Title 21 Rewrite
Chapters 1, 2, 8, and 13
Issue-Response Summary for the Planning and Zoning Commission
November 23, 2006

GENERAL COMMENTS

1. **Issue:** *Reviewing parts of Title 21 separately*
We assume these proposed chapters were released separately as the department perceives them to be stand alone chapters which can be readily implemented regardless of the content of the other chapters in this Title. We do not view these as stand alone chapters. They are an integral part of Title 21 and should be evaluated in context with the title in its entirety. We believe that asking the public to comment on these in a vacuum and the Assembly to act upon them out of context does a disservice to both.

   Response: The department does not consider that these chapters can "stand alone", and it is important to note that they will not become effective until the passage of all the other chapters of title 21. The department believes these chapters make relatively few substantive changes from the current title 21. As three full drafts of the whole rewrite have been available for review over the past three years, the public has a sense of what the whole code will look like, even if the specifics of many sections are still in flux. There are parts, particularly of chapter 21.08, that reference other sections of the code, but every other part of the code will go through the same public review and hearing process. Thus the department judges that these four chapters can go through the review process ahead of the other chapters.

   Recommendation: No action needed.

2. **Issue**: Anchorage 2020
I understood the 2020 plan as merely a guideline or wish list so to speak. Title 21 is law and should be developed by all interested citizens along with special interest groups like the Anchorage Citizens Coalition.

   Response: Alaska courts have consistently ruled that failure to follow the comprehensive plan is grounds for reversal of a land use decision, and the municipal attorney issued a legal opinion that the city's comprehensive plan is the law, rather than just "guidance". Elements of the comprehensive plan are developed through a public process, open to all interested citizens, and adopted by the Assembly, who are the elected representatives of the citizens.

   Recommendation: No action needed.

3. **Issue**: Time Limits
A policy issue that should have been discussed before now is whether or not the planning department should be held to time limits in making and publishing their decisions. From a position of fairness and timeliness we feel they should.

Response: The current code places time limits on the department for platting cases, and these time limits have been carried forward into the proposed code. The department is reluctant to add time limits to other procedures for the following reasons:

1) The department has no control over the number of applications that may be submitted at any one time. Unlike the private sector, the department cannot respond quickly to needed changes in staffing levels. If we get overloaded with applications, we don't have the option (budget) to hire more staff or contract out the review. If this situation is combined with one or more staff members' illness or vacation, we could be stretched very thin.
2) Presumably the result of missing a code-required deadline would be the automatic acceptance of that application. Such a policy would require the department to relinquish its responsibility towards the health, safety, and welfare of the citizenry of the municipality.
3) The department process and schedules hearings on applications in a timely manner. Staff has never delayed the process due to personal dislike of a project, and the review process in Anchorage is actually one of the fastest in the country. For example, representatives of one of the big box retailers coming soon to Anchorage were pleasantly surprised to hear that their big box review before the planning and zoning commission would take about six months. They told us they had been working through the process in Los Angeles for over two years and still had not been approved.

Recommendation: No action needed.

4. **Issue**: Grandfather Rights
A policy issue that should have been discussed before now is the issue of grandfather rights and the cost to existing building owners, private and public, of complying with the new requirements. Anchorage 2020 is very clear in that it will apply to new development only.

Response: The department has been working on significant changes to the nonconformities chapter (21.12) to address the issue of grandfather rights in consideration of the new standards being proposed in the title 21 rewrite. This chapter will be available for review early next year.

Recommendation: No action needed.

5. **Issue**: Buildable Land
Another area that needs attention is to establish some basic standards as to what is considered safe and appropriate land to build upon. The area of the wash out in Prominence

Pointe has a “For Sale” sign on it. I can not imagine this area is a stable, safe home sight. What is the MOA’s responsibility in this situation?

Response: Municipal codes such as title 21 (zoning code) and title 23 (building code) exist to protect the public health, safety, and welfare by providing minimum standards for development. That said, our system, philosophy, and laws of land ownership in this country guarantee private land owners the right to develop their land in some way. If the municipality were to designate certain areas “unbuildable” and prohibit any development of those areas, the municipality would be legally obliged to purchase that property, as it would be a regulatory “taking” of the land. The standards of the municipal code must be followed and enforced to ensure that development is appropriate to the conditions of the land.

Recommendation: No action needed.

CHAPTER 1 COMMENTS

6. **Issue**: 030, *Purpose of This Title*
The General Provisions section is still too vague, open to interpretation, and has lack of cohesion due to the fact that the chapters are being run separately and we have no way of comparison between statements like "livable neighborhoods" and "reflects the municipality's unique northern setting" with whatever they decide to throw at us involving prohibiting animals in the majority of zoning districts. "Unique northern setting" should include sled dogs, right?

Response: As title 21 covers many, many different topics, it is difficult to create purpose statements for the whole code that are not relatively general. In many sections of the rest of the code, there are additional purpose statements that directly address those particular sections. The relevance and appropriateness of the purpose statements can be judged on the statements themselves, without reference to the standards in other chapters.

The department is not prohibiting animals in the majority of zoning districts.

Recommendation: No action needed.

7. **Issue**: 030, *Purpose of This Title*
Restore purpose language protecting wildlife habitat, mature trees and vegetation and scenic views. Add "Protect the wide diversity of fish, wildlife habitats, scenic views and mature trees and vegetation throughout the Municipality."

This title seems to selectively omit certain powerful themes of the Anchorage 2020 Comprehensive Plan (hereafter referred to as 2020) and its step-down plans. In particular, there needs to be a reflection of these goals and intentions in Title 21:

- Promoting compact development in city centers, infill areas, and transit corridors; and creating incentives to locate new growth and infrastructure in these areas (reflecting 2020 policies 9, 12, 18, 20, 21, 23, 24 as well as)
- Protection of, and building in harmony with, the natural setting, including protection of scenic views, mature vegetation, sloped terrain, and habitat (2020 policies 41, 48, 53, and Anchorage Planning Principles from page 65, including these principles that give direct guidance to the sections of the Section 01 and or 08 of Title 21:
    - Establish flexible subdivision design standards that emphasize compatibility with Anchorage's natural setting
    - Link subdivision design with a sense of place to highlight connections to Anchorage's coastal setting, watersheds, mountains, wildlife, and subarctic forest and vegetation
    - Link neighborhoods, schools, natural areas, parks and greenbelts with open spaces and greenways, wherever possible;

- Promote retention of natural groundcover, or the inclusion of new cover, to reduce and filter surface run-off.;
- Protect Anchorage's scenic views.
- Make efficient use of existing water, sewer, and electric improvements.

- Linking transportation planning principles to the land use regulations of Title 21. Especially, these 2020 Planning Principles from page 65:
  - Encourage the following in the location and design of land use:
  - reduce the future vehicle miles traveled per capita; provide better opportunities for multi-purpose trips; increase the accessibility, convenience and efficiency of transit; enhance bicycle and pedestrian movement; and promote the development of an effective roadway network.

- Protecting the distinct character and quality of life in neighborhoods, including two main principles:
  - Minimizing traffic, road, and parking impacts on neighborhoods (2020 policies 25, 30, 31 52, , 53 and 54)
  - Protect the natural setting, historical features, and other distinctions that create a distinct neighborhood identity (Policies 13, 48, 49, 50 and 51)

I'd like to see these above principles added explicitly to 21.01.030; and better reflected in the Subdivision Chapter 21.08 and subsequent design standards and zoning chapters.

Proposed revisions:
21.01.030 A
Add at end of sentence, ", promoting compact development in major centers and transit corridors, and locating relatively-intense development in areas so as to create efficient travel patterns and efficient delivery of public infrastructure and services."

21.01.030 D
Reword: Promoting well-planned development based on: locating uses where they are in harmony with the natural setting and adjacent uses; design standards appropriate for the northern climate; and design standards that create a sense of place and protect or enhances aesthetic qualities expressed in the 2020 Comp Plan, including scenic views, natural landscape features; mature vegetation; habitat; and public access to open space, parks and greenbelts.

21.01.030 K
Add at end of sentence:…, reduce vehicle travel; allow efficient, phased infrastructure development; and support the development of compact growth areas identified in Comp 2020.

As the process of rewriting our land use laws has progressed, we have moved away from the goals of Anchorage 2020. That is clear in this draft's presentation of its purpose in section 21.03.030. Some of this is straight out of Anchorage 2020. It's interesting to see what got dropped.

- 2020 says "A balanced, diverse supply of affordable, quality housing, located in safe and livable neighborhoods with amenities and infrastructure, that reflects Anchorage's varied social and cultural physical environment . This draft of Title 21 left out the bold part. The idea of protecting neighborhoods is a major part of 2020.
- 2020 says of a Community Vision: "A northern community built in harmony with our natural resources and majestic setting." Compare that with this section's "Minimize adverse impacts of land development on the natural environment." Every city should play to its strengths and Anchorage's is this setting. Let's set a higher bar!
- 2020 says on Wildlife: "A wide diversity of fish, wildlife and habitats throughout the Municipality that thrives and flourishes in harmony with the community." Title 21's purpose statement? Not a word on wildlife!
- 2020 says on Natural Open Spaces: "A network of natural open spaces throughout the community that preserves and enhances Anchorage's scenic vistas, fish and wildlife and plant habitats and their ecological functions and values." The Comprehensive Plan mentions "a strong commitment to protect natural open spaces ... will maintain the quality of the environment." (p9) Natural Open Space is a big deal in Anchorage and that is reflected throughout Anchorage 2020. This draft of Title 21 tucks it into one sentence with parks and facilities.

Chapter 1 of 2020 has a section "Anchorage 2020 – A New Direction" "The demands of rapid growth have faded, and quality of life issues have moved to the forefront." (p9) From this rewrite's early "modules" through Draft 1 and Draft 2, the changes proposed for Title 21 have steadily drifted away from Anchorage 2020. The Purpose Statement, many details and the dominance of 2020 over the land use rules should be turned back in that "New Direction."

Response: It is important that the purpose statements for the whole code reflect those issues that can be implemented through title 21, which is a major implementation method of Anchorage 2020. While it is important that title 21 not be in conflict with comprehensive plan elements, it is possible that some goals of Anchorage 2020 may not be realized through title 21. The department proposes amendments to the general purpose statements below, which are supportive of Anchorage 2020 goals and policies.

Recommendation: Amend section 21.01.030 as follows:

A. Encouraging the efficient use of <u>existing infrastructure and</u> the available land supply in the municipality, including redevelopment of underutilized land;

B. Promoting a balanced, diverse supply of affordable, quality housing located in safe and livable neighborhoods;

C. Promoting a balanced supply of non-residential land uses that are compatible with adjacent land uses and have good access to transportation networks;

D. Promoting well-planned development based on a design aesthetic that creates a sense of place<u>,</u> and reflects the municipality's unique northern setting<u>, natural resources, and majestic surroundings</u>;

E. Providing appropriate development incentives to achieve an economically balanced and diverse community and to promote further economic development in the municipality;

F. Conserving the value of buildings and land;

G. Protecting the wide diversity of fish and wildlife habitats by m[M]inimizing the adverse impacts of land development on the natural environment;

H. Protecting development and residents of the municipality from flooding, wildfires, seismic risks, and other hazards;

I. Encouraging development of a sustainable and accessible system of recreational facilities, parks, trails, and natural open space that meets year-round neighborhood and community-wide needs;

J. Promoting compact development in city centers, infill areas, and transit corridors so as to create efficient travel patterns;

K. Encouraging the retention of mature vegetation;

L. Protecting and enhancing livable and distinctive neighborhoods;

M. Facilitating the adequate and safe provision of transportation, water, sewage, drainage, schools, parks, and other public facilities; and

N. Encouraging land and transportation development patterns that promote public health and safety and offer transportation choices.

8. **Issue**: 040A., *General* and 040C., *Compliance Required*
These sections must be considered in relation to animals and animal housing, something that cannot be done until we see if they adopted any of our previous recommendations.

Response: The specific standards in other chapters of title 21, including those standards relating to animals, have been and will continue to be reviewed by the public, and will ultimately be decided by the assembly. Whatever specific standards are adopted by the assembly will become the law for the municipality, and the law must be complied with, as stated in these sections.

Recommendation: No action needed.

9. **Issue:** 060B., *Conflict with Comprehensive Plan*
Title 21 is the implementation document for 2020, which is THE planning document. If Title 21 does not agree with 2020 then there is no planning. Augment this section to make it clear that Title 21 is implementing 2020.

Anchorage 2020 should govern Title 21. Change to say that if there is a conflict, the provisions of Anchorage 2020 shall govern.

Response: Title 21 is one of the means to implement the comprehensive plan. That is clear both in Anchorage 2020 (which is one of the elements of the comprehensive plan) and in title 21—the first sentence of section 21.01.030 states "The purpose of this title is to

implement the comprehensive plan in a manner which protects the health, safety, welfare, and economic vitality…".

Anchorage 2020 is a policy framework document that provides goals and policies for the municipality. Title 21 is much more specific and detailed in development specifications and standards to be applied to individual development applications. We are following Anchorage 2020 in developing design standards, but the final details will be resolved through a public process and ultimately enacted by the assembly.

Some of the policy statements in Anchorage 2020 are very specific. For example, the second half of policy #14 states "No regulatory action under Title 21 shall result in a conversion of dwelling units or residentially zoned property into commercial or industrial unless consistent with an adopted plan." This statement is precise and is implemented through one of the approval criteria that is required for a rezoning, which states that all rezones must comply with and conform to the comprehensive plan (chapter 21.03).

Other policy statements in Anchorage 2020 are much more vague and open to interpretation. For example, policy #7 states "Avoid incompatible uses adjoining one another." The implementation of this policy is through the determination, in title 21, of which uses are appropriate in which zoning districts, which uses must be approved through the conditional use process, and the development standards that must be applied to certain uses to make them compatible with neighboring uses. The public review process of title 21 allows the community to weigh in on these decisions. If the comprehensive plan overrules title 21, then there is the potential for an argument over what uses are incompatible for each and every development. Such arguments and the resulting slowdown of development would be helpful to no one.

It is vital that the more specific design standards and development specifications that will be contained in title 21 and intended to apply to individual development applications should apply over the general goals and policies of the comprehensive plan where there may be a potential conflict when dealing with development applications.

Recommendation: No action needed.

10. **Issue:** 060C., *Conflict with Private Agreements*
Add to the end of the paragraph: "<u>If an interested person raises an objection to a proposed plat or rezoning based upon covenant rights, the platting authority may not take any action on the proposed plat or rezoning except to return the proposed plat or rezoning to the applicant with instructions that no action will be taken until the applicant has presented the platting or zoning authority with proof that the covenant objection has been conclusively negated by either a judicial ruling, in an action initiated by the applicant, or by a written agreement between the interested parties which negates the covenant objection.</u>" This statement is need to protect and enhance developed areas within the MOA, as evidenced by a recent court case ruling ordering the municipality to vacate a plat that ignored covenants

prohibiting re-subdivision. The MOA should not approve a plat or rezoning where objections are raised due to covenant rights.

