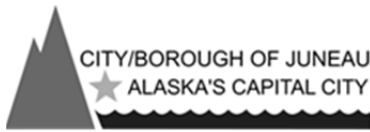


# Agenda

**Planning Commission - Subdivision Review Committee  
City and Borough of Juneau  
Paul Voelckers, Chairman**

April 23, 2015  
Marine View Building 4th Floor Conference Room 404  
5:00 PM


- I. **ROLL CALL**
- II. **APPROVAL OF AGENDA**
- III. **AGENDA TOPICS**
  - A. TXT2009-00001, proposed subdivision ordinance.
- IV. **COMMITTEE MEMBER COMMENTS AND QUESTIONS**
- V. **ADJOURNMENT**



**Law Department  
City & Borough of Juneau**

**MEMORANDUM**

TO: CBJ Assembly  
CBJ Planning Commission  
Kim Kiefer, CBJ Manager  
Rob Steedle, CBJ Deputy Manager

FROM: Amy Gurton Mead, Municipal Attorney   
Robert Palmer, Assistant Municipal Attorney

DATE: April 9, 2015

SUBJECT: Remote Subdivisions and Ordinance 2015-02

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On April 6, 2015, the Assembly adopted Ordinance 2015-02, approving an amendment of the remote subdivision area map to include Hidden Valley Tract B, thereby removing the requirement that remote subdivisions be accessible solely by navigable water.

Because Ordinance 2015-02 eliminated the distinction between remote subdivisions and other subdivisions under both current code and the proposed subdivision ordinance, Assembly comments made at the public hearing indicated an intention that Title 49 be amended for consistency with the new policy.<sup>1</sup>

The purpose of establishing different types of subdivisions is to provide the rational basis for allowing varying subdivision improvement standards.<sup>2</sup> For example, prior to the adoption of Ordinance 2015-02, the purpose of remote subdivisions was to “relieve certain Land Use Code requirements (*e.g.* road standards, water and sewer requirements) for remote waterfront subdivisions – those which have virtually no chance of ever being connected to the CBJ road system.”<sup>3</sup>

In order to distinguish between the new “roaded” remote subdivision envisioned by Ordinance 2015-02 and other subdivisions such that the CBJ has a rational basis to require different (less stringent) standards of the new remote subdivisions, the defining characteristic of this new type

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<sup>1</sup> If the intent is to process “roaded” remote subdivision applications under the new rules, the CBJ may wish to adopt a moratorium on the processing of such applications until the code is amended. Otherwise, it appears that under current code, there is no way for “roaded” remote subdivision applications to be approved, despite the new policy direction. *See* CBJ 49.15.460(5)(A) and (D).

<sup>2</sup> *See also*, CBJ 49.05.100(4). The purpose of Title 49 is “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.”

<sup>3</sup> *See* Memo from R. Palmer to Assembly dated January 30, 2015, citing from CBJ 49.70.1100 legislative history (parenthetical added).

of subdivision needs to be identified. More specifically, the new “roaded” remote subdivision needs to be distinguished from the other subdivisions currently recognized to which lesser road standards are applied – namely, rural subdivisions under current code, or those subdivisions generating less than 250 average daily traffic (ADT) trips under the proposed subdivision ordinance. It is primarily this question that must be answered before existing code can be amended.

Under current code, subdivisions are generally categorized based on geography. There are remote subdivisions accessed by navigable water, subdivisions within the urban service area, and “rural” subdivisions (where “rural” is defined as any part of the CBJ not designated by the Comprehensive Plan as being within the urban service boundary.) With respect to non-remote subdivisions, a lesser street standard is applied only to rural subdivisions. (CBJ 49.35.240.) In general, gravel streets with a minimum width of at least 28 feet (or 24 feet if the ADT is 250 or less) are allowed within rural subdivisions.<sup>4</sup>

Rural subdivisions do not exist under the proposed subdivision ordinance amending Title 49. Street width and paving requirements are no longer tied to where the development is located. In the proposed subdivision ordinance, street width requirements are dictated by ADT, regardless of subdivision location:

ADT	Sidewalks	Curb Drainage	Road width	Street lights	ROW Width <sup>ii</sup>	Paving req'd
≥ 500	Both sides	Both sides	26 ft.	Continuous	60 ft	Yes
251 to 499	One side	One side	24 ft.	All inter-sections	60 ft.	Yes
0 to 250	Not required	Not required	22 ft. <sup>i</sup>	Inter-sections at streets with external street system	60 ft.	No <sup>iii</sup>

<sup>i</sup> Or, if privately maintained access road, as required by the Fire Code at CBJ 19.10.

<sup>ii</sup> ROW width may be reduced as prescribed at CBJ 49.35.240.

<sup>iii</sup> Paving is required for any street within the PM-10 Non-Attainment Area Map. (The purpose of this caveat is to prohibit gravel roads in the Mendenhall Valley due to air quality standards.)

If the ADT is less than 250, a gravel street is allowed (unless in the Mendenhall Valley) with a minimum street width of 22 feet unless the “street” is a “privately- maintained access road,” in which case the minimum width may be consistent with that required by the Fire Code (currently 20 feet. CBJ 19.10.503.1.1)<sup>5</sup>

<sup>4</sup> As opposed to streets in subdivisions within the urban service area, which must be paved and 28 feet wide with curbs, gutters, street lights, etc. In D1, D3 or RR, subdividers may construct “local access streets” (not intended for through traffic) that must be at least 26 feet wide, 22 feet of which must be paved. CBJ 49.35.240(a)(3)(A) and (B).

<sup>5</sup> “Privately maintained access road” is defined in the proposed subdivision ordinance as a road that the department or the commission has permitted to be constructed at less than full public street standards in an existing right-of-way. Privately maintained access roads can be used by the public and can provide access to more than one parcel, but will not be publicly maintained. A privately maintained access road is distinguished from an ordinary driveway in

In order to allow a remote subdivision that is accessible by road (like all other subdivisions in the CBJ) but still exempt from standard subdivision requirements, the CBJ would need to distinguish between a “roaded” remote and a non-remote subdivision. As remote subdivisions will no longer be distinguishable by geography (meaning the requirement that access be provided by navigable water), a new defining characteristic differentiating this new type of subdivision needs to be identified.<sup>6</sup>

Once “roaded” remote subdivisions are distinguished from other types of subdivisions, the code could be amended to impose a lesser road standard than that imposed on other subdivisions. The code could be amended to allow this new type of remote subdivision to have an 18 foot gravel road (which is the minimum width necessary for safe vehicular use identified by the American Association of Highway and Transportation Officials Manual, as reported by the Engineering and Public Works Department), as long as it would generate no more than 250 ADT<sup>7</sup> and conditional upon it being located outside the Fire Protection Area. (See Ordinance 94-11 for the Fire Protection Area map. Roadways within the Fire Protection Area require a minimum road width of 20 feet.) The road would not be eligible for public maintenance or fire protection service.<sup>8</sup> Because the road would be a “privately maintained access road” as envisioned by the proposed subdivision ordinance, the subdivision would be limited to 13 lots (unless a rational basis could be articulated to allow for a different standard with respect to “roaded” remote subdivisions than the standard to be applied borough-wide. If this lot limit policy is changed, and privately maintained gravel access roads are allowed in major subdivisions, a rational basis for requiring some, but not all, major subdivisions to have publicly maintained, paved access would need to be articulated.)<sup>9</sup>

If the intent is not to allow “roaded” remote subdivisions accessible by vehicular traffic but rather to allow for a new type of “remote” subdivision that is not accessible by navigable water, this new type of remote subdivision could be defined as a subdivision only accessible by non-vehicular access (pedestrian or some motorized vehicle – ATVs, etc. – could be allowed). These new remote subdivisions would need to be located outside the Fire Protection Area and include an off-site parking requirement. This would allow these new “remote” subdivisions (not accessible by navigable water or vehicular traffic) to be exempt from subdivision improvement standards in the same way that remote subdivisions are under current and proposed code.

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that an ordinary driveway provides access between a parcel of land and the public portion of the street, and is not for public access.

<sup>6</sup> A “roaded” remote and non-remote subdivision cannot be differentiated solely on the basis of road width requirements. Doing so would allow a developer to “choose” the classification of the subdivision regardless of geographic location, thus allowing the developer’s choice of road width to dictate the subdivision improvements to be required.

<sup>7</sup> Note that the accessory apartment ordinance (2015-07), with the amendment allowing accessory apartments where the primary residence is not connected to public sewer, allows for accessory apartments in these new “roaded” remote subdivisions.

<sup>8</sup> Hidden Valley’s proposed 12 – 16 foot access road cannot meet these criteria because (1) it is less than the minimum standard necessary for safe vehicular use and (2) it is located on SECON’s property, which is within the Fire Protection Area.

<sup>9</sup> The concept of “privately maintained access roads” contained in the proposed subdivision ordinance presents challenges that need to be discussed prior to the concept is adopted. Those issues are not specific to remote subdivisions and are not discussed in this memo.



# Community Development

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City & Borough of Juneau • Community Development  
 155 S. Seward Street • Juneau, AK 99801  
 (907) 586-0715 Phone • (907) 586-4529 Fax

**DATE:** April 10, 2015

**TO:** Planning Commission

**FROM:** Laura Boyce, AICP, Senior Planner *Laura A Boyce*  
 Community Development Department

**FILE NO.:** TXT2009-00001

**PROPOSAL:** Proposed Title 49 and Title 4 changes regarding the subdivision of land.

## **ATTACHMENTS**

Attachment A Draft Subdivision Ordinance No. 2015-03

## **BACKGROUND**

Since 2007, the Community Development Department (CDD) has been working on proposed revisions to Title 49 regarding the subdivision of land. The reasons for the proposed revisions are numerous. Some subdivision requirements in the existing Code originate from the 1960's. In the intervening 50-plus years, many amendments and additions were made to the Code resulting in a piecemeal approach to subdivisions. Furthermore, Code sections concerning subdivisions are scattered throughout Title 49. This has led to Code sections that conflict with each other, are out of date, or are repetitive. Additionally, general changes are needed in order to encourage orderly development within the Borough and reflect current subdivision practices.

While the original intent of this update was to create a stand-alone chapter for subdivisions as well as update requirements, the realization of a stand-alone chapter results in redundancies, confusion, and loss of requirements that apply to development other than subdivisions. This proposed ordinance, while not creating a stand-alone chapter, still accomplishes many of the goals of the original effort and keep proposed key policy changes intact. The existing subdivision permit section in Chapter 15 of Title 49 is proposed to emulate much of the format initially proposed in Chapter 17 (the stand-alone chapter). Specific policies and changes will be outlined below.

Although the majority of the proposed changes concern the subdivision of land, some of the changes do not. Minor changes or clarifications to other Code sections are included with this re-write that are not necessarily related to the subdivision of land. Since many of the Code chapters were "open" already for subdivision-related changes, other minor changes were incorporated.

The Subdivision Review Committee (SRC), a subcommittee of the Planning Commission, worked with CBJ staff in the review and creation of these proposed changes. In October, 2014, the SRC finished its review of the proposed changes and moved it to a Planning Commission Committee of the Whole

Planning Commission  
File No.: TXT2009-00001  
April 10, 2015  
Page 2 of 18

meeting for overview and consideration. With unanimous approval, the Committee of the Whole at its November 13, 2014, moved the proposed changes, with one exception, to the full Planning Commission for public hearing. On December 9, 2014, the Planning Commission moved the proposed changes to the Assembly for approval.

Since then, the Law Department and Community Development Department staff worked together to prepare the re-write in ordinance format for Assembly consideration. During this holistic review, it was discovered that creation of a new chapter solely for subdivisions created issues in other parts of the Code. Unfortunately, it was determined that a new subdivision chapter could not be realized at this time. The key policy decisions that the Subdivision Review Committee worked on, and the Planning Commission approved, are generally present in this draft, but reformatted within the existing Code, specifically in Chapter 15.

The draft ordinance incorporating these changes was brought back to the Subdivision Review Committee (SRC) for review and to discuss key policy questions that arose during ordinance creation, such as privately maintained access in rights-of-ways, common wall subdivision setback rules regarding additional building along the common wall boundary, and triggers for street improvements when 250 average daily trips are exceeded in subdivisions on private roads. The SRC met March 17, March 24, and finished its review at its March 31, 2015, meeting.

Discussion and summary of the proposed changes by chapter are included below.

#### **CHAPTER 49.10 Administration and Compliance**

An earlier version of proposed changes to this chapter included a change in Planning Commissioner's duties regarding right-of-way acquisitions; that change to this specific chapter is no longer proposed as it is covered elsewhere in this draft in a more appropriate section. Since the chapter was being reviewed at that time, the following minor housekeeping issues are proposed to reflect current practice:

Changes are proposed to this chapter to reflect the following:

- Planning Commission meetings are conducted under Robert's Rules of Order, rather than Mason's Manual (CBJ 49.10.130(d));
- Deletion of a specific term in CBJ 49.10.130(e), "and evidentiary" from development forms to make it more general rather than specific;
- Deletion of the term "under this section" as this section applied to the entirety of Title 49, not just this section (CBJ 49.10.620 Compliance order);

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 3 of 18

- Changes to Article VII, Wetlands Review Board as follows:
  - A change to reflect that regular meetings will be held when necessary to conduct business instead of requiring mandatory monthly meetings (CBJ 49.10.770(a);
  - A minor change to the Special Meetings and Public Notice sections to combine public notice requirements into one section (CBJ 49.10.770(b) and (c)); and
  - Meetings will be conducted under Robert's Rules of Order instead of Mason's Manual (CBJ 49.10.790).

#### **CHAPTER 49.15 Permits**

Originally, changes to the Permits chapter were proposed to remove the Subdivision Permit section entirely (CBJ 49.15 Article IV) so it could be located in its own new chapter (previously proposed Chapter 17). However, as stated earlier, that proposed move created unexpected internal inconsistencies and issues within the entirety of Title 49. Therefore, the Subdivision permit section is still located within the Permits chapter, but has changed. Article IV, as outlined below, incorporates much of the format proposed in the previously envisioned stand-alone chapter so that it is easier to use; the process and requirements regarding subdivisions are made clear. Also, other sections within the Permits chapter needed changing, such as removing Major Subdivisions from the Conditional Use permit review section as Major Subdivisions are no longer proposed as conditional uses. The following changes, including minor and significant, are proposed as follows:

- Inclusion of a new section for permit application cancellation and withdrawal. This section proposes a mechanism for applications to be cancelled due to inactivity by the applicant. Currently, there is no provision in Code to cancel applications; this results in numerous "open" inactive permits, some decades old. Additionally, this section includes notification that if an applicant withdraws an application just prior to the public hearing, then the application fee will be forfeited. This new section will apply to all permit types, not just subdivisions. (CBJ 49.15.150, Application cancellation and withdrawal).
- The Public Notice section includes additions and changes to clarify the intent of the public notice requirement. These changes include allowing the Director to determine public notice sign locations, requiring possible additional signs, requiring notification to proximate CBJ-recognized neighborhood associations, and public mailing cost will be incurred by the applicant rather than the CBJ (CBJ 49.15.230, Public notice). Some properties may be very large or have access from two or more rights-of-way. In cases such as this, the director can require additional public notice signs in order to ensure adequate public notice.
- The Development Permit Expiration section is deleted as it is incorporated into the new application and cancellation section in CBJ 49.15.150, as noted above (CBJ 49.15.240, Development permit expiration).
- A formatting change is made to the Effective Date section to clarify that major development permits are effective when filed with the clerk, while minor development permits are effective upon signing by the Director (CBJ 49.15.239, Effective date).

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 4 of 18

- The Conditional Use permit section is amended to delete reference to Major Subdivision applicability; Major Subdivisions will no longer be reviewed as conditional uses. The purpose of this proposed Code change is to amend the criteria for subdivision approval, where appropriate, to better fit subdivision development. Currently, Major Subdivisions are required to follow the Conditional Use permit process for approval by the Planning Commission. An additional minor change is added that the Planning Commission can condition a permit to include private, as well as public, utilities. (CBJ 49.15.330, Conditional use permit).
- Article IV, Minor and Major Subdivisions is deleted in its entirety with new and expanded requirements for subdivisions. This revised section seeks to fulfill the intent of the proposed stand-alone subdivision chapter and is discussed below. The purpose of this consolidation is to make it easier for the public to understand what is required for completing a subdivision development. It also will help staff administer the Code. With so many Code sections regarding subdivisions scattered throughout Title 49, a provision could be overlooked. Additional goals of these changes include helping to facilitate development by reducing initial upfront costs, as well as update current subdivision rules to reflect current practices.
  - The permitting process and criteria for approval has been modified to better suit subdivision development, rather than using general land use permitting procedures.
  - **There are two types of subdivision permits proposed, each with its own process and requirements.** Minor Subdivisions (1 - 13 Lots), and Major Subdivisions (more than 14 Lots). Currently, many steps in the approval process are not clear or not described in Title 49. The bulk of the revisions address these discrepancies.
  - **MINOR SUBDIVISIONS –**
    - **1 to 13 Lots** - The threshold for Minor Subdivisions will increase from the current limit of four lots, up to thirteen lots. Currently, any subdivision over four lots is a major subdivision and requires two full public hearings before the Planning Commission. This new process allows director approval and no public hearings for subdivisions of 1 to 13 lots. Additional information might be required for subdivisions of more than 5 lots. This will allow the Director to evaluate and use discretion to approve these somewhat larger subdivisions. These subdivisions do have complex issues that can be adequately addressed and approved by the director when higher levels of standards are applied. Part of the approach to streamline the permitting process is to allow more applications to be approved by the director.
    - **Two-step process** – There will be a clear two-step process for Minor Subdivisions, a preliminary plat and a final plat.
    - **The director's decisions on Minor Subdivisions will be formalized with a Notice of Decision for the preliminary plat.** The purpose of this change is to clarify and standardize the approval process for Minor Subdivisions. The Notice of Decision will clarify the status of the subdivision and itemize all remaining conditions. Public notice will be required for minor subdivisions. The preliminary plat Notice



of Decision may also be used by the developer to assist with obtaining financing so that construction can occur which is required for final plat approval.

