

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

March 3, 2022

CANCELLED DUE TO LACK OF QUORUM

12:00 PM

This virtual meeting will be held by video and telephonic participation only. To join the webinar, paste this URL into your browser: <https://juneau.zoom.us/j/84368449266>. To participate telephonically, call: 1-346-248-7799 or 1-669-900-6833 or 1-253-215-8782 or 1-312-626-6799 or 1-929-436-2866 or 1-301-715-8592 and enter Webinar ID: 843 6844 9266. **CANCELLED DUE TO A LACK OF QUORUM**

I. ROLL CALL

II. APPROVAL OF AGENDA

III. AGENDA TOPICS

- A.** AME2022 0001: Amendment to the CBJ Land Use Code Title 49 to make pre-application conferences optional and not mandatory
- B.** AME2017 0001: Proposed revisions to the Juneau Coastal Management Program 49.70.310

IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS

V. ADJOURNMENT

Pre-application
Ordinance information
for further discussion.



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 155 S. Seward Street • Juneau, AK 99801

DATE: January 19, 2022
TO: Michael LeVine, Chair, Planning Commission
BY: Beth McKibben, Senior Planner, AICP *BME*
THROUGH: Jill Maclean, Director, AICP

PROPOSAL: The proposed ordinance would amend the CBJ Land Use Code Title 49 to make pre-application conferences optional, and not mandatory.

STAFF RECOMMENDATION: Forward the proposed ordinance with a recommendation of APPROVAL to the Assembly.

KEY CONSIDERATIONS FOR REVIEW:

- Pre-application conferences would no longer be mandatory, and would become optional.
- Staff notes that the pre-application conference is critical to make developers aware of challenges and opportunities within code.
- The pre-application conference provides developers with information on application submittal requirements, and if a developer opts out, then the application review period may be extended if applications are incomplete.

ALTERNATIVE ACTIONS:

1. **Amend:** modify the proposed ordinance and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed ordinance to the Assembly. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is required for this text amendment. The Commission's recommendation will be forwarded to the assembly for final action.

STANDARD OF REVIEW:

- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - 49.10.170(d)

The Commission shall hear and decide the case per 49.10.170(d) Planning Commission Duties. The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezoning, indicating compliance with the provisions of this title and the comprehensive plan.

GENERAL INFORMATION	
Applicant	City & Borough of Juneau
Initiated By	Housing & Development Task Force
Property Affected	Borough-wide

LAND USE CODE AMENDED	
49.15.310	Department Approval
49.15.320	Allowable Use Permit
49.15.330	Conditional Use Permit
49.15.401	Minor Subdivisions
49.15.402	Major Subdivisions
49.15.404	Public way vacations
49.15.410	Sketch Plat
49.15.620	Planned unit development review process
49.15.720	Cottage housing development review process
49.15.930	Alternative residential review process
49.60.130	Procedure
49.65.970	Special use permit applications
49.70.130	Concept review
49.70.1230	Alternative development procedure

DISCUSSION

Background – The Housing and Development Task force recommended to the Assembly to amend the Land Use Code making pre-application conferences optional, and no longer mandatory. The Assembly then moved the draft ordinance to the Title 49 Committee. The amendment clarifies that information provided in a pre-application conference is not binding. Making pre-application conferences optional may provide flexibility to applicants, and allow projects to move more quickly through the permitting process, if applications are complete and comply with the Land Use Code.

Pre-application conferences have been required for all major permits since 1987 when CBJ adopted an entirely new zoning ordinance. In 2014, CDD formalized the pre-application conference with a standardized template for conference notes. In 2018, CDD committed to providing applicants with complete pre-application notes within one week. Occasionally, there is a longer turn-around time, particularly when a proposal is complex.

Pre-application conferences are a service provided by CBJ at no cost. Representatives from Planning, Building, General Engineering, and Fire attend the conferences. The meetings provide the opportunity for an applicant to present a conceptual proposal and gain information about the permitting process and requirements of the various codes; zoning, building, engineering, and fire. This information guides the development proposal and sets the applicant up for success, providing them with information about the permitting process, options available, and materials required for a complete permit.

Sections Amended – A draft ordinance can be found in Attachment A. The proposed ordinance amends the following sections:

- 49.15.310, Department Approval – minor developments approved is amended to clarify that information discussed during a pre-application conference by either party is not binding, and a pre-application conference is not an approval by the department.
- 49.15.320, Allowable Use Permit – is amended to make a pre-application conference optional and not mandatory prior to submitting an application.
- 49.15.330, Conditional Use Permit – is amended to make a pre-application conference optional and not mandatory prior to submitting an application.
- 49.15.401, Minor Subdivisions – is amended to make a pre-application conference optional and not mandatory, and is also amended to clarify that information discussed during a pre-application conference by either party is not binding, and a pre-application conference is not an approval by the department.

- 49.15.402, Major Subdivisions – is amended to make a pre-application conference optional and not mandatory prior to submitting an application, and is also amended to clarify that information discussed during a pre-application conference by either party is not binding, and a pre-application conference is not an approval by the commission.
- 49.15.404, Public Way Vacations – is amended to make a pre-application conference optional and not mandatory, and is also amended to clarify that information discussed during a pre-application conference by either party is not binding, and a pre-application conference is not an approval by the department.
- 49.15.410, Sketch Plat – may be required at the Director’s discretion at the pre-application conference for both minor and major subdivisions.
- 49.15.620 Planned Unit Development Review Process – is amended to make a pre-application conference optional and not mandatory prior to submitting an application.
- 49.15.720, Cottage Housing Development Review Process – is amended to make a pre-application conference optional and not mandatory prior to submitting an application.
- 49.15.930, Alternative Residential Subdivision Review Process – is amended to make a pre-application conference optional and not mandatory prior to submitting an application.
- 49.60.130, Procedure – Bonus Procedures – is clarified to state that the developer shall state their intent to apply for a bonus at the pre-application conference, if one occurs, to make clear the pre-application conference is optional and not mandatory.
- 49.65.907, Special Use Permit Applications, Wireless Communications Facilities – is amended to make a pre-application conference optional and not mandatory.
- 49.70.130, Concept Review, New Growth Areas – is amended to make a pre-application conference optional and no longer required. This section is further amended to make the submittal requirements for the pre-application conference optional and not mandatory. It is also amended to clarify that nothing stated in a pre-application conference by either party is binding, and is also amended to clarify that information discussed during a pre-application conference by either party is not binding, and a pre-application conference is not an approval by the department.
- 49.70.1230, Alternative Development Procedure – is amended to make a pre-application conference optional and not mandatory prior to submitting an application.

Staff recommends that pre-application conferences remain mandatory for the following processes:

- 49.60.130, Procedure – Bonus Procedures;
- 49.65.907, Special Use Permit Applications, Wireless Communications;
- 49.70.130, Concept Review, New Growth Areas.

COMPLIANCE WITH TITLE 49

49.05.100 - Purpose and intent. The purpose and Intent of Title 49 Land Use Code is:

- (1) To achieve the goals and objectives, and implement the policies, of the Juneau comprehensive plan, and coastal management program;*
- (2) To ensure that future growth and development in the City and Borough is in accord with the values of its residents;*
- (3) To identify and secure, for present and future residents, the beneficial impacts of growth while minimizing the negative impacts;*
- (4) To ensure that future growth is of the appropriate type, design and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;*
- (5) To provide adequate open space for light and air; and*
- (6) To recognize the economic value of land and encourage its proper and beneficial use.*

TITLE 49 – The proposed text amendment complies with CBJ Title 49 Land Use Code. Additionally, the proposed amendment will not create any inconsistencies in Title 49.

COMPLIANCE WITH ADOPTED PLANS

2013 COMPREHENSIVE PLAN VISION: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*

2013 COMPREHENSIVE PLAN The proposed text amendment is consistent with some sections and inconsistent with other sections of the 2013 Comprehensive Plan.

Chapter	Page No.	Item	Summary
4	40	Policy 4.6	The proposed text amendment supports Policy 4.6 by streamlining the development review process. <i>Policy 4.6 TO FACILITATE AND ASSIST IN THE DEVELOPMENT OF AFFORDABLE HOUSING.</i>
10	134	Implementing Action 10.6 IA2	The proposed text amendment conflicts* with Implementing Action 10.6 IA2. <i>The CDD should improve the development review process to require all applications for major residential developments, including major</i>

2013 COMPREHENSIVE PLAN The proposed text amendment is consistent with some sections and inconsistent with other sections of the 2013 Comprehensive Plan.

			<i>subdivisions, to provide detailed site information at the pre-application stage of review that identifies existing on-site slopes, soil characteristics, natural hazards, drainage channels, locations of old growth trees, access to streets and public utilities, and existing buildings or historic resources, along with the proposed building(s) pads, lot configuration(s), drainage systems, and new road configurations. This pre-application review would focus the site and project analysis and would expedite the review process once the application is made.</i> <i>*49.05.200(b) The comprehensive plan adopted by the assembly by ordinance contains the policies that guide and direct public and private land use activities in the City and Borough. The implementation of such policies includes the adoption of ordinances in this title. Where there is a conflict between the comprehensive plan and any ordinance adopted under or pursuant to this title, such ordinance shall take precedence over the comprehensive plan.</i>
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2015 ECONOMIC DEVELOPMENT PLAN The proposed text amendment complies with the 2015 Economic Development Plan.

Chapter	Page No.	Item	Summary
2	22 & 23	Economic Development Planning	The proposed text amendment is in compliance the recommendations of the plan to employ strategies such as an efficient regulatory environment. <i>Local government building, zoning, and environmental regulations are intended to protect businesses, workers, public health, and the overall quality of life in a community. However, if not managed appropriately, development regulations and review processes can present lengthy and uncertain procedural hurdles for business.</i>

2016 HOUSING ACTION PLAN The proposed text amendment complies with the 2016 Housing Action Plan.

Chapter	Page No.	Item	Summary
7	47	Implementation Action	The proposed text amendment is in compliance with Chapter 7 Implementation Action, because it will help streamline permitting. <i>Action: Streamline/fast-track infill housing permitting.</i>

AGENCY REVIEW

At time of writing this staff report, no agency comments were received.

PUBLIC COMMENTS

At time of writing this staff report, no public comments were received.

FINDINGS

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision. The proposed amendment is generally consistent with the 2016 Housing Action Plan.

Finding: Yes. The proposed text amendment complies with the 2013 Comprehensive Plan and the 2016 Housing Action Plan.

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, it will be consistent with the above purposes, especially numbers 2.

Finding: Yes. The proposed text amendment generally complies with the purpose and intent of Title 49. Additionally, the proposed amendments do not create inconsistencies within the code.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment allowing pre-application conferences to be optional and not mandatory, recognizing that the pre-application conferences are an opportunity to make developers aware of challenges and opportunities within code, provide developers information on application submittal requirements, and if a developer opts out, the application review period may be extended if applications are incomplete. Furthermore, it is recommended that a pre-application conference remain mandatory for the following processes:

- 49.60.130, Procedure – Bonus Procedures;
- 49.65.907, Special Use Permit Applications, Wireless Communications;
- 49.70.130, Concept Review, New Growth Areas.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Proposed Ordinance
Attachment B	Housing and Development Task Force Draft Minutes – October 15, October 29, November 12, and December 10, 2021

Presented by:
Presented:
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-_____

An Ordinance Amending the Land Use Code Regarding Pre-Application Conference Requirements.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJC 49.15.310 is amended to read:
49.15.310 Department approval.

- (a) *Purpose.* The department shall review minor developments to ensure compliance with this title.
- (b) *Application form.* The director shall provide a minor development application form to be submitted as part of the application process for a building permit.
- (c) *Preapplication conference.* Prior to submitting an application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. No statement made by either party shall be regarded as binding, and the result of the conference shall not constitute approval by the department. A development application is not required to have a preapplication conference.

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Section 3. Amendment of Section. CBJC 49.15.320 is amended to read:

49.15.320 Allowable use permit.

- (a) *Purpose.* An allowable use permit is established for uses allowed in a particular zoning district but which, due to size, intensity or particular characteristics must be reviewed and approved by the planning commission. To ensure the compatibility of the use with the location, the commission may attach conditions to the permit to help mitigate external impacts. Conditions that may be attached to the permit are limited to those listed in subsection (f) of this section.
- (b) *Preapplication conference.* Prior to submission of an application, the developer ~~may~~ shall meet with the director for the purpose of discussing the site, the proposed development activity, and the allowable use permit procedure. The director shall discuss with the developer, regulations which may limit the proposed development as well as the standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this title. A copy of this subsection shall be provided to the developer at the conference.

...

Section 4. Amendment of Section. CBJC 49.15.330 is amended to read:

49.15.330 Conditional use permit.

- (a) *Purpose.* A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses. The conditional use permit procedure is intended to afford the commission the flexibility necessary to make determinations appropriate to individual sites. The commission may attach to the permit those conditions listed in subsection (g) of this section as well as any further conditions necessary to mitigate external adverse impacts. If the commission determines that these impacts cannot be satisfactorily overcome, the permit shall be denied.
- (b) *Preapplication conference.* Prior to submission of an application, the developer shall be afforded the opportunity to meet with the director for the purpose of discussing the site, the proposed development activity, and the conditional use permit procedure. A development application is not required to have a preapplication conference. The director ~~should~~ shall discuss with the developer, regulation which may limit the proposed development as well as standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this subsection shall be provided to the developer at the conference.

...

Section 5. Amendment of Section. CBJC 49.15.401 is amended to read:

49.15.401 Minor subdivisions.

- (a) ~~{Permit required.}~~ A minor subdivision permit is required for the following:

1
2 ...
3 (b) Preapplication ~~Pre-application~~ conference. Prior to submitting an minor subdivision
4 application, the applicant shall be afforded the opportunity to discuss with the director such
5 facts, issues and proceedings as may be relevant to the application. No statement made by
6 either party shall be regarded as binding, and the result of the conference shall not constitute
7 approval by the department. A development application is not required to have a
8 preapplication conference. A pre-application conference is required prior to submitting an
9 application for a minor subdivision. A sketch plat (CBJ 49.15.410) may be required for the
10 preapplication conference at the director's discretion.
11

12 ...
13
14 **Section 6. Amendment of Section.** CBJC 49.15.402 is amended to read:
15 **49.15.402 Major subdivisions.**

16 (a) ~~{Permit required.}~~ A major subdivision permit is required for subdivisions resulting in 14
17 or more lots.
18
19 (b) Preapplication ~~Pre-application~~ conference and sketch plat. Prior to submitting a major
20 subdivision application, the applicant shall be afforded the opportunity to discuss with the
21 director such facts, issues and proceedings as may be relevant to the application. No
22 statement made by either party shall be regarded as binding, and the result of the conference
23 shall not constitute approval by the department. A development application is not required to
24 have a preapplication conference. A sketch plat (CBJ 49.15.410) may be required for the
25 preapplication conference at the director's discretion. A pre-application conference and sketch
plat (CBJ 49.15.410) is required prior to submitting an application for a major subdivision.

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Section 7. Amendment of Section. CBJC 49.15.404 is amended to read:

49.15.404 Public way vacations.

- (a) ~~{Applicability of section.}~~ This section applies to petitions to vacate any portion of an existing public way, public easement, or any other area dedicated to the public. This section does not apply to property owned by the City and Borough in its proprietary capacity.
- (b) Preapplication ~~Pre-application~~ conference. Prior to submitting a public way vacation application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. No statement made by either party shall be regarded as binding, and the result of the conference shall not constitute approval by the department. A development application is not required to have a preapplication conference. A pre-application conference is required prior to submitting an application for a public way vacation.

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Section 8. Amendment of Section. CBJC 49.15.620 is amended to read:

49.15.620 Planned unit development review process.

- (a) *General procedure.* A proposed planned unit development shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and in the case of an application proposing a change in the number or boundaries of lots, section 49.15.402, major subdivisions, except as otherwise provided in this article. Approval shall be a two-step process, preliminary plan approval and final plan approval. In cases involving a change in

the number or boundaries of lots, the preliminary and final plat submissions required by section 49.14.430 shall be included with the preliminary and final plan submissions required by this chapter.

(b) *Preapplication conference.* Prior to submitting a planned unit development application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. A development application is not required to have a preapplication conference. ~~Prior to submission of an application, the director shall conduct an informal preapplication conference with the developer to discuss the proposed planned unit development.~~ The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement made by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department. The conference should ~~shall~~ include a discussion of the zoning, size, topography, accessibility, and adjacent uses of the development site; the uses, density and layout of buildings, parking areas, the open space and landscaping proposed for the development; the common facilities; the street layout and the vehicle and pedestrian circulation; the development schedule and the planned unit development permit procedures. The developer should ~~shall~~ provide a sketch of the proposed planned unit development.

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Section 9. Amendment of Section. CBJC 49.15.720 is amended to read:

49.15.720 Cottage housing development review process.

- (a) *General procedure.* A proposed cottage housing development shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and this article. Approval shall be a two-step process, preliminary plan approval and final plan approval.
- (b) *Preapplication conference.* Prior to submitting a cottage housing application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. A development application is not required to have a preapplication conference. ~~Prior to submission of an application, the applicant shall attend an informal preapplication conference with the community development department to discuss the proposed cottage housing development.~~ The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues. The developer should ~~shall~~ provide a sketch, drawn to scale, of the proposed cottage housing development. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department.

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Section 10. Amendment of Section. CBJC 49.15.930 is amended to read:

49.15.930 Alternative residential subdivision review process.

- (a) *General procedure.* A proposed alternative residential subdivision shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and in the case of

an application proposing a change in the number or boundaries of unit-lots, section 49.15.402, major subdivisions, except as otherwise provided in this article. Approval shall be a two-step process, preliminary plan approval and final plan approval. In cases involving a change in the number or boundaries of unit-lots, the preliminary and final plat submissions required by section 49.15.402 shall be included with the preliminary and final plan submissions required by this chapter.

