

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

October 28, 2021
Virtual Meeting Only
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/86824044511>. 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: 868 2404 4511.

I. ROLL CALL

II. APPROVAL OF AGENDA

III. AGENDA TOPICS

A. AME2017 0001: Proposed Revisions to CBJ Code 49.70.310

IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS

V. ADJOURNMENT



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DATE: October 22, 2021

TO: Title 49 Committee

FROM: Teri Camery, Senior Planner, CFM

SUBJECT: AME2017 0001: Proposed Revisions to CBJ Code 49.70.310
 With review of Juneau Coastal Management Program policies for deletion or retention within 49.70.310 or another code section

INTRODUCTION

The purpose of this memo is to continue to the discussion regarding proposed changes to 49.70.310 the draft stream buffer ordinance last reviewed at the July 1, 2021 Title 49 Committee, and to review Juneau Coastal Management Program (JCMP) policies for deletion or retention within 49.70.310 or another code section. The JCMP, CBJ Code 49.70, was repealed with Planning Commission and Assembly approval of AME2021 0004. The code section was repealed because of its references to the Alaska Coastal Management Program (ACMP), which was repealed by the State of Alaska in 2011. The Planning Commission and Assembly have directed CDD to review JCMP policies for retention or deletion. For those policies that are being retained, CDD needs to determine whether the policies will be moved to the Habitat Section, 49.70.310, or a different section of code.

The stream buffer revision component of 49.70.310 is undergoing additional internal review and will be reviewed by the Title 49 Committee at its next meeting. In the meantime, CDD will be moving forward with a minor code revision under a different AME case number (to be established soon) to update the list of streams and lakes that are subject to the 50-foot setback. CBJ 49.70.310 currently applies to the 2013 Alaska Department of Fish & Game (ADF&G) Anadromous Waters Catalog adopted in the 2013 Juneau Comprehensive Plan appendix. The proposed revision would change this reference to refer to the most recent ADF&G catalog. This change is already part of the revision that the Committee has been reviewing, however recent public concerns have elevated the issue. Therefore, this particular revision will be going forward as a separate code change for quicker approval. This code revision is included as Attachment D of this memo.

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Proposed Revisions to CBJ Code 49.70.310
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PROPOSED JCMP REVISIONS

Staff has taken the previous JCMP Section, 49.70, and proposed deletion and retention of policies throughout the chapter, with extensive comments in the attachment document. In general, staff has recommended retention of frequently used policies that fill gaps in existing regulation. In most cases, these policies are recommended for retention in the Habitat Section; however, there are exceptions. For example, the Floathome section is recommended to be moved into Specified Use Provisions. Policies that are proposed for deletion are typically because of obvious duplication with state or federal authority, issues covered in Comprehensive Plan policies or other sections of code, or because the policy is vague and difficult to enforce.

The Special Waterfront Area sections have received particular attention by the public and Assembly. At the committee meeting, staff will provide background on how these areas were developed and review the maps. The Special Waterfront Area policies are recommended for retention. Both the Special Waterfront Area and Floathome sections may require reevaluation. A key focus of this meeting will be a discussion on whether, or at what level, these sections should be reconsidered.

ATTACHMENTS

Attachment A – JCMP Proposed Revisions
Attachment B – Special Waterfront Area Maps
Attachment C – Floathome Prohibition Area Maps
Attachment D – Proposed Code Revision Regarding the ADF&G Anadromous Waters Catalog

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)~~

Commented [TC1]: Delete 900 a-b. This language refers to the Alaska Coastal Management Program and the consistency review process under that now defunct program.

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. 41206-41260, 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;

Commented [TC2]: Delete 70.905(1). Language is broad and already addressed through basic coastal development engineering practices and in the floodplain regulations.

Commented [TC3]: Delete 70.905(2). Language is broad and vague.

Commented [TC4]: Delete 70.905(3). Language duplicates federal Corps of Engineers regulations and has federal code reference.

Commented [TC5]: Retain 70.905(4) in Habitat Section. Language is specific and has been used in reviews of coastal developments and allows CDD to obtain needed habitat information.

Commented [TC6]: Retain 70.905(5) in Habitat Section. Language is specific and has been used in reviews of coastal development. Includes items important to public safety and welfare that aren't specifically called out in the Conditional Use Permit review.

- (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

Commented [TC7]: Retain 70.905(6) in Habitat Section. Language is specific and has been used in reviews of coastal development. Includes items important to public safety and welfare that aren't specifically called out in the Conditional Use Permit review.

Commented [TC8]: Delete 70.905(7). Not necessary with CBJ's 25-foot tidal range and natural flushing.

Commented [TC9]: Delete 70.905(8). Duplicates Corps of Engineers review process.

Commented [TC10]: Delete 70.905(8). Duplicates Corps of Engineers review process.

Commented [TC11]: Retain 70.905(9) in Habitat section to implement water-related and water-dependent requirements.

Commented [TC12]: Delete 70.905(10). The 2013 Juneau Comprehensive Plan contains similar policies.

Commented [TC13]: Retain 70.905(11) in Habitat Section. Allows CDD to obtain important information that may be a safety hazard.

Commented [TC14]: Delete 70.905(12). Vague and difficult to enforce.

Commented [TC15]: Create Special Waterfront Areas section within Habitat and retain 70.905(13) and all related maps and policies until an in-depth analysis can be completed.

Commented [TC16]: Retain 70.905 (14-17) and create a Floating Structures section within 49.65 Specified Use Provisions. Without regulation, floathomes and other floating structures could be placed anywhere. The use needs to be managed for public safety and neighborhood impacts. Re-evaluation is likely necessary but not at this time.

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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(Supp. No. 133)

- (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)

Commented [TC17]: Retain 70.905(18) and move to Special Waterfront Area section of Habitat.

Commented [TC18]: Retain 70.905(19) in Habitat to ensure implementation of water-dependent/water-related criteria.

~~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)~~

Commented [TC19]: Delete 70.910. Section has not been used in reviews, and duplicates or contradicts other code sections.

~~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.~~

Commented [TC20]: Delete 70.915. Duplicates Comprehensive Plan and Parks and Recreation policies.

(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~~

Commented [TC21]: Delete 70.920. Section has never been used. Items are included in other code sections and policies.

~~(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)~~

Commented [TC22]: Delete 70.925. Section has never been used. Items are included in other code sections and policies.