- **Public notice required for Minor Subdivisions** - Currently, public notice is not required for Minor Subdivisions, but with the proposed increase in lots, the abutting or directly adjacent neighbors will be notified that subdivision will occur on the property.
- **Privately maintained access in right-of-way option available** – Minor Subdivisions of 13 or fewer lots have the option to construct a 20' wide gravel privately-maintained access in the right-of-way. This is discussed in more detail later in the report.

○ **MAJOR SUBDIVISIONS –**

- **14 or more lots** – The threshold for Major Subdivisions will increase from 5 lots to 14 lots.
- **Two-step process** – The current two-step process for Major Subdivisions will remain in place, preliminary plat and final plat. These two steps will require public hearings and approval by the Planning Commission. Conditions can be placed on the preliminary and final plats.
- **The criteria, or findings, for approval of Major Subdivisions will be modified.** Currently, the criteria for approval of Major Subdivisions are the same as those used for approval of Conditional Use permits. Currently, major subdivisions are required to follow the Conditional Use permit process for approval by the Planning Commission. The purpose of this proposed Code change is to amend the criteria for subdivision approval, where appropriate, to better fit subdivision development. For example, one of the existing criteria that must be considered for approval of a Conditional Use permit is *“will substantially decrease the value of or be out of harmony with property in the neighboring area...”*.

The proposed changes would eliminate this criterion, as well as others. This is an important policy change based on the following premise: a subdivision is a use of land that is presumed to be compatible with surrounding development when developed to its zoning standards, rather than the subdivision be treated as a use of land that may or may not be appropriate for the neighborhood. The reason to treat subdivisions as compatible uses is that all lots in a new subdivision must meet the standards for the zoning district and any future use of these lots must comply with the existing zoning district. These proposed changes to the criteria do not preclude the Planning Commission from placing conditions on the plat approval.

- **A pre-application meeting is required for Minor and Major subdivisions.** The purpose for requiring a pre-application meeting is to help identify any major issues and/or required improvements early on in the process before an applicant completes costly plans and reports for subdivision platting. A sketch plat is required at the pre-application meeting for Major Subdivisions. For Minor Subdivisions, a sketch plat may be required at the Director's discretion.
- **The submittal and approval of construction plans will be integrated into the subdivision permitting process.** Approval of construction plans and completion of public improvements are a fundamental part of subdivision development. However, these major components are not currently clearly integrated into the subdivision approval process.
- **Plat standards and requirements** - The requirements for preliminary plats and final plats are clear in the proposed ordinance for Minor and Major Subdivisions. There is confusion with the current Code requirements as to what applies for a minor subdivision preliminary plat and what is required for a Major Subdivision. These changes clarify the necessary requirements and standards.
- **Lot Design** – All lots will meet the minimum dimensional standards for the zoning district in that they are located in. This remains the same as with current Code requirements. The following lot types are exceptions to this requirement. Some of these existing exceptions are being amended, deleted, or expanded, as detailed below.
  - **The “minimum rectangle” or Director’s Discretion lot design** – this section of Code gives the director discretion to approve lot design that does not meet the minimum dimensional standards, but does meet minimum lot size requirements in cases of difficult topography or other circumstances. This section of code is being deleted in the draft ordinance as it has resulted in inefficient usage of land and poor subdivision design. Usually, this section results in lots that appear to be panhandles, but are not true panhandle design. Panhandle lot design is meant to apply to more rural lots that are large, but insufficiently wide; they result in two lots with shared access and a restriction that further subdivision is not allowed. The minimum rectangle section of Code has created lots that appear to be panhandles, but are not.
  - **Panhandle lots** – Panhandle lot design will include a limitation on the length of the panhandle – the portion that provides access from the road to the main portion of the lot. The panhandle portion cannot be longer than 300 feet in D-1 zone districts and 1-1/2 times the minimum lot depth in other residential districts. The minimum lot size for panhandle lots remains the same at 20,000 for those served by a public sewer system or 36,000 for those not served.
  - **Public use lots** – This is a new section of code that allows the Director for Minor Subdivisions and the Planning Commission for Major Subdivisions to waive the minimum dimensional requirements for lot size, width, and depth, as well as lot frontage requirements for lots that will serve in the public interest, such as a park, open space, public or private utilities, conservation lots, or similar uses. The current Code already

allows conservation lots when they are adjacent to the Mendenhall Game Refuge Area. The proposed ordinance would remove that restriction and allow conservation lots in any location where conservation lot requirements are met. The Director or Planning Commission can place restrictions that limit building development, further subdivision, or other restrictions and will be noted on the plat.

- **Privately maintained access in rights-of-way** - This section is moving from the Public Improvements chapter (Chapter 35) to the Permits chapter, Chapter 15, and is expanded from its current use. Currently, the Director can approve a driveway access in an existing platted public right-of-way that has not been constructed for Minor Subdivisions and the Planning Commission can approve for Major Subdivisions up to 8 lots through the Conditional Use process. This allows development to occur on lots that were previously platted, and the right-of-way provided, but not built. Current Code requires that the street must be constructed to CBJ standards before development can occur. This existing section recognizes that many rights-of-way were previously platted “on paper”, but were not built. To provide relief to the lot owners along those unbuilt rights-of-way from paying for the cost of street improvements, they can apply for a driveway in a right-of-way permit. The current use of this permit type is that it only applies to previously platted subdivisions, not new subdivisions.

The proposed changes expand the use of this concept to allow development of a gravel road that will meet minimum Fire Access requirements (currently 20 feet) in new subdivisions in the right-of-way without paying for construction of a full road with pavement, sidewalks, curb, gutter, etc. The Director can approve a privately maintained access in a right-of-way that will serve no more than 13 lots and the total average daily trips (ADT) cannot exceed 250 trips. The owners will enter into an agreement sharing the maintenance costs and also releasing the CBJ from maintenance requirements or any improvements. It will be a stand-alone permit approved by the Director and available for Minor Subdivisions only, as more than 13 lots will generally result in more than 250 ADT. Further subdivision resulting in 250 ADT or more cannot occur until the road is built to CBJ standards; that cost will be incurred by the property owners, not the CBJ.

Owners that will be served by the privately maintained access road will be required to enter into an access agreement with the CBJ. This agreement acknowledges:

- That the CBJ will not provide maintenance or snow removal;
- That the agreement runs with the land and binds all heirs and successors;
- That the CBJ is not liable for any injury, loss, or damage from the privately maintained access;
- That the access road will not be blocked in any way;
- That the CBJ will have unimpeded access in the right-of-way;
- That the property owners will maintain the access road;
- The CBJ will record the agreement with the State Recorder’s Office for each lot or parcel of land subject to the agreement;

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 8 of 18

- That the owners are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access road exceeds 250 average daily trips;
- The owners are prohibited from subdividing unless the access is upgraded or all property owners served by the privately maintained access sign a new agreement;
- Any new development that increases the estimated traffic above 250 ADT shall pay a proportionate share of the costs of the right-of-way upgrades (the proportionate share shall be the percentage increase in average daily trips); and
- The owners authorize the CBJ to amend the access agreement by adding a new owner only upon written approval of all existing owners subject to the original agreement, and the new agreement supersedes the previous agreement.

This section will clarify and provide a clear process for approving driveways in existing rights-of-way. (CBJ 49.15 Article IV Division 4)

- **Right-of-way Acquisitions** - Currently the Code does not address the unique situation concerning right-of-way acquisitions and associated platting requirements. This Code section will provide an orderly process to assist the CBJ and the State with right-of-way acquisitions by tailoring the platting requirements to facilitate construction of right-of-way. Regardless of the number of lots proposed, the intent is that right-of-way plats will be reviewed as minor Subdivisions by the Director. However, if the land acquisition will create a non-conformity to any of the lots, the Planning Commission will review it as a Major Subdivision and may condition approval. (CBJ 49.15.590, Right-of-way acquisitions.)
- **Monumentation** - The monumentation and platting requirements from Title 4 of the CBJ Administrative Code, as well as the monumentation sections from Chapter 35, are moving to this chapter to consolidate platting requirements in one location.
- **Remote Area Subdivisions** - The Remote Area Subdivisions section, the bulk of which is from Chapter 70, is now located in the subdivision section, Division 5, in order to consolidate the purpose, map citation, characteristics, and requirements for remote subdivisions for ease of use. (CBJ 49.15, Article IV, Division 5).
- **Planned Unit Developments** – this section is amended to add reference to the Stormwater Best Management Practices manual regarding stormwater management. Additionally, the definition section at CBJ 49.15.680 is being removed and placed into CBJ 49.80, the definitions chapter, to consolidate all definitions in one location.

#### **CHAPTER 49.25 Zoning Districts**

Changes are proposed to this chapter to reflect the following:

- The zoning district boundary section is amended to reflect the proposed change from street vacations to the expanded public way vacations, as well as to delete a section that is no longer applicable. (CBJ 49.25.110(g) and (h)).

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 9 of 18

- Clarification is added, including renumbering, to minor and major development in CBJ 49.25.300, Determining uses.
- Article IV, Dimensional Standards, is being amended to reflect that the existing substandard setback exception section can be applied to street side yard setbacks as well as front yard setbacks, which reflects current practice. (CBJ 49.25.430(4)(K)).

#### **CHAPTER 49.35 Public Improvements**

This chapter was originally proposed for deletion in its entirety and move to the stand-alone subdivision chapter. The problem that arose with this approach is that public improvements not only apply to subdivisions, but also to development generally. By moving the public improvement requirements to the stand-alone chapter, this limited their applicability to subdivisions only. As such, Chapter 35 will remain. Changes that were proposed to the improvement requirements remain and are incorporated into this chapter, as outlined below:

- A general applicability section will replace CBJ 49.35.120 and 130 that combines the intent of both existing sections.
- Construction plans are required for most subdivisions; however, the existing Code does not make it clear how construction plan review and approval fits into the subdivision process. This amended section, as well as the subdivision process section in CBJ 49.15. Article IV, provides that needed clarity regarding the process as well as the requirements. (CBJ 49.35.140, Construction plans.)
- **Street standards** - The street standard requirements outlined below were proposed by the Ad Hoc Housing Subcommittee and then listed as a priority on the CBJ housing matrix in 2013. These changes were requested by the Public Works and Facilities Committee and drafted by staff to aid in the facilitation of affordable housing. The costs to put in the required infrastructure, namely roads, sidewalks, curbs, gutters, and drainage, are high. By reducing the standards, it is presumed that it will cost the developer less to subdivide the land and develop the lots. The theory is that more affordable housing will become available as the cost of the road improvements will not be passed along to the future homebuyer. This newly expanded option to create a privately maintained access road in new rights-of-ways enables developers to create subdivisions with gravel roads, of which the maintenance will be shared between the lot owners. The existing and proposed street standards are outlined below.
  - Currently, the following street construction standards apply. Different requirements apply if the subdivision is located within the Urban Service Boundary and in other circumstances, as shown below:

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 10 of 18

	Right-of-way width	Roadway width	Paved/gravel	Curbs	Gutters	Streetlights	Sidewalks	Storm drainage system
Arterials – within and outside the Urban Service Boundary	100' for primary; 80' for secondary	N/A*	N/A*	N/A*	N/A*	N/A*	N/A*	N/A*
Collectors – within Urban Service Boundary	60'	32'	Paved	Yes	Yes	Yes	Both sides	Yes
Typical street – within Urban Service Boundary	50'	28'	Paved	Yes	Yes	Yes	Both sides	Yes
Local Access street – RR, D1, or D3 zone districts only – cannot exceed 600 feet in length and cannot serve more than 50 dwelling units – within Urban Service Boundary	60'	26'	22' of pavement	No	No	Yes	One side	Yes
Collectors – Outside Urban Service Boundary	60'	32'	Gravel	No	No	No	No	No
Other streets – Outside Urban Service Boundary	60'	28'; 24' if maximum traffic is less than 250 ADT	Gravel	No	No	No	No	No

\* Developer is not responsible for construction of arterial streets

- The following street standards are proposed and provide an option for privately-maintained access as well as publicly-maintained access. The type of roadway required is proposed based upon average daily trips generated from the proposed subdivision. When this was created, the assumption was that a 13-lot subdivision would generally allow an accessory apartment. The accessory apartment traffic was assumed to be the same as a single-family dwelling. For 13 lots, each with an accessory apartment, the traffic would be close to the threshold of 250 ADT, which is the threshold for a Minor Subdivision.

As noted below in the table, paving is required in the PM10 Non-Attainment Area, which essentially covers the entirety of the Mendenhall Valley (please refer to the draft map located at the end of Attachment A). The option for a gravel road is not available for proposed subdivisions subject to this area.

For subdivisions resulting in 13 lots or fewer, which generally generate less than 250 ADT, the developer can construct a 22' gravel road that can be publicly maintained. This 22' gravel road is not required to have sidewalks, curb and gutters, or pavement; streetlights are required at the intersection of the new subdivision with the existing street system only. The other option for a developer is to construct a 20' gravel road, with approval by the Director, which will be privately-maintained. The owners within that subdivision will be required to share in the maintenance costs of the private access road and will enter in an agreement with the CBJ. Those owners will have to pay for street improvements (i.e, paving, one-sidewalk, curb and drainage on one side, streetlights) if the future subdivision will generate additional traffic over the 250 ADT threshold.

The proposed street standards are shown below:

Average Daily Trips (ADT) *	(Adopted) Traffic Impact Analysis	Sidewalks	Curb and Subsurface Drainage	Travel Way Width	Street Lights	Right-of-way width	Paved Roadway
≤ 500 ADT	Yes	Both sides	Both sides	26 feet	Continuous	60' **	Required
251 – 499 ADT	Maybe	One side	One side	24 feet	All intersections	60' **	Required
≥ 250 ADT	No	Not required	Not required	22' for public maintenance; or as required for Fire apparatus access roads for private access roads in rights-of-ways (private maintenance) ****	Intersections of subdivisions on streets with external street system	60' **	Not required ***

\* Relationship between ADT and number of single-family dwellings is based on 9.57 ADT per dwelling unit

\*\* Right-of-way width may be reduced

\*\*\* Paving of roadway required for any street type within the area within the PM10 Non-Attainment Area Map

\*\*\*\* Private access road in right-of-way requires a private maintenance agreement (proposed CBJ 49.15 Article IV, Division 4)

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 12 of 18

- **Right-of-way width reductions** – The Director now has the discretion to reduce right-of-way width requirements in some situations. Depending on the type of road or public way, right-of-way widths can be reduced up to 30 feet in some situations, such as for half streets. Other types of rights-of-way, such as stairways and alleys, may be reduced by up to 5 feet.
- **Waivers** – In current Code, the Director for minor development and the Planning Commission for major development may waive certain improvements, such as curb and gutter requirements, in certain circumstances. Because the street standard requirements have changed significantly, those waivers are no longer needed. However, the option to waive the full construction of a required access road to neighboring unbuilt property still remains, as well as the option to waive constructing sidewalks and provide alternative pedestrian improvements instead.

#### **CHAPTER 49.40 Access, Parking and Traffic**

Changes are proposed to this chapter to reflect the following:

- The access requirements in Article 1, Access, will move to Chapters 15 and 35 respectively. The section will remain in “Reserved” status and the chapter title will be “Parking and Traffic” only. (CBJ 49.40.105 – 180).

#### **CHAPTER 49.65 Specified Use Provisions**

Changes are proposed to this chapter as follows:

- The bungalow lot and structure section is amended to clarify that Bungalow Subdivisions can occur in the D10-SF zone district. This is already reflected in the Table of Permissible Uses, but is missing from the list of applicable zoning districts here. (CBJ 49.65.610 and 620)
- Article VII, Common Wall Residential Development, is amended as follows:
  - To make clear the two-step process of how common wall structures and subdivisions are created.
  - To expand the parking and access requirements to include consideration of additional parking scenarios.
  - To clarify existing confusion in Title 49 regarding when the side yard setback requirement applies and when the zero-setback applies and thus, where development can occur along the zero-lot line. This change reflects current practice by the CBJ.