(b) *Preapplication conference.* Prior to submitting an alternative residential subdivision application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. A development application is not required to have a preapplication conference. ~~Prior to submission of an application, the director shall conduct an informal preapplication conference with the developer to discuss the proposed alternative residential subdivision.~~ The purpose of the preapplication conference ~~is shall be~~ to exchange general and preliminary information and to identify potential issues and bonuses. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement made by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department. The conference should ~~shall~~ include a discussion of the zoning, size, topography, accessibility, and adjacent uses of the development site; the uses, density and layout of buildings, parking areas, the open space and landscaping proposed for the development; the common facilities; provision of utilities, including solid waste and recycling collection; the access, the vehicle and pedestrian circulation, and winter maintenance including snow removal locations; the development schedule and the

alternative residential subdivision permit procedures. The developer should ~~shall~~ provide a sketch of the proposed alternative residential subdivision.

Section 11. Amendment of Section. CBJC 49.60.130 is amended to read:

40.60.130 Procedure.

The developer shall state any intent to apply for a bonus and shall show the nature and extent of such bonus in the application and at the preapplication conference, if any.

Section 12. Amendment of Section. CBJC 49.65.970 is amended to read:

49.65.970 Special use permit applications.

(a) As of the effective date of this article, no person shall be permitted to site, place, build, construct, modify, or prepare any site for the placement or use of WCF, except for those WCF identified in section 49.65.940, Table 1, without having first obtained a special use permit.

All applicants for a special use permit and any modification of such facility shall comply with the requirements set forth in this section.

(b) Preapplication conference ~~Pre-application meeting~~. Prior to submitting a WCF application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. Prior to submission of an application, the applicant shall meet with the director for the purpose of discussing The purpose of the preapplication conference is to discuss the site and development proposal, and to address any issues that will help to expedite the review and permitting process, including the scope of the visual assessment the applicant will be required to provide as part of the special use permit process. A pre-application meeting may also include a site visit, as determined by the

director. No statement by either the applicant or director shall be regarding as binding or authoritative for purposes of this section. A development application is not required to have a preapplication conference.

(c) Additional required application submittals.

(1) In addition to the fee required in subsection 49.65.940(b), the applicant shall pay an additional special use permit application fee as set forth in section 49.85.100.

(2) In addition to the documentation required by section 49.65.960, the following documentation must be submitted with any special use permit application:

(A) *Design criteria.* A narrative describing compliance with the design criteria listed in section 49.65.930;

(B) *Visual impact assessment.* The scope of the required assessment should ~~will~~ be reviewed at the preapplication conference ~~pre-application meeting~~, but the planning commission may require submission of a more detailed visual analysis after submittal of the following required information. The visual impact assessment must include:

...

Section 13. Amendment of Section. CBJC 49.70.130 is amended to read:

49.70.130 Concept review.

(a) *Preapplication conference.* Prior to submitting a new growth area application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application. A development application is not required to have a preapplication conference. The purpose of the preapplication conference is to:

- (1) Provide an opportunity for the proponents of a new growth area to explain the concept of their development to the department;
- (2) Allow the department to explain to the developer the requirements of City and Borough land use laws and the potential impacts of this title and the plans adopted therein; and
- (3) Allow the department to outline the concerns of the City and Borough with regard to the potential hazards inherent in the development of wetlands, steep slopes and hazard areas, and the conservation of marginal lands and open spaces having environmental value.

(b) *Submittal requirements.* The submittal requirements for a preapplication conference should ~~shall~~ be:

- (1) Documents.
 - (A) A legal description;
 - (B) A statement of the goals and objectives of the development; and
 - (C) An explanation of any unique features of the property proposed for new growth area.
- (2) Maps showing existing site and vicinity conditions and including:
 - (A) Topography contour lines at intervals of ten feet or less;
 - (B) The location of streams, lakes, wetlands, drainage courses, floodplain areas, and other water features;
 - (C) The nature and extent of existing stands of trees and shrubs, ground cover and other vegetation;
 - (D) Existing access to and within the site including roads, peripheral roads, trails and sidewalks;

- (E) Avalanche and landslide hazard areas, soils, and surface geology; and
- (F) Sensitive area boundaries.
- (3) A sketch plan showing proposed:
 - (A) Topography and water features;
 - (B) Streets, pedestrian, and bicycle access;
 - (C) Conceptual uses and densities; and
 - (D) Open space and recreational areas.
- (c) *Preapplication conference comments.* The department ~~should~~ will review the preapplication conference submittal materials and provide written comments to the applicant not more than 30 days after the date of the conference. The comments should ~~shall~~ advise the applicant on the consistency of the proposal with the intent of this chapter, with adopted City and Borough plans, laws, and regulations, and on the compatibility of the proposed development with the surrounding area. No statement made by either party shall be regarded as binding, and the result of the conference shall not constitute approval by the department.

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Section 14. Amendment of Section. CBJC 49.70.1230 is amended to read:

49.70.1230 Alternative development procedure.

- (a) *Alternative development permit.* The planning commission shall hear all applications pursuant to this article.
- (b) *Preapplication ~~Pre-application~~ conference.* Prior to submitting an alternative development application, the applicant shall be afforded the opportunity to discuss with the director such

facts, issues and proceedings as may be relevant to the application. A development application is not required to have a preapplication conference. ~~Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the alternative development permit procedure.~~ It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this Code. A copy of this article should ~~shall~~ be provided to the developer at the conference.

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Section 15. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

**THE CITY AND BOROUGH OF JUNEAU, ALASKA
HOUSING & DEVELOPMENT TASK FORCE
October 15, 2021 – *DRAFT* Meeting Minutes**

A. Call to Order

The meeting of the Housing and Development Task Force was held in the 4th Floor Conference Room of the Marine View Building, and was called to order by Chair Loren Jones at 11:03a.m.

Roll Call

Members Present: Loren Jones, Maria Gladziszewski, Jill Maclean, Alexandra Pierce, Nathaniel Dye, Paul Voelkers, Dave Hanna, Wayne Jensen, and Bill Heumann.

Members Absent: Michelle Hale.

Approval of Agenda

Mr. Hanna noted that the current agenda did not have a designated item for agenda approval; he added that he would prefer the agenda to have an item to allow for public participation.

MOTION to reorder the agenda to place Item D before Item C.

Hearing no objections, the motion passed by unanimous consent.

Ms. Maclean recommended placing the public participation item towards the bottom of the agenda. She spoke to her previous experience in doing this, and said that it allowed suitable time for the meeting's agenda to be addressed prior to public participation. She added that public comment at the end of the meeting gave insight on what should be featured in the next meeting's agenda.

Mr. Jones questioned the need for public comment for a task force meeting, particularly considering that there has not yet been an agenda item they have dealt with that has called for testimony.

B. Minutes for Approval

a. September 30, 2021 Draft Minutes

MOTION by Mr. Hanna to approve the September 30, 2021 Minutes, with the corrected spelling of Mr. Heumann's name throughout the document.

Hearing no objections, the minutes were approved by unanimous consent.

C. Discussion of Pre-Application Process

Ms. Maclean provided the committee with a recent pre-application conference report. She explained that the pre-application conference became a requirement after many local developers found that their application was incomplete several weeks into the process.

The rewritten subdivision ordinance was adopted in 2015, this ordinance established that pre-application conference requirement.

Ms. Maclean described the pre-application conference as a service provided by CDD staff to help developers understand all of the information they must provide in their application. This service also ensures that the developers and any involved entities are all on the same page in the process.

Ms. Pierce added that oftentimes pre-application conferences can be held via phone or email.

Mr. Hanna mentioned that there have been times in which he felt that the pre-application conference process was not needed. He asked if CDD could possibly streamline the process, or if there was a breaking point that decided whether or not the pre-application process was necessary.

Ms. Pierce explained that it is a complicated issue, and part of the reason why CDD began conducting pre-application conferences via telephone and email. She noted that the process as it stands can help applicants who might otherwise waive a service that could be beneficial to their application.

There was further discussion about the timing and the necessity of the pre-application conference.

Mr. Heumann added that he appreciated giving applicants the option to decide whether to opt-in to the conference process, and spoke to the preparation that often occurs prior to applying.

Mr. Dye brought up a topic of conversation from his Title 49 Committee meetings: minimum submittals for applications. He also suggested finding a way to streamline the minimum requirements for pre-applications.

There was further discussion on various aspects on the conference process, particularly in comparison to other government agencies.

MOTION by Ms. Gladziszewski to draft an ordinance that allows minor subdivisions to have the option to opt-out of the pre-application conference.

Ms. Maclean expressed concern regarding this action, as CDD had been directed by the Assembly, and explained that changes to Title 49 must be reviewed by the Title 49 Committee, the Planning Commission, the Law Department, and the Assembly.

Ms. Gladziszewski noted that the Assembly will be hosting a retreat in December, during which they can decide where the HDTF could fit within their priorities.

Mr. Dye suggested allowing all applicants to have the option to opt-out of the pre-application conference, instead of only restricting to minor subdivision applicants.

Amendment #1 by Ms. Gladziszewski. Ms. Gladziszewski amended her motion to state “to draft an ordinance that gives all applicants the option to opt-out of the required pre-application conference process.”

There was further discussion about the committee creating ordinances, and the notion to consider waiting until after the Assembly retreat to receive direct instruction on how to move forward with their priorities.

Ms. Gladziszewski clarified the intent of her motion was for the committee to draft an ordinance, and then take the time to discuss and amend it if needed.

Mr. Jones spoke to his experience in dealing with the continuous work and occasional disagreements that come with making changes to processes, especially considering the various entities represented on this committee.

Ms. Maclean had to exit the meeting.

Hearing no objections, the motion passed by unanimous consent as amended.

There was a discussion about CDD staffing levels, the workload given to CDD staff, and the amount of that workload that could be handled within the committee or by a third-party entity.

D. Review of Documents Emailed Out to Members: Question or Discussion

a. 2020 Housing Forum Presentation

b. Example of a Pre-Application Conference Report

c. August 2021 Title 49 Land Use Code Updates Memo to Lands, Housing, & Economic Development Committee

d. July 2021 Title 49 Land Use Code and Industrial Zoning and Table of Permissible Uses Memo to Lands, Housing, & Economic Development Committee

e. Community Development Department Overview

f. Final Comprehensive Plan Memo to CBJ Assembly 2018

g. Links to:

i. Table of Permissible Uses

ii. Table of Dimensional Standards

iii. Upstairs Downtown

iv. Comprehensive Plan

E. Suggestions for Next Agenda

Mr. Jones mentioned that the agenda for the next two meetings would focus on the development of Task Force recommendations in relation to CDD priorities. These recommendations will be brought to the Assembly prior to the Assembly Retreat on December 4.

F. Next Meeting Date

Mr. Jones scheduled the next Housing & Development Task Force meeting to be held on October 29 at 12:00p.m.

There being no further business to come before the committee, the Housing & Development Task Force meeting was adjourned at 1:14p.m.

THE CITY AND BOROUGH OF JUNEAU, ALASKA
HOUSING & DEVELOPMENT TASK FORCE
October 29, 2021 – Meeting Minutes

A. CALL TO ORDER

Chair Loren Jones called the Housing & Development Task Force Meeting to order at 12:05p.m.

B. APPROVAL OF AGENDA

MOTION by Mr. Hanna to add a new topic under **Item E – CDD Workload & Resources** to include: “d. Task Force Recommendations to the Assembly”.

Hearing no objections, the agenda was approved as amended.

C. MINUTES

a. October 15, 2021 Draft Minutes

MOTION by Mr. Hanna to change the language in **Item E - Suggestions for Next Agenda** to state “...coming up with Task Force recommendations to the Assembly Priorities.”

D. Comments About Previous Meeting

Mr. Hanna recalled that the task force unanimously agreed to draft changes to Title 49 that would allow for the pre-application process to become optional. He asked for clarification on the next steps following this decision.

Mr. Jones mentioned that the Law Department had begun drafting an amendment to Title 49 for the pre-application process, however, this did not include making the process optional. He added that the Law Department is currently addressing each item in their amendment, and it is an ongoing process.

There was a discussion regarding the draft amendments to Title 49.

Ms. Gladziszewski and Ms. Hale spoke to bringing the draft ordinances to the Lands, Housing, and Economic Development Committee and the Committee of the Whole.

E. CDD Workload & Resources

a. Discussion Based on Previous Documents Sent to Task Force

b. Memo from City Manager to Lands, Housing, & Economic Development Committee

Mr. Hanna shared that he felt disheartened by the memo. He said that the memo seemed to recommend appointing a hearing officer, rather than receiving a hearing from the Planning Commission. Mr. Hanna believed that appointing a hearing officer, as employed by the city, would not be impartial to the applications they would be tasked with handling.

Mr. Watt clarified that he did not make any recommendations in his memo to the LHEDC, as stated in the document.

c. Memo from CDD Regarding Priorities

Ms. Maclean explained how CDD Priorities and Assembly Goals are established and developed each year, and how it corresponded with the table featured in the memo.

Mr. Jones advised the task force to be clear on exactly what changes they would like to make to certain processes, and reminded them that the Planning Commission is not obligated to accept any of the priorities they set.

Mr. Heumann noted that Code administration in relation to permit processing was not included in the Priority List. He felt that permit processing should be considered one of the topmost priorities for the task force, particularly the timing of the process.

Ms. Maclean spoke to CDD's involvement in permitting, and said that the permitting process was considered a guaranteed priority for the department.

d. Task Force Recommendations to the Assembly

Ms. Gladziszewski introduced task force ... she suggested that one of the priorities could be an assessment of Title 49.

Mr. Hanna suggested the task force conduct an assessment of CDD's current workload, and determine which projects could be outsourced to a consultant.

Mr. Heumann shared that local developers have expressed frustration with the length of time it takes to complete the permitting process. He also called for the task force to review CDD's workload, re-delegating their responsibilities to allow for an expedited process.

Mr. Dye mentioned that amending Title 49 can be a complicated effort due to the amount of staff time it takes for CDD and the Law Department to review and draft each amendment.

Ms. Hale and Ms. Maclean discussed CDD developing and presenting a matrix to share with the task force and the LHEDC.

MOTION by Ms. Gladziszewski for the Housing & Development Task Force to draft and forward a memo to the Assembly that listed the priorities of the task force.

The first priority listed was for the task force to identify ways in which the permitting process could be completed in a timely manner.

The second priority chosen for the list directed the task force to conduct a thorough review of Title 49.

The third and final priority listed called for the task force to rewrite the Comprehensive Plan.

Mr. Dye supported Ms. Gladziszewski's motion, and gave an example of how changes at the federal level can affect ongoing development projects and Title 49 as a whole.

Mr. Heumann also spoke in favor in Ms. Gladziszewski's motion.

Ms. Maclean spoke to the efficient timing of how permits are issued, particularly compared to the timing of permitting compared to other communities of comparable size. She also explained that certain applications given to CDD are incomplete or incorrect when submitted; this

sometimes results in a cycle of corrections and re-submissions between CDD and the developer, which cannot be entirely attributed to CDD's workload.

Hearing no objections, the motion passed with unanimous consent.

F. Comments on Two Draft Documents Related to Process for Task Force to Move Recommendations from and to Another Body

Mr. Jones will present a draft memo to the task force at the November 12, 2021 HDTF meeting, as well as a draft memo in relation to the pre-application process as discussed at the October 15, 2021 HDTF meeting.

G. Public Comment (10 Minutes)

Arch – Mr. Arch spoke to the amount of backlog that has been attributed to the Code and to Title 49. He recommended for the main revisions to Title 49 to be reductions and deletions, rather than additions. Mr. Arch said that adding more amendments to Title 49 creates more work for CDD staff and the Planning Commission, and does not necessarily change or improve the finished product.

H. Suggestions for Next Agenda

Mr. Hanna had two agenda item suggestions: the first suggestion was to bring recommendations for changes in Title 49, the second suggestion was to bring a list of permitting delays to review.

I. ADJOURNMENT

There being no further business to come before the Housing & Development Task Force, the meeting was adjourned at 1:21p.m.

**THE CITY AND BOROUGH OF JUNEAU, ALASKA
HOUSING & DEVELOPMENT TASK FORCE**

November 12, 2021 – Meeting Minutes

A. CALL TO ORDER

The meeting of the Housing and Development Task Force (HDTF) was held in the 4th Floor Conference Room of the Marine View Building, and was called to order by Ex-Officio Chair Loren Jones at 12:03a.m.

Roll Call

Members Present: Ex-Officio Chair Loren Jones, Vice Chair Maria Gladziszewski, Michelle Hale (via Zoom), Paul Voelkers, Nathaniel Dye (via Zoom), Dave Hanna, Bill Heumann (via Zoom), and Wayne Jensen.

Members Absent: None.

Staff Present: CDD Director Jill Maclean, City Manager Rorie Watt, Mayor Beth Weldon,

B. Approval of Agenda

MOTION by Ms. Gladziszewski to include “Review the Ordinance” to the Agenda. Chair Jones added “**b. Ordinance Review**” under Item D.

MOTION by Ms. Hale for the committee to discuss Mr. Heumann’s memo. Chair Jones added “**c. Discussion Regarding Mr. Heumann’s Memo**” to the Agenda.

C. Approval of Minutes

A. October 29, 2021 DRAFT Meeting Minutes

Mr. Jones noted that the October 29, 2021 Meeting Minutes were in need of correction. The minutes were sent back for correction.

D. Comments About Last Meeting

a. Review Memo to Mayor/Assembly

Mr. Jones explained that Ms. Gladziszewski had provided a memo which included a revised written version of her motion from the previous HDTF meeting.

Mr. Voelkers shared that he appreciated the new motion’s clarity, but noted that it did not mention the “opt-out” ordinance that had been discussed.

Ms. Gladziszewski explained that the “opt-out” ordinance was separate from this motion, as this motion in particular represented the committee’s recommendations to the Assembly’s priority list.

Ms. Hale added that this motion’s intent was to bring forth the HDTF’s recommendations to the Assembly prior to their priority-setting retreat in early December.

Mr. Hanna commented that he approved of the motion.

Mr. Dye suggested that it may be helpful to add clarifying language to the motion, and to reorganize the wholesale rewrite of the Comprehensive Plan to be placed prior to the rewrite of Title 49.

Ms. Gladziszewski disagreed with the suggestion, saying the rewrite of Title 49 should be considered first priority.

There was a discussion about rewriting the Land Use Code, specifically the process of a rewrite resulting in hiring a consultant to go through the Land Use Code.

Mr. Jones agreed that writing the Comprehensive Plan could result in subsequent rewrites further down the line.

