:

a. I[T]he provisions of chapter 21.08, Subdivision Standards [(21.03.240)];

b. S[S]ubsection 21.07.020C., Steep Slope Development; [AND]

c. S[S]ection 21.07.060, Transportation and[.] Connectivity[, AND PEDESTRIAN FACILITIES];

d. Subsection 21.09.070C., Hazard Areas;

e. Subsection 21.09.070F., Transportation and Connectivity;

f. Subsection 21.09.070G.1., Street and Trail Lighting Standards;

g. Subsection 21.09.070H., Pedestrian Circulation;

h. Subsection 21.10.070B., Transportation and Connectivity; and

i. Section 21.10.080, Subdivision Standards;

(except in situations where a different board or commission acts as the platting authority—see subsections 21.03.080F., *Platting for Conditional Uses*, and 21.03.180F., *Platting for Site Plans*).

*** *** ***

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

Section 4. Section 21.02.060A. is amended as follows (*the remainder of the section is not affected and therefore not set out*):

A. Decision-Making Authority

The zoning board of examiners and appeals has decision-making authority over the following:

*** *** ***

2. Variances from:

- a.** [THE PROVISIONS OF]C[C]hapter 21.06, *Dimensional Standards and Measurements* (except subsection 21.06.030D.9., *Airport Height Regulations*);
- b.** [FROM THE PROVISIONS OF] S[S]ubsection 21.05.040K., *Telecommunication Facilities*;[, AND]
- c.** S[S]ection 21.07.050, *Utility Distribution Facilities*;
- d.** Section 21.09.060, *Dimensional Standards*;
- e.** Subsection 21.09.070J., *Utilities and Utility Equipment Standards*;
- f.** Section 21.10.060., *Dimensional Standards*; and
- g.** Chapter 21.12, *Nonconformities* [(21.03.240)];

*** *** ***

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

Section 5. Section 21.03.080G. is deleted at this location and replicated as a new section 21.07.115A., within a new section 21.07.115, titled **Nonresidential Development**, with the following change to subsection 1.:

1. Intent and Approval

A business-industrial park planned unit development (BIP-PUD) is intended to provide comprehensively planned commercial-industrial developments that are compatible with surrounding areas. BIP-PUD developments should have integrated, campus-style site plans designed to accommodate a variety of public/institutional, commercial, and industrial uses. High standards for architecture, landscaping, and site planning are encouraged. A BIP-PUD shall be processed as a conditional use in accordance with section 21.03.080. The planning and zoning commission shall evaluate the proposed planned unit development in accordance with the conditional use approval criteria at section 21.03.080D. [ABOVE.]

Section 6. Section 21.03.080H. is deleted at this location and replicated as section 21.07.110I., with the following change to subsection 1.:

1. Intent and Approval

A residential planned unit development (PUD) is intended to allow flexibility for residential development in the zoning ordinance and to achieve the creation of a more desirable environment than would be possible through a strict application of the zoning ordinance. A residential PUD shall be processed as a conditional use in accordance

with section 21.03.080. The planning and zoning commission shall evaluate the proposed planned unit development in accordance with the conditional use approval criteria at section 21.03.080D. [ABOVE,] and the following additional criteria:

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

Section 7. Section 21.03.080I. is re-lettered to be section 21.03.080G.

Section 8. Section 21.03.240 is amended as follows (*the remainder of the section is not affected and therefore not set out*):

*** *** ***

B. Decision-Making Bodies for Variance Requests

1. The platting authority shall be authorized to review and decide all requests for variances to standards of the following sections:
 - a. Subsection 21.07.020C., *Steep Slope Development*;
 - b. Section 21.07.060, *Transportation and Connectivity*; [AND]
 - c. Chapter 21.08, *Subdivision Standards*;
 - d. Subsection 21.09.070C., *Hazard Areas*;
 - e. Subsection 21.09.070F., *Transportation and Connectivity*;
 - f. Subsection 21.09.070G.1., *Street and Trail Lighting Standards*;
 - g. Subsection 21.09.070H., *Pedestrian Circulation*;
 - h. Subsection 21.10.070B., *Transportation and Connectivity*; and
 - i. Section 21.10.080, *Subdivision Standards*.
2. Requests for variances from the airport height regulations set forth in section 21.06.030D.9. shall be referred to the Federal Aviation Administration.
3. The urban design commission shall be authorized to review and decide all requests for variances to standards of the following sections:
 - a. District-specific standards of chapter 21.04, *Zoning Districts*, [AND] section 21.09.040, *Zoning Districts*, and section 21.10.040, *Zoning Districts*;
 - b. Use-specific standards of chapter 21.05, *Use Regulations (except subsection 21.05.040K., *Telecommunication Facilities*)*, [AND] section 21.09.050, *Use Regulations*, and section 21.10.050, *Use Regulations*;