#### **CHAPTER 49.70 Specified Area Provisions**

Changes are proposed to this chapter as follows:

- Proposed changes now make it clear which type of hillside development activities warrant department review or Commission review. Minor development activities on hillsides will be reviewed by the department and major development activity and/or any activity in a mapped hazard area will require commission review and approval. Currently, there is ambiguity in



Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 13 of 18

Article II, Hillside Endorsement, regarding when additional requirements are applicable. The existing exception section includes confusing wording; thus, this section has not applied consistently.

- Remote Subdivision Areas in Article XI are deleted and moved to Chapter 15, in the Subdivision Permit section, in order to consolidate the purpose, map citation, characteristics, and requirements for Remote Subdivisions into one section for ease of use. (CBJ 49.70.1100-1120)

### **CHAPTER 49.80 Definitions**

Notable new, amended, and deleted definitions are proposed as follows:

- Development permit is expanded to include subdivision permits, all types, as well as special use permits for cell towers;
- Public way is amended to also mean right-of-way;
- Roadway, right-of-way, and street are also clarified and expanded;
- The subdivision definition now makes it clear when subdivision is a noun – the land resulting from division or re-division of land into two or more lots – and when it is an action – the act of developing, constructing, or improving property with a subdivision. The definition also now deletes the reference to land leases of 55 or more years. This means that the CBJ will no longer consider long-term leases, such as those leased for affordable housing purposes, as a type of subdivision.
- New definitions are added as follows, many of which are moved from the Planned Unit Development section in CBJ 49.15. Article VI:
  - Cluster wastewater system
  - Common facilities
  - Common open space
  - Community wastewater and disposal system
  - Conservation lot
  - Density bonus
  - Improved common open space
  - Natural area park
  - Panhandle lot
  - Planned unit development
  - Private improvements
  - Privately maintained access road
  - Public improvements
  - Public square
  - Quasi-public
  - Radial distance
  - Roadway width
  - Sight distance
  - Undisturbed common space

### **POTENTIAL POLICY IMPLICATIONS OF PROPOSED CHANGES**

- These proposed changes expand when the Director makes final decisions and limits the Planning Commission's final decisions, such as by increasing the threshold for Minor Subdivisions. When the director makes a final decision on a permit, a person can appeal that decision to the Planning Commission pursuant to CBJ 49.20.110. Planning Commission decisions are also appealable to the Assembly. Potentially, more appeal cases stemming from the Director's decisions may come to the Planning Commission.
- The option to create a privately maintained access road in rights-of-ways (currently at 20-feet wide) enables developers to create subdivisions with gravel roads, of which the maintenance will be shared between the lot owners. While this might enable lower income home buyers to initially purchase these homes, they might not be able to pay for the road upgrade in the future when it is needed and thus, may seek assistance from the CBJ by requesting a Local Improvement District or a Capital Improvements Project for improvements.

Furthermore, if the developer chooses to construct the 22' gravel road instead of applying for the privately maintained access in the right-of-way, the CBJ will then be responsible for the maintenance of the gravel road. Gravel roads cost the CBJ more to maintain than paved streets.

- Gravel roads are not allowed in the PM10 Management Area which generally covers the Mendenhall Valley. The Environmental Protection Agency declared the Mendenhall Valley a non-particulate matter attainment area due to air quality exceedances, in accordance with the Federal Clean Air Act, and there is a non-attainment area plan in place. Gravel roads would increase the particulate matter, and in conformance with that plan, would not be allowed in this area. (See map at the end of Attachment A).
- Regarding public notice, the Minor Subdivision process now proposes a new public notice type that will notify abutting neighbors of a proposed subdivision (of thirteen lots or fewer). Minor Subdivisions currently have no public notice requirement. Since the threshold for Minor Subdivisions has increased from the previous threshold of four, this new public notice type was proposed. This adds another type of public notice. The proposed changes also give the director discretion to require additional signs and can also indicate where they can be placed.
- Conservation lots are currently limited to the Mendenhall Wetlands Game Refuge. The proposed change would remove that restriction and allow them to be created anywhere, expanding their applicability.

### **COMPLIANCE WITH THE COMPREHENSIVE PLAN**

#### **Chapter 7 – Natural Resources and Hazards**

##### **AIR QUALITY**

Discussion on Page 87: *Air quality refers to the quality or purity of the air we breathe, the quality of the air we see and see through, as well as the absence of harmful, nuisance or annoying sounds or odors that are transmitted through the air. Although breathable and visible air quality in the CBJ area has generally been high, it can be a serious problem in some areas of concentrated burning of*

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 15 of 18

*fire places, wood-stoves, outdoor burning of refuse, and the increase of engine emissions from vehicles, cruise ships and aircraft. The Mendenhall and Lemon Creek Valleys are the areas most seriously affected by breathable air pollution, due to air inversions during the winter months. The CBJ has adopted air quality control regulations that prohibit wood-stove burning during periods of poor air quality, provide for emission standards for new wood-stoves, prohibit open burning during the winter, and require construction of energy- efficient single-family homes. The CBJ has also enacted laws to regulate open burning. Another significant effort being made to assure compliance with air quality regulations is through the program to pave residential streets to control dust. As a result of these efforts, the CBJ's air quality is relatively good most of the time.*

**POLICY 7.9 TO CONTINUE EDUCATIONAL PROGRAMS, CAPITAL IMPROVEMENT PROJECTS, AND REGULATORY MEASURES TO PROTECT AND IMPROVE OVERALL AIR QUALITY.**

**Chapter 8 – Transportation**

**Local Transportation System**

**POLICY 8.5 TO PROMOTE A BALANCED, WELL-INTEGRATED LOCAL MULTI-MODAL SURFACE TRANSPORTATION SYSTEM THAT PROVIDES SAFE, CONVENIENT, AND ENERGY-EFFICIENT ACCESS AND TRANSPORT FOR PEOPLE AND COMMODITIES.**

8.5 – DG1      Require dedication of all rights-of-ways and easements, including those for trails, roads and transit corridors and facilities on subdivision plats and development plans as determined to be appropriate by the Planning Commission for that development. Obtain commitments to construct trails and local and collector roadway improvements from private developers when projects are approved, and ensure that those improvements are complete prior to issuing building permits on adjacent properties within that development.

8.5 – DG2      Review, implement and maintain appropriate and affordable development standards for major subdivisions and major developments to ensure safe and convenient vehicular traffic and to provide safe pedestrian and bicycle access internal to the subdivision/development as well as to ensure a Level of Service of D or better for roadways and intersections serving the development.

8.5 – DG4      Minimize access roadways or driveways onto major and minor arterial roadways or highways by requiring shared access points, such as a frontage road, and connections to adjacent subdivisions' roadways that lead to a "downstream" controlled or grade-separated intersection.

**Chapter 10 – Land Use**

**Neighborhood Facilities**

**POLICY 10.5. THAT RESIDENTIAL DEVELOPMENT PROPOSALS, OTHER THAN SINGLE-FAMILY RESIDENCES, MUST BE LOCATED WITHIN THE URBAN SERVICE AREA BOUNDARY OR WITHIN A DESIGNATED NEW GROWTH AREA. APPROVAL OF NEW RESIDENTIAL DEVELOPMENT PERMITS**

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 16 of 18

**DEPENDS ON THE PROVISION OR AVAILABILITY OF NECESSARY PUBLIC AMENITIES AND FACILITIES, SUCH AS ACCESS, SEWER, AND WATER.**

10.5 - SOP1 Encourage public/private partnerships in the development of new subdivisions with roads, intersections, separated pedestrian and bicycle pathways/trails, water and sanitary sewer systems that meet adopted CBJ standards.

10.5 - SOP2 Maintain the provisions in the Land Use Code that require developers to provide for access, facilities, and services prior to final plat approval.

**POLICY 10.6. TO REQUIRE NEW RESIDENTIAL DEVELOPMENTS TO MEET MINIMUM CRITERIA FOR OVERALL SITE DESIGN INCLUDING PROVISION OF LIGHT, AIR AND PRIVACY.**

10.6 - IA2 The CDD should improve the development review process to require all applications for major residential developments, including major 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.

**Chapter 18 – Implementation and Administration**

**The Comprehensive Plan as a Guiding Planning Document**

**POLICY 18.1. TO ESTABLISH THIS COMPREHENSIVE PLAN AS THE PRIMARY POLICY DOCUMENT WITH WHICH TO GUIDE RESOURCE CONSERVATION AND FUTURE GROWTH AND DEVELOPMENT AND TO MANAGE THE PHYSICAL ENVIRONMENT.**

18.1 - IA2 Revise, as necessary, zoning, subdivision and other land development ordinances to ensure consistency with the Plan's provisions. Amend the Land Use Code Maps (zoning designation maps), considering them to be the official application of the *Comprehensive Plan* Maps, to ensure that the zoning designations of specific sites within the CBJ are consistent with the Land Use Map designations of this *Plan*.

**Discussion**

The proposed changes regarding subdivision regulations generally support and further the Comprehensive Plan. The intent of the changes is to:

- Establish a process that facilitates the fair and predictable division of land;
- Encourage efficient and cost-effective provision of public services;
- Address traffic and circulation to reduce congestion;
- Provide for flexibility in the division and establishment of residential and commercial lots;
- Establish procedures for subdividing land to accommodate a variety of housing types; and

Planning Commission  
 File No.: TXT2009-00001  
 April 10, 2015  
 Page 17 of 18

- Accomplish uniform monumentation for land subdivision and facilitate accurate legal descriptions for land conveyance.

One proposed change does not necessarily further the intent of Comprehensive Plan; this is regarding air quality generated from unpaved roads. Subdivisions that would generate 250 average daily trips (ADT) or less can construct gravel roads. These proposed changes could potentially increase the amount of unpaved roads in the City and Borough of Juneau which would impact air quality. However, current Title 49 requirements already allow gravel roads or unpaved roads to be built within the CBJ in certain situations. Currently, with approval, driveways in rights-of-ways can be built in existing unbuilt rights-of-ways; they cannot be built in newly created rights-of-ways and no further subdivision is allowed until the right-of-way is built to CBJ standards. Additionally, outside the Urban Service Area, local streets are not required to be paved. The proposed changes may potentially increase the amount of unpaved roads, and thereby, potentially impact air quality. While the Comprehensive Plan discusses air quality and unpaved roads, there is no clear policy, development guideline, implementing action, or standard operating procedure regarding the requirement to pave roads.

#### **COMPLIANCE WITH THE JUNEAU NON-MOTORIZED TRANSPORTATION PLAN**

The Juneau Non-motorized Transportation Plan includes twelve policies to support and encourage active transportation and increase the safety and effectiveness of the existing non-motorized system.

**Policy 4 – Private Sector Development. Review design standards in Title 49 to provide opportunities to make subdivision design more context sensitive.**

*4B. In CBJ Chapter 49.35 Public Improvements, bike paths are listed under Article VI. Pedestrian Access. CBJ municipal code at Title 72 subjects bicyclists on roadways to all the duties applicable to vehicles. Accordingly, CBJ 49.35.630 Bike Paths, should be listed under Article II, Streets.*

**Policy 5 – Transportation Planning. Integrate motorized and non-motorized transportation planning.**

*5B. In new subdivisions and neighborhoods, install facilities for non-motorized transportation, such as paths connecting cul-de-sacs or linking to broader trail systems, at the same time as the rest of the transportation network. This will ensure home purchasers know about and can use the non-motorized network and will prevent later ‘surprises’. Note that not all neighborhood trails that connect cul-de-sacs and serve other non-motorized purposes that have been approved by the Planning Commission are captured on the maps.*

#### **Discussion**

The proposed subdivision changes include re-naming and amending the Pedestrian Access section in Chapter 35. Article IV of Chapter 35, the Public Improvement chapter, is now the Public Access section and includes Pedestrian and bicycle access requirements, streams and bodies of water, trailhead dedications, and acceleration and deceleration lanes. Shared-use pathways of a width no less than ten feet have been added to this section. Shared-use pathways may be required through blocks longer than 600 feet or where deemed necessary to provide circulation within and between residential areas

Planning Commission  
File No.: TXT2009-00001  
April 10, 2015  
Page 18 of 18

or to provide access to schools, shopping, or other community facilities. Sidewalks are required on one side for subdivisions that will generate more than 250 ADT and are required on both sides for those generating more than 500 ADT. Like the current code, sidewalk construction requirements may be waived in certain instances, but allow alternative pedestrian improvements.

### **FINDINGS**

Staff finds that the proposed amendments are generally consistent with the Comprehensive Plan as they propose to facilitate orderly development and the fair and predictable division of land as well as to encourage more affordable housing by providing more options regarding subdivision improvement requirements. However, providing options for gravel streets may conflict with air quality policies as well as the potential costs to the CBJ for future improvements.

### **RECOMMENDATION**

Staff recommends that the Planning Commission forward proposed TXT2009-00001 to the Assembly with a recommendation for adoption.

Presented by: The Manager  
Introduced:  
Drafted by: A. G. Mead

## ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-03

### An Ordinance Amending the Land Use Code.

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.** CBJ 49.10.130, Meetings, is amended to read:

#### **49.10.130 Meetings.**

- (a) Regular meetings shall be held on the second and fourth Tuesday of each month.
- (b) Special meetings may be called by the chair or any three members of the commission. Public notice of special meetings shall be made 24 hours in advance and shall be supplied to the local news media and posted on the municipal bulletin board. Commission members will be notified by the department.
- (c) Public notice for all permits and other land use ordinance actions shall be according to the requirements established for such actions.
- (d) Meetings shall be conducted under Robert's Rules of Order ~~Mason's Manual~~, as modified by the commission.
- (e) The commission may, by motion, establish its own rules of procedure and committees, meeting times, dates and places, media for public notice, development application and evidentiary forms, referral and review agencies and procedures, and any other matter reasonably necessary or desirable for the full and complete conduct of its duties pursuant to this title and any other provision of law.

**Section 3. Amendment of Section.** CBJ 49.10.770, Meetings, is amended to read:

**49.10.770 Meetings.**

(a) *Regular meetings.* The wetlands review board shall hold one regular meeting each month as necessary to conduct board business, and shall hold additional regular meetings as the board may prescribe by resolution.

(b) *Special meetings.* The wetlands review board may hold special meetings upon the call of the chair or any two members. At least 24 hours before the meeting, personal notice shall be given to each board member designating the time, place, and purpose of the special meeting, or written notice shall be left at each member's usual place of residence. At least 24 hours before the meeting, copies of the notice shall also be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. No business may be transacted at any special meeting except as stated in the notice of the meeting. All meetings of the wetlands review board shall be publicly noticed in the same manner as other City and Borough boards and commissions, and shall be conducted in accordance with the Alaska Open Meetings Act.

(c) *Public notice.* No business may be transacted at any special meeting except as stated in the notice of the meeting. All meetings of the wetlands review board shall be publicly noticed in the same manner as other City and Borough boards and commissions, and shall be conducted in accordance with the Alaska Open Meetings Act.

**Section 4. Amendment of Section.** CBJ 49.10.790, Rules of Procedure, is amended to read:

**49.10.790 Rules of Procedure.**

Meetings shall be conducted under Robert's Rules of Order ~~Mason's Manual~~ and such additions or amendments to the rules as may be adopted by the wetlands review board.

**Section 5. Amendment of Article.** Chapter 49.15, Article I In General, is amended by adding a new section to read:

**49.15.150 Application cancellation and withdrawal.**

(a) A permit application may be cancelled for inactivity if an applicant fails to respond to



the department's written request for revisions, corrections, or additional information within 180 days of the date of the request. The director may extend the response period up to an additional 180 days. If an application is cancelled due to inactivity, the application fee shall be forfeited.

(b) For an application filed prior to the effective date of this ordinance, the director shall assess the status of the application. If the director determines the application is incomplete, the applicant shall be informed in writing of the additional information needed and that the application will be cancelled for inactivity if the applicant fails to provide the requested information within 180 days from the date of notice. The director shall not extend the response period beyond the initial 180 days from the date of notice.

(c) A development permit shall become void, and the application fee forfeited, 18 months after its effective date if no associated building permit, right-of-way permit or similar permit for construction has been issued and substantial construction progress pursuant thereto made, or if no plat has been issued in accordance with the plans for which the development permit was authorized. A development permit shall become void if all building permits issued for the development expire or become void.

(d) An applicant or property owner may withdraw a permit application at any time. If an application is withdrawn less than seven days before the public hearing on the application, the application fee shall be forfeited.