Ms. Gladziszewski spoke to the vastness of the Comprehensive Plan, and said that they do not need an update of the Comprehensive Plan to update Title 49.

Ms. Maclean agreed with Mr. Dye's suggestion of writing the Comprehensive Plan prior to rewriting Title 49, and advised the committee to take into consideration the Systemic Racism Review Committee review process of the Comprehensive Plan, particularly zoning issues.

Ms. Maclean further explained that a full review of the Comprehensive Plan with consultants would be a three-year process, during which the committee could implement some changes to Title 49, but not a wholesale rewrite.

Mr. Dye spoke to the Planning Commission's reliance on the Comprehensive Plan to make changes to aspects such as zoning laws, industrial lands, commercial use versus residential use properties, etc. He explained that these changes are made based on the Comprehensive Plan, not based on Title 49.

Mr. Voelkers recommended removing the word "wholesale" from the motion, and to add "and/or partial rewrites". The new language would read as follows: "The HDTF does not have a recommendation at this time regarding how this gets done, but possibilities include: hiring a firm to do a rewrite, selective editing of key sections, or using existing staff in committee processes."

Hearing no further edits, Mr. Jones will work with CDD staff to bring the revised motion to the Assembly.

b. Ordinance Review

Ms. Maclean reviewed the ordinance and highlighted the lines which contained edits or adjustments.

Mayor Weldon asked for clarification on the difference between a development application and a pre-application.

Ms. Maclean explained that a development application could include variances, sub-applications, Conditional Use Permits, etc. She further clarified that a pre-application is typically required for

most applications, and includes a pre-application conference in which the developer can meet with the Planning Commission, General Engineering, the Building Division, and the Fire Marshal to discuss the application.

Ms. Gladziszewski noticed a typo (“an” instead of “and”) on Line 3, Page 4 of the ordinance.

Mr. Dye had a question about the language (from “required” to “may be required”) regarding sketch plots in the ordinance.

Ms. Gladziszewski noted that this language would make sketch plots optional in the application process.

Mr. Dye explained that sketch plots are required for a major subdivision application.

Ms. Maclean clarified that this language is specifically for a pre-application process; the actual submission of a major subdivision application would still require the inclusion of a sketch plot.

Mr. Watt cautioned that adding more flexibility to the pre-application process could result in potential delays later down the line. He added that he was not advising against this, but was bringing attention to the potential consequences.

Mr. Hanna said that they had discussed the potential consequences at length, and felt that this process could help applicants move their projects along smoothly.

Mr. Heumann echoed Mr. Hanna’s comments, and also understood Mr. Watt’s concerns. He mentioned that there are oftentimes smaller projects in which the pre-application process is not necessary; and the CDD Director has the discretion to strongly suggest the pre-application process to applicants as needed.

Mr. Dye asked if this ordinance would be referred back to the Planning Commission.

Mr. Jones explained that this would be brought to the Law Department and CDD, then will be introduced to the Assembly following standard procedure.

Ms. Gladziszewski noted that it could be forwarded to the Planning Commission following its introduction to the Assembly.

There was further discussion about the pre-application process.

Ms. Maclean described opting out of the pre-application conference as a missed opportunity for applicants to discuss their project with several CBJ departments altogether. She clarified that she was not opposed to this ordinance, but would like for developers to consider the opportunity available to them.

Mr. Hanna suggested CDD produce a handout that would list the negative outcomes that may arise from opting out of the pre-application conference.

Ms. Hale asked when the pre-application conference first became a requirement.

Ms. Maclean said that it may have come into effect following the 2010 rewrite, or after the 2015 rewrite.

Mr. Jensen spoke to the value of the pre-application process, but also felt it would be helpful if the process could be done in a timely manner.

Mr. Dye clarified that the pre-application conference has been in the Code since the 1987 rewrite.

c. Discussion Regarding Mr. Heumann's Memo

Mr. Heumann shared that his memo addressed the industry-wide concern regarding the permitting process; he further explained how streamlining the process could boost productivity and help meet the demands of the housing market.

Mr. Voelkers referenced the line in the memo which stated that developers are unable to obtain permits, and asked Mr. Heumann to clarify if the concerns surrounding the permitting process were a matter of timeliness, or if permits were being denied to developers.

Mr. Heumann clarified that it was more an issue of a timeliness rather than the inability to receive permits.

Mr. Voelkers asked Mr. Heumann if there was a notable difference in the timing or the permitting process compared to previous years.

Mr. Heumann said that the process to obtain a permit had become more difficult in recent years.

There was a discussion about the timing of the permitting process.

Ms. Maclean spoke to the difficulties presented by the Code when developing land, and to the additional difficulties of living, working, and housing in Juneau. She felt that CDD have been producing permits in a reasonable amount of time, especially considering that they are working with limited staff during a pandemic.

There was a discussion about variances. Ms. Maclean explained the challenges associated with issuing multiple variances, often risking the chance of the variance being appealed and going through a lengthy legally involved appeal process.

Mr. Heumann commented on the lack of affordable housing, and the legal and financial resources that could be provided by the City.

Mr. Hanna shared his perspective on the increasing costs for various CBJ projects and utilities throughout town, and recommended the committee discuss cheaper developments at a future meeting.

Mr. Watt noted that every neighborhood in Juneau has benefitted from public funding, and very few neighborhoods have come into being (meeting full dimensional standards) by developers.

There was further discussion regarding the table of dimensional standards and variances.

E. Discussion of Possible Metrics Related to Workload/Priorities

Chair Jones addressed that this item is currently in motion, but would not be fully discussed at today's meeting as the committee was running short on time.

F. Public Comment (10 Minutes)

None.

G. Suggestions for Next Agenda

The next meeting date is scheduled to be held on December 10, 2021.

The agenda items for the next meeting will include dimensional standards, a discussion with the Law Department about variances, and scheduling future meetings for 2022.

H. ADJOURNMENT

There being no further business to be brought before the committee, the Housing & Development Task Force meeting was adjourned by Chair Jones at 1:15p.m.

**THE CITY AND BOROUGH OF JUNEAU, ALASKA
HOUSING & DEVELOPMENT TASK FORCE**

December 10, 2021 – Meeting Minutes

A. CALL TO ORDER

The meeting of the Housing and Development Task Force was held in the 4th Floor Conference Room of the Marine View Building, and was called to order by Chair Loren Jones at 11:03a.m.

Roll Call

Members Present: Ex-Officio Chair Loren Jones, Dave Hanna, Wayne Jensen, Bill Heumann, Paul Voelckers, Nathaniel Dye (via Zoom)

Members Absent: Vice Chair Maria Gladziszewski and Michelle Hale.

Staff Present: City Manager Rorie Watt, Mayor Beth Weldon, City Attorney Robert Palmer, Community Development Department Director Jill Maclean, CDD Administrative Assistant Chelsea Wallace,

B. Approval of Agenda

Hearing no changes, the agenda was approved as presented.

C. Approval of Minutes

a. September 30, 2021 Draft Minutes

b. October 15, 2021 Draft Minutes

c. October 29, 2021 Draft Minutes

Mr. Voelckers noted that the October 29 Meeting Minutes listed him as being present at the meeting, when he was actually absent and traveling during that time.

Hearing no further comments, the September 30 and October 15 Minutes were approved as presented.

D. Comments About Last Meeting

There were no comments about the November 12, 2021 meeting.

E. Review of Variance Ordinance

Mr. Jones referenced the discussion surrounding variances at the November 12 meeting, which prompted him to invite City Attorney Robert Palmer to today's meeting to provide additional insight to variance-related ordinances.

Mr. Palmer thanked Mr. Jones for the introduction, and identified two key concepts essential to this discussion: the Conditional Use Permit and the concept of variances. He described the Conditional Use Permit as a permit approval process designed to provide flexibility to

developers, whereas a variance is a request that violates the law as it is written. He further explained that variances are not meant to be used for flexibility purposes.

Mr. Palmer gave a general overview describing the legal processes, comparing State law practice to local Assembly rulings in relation to variances.

Mr. Voelkers added that variances are often rather difficult to obtain, and heavily rely on geographical and physical limitations.

Mr. Hanna mentioned that 30% of Juneau's ordinances are in some way related to Title 49. He said that this number of ordinances is a testament to an underlying problem that is in need of being addressed, adding that a functional Title 49 would not necessitate such a high amount of ordinances.

Mr. Voelkers asked CDD Director Maclean to define the criteria in which a Conditional Use Permit is necessary.

Ms. Maclean explained that the CUP process is often determined on the number of dwelling units, bedrooms, and acreage. She suggested the committee to keep neighborhoods in mind when considering the CUP process, and to recognize the impact that rezoning may have on neighboring properties.

Mr. Jones shared his experience from attending a significant amount of Planning Commission meetings over the past nine years, saying that the public process is often the most contentious part of the CUP process. He spoke to the importance of allowing the public the ability to weigh in by opting for a thorough public comment period.

Mr. Jones asked Ms. Maclean to clarify where in the process the public comment period begins prior to a Planning Commission decision, such as a neighborhood meeting hosted by CDD.

Ms. Maclean shared that the initiation of the public comment period is at her discretion as CDD Director, and typically depends on the type of permit being issued. She added that she takes this aspect of her role very seriously, and has adopted the Systemic Racism Review Committee criteria into her decision-making. Ms. Maclean also added that CDD strives to issue notice to the public at least six weeks in advance, beyond the standard two week public notice requirement.

There was further discussion surrounding the Conditional Use Permit process.

F. Assembly Retreat Update

Mayor Weldon provided an update on the Assembly Retreat that was held on December 4, where the Assembly met to decide upon the Assembly Goals for 2022. Mayor Weldon reported that the Assembly considered the revision of Title 49 and updating the Comprehensive Plan as Assembly Goals related to the Housing and Development Task Force.

Mayor Weldon added that one of the Assembly Goals involved allocating funds for the purpose of accomplishing the goals they established.

Mr. Watt reported that the Assembly discussed revising and improving Title 49, facilitating housing, the implementation of projects and strategies that further develops the Affordable Housing Action Plan, and continue utilizing the Affordable Housing Fund.

Mr. Voelkers asked if the Assembly had considered an entire rewrite of Title 49 or selective upgrades to Title 49 as needed.

Mayor Weldon said that the sentiment of the Assembly seemed to be to revise Title 49 as needed.

G. Examples of Permitting Delays

Mr. Jones recommended this topic be included in the agenda for a future meeting.

H. Recommendations for Changes to Title 49

Mr. Heumann shared that the developers held a meeting on December 7, the general consensus from this meeting expressed that a revised Title 49 should include specific requirements for the timing of the permitting process. He added that one of the biggest problems shared amongst local developers was identified as a lack of communication between developers and the City. Mr. Heumann provided examples of this through his experiences with the City from past developer projects.

Mr. Hanna agreed with Mr. Heumann's report, and said that communication issues was one of the biggest concerns discussed at the developer meeting. He acknowledged the staffing issues at CDD, and suggested the City address the empty positions through contracting outside help.

Mr. Voelkers noted that one of the first actions taken by this committee was to modify the pre-application process. He asked if a streamlined pre-application process would help address concerns regarding timing.

Mr. Jensen explained that the pre-application process typically takes up to a year, during which the project often morphs and changes, which in turn results in further delays in the pre-application process.

There was further discussion regarding the details and the timing of the pre-application process.

Ms. Maclean explained that the issue regarding the pre-application schedule was recently brought to her attention, and she was able to fix that problem the following day. She encouraged the development sector to plan further out with their scheduling, noting that the winter months are often a slower time for CDD. Ms. Maclean also said that putting hard deadlines into Code would be difficult; if the developers were asking CDD to consider adopting hard deadlines into Code, she noted that in order to do so, pre-applications would need to be detailed, specific, and meeting the requirements set by the state.

Ms. Maclean provided an update on recently filled CDD staff positions.

I. Public Comment (10 Minutes)

Municipal Clerk Beth McEwen mentioned that the draft Assembly Retreat Meeting Minutes would be posted later that day, prior to the Regular Assembly Meeting on December 13.

J. Suggestions for Next Agenda

Mr. Jones set the agenda for the next meeting to include a discussion related to the Table of Dimensional Standards, permitting, and Title 49.

There was a discussion about Title 49 in relation to the local housing shortage.

K. Next Meeting Date

Mr. Jones recommended the committee set the next HDTF meetings to be held on January 14 and January 28.

Ms. Maclean shared that she would be travelling during January 28.

Mr. Jones suggested setting the next meeting dates to be held on January 7 and January 21.

L. ADJOURNMENT

There being nothing else to come before the Housing & Development Task Force, the meeting was adjourned by Chair Loren Jones at 1:30p.m.

AMENDED MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve AME2021 0003 subject to agreed upon changes.*

Agreed upon changes:

1. *Change in boundary from C Street to D Street*
2. *Not taking a position on Title 62*
3. *Inclusion of the entire table*
4. *All other agreed upon edits agreed upon during the line-by-line review of the ordinance*

And

1. *Continue to exclude Manilla Square and the property at 310 Second Street*
2. *Leave the original language regarding Transit*
3. *For parking waivers, leaving the eligibility of providing capital transit, along with their concurrence*
4. *Page 4 Line 10 round down to the nearest whole number*
5. *Change calculation text to 0.6 parking spaces per dwelling unit and delete the rest of the box and 0.4 in the town center column Line 24 on page 4/19 Senior Housing*
6. *Change the Sobering Center in the table striking the visitor space requirements and adding one space to the requirement for the town center column)*

The amended motion passed with no objection.

AME2022 0001: Amendment to the CBJ Land Use Code Title 49 to make pre-application conferences optional and not mandatory
Applicant: City & Borough of Juneau
Location: Borough-wide

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment allowing pre-application conferences to be optional and not mandatory, recognizing that the pre-application conferences are an opportunity to make developers aware of challenges and opportunities within code, provide developers information on application submittal requirements, and if a developer opts out, the application review period may be extended if applications are incomplete. Furthermore, it is recommended that a pre-application conference remain mandatory for the following processes:

- **49.60.130, Procedure – Bonus Procedures;**

- **49.65.907**, Special Use Permit Applications, Wireless Communications;
- **49.70.130**, Concept Review, New Growth Areas.

STAFF PRESENTATION – by Planner McKibben

QUESTIONS FOR STAFF

Mr. Voelckers asked for clarification of what would qualify under **49.65.907** Special Use Permit Applications, Wireless Communications. Ms. McKibben said this is cell phone towers.

Mr. Winchell asked for a definition for “new growth.” Mr. Dye said it is in the Comprehensive plan and it is complex. Mr. Voelckers added this is a once in a decade or every other decade occurrence and they can be very complex. Vintage Park and the area of Douglas where a second crossing is being considered are two examples of recent new growth areas.

Mr. Pedersen asked if CDD staff or if the Housing and Economic Development Task Force. Director Maclean answered the ordinance was drafted by the Law department but the recommendation was proposed by the Task Force.

Mr. Arndt suggested making the amended paragraphs uniform by using “shall” and “may” consistently in the preapplication paragraphs at **49.15.310(c)**, **49.15.321(b)**, **49.15.330(b)**, **49.15.404(b)**, and on through where there are sections on *pre-application conference*. Ms. Maclean said she did not think this had been done intentionally. Mr. Voelckers said he felt this would be considered a minor edit if they were to choose one phraseology and make it consistent throughout. It was decided this is a minor change and staff could take care of this change.

Mr. Pedersen asked if the statement at **49.15.402(b)** *“No statement made by either party shall be regarded as binding, and the result of the conference shall not constitute approval by the department,”* was in response to any particular situation. Ms. Maclean explained this is a department policy because the preapplication conference occurs before an applicant submits a completed application and there are often changes between this conference and the submission of the final application. It is stated in the preapplication conference report provided to applicants following the meetings. Mr. Pedersen felt applicants should be able to rely on what is said at the preapplication conference.

Ms. Maclean added for the record that she has concerns with this ordinance. She said the preapplication process is a public service the CDD provides for the community and it is a very useful process. During the conferences, CDD planners, permit techs, building inspectors, Public Works general engineering personnel, the fire marshal and other CBJ personnel can be in attendance. The meeting is an opportunity for applicants to come in with a concept even if they do not yet have a complete application that can be reviewed and analyzed. Therefore, the meeting is not binding.

Mr. Dye asked if staff would be more comfortable with removing the requirement for a preapplication conference if it was set in Code what constitutes a complete application. Ms. Maclean said she felt the strength of the preapplication conference was that participants include staff from CDD, Engineering, and other departments together to work with the applicant.

Mr. LeVine suggested changing the phrasing of the recurrent sentence "A development application is not required to have a pre-application conference," to read, "A pre-application conference is not necessary for processing of a development application" or something similar. He did not want to change the meaning but just wanted to make it clear. Mr. Arndt had interpreted the phrase to mean an applicant would not be required to do a development application in order to participate in a pre-application conference. Ms. Maclean clarified Mr. Arndt's interpretation is the correct one; an applicant can participate in the conference with just a narrative or concept. They do not need a completed application at the conference. Mr. LeVine asked that it be clarified but this does not amount to a substantive change so he was comfortable moving forward to a motion.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis and recommendations and approve AME2022 0001 subject to the minor changes agreed to by the commission.*

Mr. Voelckers spoke to his motion saying developers prefer these be optional as the conferences take time from the developers' schedules and they often are already aware of the process and requirements. This ordinance is a result of the committee listening to the needs of the developers.

Mr. Pedersen spoke against the motion for the reasons stated by Director Maclean.

MOTION to Amend: *by Mr. Pedersen to strike any language in the proposed changes which indicates that information discussed is nonbinding in the preapplication.*

Mr. Dye felt the CBJ is already exempt from binding language and could not be held to this. Mr. LeVine said that the amendment is simply removing the language that it is not binding but it does not add any language making it binding.

Mr. Voelckers spoke against the amendment saying he felt it should be made clear that this process is not binding.

Ms. Cole spoke saying she understands why he is making the amendment but she cannot support it. Mr. LeVine also spoke against the amendment saying he would be more sympathetic to it being binding if it were mandatory but not if it is optional.

Roll Call Vote

YEA: *Pedersen*

NO: *Arndt, Cole, Hickok, Winchell, Voelckers, Dye, LeVine*

1 Yea 7 No Motion to Amend Failed

Mr. Arndt spoke to say he appreciates the preapplication process and encourages people to take advantage of the opportunity. However, if it was optional, that is fine with him.