~~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.~~

Commented [TC23]: Retain in 70.930 in Habitat. Section has been used in review of fish processing plants and aquaculture. Allows CDD to obtain specific information important to these reviews.

- (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.~~

Commented [TC24]: Delete 70.935 pending discussion with CDD Director. Section has not been used.

Commented [TC25]: Delete 70.940. Section has never been used and these issues are addressed in other areas of code.

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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)~~

Commented [TC26]: Delete 70.945. Juneau is not a state-designated subsistence area and the policy has never applied to the borough.

49.70.950 Habitat.

(a) Habitats subject to review 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~~

Commented [TC27]: Retain in 70.950 (a-c) in Habitat section except for noted deletions. For background, when the Alaska Coastal Management Program was in place, the entire City Borough of Juneau was in the mapped coastal zone and therefore coastal management program policies have always applied to all borough properties. This language change deletes the ACMP reference, and narrows the list of habitat types, because CBJ does not have offshore areas, rocky islands and seacliffs, barrier islands and lagoons, or exposed high energy coasts. Those habitat types have applied to outer coast areas like Sitka.

Regarding the habitat types to be retained, CDD has followed policies regarding estuaries, wetlands and tideflats, rivers streams and lakes, and important upland habitat in many reviews. These policies allow CDD to obtain needed information in reviews, and the absence of these policies has created gaps in our review process since the JCMP was deleted from code. One example is an ADFG adopted salmon stream that is not in our adopted list of streams where the 50-foot setback is applied. The rivers, streams, and lakes policy allows us to encourage best management practices and other basic habitat measures when we can't legally implement the 50-foot setback.

~~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;~~

~~(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.

Commented [TC28]: 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.

~~(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:~~

Commented [TC29]: Delete 70.950 (e-f). These policies have been adapted into the new stream buffer ordinance within Habitat.

~~(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.~~

Commented [TC30]: Delete 70.950(g-h). These two policies are covered in other areas.

~~(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.~~

Commented [TC31]: Delete 70.955. These are ADEC issues and not within CBJ authority.

~~(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~~

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~~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

Commented [TC32]: Retain the entire Special Waterfront Area section 70.960 to the end, within the Habitat Section. The public has commented regarding the importance of these policies. The policies and especially the maps should ideally be re-evaluated, and new Special Waterfront Areas should be identified. However this is an involved process to be undertaken at a later date.

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.

(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;

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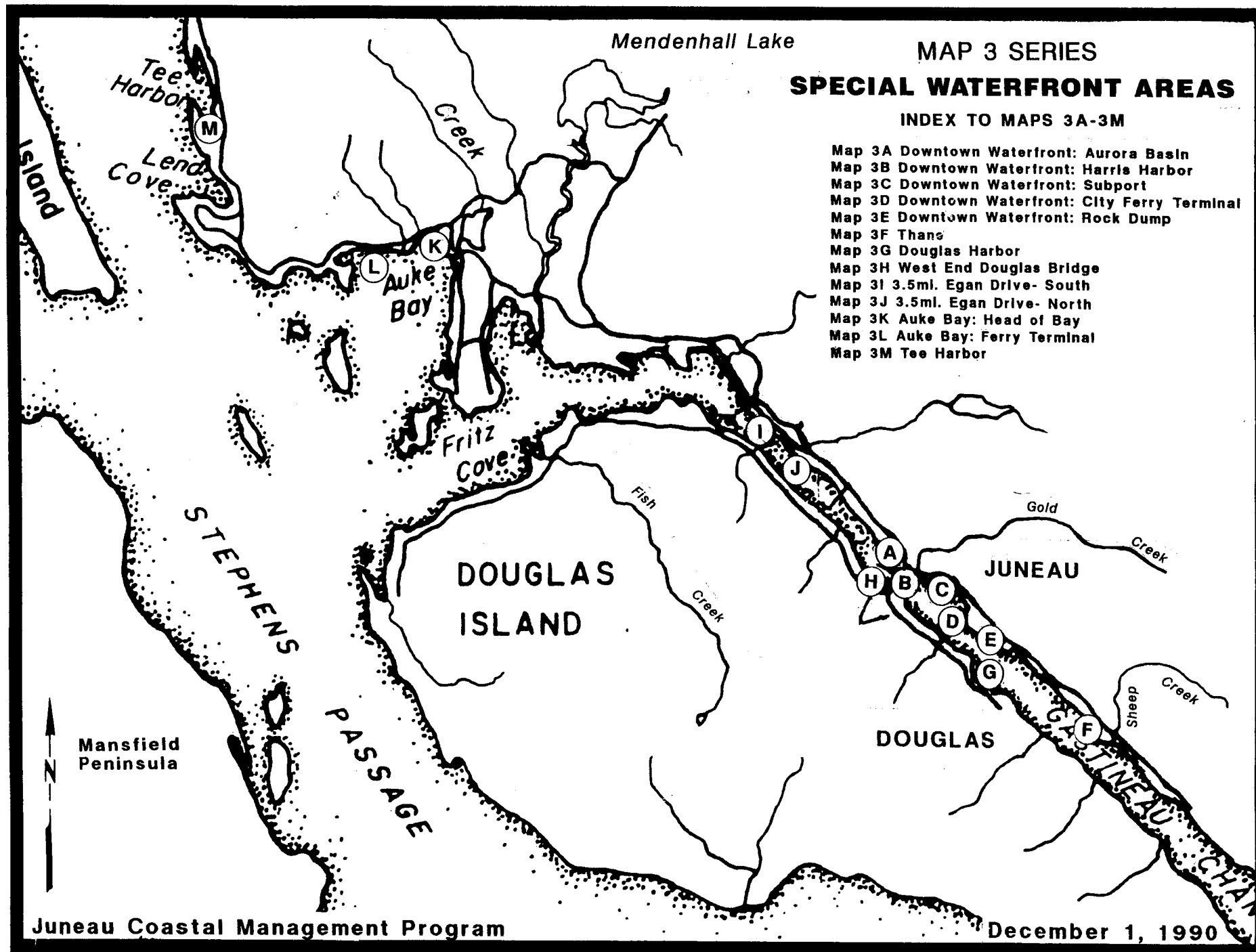
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- (O) Gift shops, entertainment facilities, ticketing agencies, and other visitor industry services;
 - (P) Retail services directly linked to a maritime clientele, such as gear and supply stores, boat sales, and laundries. To be directly linked, the 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.

