



# MUNICIPALITY OF ANCHORAGE

## Assembly Information Memorandum

No. AIM - 2025

Meeting Date: February 11, 2025

1 **From: ASSEMBLY VICE CHAIR MEG ZALETEL AND ASSEMBLY**  
2 **MEMBER ANNA BRAWLEY**

3  
4 **Subject: SUPPLEMENTAL DOCUMENTS FOR AO 2024-104(S)**

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6 For the Assembly's consideration; please see the attached background materials  
7 related to AO 2024-104(S):

- 8 • **Exhibit A – Sponsors' Responses to Frequently Asked Questions (FAQs)**  
9 Drawing from the comments received during Member Brawley's presentation  
10 to the Federation of Community Councils through their Local Lens series on  
11 January 22, the sponsors respond to frequently asked questions about the  
12 proposed ordinance. Published February 5, 2025.
- 13 • **Exhibit B – MOA Planning Department Memo to Planning & Zoning**  
14 **Commission**  
15 A memo from the MOA Planning Department to the Planning & Zoning  
16 Commission dated December 9, 2024 providing a summary and analysis of  
17 the ordinance, recommendations that it be approved with some modifications,  
18 and opportunities for individual commissioners to provide testimony and  
19 input.
- 20 • **Exhibit C – Rabbit Creek Community Council (RCCC) Letter**  
21 A letter from Rabbit Creek Community Council Chair to the Assembly dated  
22 January 3, 2025 proposing an alternative approach to the proposed  
23 moratorium, including a waiver program for four select developments.
- 24 • **Exhibit D – MOA Municipal Attorney Legal Opinion re: RCCC Letter**  
25 A legal opinion from the MOA Municipal Attorney dated February 4, 2025  
26 reviewing the alternative proposed by RCCC, provided at the request of  
27 Assembly Member Anna Brawley.

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30 Prepared by: Assembly Legislative Services Office

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32 Respectfully submitted: Meg Zaletel, Assembly Vice Chair  
33 District 4, Midtown Anchorage

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35 Anna Brawley, Assembly Member  
36 District 3, West Anchorage  
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# FAQ | AO 2024-104(S)

*Residential Design Standards Moratorium Proposal*

Sponsored by Vice Chair Meg Zaletel & Member Anna Brawley

On October 8, 2024, Assembly Members Brawley and Zaletel introduced [AO 2024-104](#) to **pause multifamily residential design standards** for a two-year period. In December, the MOA Planning Department [submitted a memo](#) to the Planning & Zoning Commission reviewing the proposal.

The sponsors have since introduced a [substitute \(S\) version](#), which increases the pause period to **three years**. On January 22, 2025, Assembly Member Brawley [presented the proposal](#) to community members through the [Federation of Community Councils'](#) Local Lens series. This item will be presented to the Assembly Community and Economic Development Committee and at an Assembly worksession before the public hearing on this item opens on February 11, 2025.

## SPONSORS' RESPONSES TO FREQUENTLY ASKED QUESTIONS (FAQS)

The following section offers the sponsors' responses to comments, questions and concerns frequently asked by community members during public circulation of the proposed moratorium.

### 1. What specific design requirements would be paused by this ordinance?

Although there are many ways building and site design are regulated in code - from building heights and setbacks, to spacing between buildings, to where front doorways can be placed in relation to the street, to the number and types of treatments (siding, stone, stucco, etc.) are required on a façade - this ordinance touches pieces of Anchorage Municipal Code (AMC) Title 21.07, a chapter broadly called "Residential Design Standards." Only the sections named in the ordinance would be subject to this 3-year moratorium.

Specifically, AO 2024-104(S) temporarily suspends the following parts of Chapter 7 for multi-family housing projects (5+ units):

- AMC 21.07.110 C: requirements for building articulation (facades), building spacing, a menu of sunlight design features, and some limited landscaping requirements.
- AMC 21.07.110 D: requirements for subdivisions of mixed-density housing, site design
- AMC 21.07.110 E: requirements for site design for multiple buildings; major site plan review required for large projects.
- AMC 21.07.060 F: requirements for site access and pedestrian frontage standards, such as placement of doors and windows.

This ordinance would not permanently change or delete the underlying code, nor would it change building code and other health and safety requirements, nor would it change existing private regulation of land through covenants or homeowner association rules.