Response: From the municipal law department: This refers to an appeal from a platting board decision that was litigated in Superior Court Case No. 3AN-04-05720 Civil. This appeal raised the issue whether a private covenant allegedly limiting an owner's right to subdivide property precluded the platting board from approving a plat to subdivide the same property. The case also presented substantial evidence suggesting that the covenant may have been legally defective and unenforceable. Unfortunately, the Appellants in Case No. 3AN-04-05720 voluntarily dismissed their case without ever determining whether the covenant was enforceable. The platting board did not ignore the subdivision residents' covenant claims, but instead took a neutral position, advising the parties to adjudicate their claims in court.

The platting board generally declines to enforce covenants because it is an administrative agency, and it lacks the practical means to adjudicate covenant disputes. To resolve such disputes, the platting board would have to investigate the facts surrounding the enactment of the covenant; research the chain of title of the property; and analyze issues of property law, evidence rules, and the Statute of Frauds, among other things. The platting board is not equipped for such an undertaking. These issues are best resolved in a court. The platting board's decision to approve or reject a plat application does not impair the parties' rights to enforce a covenant in a court action.

This position has generally been adopted by other jurisdictions as well. The rule in American property law is that zoning regulations and restrictive covenants are two concurrent but separate systems of law. A zoning ordinance constitutes the public regulation of land use through the exercise of the government's police power. By contrast, a covenant is a strictly private right, created by agreement, and enforceable only by those who are party to the covenant. Enforcement of private restrictions via a zoning authority would constitute an impermissible delegation of the police power to private entities. Accordingly, restrictive provisions in a private covenant are not within the purview of a platting board action.

Recommendation: No action needed.

11. **Issue**: 080B., *Elements*, Table 21.01-1
The *1992 Air Quality Attainment Plan* is outdated. It should be replaced with the *Anchorage Carbon Monoxide Attainment Plan*, AR 2003-305, 10-7-03.

Response: AR 2003-305 does not amend section 21.05.030 of the current code, where the elements of the comprehensive plan are listed. In order to have the *Carbon Monoxide Attainment Plan* legally replace the *1992 Air Quality Attainment Plan*, the health department will need to process an ordinance amending section 21.05.030 to make the change. The planning department will work with those departments that have jurisdiction over elements of the comprehensive plan to make sure that any plan updates or replacements include a

provision to appropriately amend title 21, section 21.05.030 (or section 21.01.080 when the new code is passed).

Recommendation: No action needed.

12. **Issue**: 080B., *Elements*, Table 21.01-1
Will the Anchorage 2020 Land Use Map be a separate element or a component of the Anchorage 2020 Comprehensive Plan? Is the Hillside District Plan an element? Why isn't it listed? Doesn't Eagle River have a 1995 approved Trails (recreational) Plan? Why isn't it listed?

Response: The Anchorage Bowl Land Use Plan Map will be a component of the Anchorage 2020 plan and thus will not need a separate listing in table 21.01-1.

The Hillside District Plan will be an element of the comprehensive plan and will be listed after it is created and adopted.

The Areawide Trails Plan has a chapter and map devoted to the Chugiak-Eagle River area, but there is no separate trails plan.

Recommendation: No action needed.

13. **Issue**: 090D.1.a., *Pending Applications*
The revision extended the deadline for review from 6 months to 12 months. This seems to be going the wrong way.

Response: The issue is the amount of time that municipal staff and boards and commissions have to take action on applications that were submitted before passage of the new code. The department received comment/suggestion from the Home Builders Association requesting the original 6 month time frame be increased to 18 months. While the department considered 18 months to be an excessive period of time, we attempted to be responsive to the HBA's comment and agreed to increase the time frame for reviewing pending applications to 12 months. The department considers 12 months to be an adequate amount of time.

Recommendation: No action needed.

14. **Issue**: 090D.2.b., *Preliminary Plats*
Change to read "Preliminary approvals granted under the previous title 21 may be extended no more than once, and for no longer than 36 [24] months, pursuant to the extension procedures applicable under the previous ordinance." Additional transition time is needed for larger multi-phased projects to be completed.

Response: The platting board debated this issue at length and recommended retaining the proposed 24 month extension. Large projects get platting approval for up to 60 months. Small projects are approved for 18 months. The extension period under the current code is 18 months. Thus, plats that are approved before the new code passes have their original approval period, plus however many extensions they have received. Is it reasonable to give three more years? After changing from the original proposed 18 month extension, the department and the platting board consider two years to be a sufficient extension period.

Recommendation: No action needed.

15. **Issue**: 090E., *Investment-Backed Expectations*
What is the purpose of this section and why is it labeled RESERVED?

Revisit this and open for review and comment prior to final approval of the entire title 21 rewrite.

Response: Chapter 21.01 proposes transitional provisions for those projects where an application has been submitted before the new code is adopted. However, there will be situations where significant time and money has been invested in a future project but the project is not at a point where an application is ready to be filed. The code should take into account those situations. The questions that need to be answered are "How much money?" and "How much time?" have been invested to give a developer rights under the previous regulations. The department needs more time to create a proposal for this section, but all proposed language will have ample time for public review and comment.

Recommendation: No action needed.

CHAPTER 2 COMMENTS

16. **Issue**: 020, *Boards and Commissions Generally*
Draft #2 contained a "Summary Table of Major Decision Making and Review Responsibilities". Please re-insert the Table back into this chapter. Community council officers are often asked by the public to decipher where to go, or who to see, regarding the actions named. The general public needs to be able to readily understand this and this Table was a perfect snapshot of jurisdictional actions. The consultant hired by the MOA encouraged graphics, illustrations, charts, tables, etc. to supplement text for clarity. The necessity of the Table can't be overstated. Without the Table you might as well delete 21.02.100 referencing the review and decision making responsibilities of municipal staff (the director or his delegate, department heads, etc)

Response: The department does not object to reinstating the table, which is hereby attached for reference.

Recommendation: Amend to add table 21.02-1: Summary of Major Title 21 Decision-Making and Review Responsibilities.

17. **Issue**: 020B.12.a., *Record of Proceedings*
Add "The record of the decision should show how the decision implements or is in concordance with the Comprehensive Plan."

Response: This would be an inappropriate place to locate such language. This section is about the process of public hearings, not about the content of boards' and commissions' decisions. In the "Common Procedures" section of chapter 21.03 there is a subsection called "Decision" which states that recommendations and decisions shall be based on findings of fact and conclusions, and any applicable approval criteria. Most if not all of the approval criteria for various types of procedures include a requirement for consistency with the comprehensive plan.

Recommendation: No action needed.

18. **Issue:** 080, *Urban Design Commission*
We do not support the UDC having decision-making authority.

AGC believes that the Urban Design Commission be eliminated since it currently serves no useful function and tends to prolong the approval process. AGC's suggestion was not only ignored, but duties for UDC are greatly expanded in the new rewrite. AGC still does not see that the UDC provides a useful function or a function that is so unique it needs to be separated from the planning and zoning commission. At meetings AGC attended it was suggested that the expanded role of the UDC was necessary to remove some of the workload currently handled by the PZC. Such a move would seem to lead to the inevitable conclusion that future approvals will take longer and therefore cost more. If the UDC is considered

necessary for the proper functioning of the new Title 21, then steps should be taken to assure that their inclusion does not extend the time required to receive permits. Any suggestion that merely adds time to the process seems contrary to the guidelines for revising the process and should be rejected absent compelling arguments to the contrary.

Regarding UDC and the request of some public members to discontinue it:
I value the technical and professional expertise of this commission and feel they lift a huge burden from the Planning and Zoning's workload by doing site plan reviews and doing a level of review that we are not qualified to do. If there is fear of a time delay, maybe the calendar of review needs to be revised, but do not discontinue their valuable work.

Response: The department supports retaining the urban design commission and expanding their design review role. We believe many of the fears expressed in comments will be unfounded. The proposed role of the UDC in the proposed code is somewhat different from its current role. In the proposed code, the UDC hears major site plan reviews and appeals from administrative site plan reviews, and retains its current authority over road project landscaping and sign variances. It is appropriate that a body which includes various design professionals be the review body for design issues.

The claim that taking some of PZC's workload and giving it to the UDC will make approvals take longer is exactly the opposite of what will happen. If the UDC is eliminated and PZC must handle the workload of both bodies, it will take longer for applications to get on the PZC agenda and be acted upon. The UDC, acting like any other decision-making body, will have a case schedule and regular meetings. There is no reason to suppose that taking a case to the UDC will take any longer than taking a case to the PZC or the platting board.

There is one type of approval that will need to go before both the PZC and the UDC, which is street and trail review. However, this will only impact government, as it is the government that brings forward collector and arterial projects, and it is one less hearing than currently required (currently road projects go to PZC once and to the UDC twice).

Recommendation: No action needed.

19. **Issue**: 080A.2.e., *Powers and Duties*
We are very uncomfortable being asked to review and comment on segments referencing parts of the land use regulations whose final form is unknown, perhaps having been modified, deleted, or relocated. Please revisit prior to giving final approval of the entire re-write of Title 21.

Response: As noted above, these four chapters will not become effective until the rest of the code is adopted. As the rest of the proposed code is finalized, there may be provisions that create the need to make adjustments to these four chapters. There will be time to make those changes and have the public review them.

Recommendation: No action needed.

CHAPTER 8 COMMENTS

20. **Issue**: Site Condos
The MOA's consultant, Clarion Associates had this footnote in Module Three. I am asking you to pursue this information with Staff because site condo development and review, is a VERY BIG ISSUE in the Eagle River area and causing us many problems and we would like the situation that causes this to be addressed and corrected in the re-write. Clarion said, "We need to decide to what extent site condos will be subject to the standards of this chapter (08) and 21.07. We have already moved many important provisions (e.g. common open space requirements) from the subdivision chapter to 21.07 to make them applicable to all development, not just subdivisions. But discussion is still necessary on whether site condos can or should be make subject to all or parts of this chapter (08)."

Response: In a subsection in chapter 21.03 titled "Improvements Associated with Land Use Permits", the code states that all development with multiple dwelling units on one lot must provide "the easements, dedications, and improvements required for a subdivision in the same improvement area under chapter 21.08, *Subdivision Standards*." The department is also proposing residential design standards in chapter 21.07.

Recommendation: No action needed.

21. **Issue**: Open Space
Please provide for PZC consideration some alternative language from earlier drafts that treats open space and parks as part of public infrastructure and requires subdividers to contribute to open space in areas of town that are deficient, and where the subdivision increases this deficiency.

Response: Requirements for open space for certain types of development are in chapter 21.07.

Recommendation: No action needed.

22. **Issue**: Gated Communities
The issue of gated communities has not been addressed.

Response: While the planning department does not generally support gated communities, the issue has not come up with regard to the title 21 rewrite. Staff will need to do some research before formulating a recommendation on whether or not to address this issue in code.

Recommendation: HOLD

23. **Issue**: 010, *Purpose*

Use title 21 to IMPROVE neighborhoods. Restore purpose language improving neighborhood quality of life and character, such as "Promote balanced, diverse neighborhoods while improving neighborhood safety, livability, and character." and "These standards are enacted generally to promote the health, safety, convenience, order, and welfare of the present and future inhabitants of the municipality; to ensure adequate and convenient open spaces, school sites, and adequate utilities and public safety facilities; to provide recreation opportunities, solar access, and clean air; to minimize traffic and facilitate orderly growth and harmonious development of the municipality."

The purpose statement for the Subdivision Standards section needs to include all the tasks delegated by the 2020 Comp Plan. This means adding intent language regarding protecting and enhancing scenic values, diminishing the prominence of roadways on the landscape, features to reduce vehicle travel, preserving mature vegetation (2020 Policy 50). Note that 2020 assigns Subdivision Standards to implement these policies:

Policy 48 –enhance or preserve scenic views and natural features
Policy 52 – enhance the residential streetscape and diminish the prominence of garages and paved parking
Policy 71 – Utilize wetlands to manage drainage and improve water quality. Although details of drainage design are delegated to other chapters of Title 21, also addressed in other chapters, there should be an umbrella goal for drainage from subdivisions.

Proposed revisions
Section A:
In the first line, replace the word welfare with "quality of life"; or add it in addition to welfare. After protection of sensitive natural areas, add "such as critical habitat, high-value wetlands, and riparian corridors". Add: "enhance or preserve scenic views and other significant natural features" (per the language of 2020 policies 48 and 67)

In the last line of Section A, delete last phrase (overly vague—harmonious with what?). Replace with:
…achieve property lots of reasonable utility and minimize public costs to construct and maintain infrastructure."

Section B
Revise next to last sentence: The development shall preserve, and be aesthetically integrated into, the natural setting through preservation of natural features and scenic views and minimal visual impact from roadways and parking,

Add sentence: "The new development shall be reflect and maintain the character of the neighborhood through sensitive layout of roads and lots, minimal cut-through vehicle traffic, pedestrian access to neighborhood destinations, and buffers or open space where appropriate to maintain privacy and views."

Change to read "…make use of natural contours, enhance and protect existing neighborhoods, and protect residents from adverse noise and vehicular traffic. [IMPORTANT] Natural features of the area should be preserved."

Response: The department is proposing amendments below to include those issues that are germane to subdivision design. Other policies and strategies from Anchorage 2020 that deal with site development and design are addressed in chapter 21.07 or implemented by other means.

Recommendation: Amend section 08.010 to read as follows:

"**A. General**

These standards are enacted generally to promote the health, safety, convenience, quality of life, and welfare of the present and future inhabitants of the municipality; to secure adequate utilities and public facilities, consideration of school and open space needs, and the protection of sensitive natural areas such as critical habitat, high-value wetlands, and riparian corridors; to enhance or preserve scenic views and other significant natural features; and to ensure the functional and efficient layout and appropriate use of land so as to achieve property lots of reasonable utility and minimize public costs to construct and maintain infrastructure [; AND TO FACILITATE ORDERLY GROWTH AND HARMONIOUS DEVELOPMENT OF THE MUNICIPALITY].

B. Specific

Planning, layout, and design of a subdivision are of utmost concern. The subdivision should [MUST] provide safe, efficient, and convenient movement to points of destination or collection. Modes of travel to achieve this objective should not conflict with each other or abutting land uses. Lots and blocks should provide appropriate settings for the buildings that are to be constructed, make use of natural contours, [AFFORD PRIVACY FOR THE RESIDENTS,] and protect residents from adverse noise and vehicular traffic. Development should preserve, and be aesthetically integrated into, the natural setting through preservation of important natural features and scenic views. [IMPORTANT NATURAL FEATURES OF THE AREA SHOULD BE PRESERVED.] Schools, parks, [CHURCHES,] and other community facilities should be planned as an integral part of the area. New development should reflect and maintain the character of the neighborhood through sensitive layout of roads and lots, minimal cut-through vehicle traffic, pedestrian access to neighborhood destinations, and buffers or open space where appropriate to maintain privacy and views."