Mr. Dye said he agrees with the importance and value of the process and he agrees with the staff concerns that people who do not do this normally will be left behind if they skip the preapplication meetings. He will not support the motion. Mr. Pedersen also spoke against it. Mr. Winchell spoke against the motion saying he had the same reservations expressed by Mr. Dye and Mr. Pedersen.

Mr. LeVine spoke in support of the motion saying he would encourage developers to use the process but not require it.

Roll Call Vote

YEA: Voelckers, Cole, Arndt, LeVine

NO: Winchell, Hickok, Pedersen, Dye

4 Yea 4 No Motion Failed

MOTION: by Mr. Pedersen to refer this item back to Title 49

Roll Call Vote

YEA: Pederson, Cole, Arndt, Winchell, Voelckers, Dye, Hickok, LeVine

NO:

8 Yea 0 No Motion passed

AT EASE 9:56 P.M. – 10:05 P.M.

AME2022 0002: Revision to 49.65 Article XI Marijuana Establishments to remove the requirement for a five-year review for Conditional Use Permits issued to marijuana establishments

Applicant: City & Borough of Juneau

Location: Borough-wide

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment to 49.65 Article XI Marijuana Establishments to remove the requirement for a five-year review for Conditional Use Permits issued to marijuana establishments.

Conditional use permits issued to marijuana establishments under this chapter shall expire upon six-months if the owner takes action consistent with an intent to abandon the conditional use permit or the conditional use permit holder has ceases operations and not substantially resumed. Determination of expiration shall be made by the Director and supported by written findings. An expiration determination may be reconsidered within 20 days of the date of



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www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

DATE: February 28, 2022

TO: Title 49 Committee

FROM: Teri Camery, Senior Planner, CFM 

SUBJECT: AME2017 0001: Proposed Revisions to the Juneau Coastal Management Program, 49.70.310

INTRODUCTION

The purpose of this memo is to present staff recommendations and proposed revisions from the Title 49 Committee October 28, 2021 review of the former Juneau Coastal Management Program (JCMP). Revisions to the JCMP were provided on December 16, 2021; however, the JCMP was not addressed due to emphasis on the anadromous waterbody ordinance.

Attachments include: 1) the original Juneau Coastal Management Program ordinance; 2) proposed revisions in track changes; 3) a clean copy with track changes accepted; and 4) an organizational outline.

SUMMARY OF RECENT REVISIONS

In response to the Committee recommendations at the October 2021 meeting, staff has proposed the following revisions for consideration:

- Added purpose statements
- Streamlined and reorganized the ordinance
- Eliminated regulations and sections that duplicate authority except as noted
- Moved Floathomes to Specified Use Provisions, with three regulations
- Added definitions

The following sections have been deleted per the Committee's direction from the October 2021 meeting and additional staff analysis:

- Policies regarding wetlands, tideflats, estuaries, and offshore areas
- Policies regarding navigable waters and obstructive development
- Geophysical hazards
- Recreation
- Energy facilities

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- Transportation and utilities
- Timber harvest and processing
- Mining and mineral processing
- Subsistence
- Air, land, and water quality
- Water-related and dependent uses (already covered in the Table of Permissible Uses)

DISCUSSION ITEMS

“Feasible and prudent” language. At the October 2021 meeting, the Committee noted the “feasible and prudent” language included through the JCMP and recommended deletion because the phrase is not defined in code. Staff has replaced “feasible and prudent” with “reasonable” and “unreasonable” throughout the document. However, staff has also found that “feasible and prudent” does have a definition in Title 49:

Feasible and prudent means consistent with sound engineering practice and not causing environmental, social, or economic costs that outweigh the public benefit to be derived from compliance with the standard which is modified by the term “feasible and prudent.”

Staff requests feedback from the Committee on these terms, and the terms will also be flagged for CBJ Law.

ATTACHMENTS

Attachment A – Proposed Code Organization
Attachment B – Revised Draft Ordinance in Track Changes
Attachment C – Clean copy of the revised draft ordinance with track changes accepted
Attachment D – Original Juneau Coastal Management Program

49.70 Article III Sensitive Areas

Code organization

Existing

49.70.300 Landslide and Avalanche Areas

49.70.310 Habitat

(a) Development in the following areas is prohibited:

- (1) On Benjamin Island within the Stellar sea lion habitat;
- (2) Within 50 feet from the ordinary high water mark of streams designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and
- (3) Within 50 feet from the ordinary high water mark of lakes designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.

(b) In addition to the above requirements there shall be no disturbance in the following areas;

- (1) Within 25 feet from the ordinary high water mark of streams designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and
- (2) Within 25 feet from the ordinary high water mark of lakes designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.

(c) The following developments or disturbances are exempt from the setback prohibitions of this section:

- 1) docks, bridges, culverts and public structures whose purpose is access to or across the stream or lake; and
- 2) uses which must be in or adjacent to the stream or lake in order to function, such as mining activities, fish culturing, water supply intakes and similar uses.

49.70.320 Watersheds

Proposed organization

49.70.310 Habitat

(a) Development in the following areas is prohibited:

- (1) On Benjamin Island within the Stellar sea lion habitat

(b) Anadromous Waterbody Ordinance

(c) Coastal Development and Special Habitats

(d) Special Waterfront Areas

Specified Use Provisions. 49.65

New Section: 49.65.1300 Floathomes and Floating Structures

~~PART II - CODE OF ORDINANCES
TITLE 49 - LAND USE
Chapter 49.70 - SPECIFIED AREA PROVISIONS
ARTICLE IX - COASTAL MANAGEMENT~~

ARTICLE IX. COASTAL MANAGEMENT

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~~49.70.900 General provisions.~~

- ~~(a) This article establishes the coastal management enforceable policies of the Juneau Coastal Management Program.~~
- ~~(b) The director shall be responsible for carrying out the provisions of this article except as such is specifically delegated to other parties. The director is specifically authorized to carry out and is responsible for:

 - ~~(1) All functions allocated to the City and Borough under the state's consistency decision making procedure set forth in 6 AAC 50;~~
 - ~~(2) The rendering of local consistency decisions for the City and Borough on all building permit applications;~~
 - ~~(3) The rendering of consistency decisions for the City and Borough on all development applications under the authority of the planning department established under this article;~~
 - ~~(4) The receipt, storage and management of all records pertaining to decisions and actions carried out under this article.~~~~

~~(Serial No. 87-49, § 2, 1987)~~

~~49.70.310(c) 995 Coastal Development and Special Habitats~~

- ~~(1) The purpose of this section is to manage and protect the natural resource values of Juneau's coastline and special habitats.~~
- ~~(2) The following policies apply to coastal development throughout the coastal zone: shall apply:~~

- ~~(1) To the extent feasible and prudent, coastal development shall be designed using best available technology to minimize hazards associated with physical conditions such as soil characteristics, slopes, geological features, surface and subsurface drainage, water tables, floodplains and shore forms of the site.~~
- ~~(2) To the extent feasible and prudent, coastal development shall be designed and operated to prevent adverse impact upon beaches and other physical shore features in the coastal zone.~~
- ~~(3) The placement of structures and the discharge of dredged or fill material into coastal water shall, at a minimum, comply with Parts 320—330, et seq., Title 33, Code of Federal Regulations (Vol. 51 of the Federal Register, pp. 41206-41260, November 13, 1986)~~

~~Juneau, Alaska, Code of Ordinances
(Supp. No. 133)~~

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- (4) ~~Dredging and filling shall be prevented in highly productive tideflats and wetlands, subtidal areas important to shellfish, and water important for migration, spawning and rearing of salmon and other sportfish species, unless there is a significant public need for the project and there is no feasible and prudent alternative to meet the public need.~~
- (5) ~~Shoreline industrial developments, ports, harbors and marinas shall be sited, designed, constructed and operated such that:~~
- (A) ~~Lawful navigation is not impaired;~~
- (B) ~~Facilities for proper handling of sewage, refuse, fuel and waste oil are provided;~~
- (C) ~~All feasible and prudent steps are taken to prevent water pollution by incorporating best management practices; and~~
- (D) ~~Adequate access and utility access are available or can be provided.~~
- (6) ~~To the extent feasible and prudent, ports, harbors and docks shall be located away from extensive tideflats and wetlands and so as not to obstruct fish passage along the coast or in waters used by anadromous fish.~~
- (7) ~~To the extent feasible and prudent, piers, wharfs, and floating docks shall be installed in waters that have adequate natural flushing capacities. If solid fill must be used, it shall be located and constructed to maintain water circulation in the harbor.~~
- (a) Fish and seafood propagation, processing, and mariculture
- (i) ~~Shoreline use shall not adversely impact important fisheries habitat, migratory routes and harvest of significant fish or shellfish species. Shorelines having banks, beaches, and beds critical to the preservation or enhancement of the fisheries resource base shall be maintained in, or restored to, their original condition wherever and whenever feasible and prudent.~~ reasonable.
- (ii) ~~Upland areas shall be managed to maintain water quality standards necessary for the propagation of anadromous fish species.~~
- (iii) ~~Fisheries enhancement and aquaculture shall maintain or restore quality and normal circulation patterns of affected waters at optimum levels consistent with applicable state standards. Aquaculture hatcheries and fisheries shall be protected from significant water quality degradation by other users.~~
- (c) ~~Aquaculture development and fisheries enhancement shall be located, designed and operated so that aesthetic values of local shorelines are maintained to the extent feasible and prudent.~~
- (d) ~~Fisheries enhancement and aquaculture~~ mariculture ~~practices, including disposal of wastes, viscera or fish scrap, shall be conducted so as not to violate applicable state water quality and litter control standards.~~
- (8) ~~Excavation, shoreline alteration and disturbance of anadromous streams, tideflats and wetlands shall be minimized in the construction and operation of port, harbor, dock and industrial facilities.~~
- (9) ~~To the extent feasible and prudent, the area immediately surrounding small boat harbors shall be reserved for water related and water dependent uses.~~

Commented [TC1]: Staff has deleted “feasible and prudent” and replaced with “reasonable” or “unreasonable” throughout the coastal development section, per the Committee’s direction. This wording will be flagged for review by Law. See staff memo for coded definition of “feasible and prudent.”

Commented [TC2]: Previously referred to as aquaculture, which is now an outdated term

Commented [TC3]: Recommended for retention despite some duplication of state authority because these policies provide more specific standards of review for the Conditional Use Permit process and support the 2013 Juneau Comprehensive Plan implementing action 5.13-1A4, page 60, which states “Support mariculture that does not have unacceptable impacts on important fish and wildlife habitat and other maritime-related activities and ensure adherence with state law and protocols on mariculture practices. Use of invasive species or harmful food or waste products in these operations shall be prohibited.” At a minimum, these policies ensure that fisheries development must have all required state permits. Staff has proposed definitions at the end of this section.

- (10) ~~To the extent feasible and prudent, port and harbor uses shall minimize the negative aesthetic impact of their use and activities, shall enhance and maintain the positive visual aspects of their development, and shall provide opportunities for public viewing of such positive aspects.~~
- (11) ~~Navigable waters shall be kept free of unnecessarily hazardous or obstructive development.~~
- (12) ~~To the extent feasible and prudent, development shall not detract from the scenic qualities of the shorelines, shall be compatible with its surroundings and shall not significantly block scenic vistas.~~
- (b) The following standards shall apply to the management of the following habitats:
- (1) Rivers, streams and lakes shall be managed so as to protect natural vegetation, water quality, important fish or wildlife habitat and natural ~~(waterflow).~~
- (c) ~~Uses~~ and activities in the coastal area which will not conform to the standards contained in subsections a-b of this section may be allowed if the following standards are met:
- (1) ~~There is a significant public need for the proposed use or activity;~~
- (2) ~~There is no reasonable alternative to meet the public need for the proposed use or activity which would conform to the standards contained in subsections a-b of this section; and~~
- (3) ~~All feasible and prudent steps to maximize conformance with the standards contained in subsections (b-c) of this section will be taken.~~
- 49.70.310(d) Special waterfront areas.**
- (i) Purpose. The purpose of this section to encourage development of marine and marine-related facilities in established Special Waterfront Areas coastal areas with lower habitat value. Other purposes ~~include:~~
- (1) ~~to provide greater protection for coastal areas outside of Special Waterfront Areas with higher habitat value, including a prohibition on intertidal fill used for expansion of upland areas;~~
- (2) ~~to promote pedestrian access to the downtown waterfront with a seawalk; and~~
- (3) ~~to provide special policies for other unique Special Waterfront Areas.~~
- (ii) General standards.
- (a) ~~(1) —The Juneau Coastal Management Plan Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each special waterfront area, and the maximum seaward limits for permanent development in each special waterfront area. The land or water inside the boundaries shown on the Juneau Coastal Management Plan shown on the Special Waterfront Area Map is subject to the provisions of this section. Uses allowed within the special waterfront areas as provided in this section are not allowed along other waterfronts within the City and Borough unless such uses are allowable outside the special waterfront areas under the terms of subsections 49.70.905(13) or (18) and other applicable provisions of the Juneau Coastal Management Plan.~~

Commented [TC4]: This item has been retained despite duplication with state authority because of 2013 Comprehensive Plan policies that indicate the importance of these resources to the community, as described in Chapter 7, pp 77-86, specifically policies 7.3 and 7.11. For example, without this section CBJ does not have authority to manage impacts on tributaries that feed into catalogued anadromous streams. Staff has proposed definitions at the end of this section.

Commented [TC5]: Retain in Habitat section. This section has been used to allow approval of developments that have unavoidable habitat impacts but have a high public need and no feasible alternatives. One example is the Alaska Glacier Seafoods Seafood processing plant, which filled important intertidal habitat but had mitigation to minimize impacts and was considered a public need. Without this section, an important public project could potentially be denied based on habitat impacts.

Commented [TC6]: Purpose statement that covers all sections added per Committee request.

- (b) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the expansion of upland area is specifically prohibited unless clear and convincing evidence is provided showing that all of the following conditions exist such that:
- A) Strict compliance with the policy would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;
- (B) Fill is the only means to allow development of the property which is similar to other properties in the vicinity;
- (C) Less than the proposed fill would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;
- (D) Approval of the project will not authorize uses on the property otherwise not allowed by other state, federal and local laws and regulations; and
- (E) Provided, log and mining transfer facilities and the following public facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.
- (F) Fill for expansion of the upland area is fill intended for structural support. Examples include structural support of buildings, parking lots, and related facilities. Fill for expansion of the upland area does not include fill used for rock walls, bank stabilization, and similar uses.
- (c2) Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13)310(d)(ii)(b) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan coastal development and special habitat provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions requirements of this section.
- (3) (4) If new site-specific information becomes available which clearly indicates that crucial habitats exist within the Special Waterfront Areas, and if after consultation with the City and Borough and state resource agencies, these entities concur, a specific evaluation pursuant to subsection 49.70.310(c)(2)(b) will be immediately required for projects within the crucial habitat areas.
- (5) A change to the special waterfront areas may be initiated by the submittal of new information regarding habitats to the department. To initiate a program change new information must be based on detailed site-specific studies which indicate that the habitat is substantially more productive than was indicated in the information which was available on May 22, 1986. Existing uses or activities in the subject areas may continue, provided, if conversion to another use or other modification is to be made, it shall conform to the requirements of the special waterfront areas.
- (4) Uses identified as permissible in this article may be conditioned, through the coastal management consistency review process, to be consistent with or conform to the habitat standards contained in subsections 49.70.950(b) and (c). However, if new site specific information becomes available after May 22, 1986, which clearly indicates that crucial

Commented [TC7]: Criteria have been substantially cut per Committee's direction

Commented [TC8]: Upland area is defined in code

Commented [TC9]: Same intent as original language but minimized with state agency references deleted.

Commented [TC10]: This refers back to the public need standard

Commented [TC11]: This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed. Special Waterfront Areas were determined long ago to be areas of low habitat value. This section is for the situation (which has never happened) where new information indicates that a Special Waterfront Area has crucial habitats. If CBJ and state resource agencies accept that, then regulation refers back to the public need standard, which says that if a development has unavoidable habitat impacts, it can still be approved if there is demonstrated public need and impacts have been minimized. The specific evaluation referred to here is not a habitat evaluation—it's the evaluation of the public need criteria.

Commented [TC12]: This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed.

~~habitats exist within the subject areas and if the state division of governmental coordination, after consultation with the City and Borough and state resource agencies, concurs, a specific evaluation pursuant to subsection 49.70.950(d) will be immediately required for projects within the crucial habitat areas.~~

~~(5) A change to the special waterfront areas may be initiated by the submittal of new information regarding habitats to both the division of governmental coordination and the City and Borough, by the state department of fish and game, the state department of environmental conservation, the state department of natural resources, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, the National Marine Fisheries Service, the City and Borough, or other interested parties. The division of governmental coordination shall expeditiously process new information as a routine program change in accordance with 6 AAC 85.120(c). To initiate a program change new information must be based on detailed site-specific studies which indicate that the habitat is substantially more productive than was indicated in the information which was available on May 22, 1986.~~

~~(6) Except as provided in subsection (a)(4) of this section, the significant public need and feasible and prudent alternative analysis under subsection 49.70.950(d) will not apply to state, federal or local permit applications previously submitted for all, or a part, of the affected area unless a change to the affected special waterfront area has become effective.~~

~~(7) Proponents of land and water uses shall be advised that in cases where the use of dredged or fill materials in waters of the United States is proposed, the requirements of the Clean Water Act Section 404(B)(1) guidelines shall apply and must be met before development may proceed.~~

~~(8) When the use of dredged or fill materials in the waters of the United States is required, uses that do not require direct siting in or access to the water to fulfill their basic purpose will generally be directed to upland areas unless it is clearly demonstrated that upland alternatives are not available.~~

~~(13) Filling of intertidal areas below mean high tide, not specifically addressed in section 49.70.960, for the expansion of upland area is specifically prohibited unless clear and convincing evidence is provided showing that all of the following conditions exist that:~~

- ~~(A) Strict compliance with the policy would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;~~
- ~~(B) Fill is the only means to allow development of the property which is similar to other properties in the vicinity;~~
- ~~(C) Less than the proposed fill would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;~~
- ~~(D) The proposed project meets the requirements of the other enforceable policies of the Juneau Coastal Management Plan;~~
- ~~(E) The proposed project will not be detrimental to the public health, welfare and safety or to other properties in the vicinity;~~

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(F) Approval of the project will not authorize uses on the property otherwise not allowed by other state, federal and local laws and regulations; and

(G) If applicable, the meaning of the phrase "feasible and prudent" has been considered and found to support approval of the proposal to fill.