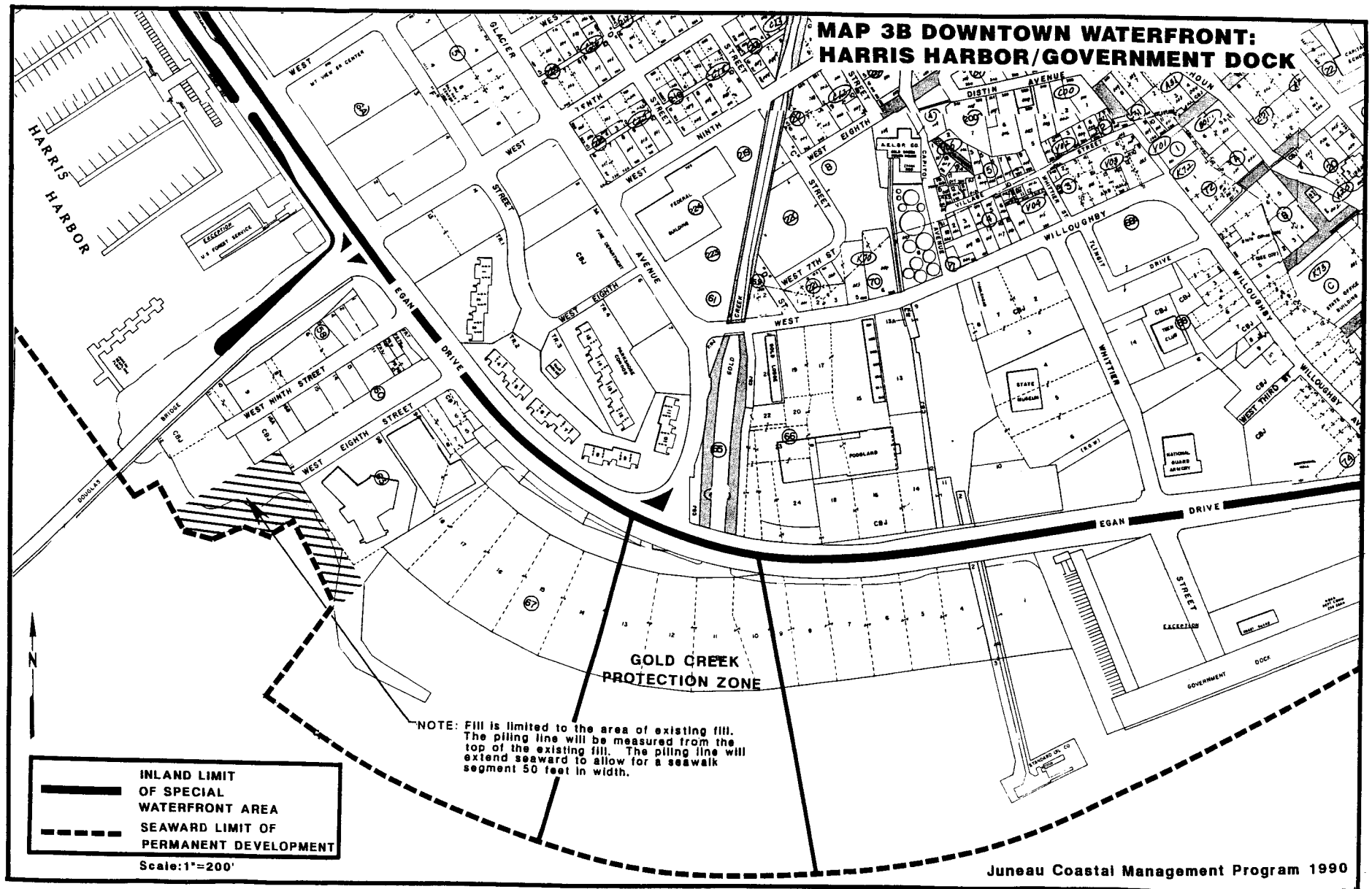
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- (C) The seawalk shall not be required for existing buildings located along the water's edge until additions or alterations, or both, in excess of 50 percent of the gross square footage of the existing structure are proposed or undertaken within a 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)