**Section 6. Amendment of Section.** CBJ 49.15.230, Public notice, is amended to read:

**49.15.230 Public notice.**

The purpose of the following public notice requirements is to reasonably inform interested parties that an application or matter is scheduled to be considered by the planning commission at a specific date, time, and place. The public notice must generally describe the application or matter. Unless otherwise provided public notice of planning commission consideration of development permits and rezonings shall be provided as follows:

- (1) Permit consideration shall be included as an item in the posted agenda.
- (2) Notice of the commission meeting, and the agenda item shall be published in a newspaper of general circulation in the City and Borough a minimum of ten days prior to the date of the meeting.
- (3) The developer shall post a sign ~~on~~ at the site or other location approved by the director at least 14 days prior to the meeting. If the proposed development is on the road system, the ~~The~~ sign shall be visible from a public right-of-way. Signs shall be

between four square feet and 32 square feet in area, shall have a red background, and shall indicate in white lettering, 216-point font or larger, that a development permit or rezoning, as applicable, has been sought for the site, the date of the hearing ~~thereon~~, and that further information is available from the director. The developer shall maintain the sign and shall remove it within 14 days after final action on the application.

(4) The director shall mail notice of the application and the ~~initial meeting public hearing thereon~~ to the owners of record of all property and all neighborhood associations listed with the municipal clerk in accordance with CBJ 11.35 located within 500 feet of the property subject to the permit or rezoning. The actual cost of mailing shall be paid by the applicant.

(5) The applicant shall deliver individual written notice by certified mail, return receipt requested of the application and the initial meeting thereon to each tenant of any multifamily residential development for which the application seeks a change in use.

(6) The director may require more than one sign and may mail notice to additional owners of record of properties beyond 500 feet of the property under section (4) upon a determination that such expanded notice is required in order to provide reasonable public notice.

(7) The director may conduct one or more neighborhood meetings prior to the commission meeting. The purpose of a neighborhood meeting is to make application materials available to interested parties, to solicit input regarding an application, and for the department to describe the application review process.

**Section 7. Repeal of Section.** CBJ 49.15.240 Development permit expiration, is repealed and reserved.

**Section 8. Amendment of Section.** CBJ 49.15.239, Effective date, is amended to read:

**49.15.239 Effective date.**

(a) Major development permits and other planning commission decisions are effective on the date the notice of decision is filed with the municipal clerk.

(b) Minor development permits and other director approvals are effective on the date the director signs the permit.

~~A minor development permit shall be effective upon execution by the director. A major development permit shall be effective upon approval by the commission. A development permit shall not be final until the disposition of any appeal thereof, or until the time for appeal has run and no appeal has been filed.~~

**Section 9. Amendment of Section.** CBJ 49.15.330, Conditional use permit, 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. ~~The procedures and standards established in this section shall also be applied to major subdivision preliminary plat approval pursuant to section 49.15.430.~~

...

(g) *Specific conditions.* The commission may alter the director's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:

...

(4) *Dedications.* Conveyance of title, easements, licenses, or other property interests to government entities, private or public utilities, owners' associations, or other common entities may be required.

**Section 10. Repeal and Reenactment of Article.** CBJ 49.15, Article IV Minor and Major Subdivisions, is repealed in its entirety and reenacted to read:

**Article IV. Subdivisions**

**Division 1. Permits**

- 49.15.400 Purpose and applicability.
- 49.15.401 Minor subdivisions.
- 49.15.402 Major subdivisions.
- 49.15.403 Lot consolidations.
- 49.15.404 Public way vacations.

**Division 2. Plat Requirements**

- 49.15.410 Sketch plat.
- 49.15.411 Preliminary plat requirements.
- 49.15.412 Final plat requirements.
- 49.15.413 Plat expiration.
- 49.15.414 Plat effective date.
- 49.15.415 Recorded plats legalized.

**Division 3. Design**

- 49.15.420 Lots.
- 49.15.421 Cul-de-sac lots.
- 49.15.422 Public use lots.
- 49.15.423 Panhandle lots.
- 49.15.424 Access.

**Division 4. Privately Maintained Access in Rights-of-Way**

- 49.15.430 Purpose.
- 49.15.431 Application.
- 49.15.432 Department action.
- 49.15.433 Design criteria.
- 49.15.434 Access agreement.
- 49.15.435 Other requirements.

**Division 5. Remote Area Maps and Subdivisions**

- 49.15.440 Purpose.
- 49.15.441 Map.
- 49.15.442 Characteristics.

49.15.443 Remote Subdivisions.

## Division 6. Survey and Monumentation Standards

41.15.450 Licensed surveyor required.  
 49.15.451 Boundary lines – basis of bearing.  
 49.15.451 Accuracy of survey.  
 49.15.453 Monumentation.

## Division 1. Permits

### 49.15.400 Purpose and applicability.

(a) The purpose of this article is to facilitate the subdivision of land to promote the public health, safety, and general welfare of the citizens of the CBJ in accordance with The Comprehensive Plan of the City and Borough of Juneau, Alaska. To meet this objective, this article is intended to:

- (1) Establish a process that facilitates the fair and predictable division of land;
- (2) Encourage the efficient and cost-effective provision of public services;
- (3) Address traffic and circulation to reduce congestion;
- (4) Provide for flexibility in the division and establishment of residential and commercial lots;
- (5) Establish procedures for subdividing land to accommodate a variety of housing types; and
- (6) Accomplish uniform monumentation for land subdivision and facilitate accurate legal descriptions for land conveyance.

(b) This article shall apply to any division or redivision of real property within the City and Borough. This article shall not apply to cemetery plots or land leases.

### 49.15.401 Minor subdivisions.

(a) A minor subdivision permit is required for the following:

- (1) *Thirteen or fewer lots.* A minor subdivision permit is required for all subdivisions resulting in thirteen or fewer lots. No minor subdivision application may be filed or approved:

(A) If it is a part of or made in connection with a present or projected major

subdivision development as determined by the director;

(B) If the property is within a parcel any part of which has been subdivided by a minor subdivision within the preceding 24 months, unless the proposed subdivision creates no new lots; or

(C) For the subdivision of a parcel any part of which is within a landslide or avalanche area identified as such in the comprehensive plan, attachments thereto, other adopted maps, or in accordance with CBJ 49.70.300.

(2) *Accretion surveys.* The minor subdivision process shall be used for the review and recording of accretion surveys, regardless of the number of lots affected.

(3) *Conservation lot subdivisions.* The minor subdivision process shall be used for the review and recording of conservation lot subdivisions, regardless of the number of lots affected.

(4) *Lot line adjustments.* The minor subdivision process shall be used to review adjustments to any number of lot boundary lines if the subdivision does not result in an increase in the number of lots.

(5) *Right-of-way acquisition plats.* The minor subdivision process shall be used for the review and recording of right-of-way acquisition plats filed by an agency of government regardless of the number of lots affected, in accordance with CBJ 49.15.590 unless such acquisition creates any nonconforming lot, use, or structure.

(b) *Pre-application conference.* A pre-application conference is required prior to submitting an application for a minor subdivision. A sketch plat may be required at the director's discretion.

(c) *Preliminary plat.* The director shall be responsible for review and approval of the application for a preliminary plat.

(1) An applicant for a preliminary plat shall submit an application on a form provided by the department, accompanied by a draft preliminary plat and the appropriate fee. The draft plat shall meet the standards set forth in CBJ 49.15.411.

(2) The department shall send written notice of the application to the owners of abutting property following the director's determination that the application is complete.

(3) The director or applicant may request review by the subdivision review committee.

(4) *Review and approval.* The director shall approve the application if the following criteria are met:

- (A) The preliminary plat complies with CBJ 49.15.411.
- (B) The applicable subdivision development standards of this title are met, or can reasonably be met with conditions.
- (C) The proposed subdivision will provide building sites suitable for the zoning district.
- (D) The proposed street names are unique in the City and Borough or are continuations of existing streets, and are otherwise acceptable.
- (E) The director of engineering and public works has reviewed the application and determined that:
  - (i) The subdivision meets applicable drainage and water quality requirements.
  - (ii) The streets and pedestrian ways as proposed accommodate anticipated traffic and align, and where appropriate, connect with streets and pedestrian ways serving adjacent properties.
  - (iii) The minor subdivision conforms to the requirements of this title and that any proposed improvements can feasibly be constructed in accordance with this title.
  - (iv) Where public sewer is not required, the applicant has shown that soils are suitable for individual on-lot wastewater treatment and disposal or has shown the feasibility of alternative methods for wastewater treatment and disposal.
- (5) The decision of the director will be set forth in a notice of decision, signed by the director, with any conditions or plat notes required for final plat approval. If the preliminary plat is denied, the applicant may submit a revised plat application, without paying additional application fees, within 180 days from the date of the notice of decision.
- (d) *Construction plans.* Upon approval of the preliminary plat, the applicant shall submit complete sets of construction plans for all required improvements to the department for review by the director of engineering and public works for compliance with CBJ 49.35.140.
- (e) *Survey and monumentation.* Once the construction plans are approved, the applicant shall complete required surveying and monumentation in accordance with CBJ 49.15, Article IV, Division 6.

(f) *Final plat.* An application for a final plat shall be on a form provided by the department, accompanied by a final plat and the appropriate fee. The application shall be approved if the following criteria are met:

(1) The applicant has complied with any conditions or plat notes required by the director in the notice of decision approving the preliminary plat.

(2) The applicant has constructed all required improvements or provided a financial guarantee in accordance with CBJ 49.55.010.

(3) The final plat meets the criteria set forth in CBJ 49.15.412.

(4) The director may place such conditions upon the granting of final plat approval as are necessary to preserve the public welfare.

(g) *Plat recording.*

(1) The director shall sign the plat upon a determination that the final plat meets all of the requirements of this title, that all plat certificates have been signed and notarized, and the applicant has submitted all documents required for recording with the final plat in accordance with CBJ 49.15.412.

(2) The department shall file the original plat, at the applicant's expense, with the State Recorder's Office at Juneau.

#### **49.15.402 Major subdivisions.**

(a) A major subdivision permit is required for subdivisions resulting in fourteen or more lots.

(b) *Pre-application conference and sketch plat.* A pre-application conference and sketch plat (CBJ 49.15.410) is required prior to submitting an application for a major subdivision.

(c) *Preliminary plat.* The commission shall be responsible for approval of the preliminary plat.

(1) Application for a preliminary plat shall be on a form provided by the department, accompanied by a draft preliminary plat and the appropriate fee. The draft plat shall meet the standards set forth in CBJ 49.15.411.

(2) Public notice of the application shall be provided pursuant to CBJ 49.15.230.

(3) The director or applicant may request review by the subdivision review committee.



(4) The director shall prepare and submit a report to the commission addressing the following criteria:

(A) Whether the preliminary plat complies with CBJ 49.15.411.

(B) Whether the applicable subdivision development standards of this title are met, or can reasonably be met with conditions.

(C) Whether the proposed subdivision will provide building sites suitable for the zoning district.

(D) Whether the proposed street names are unique in the City and Borough or are continuations of existing streets, and are otherwise acceptable.

(E) Whether the director of engineering and public works has reviewed the application and determined that:

(1) The subdivision meets applicable drainage and water quality requirements.

(2) The streets and pedestrian ways as proposed accommodate anticipated traffic and align, and where appropriate, connect with streets and pedestrian ways serving adjacent properties.

(3) The subdivision conforms to the requirements of this title and that any proposed improvements can feasibly be constructed and will conform to the requirements of this title.

(4) Where public sewer is not required, the applicant has shown that soils are suitable for individual on-lot wastewater treatment and disposal or has shown the feasibility of alternative methods for wastewater treatment and disposal.

(F) Any conditions of approval or plat notes recommended by the director.

(5) In issuing its notice of decision on a preliminary plat, the commission may accept, amend, or reject the director's proposed recommendations. The decision of the commission approving or denying a preliminary plat application will be set forth in a notice of decision, and will specify any conditions or plat notes required for final plat approval. If the preliminary plat is denied, the applicant may submit a revised plat application, without paying additional application fees, within 180 days from the date of the notice of decision.

(d) *Construction plans.* Upon approval of the preliminary plat, the applicant shall submit complete sets of construction plans for all required improvements to the department for review by the director of engineering and public works for compliance with CBJ

49.35.140.

(e) *Survey and monumentation.* Once the construction plans are approved, the applicant shall complete required surveying and monumentation in accordance with CBJ 49.15, Article IV, Division 6.

(f) *Final plat.* An application for a final plat shall be on a form provided by the department, accompanied by a final plat and the appropriate fee. The final plat shall meet the standards set forth in CBJ 49.15.412.

(1) Once the application is deemed complete, the director shall schedule the final plat for commission action. If commission action on the final plat will occur more than 12 months after approval of the preliminary plat, public notice of impending commission action on the final plat may be required.

(2) The director shall prepare and submit a report to the commission that addresses compliance of the final plat with this title and the criteria for final plat approval, and that specifies any conditions of approval or plat notes recommended by the director.

(3) The commission shall approve the application for a final plat if the following criteria are met:

(A) The applicant has complied with any conditions or plat notes required in the notice of decision approving the preliminary plat.

(B) The applicant has constructed all required improvements or provided a financial guarantee in accordance with CBJ 49.55.010.

(C) The final plat meets the standards set forth in CBJ 49.15.412.

(D) The commission may place such conditions upon the granting of final plat commission as are necessary to preserve the public welfare.

(g) *Plat recording.* The chair of the commission shall sign the plat upon a determination that the final plat meets all of the requirements of this title and that all plat certificates have been signed and notarized, and the applicant has submitted all documents required for recording with the final plat in accordance with CBJ 49.15.412. The department shall file the original plat with the State Recorder's Office at Juneau, at the applicant's expense.

#### **49.15.403 Lot consolidations.**

(a) An application for the consolidation of two or more abutting lots shall be submitted on a form provided by the department along with the application fee. An applicant must also submit one of the following:

(1) A plat prepared by a professional land surveyor licensed to practice in Alaska, unless the director finds that a legal description of the new parcel and a drawing showing all existing and proposed lot lines clearly identifies the new lot; or

(2) If the director determines that a plat is not required, the applicant shall submit a drawing, satisfactory to the director, indicating all existing and proposed lot lines.

(b) If a plat is required, the minor subdivision process shall apply. If a plat is not required, the director shall approve the application if the following criteria are met:

(1) All lots proposed for consolidation are under common ownership.

(2) CDD receives a certificate of payment of taxes from the CBJ Treasurer's office stating that all property taxes owing on the lots to be consolidated are paid in full.

(3) The lots are located in the same zoning district.

(4) Consolidation of the lots will not create a zoning or building code violation.

(5) The director of engineering and public works has reviewed and approved the lot consolidation proposal for conformity with the requirements of this title.

(c) The decision of the director will be set forth in a notice of decision, signed by the director. Upon director approval, the department shall prepare and provide to the applicant a letter of lot consolidation. The letter shall provide for acceptance of the consolidation by notarized signature thereon by the owner or owners of the new lot, and upon such execution, the department shall record the document at the applicant's expense.

#### **49.15.404 Public way vacations.**

(a) 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) *Pre-application conference.* A pre-application conference is required prior to submitting an application for a public way vacation.

(c) *Application.* Applications for public way vacations shall be submitted on a form provided by the department, and must be accompanied by the following:

(1) A petition by the City and Borough or signed by the owners of a majority of the land fronting the area sought to be vacated requesting the vacation.

(2) A deed or other sufficiently reliable legal instrument, describing the owners of

the land fronting the area sought to be vacated.

(3) A sketch plat and all relevant submittals required by CBJ 49.15.410 showing the area proposed to be vacated and the proposed configuration of all adjoining parcels that would be modified if the vacation application were approved.

(4) A deed, or other sufficiently reliable legal instrument, describing how title to the vacated area will be allocated consistent with this section.

(5) The application fee.

(6) If required, an appraisal by a qualified appraiser.

(7) If a traffic impact analysis is required or likely to be required as determined by the director, a traffic impact analysis in accordance with CBJ 49.40, Article III.

(d) *Commission review process.*

(1) After determining the application is complete, the department shall provide public notice consistent with CBJ 49.15.230.

(2) The director may transmit copies to other public or entities that may have an interest in the proposal for their comments.

(3) The director of engineering and public works shall review and comment on the application and will present written comments, including any recommended conditions of approval, to the director of community development.

(4) The director or applicant may request review and comment by the subdivision review committee.

(5) The director shall submit a recommendation to the commission addressing the following:

(A) Whether the area proposed to be vacated is a right-of-way acquired under the former 43 U.S.C. 932 (RS 2477 right-of-way).

(B) Whether there is any current or anticipated future public purpose to retain the area proposed to be vacated.

(C) Whether the proposed vacation will have a detrimental effect on the adjacent property or on the neighborhood.

(D) Whether the proposed vacation is in the best interest of the public.

(6) The commission shall consider requests to vacate public ways after public

hearing. The commission shall presume that all public ways and similar public areas are of value and of benefit to the public. The petitioner has the burden to prove otherwise.