Provided, log and mining transfer facilities and the following public facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.

(c) Special policies for the special waterfront areas.

(1) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except that necessary to construct a public boat ramp.

(2) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area except as needed by the U.S. Coast Guard for its purposes or as allowed by the state department of fish and game for habitat maintenance and enhancement.

(3) No floating structures are allowed within 300 feet of the mouths of streams in the Thane special waterfront area.

(4) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.

(5) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a natural beach for salmon resting.

(6) Seawalk. A pedestrian access easement and walkway intended to provide a continuous pedestrian path along the entire downtown waterfront area, shall be included with all future development or redevelopment along the downtown waterfront shoreline. This walkway, to be known as the seawalk, shall be a continuous path along the entire downtown waterfront as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk, property owners developing or redeveloping property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and Borough equal to 20 percent of the final project cost for a seawalk constructed to public assembly standards for the section abutting their property. Unless the alignment of the seawalk requires otherwise, owners of property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan developing or redeveloping their property shall dedicate all easements necessary for construction of a seawalk 16 feet in width.

(A) Reserved.

(B) Reserved.

(C) The seawalk shall not be required for existing buildings located along the water's edge until additions or alterations, or both, in excess of 50 percent of the gross square footage of the existing structure are proposed or undertaken within a 36-month period as determined by the City and Borough building division. General maintenance or repair work is exempt from this requirement.

(D) Reserved.

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Commented [TC13]: This section has been moved but otherwise not changed.

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(d) Interpretation of the Juneau Coastal Management Plan Special Waterfront Area Map. The purpose of this subsection is to assist users of the Juneau Coastal Management Plan Special Waterfront Area Map.

(1) Lines which apparently follow street or right-of-way centerlines shall be construed as following such centerlines.

(2) Lines which apparently follow property or lot boundary lines shall be construed as following such boundary lines.

(3) Lines at the first and second rock dumps shall represent a line 100 feet upland from the mean high water line. Lines on other land and water areas where there are no survey lines shall be construed by using the scale of the Juneau Coastal Management Plan Special Waterfront Area Map. Where doubt arises over the location of a line, the parties shall first establish the true scale of the map by using a known distance between points visible on the map. The outside, or seaward edge of the line appearing on the map shall then be construed as the line.

Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

(1) Floathomes located outside of public marinas and on privately-owned tidelands may be allowed with a Conditional Use Permit. Floathomes in other areas are prohibited.

(2) Floating camps or multipurpose floating structures intended in whole or in part for residential purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed with a conditional use permit.

(3) Floating structures, other than those addressed in subsections intended for commercial or industrial purposes including, fish propagation, mineral extraction, mineral processing, timber extraction or processing, lodging, seafood processing, research, marine service and repairs, which will be fixed in one location for more than 30 days, may do so only after having obtained approval through the conditional use process. Provided, the following are exempt from the conditional use process requirement:

(A) Mooring devices for watercraft;

(B) Watercraft transiting the City and Borough that are not intended for residential use in excess of 30 days in any 12 calendar months;

(C) Seafood processors whose primary purpose is to receive fish and shellfish from harvesting boats and prepare it for further transportation; and

(D) Watercraft intended to transport cargo to, from or within the City and Borough.

~~(14) Floathomes, or any floating structures or watercraft intended for moored or anchored residential use, shall be approved through the conditional use process before they may be anchored or moored in one location for more than 30 days. Floathomes must also have state department of natural resources or City and Borough tideland permits as applicable. Such structures must either be connected to an approved onshore sewage disposal system or have United States Coast Guard approved marine sanitation devices, and may not dispose of sewage by any other means. In addition, floathomes must meet all of the following standards:~~

~~(A) Floathomes shall not ground at low tide and must be located at least 300 feet from any anadromous fish streams. Mooring shall not obstruct recreational use of the shore. Fuel tanks shall be designed to protect against accidental contamination of the water.~~

Commented [TC14]: The former floathome prohibition area covers almost the entire borough, and the former language included a section allowing floathomes on privately-owned tidelands with a Conditional Use Permit. This language distills that language and drops the extensive list of additional requirements. The other requirements in the original list regarding public safety, impacts on surrounding neighborhoods, etc. may be addressed through the Conditional Use Permit process. We could consider adopting those requirements in an internal policy document.

Seawater must be protected from contamination by fuel spills, and solid and liquid wastes;

- (B) Floathomes shall not be located in the "prohibited area" shown on Juneau Coastal Management Plan Map 2, or areas with concentrations of shellfish, waterfowl, shorebirds, marine mammals, extensive tide flats, salt marshes and kelp or eelgrass beds; sites within 330 feet of eagle nest trees; developed recreation sites; heavily used recreation sites; or known historic and archeological sites. Floathomes may be allowed on privately owned tidelands within the prohibition area provided other provisions of this section are met;
- (C) The placement of floathomes shall avoid blockage or interference to waterway channels used by waterborne traffic;
- (D) Views from adjacent shoreline residences shall not be blocked if the main floor of the residence is located below 25 feet above sea level. The owner of any such residence within 500 feet on either side of the proposed floathome location may prevent that site from being used, by submitting a written objection at or before the time of consistency review or planning commission action, under the conditional use process. Such objection may not be considered after the consistency determination is issued, or planning commission action under the conditional use process;
- (E) Where feasible and prudent, no more than one floathome shall be allowed for every 500 feet of lineal shoreline measured at mean high tide unless multiple floathome moorage is specifically allowed under subsection (15) of this section;
- (F) Floathomes shall be constructed and maintained to avoid a dilapidated, abandoned, derelict or unattended appearance;
- (G) All refuse shall be securely stored pending removal;
- (H) Floathomes shall float generally level and have at least one foot of freeboard;
- (I) Where the need for upland access to the floathome is anticipated, the floathome shall be sited to ensure that there is proper and adequate legally recorded upland access to the site;
- (J) Floathomes shall be placed so that required or desired onshore services and facilities can be efficiently extended;
- (K) Floathomes shall be allowed in an area only after adjacent upland owners are notified;
- (L) Floathomes shall be sited and operated to avoid creating or increasing noise and air pollution. Emissions from heaters and stoves, if otherwise lawful, may be allowed;
- (M) Persons wishing to place floathomes adjacent to shorelines having road access must show that at least two onshore legally recorded parking places not on a public right-of-way are available and that floathome residents will have clear access to these parking places across the shoreland adjacent to the floathome; and
- (N) Floathomes may be allowed without conditional use approval in developed marinas if the owner or operator assumes responsibility for providing fresh water, sewage disposal and solid waste disposal.

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- (15) Floating camps or multipurpose floating structures intended in whole or in part for residential purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed under the conditional use procedure provided they meet all of the standards for floathomes set forth in subsection (14) of this section.
- (16) Development intended to provide moorage for two or more floathomes may be allowed as conditional uses in the nonprohibited areas shown on Juneau Coastal Management Plan Map 2, provided the developer:
- (A) Owns, or has a nonrevocable lease, for at least 30 years in duration, for the upland area adjacent to the water area to be developed;
 - (B) Provides at least two off-road parking spaces for each floathome;
 - (C) Provides fresh water, sewer with approved onshore disposal, and electricity to each floathome;
 - (D) Provides fire control protection approved by the City and Borough fire chief; and
 - (E) Provides to the floathomes, by site selection, physical improvements, or design of the floathomes, protection from storms, such that the floathomes will be safe from waves higher than two feet.
- (17) Floating structures, other than those addressed in subsections (14), (15) and (16) of this section, intended for commercial or industrial purposes including, fish propagation, mineral extraction, mineral processing, timber extraction or processing, lodging, seafood processing, research, marine service and repairs, which will be fixed in one location for more than 30 days, may do so only after having obtained approval through the conditional use process. Provided, the following are exempt from the conditional use process requirement:
- (A) Mooring devices for watercraft;
 - (B) Watercraft transiting the City and Borough that are not intended for residential use in excess of 30 days in any 12 calendar months;
 - (C) Seafood processors whose primary purpose is to receive fish and shellfish from harvesting boats and prepare it for further transportation; and
 - (D) Watercraft intended to transport cargo to, from or within the City and Borough.
- (18) Industrial and commercial uses on or adjacent to the shorelines of navigable waters must be located in the appropriate special waterfront designation established in section 49.70.960 unless:
- (A) There is no feasible and prudent alternative to meet the public need for the use; and
 - (B) The nature of the use requires a specific location and no other location will suffice.
- (19) In approving development in coastal areas, priority shall be given, in the following order, to:
- (A) Water dependent uses and activities;
 - (B) Water related uses and activities; and

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~~(C) Uses and activities which are neither water dependent nor water related, for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.~~

~~(Serial No. 87-49, § 2, 1987; Serial No. 92-41, § 2, 1992)~~

~~49.70.910 Geophysical hazards.~~

~~(a) Surface modification that would induce excessive erosion, undermine the support of nearby land or unnecessarily scar the landscape is prohibited. Any other modification shall be limited to the smallest extent that is needed for development.~~

~~(b) Development in areas having known hazards may not be approved until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.~~

~~(c) Developers shall retain existing vegetative cover to the greatest extent feasible and prudent. In cases where development necessitates removal of vegetation, erosion shall be prevented through revegetation or, if revegetation is not feasible, by other appropriate measures.~~

~~(d) Industrial and resource extraction activities in high landslide or avalanche areas are prohibited unless it is determined that these activities will reduce the threat of landslides and avalanches on existing and potential development.~~

~~(e) Mitigating measures are required for development in areas of moderate hazard. These may include dissipating structures or dams, appropriate structural engineering, or other techniques that respond to the specific site hazards.~~

~~(f) Residential, commercial and industrial development is prohibited in floodways. Culverts and bridges are not subject to this prohibition.~~

~~(g) Structures near water courses shall be designed to reduce the impact of flooding and to allow for natural drainage.~~

~~(h) Sand and gravel operations, recreation activities, open space, and parking lots may be allowed in 100-year floodplains only if they do not increase the flood hazard.~~

~~(i) Industrial equipment and raw materials stored in 100-year floodplains shall be adequately bermed or otherwise protected.~~

~~(j) Disposal of hazardous materials in 100-year floodplains is prohibited. No new development which will involve storage of hazardous materials will be permitted in the 100-year floodplain unless there is no feasible and prudent alternative and unless safety measures are provided to prevent accidental discharge.~~

~~(k) Establishment of sanitary landfills in floodplains is prohibited.~~

~~(Serial No. 87-49, § 2, 1987)~~

~~49.70.915 Recreation.~~

~~(a) In developing areas:~~

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- (1) ~~Recreational developments adjacent to bodies of water shall be located, designed, constructed, and managed to minimize adverse effects on other uses and to provide safe, healthy conditions for recreationists.~~
- (2) ~~Recreational developments shall, wherever feasible and prudent, preserve or enhance scenic views and vistas as well as improve the aesthetic value of the area.~~
- (3) ~~Access to natural areas, such as fishing streams and hunting areas, shall be a combination of linear trails or easements and small parking areas to minimize user concentration on small portions of the shore or upland areas.~~
- (b) ~~Facilities for water-dependent recreation, such as fishing, swimming, and boating, and water-oriented recreation, such as picnicking, hiking, and walking, shall be located near the shoreline. Non-water-related recreation facilities shall be located away from the shoreline unless no feasible and prudent inland alternative exists to meet the public need.~~
- (c) ~~Auke Creek, the east bank of Auke Lake, and Lake Creek outside federal lands shall be protected with shoreline public easements and greenbelts for public access and habitat purposes.~~
- ~~(Serial No. 87-40, § 2, 1987)~~

49.70.920 Energy facilities:

- Siting for the development of major energy facilities must be based, to the extent feasible and prudent, on the following standards:
- (1) ~~Site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements;~~
- (2) ~~Site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs;~~
- (3) ~~Consolidation of facilities;~~
- (4) ~~Consider the concurrent use of facilities for public or economic reasons;~~
- (5) ~~Cooperate with landowners, developers, and federal agencies in the development of facilities;~~
- (6) ~~Select sites with sufficient acreage to allow for reasonable expansion of facilities;~~
- (7) ~~Site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements;~~
- (8) ~~Select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;~~
- (9) ~~Encourage the use of vessel traffic control and collision avoidance systems;~~
- (10) ~~Select sites where development will require minimal site clearing, dredging, and construction in productive habitats;~~
- (11) ~~Site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries, haulout grounds and waterfowl nesting areas;~~

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- (12) Site facilities so that the design and construction of these facilities and support infrastructures in coastal areas will allow for free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;
- (13) Site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;
- (14) Site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;
- (15) Select sites in areas which are designated for industrial purposes and where industrial traffic is minimized through population centers; and
- (16) Select sites in areas where vessel movements will not result in overcrowded harbors or interfere with fishing operations.

(Serial No. 87-49, § 2, 1987)

49.70.925 Transportation and utilities.

- (a) Highway and airport design, construction and maintenance shall take all feasible and prudent steps to prevent alteration of water courses, wetlands and intertidal marshes, and aesthetic degradation.
- (b) Where roads and trails cross anadromous streams, the design and construction of bridges and culverts shall allow free passage of fish, and shall take all feasible and prudent steps to prevent habitat disturbance. Phasing of construction shall be done to avoid critical migration periods for salmon and other anadromous species.
- (c) Roads and utilities shall be designed and built so as to protect shore features and other uses that may be affected by pollution, flooding, erosion and other adverse effects.
- (d) Prior to disposal of state or City and Borough lands, public access routes, such as roads and trails, shall be identified and dedicated.
- (e) Where feasible and prudent, bike trails shall be provided.
- (f) Transportation and utility routes and facilities shall be sited inland from beaches and shorelines unless the route or facility is water dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility.
- (g) Parking areas shall include suitable drainage controls to prevent ponding and excessive concentrated runoff. Such areas shall be buffered by a minimum ten-foot wide natural vegetation strip, as feasible and prudent, from shorelines and adjacent uses, and shall be sited, screened, and maintained to minimize dust.
- (h) Development shall only locate in areas where utilities are available, or can be economically extended, or can be developed as part of the project, or where suitable on-site utilities are possible.
- (i) Utility corridors shall, wherever feasible and prudent, be integrated with roads and other transportation corridors.

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(j) — Where feasible and prudent, overhead lines shall be located so as not to interfere with scenic vistas.

(Serial No. 87-49, § 2, 1987)

49.70.930 Fish and seafood propagation and processing.

~~(a) — Shoreline use shall not adversely impact important fisheries habitat, migratory routes and harvest of significant fish or shellfish species. Shorelines having banks, beaches, and beds critical to the preservation or enhancement of the fisheries resource base shall be maintained in, or restored to, their original condition wherever and whenever feasible and prudent. Upland areas shall be managed to maintain water quality standards necessary for the propagation of anadromous fish species.~~

~~(b) — Fisheries enhancement and aquaculture shall maintain or restore quality and normal circulation patterns of affected waters at optimum levels consistent with applicable state standards. Aquaculture hatcheries and fisheries shall be protected from significant water quality degradation by other users.~~

~~(c) — Aquaculture development and fisheries enhancement shall be located, designed and operated so that aesthetic values of local shorelines are maintained to the extent feasible and prudent.~~

~~(d) — Fisheries enhancement and aquaculture practices, including disposal of wastes, viscera or fish scrap, shall be conducted so as not to violate applicable state water quality and litter control standards.~~

(Serial No. 87-49, § 2, 1987)

49.70.935 Timber harvest and processing.

(a) — AS 41.17, Forest Resources and Practices, and the regulations and procedures adopted under that chapter with respect to the harvest and processing of timber, are incorporated into the Juneau Coastal Management Plan and constitute, in part, the components of the Juneau Coastal Management Plan, with respect to those purposes.

(b) — Commercial timber harvest activities and land clearing in the coastal area shall be conducted so as to meet the following standards:

(1) — The location of facilities and the layout of logging systems shall be sited so as to take all feasible and prudent steps to prevent adverse environmental impacts.

(2) — Free passage and movement of fish in coastal waters shall be assured.

(c) — Commercial timber transport and land clearing, storage, and processing in the coastal area shall be conducted so as to meet the following standards:

(1) — Sites for in-water dumping and storage of logs shall be selected and these activities conducted so as to minimize adverse affects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms and not constitute a hazard to navigation. Shared use of such facilities shall be required wherever feasible.

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(2) Roads for log transport and harvest area access shall be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and shall be adequately maintained until they are returned to their pre-road natural drainage patterns unless the roads can be converted to another use, such as recreational access. Approvals and permits for logging activities shall specify what will be done with the roads after logging is completed.

(3) Stream crossings, including bridges and culverts, shall be kept to a minimum number, shall be designed to withstand seasonal high water and flooding, and shall provide free passage and movement of fish.

(d) Fuelwood cutting practices shall be conducted so as to meet the following standards:

(1) Fuelwood cutting within 100 feet of the centerline of any trunk roadway shall be done in a manner that minimizes visual impact.

(2) Felling and bucking shall be done so that traffic on roadways is not endangered or delayed.

(3) Slash shall be reduced in height by lopping, scattering and laying as close to the ground as practicable.

(Serial No. 87-49, § 2, 1987)

49.70.940 Mining and mineral processing.

(a) Mining and mineral processing in the coastal areas shall be regulated, designed, and conducted so as to be compatible with the standards in this article, adjacent uses and activities, statewide and national needs, and district programs.

(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and prudent alternative to coastal extraction which will meet the public need for sand or gravel.

(Serial No. 87-49, § 2, 1987)

49.70.945 Subsistence.

Project proposals shall be designed so that opportunities for subsistence usage of coastal areas and resources are recognized and assured.