MAP 3 SERIES **SPECIAL WATERFRONT AREAS**

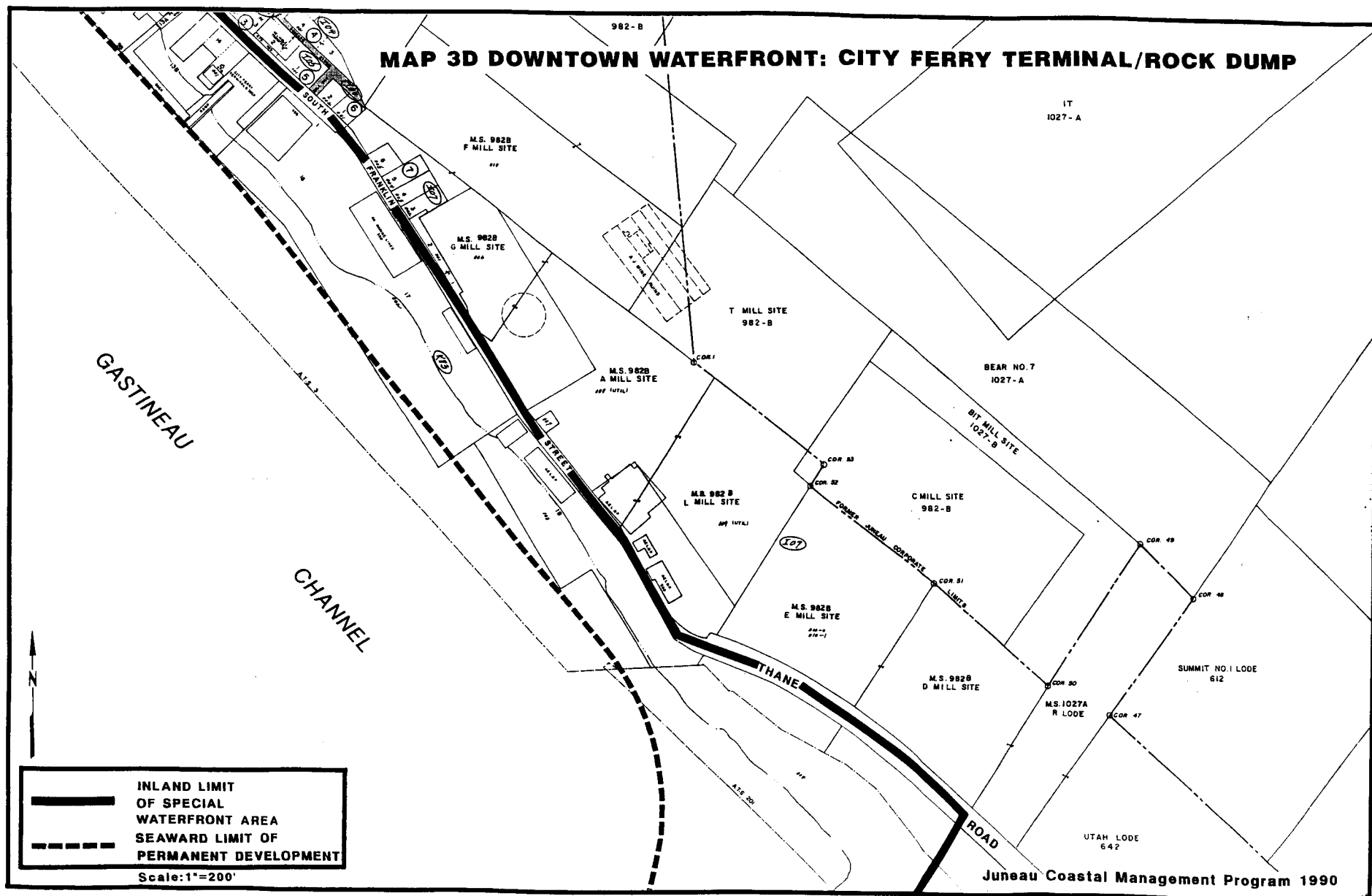
INDEX TO MAPS 3A-3M

- Map 3A Downtown Waterfront: Aurora Basin
- Map 3B Downtown Waterfront: Harris Harbor
- Map 3C Downtown Waterfront: Support
- Map 3D Downtown Waterfront: City Ferry Terminal
- Map 3E Downtown Waterfront: Rock Dump
- Map 3F Thane
- Map 3G Douglas Harbor
- Map 3H West End Douglas Bridge
- Map 3I 3.5ml. Egan Drive- South
- Map 3J 3.5ml. Egan Drive- North
- Map 3K Auke Bay: Head of Bay
- Map 3L Auke Bay: Ferry Terminal
- Map 3M Tee Harbor