24. **Issue**: 010A., *General* [*Purpose*]

This section states, " These standards are enacted generally to promote the health, safety, convenience, and welfare of the present and future inhabitants of the municipality; to secure adequate utilities and public facilities, consideration of school and open space needs, and the protection of sensitive natural areas; to ensure the functional and efficient layout and

appropriate use of land so as to achieve property lots of reasonable utility; and to facilitate the orderly growth and harmonious development of the municipality". We question the meaning and concept of the phrase "property lots of reasonable utility". Many property lots in Birchwood, indeed throughout the municipality, are measured in acreage rather than square footage. We also know that improved large lots are seen as "under-utilization of property" in the new re-write. So who will define what this means? Will it be Title 21, some policy of an administrative department, or the current property owner?

Response: Property lots of reasonable utility means that the lots are of a size and shape that generally those uses allowed to be developed on them will fit on the lot, and that the lots can be accessed (i.e., there isn't a cliff between the access road and the lot). This phrase has no implications of requiring the most intensive use of land. The municipality does not consider large lots to be "under-utilized".

Recommendation: No action needed.

25. **Issue**: 010B., *Specific* [*Purpose*]
Current draft deletes the words "…vegetation of the area should be preserved." This coupled with changes to the drainage section (030D.) where details are left to chapter 7 and the DCM make for many unknowns. Drainage problems are helped by retaining natural vegetation, plus it is a component of our valued natural environment as stated in 2020.

Response: The original title 21 consultants proposed a vegetation retention requirement in the first draft of the proposed code. Due to the difficulty of implementing such a provision, testing the provision, and public feedback, the vegetation retention provision was not carried forward in subsequent drafts. There are requirements for vegetation preservation in certain areas (i.e., stream setbacks, portions of large lots on steep slopes). In general, the landscaping provisions of chapter 21.07 give incentives for retaining existing vegetation but do not require it.

The drainage provisions in chapter 21.07 will be available for public review and comment in the first part of 2007.

Recommendation: No action needed.

26. **Issue**: 020, *Applicability*
Subdivision of property at ANC [Ted Stevens Anchorage International Airport] does not generally occur and therefore we do not believe chapter 21.08 applies to ANC. Property is divided into lease areas, which are defined in lease documents, but not recorded in the Anchorage Recording District as separate parcels. Chapter 21.08 does however identify subdivision requirements for AD districts, which we understand ANC will be classifi9ed. If we were bound by the subdivision standards, many of the AD requirements are not appropriate for an airport given the usage. A specific example is the requirement for sidewalks.

Response: The Airport Development district (AD) description and district-specific standards will be laid out in chapter 21.04, Zoning Districts, where those requirements that are not germane to airports will be exempted.

Recommendation: No action needed.

27. **Issue:** 030C., *Maintenance of Existing Natural Drainage*
Is this as strong as it can be to avoid events that have happened across the city, especially in Prominence Pointe and the Goldenview area where blowouts and massive flooding has occurred due to drainage problems? Strengthen maintenance of existing natural drainage and impacts.

Subsection C. Is reasonable effort defined? This is too subjective. See 2020 Comp Plan Policy 70. Insert 2020 intent. Possible rewording after avoid and/or mitigate any damming or diversion; and the subdivider shall demonstrate that the development will avoid contamination to, and will protect the ecological and drainage functions of the natural or historical drainageways or water bodies. The above language is from 2020 policy 70. Or propose other wording that requires more than lip service efforts but instead produces the intended outcome: protection.

Response: The strategy identified in Anchorage 2020 to be used to implement policy #70 in title 21 is water body setbacks, which is being addressed in chapter 21.07.

Recommendation: No action needed.

28. **Issue**: 030C., *Maintenance of Existing Natural Drainage*
Add at the end "<u>Immediate action and permanent solutions will be required by the developer or land owner to correct any drainage problems to properties adversely impacted by new or altered drainage resulting from the development.</u>"

Response: If a developer creates drainage problems in violation of the code, there are enforcement provisions in place to require them to correct the situation.

Recommendation: No action needed.

29. **Issue:** 030D., *Drainage Design*
Drainage is a paramount issue in SE Anchorage and the fear is that the DCM (which can be changed without public process with each administration) and chapter 7 will not be strong enough to handle the huge impacts that poor design has caused this section of town. Is this section really stronger and will chapter 7 and the DCM really protect us?

Response: The municipality is aware of the serious drainage issues on the hillside and through the forthcoming drainage section in chapter 21.07, and the design criteria manual, is taking steps to address the issue.

Recommendation: Amend as recommended by the platting board.

30. **Issue:** 030F., *Streets*
Delete reference to 21.07.060, Transportation and Connectivity, as this section is controversial and may not survive the rewrite.

Response: If the Transportation and Connectivity section of chapter 21.07 is deleted from the final version, we will amend chapter 21.08 appropriately at that time.

Recommendation: Amend as recommended by the platting board.

31. **Issue:** 030F.1., *Intent*
After "safe streets", add "safe, convenient pedestrian walkways and crossings".

Response: The department has no objection to this language.

Recommendation: Amend as proposed.

32. **Issue**: 030F.3.c., *Street Alignment*
Delete this section—streets should be aligned for safety, not wind.

Response: While this is a provision carried forward from the current code, department staff cannot remember a situation where it was applied. The department has no objection to deleting this language.

Recommendation: Delete F.3.c.

33. **Issue**: 030F.5.c., *Cul-de-Sacs*
Change to read "A cul-de-sac <u>right-of-way</u> shall terminate…". The word cul-de-sac stands for the end of a constructed road that ends in a "bubble". The dimensions reflected in this section are not the dimensions of the cul-de-sac, but, the dimensions of the <u>right of way</u> where the cul-de-sac is located.

Response: This recommended addition would clarify that the requirements for cul-de-sac turnarounds apply to the right-of-way, not the constructed bulb. The addition of similar language in 5.a. would also avoid confusion.

Recommendation: Change as proposed above and add "right-of-way" after "cul-de-sac" in the first line of 5.a.

34. **Issue:** 030F.7.c., *Street Names and Addresses*
Modification of street names is subject to policies adopted by the director. Request that such policies be approved by the platting board.

Response: The department has no objection to this.

Recommendation: Amend as proposed.

35. **Issue**: 030G.2., *Block Arrangement*
Here (or in a more appropriate section) require pedestrian connections on blocks or cul-de-sacs greater than 300 feet. This meets Comp Plan intent to promote pedestrian connections and minimize vehicle travel.

Response: The department does not agree that every block longer than 300 feet needs a mid-block pedestrian connection (a quarter-mile is 1320 feet). The proposed limitation on block length in the smaller lot areas, pedestrian connection requirements on cul-de-sac bulbs, and new sidewalk and walkway requirements (in chapter 21.07) all promote pedestrian connections and minimize vehicle travel as called for in the comprehensive plan.

Recommendation: No action needed.

36. **Issue:** 030H., *Subdivisions on Slopes*
Is it the best organization to have a steep slope section in 21.08 and a different one in 21.07? One of the goals of the title 21 rewrite is to put information in one location.

Response: The topic of development on steep slopes has two parts: the arrangement of a subdivision on a sloped tract, and the actual development on lots with sloping terrain. The department proposes to place those regulations regarding subdividing a piece of land with steep slopes into chapter 21.08, and there seem to be no objections to that. The department proposes to place those regulations regarding construction on a lot with sloping terrain into chapter 21.07, *Development and Design Standards*. By placing this section in chapter 21.07, it applies to all development, rather than just that development involving a subdivision. It may be helpful to note that the department has made significant revisions to the steep slope development subsection of chapter 21.07 since the release of Public Review Draft #2, moving those provisions shown in chapter 21.07 that apply to subdivisions into chapter 21.08.

Recommendation: Amend whole section as recommended by the platting board.

37. **Issue:** 030H., *Subdivisions on Slopes*
Another issue of **huge** import to SE Anchorage. This section is confusing and refers readers to 21.08.070 for smaller lot slope standards. This section leaves loopholes that allow 80% clearing with building footprints that cover the whole lot even on ½ acre lots (as evident in Prominence Pointe). Replace the word "all" with something like "most" under "…where all lots created at one acre or greater…" for sections 3 and 7. Otherwise this would allow situations like Views at Prominence where many lots are just under 1 acre—enough to qualify for on-site septics at 40K sf, and where massive clearing has resulted in drainage problems even without one house built yet. Do not let 20% undisturbed area suffice in slope designs. Clarify, correct, and tighten these incredibly important sections.

Response: The department acknowledges the potential loophole and proposes to amend the conservation subdivision standards to require a minimum of 30 percent open space rather than 20 percent. See Issue #122.

Recommendation: Amend as proposed in Issue #122.

38. **Issue:** 030H., *Subdivisions on Slopes*
This subsection appears to be somewhat over complicated and takes away the engineers prerogative and ignores experience. Direction also needs to be given concerning impacts to smaller developments. Request the following be retained in the requirements of a geological engineering report.
a. Nature, distribution, strength, and stability of soils; design criteria for corrective measures; opinions and recommendations covering the adequacy of site development.
b. Slope stability analysis.
c. Foundation investigation.
d. Specific recommendations for cut and fill slope stability.
e. Summary of field exploration methods and tests.
f. Depth to groundwater and bedrock.

Response: The department proposed, and the platting board recommended amendments to the submittal requirements for subdivisions on slopes that cover all the topics listed in the comment above, with some explanation for each topic.

Recommendation: Amend as recommended by the platting board.

39. **Issue**: 030H., *Subdivisions on Slopes*
Provide that if a reasonable building pad is available the % of slope shall apply to the pad and not the entire lot. Also the definition of "Average Slope" needs to be re-worked.

Response: The proposed regulations for development on large lots with sloping terrain is that clearing and grading be limited to a building envelope and the remainder of the lot be left undisturbed.

The definition of "average slope" as provided in the description of the R-10 district (in chapter 21.04) and the definitions (chapter 21.14) is how the average slope has been calculated ever since the R-10 district was created. It has seemed to work fine—no specific problems have been identified and no alternative method of calculation has been proposed.

Recommendation: No action needed.

40. **Issue**: 030H.2.d., *Additional Submittal Requirements*
Add at end of sentence "…and to protect natural ecological and drainage functions." (per 2020 Policy 70).

Response: As development will always have some effect on natural functions, the department proposes the following amendment:

Recommendation: Add at the end of the sentence "…<u>and to minimize disturbance to natural ecological and drainage functions</u>."

41. **Issue**: 030H.3.a., *Design Standards*
Change to read "For subdivisions where <u>a majority</u> [ALL] of the lots created…"

Response: In order to apply building envelope limits in the steep slope development section of chapter 21.07, all the lots need to be over a certain size threshold. Thus if all the lots are one acre or greater, then a consistent standard in the chapter 21.07 section can be applied. If any lots are less than one acre, the subdivider must use the conservation subdivision process, ensuring that at least a portion of the area to be subdivided remains undisturbed.

Recommendation: No action needed.

42. **Issue:** 030H.3.a.ii., *Design Standards*
Request that reference to clearing on "each lot" be deleted.

Response: This standard actually refers to provisions in the Steep Slope Development section in chapter 21.07 and thus only causes confusion here.

Recommendation: Accept platting board recommendation to delete 3.a.ii.

43. **Issue:** 030H.3.b., *Design Standards*
Delete, as steep slope development does not necessarily require open space. Add section to allow reduction of front setback if approved by the director. This would allow reduction of grading and disturbance of natural vegetation.

Response: From the American Planning Association's PAS report *Planning for Hillside Development*:

"*Hillside regulation generally takes one of three philosophical approaches. The first approach is to use site design and engineering techniques to virtually eliminate all hazards to public safety. This is often accomplished by means of complete reconstruction of slopes to established engineering standards. The second approach is to perform selective grading, drainage improvements, and vegetation clearance in order to achieve public safety purposes while still retaining some valuable natural features of hillsides. The third approach is to prohibit hillside development because of mistrust of the dependability of engineering solutions*."

The department supports the second approach for the following reasons:

- many of the hillside areas in the Anchorage Bowl have shallow soil depths, making engineering solutions extremely difficult and expensive;
- due to our northern climate, vegetation takes a long time to reestablish itself, leaving disturbed slopes without the stabilization of vegetation for a longer period of time than in other locales;
- the majority of our sloped areas (especially those over 5 acres, below which this section does not apply) are in our outlying, more "rural" areas, where undisturbed open spaces are highly valued.

For those sloped areas (over 5 acres) that are zoned to allow lots smaller than 1 acre, the department considers the conservation subdivision process an extremely appropriate method to reduce the impacts of development on slopes and maintain some undisturbed areas.

The reduced front setback issue belongs in the slope development section in chapter 21.07 and will be addressed there.

Recommendation: No action needed.

44. **Issue**: 030H.3.b., *Design Standards*
This provision needs to be removed or limited to subdivisions with "a majority of lots under .5 acres." The emphasis should be on keeping natural terrain and vegetation on each lot to protect the natural setting of these very steep areas. This provision forces the so-called conservation option which really means 80 percent grade and fill is possible.

Response: See the responses to Issue #37 and Issue #122.

Recommendation: Amend as proposed in Issue #122.

45. **Issue:** 030H.4., *ROW Reductions*
As this is under plat approvals, the municipal engineer should be making recommendations to the platting board. Question the need for such a request on slopes of 30% when streets are single loaded, or when subdivision is approved as a conservation subdivision.

Response: The department proposed, and the platting board recommended amending this section to allow the platting authority, with the municipal engineer's recommendation, to approve right-of-way reductions. This section may be used even if the thresholds requiring single-loaded streets or conservation subdivisions are not reached.

Recommendation: Amend as recommended by the platting board.

46. **Issue:** 030H.5., *Downslope Lots*
Request that developments with 30% or more slope be permitted to reduce right-of-way width to 40 or 50 feet.

Response: A right-of-way reduction may be requested through the provision in H.4.

Recommendation: No action needed.

47. **Issue**: 030H.6., *Sidewalks/Trails*
Add at the end of the sentence: "…if traffic volume and speed will be low enough to allow mid-block pedestrian crossings." Add to this sentence, or to the appropriate table: "Sidewalks on one-side-only must be wider to accommodate 2-way traffic, with a minimum of 10 feet on grades over xx %." Please consult with the MOA Non-motorized specialist: steeper 2-way trails, unless they are just mountain hiking trails, need to be wider for safety.

Response: Planning staff is working with the trails coordinator to resolve this issue.

Recommendation: HOLD

48. **Issue**: 030H.7., *Grading*
Include after grading: "…fill, or other recontouring," If the intent is conservation, be specific about keeping the contours.