# FAQ | AO 2024-104(S)

*Residential Design Standards Moratorium Proposal*

Sponsored by Vice Chair Meg Zaletel & Member Anna Brawley

## **2. What types of housing developments would this moratorium impact?**

Because the current requirements apply to properties with 5+ units, the sponsors intend to help market-rate projects and workforce housing design projects become economically viable and easier to secure a loan to construct. This will also help organizations who develop affordable housing, allowing more flexibility in how to meet existing requirements and standards, and make cost-efficient choices.

In addition to new construction, some requirements also apply to existing buildings, so large-scale renovations can also trigger significant additional work (and cost) required to comply with current codes. The sponsors believe pausing these requirements would likely reduce the cost of required retrofits for existing multi-unit properties.

## **3. Do any of these rules also apply to single-family houses, and are those being paused?**

Only one section in AMC 21.07.110 applies to single-family houses in mixed-housing neighborhoods, when they are laid out as a subdivision. These rules require a mix of housing styles and have a cross-reference to the pedestrian standards. Additionally, houses on lots over 20,000 square feet are already exempt from these requirements and are not affected. Rules regarding site access and pedestrian frontage standards may still apply to other types of housing but are also currently paused (see bottom of #1).

## **4. Is this ordinance consistent with the Anchorage 2020 Comprehensive Plan and Anchorage 2040 Land Use Plan?**

Our comprehensive and land use plans call for attractive, well-designed neighborhoods and balancing our growth needs with our values for good quality of life. The Anchorage 2020 Comprehensive Plan was adopted in 2001, with the Title 21 Rewrite as an implementation action of that plan. The 2040 Land Use Plan was adopted later (2017) and has several policies calling for zoning changes to increase flexibility and create more compact housing to our projected needs.

### **Anchorage 2020 goals include:**

"A balanced, diverse supply of affordable, quality housing, located in safe and livable neighborhoods with amenities and infrastructure, that reflect Anchorage's varied social, cultural and physical environment."

"A built environment based on design standards that sustain long-term economic viability and growth, and that promote affordable residential, commercial, and industrial development."

### **Anchorage 2040 goals include:**

"Anchorage achieves residential and commercial growth, which improves community resiliency and citizens' quality of life as it supports their vision for the future expressed in

# FAQ | AO 2024-104(S)

*Residential Design Standards Moratorium Proposal*

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the Comprehensive Plan.”

“Anchorage’s neighborhoods provide a range of places to live, meeting housing needs of residents at all income levels, household sizes, interests, ages, abilities, races and ethnicities.”

Testimony from experts, including local builders, economists, and planners, indicate that Title 21.07 rules are not meeting our plans’ intent. The standards have been reported to be inflexible, difficult to apply on a site-specific basis without negative impacts to project viability, and often leading to counter-intuitive design choices that do not benefit residents.

The sponsors aim to propose a common-sense, responsive solution to bring our codes more in line with what our plans envision: to pause what isn’t working, encourage new building projects with these standards as a guide, not a mandate, and utilize this real-world data to inform how to improve the codes to work better for both developers and neighborhoods.

## **5. Why was Planning and Zoning Commission (PZC) review waived for this ordinance?**

The ordinance waives PZC review to elevate the need to act quickly to address our housing crisis, respond to local barriers to housing construction, and expedite the process of changing code by starting with a pause. Introduced on October 22, 2024 and scheduled for public hearing on January 7, the sponsors intentionally set a timeline to allow for community input and review before the first public hearing.

After it was introduced, the sponsors shared the ordinance with the Planning Department and Commission (PZC), providing time for PZC to potentially schedule this item for discussion and comments from the Commission. The substitute (S) version was introduced on December 3, 2024. At the January 7 meeting, the Assembly continued the public hearing to February 11, 2025, affording more time for community review.

The Planning Department prepared a memo dated December 9, 2024 to PZC, with a summary and analysis of the ordinance, recommendations that it be approved with some modifications, and opportunities for commissioners to provide individual input.