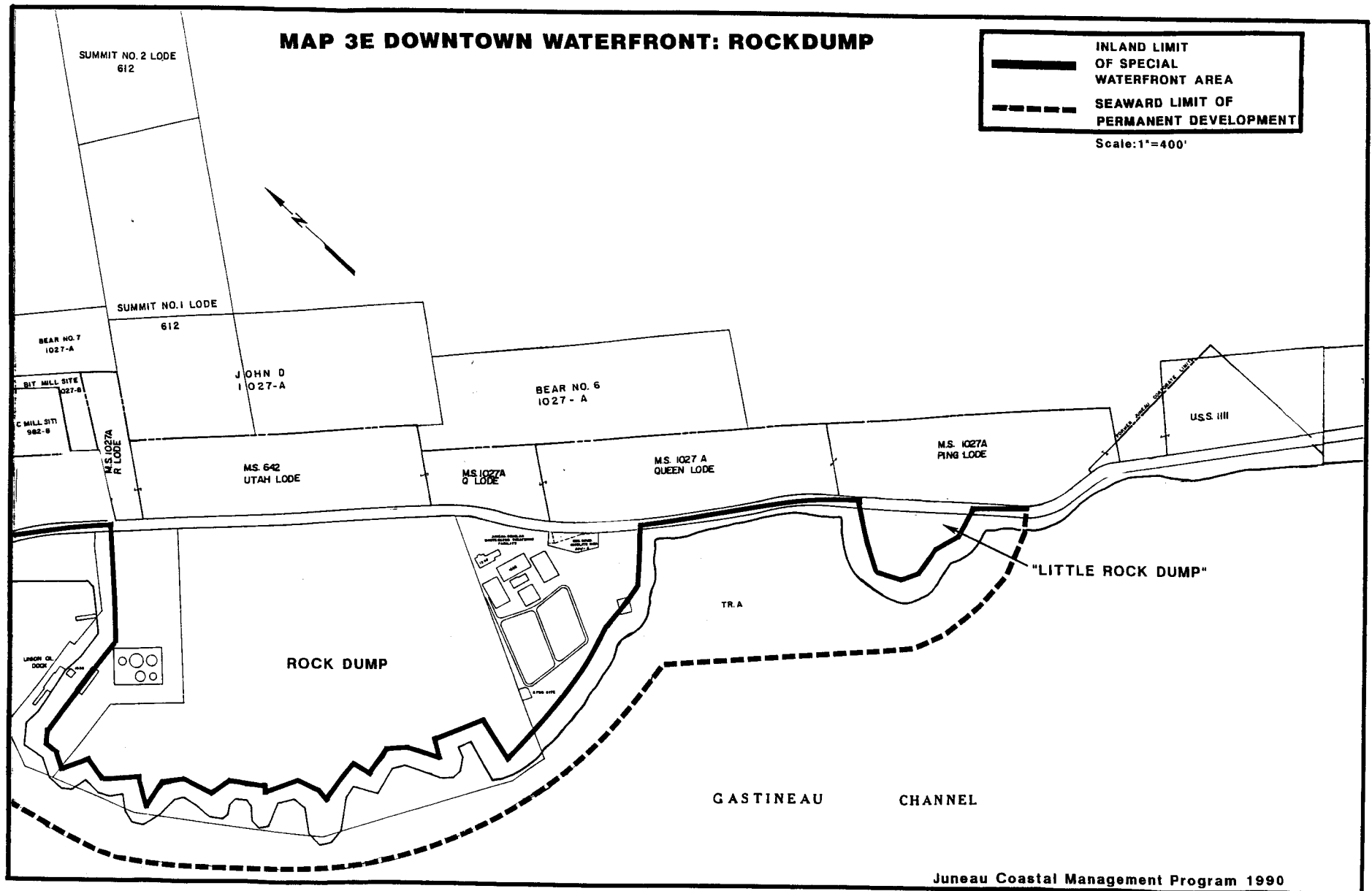




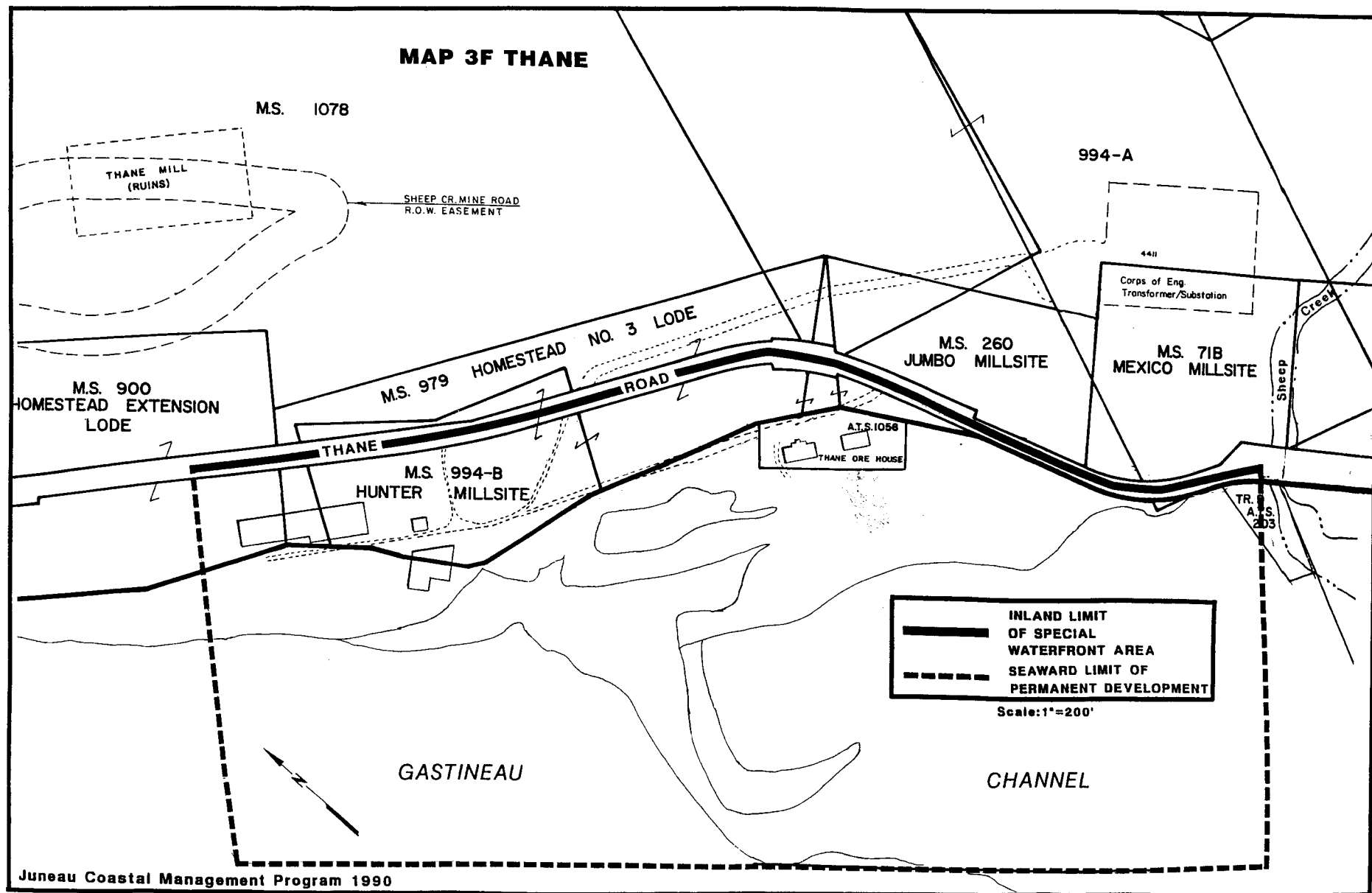
Attachment B - Special Waterfront Area Maps