Response: Grading includes fill and recontouring.

Recommendation: No action needed.

49. **Issue**: 030H.7., *Grading*
This section states, " For subdivisions where all the lots created are one acre or greater in area, grading shall be limited to the road right-of-way…" Change to read, "Where the

majority of lots created in the platted subdivision are one acre or greater…". Some subdivisions are developed in phases. Some have only one or two rows of one acre or greater acting as a transition buffer. Make this apply to phased subdivisions of larger tracts and to those that buffer abutting but different development. What harm comes from protecting the natural environment and preventing construction drainage alteration? Please.

Response: The department agrees that for large subdivisions that are developed in phases, this standard should apply to each phase separately. See also the responses to Issue #37 and Issue #122.

Recommendation: Amend H.3.a. to read "For phases of subdivisions where all the lots created are one acre or greater in area…". Amend H.3.b. to read "Phases of s[S]ubdivisions that include any lots less than one acre in area…". Amend H.7. to read "For phases of subdivisions…".

50. **Issue**: 030H.7., *Grading*
The last sentence, "It does not mean simply the removal of vegetation." This needs to be changed to reflect perhaps how the vegetation is being removed. Sometimes removal of vegetation with a bulldozer resembles re-contouring. With out comparing this to landscaping and clearing standards care must be taken when allowing removal of vegetation on sloped areas. Even gentle slopes will create drainage issue when stripped. Removal of vegetation could be limited by percentage.

Response: The referenced sentence is clarifying what is meant by "previously disturbed"; it is not allowing or prohibiting the removal of vegetation. The general meaning is that if only vegetation has been removed in the past, that area does not then qualify as "previously disturbed" which would then allow mass grading.

Recommendation: No action needed.

51. **Issue**: 030—create new I. called *Seismic-Induced Ground Failure Hazard*
The Geotechnical Advisory Commission recommends adding the investigation of potential seismic-induced ground failure when planning subdivisions in Seismic-Induced Ground Failure Hazard Zones 4 and 5 (areas presently mapped to exhibit a "high" to "very high" susceptibility to ground failure during a strong earthquake) to the criteria listed in Chapter 21.08, Design Standards. This investigation is already part of that required within Title 23 for projects within the area subject to permitting by the MOA Building Safety department (i.e., there should be no additional cost to developments), however:

- Consideration of the potential for seismic-induced ground failure under Title 21 should help streamline the developer's and Municipality's processes to move forward, or not, with a proposed development. For example, the consequences of the investigation, in terms of the effects of seismic-induced ground failure on the

ultimate scale, scope and cost of the proposed project, would be revealed during, rather than after, the development review and approval process under Title 21.

- Particularly for residential subdivisions, the burden for the geotechnical investigation is currently placed on each individual lot owner. For example, under Title 23, each lot owner in a subdivision situated within Hazard Zones 4 or 5 has to demonstrate the stability of their lot, as well as possibly that of the adjacent lots, prior to applying for a building permit. Therefore, it seems rational that moving that portion of the geotechnical investigation pertaining to seismic-induced ground failure to Title 21 would not increase, but may even decrease the cost of developing the individual lots (i.e., one investigation for the entire subdivision, versus multiple investigations on a lot by lot basis).

- The hazard to life and property associated with seismic-induced ground failure is at least as important as the consideration of slopes and snow avalanches; two criteria already included in the current draft of Chapter 21.08. Further, the seismic-induced ground failure hazard applies to the entire Municipality, from Eklutna to Girdwood; not just to that area subject to plan review, under Title 23, by the MOA Building Safety department.

In conclusion, the Geotechnical Advisory Commission believes it is appropriate, beneficial and consistent with the other Titles of the Municipal Code to add consideration of the potential for seismic-induced ground failure to Title 21.

Note that the Geotechnical Advisory Commission is also working on a recommendation for a seismic hazard overlay zoning district pertaining to the seismic-induced ground failure potential, which the Commission intends to submit during the comment period for Chapter 21.04 (Zoning Districts) early in 2007.

Recommended Text:

1. A geotechnical investigation shall be performed to evaluate the potential for seismic-induced ground failures across that portion of the subdivision within *Zones 4 and 5* of the municipality's *Seismic-Induced Ground Failure* mapping. The requirement for a geotechnical investigation shall apply to all zoning districts, unless otherwise waived by the platting authority.

2. A report of the findings of the geotechnical investigation shall be submitted to the platting authority, prepared by a civil engineer licensed in the State of Alaska.

3. The scope of geotechnical investigation shall include subsurface explorations (test borings or excavations), laboratory testing and engineering analysis to evaluate the potential for, and potential magnitude of liquefaction, settlement, horizontal spreading and faulting following methods conforming with the state-of-practice; and stability of existing slopes, natural or man-made, following methods defined in AMC chapter 23.15, section 1802.2.6, paragraph D. These evaluations shall be based on probabilistic ground motion parameters corresponding to 475-year or greater return period.

4. The platting authority may reject a proposed subdivision in its entirety if the geotechnical investigation does not demonstrate that the area can be developed in accordance with AMC title 23.

5. The geotechnical investigation submitted with the plat application shall not supersede, but may supplement, the requirements for geotechnical investigations included in AMC title 23.

Response: The department supports the proposed new subsection.

Recommendation: Amend as proposed above.

52. **Issue:** 030I., *Avalanche Zones*
Adoption of the new regulations will incorporate the existing Avalanche Hazard Maps for use as an engineering and development tool.

Response: The department confirms that the existing avalanche hazard maps will be used as a subdivision design tool with the adoption of the new code. However, the department recommends adding the following clarifying language concerning the maps.

Recommendation: Amend to read "No lot shall be created, unless it is restricted to non-structural uses, that is completely in the "high hazard area", as identified on municipal avalanche maps [UNLESS IT IS RESTRICTED TO NON-STRUCTURAL USES] based on the 1982 Anchorage Snow Avalanche Zoning Analysis or on amendments to those maps reviewed and approved by the geotechnical advisory commission."

53. **Issue**: 030J.5., *Lot Dimensions*
On the hillside a flagpole lot of 300 feet may not be accessible by fire department and other emergency vehicles. With the threat of wildfire and the possibility that homes may be considered uninsurable without access and therefore ineligible for bank financing this distance seems to be extreme and may serve to create problems. In marginal areas this maybe something that should be seen as a variance rather than outright permitted and looked at on a case by case basis. It is a public safety issue. Keep it at 100 feet and extend the distance as an exception, not a rule. Keeping flag lots in check will help with cut and fill lot access that changes drainage patterns.

Response: The current code limit for flag pole length in the large lot districts (R-6, R-8, R-9, R-10, and R-11) is 200 feet (100 feet in all other districts). Variances are frequently requested on this issue and are rarely, if ever, denied. The fire department requires a turnaround once the distance exceeds 150 feet. They have no objection to changing the flag pole lengths to 300 feet and 120 feet respectively.

Recommendation: Amend as recommended by the platting board.

54. **Issue**: 030K., *Lot Frontage and Access*
Why was the previous draft language on driveway frontage eliminated?

Response: The language on driveway frontages in the previous draft has been moved to chapter 21.07 to make it generally applicable.

Recommendation: No action needed.

55. **Issue**: 030K., *Lot Frontage and Access*
Add that lots tracted out for open space will be made accessible to pedestrians. If we have open space lets not lock it in. If it has qualities for recreational use, even if just within a subdivision lets make it accessible. (Policy 48)

Response: The department supports this suggestion and proposes an amendment as follows:

Recommendation: Add to the end of K.1. "Lots tracted out for open space or for undevelopable areas such as wetlands shall be connected to a street by a 20 foot wide pedestrian access easement."

56. **Issue:** 030K.4., *Lot Frontage and Access*
Return cul-de-sac lot frontage width to 30 feet. This has been the standard for 30 years, is sufficient to construct utilities and driveways, and there is no justification to increase it.

Response: An increase in cul-de-sac lot frontage is desired by the Traffic department and the Street Maintenance Division because of issues with driveway widths, snow storage, and parking. In the non-snowy seasons, people park in the middle of the cul-de-sac. When there is snow, snow is often stored in the middle of the cul-de-sac, but if there is not enough distance between driveways along the cul-de-sac, then there is no place to park on the street. This is also the case if driveways take up too much of the lot frontage.

Recommendation: No action needed.

57. **Issue:** 030L.2., *Landscaping*
Delete this section—landscaping should be allowed to overlap with utility easements.

Delete this paragraph unless the MOA can show or document a compelling reason to substantiate this very expensive requirement. Other solutions like working with the utilities would be more equitable than basically increasing all easements by an arbitrary 50%. It would appear that an above ground easement, power line for example, should be treated differently than an underground waterline.

Response: When landscaping is planted in a utility easement, the landscaping is almost always either torn up or chopped down after a period of time when the utility company

needs to dig up or work on the lines. Trees grow relatively slowly in our northern latitude and cold climate and thus it takes years and years for a replanted tree to reach maturity, only to have it removed again when the utility must again dig up or work on the utility lines. The department proposed, and the platting board recommended an amendment that allows complete overlap of landscaping and utility easements if the utilities are placed in a conduit or utilidor of sufficient size to reduce the risk of land disturbance if repairing, replacing, or upgrading utility lines. The best solution to this problem is to place utility lines in the right-of-way.

Recommendation: Amend as recommended by the platting board.

58. **Issue**: 030N., *Electrical and Telecommunication Utilities*
This paragraph is in conflict with 040G. and this paragraph should be deleted.

Response: Transmission easements (discussed in 030N.) and service easements (mostly discussed in 040G.) are different. The utility companies, especially Chugach Electric, have followed the rewrite closely and submitted comments regularly. They do not perceive a conflict between these two sections.

Recommendation: No action needed.

59. **Issue:** 030O., *General Subdivision Standards Are Minimum Standards*
More flexibility is needed.

The platting authority should have latitude to accept a design that for real and compelling reasons may contain portions that are less than the standards contained in title 21. That decision best rests with the platting authority.

Response: The standards in this chapter are minimum standards, and the variance process exists for those infrequent situations when the minimum standard cannot be met. If the platting authority could easily reduce the minimum standards (without the formal variance process), then there is little point in having minimum standards, and the platting authority could just consider each plat on a case by case basis. However, there would be no predictability and no consistency in that situation, and consistency and predictability are two things that the development community has indicated they want in the code.

Recommendation: No action needed.

60. **Issue**: 030O.1., *General Subdivision Standards Are Minimum Standards*
Add to end of section: "…<u>and support the policies set forth by the Comprehensive Plan</u>."

Response: Conformance with the comprehensive plan is one of the approval criteria for plats (in chapter 21.03).

Recommendation: No action needed.

61. **Issue:** 040C., *Walkways*
Do not set specific width standards for walkways. Let the use, context, and terrain dictate sustainable walkways. Some would be too wide at 10 ft or even 6 ft for paved walkways. In many instances these widths are unnecessarily wide in rural subdivisions or wilderness areas.

Response: Planning staff is working with the trails coordinator to resolve this issue.

Recommendation: HOLD

62. **Issue:** 040C., *Walkways*
This section calls for a dedication of ped walkways to be 10 feet wide, with six feet of paving if it is paved. I suggest 20 feet for off-road walkways on slopes or if they connect to parks and open spaces, because there is a need for that extra width on most steep or irregular tracts (e.g. Hillside) where these trails are most likely. Check with Non-motorized Coordinator : I recall she has requested 20 feet in past instances.

Response: Planning staff is working with the trails coordinator to resolve this issue.

Recommendation: HOLD

63. **Issue:** 040C., *Walkways*
States, "The minimum width of a walkway dedication shall be 10 feet. If the walkway is paved, the paving shall be a minimum of six feet wide". Perhaps the difference between a walkway, sidewalk, or trail is so subtle that I can't understand it, but you have to get some consistency and co-ordination between this section, trails at page 12 on lines 7-8, and page 19 in the Table after line 8. In this section on walkways, Draft #2 walkway minimums were 20 feet minimum with a 4 foot minimum paved width. We recommend a minimum paved width of 5 ft be stated here.

Response: Planning staff is working with the trails coordinator to resolve this issue.

Recommendation: HOLD

64. **Issue**: 040D.1., *Access to Chugach State Park, Community Use Areas, and Natural Resource Use Areas*
Request that this section require the Municipality to promulgate standard criteria and base maps for public trail and road access and keep same up to date.

Response: The criteria for trail and road access are laid out in this section, and in the Transportation and Connectivity section of chapter 21.07. The planning department keeps accurate subdivision maps that show any vehicular or pedestrian easements.

Recommendation: No action needed.

65. **Issue:** 040D.1.a., *Access to Chugach State Park, Community Use Areas, and Natural Resource Use Areas*
We need this access, but wording will end up with trails always being in the ROW because developers will take the easy way. But if trails are in the ROW, separate them from the road by at least 7 ft. Insert wording to give open space credit to developers for putting trails along interior lot lines because MOA surveys show people prefer that kind of trail experience. Insert wording that trails should be sited according to terrain and land use to be sustainable.

Trail design and pedestrian access should be required to be separate from roadways by a minimum of 7 feet.

Historical trails should be given as much weight as possible as they enhance property values and are critical in preserving and protecting neighborhoods (policies 13, 36, 37). Creative designs incorporating these uses are both desirable and favored by the Comp Plan.

This section forces subdividers to put trails in road ROWs despite the higher property value, public safety value, aesthetics, and possible cost savings, of trails along natural settings or features. It runs contrary to the Areawide Trails Plan intent to create linear greenway or greenbelt trails in a network from neighborhoods to parks, schools, and open spaces. If trails are connecting to these areas, they should be off the road, whenever possible. The recent draft of the Sub Area plan for the Hillside says: "It is the recommendation of the Study that trails should be make complementary to development and not located along roads. Locating trails in open spaces between subdivisions to allow connectivity in a natural setting is preferable and safer since trail users will not need to contend with snow clearing/storage operations and proximity to vehicles." Please consult with the Non-Motorized Trails Coordinator and national experts like Troy Duffin; and then revise this section along with Section .050I (standards for improvement) and Section .060D7 (who pays) and add some language on development credits to create incentives, not disincentives, for trails aligned in natural settings or along greenway corridors.

Suggested language, as a start: "The platting authority shall require the dedication of an easement for a trail designated on municipal plans in the approximate existing location, maintaining a non-road setting if that is the original setting. Trails in non-road settings may qualify as open space or as fulfillment of connectivity requirements in lieu of neighborhood road connections. Trails may not be located where their construction would impair or conflict with natural drainage (e.g. wetlands or immediately adjoining a stream). If an existing trail in a roadless area is located next to a new road way, the quality and safety of

the trail shall be preserved by separating it from the road edge by at least 7 feet, and minimizing the number of intersections and driveway crossings."