## **6. How will this help housing affordability, given the high cost of construction?**

Like any local policy action on housing, this is one of several steps the Assembly can take to address housing construction costs and affordability. Developers who utilize these and other requirements in our zoning code have shared that these requirements are difficult to comply with when designing projects, can add costs or require building fewer units than the underlying zoning would allow, and often require additional time and iterations working through the permit approval process to ensure the projects fully comply. These factors can make the difference between a project being approved and completed, or abandoned, which is the difference between adding new units to our community or not.

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The sponsors believe these changes are likely to help both market-rate developments, apartments or condos designed for market-level rents, and affordable housing that requires significant public subsidy to be able to be constructed. Assuming new construction housing will likely be market-rate projects, new units for rent (or sale) provides more options for residents to vacate an existing unit. To the extent these rules also apply to renovations of existing buildings, which end up being much of our affordable housing stock (either already subsidized, or lower rent simply because they are older units), fewer requirements to retrofit existing buildings to meet current zoning codes also reduces cost burdens.



**Municipality of Anchorage**  
**Planning Department**  
**Memorandum**



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**Date:** December 9, 2024

**To:** Planning And Zoning Commission

**Thru:** Mélisa Babb, Director

**From:** Daniel Mckenna-Foster, Senior Planner, Long Range Planning

**Subject:** Information on AO 2024-104, establishing a moratorium on residential design standards in AMC 21.07.110C of Title 21

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### **Overview**

AO 2024-104 was introduced at the Assembly's October 22, 2024 meeting and is scheduled for public hearing at the Assembly's January 7, 2025 meeting. The ordinance would suspend the existing design standards for multifamily and townhouse residential as listed in AMC 21.07.110C, with the exception of screening requirements for mechanical and electrical equipment. The Assembly sponsors have waived a Planning and Zoning Commission review; AO 2024-104 and the information presented below is for informational purposes for the Commission. This is not a public hearing item and the Planning Department will not be providing a formal staff report to the Commission or the Assembly beyond this memorandum.

### **Policy Guidance and Community Priorities**

The 2020 Comprehensive Plan includes design standards as an essential strategy for 33 of its 100 policies; the 2040 Land Use Plan includes policy guidance mentioning compatibility, appropriateness, scale, neighborhood character, or neighborhood characteristics in 8 of its 94 implementation actions. Neither of these documents provide clear and actionable support for removing design standards, nor do they outline a highest-priority focus on housing production at the expense of other values.

However, goals 1-4 of the 2040 Land Use Plan policy do call for new residential construction in a mix of housing types and infill development.<sup>i</sup> Recent housing production in Anchorage has been abnormally low, with housing costs for consumers are at the least affordable level in 20 years. While demand is high, production of market-rate multifamily is consistently failing to meet that demand.<sup>ii</sup> In response to the changing conditions, the Assembly has passed a number of resolutions (AR 2022-136, AR 2022-416, AR 2023-

45, and AR 2023-260(S)) which provide support for reducing regulatory barriers to housing production.

## **Design Standards in the Anchorage and National Context**

In considering whether design standards are regulatory barriers to housing production, staff reviewed the following information.

- In the years preceding adoption of the new AMC Title 21 in 2014, at least two groups reviewing preliminary versions of the code predicted that design standards would increase costs and potentially hamper development.<sup>iii</sup>
- AMC Title 21.07.110 applies more restrictive design standards to multifamily housing than to single family housing or commercial buildings of a similar size.
- The Planning Department’s most recent efforts to measure the impacts of design standards on housing production focused on site access. However, this report also identified other existing AMC Title 21 design or landscaping requirements as obstacles to housing production.<sup>iv</sup>
- The MOA’s 2024 CDBG annual Action Plan and 2023-2026 Consolidated Plan, submitted to HUD on a regular basis, list “*Title 21 zoning ordinance residential design standards*” as a barrier to affordable housing.<sup>v</sup>
- The Anchorage Community Development Authority’s 2023 “Incentives for Market-Rate Attainable Housing Development” report noted that aesthetic requirements had often been cited as obstacles to new housing.<sup>vi</sup>
- A letter dated November 20, 2024 from Cook Inlet Housing Authority and Debenham LLC to the Assembly calls for an expansion of the scope of the moratorium on residential design standards proposed in AO 2024-104.
- Surveys done by national industry organizations suggest that in 2021, design standards could add on average between \$10,000-\$18,000 in additional cost per unit.<sup>vii</sup>
- Empirical literature which also finds a relationship between restrictive land use regulations and higher housing prices.<sup>viii</sup>