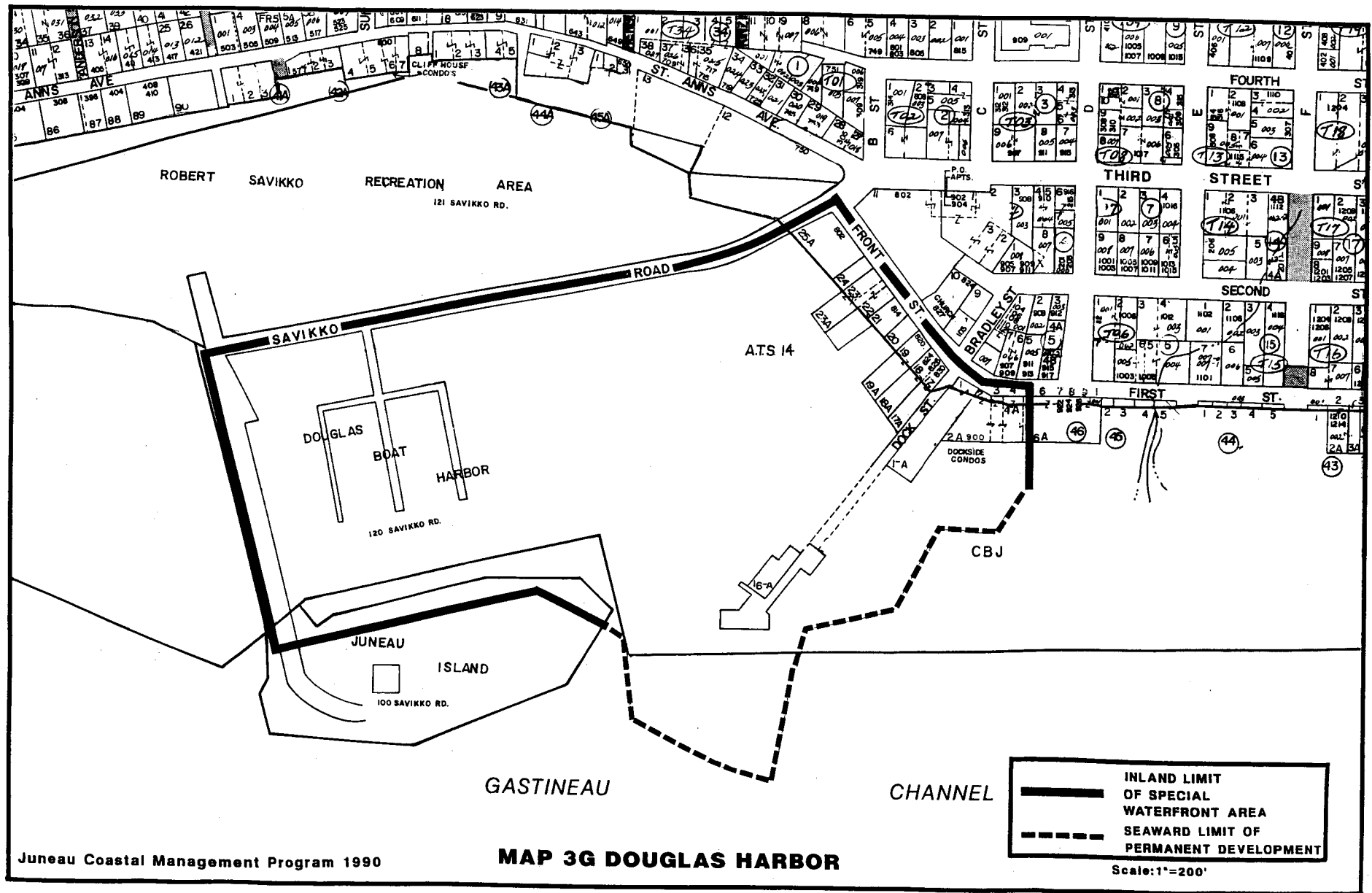
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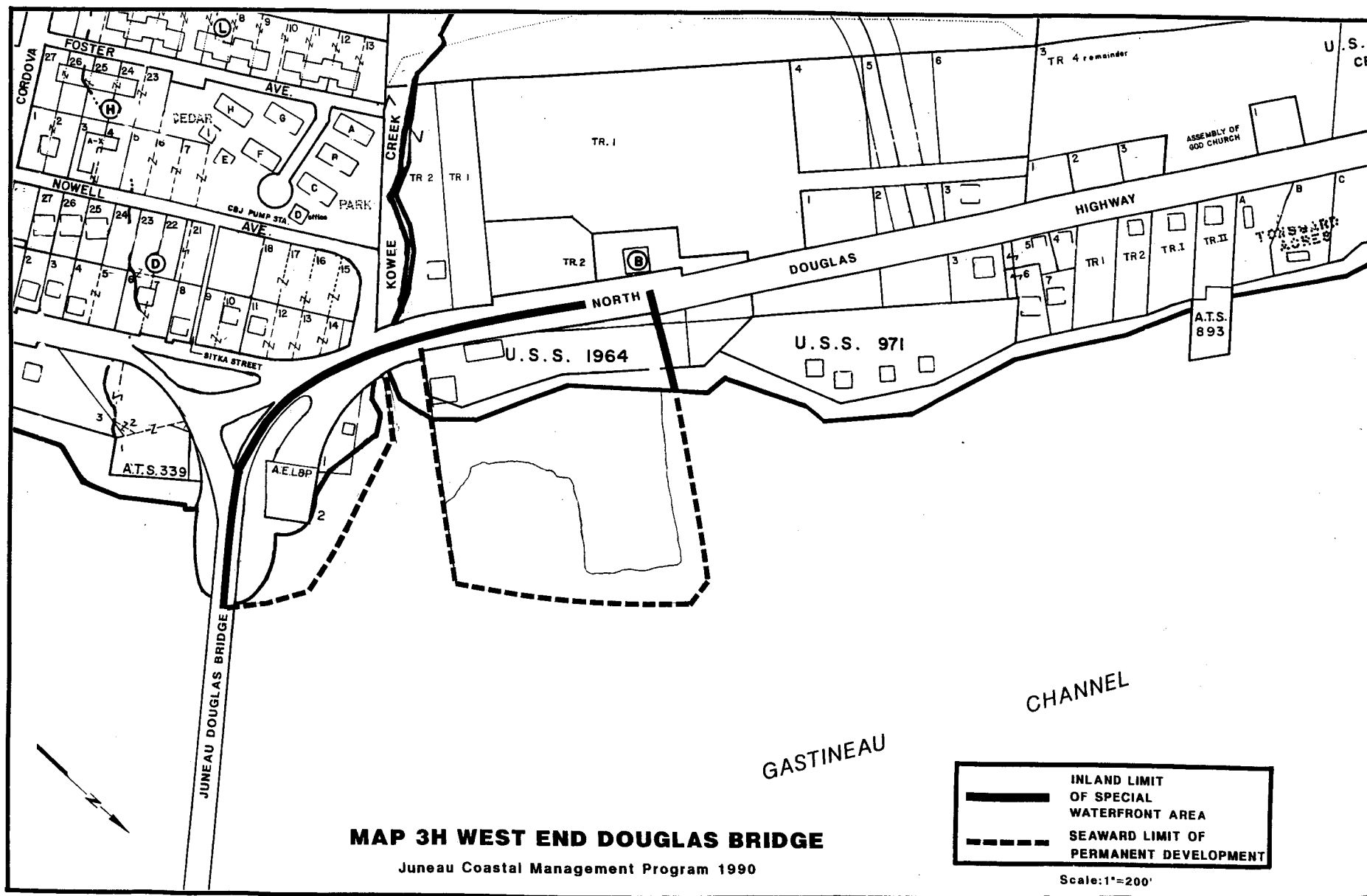
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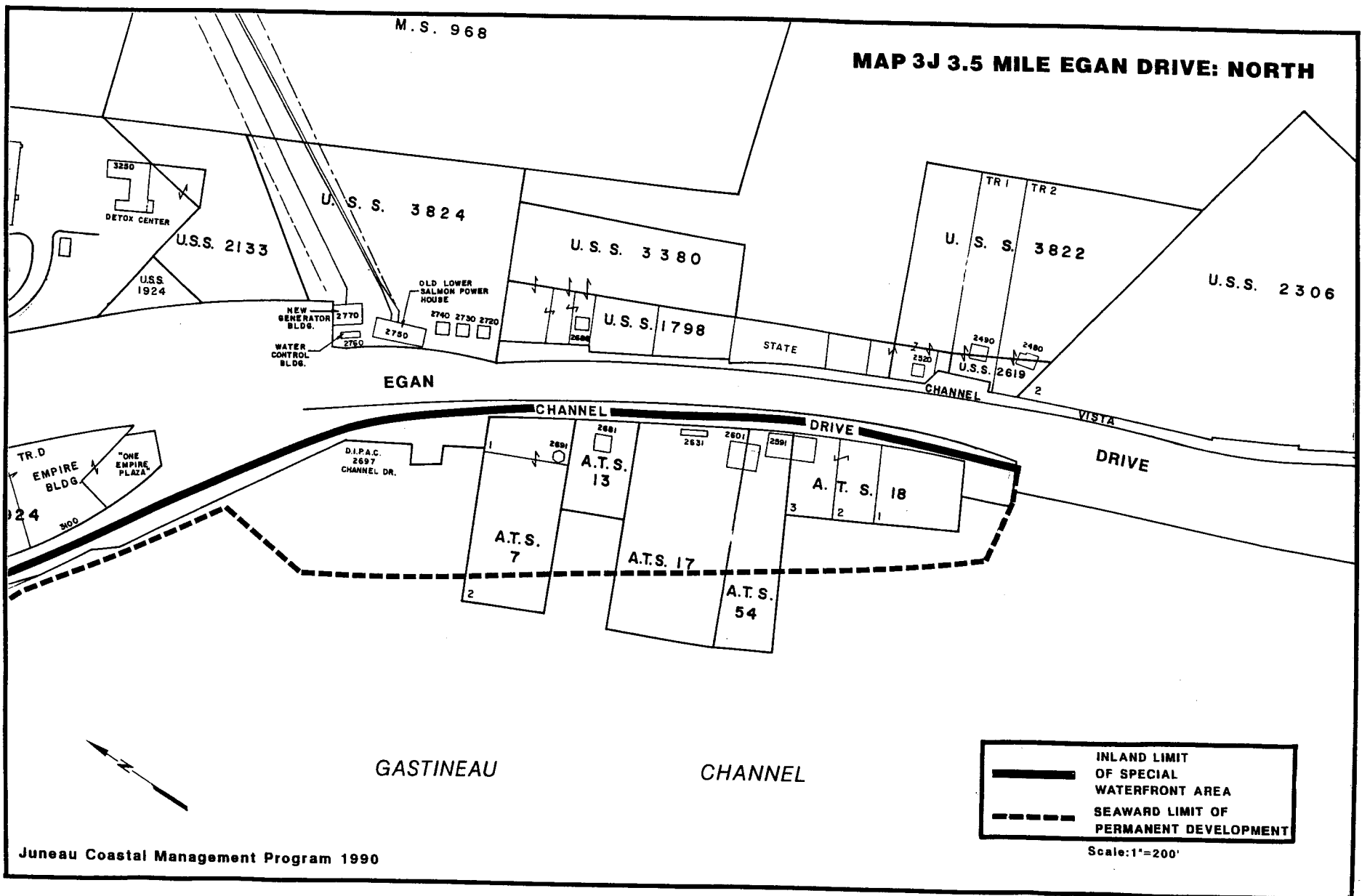