(Serial No. 87-49, § 2, 1987)

49.70.950 Habitat.

(a) Habitats in the coastal area which are subject to the Alaska Coastal Management Program include:

(1) Offshore areas;

(2) Estuaries;

(3) Wetlands and tideflats;

(4) Rocky islands and seacliffs;

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526 ~~(5) Barrier islands and lagoons;~~
 527 ~~(6) Exposed high energy coasts;~~
 528 ~~(7) Rivers, streams, and lakes; and~~
 529 ~~(8) Important upland habitat.~~
 530 ~~(b) The habitats contained in subsection (a) of this section shall be managed so as to maintain or~~
 531 ~~enhance the biological, physical and chemical characteristics of the habitat which contribute to its~~
 532 ~~capacity to support living resources.~~
 533 ~~(c) In addition to the standard contained in subsection (b) of this section, the following standards shall~~
 534 ~~apply to the management of the following habitats:~~
 535 ~~(1) Offshore areas shall be managed as a fisheries conservation zone so as to maintain or~~
 536 ~~enhance the state's sport, commercial, and subsistence fishery;~~
 537 ~~(2) Estuaries shall be managed so as to ensure adequate waterflow, natural circulation patterns,~~
 538 ~~nutrients, and oxygen levels, and to avoid the discharge of silt, toxic wastes and the~~
 539 ~~destruction of productive habitat;~~
 540 ~~(3) Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and~~
 541 ~~oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of~~
 542 ~~important habitat, and the discharge of toxic substances;~~
 543 ~~(4) Rocky islands and seadiffs shall be managed so as to avoid the harassment of wildlife, the~~
 544 ~~destruction of important habitat, and the introduction of competing or destructive species~~
 545 ~~and predators;~~
 546 ~~(5) Barrier islands and lagoons shall be managed so as to maintain adequate flows of sediments,~~
 547 ~~detritus, and water, avoid the alteration or redirection of wave energy which would lead to~~
 548 ~~the filling in of lagoons or the erosion of barrier islands, and discourage activities which would~~
 549 ~~decrease the use of barrier islands by coastal species, including polar bears and nesting birds;~~
 550 ~~(6) High energy coasts shall be managed so as to ensure the adequate mix and transport of~~
 551 ~~sediments and nutrients and avoid redirection of transport process and wave energy; and~~
 552 ~~(7) Rivers, streams and lakes shall be managed so as to protect natural vegetation, water quality,~~
 553 ~~important fish or wildlife habitat and natural waterflow.~~
 554 ~~(d) Uses and activities in the coastal area which will not conform to the standards contained in~~
 555 ~~subsections (b) and (c) of this section may be allowed if the following standards are met:~~
 556 ~~(1) There is a significant public need for the proposed use or activity;~~
 557 ~~(2) There is no feasible and prudent alternative to meet the public need for the proposed use or~~
 558 ~~activity which would conform to the standards contained in subsections (b) and (c) of this~~
 559 ~~section; and~~
 560 ~~(3) All feasible and prudent steps to maximize conformance with the standards contained in~~
 561 ~~subsections (b) and (c) of this section will be taken.~~
 562 ~~(e) Each development which adjoins a river or stream which has been degraded by previous human~~
 563 ~~activity shall, as part of its development plan, include provisions for rehabilitation of the stream or~~

Commented [TC15]: Retain 70.950(d) in Habitat section. This section has been used to allow approval of developments that have unavoidable habitat impacts but have a high public need and no feasible alternatives. One example is the Alaska Glacier Seafoods Seafood processing plant, which filled important intertidal habitat but had mitigation and was considered a public need.

river, and shall be approved by the state department of fish and game. Such provisions shall be limited to removal of debris, removal of abandoned machinery and vehicles, grading and stabilization of banks and related clean up activities, and shall include preservation or restoration of riparian vegetation. Restoration shall not be required beyond that needed to return the area to natural appearance and function; provided, the following are exceptions to this policy:

(1) Construction of one single family or duplex dwelling on a lot of record;

(2) Construction of single family or duplex dwellings on lots created by subdivisions of four or fewer lots.

(f) All structures and foundations located adjacent to streams or lakes listed in Table VI-2 of Appendix C of the Juneau Coastal Management Plan, shall have a 50-foot setback from each side of the stream or lake measured from the ordinary high water mark, where feasible and prudent; provided, docks, bridges, culverts and public structures whose purpose is access to or across the stream or lake are not subject to this policy, and provided further, uses which must be in or adjacent to the stream or lake in order to function, such as mining activities, fish culturing, water supply intakes and similar uses, are exempt from the setback requirement. The setback shall be vegetated or revegetated, where feasible and prudent, and such vegetation or revegetation shall be kept or arranged to maximize shade on the stream.

(g) Where feasible and prudent, watershed areas which contribute to existing drinking water supplies, as defined by the state department of environmental conservation, shall be protected by buffer strips at least 50 feet in width along each side of streams, the edges of wetlands, and lakes. Measures shall be taken to prevent erosion. The side or edge of the water body shall be the ordinary high water mark. The buffer shall be vegetated or revegetated.

(h) Development in buffer areas prescribed in subsections (f) and (g) of this section shall incorporate measures to prevent erosion and subsequent increases in turbidity and sediment within the waterway and adjacent wetlands within the buffer.

(Serial No. 87-49, § 2, 1987)

49.70.955 Air, land and water quality.

(a) Notwithstanding any other provision of this article, the statutes, regulations and procedures of the state department of environmental conservation, protecting air, land and water quality are incorporated into the Juneau Coastal Management Plan and, as administered by that agency, constitute the components of the Juneau Coastal Management Plan with respect to those purposes.

(b) Streamside and lakeside development shall not cause downstream water degradation below state standards.

(c) Berms and planting strips shall be placed along highways and major arterials wherever feasible and prudent.

(Serial No. 87-49, § 2, 1987)

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49.70.960 Special waterfront areas.

~~(a) General standards:~~

- ~~(1) The Juneau Coastal Management Plan Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each special waterfront area, and the maximum seaward limits for permanent development in each special waterfront area. The land or water inside the boundaries shown on the Juneau Coastal Management Plan Special Waterfront Area Map is subject to the provisions of this section. Uses allowed within the special waterfront areas as provided in this section are not allowed along other waterfronts within the City and Borough unless such uses are allowable outside the special waterfront areas under the terms of subsections 49.70.905(13) or (18) and other applicable provisions of the Juneau Coastal Management Plan.~~
- ~~(2) Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions of this section.~~
- ~~(3) Existing uses or activities in the subject areas may continue, provided, if conversion to another use or other modification is to be made, it shall conform to the requirements of the special waterfront areas.~~
- ~~(4) Uses identified as permissible in this article may be conditioned, through the coastal management consistency review process, to be consistent with or conform to the habitat standards contained in subsections 49.70.950(b) and (c). However, if new site-specific information becomes available after May 22, 1986, which clearly indicates that crucial habitats exist within the subject areas and if the state division of governmental coordination, after consultation with the City and Borough and state resource agencies, concurs, a specific evaluation pursuant to subsection 49.70.950(d) will be immediately required for projects within the crucial habitat areas.~~
- ~~(5) A change to the special waterfront areas may be initiated by the submittal of new information regarding habitats to both the division of governmental coordination and the City and Borough, by the state department of fish and game, the state department of environmental conservation, the state department of natural resources, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, the National Marine Fisheries Service, the City and Borough, or other interested parties. The division of governmental coordination shall expeditiously process new information as a routine program change in accordance with 6 AAC 85.120(c). To initiate a program change new information must be based on detailed site-specific studies which indicate that the habitat is substantially more productive than was indicated in the information which was available on May 22, 1986.~~
- ~~(6) Except as provided in subsection (a)(4) of this section, the significant public need and feasible and prudent alternative analysis under subsection 49.70.950(d) will not apply to state, federal~~

~~or local permit applications previously submitted for all, or a part, of the affected area unless a change to the affected special waterfront area has become effective.~~

~~(7) Proponents of land and water uses shall be advised that in cases where the use of dredged or fill materials in waters of the United States is proposed, the requirements of the Clean Water Act Section 404(D)(1) guidelines shall apply and must be met before development may proceed.~~

~~(8) When the use of dredged or fill materials in the waters of the United States is required, uses that do not require direct siting in or access to the water to fulfill their basic purpose will generally be directed to upland areas unless it is clearly demonstrated that upland alternatives are not available.~~

~~(b) Land and water uses permissible in the special waterfront areas.~~

~~(1) Generally. The land and water uses listed below as permissible in the special waterfront areas may be further restricted in zoning classifications within the special waterfront areas. The uses and activities listed below are deemed to meet the water-relevancy requirements of section 49.70.905. Other uses and activities may be allowed if they meet the requirements of the zoning districts under chapter 49.25, and the water-relevancy requirements of section 49.70.905.~~

~~(A) Maritime activities including private boating, commercial boating of all types, visitor industry, including cruise ships and transient pleasure vessels, commercial fishing, charter fishing and boating, floatplane activity, and any other activity not involving a structure for the use of waterbodies for sport, recreation, or commerce;~~

~~(B) Floats, docks, jetties, groins, bulkheads, ramps, shore defense works, piers, wharfs, dolphins, and other structures needed to provide access between shore and waterbody or to protect and stabilize the shoreline;~~

~~(C) All forms and structures related to handling and storage of cargo which arrived by water and/or is intended to depart by water, including storage yards, warehouses, cranes and similar machinery, and marine railways;~~

~~(D) Any form or structure for manufacturing or repair which is related to maritime activity and which substantially requires or benefits from a shoreline location;~~

~~(E) Any form or structure associated with uses which need or substantially benefit from a shoreline location;~~

~~(F) Marine fuel, water and sanitation facilities including services and support for transient and permanent vessels;~~

~~(G) All forms of public, private, and commercial moorage;~~

~~(H) Public access facilities, including boat ramps, parks, promenades, sidewalks, viewing areas, benches, plazas, and other forms of public open spaces;~~

~~(I) Research and education facilities related to the waterbody they abut;~~

~~(J) Fish and shellfish propagation and management;~~

~~(K) Offices which are related to and a necessary part of permissible uses;~~

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- 681 (L) Public utilities including lines, pump stations, transformer stations, and similar uses;
- 682 (M) Hotels, motels and other types of transient lodging which are designed to take
- 683 advantage of the shoreline amenity and which will result in increased visual or physical
- 684 public access to the shoreline;
- 685 (N) Restaurants, cafes, and other food or beverage facilities which are designed to take
- 686 advantage of the shoreline amenity and which will result in increased visual or physical
- 687 access to the shoreline;
- 688 (O) Gift shops, entertainment facilities, ticketing agencies, and other visitor industry
- 689 services;
- 690 (P) Retail services directly linked to a maritime clientele, such as gear and supply stores,
- 691 boat sales, and laundries. To be directly linked, the proposed use must show by design
- 692 and orientation that the primary clientele will be persons arriving from or going to
- 693 watercraft or working on or in conjunction with watercraft, and that the proposed use is
- 694 reasonably located to be convenient to foot borne customers that are already found in
- 695 the area or that can be expected to be in the area;
- 696 (Q) Retail establishments and restaurants catering to the needs of persons working in the
- 697 special waterfront areas when close proximity is important to the function of
- 698 permissible uses;
- 699 (R) Water-oriented retail and/or office complexes where the value and income potential
- 700 from retail or office uses will enable provision of public access and other water-related
- 701 amenities for use by the public. Such amenities must be provided at the same time as
- 702 the facilities are completed, or earlier in time. An overall plan for the entire
- 703 development must be presented with the permit application showing spaces and
- 704 features that will be available to the public;
- 705 (S) Residences;
- 706 (T) The following accessory uses when associated with the uses set forth above: parking
- 707 lots, spaces and structures, driveways, sidewalks, entrance structures, decorative
- 708 structures, benches, landscaping features, awnings and similar improvements, and
- 709 utility facilities.
- 710 ~~(c) Special policies for the special waterfront areas:~~
- 711 ~~(1) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except~~
- 712 ~~that necessary to construct a public boat ramp.~~
- 713 ~~(2) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area~~
- 714 ~~except as needed by the U.S. Coast Guard for its purposes or as allowed by the state~~
- 715 ~~department of fish and game for habitat maintenance and enhancement.~~
- 716 ~~(3) No floating structures are allowed within 300 feet of the mouths of streams in the Thane~~
- 717 ~~special waterfront area.~~
- 718 ~~(4) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.~~
- 719 ~~(5) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a~~
- 720 ~~natural beach for salmon resting.~~

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~~(6) Seawalk. A pedestrian access easement and walkway intended to provide a continuous pedestrian path along the entire downtown waterfront area, shall be included with all future development or redevelopment along the downtown waterfront shoreline. This walkway, to be known as the seawalk, shall be a continuous path along the entire downtown waterfront as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk, property owners developing or redeveloping property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and Borough equal to 20 percent of the final project cost for a seawalk constructed to public assembly standards for the section abutting their property. Unless the alignment of the seawalk requires otherwise, owners of property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan developing or redeveloping their property shall dedicate all easements necessary for construction of a seawalk 16 feet in width.~~

~~(A) Reserved.~~

~~(B) Reserved.~~

~~(C) The seawalk shall not be required for existing buildings located along the water's edge until additions or alterations, or both, in excess of 50 percent of the gross square footage of the existing structure are proposed or undertaken within a 36-month period as determined by the City and Borough building division. General maintenance or repair work is exempt from this requirement.~~

~~(D) Reserved.~~

~~(d) Interpretation of the Juneau Coastal Management Plan Special Waterfront Area Map. The purpose of this subsection is to assist users of the Juneau Coastal Management Plan Special Waterfront Area Map.~~

~~(1) Lines which apparently follow street or right-of-way center lines shall be construed as following such center lines.~~

~~(2) Lines which apparently follow property or lot boundary lines shall be construed as following such boundary lines.~~

~~(3) Lines at the first and second rock dumps shall represent a line 100 feet upland from the mean high water line. Lines on other land and water areas where there are no survey lines shall be construed by using the scale of the Juneau Coastal Management Plan Special Waterfront Area Map. Where doubt arises over the location of a line, the parties shall first establish the true scale of the map by using a known distance between points visible on the map. The outside, or seaward edge of the line appearing on the map shall then be construed as the line.~~

~~(Serial No. 87-49, § 2, 1987; Serial No. 90-51, § 2, 1990; Serial No. 92-41, § 3, 1992; Serial No. 2005-29(am), § 2, 10-10-2005)~~

Definitions 49.80

Banks, beaches, and beds critical to the preservation of the fisheries resource base means areas that are either catalogued or documented as critical to the fisheries resource base, or expressed as such by a state or federal resource agency.

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Important fish and wildlife habitat means the waters and/or surrounding land areas that are either catalogued or documented habitats or expressed as important by a state or federal resource agency.

Significant fish or shellfish species means species that are either catalogued or documented as important to Southeast Alaska, or expressed as such by a state or federal resource agency.

49.70.310(c) Coastal Development and Special Habitats

(1) The purpose of this section is to manage and protect the natural resource values of Juneau's coastline and special habitats.

(2) The following policies shall apply:

(a) Fish and seafood propagation, processing, and mariculture

(i) Shoreline use shall not adversely impact important fisheries habitat, migratory routes and harvest of significant fish or shellfish species. Shorelines having banks, beaches, and beds critical to the preservation or enhancement of the fisheries resource base shall be maintained in, or restored to, their original condition whenever reasonable. Upland areas shall be managed to maintain water quality standards necessary for the propagation of anadromous fish species.

(ii)

Fisheries enhancement and mariculture practices, including disposal of wastes, viscera or fish scrap, shall be conducted so as not to violate applicable state water quality and litter control standards.

(b) The following standards shall apply to the management of the following habitats:

(1) Rivers, streams and lakes shall be managed so as to protect natural vegetation, water quality, important fish or wildlife habitat and natural waterflow.

(c) Uses and activities in the coastal area which will not conform to the standards contained in subsections a-b of this section may be allowed if the following standards are met:

- (1) There is a significant public need for the proposed use or activity;
- (2) There is no reasonable alternative to meet the public need for the proposed use or activity which would conform to the standards contained in subsections a-b of this section; and
- (3) All feasible and prudent steps to maximize conformance with the standards contained in subsections (b-c) of this section will be taken.

49.70.310(d) Special waterfront areas.

(i) Purpose. The purpose of this section to encourage development of marine and marine-related facilities in established Special Waterfront Areas coastal areas with lower habitat value. Other purposes include:

Commented [TC1]: Previously referred to as aquaculture, which is now an outdated term

Commented [TC2]: Recommended for retention despite some duplication of state authority because these policies provide more specific standards of review for the Conditional Use Permit process and support the 2013 Juneau Comprehensive Plan implementing action 5.13-1A4, page 60, which states "Support mariculture that does not have unacceptable impacts on important fish and wildlife habitat and other maritime-related activities and ensure adherence with state law and protocols on mariculture practices. Use of invasive species or harmful food or waste products in these operations shall be prohibited." At a minimum, these policies ensure that fisheries development must have all required state permits. Staff has proposed definitions at the end of this section.

Commented [TC3]: This item has been retained despite duplication with state authority because of 2013 Comprehensive Plan policies that indicate the importance of these resources to the community, as described in Chapter 7, pp 77-86, specifically policies 7.3 and 7.11. For example, without this section CBJ does not have authority to manage impacts on tributaries that feed into catalogued anadromous streams. Staff has proposed definitions at the end of this section.

Commented [TC4]: Retain in Habitat section. This section has been used to allow approval of developments that have unavoidable habitat impacts but have a high public need and no feasible alternatives. One example is the Alaska Glacier Seafoods Seafood processing plant, which filled important intertidal habitat but had mitigation to minimize impacts and was considered a public need. Without this section, an important public project could potentially be denied based on habitat impacts.

Commented [TC5]: Purpose statement that covers all sections added per Committee request.

- (1) to provide greater protection for coastal areas outside of Special Waterfront Areas with higher habitat value, including a prohibition on intertidal fill used for expansion of upland areas;
- (2) to promote pedestrian access to the downtown waterfront with a seawalk; and
- (3) to provide special policies for other unique Special Waterfront Areas.