## **Planning Department Recommendation**

Design standards in Title 21 were intended to implement clear guidance from the comprehensive plan to support good design, neighborhood compatibility, and appropriate scale of development. The guidance was a response to problematic and unregulated development in previous decades and resulted in improved landscaping requirements for parking lots, improved stormwater treatment regulations, and use-based restrictions for nuisance uses, among others. This AO places a moratorium on a small portion of the design standards that only apply to multifamily construction. Other sections of code still address nuisance uses, building scale, percentage of windows, locations of primary entrances, and setbacks via dimensional requirements and building frontage design

guidelines. Considering the most recent guidance from the Assembly, the Mayor, Goals 1 through 4 of the Anchorage 2040 Land Use Plan, and the evidence supporting the role some design standards have in adding development costs for residential construction, the Department recommends that the Assembly approve the moratorium, but with the following additional suggestions for consideration:

1. Extend the suspension from January 31, 2027 to May 31, 2028, or until such time as new or revised standards are adopted, to provide more time for the full course of design, from concept to completion, for large projects.
2. For future action by the Planning Department: Convene a working group to explore and test revisions to 21.07.110C and similar portions of 21.07.110.D, 21.07.110.E, and 21.07.110F per the recommendation letter by CIHA and Debenham, Inc, dated November 20, 2024 and regarding “AO 2024-104, *Multi-Family Residential Design Standard Moratorium*.”
3. For future action by the Planning Department: Update policy guidance in the 2020 Comprehensive Plan and 2040 Land Use Plan to better align with current trends, data, and best planning practices regarding multifamily residential construction. This effort could be a part of the 10-year plan targeted update process.

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<sup>i</sup> 2040 LUP Goal 1: Anchorage achieves residential and commercial growth, which improves community resiliency and citizens’ quality of life as it supports their vision for the future expressed in the Comprehensive Plan.

2040 LUP Goal 2: Infill and redevelopment meets the housing and employment needs of residents and businesses in Anchorage.

2040 LUP Goal 3: Mixed-use, walkable commercial centers and corridors thrive within their neighborhood context, offer housing affordable to a range of incomes, and enable business growth.

2040 LUP Goal 4: Anchorage’s neighborhoods provide a range of places to live, meeting the housing needs of residents at all income levels, household sizes, interests, ages, abilities, and races and ethnicities.

<sup>ii</sup> “**Housing shortage keeps raising home prices in Anchorage as average jumps to more than \$500K**”

<https://www.adn.com/alaska-news/anchorage/2024/10/31/housing-shortage-keeps-raising-home-prices-in-anchorage-as-average-jumps-to-more-than-500k/>

<sup>iii</sup> “*It was clear that the proposed changes to the code including design features, requirements related to open space, tree retention, landscaping and snow storage, as well as site design criteria intended to meet mixed use and density objectives would have significant impact on development costs. The Task Force also believes that the implementation of these regulations will not necessarily result in the achievement of the goals and objectives of the 2020 Plan.*” **Mayor’s Real Estate Advisory Task Force Report and Analysis of the Proposed Rewrite of TITLE 21**. January 28, 2005.

<https://www.muni.org/Departments/OCPD/Planning/Projects/Documents/RETFINALREPORT.pdf>

“*The existing code has no residential design standards. The proposed code would include a new tool that would create residential design standards for single-family structures, duplexes, townhouses, and multi-family developments. Mobile homes would be excluded. These new design standards and regulations are more restrictive and could create additional costs for property owners.*” **Economic Impact Analysis Title 21 Land Use Regulations Rewrite**. February 29, 2008.