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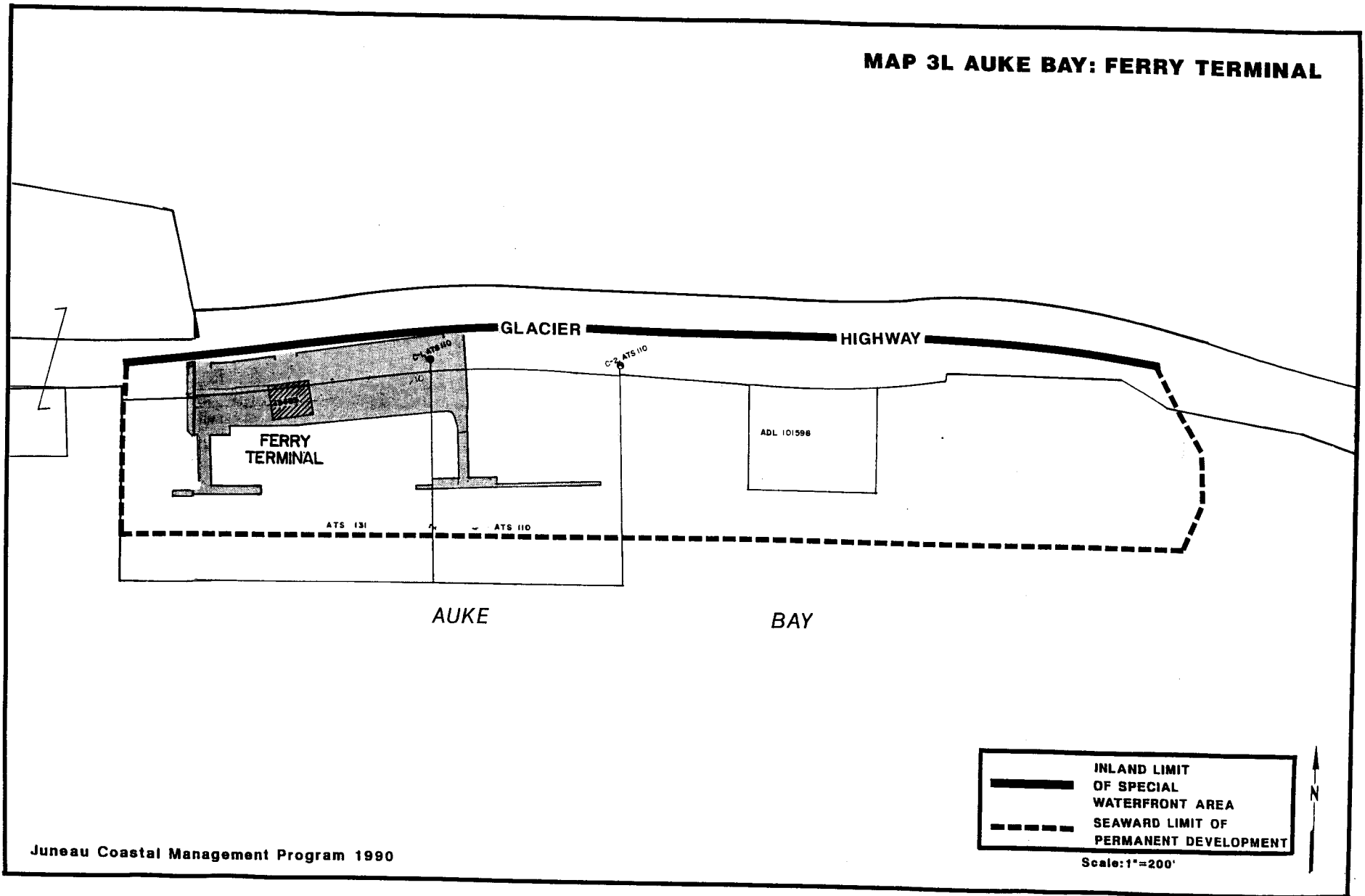
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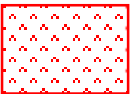
Attachment B - Special Waterfront Area Maps