Response: This section will not result in trails always being along a road. If there is already a road going to the park, of course it makes sense to locate the pedestrian access in the road right-of-way. But usually there is not a road going to the park, and the requirement is only for a 20 foot wide pedestrian access easement. There would be no reason to dedicate a 60 foot road easement when only a 20 foot pedestrian easement is required. The Tonjuss Estates subdivision has a good example of a pedestrian access easement between two side lot lines. The language in this section was suggested by the Chugach State Park Access Coalition.

The exact location of the trail easement will be determined during the platting process, at which time it will be confirmed that the easement is appropriately located with regards to constructability, drainage, safety, etc…

Recommendation: No action needed.

66. **Issue:** 040D.1.a., *Access to Chugach State Park, Community Use Areas, and Natural Resource Use Areas*
Revise the very excessive 20 foot wide public easement to a more reasonable 10 foot wide.

Do not require pedestrian easements to be a minimum of 20 ft. Perhaps use the word "generally" but terrain, context, and use should dictate the necessary easement dimensions. One size does not fit all when making a sustainable trail or walkway over steep terrain. Ensure that easements are clearly marked as public ROW, especially in cases where the access may not be constructed immediately. This will help ensure the easement doesn't get built over or disappear.

We wonder why one would want to make this the width of a roadway, thereby actively encouraging motorized abuse. This trail will be taking you into a natural and pristine environment, inviting abuse by its remote location as we know so well by current events. Don't require an impervious surface, and change the easement width to 10 feet maximum.

Response: A 20 foot wide easement is appropriate for a couple of reasons. One is that the terrain may be sloped or rugged enough that an easement of that width is necessary to accommodate a usable trail. Another is that during the construction of the trail (not necessarily creating an impervious surface), heavy equipment may need to be used and could not be accommodated in a narrower easement. It is common for trails to have (removable) bollards placed at the access points to prevent unauthorized motorized use. A third is that the access should not be a tunnel between two fences. Twenty feet is the length of a parking space—not a particularly wide space.

Recommendation: No action needed.

67. **Issue:** 040D.1.b., *Access to Chugach State Park, Community Use Areas, and Natural Resource Use Areas*
Caution—this wording will result in NO roads dedicated or built to CSP boundary because there is NO adopted plan showing these entry points. Include as documentation for entry points the most current version of Chugach State Park Access Inventory as is mentioned in section 1.a. above. Leave flexibility in ROW standards, otherwise some rural access points might not get built as they might not be able to accommodate strict MOA road standards. Ensure that easements are clearly marked as public ROW, especially in cases where the access may not be constructed immediately. This will help ensure the easement doesn't get built over or disappear.

Add Chugach State Park Master Plan here and don't accept proposed addition of "municipal" before "plan". Make the developer construct the vehicular access and add a provision for requiring limited parking facilities.

Response: Currently the Chugach State Park Access Inventory does not identify which access points are appropriate for vehicles and which are only appropriate for a pedestrian easement. It is unreasonable to require a vehicular access easement in all situations. Either through the Hillside District Plan, or future revisions to the Access Inventory or the municipal Trails Plan, appropriate vehicular access points will need to be identified. When that has happened, the code accommodates dedicating vehicular access. But the code should not require vehicular access everywhere before it is known that vehicular access is appropriate.

Municipal road standards are created to ensure a safe road. If a road cannot be built to minimum municipal standards, it seems likely that no road should be built.

The department believes that parking facilities for the state park should be provided by either the park or some form of government. While it is reasonable to require a subdivider to provide some access to public facilities adjoining their property, the burden of accommodating and constructing elements of those facilities for the use of others should not be placed on the subdivider/developer.

The department is still considering a recommendation for the appropriate timing and responsibility for constructing any required vehicular access.

Recommendation: HOLD

68. **Issue**: 040E., *Riparian Protection and Maintenance Easements*
In all cases a minimum of 50 feet should be the minimum setback from creeks and kept in an undisturbed manner.

Response: The stream setback provisions are in chapter 21.07. The department has proposed increasing the setbacks in the R-6, R-8, R-9, I-1, and I-2 districts from 25 feet to

50 feet. Due to the fact that the vast majority of land in the remaining districts is already developed, the department recommends retaining the 25 foot setback in the other districts, except the R-10 where the department recommends retaining the existing 100 foot setback.

Recommendation: No action needed.

69. **Issue:** 040E.1., *Riparian Protection and Maintenance Easements*
This paragraph is in conflict with 050M.4. This requires an easement across private property for MOA maintenance and 050M. indicates maintenance will only be performed on MOA lands. If the MOA is not going to maintain the property they do not need an easement therefore paragraph E.1. should be deleted.

Response: A drainage easement and a riparian easement are not the same thing. The riparian easement exists "to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions provided by stream and river corridors…" (21.07.020B) and is intended to be left generally in its natural state. A drainage easement exists to provide access to a drainage structure, which as a constructed object, may need maintenance or repair. It is possible that a drainage easement may cross a riparian easement. There is no conflict between the two.

Recommendation: No action needed.

70. **Issue**: 040E.5., *Riparian Protection and Maintenance Easements*
Delete entirety. Credit for open space should not be given for the dedication of riparian corridors. This is not developable land and in many instances it is not attractive for recreational use. This area is to be PROTECTED by the setback not used to meet the minimum open space requirements. The wetlands exist at the time of purchase by the developer and are to be exclusively protected.

Response: The purpose of open space set-asides can be to create usable recreational space, but can also be to protect lands for environmental reasons. The department considers riparian corridors to fulfill one of the purposes of open space.

Recommendation: No action needed.

71. **Issue**: 040F.1.a., *Sites Designated*
If I read this correctly, the city may be required to purchase wetlands as reserve tracts. If wetlands are not developable why would the city be interested in purchasing them?

Response: From time to time the city will determine that leaving a certain area of land undeveloped is in the best interest of the whole citizenry. If that land is in private ownership, it may be reasonable for the city to purchase the property so that the economic burden of non-development does not fall on a single individual. This country's long history

of private property rights gives a private property owner the expectation of the ability to develop his or her land in some way. If that expectation is removed, it is reasonable to compensate that person, by purchasing that property.

Recommendation: Amend as recommended by the platting board.

72. **Issue:** 040F.2.a., *Time for Acquisition*
Move time frame back to 24 months. This may allow for public and private funds to be collected for purchase. It is difficult to raise public awareness and to move the city administration in purchasing parcels. Park bonds are rarely passed.

Response: The reserve tract provision has not been used very often in the past, and while the department has some concern that 15 months may not be enough time to complete the process within the government, there is an overriding concern of inconvenience to the affected property owner if the time period is increased to 24 months. The department proposes to change back to the current provision of 15 months.

Recommendation: Amend as recommended by the platting board.

73. **Issue:** 040F.2.c., *Time for Acquisition*
Section only requires the municipality to pay two years worth of taxes to the land owner to hold a parcel in abeyance. This section does not give consideration to interest, loan payments, or loss of use over that two year period, should the municipality not purchase the property. Request that a payment schedule be required for compensation of projected loss to owner. Allow land owner to run concurrent plat in case land isn't purchased by MOA, and/or waive municipal fees on a later platting action.

The MOA should either act more quickly on taking the reserve tract or make a larger payment than just the accrued property taxes. At a minimum it should be 200% of the property taxes per annum.

Response: The department supports the platting board's recommendation to retain the 15 month acquisition timeframe rather than extending it to 24 months, in order to reduce the burden on the property owner. This process has been used infrequently.

Recommendation: No action needed.

74. **Issue**: 040G.1., *Utility Easements*
Replace "…are extenuating circumstances that warrant…" with "…is a specific need that warrants…". This is consistent with the language in other paragraphs and more accurately reflects our intent to demonstrate the specific need for the easement.

Response: The department has no objection to this language proposed by Chugach Electric.

Recommendation: Amend as proposed above.

75. **Issue**: 040G.3.a.-c., *Utility Easements*
Replace with "Utility easements along rear lot or side lot lines where primary voltage conductor is placed shall be at least ten feet wide, or a total of 20 feet wide along adjoining lots". And under Paragraph G.3.b. replace with "Utility easements along rear lot or side lot lines where service voltage conductor is placed shall be at least five feet wide, or a total of 10 feet wide along adjoining lots". The old language was developed for overhead systems where a radial primary overhead line would be placed along the back lot line and streetlight conductor would be installed down the side of the lots. Now, with underground systems, a looped arrangement is required so that for back lot line construction we are required to bring that primary back out to tie into the main circuit that usually is along the road. This often means bringing primary voltage cable down a side lot-line. Under Paragraph G.3.c. replace "ten feet wide" with "consistent with the requirement noted in the Utility Corridor Plan". The Utility Corridor plan has diagrams indicating easement width requirements for type and voltage of construction.

Response: The department has no objection to the language proposed for G.3.a. and G.3.b. In section G.3.c., the word “generally” gives enough flexibility for this provision, so the department does not recommend a change.

Recommendation: Amend sections G.3.a. and G.3.b. as proposed above.

76. **Issue:** 050A.3., *General Requirements*
Delete “Lots in subdivisions shall not be eligible for building permits until the improvements included in this section have been accepted for warranty by the municipality.” It can take months to get all the paper work completed to get a project under warranty. As-builts take several submittals to be accepted, utility companies drag their feet issuing completion letters, and minor items such as seeding often carry over to the next spring. The municipality has performance and warranty guarantees to ensure these items are completed. Waiting until a project is under warranty to get a building permit is an unreasonable requirement that will add thousands of dollars in cost to a development.

Request that lots which, by state law, may be sold can obtain building permits.

This doesn’t address the fact that one building permit would always be allowed for the lot/tract that is being subdivided.

Response: The department of project management and engineering is in the process of modifying their business practices to avoid delays to the developer. However, this proposal attempts to address a serious problem. Currently builders are allowed to construct and sell houses not only before the improvements are accepted for warranty, but in some cases, before the plans for those improvements have been approved. The end result is families

living in homes where the road is not paved, the drainage is not approved, and other needed improvements have not been installed. An estimated sixty percent of the complaints received by the private development division are from residents whose subdivision improvements have not been completed. In once case, it took seven years for the subdivider to install the required street lights.

When the subdivider is able to sell lots to a builder before their improvements are finished, they no longer have any incentive to complete those improvements, and they have basically transferred their responsibility to the builder. It should be noted that this provision does not prohibit selling a lot—it prohibits getting a building permit.

There is serious concern in the development community about this provision. The department is working with staff of the project management and engineering department to explore other options that could address this problem. Some change is vital to ensure that the required improvements, for which the municipality will eventually be responsible, are installed in a proper and timely manner, but the department does not have a recommendation at this time.

Recommendation: HOLD

77. **Issue:** 050C., *Improvement Requirements by Improvement Areas*, Table 21.08-2
Request deletion of landscape requirements for class B areas.

Response: In the landscaping section of chapter 21.07, there are infrequent situations where a subdivision in a class B improvement area may be required to provide landscaping. In such situations, it is appropriate for the subdivider to be responsible for providing the landscaping, in the same way a subdivider in a class A improvement are would be.

Recommendation: No action needed.

78. **Issue**: 050D.1.b., *Determination of Average Daily Trips*
The revised language proposes "…or other acceptable estimates approved by the traffic engineer". The Traffic Engineer's acceptable method of estimating trip generations should be made public and be made part of Title 21. It would be extremely unfair for the Traffic Engineer to approve one method for one project and a different method for another project.

Response: The ITE manual is the industry standard for determining trip estimates, and is currently used for trip generation estimates for commercial and industrial uses and in TIAs. The proposed language provides some flexibility if a developer feels the estimates of the ITE manual are inappropriate for his or her project.

Recommendation: Amend as recommended by the platting board.

79. **Issue:** 050D., *Interior Streets*, Table 21.08-3
The width of the rights of way should be 50 feet. There is no reasonable justification to make the rights of way wider than 50 feet.

For streets with ADT of 1000-2000 there should be an optional street section of 33 feet wide from back of curb to back of curb. The street would contain two (2) moving lanes and one (1) parking lane. This street section would apply to single loaded streets, i.e., streets with lots on only one side of the street.

Request that minimum right-of-way widths of 40 to 50 feet be established for single loaded streets on slopes of 30% or more and for conservation subdivisions with 500 or less average daily trips.

Response: The planning department has long supported allowing narrower residential street widths, but the issue involves many different municipal agencies, including Street Maintenance, Traffic, Project Management and Engineering, and Development Services. The department is in continuing dialogue with these departments on this issue, but resolution will not be reached within the next few weeks. Therefore the department has proposed retaining the existing code provisions but may propose revisions at a later date.

Recommendation: No action needed.

80. **Issue:** 050D., *Interior Streets*, Table 21.08-4
Strip paved streets: will these require sidewalks? Please consult with Non-Motorized transp. Coordinator. Add language: Require separated ped pathway on any street with more than 500 trips per day.

Response: The requirement for sidewalks is determined by the improvement area classification, not the type of street construction.

On the issue of whether or not sidewalks shall be separated from the road, the department generally supports having separated sidewalks. However, due to potential issues of topography, right-of-way width and characteristics, existing utility placement, and the patterns of existing development, the matter must remain flexible and be determined on a project by project basis. Thus a requirement should not be codified.

Recommendation: No action needed.

81. **Issue:** 050D., *Interior Streets*, Tables 21.08-5 and -6
Questions: What is the annotation (v)?
What are Class B Commercial streets? These are not indicated on Table 08-1.

Response: Although nobody is quite sure, the general consensus is that the (V) in table 21.08-5 (which is carried forward from current code) refers to “Vertical Curb”.

As the one rural commercial district (B-4) and the one rural industrial district (I-3) are proposed to be eliminated for lack of use, table 21.08-6 is no longer necessary.

Recommendation: Amend to delete table 21.08-6: *Class B Commercial/Industrial Streets, Minimum Standards*.

82. **Issue:** 050E.1., *Optional Residential Interior Streets*
If spillover parking is provided on site, why the requirement to build 60 foot right-of-way widths? Request that table 21.08-4 be used to allow for 50 foot right-of-way widths.

Response: See response to Issue #79 and Issue #83.

Recommendation: No action needed.

83. **Issue**: 050E.2., *Optional Residential Interior Streets*
Delete the words "homeowners' association". This option would continue the pattern established by the authors of requiring homeowners association throughout the MOA. That is a personal preference not something indicated in the Anchorage 2020 plan.

Response: This section does not require a homeowner's association. It says that if the platting authority requires spillover parking instead of on-street parking, then the subdivision must have a homeowner's association to maintain the spillover parking. The use of this provision is generally proposed by a developer (not the platting authority) and is used when a developer is also proposing narrower streets.

Recommendation: No action needed.

84. **Issue**: 050E.3., *Optional Residential Interior Streets*
What is the total of off-street plus spill-over?

Response: This section allows spill-over parking to replace off-street parking, so there is no total of the two.

Recommendation: No action needed.

85. **Issue**: 050F.2.b., *Peripheral Streets*
If a ½ street is constructed, will it be safe to use?