[https://www.muni.org/Departments/OCPD/Planning/Projects/Documents/FINAL\\_DRAFT\\_29Feb2008-rev1.pdf](https://www.muni.org/Departments/OCPD/Planning/Projects/Documents/FINAL_DRAFT_29Feb2008-rev1.pdf)

<sup>iv</sup> “*Eliminate the requirement for a walkway from the main entry for multifamily and townhouse developments with less than five units: Allow small multifamily developments to match single-family residential which may use the driveway as a pedestrian walkway (Item 6). Eliminate or reduce the L2 landscape requirements under certain circumstances:*



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Multifamily zoning districts should not be considered equivalent under code to “nuisance” zoning districts like high-intensity business districts or industrial (Item 7). Eliminate the requirement for a walkway from a parking courtyard to the street. If the parking courtyard meets all requirements for a parking courtyard, including providing a driveway that is design for pedestrian use, there is no need for an additional walkway (Item 3). Amend the Pedestrian Amenities requirements: It is unclear which of the “pedestrian amenities” menu items address health and safety and which are aesthetic recommendations. The team suggests removing all standards that are optional or are only included for aesthetics. Amend 21.07.060G to select items on the menu that are considered vital for residential design in Anchorage (i.e. covered and well-lit entries) and make them a code requirement for all developments.” **Site Access Test Fit Report**. March 30, 2024. [https://www.muni.org/Departments/Assembly/SiteAssets/Pages/Community%20and%20Economic%20Development%20Committee/AIM\\_50-2024\\_2\\_SITE\\_ACCESS\\_TEST\\_FIT\\_REPORT\\_FINAL\\_FOR\\_AO\\_2024-24.PDF.PDF.pdf](https://www.muni.org/Departments/Assembly/SiteAssets/Pages/Community%20and%20Economic%20Development%20Committee/AIM_50-2024_2_SITE_ACCESS_TEST_FIT_REPORT_FINAL_FOR_AO_2024-24.PDF.PDF.pdf)

<sup>v</sup> **Anchorage 2024 CDBG Action Plan:**

<https://www.muni.org/Departments/health/PHIP/CSD/SiteAssets/Pages/PlansandReports/2024%20Action%20Plan%2008.13.24.pdf>

**Anchorage CDBG 2023-2027 Consolidated Plan:**

<https://www.muni.org/Departments/health/PHIP/CSD/Documents/2023-2027%20Draft%20Consolidated%20Plan%20for%20website%2007072023.pdf>

<sup>vi</sup> “In 2013, the Anchorage Assembly passed a significant rewrite of Title 21 to align the building and land use code with the Municipality’s Anchorage 2020 Comprehensive Plan. Many of the changes made building regulations more stringent, including tighter restrictions on height, bulk, and density of new developments, and increased requirements for landscaping, pedestrian and vehicle access, and aesthetic design. Title 21 requirements are often cited by developers as the most challenging obstacle to building new housing in Anchorage. Current regulations for new housing construction make high-density difficult or impossible to achieve without significant “variances” (exceptions to code) granted by the Planning Department.” **Incentives for Market Rate Attainable Housing Report**. Anchorage Community Development Authority. <https://www.acda.net/news/incentives-for-market-rate-attainable-housing-development-report>

<sup>vii</sup> **Government Regulation in the Price of a New Home: 2021** May 5, 2021 Special Study for Housing Economics. Paul Emrath, Ph.D.

<https://www.nahb.org/-/media/NAHB/news-and-economics/docs/housing-economics-plus/special-studies/2021/special-study-government-regulation-in-the-price-of-a-new-home-may-2021.pdf>

<sup>viii</sup> “**Chapter 19 - Regulation and Housing Supply**” Joseph Gyourko and Raven Molloy.

<https://www.sciencedirect.com/science/article/abs/pii/B9780444595317000193>. This paper was cited in the White House post “Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market” from June 17, 2021.

## Correspondence



### **RABBIT CREEK COMMUNITY COUNCIL (RCCC)**

A Forum for Respectful Communication & Community Relations



**1057 West Fireweed Lane, Suite 100 / Anchorage, AK 99503**

January 3, 2025

TO: Anchorage Assembly

RE: Draft Anchorage Ordinance 2024-104(S), Amending Title 21 by Suspending the Residential Design Standards of 21.07.110

Rabbit Creek Community Council (RCCC) reviewed draft Anchorage Ordinance 2024-104, Suspending Residential Design Standards. RCCC discussed the ramifications at our December 12 meeting. Members of the RCCC Board subsequently reviewed the Substitute Draft, 2024-104(S). RCCC members voted to submit the following comments to the Assembly by a vote of 11 yeas to 1 nay.