(ii) *General standards.*

- (a) The Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each special waterfront area, and the maximum seaward limits for permanent development in each special waterfront area. The land or water inside the boundaries shown on the Special Waterfront Area Map is subject to the provisions of this section.
- (b) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the expansion of upland area is specifically prohibited unless clear and convincing evidence is provided showing that all of the following conditions exist such that:
 - A) Strict compliance with the policy would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;
 - (B) Fill is the only means to allow development of the property which is similar to other properties in the vicinity;
 - (C) Less than the proposed fill would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;
 - (D) Approval of the project will not authorize uses on the property otherwise not allowed by other state, federal and local laws and regulations; and
 - (E) Provided, log and mining transfer facilities and the following public facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.
 - (F) Fill for expansion of the upland area is fill intended for structural support. Examples include structural support of buildings, parking lots, and related facilities. Fill for expansion of the upland area does not include fill used for rock walls, bank stabilization, and similar uses.
- (c) Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.310(d)(ii)(b) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other coastal development and special habitat provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other requirements of this section.
- (4) If new site-specific information becomes available which clearly indicates that crucial habitats exist within the Special Waterfront Areas, and if after consultation with the City and Borough and state resource agencies, these entities concur, a specific evaluation pursuant to subsection 49.70.310(c)(2)(c) will be immediately required for projects within the crucial habitat areas.
- (5) A change to the special waterfront areas may be initiated by the submittal of new information regarding habitats to the department. To initiate a program change new information must be

Commented [TC6]: Criteria have been substantially cut per Committee's direction

Commented [TC7]: Upland area is defined in code

Commented [TC8]: Same intent as original language but minimized with state agency references deleted.

Commented [TC9]: This refers back to the public need standard

Commented [TC10]: This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed. Special Waterfront Areas were determined long ago to be areas of low habitat value. This section is for the situation (which has never happened) where new information indicates that a Special Waterfront Area has crucial habitats. If CBJ and state resource agencies accept that, then regulation refers back to the public need standard, which says that if a development has unavoidable habitat impacts, it can still be approved if there is demonstrated public need and impacts have been minimized. The specific evaluation referred to here is not a habitat evaluation—it's the evaluation of the public need criteria.

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based on detailed site-specific studies which indicate that the habitat is substantially more productive than was indicated in the information which was available on May 22, 1986.

Commented [TC11]: This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed.

(c) *Special policies for the special waterfront areas.*

Commented [TC12]: This section has been moved but otherwise not changed.

- (1) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except that necessary to construct a public boat ramp.
- (2) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area except as needed by the U.S. Coast Guard for its purposes or as allowed by the state department of fish and game for habitat maintenance and enhancement.
- (3) No floating structures are allowed within 300 feet of the mouths of streams in the Thane special waterfront area.
- (4) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.
- (5) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a natural beach for salmon resting.
- (6) Seawalk. A pedestrian access easement and walkway intended to provide a continuous pedestrian path along the entire downtown waterfront area, shall be included with all future development or redevelopment along the downtown waterfront shoreline. This walkway, to be known as the seawalk, shall be a continuous path along the entire downtown waterfront as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk, property owners developing or redeveloping property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and Borough equal to 20 percent of the final project cost for a seawalk constructed to public assembly standards for the section abutting their property. Unless the alignment of the seawalk requires otherwise, owners of property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan developing or redeveloping their property shall dedicate all easements necessary for construction of a seawalk 16 feet in width.

(A) Reserved.

(B) Reserved.

(C) The seawalk shall not be required for existing buildings located along the water's edge until additions or alterations, or both, in excess of 50 percent of the gross square footage of the existing structure are proposed or undertaken within a 36-month period as determined by the City and Borough building division. General maintenance or repair work is exempt from this requirement.

(D) Reserved.

- (d) Interpretation of the Special Waterfront Area Map. The purpose of this subsection is to assist users of the Special Waterfront Area Map.

- 115 (1) Lines which apparently follow street or right-of-way centerlines shall be construed as
116 following such centerlines.
- 117 (2) Lines which apparently follow property or lot boundary lines shall be construed as following
118 such boundary lines.
- 119 (3) Lines at the first and second rock dumps shall represent a line 100 feet upland from the mean
120 high water line. Lines on other land and water areas where there are no survey lines shall be
121 construed by using the scale of the Special Waterfront Area Map. Where doubt arises over
122 the location of a line, the parties shall first establish the true scale of the map by using a
123 known distance between points visible on the map. The outside, or seaward edge of the line
124 appearing on the map shall then be construed as the line.

125 Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

- 126 (1) Floathomes located outside of public marinas and on privately-owned tidelands may be allowed with
127 a Conditional Use Permit. Floathomes in other areas are prohibited.
- 128 (2) Floating camps or multipurpose floating structures intended in whole or in part for residential
129 purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed with a
130 conditional use permit.
- 131 (3) Floating structures, other than those addressed in subsections intended for commercial or industrial
132 purposes including, fish propagation, mineral extraction, mineral processing, timber extraction or
133 processing, lodging, seafood processing, research, marine service and repairs, which will be fixed in one
134 location for more than 30 days, may do so only after having obtained approval through the conditional
135 use process. Provided, the following are exempt from the conditional use process requirement:
- 136 (A) Mooring devices for watercraft;
- 137 (B) Watercraft transiting the City and Borough that are not intended for residential use in
138 excess of 30 days in any 12 calendar months;
- 139 (C) Seafood processors whose primary purpose is to receive fish and shellfish from
140 harvesting boats and prepare it for further transportation; and
- 141 (D) Watercraft intended to transport cargo to, from or within the City and Borough.

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Definitions 49.80

Commented [TC13]: The former floathome prohibition area covers almost the entire borough, and the former language included a section allowing floathomes on privately-owned tidelands with a Conditional Use Permit. This language distills that language and drops the extensive list of additional requirements. The other requirements in the original list regarding public safety, impacts on surrounding neighborhoods, etc. may be addressed through the Conditional Use Permit process. We could consider adopting those requirements in an internal policy document.

154 *Banks, beaches, and beds critical to the preservation of the fisheries resource base* means areas that that
 155 are either catalogued or documented as critical to the fisheries resource base, or expressed as such by a
 156 state or federal resource agency.

157
 158 *Important fish and wildlife habitat* means the waters and/or surrounding land areas that are either
 159 catalogued or documented habitats or expressed as important by a state or federal resource agency.

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 161 *Significant fish or shellfish species* means species that are either catalogued or documented as important
 162 to Southeast Alaska, or expressed as such by a state or federal resource agency.

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PART II - CODE OF ORDINANCES
TITLE 49 - LAND USE
Chapter 49.70 - SPECIFIED AREA PROVISIONS
ARTICLE IX. COASTAL MANAGEMENT

ARTICLE IX. COASTAL MANAGEMENT

49.70.900 General provisions.

- (a) This article establishes the coastal management enforceable policies of the Juneau Coastal Management Program.
- (b) The director shall be responsible for carrying out the provisions of this article except as such is specifically delegated to other parties. The director is specifically authorized to carry out and is responsible for:
 - (1) All functions allocated to the City and Borough under the state's consistency decision making procedure set forth in 6 AAC 50;
 - (2) The rendering of local consistency decisions for the City and Borough on all building permit applications;
 - (3) The rendering of consistency decisions for the City and Borough on all development applications under the authority of the planning department established under this article;
 - (4) The receipt, storage and management of all records pertaining to decisions and actions carried out under this article.

(Serial No. 87-49, § 2, 1987)

49.70.905 Coastal development.

The following policies apply to coastal development throughout the coastal zone:

- (1) To the extent feasible and prudent, coastal development shall be designed using best available technology to minimize hazards associated with physical conditions such as soil characteristics, slopes, geological features, surface and subsurface drainage, water tables, floodplains and shore forms of the site.
- (2) To the extent feasible and prudent, coastal development shall be designed and operated to prevent adverse impact upon beaches and other physical shore features in the coastal zone.
- (3) The placement of structures and the discharge of dredged or fill material into coastal water shall, at a minimum, comply with Parts 320—330, et seq., Title 33, Code of Federal Regulations (Vol. 51 of the Federal Register, pp. 4120641260, November 13, 1986)
- (4) Dredging and filling shall be prevented in highly productive tideflats and wetlands, subtidal areas important to shellfish, and water important for migration, spawning and rearing of salmon and other sportfish species, unless there is a significant public need for the project and there is no feasible and prudent alternative to meet the public need.
- (5) Shoreline industrial developments, ports, harbors and marinas shall be sited, designed, constructed and operated such that:
 - (A) Lawful navigation is not impaired;
 - (B) Facilities for proper handling of sewage, refuse, fuel and waste oil are provided;

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- (C) All feasible and prudent steps are taken to prevent water pollution by incorporating best management practices; and
 - (D) Adequate access and utility access are available or can be provided.
 - (6) To the extent feasible and prudent, ports, harbors and docks shall be located away from extensive tideflats and wetlands and so as not to obstruct fish passage along the coast or in waters used by anadromous fish.
 - (7) To the extent feasible and prudent, piers, wharfs, and floating docks shall be installed in waters that have adequate natural flushing capacities. If solid fill must be used, it shall be located and constructed to maintain water circulation in the harbor.
 - (8) Excavation, shoreline alteration and disturbance of anadromous streams, tideflats and wetlands shall be minimized in the construction and operation of port, harbor, dock and industrial facilities.
 - (9) To the extent feasible and prudent, the area immediately surrounding small boat harbors shall be reserved for water-related and water-dependent uses.
 - (10) To the extent feasible and prudent, port and harbor uses shall minimize the negative aesthetic impact of their use and activities, shall enhance and maintain the positive visual aspects of their development, and shall provide opportunities for public viewing of such positive aspects.
 - (11) Navigable waters shall be kept free of unnecessarily hazardous or obstructive development.
 - (12) To the extent feasible and prudent, development shall not detract from the scenic qualities of the shorelines, shall be compatible with its surroundings and shall not significantly block scenic vistas.
 - (13) Filling of intertidal areas below mean high tide, not specifically addressed in section 49.70.960, for the expansion of upland area is specifically prohibited unless clear and convincing evidence is provided showing that all of the following conditions exist that:
 - (A) Strict compliance with the policy would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;
 - (B) Fill is the only means to allow development of the property which is similar to other properties in the vicinity;
 - (C) Less than the proposed fill would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;
 - (D) The proposed project meets the requirements of the other enforceable policies of the Juneau Coastal Management Plan;
 - (E) The proposed project will not be detrimental to the public health, welfare and safety or to other properties in the vicinity;
 - (F) Approval of the project will not authorize uses on the property otherwise not allowed by other state, federal and local laws and regulations; and
 - (G) If applicable, the meaning of the phrase "feasible and prudent" has been considered and found to support approval of the proposal to fill.

Provided, log and mining transfer facilities and the following public facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.
 - (14) Floathomes, or any floating structures or watercraft intended for moored or anchored residential use, shall be approved through the conditional use process before they may be anchored or moored in one location for more than 30 days. Floathomes must also have state department of natural resources or

City and Borough tideland permits as applicable. Such structures must either be connected to an approved onshore sewage disposal system or have United States Coast Guard approved marine sanitation devices, and may not dispose of sewage by any other means. In addition, floathomes must meet all of the following standards:

- (A) Floathomes shall not ground at low tide and must be located at least 300 feet from any anadromous fish streams. Mooring shall not obstruct recreational use of the shore. Fuel tanks shall be designed to protect against accidental contamination of the water. Seawater must be protected from contamination by fuel spills, and solid and liquid wastes;
- (B) Floathomes shall not be located in the "prohibited area" shown on Juneau Coastal Management Plan Map 2, or areas with concentrations of shellfish, waterfowl, shorebirds, marine mammals, extensive tide-flats, salt marshes and kelp or eelgrass beds; sites within 330 feet of eagle nest trees; developed recreation sites; heavily used recreation sites; or known historic and archeological sites. Floathomes may be allowed on privately owned tidelands within the prohibition area provided other provisions of this section are met;
- (C) The placement of floathomes shall avoid blockage or interference to waterway channels used by waterborne traffic;
- (D) Views from adjacent shoreline residences shall not be blocked if the main floor of the residence is located below 25 feet above sea level. The owner of any such residence within 500 feet on either side of the proposed floathome location may prevent that site from being used, by submitting a written objection at or before the time of consistency review or planning commission action, under the conditional use process. Such objection may not be considered after the consistency determination is issued, or planning commission action under the conditional use process;
- (E) Where feasible and prudent, no more than one floathome shall be allowed for every 500 feet of lineal shoreline measured at mean high tide unless multiple floathome moorage is specifically allowed under subsection (15) of this section;
- (F) Floathomes shall be constructed and maintained to avoid a dilapidated, abandoned, derelict or unattended appearance;
- (G) All refuse shall be securely stored pending removal;
- (H) Floathomes shall float generally level and have at least one foot of freeboard;
- (I) Where the need for upland access to the floathome is anticipated, the floathome shall be sited to ensure that there is proper and adequate legally recorded upland access to the site;
- (J) Floathomes shall be placed so that required or desired onshore services and facilities can be efficiently extended;
- (K) Floathomes shall be allowed in an area only after adjacent upland owners are notified;
- (L) Floathomes shall be sited and operated to avoid creating or increasing noise and air pollution. Emissions from heaters and stoves, if otherwise lawful, may be allowed;
- (M) Persons wishing to place floathomes adjacent to shorelines having road access must show that at least two onshore legally recorded parking places not on a public right-of-way are available and that floathome residents will have clear access to these parking places across the shoreland adjacent to the floathome; and
- (N) Floathomes may be allowed without conditional use approval in developed marinas if the owner or operator assumes responsibility for providing fresh water, sewage disposal and solid waste disposal.

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- (15) Floating camps or multipurpose floating structures intended in whole or in part for residential purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed under the conditional use procedure provided they meet all of the standards for floathomes set forth in subsection (14) of this section.
 - (16) Development intended to provide moorage for two or more floathomes may be allowed as conditional uses in the nonprohibited areas shown on Juneau Coastal Management Plan Map 2, provided the developer:
 - (A) Owns, or has a nonrevocable lease, for at least 30 years in duration, for the upland area adjacent to the water area to be developed;
 - (B) Provides at least two off-road parking spaces for each floathome;
 - (C) Provides fresh water, sewer with approved onshore disposal, and electricity to each floathome;
 - (D) Provides fire control protection approved by the City and Borough fire chief; and
 - (E) Provides to the floathomes, by site selection, physical improvements, or design of the floathomes, protection from storms, such that the floathomes will be safe from waves higher than two feet.
 - (17) Floating structures, other than those addressed in subsections (14), (15) and (16) of this section, intended for commercial or industrial purposes including, fish propagation, mineral extraction, mineral processing, timber extraction or processing, lodging, seafood processing, research, marine service and repairs, which will be fixed in one location for more than 30 days, may do so only after having obtained approval through the conditional use process. Provided, the following are exempt from the conditional use process requirement:
 - (A) Mooring devices for watercraft;
 - (B) Watercraft transiting the City and Borough that are not intended for residential use in excess of 30 days in any 12 calendar months;
 - (C) Seafood processors whose primary purpose is to receive fish and shellfish from harvesting boats and prepare it for further transportation; and
 - (D) Watercraft intended to transport cargo to, from or within the City and Borough.
 - (18) Industrial and commercial uses on or adjacent to the shorelines of navigable waters must be located in the appropriate special waterfront designation established in section 49.70.960 unless:
 - (A) There is no feasible and prudent alternative to meet the public need for the use; and
 - (B) The nature of the use requires a specific location and no other location will suffice.
 - (19) In approving development in coastal areas, priority shall be given, in the following order, to:
 - (A) Water-dependent uses and activities;
 - (B) Water-related uses and activities; and
 - (C) Uses and activities which are neither water-dependent nor water-related, for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.

(Serial No. 87-49, § 2, 1987; Serial No. 92-41, § 2, 1992)

49.70.910 Geophysical hazards.

- (a) Surface modification that would induce excessive erosion, undermine the support of nearby land or unnecessarily scar the landscape is prohibited. Any other modification shall be limited to the smallest extent that is needed for development.
- (b) Development in areas having known hazards may not be approved until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.
- (c) Developers shall retain existing vegetative cover to the greatest extent feasible and prudent. In cases where development necessitates removal of vegetation, erosion shall be prevented through revegetation or, if revegetation is not feasible, by other appropriate measures.
- (d) Industrial and resource extraction activities in high landslide or avalanche areas are prohibited unless it is determined that these activities will reduce the threat of landslides and avalanches on existing and potential development.
- (e) Mitigating measures are required for development in areas of moderate hazard. These may include dissipating structures or dams, appropriate structural engineering, or other techniques that respond to the specific site hazards.
- (f) Residential, commercial and industrial development is prohibited in floodways. Culverts and bridges are not subject to this prohibition.
- (g) Structures near watercourses shall be designed to reduce the impact of flooding and to allow for natural drainage.
- (h) Sand and gravel operations, recreation activities, open space, and parking lots may be allowed in 100-year floodplains only if they do not increase the flood hazard.
- (i) Industrial equipment and raw materials stored in 100-year floodplains shall be adequately bermed or otherwise protected.
- (j) Disposal of hazardous materials in 100-year floodplains is prohibited. No new development which will involve storage of hazardous materials will be permitted in the 100-year floodplain unless there is no feasible and prudent alternative and unless safety measures are provided to prevent accidental discharge.
- (k) Establishment of sanitary landfills in floodplains is prohibited.

(Serial No. 87-49, § 2, 1987)

49.70.915 Recreation.

- (a) In developing areas:
 - (1) Recreational developments adjacent to bodies of water shall be located, designed, constructed, and managed to minimize adverse effects on other uses and to provide safe, healthy conditions for recreationists.
 - (2) Recreational developments shall, wherever feasible and prudent, preserve or enhance scenic views and vistas as well as improve the aesthetic value of the area.
 - (3) Access to natural areas, such as fishing streams and hunting areas, shall be a combination of linear trails or easements and small parking areas to minimize user concentration on small portions of the shore or upland areas.

- (b) Facilities for water-dependent recreation, such as fishing, swimming, and boating, and water-oriented recreation, such as picnicking, hiking, and walking, shall be located near the shoreline. Non-water-related recreation facilities shall be located away from the shoreline unless no feasible and prudent inland alternative exists to meet the public need.
- (c) Auke Creek, the east bank of Auke Lake, and Lake Creek outside federal lands shall be protected with shoreline public easements and greenbelts for public access and habitat purposes.