c. Chapter 21.07, *Development and Design Standards* ([WITH THE] except[ION OF] subsections 21.07.020C., *Steep Slope Development*, 21.07.050, *Utility Distribution Facilities*, and 21.07.060, *Transportation and Connectivity*);

d. Those subsections of section 21.09.070 that are not reserved to the platting authority or the zoning board of examiners and appeals;

e. [THE FOLLOWING SUBSECTIONS OF CHAPTER 21.09, GIRDWOOD LAND USE REGULATIONS:] Section 21.09.080, *Building Design Standards*;

f. Section 21.10.070, *Development and Design Standards (Chugiak-Eagle River)* (except subsection 21.10.070B., *Transportation and Connectivity*); and

e. Chapter 21.11, *Signs*, including the maximum sign area, the maximum sign height, the location of the sign, and the number of signs on the parcel. [IN EVALUATION THE REQUEST FOR A VARIANCE TO THE MAXIMUM SIGN HEIGHT, THE URBAN DESIGN COMMISSION MAY CONSIDER WHETHER THERE ARE SPECIAL TOPOGRAPHIC CIRCUMSTANCES THAT WOULD RESULT IN A MATERIAL IMPAIRMENT OF VISIBILITY OF THE SIGN FROM THE ADJACENT ROADWAY WHICH SIGNIFICANTLY DIMINISHES THE OWNER'S OR USER'S ABILITY TO CONTINUE TO COMMUNICATE ADEQUATELY AND EFFECTIVELY WITH THE PUBLIC THROUGH THE USE OF THE SIGN.]

4. The zoning board of examiners and appeals shall be authorized to review and decide variance requests from:

a. Subsection 21.05.040K., *Telecommunication Facilities*;

b. Chapter 21.06, *Dimensional Standards and Measurements* ([WITH THE] except[ION OF] subsection 21.06.030D.9., *Airport Height Regulations*);

c. Subsection 21.07.050, *Utility Distribution Facilities*; [AND]

d. Section 21.09.060, *Dimensional Standards* [(GIRDWOOD)];

e. Subsection 21.09.070J., *Utilities and Utility Equipment Standards*;

f. Section 21.10.060, *Dimensional Standards*; and

g. Chapter 21.12, *Nonconformities*.

The zoning board may only grant variances from dimensional standards.

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G. Approval Criteria

The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application substantially meets the following standards:

1. Approval Criteria for Variances Decided by the Urban Design Commission [FROM THE DISTRICT-SPECIFIC STANDARDS OF CHAPTER 21.04, ZONING DISTRICTS, THE USE-SPECIFIC STANDARDS OF CHAPTER 21.05, USE REGULATIONS, CHAPTER 21.07, DEVELOPMENT AND DESIGN STANDARDS (EXCEPT FOR SUBSECTIONS 21.07.020C., STEEP SLOPE DEVELOPMENT;

**SUBSECTION 21.07.050, UTILITY DISTRIBUTION FACILITIES; AND
SUBSECTION 21.07.060, TRANSPORTATION AND CONNECTIVITY),
SECTION 21.09.040, SECTION 21.09.050, SECTION 21.09.070, SECTION
21.09.080, AND CHAPTER 21.11, SIGNS]**

- a. The proposed alternative achieves the intent of the subject design standard to the same or better degree than the subject standard;
- b. The proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;
- c. The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard;
- d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;
- e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;
- f. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation; and
- g. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality.
- h. In evaluation the request for a variance to the maximum sign height, the urban design commission may consider whether there are special topographic circumstances that would result in a material impairment of visibility of the sign from the adjacent roadway which significantly diminishes the owner's or user's ability to continue to communicate adequately and effectively with the public through the use of the sign.

2. Approval Criteria for Variances Decided by the Zoning Board of Examiners and Appeals [FROM SUBSECTION 21.05.040K., TELECOMMUNICATION FACILITIES; CHAPTER 21.06, DIMENSIONAL STANDARDS AND MEASUREMENTS; SECTION 21.07.050, UTILITY DISTRIBUTION FACILITIES; AND FROM SECTION 21.09.060 (GIRDWOOD)]

- a. There exist exceptional or extraordinary physical circumstances of the subject property including, but not limited to, streams, wetlands, or slope, and those circumstances are not applicable to other land in the same zoning district;
- b. Because of these physical circumstances, the strict application of the code creates an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance;
- c. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience;
- d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;

- e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;
- f. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality;
- g. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation; and
- h. The variance granted is the minimum variance that will make possible a reasonable use of the land.

3. Approval Criteria for Variances Decided by the Platting Authority [FROM SUBSECTION 21.07.020C., STEEP SLOPE DEVELOPMENT; SECTION 21.07.060, TRANSPORTATION AND CONNECTIVITY; CHAPTER 21.08, SUBDIVISION STANDARDS]

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

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

Section 9. 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