(7) After public hearing, the commission shall make a recommendation to the assembly to approve, approve with modifications, or deny the proposed vacation request. The commission shall prepare written findings in support of its recommendation, which shall be forwarded to the assembly for its consideration. If the commission recommends approval of the request or approval with modifications, the commission must also make the necessary findings to determine how title to the vacated area should be ordered as follows:

(A) The title to the public area vacated on a plat attaches to the lot or land bordering the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the public area that lies on one side of the boundary line shall attach to the abutting property on that side, and the public area that lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated public area that lies inside the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the City and Borough. If the property vacated is a lot, title vests in the rightful owner.

(B) If the City and Borough acquired the vacated area for legal consideration, or by express dedication to and acceptance by the City and Borough other than as a subdivision platting requirement, then before final vacation the fair market value of the vacated area shall be deposited with the platting authority to be paid over to the City and Borough on final vacation as required by CBJ 53.09.600.

(8) If the commission recommends approval of the request or approval with modifications, the director shall forward an ordinance along with the commission's written recommendation to the assembly for its consideration.

(e) *Assembly review.* A vacation is not valid without approval by the assembly in its legislative capacity and the recording of a plat. If the assembly approves the vacation, the assembly shall approve the vacation by ordinance. If the assembly does not approve the vacation, a subsequent vacation application cannot be filed within one year from the date of the commission's recommendation.

(f) If the vacation of public way is approved, the property added to a parcel shall be platted per the subdivision requirements below.

(1) If the request involves a vacation that includes the resubdivision of thirteen or fewer lots, the submittal and platting requirements for a minor subdivision shall apply.

(2) If the request involves a vacation that includes the resubdivision of more than thirteen lots, the submittal and platting requirements for a major subdivision shall apply.

## Division 2. Plat Requirements

### 49.15.410 Sketch plat.

(a) The sketch plat serves the following purposes:

(1) To inform the applicant of the City and Borough's subdivision requirements, public improvement requirements, and platting procedures before substantial costs are incurred by the developer in preparation of a subdivision application.

(2) To inform the department of the applicant's development plans.

(3) To identify issues with the proposed subdivision, such as issues with the subdivision layout, the extent and nature of required improvements, the location and protection of sensitive areas, impacts to adjoining properties, and traffic, platting, drainage and utilities requirements.

(b) A sketch plat is required for major subdivisions. A sketch plat may be required, at the director's discretion, for minor subdivisions.

(c) A sketch plat shall include the following:

(1) A scaled drawing of the property, at a scale no smaller than 200 feet to an inch.

(2) The size of the original tract or tracts being subdivided.

(3) A north arrow. The plat shall be oriented with north toward the top of the sheet.

(4) The name of the owner.

(5) The approximate locations of existing lot layouts of adjoining properties.

(6) Any existing rights-of-way, easements, or other encumbrances.

(7) The approximate location of existing structures.

(8) The approximate location and sizes of existing sewer lines, water lines, culverts, and other underground structures.

(9) Proposed phasing, if applicable.

(10) The number, dimensions, and approximate areas of all proposed lots.

(11) The locations and names of all planned streets or other public ways within the subdivision.

(12) If the sketch plat submitted covers only a part of the tract under the control of the applicant, the prospective street system of the unplatted part must be shown.

(13) The approximate location of any parcels proposed to be set aside for public use or for the use of all the property owners within the proposed subdivision, if applicable.

(14) Proposed connections to sewer and water or a plan for any on-lot wastewater disposal.

(15) Proposed plans for collecting and discharging drainage water.

#### **49.15.411 Preliminary plat requirements.**

(a) The preliminary plat shall be prepared by a professional land surveyor, registered in the State of Alaska.

(b) The preliminary plat shall be submitted on 22 by 34 inch sheets. The director of engineering and public works may approve alternate sheet sizes.

(c) The preliminary plat shall be drawn with black ink to a scale of one-inch to 100 feet or less, or other suitable scale, approved by the director of engineering and public works.

(d) The preliminary plat shall be oriented with north toward the top of the sheet. A vicinity map shall be located in the upper right-hand corner of the sheet. The vicinity map shall be oriented in the same direction as the plat. A suitable north arrow shall be shown for the plat and vicinity map.

(d) All line work and lettering must be of professional quality and all line widths and lettering sizes must be of such size that all information can be clearly shown without overlap or confusion.

(e) A preliminary plat shall contain the following information:

(1) An enclosed title block in the lower right-hand corner containing the following information:

- (A) The proposed name of the subdivision.
  - (B) The legal description of the parcel to be subdivided including U.S. Survey, U.S. Mineral Survey, A.T.S. number, or section, township and range number, as applicable.
  - (C) "City and Borough of Juneau, Alaska."
  - (D) "State Recorder's Office at Juneau."
  - (E) The date the preliminary plat was prepared and revised.
  - (F) The horizontal scale.
  - (G) The name and address of the owner of record.
  - (H) The case number for the preliminary plat.
  - (I) The parcel numbers of the property.
  - (J) The name, address, and telephone number of the surveyor preparing the preliminary plat.
- (2) Lot, block and street information:
- (A) The area of each lot.
  - (B) The dimensions in feet and hundredths of a foot.
  - (C) An identifying number and letter for lots and blocks.
  - (D) Lots numbered consecutively commencing with the number "1" with no omissions or duplications.
  - (E) If the remainder of an original parcel being subdivided is relatively large, it shall be designated as a "tract" with an identifying number.
  - (F) All parcels of land intended to be dedicated for public use or reserved for the use of all of the property owners in the proposed subdivision shall be shown as lots, and consecutively numbered. The purpose and any conditions or limitations on the use of the parcel shall be noted on the plat.
  - (G) Abutting properties shall be shown with dashed lines, numbers, and/or letters.
  - (H) For resubdivisions or public way vacations, the lines and legal



description of the previous lots shall be shown with light dashed lines, numbers, and/or letters, or by a separate plat on the same sheet showing the previous lot lines.

(I) The minimum data shown for each curve shall be as follows:

- (a) Length.
- (b) Central angle.
- (c) Radius.
- (d) Bearing and distance of long chord.

(J) Setbacks shall be shown on all corner lots and any lots with multiple frontage. Setbacks shall be shown on typical lots.

(3) Boundary lines:

(A) All boundary lines of the subdivision with bearings and distances described.

(B) All retraced boundary lines shall show record and measured bearings and distances where they differ. Record dimension information shall be shown within parentheses and include a record source identification.

(C) The exterior boundary lines of the subdivision shall be a solid black opaque line that is of a width that distinguishes it from all other property lines shown on the plat.

(D) If phasing is proposed, then the boundaries and number of each phase, sequential lot numbering, and a subdivision name consistent with previous phases shall be shown.

(4) Monumentation:

(A) The monuments used to establish the basis of bearing.

(B) Each monument found or set shall be identified on the plat by a symbol.

(C) A complete description of the monument, including type and all information printed on the cap. A typical drawing shall be shown for each type of monument cap set.

(D) A legend showing the symbols for all the types of monuments.

(E) The identification, description location, elevation, and datum of the benchmark used to establish vertical control.

(5) Site access, circulation, and utilities:

(A) The widths and names of existing rights-of-way within the subdivision, and rights-of-way within 100 feet of the subdivision boundary.

(B) Proposed rights-of-way, including their width and proposed names.

(C) The grades of existing and proposed streets within these rights-of-way.

(D) The width, ownership, use, and record reference of all proposed and existing easements within the subdivision, and any easements within 100 feet of the subdivision boundary.

(E) The width, ownership, and use of all proposed easements.

(F) All easements shall have sufficient dimensions shown to determine their location on the ground.

(G) Existing trails or pathways within the subdivision and within 100 feet of the subdivision boundary, including the width of any associated rights-of-way or easements.

(H) Proposed trails or pathways, and widths of their rights-of-way.

(I) If the plat submitted covers only a part of the tract under the control of the applicant, a sketch plat of the prospective street system of the unplatted part shall be submitted.

(6) Topographic information:

(A) For slopes of less than five percent, one foot contour lines and spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions.

(B) For slopes between five percent and ten percent show two foot contour lines.

(C) For slopes greater than ten percent show five foot contour lines.

(D) Every fifth elevation contour shall be distinctive and clearly labeled.

(E) Dashed lines shall represent existing contours.

(F) Mapping shall include any significant features, which can materially affect the design of the subdivision, including, but not limited to structures, fences, walls, and utility poles.

(G) If irregular slopes or special features are present, additional contour information may be required by the director of engineering for planning or construction purposes. Additional required information may include projecting the topography of the site after grading has taken place that shows such items as:

- (i) Pad elevations and drainage patterns for each lot;
- (ii) Tops and toes of all manufactured slopes, including daylight lines; and
- (iii) Existing and proposed retaining wall locations and heights.

(H) For subdivisions located in hillside areas, those areas with slopes greater than eighteen percent, additional requirements apply in accordance with CBJ 49.70 Article II.

(7) Sewer and water:

(A) Existing sewer and water mains within the tract with pipe sizes and grades.

(B) A draft plan for proposed water and sewer lines showing the size, approximate slope, and connection points with elevations for the purpose of determining the feasibility of construction.

(f) *Multisheet plats.* When a plat requires more than one sheet, exclusive of a certificate sheet, an index sheet shall be included. Each additional sheet shall include the following data:

- (1) North arrow.
- (2) Legend.
- (3) Surveyor's seal and signature.
- (4) Title block.
- (5) Sheet \_\_\_\_\_ of \_\_\_\_\_.
- (6) Scale.

- (7) All plat notes.
  - (8) Vicinity map.
  - (9) When a plat requires more than three sheets, a cover sheet shall also be included showing the subdivision title, a key map, and all certificates.
- (g) The preliminary plat shall be submitted with the following required documents:
- (1) A lot closure report.
  - (2) Disclosure of all known environmental hazards and any proposed mitigation measures recommended in the applicable environmental document.
- (h) *Additional mapping or reports.* If required by this title or by the director at the director's discretion, the following additional mapping or reports shall be submitted with the preliminary plat:
- (1) Any portion of a special flood hazard area, landslide or avalanche area, or habitat area according to CBJ 49.70.310, or watersheds either existing at the proposed subdivision site or shown on the overlay maps adopted pursuant to this title to exist at the proposed subdivision site must be depicted on the preliminary plat.
  - (2) The boundaries of any wetland areas must be depicted on the preliminary plat. Boundaries must be determined by a person qualified to perform wetland delineations.
  - (3) *Soils report.* A soils report prepared by an engineer licensed by the State of Alaska shall be required if the proposed subdivision is located farther from the existing public sewer system than specified in CBJ 49.35, and the applicant chooses to provide on-lot waste disposal rather than to connect to the public system. A soils report shall include the following:
    - (A) Certification that the proposed lots are large enough and have soil of sufficient permeability to permit the construction of approved waste treatment systems for on-lot waste disposal.
    - (B) The location and size of drain fields for each lot.
    - (C) The locations and logs of test borings, percolation test results, and a hydrological evaluation of on-site sewage disposal.
    - (D) If the soils report indicates the soils found on the site are not of sufficient permeability or the lots are not large enough to permit the construction of systems for on-lot waste disposal, the size of the proposed lots

must be increased or alternate methods for waste disposal proposed.

(E) The soils report shall describe the nature of the subsurface soils and any soil conditions that would affect the design of the proposed development. The soils report shall state whether the proposed subdivision plan is feasible and provide general solutions for all known geotechnical conditions or problems.

(4) *Drainage report.* A report specifying the method by which the applicant proposes to manage surface and subsurface drainage for the subdivision and the effect of such method on adjacent areas. The report must address the following:

(A) A calculation of the increase in stormwater runoff resulting from the proposed development as well as the runoff from all drainage areas associated with the site. Runoff calculations shall be based on a fully-developed subdivision and a 25-year storm event.

(B) How drainage from the proposed subdivision will join an established drainage channel or channels, unless the director of engineering and public works approves use of an alternative drainage way.

(C) An evaluation of existing drainage ways and structures located between the subdivision and the receiving water body and verification that the existing drainage ways can accommodate the increased runoff. If the increased runoff cannot be handled, the plan must propose general solutions to the problem.

(D) All required improvements, on or off-site, that are shown on the construction plans in accordance with CBJ 49.35, Article V, and that will be constructed as part of the subdivision.

(5) *Water.* This section does not apply to submittals for a subdivision of four or fewer lots. For subdivisions of five or more lots, including major subdivisions, the following shall be included where applicable in accordance with CBJ 49.15.412:

(A) If a proposed subdivision is located at greater distance from the existing public water system than specified in CBJ 49.35, Article III, and the applicant chooses not to connect to the public system, a statement that the applicant will provide a community water system or that individual wells will be used.

(B) A report by a registered engineer or geologist that clearly supports the legal and physical availability of adequate water. Methods for proof of water availability and the standards for quantity are listed in CBJ 49.35, Article III. This subsection does not apply to submittals for a subdivision designated as a remote subdivision in accordance with CBJ 49.15, Article IV, Division 5,

Remote subdivisions.

(C) A copy of the State application for a permit to appropriate water for the quantity of water required to meet the subdivisions demands.

(D) The director for minor subdivisions, and the planning commission for major subdivisions, may, for good cause, temporarily waive the requirement to provide a water report and proof of water, and condition the approval of the preliminary plat upon the provision of both documents as part of the final plat application and approval process.

(6) *Erosion control.* A report explaining the method by which the applicant proposes to control erosion and manage runoff and potential impacts to adjacent properties or water bodies. The report shall include a plan for preservation of ground cover may be required in areas where runoff and resulting erosion need to be minimized.

(7) *Traffic study.* A traffic impact analysis may be required with the preliminary plat in accordance with CBJ 49.40.300.

(8) *Shadow plats.* For subdivisions of five or more lots in transition areas, a shadow plat shall be submitted according to CBJ 49.70.710. The shadow plat shall consist of a sketch superimposed on the proposed subdivision layout. This sketch shall reflect any future resubdivision of the parcels into smaller lots consistent with the higher density and lot size allowed under the transition zoning.

#### **49.15.412 Final plat requirements.**

(a) All final plats must meet the requirements set forth in CBJ 49.15.411.

(b) The director for minor subdivisions, and the commission for major subdivisions, may place such conditions upon the granting of final plat approval as are necessary to preserve the public welfare. When such a condition of approval entails a restriction upon the use of all or part of the property being subdivided, a note specifying such restrictions shall be placed on the face of the plat. Such note shall constitute a restriction in favor of the municipality and the public and shall run with the land, enforceable against all subsequent owners. Any such restriction may be enforced against the applicant or any subsequent owner by the municipality by injunction or other appropriate action in the same manner as a permit or permit condition, or by any specifically affected member of the public.

(c) Certifications.

(1) The following notarized certificates shall appear on all plats. All certificates shall be certified and dated and signed before a notary public in accordance with A.S. 09.63, and must contain the relevant form of acknowledgment specified by A.S.

09.63.100.

(A) Ownership Certificate:

I (we)(corporate name) hereby certify that I am (we are)(corporation is) the owners of the property shown and described hereon and that I (we)(it) hereby adopt this plat of subdivision with my (our)(its) free consent, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

(B) Surveyor's certificate:

I hereby certify that I am a professional Land Surveyor registered in the State of Alaska, and that this plat represents the survey made by me or under my direct supervision, that the accuracy of the survey is within the limits required by Title 04 Community Development Regulations and Title 49 of the Code of the City and Borough of Juneau, that all dimensional and relative bearings are correct and that monuments are set in place and noted upon this plat as presented.

(2) The following director's certificate shall appear on minor subdivision plats, signed by the director and attested to by the municipal clerk:

Director's Certificate

I hereby certify that the plat hereon has been found to comply with Title 49 of the Code of the City and Borough of Juneau and is approved by the City and Borough of Juneau, Department of Community Development, for recording in the office of the Juneau Recording District, Juneau, Alaska.

(3) The following certificate shall appear on all major subdivision plats, signed by the chair of the planning commission and attested to by the municipal clerk.

Planning commission certificate:

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the City and Borough of Juneau, Alaska and that said plat has been approved by the Planning Commission by Plat Resolution No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, and that the plat shown hereon has been approved for recording in the office of the District Recording Office, Juneau, Alaska.

(d) *Certificate sheet.* The director may require a certificate sheet to be included with the final plat for clarity. The certificate sheet will include a title block, sheet number, and all certificates, statements, and acknowledgements required by this chapter.