MAP 3L AUKE BAY: FERRY TERMINAL



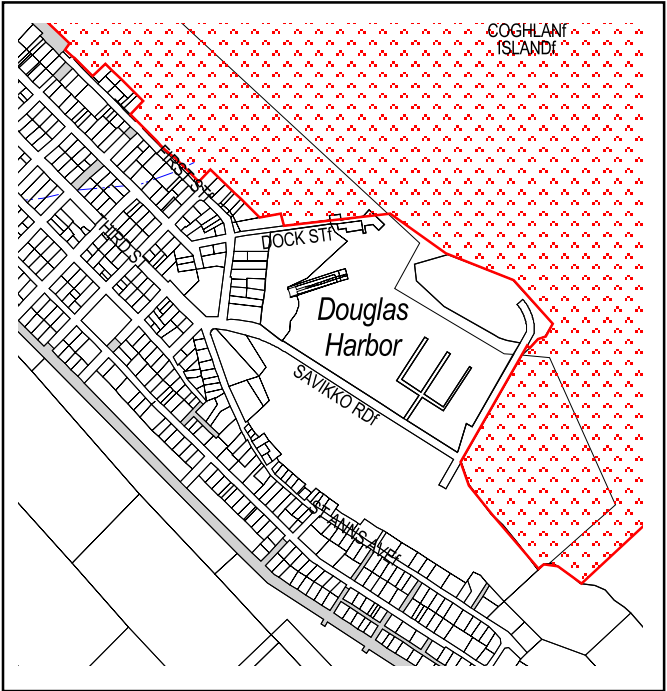
Juneau Coastal Management Program 1990

FLOAT HOME PROHIBITION AREA

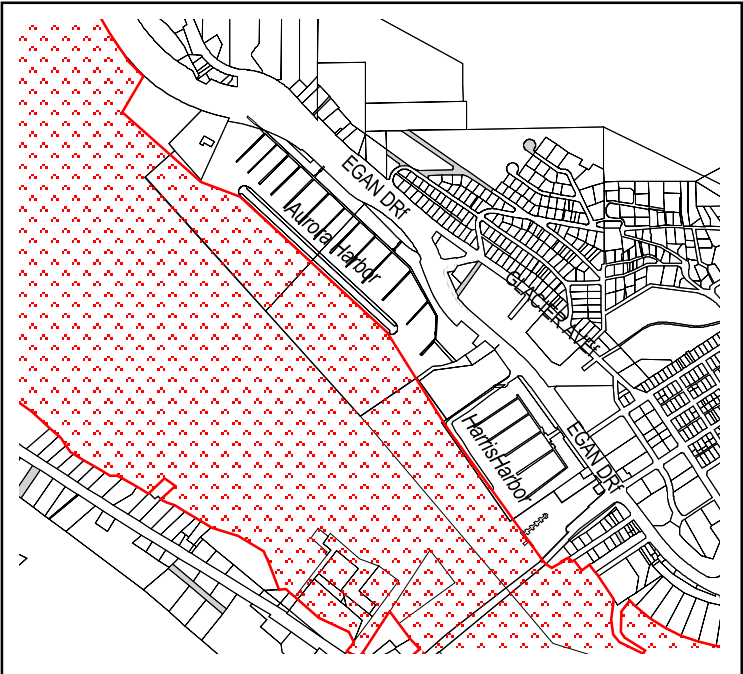


Float Home Prohibition Area

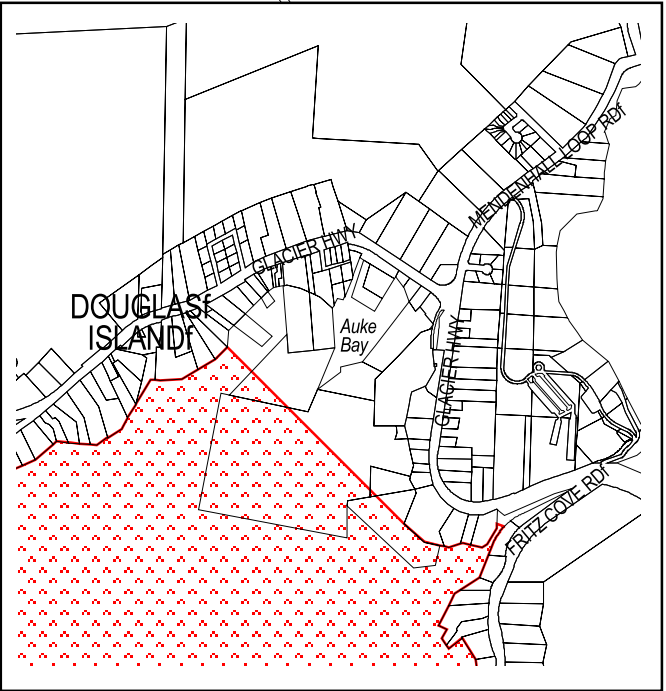
The Float Home Prohibition Area does not include existing boat harbors or marinas. Float Home policy in harbors and marinas is the responsibility of the owner/manager.



DETAIL DOUGLAS



DETAIL JUNEAU



DETAIL AUKE BAY

1/2 mile either side of public boat ramp



Presented by: Gladziszewski
Presented:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-_____

An Ordinance Amending the Land Use Code Related to Anadromous Water Protection

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 49.70.310 is amended to read:

49.70.310 Habitat.

(a) Development in the following areas is prohibited:

- (1) On Benjamin Island within the Steller sea lion habitat;
- (2) Within 50 feet from the ordinary high water mark of streams designated in the most recent Alaska Department of Fish and Game *Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes* 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 lakeshores designated in the most recent Alaska Department of Fish and Game *Atlas and Catalog of Waters Important for*

the Spawning, Rearing, or Migration of Anadromous Fishes 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 stream corridors designated in the most recent Alaska Department of Fish and Game *Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes 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 lakeshores designated in the most recent Alaska Department of Fish and Game *Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes Appendix B of the comprehensive plan of the City of 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.

Except for the setback area necessary for such developments or disturbances, the remaining 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 or lake. A variance is required for any other development or disturbance in the setback prohibitions of this section.

State law reference – Protection of fish and game, A.S. 16.05.871; Waters important to anadromous fish, 5 AAC 95.011.

Section 3. 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