RCCC requests the Assembly not to gamble with a three-year abandonment of residential design standards. Three years with no building standards poses long-lasting risks to public safety, health, and property values. Anchorage is already blighted with ill-functioning and indisputably ugly buildings constructed before adoption of design standards (see photo). Furthermore, there is no assurance that AO 104(S) will produce affordable housing that benefits future tenants and the neighborhoods.



RCCC opposes offers an alternative to 104(S) .Rather than abandon residential design standards, do a limited, competitive test case by waiving the standards for a set number of applications on the condition of actual construction by a date certain.

This approach is likely to accelerate housing construction and also enable faster evaluation of affordability and quality. Staff will have a valid comparison of concurrent housing projects that go through the usual design approval. RCCC suggests revising AO 2024-104 to create a limited waiver that will catalyze actual construction of multi-family housing in locations supported by transit, per the 2040 Land Use Plan:

Waive the Residential Design Standards of 21.-7.110.C through .F for the first four applications for multi-family housing that meet the following criteria:

Multi-family housing of five or more units, located within a transit corridor identified in the 2040 Land Use Plan, with a construction completion date of October 1, 2027.

Specify the expectation for staff analysis of the resulting housing developments with regard to speed of permitting, affordability, liveability, and integration into the neighborhood. Solicit input from the public, Planning and Zoning Commission, and Urban Design Commission as part of that analysis.

RCCC supports broad retention of the 21.07.110 Residential Design Standards for the following reasons. Detailed explanation of each reason is provided in the attachment.

1. The purpose for current Residential Design Standards is well-defined and sensible.
2. AO 2024-104 (S) conflicts with basic tenets of the 2040 Land Use Plan and 2020 Comp Plan
3. Explore how to simplify and expedite approval of current Title 21 Residential Design Standards
4. Building standards should be evidence-based, and so should the abandonment of building standards.

Thank you for your consideration.

Sincerely,



Tim Alderson, Chair  
Rabbit Creek Community Council

## ATTACHMENT – REASONS FOR SUPPORTING CURRENT RESIDENTIAL DESIGN STANDARDS

### 1. The purpose for current Residential Design Standards is well-defined and sensible.

Title 21.07.110.A sets forth strong reasons for residential design standards. We suggest that a large majority of Anchorage residents agree with the purpose of design standards, which include providing for safety and health and connectivity with to the neighborhood, providing variety and visual interest, and protecting the property values of the subject property and surrounding properties. As example, consider the health and safety benefits of northern climate weather protection such as a sheltered entry. Consider the health and visual benefits of five feet of landscaping between the building façade and driveways or parking so that cars can't drive or idle right next to a tenants' windows, impacting their privacy, safety and air quality.

### 2. AO 2024-104 (S) conflicts with basic tenets of the 2040 Land Use Plan and 2020 Comp Plan

The wholesale abandonment of design standards conflicts with Anchorage's Comprehensive Plan. The Comprehensive Plan repeatedly states the importance of design standards to successfully accommodate higher density and infill, especially in already-built neighborhoods. Here are a few excerpts reiterating the importance of design standards when promoting infill:

2040 Land Use Plan, page 29: Good urban design is central to successful accommodation of additional housing and businesses in already-built neighborhoods...

2040 Land Use Plan pages 34-35: As Anchorage evolves, thoughtful urban design can help both protect and enhance the characteristics of its neighborhoods and districts that make it appealing to residents, workers, and visitors. In a flourishing city, design can seamlessly integrate the new with the old.

The LUP design principles ...guide targeted amendments to development regulations [and} incentive programs.

Page 23 This Plan recognizes that compatible design is a key part off growing successfully thorough infill and redevelopment. The scale or physical appearance of buildings, noise, glare, shadowing effects, parking and other characteristics, can impact neighboring properties.

Anchorage Planning Principles from the 2020 Comprehensive Plan Page 64: Throughout the public participation process, widespread community support was expressed for improving Anchorage's quality of life. Quality-of-life issues and a strong sense of identity are repeatedly reflected in the Design and Environment goals (page 65)..

### 3. Expedite approval of current Title 21 Residential Design Standards

The AO Preamble suggests that approval of Residential design Standards is time-consuming, because "developers often say [that]". AO 2024-104(S) gives no evidence that design standards are a significant deterrent cost to construction. The fault may lie not in the design standards, but in the approval process and staffing levels.