(e) *Other documents.* While not required to be placed on the plat, the following documents are required, except as noted below:

- (1) Certification of payment of taxes and special assessments levied against the property from the CBJ Treasurer.
  - (2) Certification of approval of the Alaska Department of Environmental Conservation as to domestic water supply and sewage disposal.
  - (3) A statement from each private utility company that will be serving the subdivision stating that the easements shown on the final plat are satisfactory for use by that utility company for service to the proposed subdivision and that arrangements have been made to convey such easements to the appropriate utility company that will use them; and
  - (4) Proof that all conditions of preliminary plat approval have been satisfactorily completed.
  - (5) Proof of construction plan approval.
  - (6) If a community water system is proposed, a certification of approval from the Alaska Department of Environmental Conservation is required. This requirement does not apply to submittals for a subdivision of four lots or fewer. For subdivisions involving five to thirteen lots, the following shall be included when applicable;
  - (7) *Improvement guarantee.* A draft improvement guarantee in accordance with CBJ 49.55 if the applicant is proposing to record the plat prior to the completion of all required improvements.
- (c) *Submittals for final plat recording.* After the director or commission has approved the final plat for recording, the following additional materials must be submitted for recording
- (1) One original reproducible plat on 22 by 34 inch sheets. The director may approve other suitable sheet sizes and will determine whether additional copies of the plat are required. The plat shall be drawn with black ink at a scale of one-inch equals 100 feet or less. The director may approve other suitable scales.
  - (2) Any improvement guarantee in accordance with CBJ 49.55.
  - (5) Deeds, easements, or rights-of-ways for land that the applicant is transferring to public agencies that are not dedicated or granted by the landowner's certificate on the final plat.
  - (6) Written evidence of rights-of-entry or permanent easements on or across private property not within the proposed subdivision that may be necessary to allow construction and maintenance of subdivision improvements, to allow for and to grant necessary slope rights, and any other similar needs.



**49.15.413 Plat expiration.**

A preliminary plat shall expire five years from the effective date of the notice of decision unless substantial progress has been made in construction of required improvements or an application for the final plat has been accepted.

**49.15.414 Plat effective date.**

Once the plat has been approved in accordance with this article, the plat shall become effective upon recordation with the State Recorder's Office at Juneau.

**49.15.415 Recorded plats legalized.**

(a) *Generally.* All plats recorded before March 30, 1953, whether executed and acknowledged in accordance with AS 40.15.050 or not, are validated and all streets, alleys or public thoroughfares on these plats are considered to have been dedicated to public use. This section does not prohibit the abandonment of a plat recorded before March 30, 1953, if a subsequent plat is filed indicating abandonment. The last plat of the area and the streets, alleys or thoroughfares shown on are deemed to be the streets, alleys or thoroughfares dedicated to public use. The streets, alleys or thoroughfares shown on an earlier plat of the same area or any part of it which is in conflict with those shown on the official plat are deemed to have been abandoned and vacated.

(b) *Missing plats.* Where a recorded plat is missing and no present record is available except by reference to the missing plat, a counterpart copy, approved by the planning commission, may be recorded and after recordation will be considered effective as of the original date of the missing plat and will have has the same legal effect and notice as the original missing plat.

**Division 3. Design**

**49.15.420 Lots.**

(a) *Generally.*

(1) Subdivision lots shall meet the minimum dimensional standards established by section 49.25.400, except as provided in CBJ 49.15.421 and CBJ 49.15.422.

(2) The shape, orientation, and setback lines of lots shall be appropriate for the development proposed. The director may require yard setbacks to be listed or labeled on the preliminary plat.

(3) Each lot must have at least one practical building site.

(4) Side lot lines should be at 90 degree angles to straight streets and radial to curved streets unless topographic conditions require otherwise.

(b) *Double frontage lots.* Except for corner lots, lots served by an alley, or where a frontage road or interior access road is required, double frontage lots should be avoided. When such lots are permitted by the commission or the director, the plat shall indicate which abutting street is not approved for access when access restrictions are deemed appropriate in order to:

- (1) Prevent direct access to a collector or arterial street;
- (2) Restrict access to prevent unsafe sight distances; or
- (3) Prevent the construction or maintenance of driveways near intersections.

(c) *Shadow plats.* When the applicant is required to submit a shadow plat in accordance with CBJ 49.70.710, the director in the case of a minor subdivision, and the commission in the case of a major subdivision, shall review and approve the application based on how well the proposed lot layout will lend itself to future resubdivision as well as other requirements of this title.

#### **49.15.421 Cul-de-sac lots.**

If a proposed lot fronts on a cul-de-sac or a similar sharply curved right-of-way and the director for minor subdivisions and the commission for major subdivisions makes a determination that meeting minimum lot width at the front building line in accordance with the Table of Dimensional Standards in CBJ 49.25.400 is impractical, the minimum width may be reduced as necessary to achieve a reasonable lot configuration.

#### **49.15.422 Public use lots.**

The director for minor subdivisions and the commission for major subdivisions may waive the dimensional standards of the public use lot for minimum lot size, lot width, and lot depth as set forth in CBJ 49.25.400, for lot frontage and access requirements as set forth in CBJ 49.15.420, and the provision of public improvements as set forth in CBJ 49.35 if the proposed use of the lot is for open space, natural area park, public and private utilities, conservation lot, or similar use, and if the following requirements are met:

- (1) The director or the commission finds that there is no public purpose or need that would be served by requiring the parcel meet these code provisions and are not applicable for the proposed public or quasi-public use of the lot.
- (2) Restriction of building development, further subdivision, and other limitations

or restrictions shall be noted on the plat in accordance with CBJ 49.15.412.

(3) For uses restricted from any building development, that the land be put into some form of permanent protected status through the use of conservation easements, deed restriction, or other instruments to assure building development will not occur where prohibited.

(4) Unless otherwise provided, the minimum yard setback requirements may not be waived with respect to lots abutting the public use lot.

#### **49.15.423 Panhandle lots.**

(a) The subdivision of a parcel with a panhandle lot may be allowed in order to facilitate the subdivision of large parcels that are insufficiently wide but otherwise meet all other requirements for subdivision. Panhandle lots may be created by subdivision under this section if the new lots meet the following additional requirements:

##### *(1) Dimensional requirements.*

(A) The front and panhandle lots must meet all the dimensional and area requirements of this title.

(B) No part of the panhandle portion of the lot shall be less than 30 feet wide.

(C) The panhandle portion of the lot shall not be longer than 300 feet in D-1 zones and 1-1/2 times the minimum lot depth in other residential zoning districts.

(D) No buildings are allowed to be built or placed in the panhandle portion of the lot.

(E) In a D-1 zoning district, 30 feet of the width of the panhandle of the rear lot may be used in determining the width of the front lot.

(F) The common property line between the two lots in any zoning district shall be limited to two changes in direction.

(G) The lot width for the panhandle lot shall be the distance between its side boundaries measured behind the back lot line of the front lot. Such lot line shall also be considered the front lot line of the panhandle lot for the purpose of determining the front yard setback.

(2) *Minimum lot size.* Each lot shall be 20,000 square feet for lots served by a public sewer system. The minimum lot size for lots not served by a public sewer

system shall be 36,000 square feet. Any marine outfall serving the lots shall extend to a point four feet below mean lower low water, and each lot using such disposal must abut the salt water to a minimum extent of 30 feet.

(3) *Access and parking.*

(A) Only one access to the public right-of-way shall be permitted for the two lots. Such access shall be designated on the plat, in the form of an easement or plat note.

(B) Off street parking shall be provided in an amount sufficient to meet the requirements at CBJ 49.40, Article II.

(C) A driveway and parking plan shall be submitted and approved by the director prior to recording the plat.

(D) Back out parking is prohibited.

(E) The applicant must submit a plan that shows the feasibility of off street parking for the lots and a turnaround that will allow drivers to drive forward onto the road in front of their lot.

(F) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, on forms acceptable to the director, ensuring the required access and parking areas will be constructed and maintained by all future property owners.

(G) Any portion of a driveway not located in a public right-of-way shall have a maximum grade not exceeding 15 percent. A profile of the proposed driveway centerline shall be submitted as part of the plat application, and must meet Alaska Department of Transportation and Public Facilities or CBJ driveway standards, as appropriate based on ownership of the right-of-way.

(H) Existing driveways and access points not meeting the requirements of this section must be abandoned, and improvements thereto removed and relocated prior to plat recordation.

(b) Neither lot resulting from a panhandle subdivision may be further divided into another panhandle subdivision.

**49.15.424 Access.**

(a) *Publicly Maintained Access.* Unless otherwise provided, all lots must have direct and practical access to a publicly maintained street with a minimum 30 feet of frontage on that street, or where the minimum lot width for the zoning district or use in the zoning district at CBJ 49.25.400 is less than 30 feet. These requirements for frontage and access can be

accomplished by:

- (1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;
- (2) Use of an existing publicly maintained street;
- (3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or
- (4) A combination of the above.

(b) *Privately Maintained Access.* A subdivision may create new lots fronting on right-of-ways not maintained by an agency of government as provided by CBJ 49.15, Article IV, Division 4.

#### **Division 4. Privately Maintained Access in Rights-of-Way**

##### **49.15.430 Purpose.**

With a permit, a privately maintained access road serving thirteen or fewer lots may be constructed within a right-of-way and constructed to less than full public street construction standards. Such permits may also allow subdivisions creating new lots accessed by a roadway not accepted for maintenance by an agency of government.

##### **49.15.431 Application.**

The applicant for a privately maintained access road permit must submit the following:

- (1) An application, on a form provided by the department.
- (2) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities.
- (3) An access agreement as required by CBJ 49.15.434.

##### **49.15.432 Department action.**

The director shall forward the complete application to the fire and engineering and public works departments for their review.

**49.15.433 Design criteria.**

(a) If a proposed access road would abut and provide access to thirteen or fewer lots each limited to a single-family residence by the CBJ 49.25.400 Table of Dimensional Standards, or could serve thirteen or fewer dwelling units not including any properly permitted accessory apartments based on the existing maximum allowable residential density of the lots accessed by the privately maintained road, the director may approve, with or without conditions, a permit in the right-of-way if the following criteria is met:

- (1) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance.
- (2) The proposed privately maintained access does not endanger the public safety or welfare.
- (3) The proposed privately maintained access will be improved to meet the needs for emergency service access.
- (4) A privately maintained access shall only serve property in which the proposed uses do not exceed 250 average daily trips as determined by the director.
- (5) Property served by the privately maintained access shall include accessory apartment traffic when allowed without a conditional use permit even if accessory apartments are not currently proposed.

**49.15.434 Access agreement.**

An access agreement must be executed between the City and Borough and all property owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

- (1) In exchange for the Grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough of Juneau not maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein.
- (2) The Grantee acknowledges that the City and Borough is not obligated to provide any maintenance or snow removal for the privately maintained access. The Grantee is required to arrange for maintenance and snow removal from the privately maintained access.

(3) The Grantee and the Grantee's heirs, successors, and assigns will defend, indemnify and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the design, maintenance, or use of the privately maintained access.

(4) The Grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way.

(5) The City and Borough will have unimpeded access in the right-of-way.

(6) The Grantee and the Grantee's heirs, successors, and assigns will maintain the privately maintained access road according to the conditions established in this agreement.

(7) The City and Borough will record a copy of the agreement, at the Grantee's expense, with the State Recorder's Office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created.

(8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 250 average daily trips as determined by the director.

(9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new maintenance agreement.

(10) Any development that increases the estimated traffic above 250 average daily trips as determined by the director shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips.

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it.

**49.15.435 Other requirements.**

(a) If a permit for privately maintained access in the public right-of-way is approved, the applicant must apply to the engineering and public works department for a permit to construct the privately maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and bonding may be required for final plan review, inspection, and construction of the access road and utilities.

(b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the privately maintained access road is not maintained by the City and Borough.

## **Division 5. Remote Area Map and Subdivisions.**

### **49.15.440 Purpose.**

The purpose of this section is to provide for the waiver or reduction of submittal, design, and improvement requirements related to access and potable water for privately owned subdivisions in remote areas.

### **49.15.441 Map.**

There is adopted the remote subdivision area maps A—E, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. For purposes of this Code, a remote subdivision is one located within a remote subdivision area as shown on the maps. The director may recommend an amendment to the maps upon a finding that the area recommended for designation as a remote subdivision area conforms to the characteristics specified in CBJ 49.15.442.

### **49.15.442 Characteristics.**

Land proposed for inclusion within a remote subdivision area should not be:

- (1) In the general proximity of a capital improvement listed in the current capital improvements program;
- (2) Subject to a new growth area master plan or other private plan adopted by the City and Borough;
- (3) Connected to the road system; or
- (4) Served by a right-of-way, sewer system, water system, or fire protection service or police protection service operated or maintained by an agency of government.

### **49.15.443 Remote subdivisions.**



(a) *Street improvements.* In areas designated as remote subdivisions, the director for minor subdivisions and the commission for major subdivisions may:

(1) Authorize a lesser improvement than that which would otherwise be required by CBJ 49.35, Article II upon a finding that such lesser improvement would provide sufficient and practical access to lots created by the subdivision, and that the developer has established a system for common maintenance of the improvements by property owners within the subdivision.

(2) Waive the requirements of CBJ 49.35, Article II upon a finding that construction of the required right-of-way is not necessary to provide for sufficient and practical access to lots created by the subdivision and would be an unnecessary public maintenance burden.

(b) *Access.* A remote subdivision shall be exempt from the requirements for direct and practical access on, and a minimum 30 feet of frontage to, a publically-maintained street upon a finding by the director for minor subdivisions or the commission for major subdivisions that the following conditions are met:

(1) Sufficient and practical access is provided by at least 30 feet of frontage on a navigable waterbody.

(2) There is no reasonable probability in the foreseeable future that frontage on a dedicated right-of-way will be necessary for access to the lot.

(3) A pedestrian easement must be provided, with a minimum width of ten feet, along the lots on the upland side as close to the line of extreme high tide as is practical given topography and existing easements.

(c) *Water.* Neither a community water system nor individual wells are required for subdivisions designated as remote.

## **Division 6. Survey and Monumentation Standards**

### **49.15.450 Licensed surveyor required.**

All land subdivided in accordance with CBJ Title 49 shall be surveyed by a professional land surveyor licensed in the State of Alaska.

### **49.15.451 Boundary lines, basis of bearing.**

(a) Each existing boundary line of the proposed subdivision shall be retraced to an

existing monument of record. If a boundary consists of a U.S. Survey line, Mineral Survey line, or an Alaska Tidelands Survey line, the nearest recorded primary monument on each side of the proposed subdivision shall be located.

(b) A monumented centerline of a right-of-way must be considered in making the surveys and in preparing the plat. All monuments found shall be indicated and proper references made to field notes or maps of public record relating to the monuments. If the points were reset by ties, that fact shall be stated.

(c) The basis of bearing referred to on the plat shall be a line defined by two found monuments shown on the same record bearing and shall be clearly delineated or identified on the plat and in the basis of bearing statement

(d) A basis of bearing statement is required. The statement shall include the monument description, corner description, record bearing and the record documentation source with recording date.

(e) A note listing all plats of record, with recording information, pertinent to the boundary and property resolution must be listed on the plat.

#### **49.15.452 Accuracy of survey.**

A survey and traverse of the boundaries of the subdivision and all lots and blocks shall close within a limit of error of one foot in ten thousand feet of perimeter for field closures and one foot in twenty thousand feet for calculated distances.

#### **49.15.453 Monumentation.**

(a) The following monumentation is required for subdivisions of six or more lots:

(1) *Primary monuments.* Primary monuments shall conform to the following requirements:

(A) All exterior corners, points of curvature and points of tangency shall be monumented with a minimum two-inch diameter metal pipe, at least 30 inches long, with a minimum four-inch flange at the bottom. A minimum two and one half inch diameter metal cap shall be permanently attached at the top. If both the cap and the pipe are of nonferrous metal, then additives with magnetic qualities shall be permanently attached at both the top and bottom of the monument. Every primary monument cap shall be permanently stamped with the year set, the surveyor's registration number, year which the monument was set, initials of subdivision, and the corner identification. This data shall be orientated so that the data may be read when the reader is facing north. Monuments and accessories found in a disturbed condition shall

be returned to the original position and condition as nearly as possible or replaced so as to perpetuate the position.

(B) No portion of a survey or subdivision may be more than 1,320 feet from a primary monument.

(C) If an exterior boundary line is less than 2,640 feet, but more than 1,320 feet long, then the intermediate primary monument shall be set as close to the midpoint as practical.

(2) *Witness corners.* If the point for a primary monument is in a place that would be impractical to monument because of natural obstacles, a witness corner shall be set. The witness distance must be shown on the plat of survey, from the existing monument, as set, to the true corner position. Witness corners shall be set on a survey property line and at a distance considered reasonable and practical from the true corner point. Witness corners shall comply with the standards for primary monuments.

(3) *Alternate monuments.* If conditions make it impractical to set a primary monument, one of the following methods may be substituted:

(A) A two and one-half inch brass or aluminum cap may be grouted firmly into a boulder; or

(B) A five-eighths inch minimum drive rod may be driven to a depth necessary to provide a stable base for an aluminum cap. The depth of all drive rods shall be noted on the plat.

(4) *Secondary monuments.* All lot corners, interior angle points and interior curvature control points shall be monumented with at least a five-eighths inch metal rod three feet in length with a one and one-quarter inch cap.