Response: In practice, when an half-street is required to be constructed, the subdivider is required to pave two travel lanes and construct curb and gutter on one side. Thus half-streets are safe to use.

Recommendation: No action needed.

86. **Issue**: 050H., *Sidewalks*
It is good practice to locate sidewalks adjacent to residential streets in areas with sub-artic climates. This practice would allow for the same snow plowing equipment to maintain roads and sidewalks.

Collector and arterial roads should have detached sidewalks to increase pedestrian safety.

Response: The department generally supports having separated sidewalks. However, due to potential issues of topography, right-of-way width and characteristics, existing utility placement, and the patterns of existing development, the matter must remain flexible and be determined on a project by project basis. Thus a requirement should not be codified.

Recommendation: No action needed.

87. **Issue:** 050H.1., *Sidewalks*
Delete this and replace with "Cul-de-sac and loop streets carrying less than 300 average daily trips need not have sidewalks, unless the platting authority finds there is sufficient pedestrian trip volume to require sidewalks. Streets carrying from 300 to 1,000 average daily trips shall have sidewalks on one side of the street, consistent with surrounding sidewalk and walkway facilities. Streets carrying more than 1,000 average daily trips shall have sidewalks on both sides of the street." Sidewalk requirements should be in 21.08 rather than 21.07 and should maintain the current requirements, which serve the city well. The real problem is lack of winter maintenance, which is not a title 21 issue.

Response: The sidewalk requirement is in chapter 21.07, Development and Design Standards, where it proposes requiring sidewalks on both sides of all local streets in class A improvement areas. The department does not agree that our current requirements have proved satisfactory in the municipality. However, the department does agree with the change proposed in the first sentence regarding cul-de-sacs and loop streets, and will make those changes in chapter 21.07.

Recommendation: No action needed.

88. **Issue**: 050H.2., *Sidewalks*
Do not stipulate the specific material sidewalks should be constructed with. Instead, stipulate the conditions you're trying to achieve (e.g., durability, ease of walking, etc.). This way, any material that meets those conditions could be used and the city will not unnecessarily limit itself.

Revise to allow asphalt sidewalks (AC). In the late winter of 2006, a concrete sidewalk costs $5 to $6 per square foot and an asphalt sidewalk costs $2 to $2.50 per square foot.

Eliminate requirement of concrete and replace it with some standard for durability and function. There are recycled rubber sidewalks that are durable and much easier on the feet, sort of like running track surfaces.

Response: The department will need more time to research this issue more fully. The department does not support allowing asphalt sidewalks, as they quickly crumble and buckle, creating an inappropriate sidewalk surface.

Recommendation: HOLD

89. **Issue**: 050H., *Sidewalks*, Table 21.08-8
Revise to allow the option of a 7 ft wide AC sidewalk. Note this was indicated as preferred by the representatives of the handicap community because this width allowed the passing of motorized wheel chairs. Note also need clearer definitions of sidewalks vs. walkways.

Response: As the table gives minimum standards, wider sidewalks can be constructed. Definitions will be clarified in chapter 21.14 as noted in Issue #90.

Recommendation: HOLD

90. **Issue**: 050H., *Sidewalks*, Table 21.08-8
Add language for a wider path if it will be on only one side of the road and thus have 2-way traffic. Check with MOA Non-motorized Coordinator for recommendation.

Response: The department is working with the Trails Coordinator to create consistent definitions and standards for “sidewalks”, “walkways”, and “trails”, and will submit a recommendation shortly.

Recommendation: HOLD

91. **Issue**: 050I., *Walkways*
For 20-foot wide trail easements located off the roadway in natural settings, there should be some sort of credit for the higher public benefit of the alignment compared to a sidewalk. The trail easement is the important and valuable piece of the infrastructure. Signage could be required but construction could be minimal. Revise this requirement (consult Non-motorized Trails Coordinator).

Response: In general, the *Areawide Trails Plan* designates which trails follow a road alignment and which trails are located off the roadway. It is often the case that trails off the roadway are municipal trails through public lands (like the Chester Creek Trail and

Campbell Creek Trail). This section is in the Improvements section and its purpose is to state that when a walkway or trail is required (through the application of other sections of code), the walkway or trail must be built to the standards shown in table 21.08-8.

Recommendation: No action needed.

92. **Issue**: 050M., *Drainage System*
This section should include language to protect water quality and natural ecological function. Insert after the words surrounding the subdivision, "and shall protect the water quality and the re-charge of groundwater and surface watercourses…"

Response: The department has no objection to this language.

Recommendation: Amend as proposed.

93. **Issue**: 050M.1., *Drainage System*
What standard of treatment do you intend? Too vague. Consult with Watershed Management; and add a performance standard for treatment such as "removal of oils, debris, and sediments" . Please provide possible standards of treatment for non-point urban and suburban pollution based on what are other cities are doing to keep pet waste and fertilizers out of streams?

Response: Watershed management has reviewed and approved this section. Performance standards for treatment are handled through the *Design Criteria Manual*, state and/or federal requirements, and other policy documents of the watershed management division.

Recommendation: No action needed.

94. **Issue**: 050M.1., *Drainage System*
Delete the remainder of the sentence after "sanitary sewer;".

Response: It is very important to dissipate the energy of water being drained into streams to protect water quality, and prevent erosion of the stream banks and alteration of the stream channel from the force of the drainage.

Recommendation: No action needed.

95. **Issue**: 050M.3. and M.4., *Drainage System*
These paragraphs are in conflict with each other and with paragraph 040E.1. All three paragraphs should be combined into one consistent paragraph.

Response: See the response to Issue #69 and the proposed amendment in Issue #96.

Recommendation: Amend as proposed in Issue #96.

96. **Issue**: 050M.4., *Drainage System*
Change to read "The Municipality shall accept no responsibility to maintain any storm drainage structures except for those lying within a Municipal right-of-way or traversing municipally owned property. The municipality shall maintain drainage structures constructed in publicly dedicated drainage easements and in areas covered by permits issued by Government Agencies with sufficient width to allow access."

Quite often drainage improvements approved by MOA are constructed in privately owned land easements and within MOA, State, and Federal lands under permits from the Government agencies that control those lands. If MOA Public Works department does not maintain the drainage improvements within those easements and Government lands, who will maintain them?

Response: The municipality would still need an drainage easement to access drainage structures located on state or federal lands, no matter whether or not those lands were covered by permits. The department proposed language amending subsection M.4. for the platting board, but would like to clarify that language by proposing a different amendment below.

Recommendation: Amend 050M.4. to read "The municipality shall accept no responsibility to maintain any storm drainage structures, except for those lying within a municipal right-of-way, [OR] traversing municipally owned property, or constructed in a publicly dedicated drainage easement of sufficient width to allow access."

97. **Issue:** 050M.7., *Drainage System*
Request that footing drains only be required when soil conditions and hydrology of the area require such.

Delete "Unless waived by the municipal engineer…" and insert "Where required by soil conditions…".

Response: The requirement should be the norm unless waived, instead of being the exception when specifically required.

Recommendation: No action needed.

98. **Issue**: 050O.1., *Access to Public Water System*
All public water systems must now be dedicated to the municipality for operation. This effectively removes any competition by the private sector and represents a violation of the property owner's civil rights. Also a conflict between being installed according to the

state's requirements but if there is a connection to the municipal system, it must meet municipal regulations, which is an inherent conflict.

Response: The On-Site Water and Wastewater Program sees no conflict in and has no objection to this language (see comments provided in packet).

Recommendation: No action needed.

99. **Issue**: 050P.1., *Access to Public Sewer System*
Add a section (c) that acknowledges that even in areas slated for sewer connection, some site conditions such as bedrock or widespread shallow subsurface drainage may require a subdivider to install advanced on-site sewers rather than trench and disrupt the entire drainage system.

Response: The department needs to investigate this issue further.

Recommendation: HOLD

100. **Issue**: 050P.2.a., *No Access to Public Sewer System*
Need to insert minimum lot size required under AMC 15.65.

Response: Although the minimum lot size for on-site septic systems pursuant to title 15 applies whether or not it is referenced here, the department has no objection to adding a reference.

Recommendation: Amend 050P.2.b. to read "If the subdivision has no access to a public sewer system, the subdivider need not install sewer facilities. In such case, the minimum lot size requirements of AMC title 15 shall apply. A sewage disposal system…"

101. **Issue**: 050S., *Landscaping*
What is this exemption of the tree provisions? Please explain.

Response: The landscaping section of chapter 21.07 has a provision (titled "Trees") that requires new residential development to provide 165 tree landscape units per acre, some of which may be located in a separate tract, but all individual lots in a subdivision shall have at least one tree. As the subdivider is not necessarily the builder and may not know exactly where and how the house will be built, it is more reasonable to require the builder to install the trees required by that provision.

Recommendation: No action needed.

102. **Issue**: 060, *Subdivision Agreements*
This does not cover LRSA streets that are impacted by large developments especially in SE Anchorage. To leave the residents in this area in this type of a situation is wrong. In LRSA areas developers should be required to repair and upgrade access roads that support their subdivisions. This must be addressed in this re-write. To say the city has no control of LRSA's is a poor excuse. If roads are not improved and development allowed that compromises public safety the city is culpable. It speaks to public safety.

Response: The department does not agree that a developer in a LRSA should be responsible for streets they build in that LRSA beyond the period that developers in ARDSA are responsible for streets they build in ARDSA. The responsibility of the developer should be consistent in both areas. In ARDSA, after the warranty period is over, the municipality is responsible for the street. In the LRSAs, after the warranty period is over, the LRSA is responsible for the street. Municipal taxes are allocated to reflect this.

Recommendation: No action needed.

103. **Issue:** 060A.1., *Agreement Required*
Change to read "The municipality reserves the right to refuse to enter into a subdivision agreement with any subdivider who <u>has a subdivision in default</u> [FAILS TO COMPLY WITH THE CONDITIONS OF AN ACTIVE AGREEMENT], or whose account under another agreement is in collections." If a developer is having an honest dispute with the municipality over any issue this provision gives the municipality the ability to hold the developer hostage on any new projects. This is too much authority without due process. Subdivision agreements have a default section. It states "The Municipality may declare the Developer in default: (2) If the Developer has failed in any measurable way to perform its obligations under this agreement, provided the Municipality gives the Developer notice of the failure to perform and the Developer fails to correct the failure within thirty (30) days of receiving the notice; or if the failure requires more than thirty (30) days to cure, the Developer fails within thirty (30) days of receiving the notice to commence and proceed with diligence to cure the failure."

Request the reference to "any account" be changed to the specific development account. Question the relevance to development under consideration.

Can a subdivider avoid a bad record by doing business under several different corporate identities? What language can you propose to hold a subdivider accountable in this instance?

The entire sentence should be deleted. The sentence implies that because a subdivider fails to comply with a condition of an active agreement or because he/she may be delinquent in the payment of any account with the municipality the subdivider is at fault. That is not necessarily the case. As a matter of fact a subdivider may be in non-compliance with a condition of an active agreement and may be delinquent in the payment of an account because of ineptitude on the part of municipal officials and office procedures. Until

recently, it was not unusual for subdividers to receive invoices from MOA for expenses incurred in private development activity one year or longer after the occurrence of the event. Duplication of the same expense in an invoice was also not an unusual occurrence. Invoices showing inaccurate charges that belonged to other projects were also a regular occurrence. Municipal procedures have improved over the last year. But, just over month ago I received an invoice for Eagle Pointe Phase 10 that contained all the debits, but not one credit that had occurred three or four weeks before the first debit. I refused to pay the invoice. When last week I received a new invoice that invoice totally ignored the previous invoice MOA had sent me. The new invoice included the credit and only a minor debit. Should the Municipality have a case against a subdivider for delinquency of the payment of a legitimate specific account or because he/she fails to comply with the conditions of an active agreement the Municipality can always seek legal remedy. Nothing prevents the Municipality from doing that. **One of the main violator of Title 21 is the Anchorage School District (ASD).** As a matter of fact ASD refuses to enter into subdivision agreements. Since the School District is required to abide by Title 21 does this mean that School District will not be allowed to construct another school project within the Municipality. And, who will enforce that.

Add the following at the end: "A sub divider may dispute his billing and money owed to the municipality engineering department to the Building Board. Accounts filed to be heard by the Building Board can not prevent a developer from signing another subdivision agreement for another project."

Response: It has never been the municipality's practice or intention to refuse to enter into a subdivision agreement because of some irregularity in the subdivider's personal finances, nor would the municipality wish to apply this to a subdivider who has a single late payment or has minor compliance problems. The department proposed to clarify this by changing the language as shown in the platting board's recommended amendments. **This provision is intended to apply to chronic violators** and should not be a problem with capable developers. (PM&E is currently entering into a subdivision agreement with a subdivider who is in violation of twelve other agreements.) **It is important to note that accounts that are disputed are not sent to collections.** This will not solve the problem of a subdivider creating a new LLC for each subdivision, but it is a step in the right direction.

This section is being reviewed internally with the project management and engineering department, and a recommendation will be forthcoming.

Recommendation: HOLD

104. **Issue**: 060A.3.c., *Contents*
It is impossible for a subdivider to submit an accurate schedule for completion of improvements at that time. Timing of construction of improvements is a function of final approval of the design of the improvements, availability of contractors to request bids, contractors and sub-contractor schedules, etc. Construction schedule information should be submitted to the Municipality at the time the subdivider, its engineer, the contractor and the

Municipality meet at the pre-construction meeting. It is not unusual for a subdivider to enter into a subdivision agreement at a given time thinking that he/she can proceed with the project as soon as the plans are approved, only to be confronted with new situations whereby he/she will have to delay the project. Example of such circumstances include project financing difficulties, real estate market changes, etc.

Response: The department of project management and engineering is in the process of implementing a flat fee schedule which will be based on the time schedule of completing improvements. This current code provision does not demand an exact date for each phase of construction, but rather an overall schedule for completion.

Recommendation: No action needed.

105. **Issue**: 060A.3.j., *Contents*
This Section implies that the subdivider has developed sufficient information to provide details regarding the building that will be built on the lots that he/she is creating. That assumption is wrong. Subdividers are not necessarily builders, and for the most part they sell the lots to builders. The information on the lowest habitable floor should be submitted by the builder at the time a building permit is obtained.

Response: This current code requirement only applies when the development is within the floodplain. It is intended to show that it is possible to construct buildings that meet the requirements of the floodplain regulations. This comment has brought to light a mistake in the current code. "Regulatory floodway" is defined as the channel of the stream, and no buildings will be built in the stream. The intent is to apply in a floodplain, and the department proposes an amendment below to correct this error.

Recommendation: Amend as recommended by the platting board.