RCCC notes that

- Title 21.07 currently offers a high degree of flexibility in residential design standards.
- There are menus of standards. The developer can pick a couple of standards that make physical and fiscal sense to his project.
- Any developer can bypass the standards by presenting his project design to the Urban Design

Commission.

4. Building standards should be evidence-based, and so should the abandonment of building standards. The standards of 21.07.110 were developed with thorough analysis and review by staff, developers, and the public. For example, requiring main entryways to be visible from the street has demonstrable safety benefits. Likewise, weather-protected entrances are a safety and quality-of-life feature: a tenant with a baby stroller and grocery bags shouldn't have to deal with an unroofed entry that has drifted snow and ice.

5.

Insufficient causal evidence..

AO 2024-104(S) gives no evidence that design standards are a significant deterrent cost. The Assembly's preamble mentions hearsay. The Planning Staff have not produced data-based analysis. Residential design standards should not be broadly suspended for several years without solid evidence that those design standards have negative impacts on the construction of new housing.

Insufficient catalyst for affordable housing.

It is unclear how abandoning design standards will accelerate multi-family housing construction, let alone produce affordable housing. AO104(S) allows an unlimited number of approvals but requires no actual construction.



MUNICIPALITY OF ANCHORAGE  
OFFICE OF THE MUNICIPAL ATTORNEY

MEMORANDUM

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**DATE:** FEBRUARY 4, 2025

**TO:** ANCHORAGE ASSEMBLY

**FROM:** EVA GARDNER, MUNICIPAL ATTORNEY

**SUBJECT:** RABBIT CREEK COMMUNITY COUNCIL'S COMMENTS REGARDING AO 2024-104(S): AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21 TO REDUCE THE COSTS AND BURDEN OF MULTIFAMILY RESIDENTIAL DEVELOPMENTS BY SUSPENDING THE RESIDENTIAL DESIGN STANDARDS FOR DEVELOPMENT APPLICATIONS SUBMITTED WITHIN A TIME CERTAIN.

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**QUESTION:** What legal barriers exist, if any, to implementing a waiver of residential design standards for the first four applicants seeking a land use permit to build residential structures?

**BACKGROUND:** Rabbit Creek Community Council provided comments in opposition to AO 2024-104(S): an ordinance of the Anchorage Assembly amending Anchorage Municipal Code Title 21 to reduce the costs and burden of multifamily residential developments by suspending the residential design standards for development applications submitted within a time certain.

The RCCC suggested an alternative. Rather than exempting all applications from residential design standards for three years, RCCC proposed an exemption for the first four permit applicants who proposed building multi-family housing of five or more units which would be located within a transit corridor identified in the 2040 Land Use Plan, and which would be completed before October 1, 2027. The first four applicants to meet the criteria would receive an exemption from Title 21's residential design standards.

**DISCUSSION:** There are legal concerns about this proposal in light of the Alaska Supreme Court's disapproval of "spot zoning" in *Griswold v. City of Homer*, 925 P.2d 1015 (Alaska 1996). Spot zoning was defined therein as "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for

the benefit of the owner of such property and to the detriment of other owners....”<sup>1</sup> While AO 2024-104(S) and the Rabbit Creek Community Council’s alternative scheme are targeted at residential design standards and not rezoning, changes to restrictions in a zoning district could be subject to the same legal challenges as rezoning.

The approach suggested by RCCC could also lead to arbitrary decision-making, which could create inequality among applicants, and potentially conflict with Anchorage’s Comprehensive Plan. The Constitution protects against arbitrary zoning decisions not based on rational policy. If the Municipality approves a select few developments for a waiver of residential design standards, while forcing all other property owners to comply, that undermines the case that the Municipality is using zoning for the benefit of the overall community.

There are additional concerns related to implementation, as well. From the Planning Department’s perspective, if the Municipality were to approach the design moratorium in the manner suggested by RCCC, it would cause complications for the department in tracking entitlements in the future. An approach like this is also contrary to planning best practices in that it reduces the predictability of zoning - zoning entitlements and restrictions should be fairly and evenly applied across the entire zoning district.

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<sup>1</sup> *Griswold v. City of Homer*, 925 P.2d 1015, 1020 (Alaska 1996).