(5) *Monumentation installation.*

(A) Monuments shall be installed by the applicant's land surveyor at points designated on the final plat.

(B) The applicant's surveyor must install monuments before the final plat is filed with the State of Alaska recorder's office. The director of engineering may require that monumentation be certified prior to final acceptance of the subdivision improvements to ensure that any monuments disturbed or destroyed during construction are reset.

(C) If construction begins prior to submittal of the final plat, all lot corners adjacent to any proposed improvements must be staked throughout construction.

(b) The following monumentation is required for subdivisions of five or fewer lots:

(1) All exterior corners of the plat and all corners of each lot shall be monumented with a five-eighths inch by 30 inch pipe or bar capped and marked as required by the director of engineering; provided, if a plat or lot corner is identical with a United States Survey, a United States Mineral Survey, or an Alaskan Tidelands Survey, the primary monument shall be shown on the plat or reestablished and shown if not found.

(2) Monumentation must meet all the requirements listed in subsection (a), above, with the exception that the type of monument set may be a secondary monument.

**Section 11. Amendment of Article. CBJ 49.15, Article V Design Review**

Permits, is amended to read:

**Article V. ~~Design Review Permits~~ CBJ and State Project Review**

**Section 12. Amendment of Section. CBJ 49.15.580 State project review, is**

amended to read:

**49.15.580 State and City and Borough project review.**

~~The commission shall review proposed Alaska State Capital Improvement Projects for consistency with this title pursuant to AS 35.30.010, and may impose conditions on and modifications to such projects.~~

(a) *CBJ project review*: The commission shall review proposed City and Borough capital improvement projects for consistency with this title and may recommend conditions on and modifications to such projects through a notice of recommendation. The notice of recommendation shall be forwarded to the assembly for further action.

(b) *State project review*: The commission shall review proposed Alaska State capital improvement projects for consistency with this title pursuant to AS 35.30.010 and may impose conditions on and modifications to such projects. If the commission approves or approves with conditions or modifications, a notice of decision shall be issued. A notice of decision becomes final 90 days from the date the project was submitted unless modified or disapproved by the assembly. If the commission disapproves, a notice of recommendation and draft resolution shall be forwarded to the assembly for further action.

**Section 13. Amendment of Article.** CBJ 49.15, Article V Design Review Permits,  
is amended by adding a new subsection to read:

**49.15.590 Right-of-way acquisitions.**

(a) The minor subdivision permit process shall govern right-of-way acquisition plats, except commission review through the major subdivision process shall be required if the acquisition of property for a right-of-way would create a nonconforming lot, use, or structure. The commission may approve creation of nonconforming lots, uses, or structures if each lot has at least one practical building site that may be reasonably developed. The commission may condition its approval.

(b) *Application requirements.*

(1) Signatures of the owners or lessees of the subject parcels are not required.

(2) The owner of land subject to a right-of-way acquisition may offer to sell or enter into a contract to sell land to the State or City and Borough before a final plat of the subdivision has been prepared, approved, filed, and recorded in accordance with this chapter.

(3) Applications for preliminary right-of-way acquisition plat approval shall comply with the requirements of CBJ 49.15.411, provided, however, that the following subsections are not applicable:

(A) CBJ 49.15.411(b)(2), unless the director determines that the proposed reduction in lot area of an existing parcel without public sewer access causes it to become unsuitable for on-lot waste disposal.

(B) CBJ 49.15.411(b)(2)(B), *Subdivision design*.

(C) CBJ 49.15.411(b)(4), *Water*.

(E) CBJ 49.15.411(b)(6), *Traffic study*.

(F) CBJ 49.15.411(b)(7), *Shadow plats*.

(c) *Final plat submittal.*

(1) All applications for right-of-way acquisition plats must comply with the requirements of CBJ 49.15.412, provided, however, that the following sections are not applicable:

- (A) CBJ 49.15.412(a)(4)(B), *Proof of construction plan approval.*
  - (B) CBJ 49.15.412(a)(4)(D), *Utility statements.*
  - (C) CBJ 49.15.412(a)(4)(E), *Improvement guarantee draft.*
  - (D) CBJ 49.15.412(b)(4), *Improvement guarantee final.*
  - (E) CBJ 49.15.412(b)(5), *Deeds, easements, or rights-of-way.*
- (d) *Design.* Right-of-way acquisition plats must comply with the design requirements of this title, provided, however, that the following sections are not applicable:
- (2) CBJ 49.15.420 *Lots.*
  - (3) CBJ 49.35.220 *Streets.*
- (e) *Improvements.* The requirement to construct public improvements according to CBJ 49.35 is waived except where the acquisition of right-of-way and subsequent change to property boundaries results in the loss of access to public utilities or street frontage for an existing lot necessitating replacement of these public improvements.
- (f) *Survey and monumentation standards.* All applications for right-of-way acquisition plats must comply with the requirements of CBJ 49.15, Article IV, Division 6, except CBJ 49.15.453 is modified to require that only corners located along the new right-of-way line be monumented.
- (g) *Right-of-way maps.* After completion of a right-of-way project, a final right-of-way map that identifies all required survey and monumentation information shall be submitted. The final right-of-way map will be reviewed by the director of the engineering and public works department for completeness and then recorded at the State Recorder's Office at Juneau at the applicant's expense.

**Section 14. Amendment of Article.** CBJ 49.70, Article XI, Remote Subdivision Areas is repealed and reserved.

**Section 15. Amendment of Section.** CBJ 49.15.670 Planned unit development design standards, is amended to read:

**49.15.670 Planned unit development design standards.**

...

(j) *Stormwater management.* Facilities for the control and disposal of stormwater must be adequate to serve the development site and areas draining through the site. Management shall be in accordance with the Stormwater Best Management Practices manual. Where appropriate, natural drainage channels, swales, or other similar areas within the common open space may be used for stormwater management at the development. The homeowners' association shall provide the engineering department with an evaluation of offsite drainage outfalls for the additional runoff contributed by the planned unit development. The commission may require construction of offsite drainage improvements necessary to accommodate additional runoff from the development.

**Section 16. Amendment of Section.** CBJ 49.15.680 Definitions, is repealed and reserved.

**Section 17. Amendment of Section.** CBJ 49.25.110 Zoning maps, is amended to read:

**49.25.110 Zoning maps.**

...

(g) *Street Public way vacations.* Whenever any street, alley or other public way is vacated as provided by CBJ 49.15.404 ~~section 49.15.450~~, the zoning districts adjoining the side of such public way shall automatically be extended to follow property lines legally created by such vacation. ~~Such extension following vacation shall have the same force and effect as boundary changes accomplished by explicit amendment.~~

(h) *Stability.* ~~In addition to designation as a particular zone, areas on the map shall be designated as stable areas not subject to bonus regulations. Reserved.~~

**Section 18. Amendment of Section.** CBJ 49.25.300 Determining uses, is amended to read:

**49.25.300 Determining uses.**

...

(c) A combination of digits such as "1, 3" or "2, 3" indicates that the approval procedure for the identified use in the identified zone will vary depending on whether the project is a major or minor development.

(1) If the project is a minor development the first number of the combination shall indicate the applicable procedure.

(2) If the project is a major development the second number shall indicate the applicable procedure.

(3) ~~The following are the distinctions between minor and major development:~~  
Minor development means development which is classified by zoning district as follows:

~~Minor development means development which is classified by zoning district as follows:~~

(A) *Rural Reserve District:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building ~~of~~ totaling less than 10,000 square feet or using less than one acre of land in total.

(B) *Single Family Residential Districts:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building ~~of~~ totaling less than 5,000 square feet or using less than 10,000 square feet of land in total.

(C) *Multifamily Family Residential Districts:* A residential development containing eight or fewer dwelling units, eight or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building ~~of~~ totaling less than 5,000 square feet or using less than 10,000 square feet of land in total.

(D) *Commercial and Mixed Use Districts:* A residential development containing 12 or fewer dwelling units, 12 or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building ~~of~~ totaling less than 10,000 square feet or using less than one-half acre of land in total.

(E) *Industrial Districts:* Non-residential buildings ~~of~~ totaling 15,000 square feet or using less than one acre of land in total.

(4) Major development means all development activity that is not a minor development.

(5) *Exceptions.* Exceptions to the use of minor and major development classifications as a method of determining the applicable approval procedure shall be as noted in the table of permissible uses.



**Section 19. Amendment of Section.** CBJ 49.25.430 Yard setbacks, is amended to read:

**49.25.430 Yard setbacks.**

...

(4)(K) *Existing substandard setbacks.* A new building may have a front yard setback or street side yard setback equal to the average front yard setback or street side yard setback of the three closest adjacent buildings. The average calculation shall be made using one building per lot. If any of the three buildings used in the averaging calculation is located a greater distance from the required setback, then the required front yard setback or street side yard setback shall be used to calculate the average.

An existing building located on the subject lot may be used as one of the three buildings to calculate the setback determination.

For purposes of this section, the buildings used in averaging must be either conforming or legally nonconforming enclosed buildings or carports and have a wall or column height of at least seven feet measured from the finished grade. Porches, bay windows and temporary buildings allowed to project into setbacks cannot be used for averaging. In no instance shall the required setback be less than half that required by this chapter or ten feet, whichever is greater.

If there are fewer than three buildings within 500 feet of the subject property, then the required setback shall be the average of front yard setbacks or street side yard setbacks of such fewer buildings, using a maximum of one building per lot.

**Section 20. Repeal and Reenactment of Section.** CBJ 49.35.120 Extent and nature of improvements, is repealed and reenacted to read:

**49.35.120 Public improvements; generally.**

(a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands.

(b) The director of engineering and public works may prescribe different or additional standards if unusual or unforeseen conditions exist in a particular development, and the alternative meets or exceeds the intent of the original standard.

(c) Prior to a substantial change in the standards generally applicable to required improvements, the director of engineering and public works shall hold a public hearing on the proposed change. The hearing shall be preceded by ten days' published notice. The standards may be changed in response to comments received at the hearing or received at any other time prior to the effective date. The standards shall become effective 30 days after the first notice of the hearing is published. The manager may shorten the notice period or waive the requirement for a hearing and may specify an earlier effective date if the manager finds an emergency exists or that other conditions warrant such action. If the notice period is shortened to less than three days, a second hearing preceded by ten days' published notice shall be held.

**Section 21. Repeal of Section.** CBJ 49.35.130 Standard specifications, is repealed and reserved.

**Section 22. Repeal and Reenactment of Section.** CBJ 49.35.140 Construction plans, is repealed and reenacted to read:

**49.35.140 Construction plans.**

(a) *Generally.* The developer must submit construction plans for all proposed public improvements and associated private improvements and utilities within and outside the proposed development's boundary.

(b) *Construction plan submittal.*

(1) *Plan sets.* Prior to submittal of the final plat, and before the start of any construction, the developer must furnish to the City and Borough Permit Center complete sets of construction plans, profiles, details, and special construction provisions for all existing and proposed improvements. The director of engineering and public works shall determine the number of plan sets to be submitted. Plan sets will be forwarded to the appropriate City and Borough departments and agencies.

(2) *Engineer's stamp.* Construction plans must be stamped by the professional engineer licensed in the State of Alaska who is responsible for the improvement designs. Multiple engineer stamps are required for plans with multiple discipline designs, e.g., civil, electrical, structural engineering.

(c) *Construction plan – Details.*

(1) *Size.* All construction plans shall be submitted on 22 by 34 inch sheets. The director of engineering and public works may approve alternative sheet sizes.

(2) *Information.* The drawings must contain the following information:

- (A) Name of subdivision.
- (B) Type of work.
- (C) Date.
- (D) Name of engineer preparing the drawings and the engineer's stamp.
- (E) Space for approval signature by the director of engineering.
- (F) A north arrow and scale.

(3) *Scale.* Horizontal scale must be one inch equals 50 feet or greater. Vertical scale must be one inch equals five feet or less with a minimum scale of one inch equals ten feet. The director of engineering and public works may approve alternative scales.

(4) *Benchmarks.* The locations, elevations and description of datum of permanent benchmarks must be shown.

(5) *Street profiles.* Profiles of streets shall indicate finished and existing grades for centerline of the street and shall extend a minimum of 200 feet beyond the limits of the proposed project or, if intersecting an existing street, extend to the far side of the existing street.

(6) Plans and profiles, where applicable, shall include location, elevation, size, materials, and all other details of the proposed improvements.

(7) Complete survey data must be shown for all horizontal and vertical curves.

(8) Construction plans shall include the location of all existing and proposed utilities.

(d) *As-built drawings.* The developer, upon completion of required improvements, must submit a reproducible and digital format copy of as-built plans unless otherwise required by the director of engineering and public works.

### **Section 23. Repeal and Reenactment of Section. CBJ 49.35.210 Street system,**

is repealed and reenacted to read:

**49.35.210 Street system.**

(a) Subdivision street systems shall be designed for the most advantageous development of the entire neighborhood area and shall meet the following criteria:

(1) The street system shall provide for connecting streets into adjoining unsubdivided lands.

(2) Subdivision street systems shall be designed to maximize the number of connecting streets in a given area in order to reduce the volume of traffic and traffic delays on major streets (arterials and major collectors), to minimize bypass and through trips on residential streets, and to increase the number of local street connections facilitating safer bicycle and pedestrian travel.

(3) Traffic calming should be taken into account in street layout and design.

(b) *Major and minor arterials.* Except as provided in subsection (3) of this section, if a new subdivision involves frontage along an arterial street:

(1) The plat shall note that no lots shall access directly onto the arterial;

(2) Access shall be provided onto an interior access street or a separate frontage road.

(3) A parcel of land with less than 500 feet of frontage on a street, or with less than 350 feet in depth may be subdivided so as to allow access directly onto a minor arterial street if all of the following conditions are met:

(A) All of the resulting lots must meet the minimum lot area standard for a single family dwelling in the D-1 zoning district (36,000 sq. ft.).

(B) All of the lots must share a common access point and further subdivision of the newly created lots is not allowed.

(C) Common access to all lots is required and back out parking is prohibited. The applicant must submit a plan that shows the feasibility of off street parking for all lots and an adequate area for a turnaround to prevent back out parking.

(D) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, all of which must be acceptable to the director, that ensures the required common access will be constructed and maintained by the property owners.

(E) The proposed subdivision must meet all other applicable subdivision standards and requirements.

(c) *Collector streets.* Collector streets in adjoining subdivisions shall be continued in the

new subdivision as needed.

(1) *Major collectors.* Except as provided in subsection (C) of this section, if a new subdivision involves frontage along a major collector street:

(A) The plat shall note that no lots shall access directly onto the major collector.

(B) Access shall be provided onto an interior access street or a separate frontage road.

(C) Exception a parcel of land with less than 500 feet of frontage or less than 350 feet of depth may be subdivided so as to allow access directly onto a major collector street.

(2) *Minor collectors.* Access for lots is allowed directly onto minor collector streets if no other restrictions apply.

**Section 24. Repeal and Reenactment of Section.** CBJ 49.35.220 Street names,

is repealed and reenacted to read:

**49.35.220 Street names.**

(a) *New streets.* Street names must be unique in order to avoid confusion. When streets are extended, the name must remain the same for the new segment. Proposed street names shall be shown on preliminary plats. The names of streets fronting thirteen or fewer lots shall be approved by the director through the minor subdivision processes. The names of streets fronting more than thirteen lots shall be approved by the commission at the time of preliminary plat approval for major subdivisions.

(b) *Existing streets.* The commission shall approve applications to change the name of any existing public street or right-of-way.

(1) *Application.* The application must be on a form provided by the department and accompanied by:

(A) The application fee.

(B) Signed letters of approval from a majority of property owners whose properties have access to the public street proposed for the name change.

(2) *Procedure.* After public hearing, the commission shall review the proposed street name change for consistency with this section, and, upon a finding that the

change is consistent with this section and that the majority of property owners whose properties have access to the public street proposed for the name change approve of the change, shall approve the application.

(3) *Sign replacement.* If the name change is approved, the applicant shall be responsible for replacing all existing street name signs as specified by the department.

**Section 25. Repeal and Reenactment of Section.** CBJ 49.35.230 Design criteria, is repealed and reenacted to read:

**49.35.230 Roadway classification map.**

There are adopted roadway classification maps A - D, dated June 5, 2006, as the same may be amended from time to time by ordinance. These maps set forth the classification of streets and roadways within the CBJ. The roadway classification maps will govern references to streets in this title.

**Section 26. Repeal and Reenactment of Section.** CBJ 49.35.240 Construction standards, is repealed and reenacted to read:

**49.35.240 Street design and construction standards.**

(a) *Street design.*

(1) *Right-of-way widths.* The minimum right-of-way width of proposed streets is as follows:

(A) *Arterials:* 100 feet; minor, 80 feet.

(B) *Collectors:* 60 feet.

(C) *Streets other than arterials and collectors:* 60 feet.