106. **Issue**: 060A.3.k., *Contents*
If the implication is to provide information on the methods of construction, the typical subdivider is unable to provide such information because the subdivider in not necessarily the contractor. If such information is needed, **and I don't believe that it is needed at the time of preliminary plat submittal**, it should be supplied by the engineer at time of plan approval and/or the contractor at the pre-construction meeting. The Municipality does not need the information at the time of plan review and approval. It is up to the contractor to use whatever method of construction he plans to use taking into consideration his equipment as long as he performs within MOA, State and Federal rules and regulations. Neither the subdivider nor the MOA should tell the contractor how to perform the work. Doing so, may take legal liability away from the contractor and place it in the subdivider or MOA.

Response: This current code provision is not requiring the subdivider to specify the model of earth moving machine, but rather to inform the municipality of generally how they intend to do their work, so that the municipality may comment. For instance, if a subdivider needs

to get access to a water line that is across Minnesota Drive, they need to tell the municipality how they intend to get access to the line. Closing Minnesota Drive has different ramifications from boring under the road.

Recommendation: No action needed.

107. **Issue**: 060C. and D., *Time Limit for Completion of Improvements* and *Payment of Costs of Required Improvements*
This section needs to address PHASING OF PUBLICLY-FUNDED INFRASTRUCTURE. Does the MOA get forced into paying for part of the lead-in streets to a new subdivision even if these roads are not priorities? Would a big development in upper Rabbit Creek Canyon require the MOA to put up money for 2 miles of collector road ahead of projects on the list for more-developed parts of town? How can the city avoid getting drawn into funding outlying infrastructure if it truly has an intent to build a compact city with investments in infrastructure in town centers and transit corridors?

Response: The municipality only reimburses a developer for the cost of constructing a collector or arterial if the street is programmed in the six year capital improvement program. If the street project is not on the CIP, the developer will not be reimbursed for its construction. Thus the municipality is not forced into paying for some of these projects—instead the city selects, through the CIP process, which projects to fund.

Recommendation: No action needed.

108. **Issue:** 060C.1., *Time Limit for Completion of Improvements*
Allow three years for the completion of improvements, rather than two, along with three year time extensions. The shortage of engineers and contractors has increased both design and construction time. The permit process is more complicated and takes more time. Construction often takes two seasons. A longer time will mean fewer time extensions. Also delete Assembly hearing any time extensions, as that is not needed. Platting board should hear all extensions.

Change “two years” to “three years”. The city is so screwed up that nothing can get done in two years any more.

Response: One of the proposed changes in the title 21 rewrite for this chapter is to make the first time extension on a subdivision agreement administrative. This will ease the process for a subdivider. Also, the limit on the number of extensions has been removed. The department has no objection to removing the Assembly from hearing any time extensions. The municipality feels that these changes are sufficient to address the issue.

Recommendation: Amend as recommended by the platting board.

109. **Issue**: 060C.1., *Time Limit for Completion of Improvements*
This section now permits the "director", and not PM&E, to modify conditions placed by the platting board. In the event there is a dispute between the owner and the Director we request that redress before the platting board be within 30 days of the Director's decision.

Response: This section specifically says "The director does not have the authority to modify conditions placed by the platting board."

Recommendation: No action needed.

110. **Issue**: 060D.4., *Arterial and Collector Streets*
This section is too lengthy to write out but the entire intent has been changed from the original regulation by changing the title in this section from "Arterial and Collector Streets within Anchorage Roads and Drainage Service Area" to "Arterial and Collector Streets" and eliminating further references to ARDSA within the body of the text throughout. The original regulations were separate within ARDSA since they bonded for their share of the municipal cost while the other service areas, Girdwood, Eagle River, and the numerous limited road service areas were governed under what is shown in this re-write as 21.08.080.D.5 since they do not bond and provide a more limited service with a corresponding lower mill rate levy. **This is a major, major change** and will have an adverse impact on these other service areas. Please do not allow this without balloted voter approval.

Response: This section is being reviewed internally with the project management and engineering department, and a recommendation will be forthcoming.

Recommendation: HOLD

111. **Issue:** 060D.7., *Sidewalks and Walkways not Adjacent to Streets*
No walkways will get built except in ROW with this wording. See above for credits and incentives.

Revise so that subdivider doesn't have to pay for full trail construction if he dedicates and posts non-road alignments that serve as part of a neighborhood public access to parks, greenbelts and open spaces. (there is public desire to encourage the dedication of easements and not burden that gesture with high construction costs. Consult with Non-motorized Trails coordinator).

Response: This section identifies who will pay for the sidewalks and walkways when they are required through other provisions of code. It has nothing to do with when or where they are required. The department believes it is reasonable to require the dedication and construction of walkways in appropriate locations as identified in code provisions in chapters 21.07 and 21.08.

Recommendation: No action needed.

112. **Issue**: 060E.3., *Methods*
Deeds of trust on parcels of land should continue to be an acceptable method to guarantee the construction of required improvements as long as MOA is in first position in the deed of trust. Deletion of this method will increase the project cost and will unnecessarily tie financial resources the subdivider may need to construct the project. There is not a valid reason for this method not to continue to be used to guarantee the loans. Financial institutions use it including in the financing of land development projects. Use of performance bonds to guaranty the construction of improvements is extremely rare. As a matter of fact performance bonds are impossible to get unless the developer is also a contractor. Should developers be limited to just the escrow and the letters of credit as the only way to guaranty the construction of the improvements it means that the average developer will have to finance the project twice: to finance the construction of the improvements and to guaranty the construction of the improvements to MOA. This means that the development financial costs could double.

Response: As currently crafted, the deed of trust provision is not a reasonable warranty method. The costs and time for the municipality to redeem the deed of trust are extraordinary compared to other warranty methods. Most other performance guarantee methods take a week or less for the municipality to access the money. A deed of trust usually takes three months or more, and during that time, the municipality can't complete the improvements, even to fix an unsafe situation. For instance, it recently took the municipality all summer to access money from a deed of trust warranty, during which time the subject property was causing flooding on the adjacent properties.

This section is being reviewed internally with the project management and engineering department, and a recommendation will be forthcoming.

Recommendation: HOLD

113. **Issue:** 060F.1., *Release of Guarantee of Improvements*
Request that a time frame for releasing of guarantee be made here, i.e., 30 or 60 days.

Response: This section is being reviewed internally with the project management and engineering department, and a recommendation will be forthcoming.

Recommendation: HOLD

114. **Issue:** 060G.1., *Improvement Warranty*
Request that the municipal engineer provide substantiated proof that a deficiency is directly related to work or materials provided by the subdivider. The subdivider should not be held

responsible for work or damage performed by municipal or utility crews over the warranty period.

Response: Damage by municipal crews, such as snow plows, is corrected at municipal expense. The section states that the subdivider is responsible for damage caused by the subdivider, his or her agents, or others engaged in work to be performed under the subdivision agreement. If the damage is caused by utility crews, the subdivider should arrange for the utility company to correct the damage.

Recommendation: No action needed.

115. **Issue:** 060G.1., *Improvement Warranty*
Who reviews the landscape warranty? Is an engineer qualified to inspect this element? If not, revise the wording.

Response: It is project management and engineering department policy to have inspectors from the land use enforcement division of the planning department inspect for landscaping, because the enforcement officers are more qualified.

Recommendation: No action needed.

116. **Issue**: 060G.1., *Improvement Warranty*
It is critical to define when the warranty period begins. The warranty period should begin when the project receives a successful final inspection by the Municipality. Any paper work required to be submitted, including the as-built drawings, would be submitted to MOA during the warranty period. If the Municipality insists that the project will only enter into the warranty period after the paper work and as-builts are submitted, then the warranty period should be reduced to one year.

Response: This issue, while important to be clarified, is a policy issue, and should not be codified. All that is necessary and appropriate in the code is to state that the warranty period begins when the improvements are accepted, which is stated in this section.

Recommendation: No action needed.

117. **Issue**: 060G.1., *Improvement Warranty*
Change to read "Such warranty includes defects in design, workmanship, materials, and any substantiated damage to improvements caused by the subdivider…".

Response: This proposed amendment does not address the definition of "substantiated". For those defects caused by a builder, the issue must remain between the subdivider and the builder, with the subdivider retaining responsibility. If a municipal vehicle, such as a snow

plow, damages a curb or a sign, the municipality does not hold the subdivider responsible for that damage.

Recommendation: No action needed.

118. **Issue:** 060I., *Release of Warranty*
Request that a maximum of 60 days be allowed for the release of any securities held by the municipality.

Change "…monitored…" to "…inspected…". Change the last sentence to read "Upon final acceptance, the municipality will release the remaining security deposit within 30 days of the final on-site visit which the project was approved. The city shall pay the developer 18% interest on his deposit for any time that the municipality does not meet this standard." Also add "Within 30 days of the end of the two year warranty period, the municipality shall inspect the project and make a list of anything that needs to be corrected per the subdivision agreement. The city shall then re-inspect the project to verify that the corrections have been made with out adding any new items to the list of things to be fixed. If the city does not make any requested inspections within 2 weeks of a request, the city shall pay the sub divider 18% interest on the projects bond, or letter of credit during this time of non performance. This interest payment shall be paid monthly, just as the municipality charges monthly; it shall also make payment monthly."

Response: The department has no objection to changing "monitored" to "inspected". The issue of releasing the security deposit is being reviewed by the Project Management and Engineering Department, and a recommendation will be forthcoming.

Recommendation: Amend to read "All deficiencies <u>identified in the warranty period</u> shall be corrected, <u>inspected,</u> [MONITORED,] and approved prior to release of the warranty security."

119. **Issue**: 060J., *Default*
MOA must be precluded from introducing new requirements affecting a specific project after that project has received design approval. Should any municipal standards change after the project received design approval the project should be committed to the standards under which it was approved, not the standards that MOA may have introduced afterwards.

Response: The subdivision agreement that has been signed by the municipality and the developer is the basis for the standards that the developer must meet.

Recommendation: No action needed.

120. **Issue**: 060K., *Agency Coordination*

Why does the municipal engineer have discretion to overrule other agencies who report violations. Should the "may suspend" be "shall suspend" approval?

Response: This new section was proposed to give the municipal engineer authority to suspend approval of a project when a concern is raised by another agency, even if the concern is not a violation of municipal code. Rather than attempting to give the municipal engineer the power to "overrule" other agencies, it is trying to give him or her the flexibility to stop work to address problems brought to light by other agencies.

Recommendation: No action needed.

121. **Issue**: 070, *Conservation Subdivisions*
Staff provided a line by line comparison of cluster housing (current code) as opposed to conservation subdivision (proposed code). I'm not sure what question arose during any work session but if it was important enough for the Plat Board to ask for it, I think the PNZ should also have that same benefit. We are aware that the Platting Board will be the jurisdiction for subdivision development but you should have that overview for understanding and comprehension. We would like to point out how changes have progressed from the original re-write to this final re-write. We think the MOA may have gone too far in trying to get maximum utilization of the land.

Response: The comparison is attached to the end of this document.

Recommendation: No action needed.

122. **Issue**: 070, *Conservation Subdivisions*
This section is misnamed. If it doesn't change in policies, change the name to the "80-percent urbanization subdivision" or something that reflects that 4/5ths of the subdivision is open for grading, filling, and a complete makeover of the original natural setting.

Response: Considering that without doing a conservation subdivision, 100% of the area is open for grading, filling, and a complete makeover of the original natural setting (unless in a steep slope area), it seems that retaining at least 20% is a benefit. It should be noted that 20% open space is the minimum. If a subdivider creates 3,000 square foot lots instead of 6,000 square foot lots, there would be 50% open space in the subdivision.

However, in view of the issues raised about conservation subdivisions on steep slopes and the fact that the current cluster housing provisions require 30% open space, the department recommends increasing the minimum required open space to 30%.

Recommendation: Amend 070F. to read "…under no circumstances shall the amount of common open space provided by less than <u>30</u> [20] percent…".

123. **Issue**: 070B., *Applicability*
States, "The conservation subdivision option may be used on any parcel with a minimum of at least two acres in any residential district is which single-family housing is permitted…" In Draft #1, this was 10 acres and only applied in R-1 thru R-6, R-9, and R-10. In Draft #2 it was again reduced to 5 acres and applied in any residential district. Now they say any residential district and a 2 acre minimum. Too much.

Response: The conservation subdivision option is proposed to be available in any district that allows detached single-family residences. If a developer with two acres in the Abbott area wants to create "cottage housing" on small lots, thus reducing the infrastructure costs and leaving some open space, the department doesn't see a problem with that.

Recommendation: No action needed.

124. **Issue**: 070D., *Reduction in Minimum Lot Area Allowed*
This makes reference to 21.06 and we don't know if further changes have taken place or not. Review this section when chapter 6 is finally before us for public hearing so we can make informed comment.

Response: The dimensional standards (chapter 21.06) for the residential districts are remaining essentially as they are in the current code. As mentioned earlier, changes can later be made to these four chapters if called for by changes in the other chapters.

Recommendation: No action needed.

125. **Issue**: 070D.4., *Reduction in Minimum Lot Area Allowed*
The maximum floor area ratio of 0.5 would allow a 5,000 ft-sq ranch foot house on a 10,000 foot lot on a steep hillside slope. This is not a "conservation" footprint. Reduce the maximum floor-area-ratio for the large lot districts.

Response: The footprint of a structure is restricted by the lot coverage provision, so a 5,000 square foot house on a 10,000 square foot lot could not be ranch style (all one floor), because 50% lot coverage is not permitted. In the R-6, a conservation subdivision would allow the lot coverage to be increased from 30% to 40%. In the R-8 and R-9, the lot coverage could be increased from 5% to 15%. The floor area ratio governs the total bulk of the structure.

Recommendation: No action needed.

126. **Issue:** 070.D.5-6., *Reduction in Minimum Lot Area Allowed*
Delete both these provisions. They are not necessary or appropriate for a conservation subdivision.

Response: The conservation subdivision process does not place any limits on the amount a subdivider can reduce the size of a lot. But in order to control some of the impacts of potentially having very small lots, these provisions are important. Vertical curbs will help discourage paving over a whole front yard, and limiting the driveway width also discourages paving over a whole front yard while also leaving space for on-street parking.

Recommendation: No action needed.

127. **Issue**: 070D.8., *Reduction in Minimum Lot Area Allowed*
Hard to evaluate this without knowing what Level 4 Landscaping is. But if the intent is to protect low-density neighborhoods from denser cluster-type neighborhoods, replace "average" with "adjoining" lot size, and reduce the threshold to adjoining lots that are 133% larger. It's the direct neighbors that need the buffer and their lot size is what should trigger a buffer.

Response: Level 4 landscaping is described in the landscaping section of chapter 21.07. It is a 30 foot wide strip with requirements for a certain number of trees (some must be evergreen) and shrubs. As most subdivisions maintain a relatively consistent lot size throughout, the average of the lot size should be sufficient for triggering a buffer.

Recommendation: No action needed.