(Serial No. 87-49, § 2, 1987)

49.70.920 Energy facilities.

Siting for the development of major energy facilities must be based, to the extent feasible and prudent, on the following standards:

- (1) Site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements;
- (2) Site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs;
- (3) Consolidation of facilities;
- (4) Consider the concurrent use of facilities for public or economic reasons;
- (5) Cooperate with landowners, developers, and federal agencies in the development of facilities;
- (6) Select sites with sufficient acreage to allow for reasonable expansion of facilities;
- (7) Site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements;
- (8) Select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;
- (9) Encourage the use of vessel traffic control and collision avoidance systems;
- (10) Select sites where development will require minimal site clearing, dredging, and construction in productive habitats;
- (11) Site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries, haulout grounds and waterfowl nesting areas;
- (12) Site facilities so that the design and construction of these facilities and support infrastructures in coastal areas will allow for free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;
- (13) Site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;
- (14) Site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;
- (15) Select sites in areas which are designated for industrial purposes and where industrial traffic is minimized through population centers; and

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- (16) Select sites in areas where vessel movements will not result in overcrowded harbors or interfere with fishing operations.

(Serial No. 87-49, § 2, 1987)

49.70.925 Transportation and utilities.

- (a) Highway and airport design, construction and maintenance shall take all feasible and prudent steps to prevent alteration of water courses, wetlands and intertidal marshes, and aesthetic degradation.
- (b) Where roads and trails cross anadromous streams, the design and construction of bridges and culverts shall allow free passage of fish, and shall take all feasible and prudent steps to prevent habitat disturbance. Phasing of construction shall be done to avoid critical migration periods for salmon and other anadromous species.
- (c) Roads and utilities shall be designed and built so as to protect shore features and other uses that may be affected by pollution, flooding, erosion and other adverse effects.
- (d) Prior to disposal of state or City and Borough lands, public access routes, such as roads and trails, shall be identified and dedicated.
- (e) Where feasible and prudent, bike trails shall be provided.
- (f) Transportation and utility routes and facilities shall be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility.
- (g) Parking areas shall include suitable drainage controls to prevent ponding and excessive concentrated runoff. Such areas shall be buffered by a minimum ten-foot-wide natural vegetation strip, as feasible and prudent, from shorelines and adjacent uses, and shall be sited, screened, and maintained to minimize dust.
- (h) Development shall only locate in areas where utilities are available, or can be economically extended, or can be developed as part of the project, or where suitable on-site utilities are possible.
- (i) Utility corridors shall, wherever feasible and prudent, be integrated with roads and other transportation corridors.
- (j) Where feasible and prudent, overhead lines shall be located so as not to interfere with scenic vistas.

(Serial No. 87-49, § 2, 1987)

49.70.930 Fish and seafood propagation and processing.

- (a) Shoreline use shall not adversely impact important fisheries habitat, migratory routes and harvest of significant fish or shellfish species. Shorelines having banks, beaches, and beds critical to the preservation or enhancement of the fisheries resource base shall be maintained in, or restored to, their original condition wherever and whenever feasible and prudent. Upland areas shall be managed to maintain water quality standards necessary for the propagation of anadromous fish species.
- (b) Fisheries enhancement and aquaculture shall maintain or restore quality and normal circulation patterns of affected waters at optimum levels consistent with applicable state standards. Aquaculture hatcheries and fisheries shall be protected from significant water quality degradation by other users.
- (c) Aquaculture development and fisheries enhancement shall be located, designed and operated so that aesthetic values of local shorelines are maintained to the extent feasible and prudent.

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- (d) Fisheries enhancement and aquaculture practices, including disposal of wastes, viscera or fish scrap, shall be conducted so as not to violate applicable state water quality and litter control standards.

(Serial No. 87-49, § 2, 1987)

49.70.935 Timber harvest and processing.

- (a) AS 41.17, Forest Resources and Practices, and the regulations and procedures adopted under that chapter with respect to the harvest and processing of timber, are incorporated into the Juneau Coastal Management Plan and constitute, in part, the components of the Juneau Coastal Management Plan, with respect to those purposes.
- (b) Commercial timber harvest activities and land clearing in the coastal area shall be conducted so as to meet the following standards:
 - (1) The location of facilities and the layout of logging systems shall be sited so as to take all feasible and prudent steps to prevent adverse environmental impacts.
 - (2) Free passage and movement of fish in coastal waters shall be assured.
- (c) Commercial timber transport and land clearing, storage, and processing in the coastal area shall be conducted so as to meet the following standards:
 - (1) Sites for in-water dumping and storage of logs shall be selected and these activities conducted so as to minimize adverse affects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms and not constitute a hazard to navigation. Shared use of such facilities shall be required wherever feasible.
 - (2) Roads for log transport and harvest area access shall be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and shall be adequately maintained until they are returned to their pre-road natural drainage patterns unless the roads can be converted to another use, such as recreational access. Approvals and permits for logging activities shall specify what will be done with the roads after logging is completed.
 - (3) Stream crossings, including bridges and culverts, shall be kept to a minimum number, shall be designed to withstand seasonal high water and flooding, and shall provide free passage and movement of fish.
- (d) Fuelwood cutting practices shall be conducted so as to meet the following standards:
 - (1) Fuelwood cutting within 100 feet of the centerline of any trunk roadway shall be done in a manner that minimizes visual impact.
 - (2) Felling and bucking shall be done so that traffic on roadways is not endangered or delayed.
 - (3) Slash shall be reduced in height by lopping, scattering and laying as close to the ground as practicable.

(Serial No. 87-49, § 2, 1987)

49.70.940 Mining and mineral processing.

- (a) Mining and mineral processing in the coastal areas shall be regulated, designed, and conducted so as to be compatible with the standards in this article, adjacent uses and activities, statewide and national needs, and district programs.

(Supp. No. 133)

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- (b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and prudent alternative to coastal extraction which will meet the public need for sand or gravel.

(Serial No. 87-49, § 2, 1987)

49.70.945 Subsistence.

Project proposals shall be designed so that opportunities for subsistence usage of coastal areas and resources are recognized and assured.

(Serial No. 87-49, § 2, 1987)

49.70.950 Habitat.

- (a) Habitats in the coastal area which are subject to the Alaska Coastal Management Program include:
- (1) Offshore areas;
 - (2) Estuaries;
 - (3) Wetlands and tideflats;
 - (4) Rocky islands and seacliffs;
 - (5) Barrier islands and lagoons;
 - (6) Exposed high energy coasts;
 - (7) Rivers, streams, and lakes; and
 - (8) Important upland habitat.
- (b) The habitats contained in subsection (a) of this section shall be managed so as to maintain or enhance the biological, physical and chemical characteristics of the habitat which contribute to its capacity to support living resources.
- (c) In addition to the standard contained in subsection (b) of this section, the following standards shall apply to the management of the following habitats:
- (1) Offshore areas shall be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery;
 - (2) Estuaries shall be managed so as to ensure adequate waterflow, natural circulation patterns, nutrients, and oxygen levels, and to avoid the discharge of silt, toxic wastes and the destruction of productive habitat;
 - (3) Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;
 - (4) Rocky islands and seacliffs shall be managed so as to avoid the harassment of wildlife, the destruction of important habitat, and the introduction of competing or destructive species and predators;
 - (5) Barrier islands and lagoons shall be managed so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

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(Supp. No. 133)

- (6) High-energy coasts shall be managed so as to ensure the adequate mix and transport of sediments and nutrients and avoid redirection of transport process and wave energy; and
 - (7) Rivers, streams and lakes shall be managed so as to protect natural vegetation, water quality, important fish or wildlife habitat and natural waterflow.
- (d) Uses and activities in the coastal area which will not conform to the standards contained in subsections (b) and (c) of this section may be allowed if the following standards are met:
- (1) There is a significant public need for the proposed use or activity;
 - (2) There is no feasible and prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in subsections (b) and (c) of this section; and
 - (3) All feasible and prudent steps to maximize conformance with the standards contained in subsections (b) and (c) of this section will be taken.
- (e) Each development which adjoins a river or stream which has been degraded by previous human activity shall, as part of its development plan, include provisions for rehabilitation of the stream or river, and shall be approved by the state department of fish and game. Such provisions shall be limited to removal of debris, removal of abandoned machinery and vehicles, grading and stabilization of banks and related clean up activities, and shall include preservation or restoration of riparian vegetation. Restoration shall not be required beyond that needed to return the area to natural appearance and function; provided, the following are exceptions to this policy:
- (1) Construction of one single-family or duplex dwelling on a lot of record;
 - (2) Construction of single-family or duplex dwellings on lots created by subdivisions of four or fewer lots.
- (f) All structures and foundations located adjacent to streams or lakes listed in Table VI-2 of Appendix C of the Juneau Coastal Management Plan, shall have a 50-foot setback from each side of the stream or lake measured from the ordinary high water mark, where feasible and prudent; provided, docks, bridges, culverts and public structures whose purpose is access to or across the stream or lake are not subject to this policy, and provided further, uses which must be in or adjacent to the stream or lake in order to function, such as mining activities, fish culturing, water supply intakes and similar uses, are exempt from the setback requirement. The setback shall be vegetated or revegetated, where feasible and prudent, and such vegetation or revegetation shall be kept or arranged to maximize shade on the stream.
- (g) Where feasible and prudent, watershed areas which contribute to existing drinking water supplies, as defined by the state department of environmental conservation, shall be protected by buffer strips at least 50 feet in width along each side of streams, the edges of wetlands, and lakes. Measures shall be taken to prevent erosion. The side or edge of the water body shall be the ordinary high water mark. The buffer shall be vegetated or revegetated.
- (h) Development in buffer areas prescribed in subsections (f) and (g) of this section shall incorporate measures to prevent erosion and subsequent increases in turbidity and sediment within the waterway and adjacent wetlands within the buffer.

(Serial No. 87-49, § 2, 1987)

49.70.955 Air, land and water quality.

- (a) Notwithstanding any other provision of this article, the statutes, regulations and procedures of the state department of environmental conservation, protecting air, land and water quality are incorporated into the Juneau Coastal Management Plan and, as administered by that agency, constitute the components of the Juneau Coastal Management Plan with respect to those purposes.

- (b) Streamside and lakeside development shall not cause downstream water degradation below state standards.
 - (c) Berms and planting strips shall be placed along highways and major arterials wherever feasible and prudent.
- (Serial No. 87-49, § 2, 1987)

49.70.960 Special waterfront areas.

(a) *General standards.*

- (1) The Juneau Coastal Management Plan Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each special waterfront area, and the maximum seaward limits for permanent development in each special waterfront area. The land or water inside the boundaries shown on the Juneau Coastal Management Plan Special Waterfront Area Map is subject to the provisions of this section. Uses allowed within the special waterfront areas as provided in this section are not allowed along other waterfronts within the City and Borough unless such uses are allowable outside the special waterfront areas under the terms of subsections 49.70.905(13) or (18) and other applicable provisions of the Juneau Coastal Management Plan.
- (2) Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions of this section.
- (3) Existing uses or activities in the subject areas may continue, provided, if conversion to another use or other modification is to be made, it shall conform to the requirements of the special waterfront areas.
- (4) Uses identified as permissible in this article may be conditioned, through the coastal management consistency review process, to be consistent with or conform to the habitat standards contained in subsections 49.70.950(b) and (c). However, if new site-specific information becomes available after May 22, 1986, which clearly indicates that crucial habitats exist within the subject areas and if the state division of governmental coordination, after consultation with the City and Borough and state resource agencies, concurs, a specific evaluation pursuant to subsection 49.70.950(d) will be immediately required for projects within the crucial habitat areas.
- (5) A change to the special waterfront areas may be initiated by the submittal of new information regarding habitats to both the division of governmental coordination and the City and Borough, by the state department of fish and game, the state department of environmental conservation, the state department of natural resources, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, the National Marine Fisheries Service, the City and Borough, or other interested parties. The division of governmental coordination shall expeditiously process new information as a routine program change in accordance with 6 AAC 85.120(c). To initiate a program change new information must be based on detailed site-specific studies which indicate that the habitat is substantially more productive than was indicated in the information which was available on May 22, 1986.
- (6) Except as provided in subsection (a)(4) of this section, the significant public need and feasible and prudent alternative analysis under subsection 49.70.950(d) will not apply to state, federal or local permit applications previously submitted for all, or a part, of the affected area unless a change to the affected special waterfront area has become effective.

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- (7) Proponents of land and water uses shall be advised that in cases where the use of dredged or fill materials in waters of the United States is proposed, the requirements of the Clean Water Act Section 404(B)(1) guidelines shall apply and must be met before development may proceed.
 - (8) When the use of dredged or fill materials in the waters of the United States is required, uses that do not require direct siting in or access to the water to fulfill their basic purpose will generally be directed to upland areas unless it is clearly demonstrated that upland alternatives are not available.
- (b) *Land and water uses permissible in the special waterfront areas.*
- (1) *Generally.* The land and water uses listed below as permissible in the special waterfront areas may be further restricted in zoning classifications within the special waterfront areas. The uses and activities listed below are deemed to meet the water-relevancy requirements of section 49.70.905. Other uses and activities may be allowed if they meet the requirements of the zoning districts under chapter 49.25, and the water-relevancy requirements of section 49.70.905.
 - (A) Maritime activities including private boating, commercial boating of all types, visitor industry, including cruise ships and transient pleasure vessels, commercial fishing, charter fishing and boating, floatplane activity, and any other activity not involving a structure for the use of waterbodies for sport, recreation, or commerce;
 - (B) Floats, docks, jetties, groins, bulkheads, ramps, shore defense works, piers, wharfs, dolphins, and other structures needed to provide access between shore and waterbody or to protect and stabilize the shoreline;
 - (C) All forms and structures related to handling and storage of cargo which arrived by water and/or is intended to depart by water, including storage yards, warehouses, cranes and similar machinery, and marine railways;
 - (D) Any form or structure for manufacturing or repair which is related to maritime activity and which substantially requires or benefits from a shoreline location;
 - (E) Any form or structure associated with uses which need or substantially benefit from a shoreline location;
 - (F) Marine fuel, water and sanitation facilities including services and support for transient and permanent vessels;
 - (G) All forms of public, private, and commercial moorage;
 - (H) Public access facilities, including boat ramps, parks, promenades, sidewalks, viewing areas, benches, plazas, and other forms of public open spaces;
 - (I) Research and education facilities related to the waterbody they abut;
 - (J) Fish and shellfish propagation and management;
 - (K) Offices which are related to and a necessary part of permissible uses;
 - (L) Public utilities including lines, pump stations, transformer stations, and similar uses;
 - (M) Hotels, motels and other types of transient lodging which are designed to take advantage of the shoreline amenity and which will result in increased visual or physical public access to the shoreline;
 - (N) Restaurants, cafes, and other food or beverage facilities which are designed to take advantage of the shoreline amenity and which will result in increased visual or physical access to the shoreline;
 - (O) Gift shops, entertainment facilities, ticketing agencies, and other visitor industry services;

- (P) Retail services directly linked to a maritime clientele, such as gear and supply stores, boat sales, and laundries. To be directly linked, the proposed use must show by design and orientation that the primary clientele will be persons arriving from or going to watercraft or working on or in conjunction with watercraft, and that the proposed use is reasonably located to be convenient to foot borne customers that are already found in the area or that can be expected to be in the area;
 - (Q) Retail establishments and restaurants catering to the needs of persons working in the special waterfront areas when close proximity is important to the function of permissible uses;
 - (R) Water-oriented retail and/or office complexes where the value and income potential from retail or office uses will enable provision of public access and other water-related amenities for use by the public. Such amenities must be provided at the same time as the facilities are completed, or earlier in time. An overall plan for the entire development must be presented with the permit application showing spaces and features that will be available to the public;
 - (S) Residences;
 - (T) The following accessory uses when associated with the uses set forth above: parking lots, spaces and structures, driveways, sidewalks, entrance structures, decorative structures, benches, landscaping features, awnings and similar improvements, and utility facilities.
- (c) *Special policies for the special waterfront areas.*
- (1) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except that necessary to construct a public boat ramp.
 - (2) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area except as needed by the U.S. Coast Guard for its purposes or as allowed by the state department of fish and game for habitat maintenance and enhancement.
 - (3) No floating structures are allowed within 300 feet of the mouths of streams in the Thane special waterfront area.
 - (4) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.
 - (5) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a natural beach for salmon resting.
 - (6) Seawalk. A pedestrian access easement and walkway intended to provide a continuous pedestrian path along the entire downtown waterfront area, shall be included with all future development or redevelopment along the downtown waterfront shoreline. This walkway, to be known as the seawalk, shall be a continuous path along the entire downtown waterfront as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk, property owners developing or redeveloping property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and Borough equal to 20 percent of the final project cost for a seawalk constructed to public assembly standards for the section abutting their property. Unless the alignment of the seawalk requires otherwise, owners of property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan developing or redeveloping their property shall dedicate all easements necessary for construction of a seawalk 16 feet in width.
 - (A) Reserved.
 - (B) Reserved.
 - (C) The seawalk shall not be required for existing buildings located along the water's edge until additions or alterations, or both, in excess of 50 percent of the gross square footage of the existing structure are proposed or undertaken within a 36-month period as determined by the

City and Borough building division. General maintenance or repair work is exempt from this requirement.

(D) Reserved.

- (d) Interpretation of the Juneau Coastal Management Plan Special Waterfront Area Map. The purpose of this subsection is to assist users of the Juneau Coastal Management Plan Special Waterfront Area Map.
- (1) Lines which apparently follow street or right-of-way centerlines shall be construed as following such centerlines.
 - (2) Lines which apparently follow property or lot boundary lines shall be construed as following such boundary lines.
 - (3) Lines at the first and second rock dumps shall represent a line 100 feet upland from the mean high water line. Lines on other land and water areas where there are no survey lines shall be construed by using the scale of the Juneau Coastal Management Plan Special Waterfront Area Map. Where doubt arises over the location of a line, the parties shall first establish the true scale of the map by using a known distance between points visible on the map. The outside, or seaward edge of the line appearing on the map shall then be construed as the line.

(Serial No. 87-49, § 2, 1987; Serial No. 90-51, § 2, 1990; Serial No. 92-41, § 3, 1992; Serial No. 2005-29(am), § 2, 10-10-2005)