128. **Issue**: 070E., *Lot Coverage Allowed*
Since we don't know what the re re-write of 12.06 will be, please let us re-review this when all chapters are finally out for public approval. We also question the meaning, if this references 10% per each lot or 10% per conservation subdivision plat

Response: As mentioned earlier, changes can later be made to these four chapters if called for by changes in the other chapters. As lot coverage requirements are measured on a per-lot basis, this means that the maximum lot coverage on each lot may be increased by up to 10 percent.

Recommendation: No action needed.

129. **Issue:** 070F., *Minimum Open Space*
We are disappointed to see this percentage reduced from the proposed 35% in draft 1 of the Subdivision Standards. Policy 12 of the Anchorage 2020 Comprehensive Plan stresses the need for "adequate public or private open space, parks, or other public recreation facilities located on site or in close proximity to the residential developments." Open spaces are pedestrian friendly and create an environment that is more conducive to a physically active lifestyle. Creating a community environment that supports physical activity as part of an active life is one of four goals outlined by the Mayor's Task Force on Obesity and Health.

This is what makes the so-called Conservation Subdivision a false promise. Only 20 percent of natural terrain would be kept, and that could be fragmented in patches of as little as 2,000 ft sq. The effect would be no more than a well-landscaped urban parking lot, with a border and islands of open space. Return this to a minimum of 35 percent open space as in the previous draft. There has to be substantial open space benefit worth giving carte blanche re-shaping of the rest of the tract. MOA DHHS supports 35 percent open space retention. Add access provisions for "common" open space so that all the residents can benefit.

Draft #1 was 35%. Again, we think they have taken maximum utilization too far.

While the concept of Conservation subdivisions is a good idea it is apparent the 20% preserved for open space will not be adequate on the hillside to preserve natural drainage areas, natural contours, vegetation and opens this section to abuses. As we have seen in the past developers are required to save as many trees as possible and it just isn't possible to save any, so they say. Hillside areas may not be able to efficiently support this type of development based upon topography. The regulations need to be tightened especially requirement of a minimum of 20% natural or open, which allows 80% to be cleared. The Comp. Plan policies are clear in their opposition to this type of development. It would appear that this would conflict with other sections of the title and defy logic as we have seen how easily hillsides are impacted by clearing.

Response: See Issue #122.

Recommendation: Amend as proposed in Issue #122.

CHAPTER 13 COMMENTS

130. **Issue**: 010B., *Compliance Required*
Change to read "No person, including MOA and the Anchorage School District, shall develop or use any land…" This section is written as if it applied to private development activity exclusively. It is important to emphasize that MOA and School District projects are also covered by this section language.

Response: "Person" is defined in the definitions chapter (21.14) as "Any individual, lessee, firm, partnership, association, joint venture, corporation, or agent of the aforementioned groups, or the state of Alaska or any agency or political subdivision thereof." Thus "person" already includes the municipality and the school district and their specific inclusion is unnecessary.

Recommendation: No action needed.

131. **Issue**: 010E., *Continuing Violations*
Needs to provide for an extension if violation remains uncorrected for reasons beyond the violators control, i.e., a landscaping violation could not be reasonably abated in winter.

Response: Code enforcement officers work with violators to arrange the correction of a violation in a reasonable fashion and timeframe. Thus a landscaping violation would not be required to be abated until the planting season. Please note the flowchart of Public Enforcement Actions on page 7 which notes that after an enforcement order is issued, there is the option to request an extension of time to correct the violation, and the municipality generally only pursues damages or fines if the violator does not take corrective action.

Recommendation: No action needed.

132. **Issue**: 020A.2., *Private Enforcement Actions* and 060, *Procedures for Private Enforcement Actions*
Delete in its entirety. The MOA as a standard of care does not abdicate its authority to a private citizen or a community council. If the private citizens or community councils cannot convince the Director to act they should not be allowed to run amuck. It establishes or continues a very poor precedence. A developer could very well experience costs far in excess of the $1,000 covered in section 060F. While the section would appear to protect the entity filing a frivolous complaint of cost in excess of $1,000 it would not protect the MOA from action by the aggrieved party to recover their total damages. After all the frivolous complaint was filed in accordance with the MOA's Title 21. If the planning department does not delete this section at a minimum it should only be open to those with true standing in an issue.

Response: The Private Enforcement Action procedure was put into code in 1994 when the resources of the enforcement division were such that they could not process all the

complaints they received. This is no longer the case, but the potential for the same situation to arise is reason to leave this option in code. It should be noted that the procedure has only been used once to date, and the title 21 consultants have modified it to make it work better. Developers are protected from frivolous complaints because, pursuant to subsections D.1. and D.2., the director must confirm that the complaint is valid before serving notice to the alleged violator and forwarding the complaint to the hearing officer.

Recommendation: No action needed.

133. **Issue**: 030, *Violations*
We will need to watch all of this section, as per animals. C.6. discusses storage or maintenance of goods, materials, products, or other items outdoors including etc. being a violation. Again, this is fine if animals, housing, and equipment, etc., are allowed uses.

Response: Once the other chapters are in public hearing draft form, the department will confirm that all of the illustrative examples are still accurate.

Recommendation: No action needed.

134. **Issue**: 030C.6., *Illustrative Examples*
Delete the word "snow".

Paraphrased, this still says, "The outdoor storage of snow, intentional or otherwise, is prohibited". Give this its own separate line, like 6.b, and explain this applies in public R/W, parking lots, snow sites, etc. As written this implies I have to store my shoveled driveway snow indoors! Worse, this could outlaw the making of snowmen, or Rondy's snow sculpting.

Response: Paraphrased, this says that the storage of snow out of compliance with this title and other applicable regulations is a violation. In other sections of the rewrite, there are restrictions on storing snow in pedestrian walkways and required landscaping. There are also specific regulations for snow storage sites. Thus, storing snow in required landscaping, in pedestrian walkways, or maintaining a snow storage site that is not in compliance with the regulations would be violations. That said, this is an illustrative example and the situations noted above would still be violations if the word "snow" were removed from this section.

Recommendation: No action needed.

135. **Issue**: 040A.1., Deny/Withhold Entitlements
Change to read "…resulting from a previous final order related to such property, use, or development is corrected, or the zoning of the parcel of land has become formalized."

Response: The suggested language doesn't really fit in this section. Violations are not necessarily related to the zoning of a lot. If a violation is related to the zoning, i.e., a use illegally established in a district where it is not allowed, and the zoning was changed to a district that did allow that use, the use would no longer be a violation. If that is the intent of this language, it is not necessary.

Recommendation: No action needed.

136. **Issue**: 040A.4., *Civil Penalties*
What is the civil penalty amount based on? What are the values of the typical violations, and is $300 sufficient deterrent or just a cost of doing business? Can planning staff provide a comparison of fines in other cities? Please comment on this revised language: Fines shall be a minimum of $300 or equal to 150 percent of the percent of the value of the work done in transgression of the law.

Response: The fine schedule of civil penalties for violations of title 1 through title 26 are listed in AMC subsection 14.60.030, and the fines range from $50 to $1,000 for the various offenses, with the penalty for unlisted offenses being $300 as mentioned above. It should be noted that subsection 21.13.010E. states that each day a violation occurs or remains uncorrected constitutes a separate violation. Thus, fines, when imposed, are usually much greater than $300 because the violation has usually remained over a period of time, and the penalty is charged per day. There are many instances where the fines have been significantly more than 150 percent of the value of the work done (or not done) in transgression of the law. The department has not researched fines in other cities.

Recommendation: No action needed.

137. **Issue**: 040A.5., *Restoration of Disturbed Areas*
This paragraph is superseded by the Federal Government's SWWPP and should be deleted.

Response: This section is necessary to handle situations where there is no Storm Water Pollution Prevention Plan (SWPPP), or where the violator does something inconsistent with, outside of, or not foreseen by the SWPPP.

Recommendation: No action needed.

138. **Issue**: 040A.7.d., *Abatement*
States, "When charges for abatement remain unpaid after 30 days from billing,…" Please change to read, "When charges for abatement remain unpaid after 30 days from receipt of billing…" Between the regional post office and the postman, things can be delayed. Give the violator a safeguard. The Courts do.

Response: The municipality has no way of knowing when a person receives their bill—we can only be sure of when we sent the bill. A person could (intentionally or unintentionally) not pick up their mail and we would have no knowledge of that. This is a provision in the current code (21.25.070D.) that is rarely used and no one has complained about.

Recommendation: No action needed.

139. **Issue**: 050A., Emergency Matters
Add a new paragraph at end of section that reads "Individuals may bring similar violations pertaining to MOA or Anchorage School District projects to the attention of the platting board under an appearance request. Should the Board find merit on the matters brought by those individuals to the attention of the platting board, the Board shall direct the Platting Officer to take corrective action(s) in accordance with this section."

Response: Individuals may currently lodge complaints against the municipality or the school district is the same manner that they lodge complaints against private landowners, and the enforcement division processes these complaints in the same way. The platting board/Officer is not the appropriate body/person to handle complaints of code violations.

Recommendation: No action needed.

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	PB	ZBEA	BOA	UDC	MS
Assembly Alcohol Approval	21.03.050	D-H						R
Certificates of Zoning Compliance	21.03.060				A			D
Comprehensive Plan Amendments, Substantive	21.03.070C.	D-H	R-H					R
Comprehensive Plan Amendments, Cosmetic	21.03.070D.	D	R					R
Conditional Uses	21.03.080		D-H			A		R
Flood Hazard Permits	21.03.090				A			D
Land Use Permits	21.03.100			A [1]	A [1]			D
Master Plan, Institutional	21.03.110A.	D-H	R-H					R
Minor Modifications	21.03.120	D [2]	D [2]	D [2]	A		D [2]	D [2]
Neighborhood or District Plans	21.03.130	D-H	R-H					R
Planned Unit Development (PUD)	21.03.140							
Public Facility Site Selection (except schools)	21.03.150	A-H	D-H					R
School Site Selection	25.25	D-H	R-H					R
Rezonings (Map Amendments)	21.03.170	D-H	R-H				R *[3]*	R
Sign Permits	21.03.180				A			D
Site Plan Review, Administrative	21.03.190B.						A-H	D
Site Plan Review, Major	21.03.190C.					A	D-H	R
Street and Trail Review	21.03.200		R *[4]*				D *[4]*	R
Preliminary Plat	21.03.210C.5.		D-H *[5]*	D-H		A	D-H [5]	R
Final Plat	21.03.210C.6.			D-H *[6]*				D *[6]*
Abbreviated Plat	21.03.210D.			A-H				D

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	PB	ZBEA	BOA	UDC	MS
Title 21, Text Amendments	21.03.220	D-H	R-H	R-H [7]				R
Vacation of Public and Private Interest in Land	21.03.240	A-H [8]		D or A [8]		A [8]		R or D [8]
Variances [from most provisions of this title]	21.03.250				D-H			R
Variances [from the provisions of chapter 21.08, *Subdivision Standards*]	21.03.250			D-H		A		R
Variances [from the provisions of chapter 21.10, *Signs*]	21.11.110					A	D-H	R
Variances [from utility distribution and telecom-munication facilities standards]	21.03.250 D.2.b.		D-H			A		R
Verification of Nonconforming Status	21.03.260				A			D

NOTES:

[1] The appeal body for subsection 21.03.110E., *Improvements Associated with Land Use Permits*, is the platting board. Appeals related to provisions in title 23 are made to the building board of examiners and appeals.

[2] An applicant may request application of the minor modification process only once during the review process.

[3] The urban design commission shall review and make a recommendation on the establishment of a Neighborhood Conservation Overlay District.

[4] See section 21.03.200, *Street and Trail Review*.

[5] The planning and zoning commission may act as the platting authority for conditional uses that create a subdivision. The urban design commission may act as the platting authority for major site plans that create a subdivision.

[6] Final plats that differ from preliminary plats are decided by the platting board after a public hearing. Otherwise a final plat may be granted administrative approval.

[7] Code amendments relating to chapter 21.08, *Subdivision Standards*, require a hearing by the platting board. All code amendments require a hearing by the planning and zoning commission.

[8] See section 21.03.240, *Vacation of Public and Private Interest in Lands*.

KEY TO ABBREVIATIONS:

ASBLY = Anchorage Assembly
PZC = Planning and Zoning Commission
PB = Platting Board
ZBEA = Zoning Board of Examiners and Appeals
BOA = Board of Adjustment
UDC = Urban Design Commission
MS = Municipal Staff

Comparison of Cluster Housing (current code) and Conservation Subdivision (proposed code)

	Cluster Housing	**Conservation Subdivision**
Use	1 principal structure per lot max.	1 single-family structure per lot max.
		On any lot less than the min. area of underlying zoning district, principal structure shall have max. FAR of .5
Density	Max. dua varies by zoning district	
Lot coverage	Lot coverage for two common walls per dwelling unit-70%	Max. lot coverage may be increased by up to 10%.
	Lot coverage for one common wall per dwelling unit-50%	
	Lot coverage for all others-40%	
Setbacks	Setbacks in R-6, R-8, R-9, R-10: front 25'; side 10'; rear 20'	Front and rear setbacks may be reduced by half; Side setbacks may not be reduced
	Setbacks in other districts—as required by district	
Open space	30% of site area to be common open space (means for the common use and enjoyment of the owners and occupants of the subdivision; shared by all tenants and distinguished from space designated for private use)	At least 20% of site area to be common open space (COS); the amount of reduction in lot size of each lot shall be provided as common open space
	If any lots in subdivision are less than 6,000 sf, at least 600 sf per du of common usable open space (CUOS) shall be provided, as part of the common open space	
	CUOS—not less than 2,500 sf	COS—Not less than 2,000 sf
	CUOS—no roads, parking, driveways, storage, snow storage, service areas	COS may not be in an individual lot; no road right-of-way, utility easement
	CUOS—no dimension less than 30'	COS—No dimension less than 30'
	CUOS—no A or B wetlands; water bodies only if they contribute to recreation	
	CUOS—located within 1,000' of every lot in subdivision	

Comparison of Cluster Housing (current code) and Conservation Subdivision (proposed code)

	Cluster Housing	**Conservation Subdivision**
	CUOS—if less than 10,000 sf, slope shall be 5% or less; if more than 10,000 sf, up to 10% of CUOS may have slope exceeding 15%	
	CUOS—may be natural vegetation, landscaped, or paved to allow for active outdoor recreation	In class B improvement areas, COS must be undisturbed
Homeowner's association	Homeowner's Association required	Homeowner's Association or other organization to maintain COS is required
Landscaping	Buffer landscaping along lot lines adjoining a collector or greater street.	Level 4 landscaping (30') shall be provided along lot lines abutting residential districts where the average lot size is greater than 150% of the average lot size in the conservation subdivision.
Street standards		Vertical curbs required in class A areas
		Driveway width limited to 14' max. at curb
		If on-street parking is allowed, adjacent driveways shall be separated by at least 20'