(D) *Cul-de-sacs:* temporary or permanent turnaround: a diameter of 100 feet.

(E) *Alleys:* 20 feet.

(F) *Stairways and other non-motorized access routes:* 15 feet.

(G) *Half streets.* Whenever there exists a dedicated or platted half street or

alley adjacent to the tract of land to be developed, the other half of the street or alley must be platted, dedicated, and the entire street or alley constructed to current improvement standards.

(H) *Substandard width or improvements.* Any previously platted right-of-way with less than the minimum standards identified for the traffic generated shall be improved to meet the minimum requirements established by this title. Such determination shall be made by the department for minor subdivisions, and the planning commission for major subdivisions.

(2) *Right-of-way minimum width reductions.* The director may reduce minimum right-of-way width requirements:

(A) For a collector, the right-of-way width may be reduced by up to 10 feet.

(B) For streets with less than 500 average daily trips, or a driveway in a right-of-way, the width may be reduced by up to 25 feet.

(C) Where the dedicated right-of-way abuts and runs parallel to an exterior property line, will serve as a half-street, and will be developed as a low volume street or a driveway in a right-of-way, the width may be reduced by up to 30 feet.

(D) Alleys and stairway right-of-ways may be reduced by up to 5 feet.

(E) The director shall make written findings supporting right-of-way minimum width reductions granted under this section. The director's findings shall state that:

(i) The applicant has provided room for electric utility features and demonstrates that if the road is upgraded in the future to include additional sidewalks that there is sufficient right-of-way for construction of the sidewalks without need for retaining walls over two feet in height.

(ii) There is sufficient right-of-way or easements to allow for drainage improvements required by construction of the sidewalks

(iii) That any driveways shall be constructed to accommodate the elevations of future sidewalks.

(iv) No additional right-of-way width will be required in order to provide for sufficient access to abutting lands.

(v) There is sufficient room for snow storage.

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2 (3) *Sight distance.* Sight distances for intersection, passing and stopping must be  
3 in accordance with the specifications set forth in A Policy on Geometric Design of  
4 Highways and Streets.

5 (4) *Street grades.* Street grades are as follows:

6 (A) *Maximum.* Grades on arterial streets must not exceed six percent.  
7 Grades on other streets must not exceed 12 percent.

8 (B) *Minimum.* The minimum grade for all streets is one half percent.

9 (C) *Cross slope.* The minimum cross slope on all streets is 3 percent.

10 (D) *Exception.* Grades for all streets in hillside areas may be increased  
11 under certain circumstances according to Chapter 49.70, Article II, Hillside  
12 Development.

13 (5) *Intersections.*

14 (A) *Corner sight distance.* Corner sight distance must be in accordance  
15 with CBJ 49.35.240, however, in no case shall the sight distance be less than  
16 200 feet.

17 (B) *Intersection angle.* Intersections of right-of-way lines must not be less  
18 than 60 degrees. The intersection of the centerline of the constructed roadway  
19 must not be less than 80 degrees.

20 (C) *Grade.* The grade for the approach leg of a new roadway at an  
21 intersection must not exceed 2 percent for the first 30 feet, measured from the  
22 edge of the existing roadway. The grade for the next 70 feet of the new  
23 roadway must not exceed 6 percent (See Figure 1).

24 (D) *Adjustment to grade.* In certain circumstances, the director of  
25 engineering may require the centerline grade to be adjusted to ensure the  
grades along the edge of the intersecting street do not exceed the maximum  
grades listed above.

(E) *Alignment.* A proposed street that will intersect with an existing cross  
street shall, whenever practicable, align with an existing street intersection  
on the opposite side of the cross street. Street jogs that have center line offsets  
of less than one hundred feet, shall not be permitted (See Figure 2).

(6) *Curves.* Curves shall be designed according to the following:

(A) *Design.* Curves shall be designed in accordance with A Policy on  
Geometric Design of Highways and Streets.



(B) *Vertical curve.* The minimum length of vertical curves is 200 feet unless otherwise approved by the director of engineering and public works.

(7) *Cul-de-sacs.*

(A) *Length.* Streets designed to have one end permanently closed shall be no more than 600 feet and not less than 150 feet in length measured from the center of the intersection to the radius point of the turnaround. The director for minor subdivisions, and the commission for major subdivisions, may authorize a longer or shorter cul-de-sac if it is found that the unique characteristics of the site warrant modification to the length.

(B) *Turnaround diameter.* The diameter of the right-of-way for a cul-de-sac turnaround is 100 feet.

(C) *Temporary cul-de-sacs.* Temporary cul-de-sacs will be allowed where a street can logically be extended in the near future, and if the following are met:

(i) The temporary portions of the cul-de-sac turnaround must be shown on easements on the plat rather than as dedicated right-of-way.

(ii) All of the cul-de-sac must be constructed to permanent street construction standards except as noted in (vii) below.

(iii) The CBJ will record a release of the easements for the temporary portions of the turnaround at the State Recorder's Office at Juneau at the time the turnaround is removed and the street improvements have been extended.

(iv) Easement lines for the temporary turnaround will be considered front property lines for determining building setbacks.

(v) All improvements, including utilities, must be designed to accommodate the eventual extension of the street and reversion of the temporary turnaround to adjoining properties.

(vi) Temporary cul-de-sacs must be extended to as close to the adjoining property boundary as practical. If it is not practical to construct the turnaround portion of the cul-de-sac at this location, then the right-of-way must be extended beyond the temporary turnaround to the adjoining property line, and the street extension constructed to standard (See Figure 4).

(vii) If the temporary turnaround is constructed on property outside

of the subdivision boundary, curb, gutter, and sidewalks are not required for the temporary turnaround.

(viii) Before final acceptance of all improvements by the CBJ, the developer must provide a financial guarantee to cover the cost of removal of the temporary turnaround and reconstruction of the street. The guarantee must be for a period of five years from the date the plat is recorded. If it is necessary to construct the street to the adjoining property within that five-year period, the developer can complete the reconstruction and extension, or the guarantee may be used by the CBJ for that purpose. If a right-of-way has not been dedicated on the adjoining property for the purpose of connection to the temporary cul-de-sac within this five-year period, the financial guarantee will be released.

(ix) When the developer of adjoining property is required to connect to the temporary cul-de-sac, and the temporary cul-de-sac has not been extended as authorized by this section, then the developer must remove the temporary portions of the turnaround and reconstruct and extend the street to CBJ standards.

(D) Hammerhead Turnarounds. Hammerhead turnarounds may be built in lieu of a temporary cul-de-sac, upon approval by the director of engineering and public works.

(b) *Street construction standards.* The developer must construct streets according to the following:

(1) *Arterials.* The subdivider is not responsible for the construction of arterial streets, but may be required to dedicate the necessary right-of-way during the platting process.

(2) *Other streets.* Other than arterials, street shall comply with the following:

Table 49.35.240 Table of roadway construction standards

Avg. Daily Trips (ADT) <sup>i</sup>	Adopted traffic impact analysis required	Sidewalks	Curb and Subsurface Drainage	Travel way width	Street lights	ROW Width <sup>iii</sup>	Paved Roadway Required
≥ 500	Yes	Both sides	Both sides	26 ft.	Continuous	60 ft	Yes
251 to 499	Maybe	One side	One side	24 ft.	All inter-sections	60 ft.	Yes
0 to 250	No	Not required	Not required	22 ft. <sup>ii</sup>	Inter-sections at streets with external street	60 ft.	No <sup>iv</sup>

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- <sup>i</sup> Relationship between ADT and number of single-family dwellings (SFD) created based on 9.57 average weekday trip ends per dwelling unit; Trip Generation, 7<sup>th</sup> Edition, Institute of Transportation Engineers, Use 210.
- <sup>ii</sup> Or, if privately maintained access road, as required by the Fire Code at CBJ 19.10.
- <sup>iii</sup> ROW width may be reduced as prescribed at CBJ 49.35.240.
- <sup>iv</sup> Paving of roadway required for any street type within the area within the PM-10 Non-Attainment Area Map.

(3) *Signs and markings.* The subdivider must install street name signs, traffic control signs, and traffic control pavement markings in accordance with approved plans and the requirements of the current issue of the Manual on Uniform Traffic Control Devices, including the current Alaska Traffic Manual Supplement, published by the Alaska Department of Transportation and Public Facilities.

(c) *Street construction waivers.* The director, after considering the recommendations of the director of the engineering and public works department and of the fire marshal, may waive the following and no other street improvement requirements:

(1) *Right-of-way relocation.* If a plat is submitted for the purpose of relocating a right-of-way, the director may waive all or some of the construction requirements under the following conditions:

(A) The proposed relocation will improve access to abutting or neighboring property not otherwise adequately served.

(B) The subdivider has provided sufficient engineering information to demonstrate to the director of engineering the feasibility of constructing a public street at the location of the relocated right-of-way.

(C) The relocated right-of-way and the resulting subdivision layout will conform to all the other standards of this chapter.

(D) The improvements required in the new right-of-way will not be less than those in the existing right-of-way.

(E) No additional lots are being platted.

(2) *Stub streets.*

(A) The director for minor subdivisions and the commission for major subdivisions may waive the full construction of a roadway within a right-of-way that is required to provide access to a bordering property, and does not provide required access to any lot within the subdivision. The commission or director may require provision of a roadbed, utility line extensions, or other appropriate improvements (See Figure 5).

(B) In addition, before final acceptance of subdivision improvements, the subdivider must provide a financial guarantee to cover the costs of constructing that part of the roadway improvements waived by the commission or director in subsection (A) of this section. The guarantee must be for a period of five years from the date the plat is recorded. If it is necessary to connect the roadway to adjoining property within that five-year period, the subdivider may complete the construction, or the guarantee may be used by the City and Borough for that purpose. If a right-of-way has not been dedicated on the adjoining property that accomplishes the connection to the stub street within this five-year period, the financial guarantee will be released.

(C) When the subdivider of adjoining property is required to connect to the stub street, and the stub street will not be constructed through subsection (B) of this section, then the subdivider of the adjoining property will be required to construct the stub street to City and Borough standards at the time.

(3) *Cost equivalent.* If a proposed subdivision includes dedication of a right-of-way that extends an existing street, the director may allow a subdivider to construct all or a portion of the existing street, as well as the proposed street, to a standard of improvement that would result in a cost equivalent to that of meeting the full improvement standards for the construction of the proposed street. The director will base its decision to allow this cost equivalent alternative on whether the proposal meets or exceeds the intent of the original standard.

(4) *Remote subdivisions.* The commission and the director may waive roadway improvements and other construction requirements for remote subdivisions.

(5) The procedure for waiving full construction of a street in an existing public right-of-way to public standards is found in chapter 49.15, Article IV, Division 4 Privately Maintained Access in Rights-of Way.

## **Section 27. Repeal and Reenactment of Section. CBJ 49.35.310 Systems**

required, is repealed and reenacted to read:

### **49.35.310 Water systems.**

(a) For new development, the developer must construct a public water system that provides for daily water supply and fire protection needs if the following criteria are met:

(1) If development of five or more lots is proposed within 500 feet of an existing public water system; or

(2) If development of four or fewer is proposed within 200 feet of an existing public water system.

(b) *Nonresidential development.* The developer must provide an evaluation by an Alaska licensed engineer and submit the written evaluation to the director of engineering and public works for review and approval to determine the specific quantity and distribution requirements.

(c) *Distance.* For the purpose of this section, distance is measured as the radial distance from the closest water main to the nearest point of the subdivision boundary.

(d) *Fire protection.* Fire protection requirements are based on whether the development is located within or outside the fire protection service area. All public water distribution systems constructed according to subsections (a) or (b) of this section must be sized and constructed to meet fire flow and hydrant requirements, and provide the necessary fire flows for fire protection. All improvements must be constructed according to the International Fire Code (IFC). The director of engineering and public works and the City and Borough fire marshal must approve all plans.

(e) *Private water systems required.* If a proposed development is located at greater distances from the existing public water system than specified in subsection (a), and the developer chooses to not connect to the public system, the developer must construct a water system that provides for daily water supply and fire protection needs according to the following:

(1) *Development of five or more lots.*

(A) For development of five more lots, the developer must construct a water system adequate to supply water for daily use. There are two types of systems the developer may construct:

(i) *Community water system.* A developer can choose to construct a community water system if the following requirements are met:

(a) The community system meets the quantity standards specified by this section.

(b) Any proposed water system must be approved by the Alaska Department of Environmental Conservation and any other agency having jurisdiction. The developer must submit proof of approval to the department.

(c) All improvements must meet the city and borough standards for construction of public water systems. The community system must provide a separate service to the

boundary of each proposed lot.

(d) The developer must submit the appropriate documents that show the continued maintenance of the community water system is guaranteed. The city and borough may review and comment on the documents, but is not responsible for their content or enforcement of any provisions.

(ii) *Individual wells.* A developer can also choose the option of individual wells to supply daily water needs, if the following requirements are met:

(a) The developer must clearly demonstrate to the satisfaction of the director of engineering and public works, through test wells, draw down tests, and other suitable methods, that the quantity standards specified in this section can be met for all proposed lots.

(b) The proposed source and supply system must be approved by the Department of Natural Resources and other agencies having jurisdiction. Proof of the approval must be submitted to the department.

(B) Quantity requirements for development of five or more lots are as follows:

(i) *Residential use.* The proposed source and system for residential use must be capable of producing and delivering not less than 75 gallons per capita per day and a peak hour factor of 150 percent.

(ii) *Nonresidential development.* To determine quantity and distribution requirements for nonresidential development, the developer must provide an evaluation by an engineer licensed in the State of Alaska and submit the written evaluation to the director of engineering and public works for review and approval.

(iii) *Water rights.* The developer must show proof that the appropriate permit to appropriate water has been obtained from the State of Alaska for water rights for the source of water being proposed for use in the development.

(C) *Fire protection.* For a development of five or more lots proposed within the fire service area and not connecting to the public water system, the developer must construct a water supply system that will provide adequate fire protection. This distribution system must meet all the requirements of CBJ 49.15.\_\_\_\_ above and may be separated or combined with the domestic

water supply system.

(2) Development of four or fewer lots.

(A) Neither a community water system, nor individual wells are required if the development is of four or fewer lots.

(B) Fire protection requirements will be determined at the time the individual lots are developed.

(3) *Exception for remote subdivisions.* Neither a community water system nor individual wells are required for subdivisions designated as remote subdivisions.

**Section 28. Repeal of Section.** CBJ 49.35.320 Fire flow, is repealed and reserved.

**Section 29. Repeal and Reenactment of Section.** CBJ 49.35.340 Oversizing

lines, is repealed and reenacted to read:

**49.35.340 Oversizing lines.**

When the subdivider is required to install connecting lines, to increase the size of existing public lines, or to install a distribution system as part of a subdivision proposal, the director for minor subdivisions and the commission for major subdivisions, after reviewing a recommendation from the director of engineering, may require any or all parts of such installation to be oversized if the director of engineering and public works finds it likely that within the expected life of the new construction an increase in capacity will be required to serve other areas.

**Section 30. Repeal and Reenactment of Section.** CBJ 49.35.340 Systems

required, is repealed and reenacted to read:

**49.35.410 Sewer systems.**

(a) For new development, the developer must construct a public sewer system connecting to the existing public sewer system if the following criteria are met:

(1) If development of five more lots is proposed within 500 feet of an existing public sewer system.

(2) If development of four or fewer lots is proposed within 200 feet of an existing

public sewer system.

(3) For the purpose of this section, distance is measured as the radial distance from the closest sewer main to the nearest point of the boundary of the proposed subdivision.

(b) If a proposed development is located at greater distances from the existing public sewer system than specified above, unless the developer chooses to connect to the public system, then a private system is required. Either of the following acceptable private systems may be installed.

(1) *Community and cluster wastewater systems.* Community wastewater systems, which have shared collection, treatment, and disposal and cluster wastewater systems, which have individual on-site treatment with a shared collection and disposal system are acceptable if the following requirements are met:

(A) The developer must provide a report and certification by a registered, qualified engineer licensed by the State of Alaska, which clearly shows that the proposed community or cluster wastewater system will operate satisfactorily, and how it will meet all other state and federal standards, to the satisfaction of the director of engineering.

(B) The director of engineering and public works must review the report and make a recommendation to the commission. The director of engineering will not make independent findings, but will make a recommendation as to the adequacy of the methodology and data provided in the report.

(C) All improvements must meet the City and Borough standards of construction for public sewer systems.

(D) The proposed wastewater systems must be approved by the Alaska Department of Environmental Conservation and any other agencies having jurisdiction. Proof of approval must be submitted to the department.

(2) *On-site wastewater systems.* Wastewater systems, which have individual on-site treatment and individual on-site disposal shall be acceptable if all the following requirements are met:

(A) The developer must provide a report and certification by a registered, qualified engineer or geologist licensed by the State of Alaska, which clearly shows that the proposed lots are large enough and have existing soils of sufficient permeability to permit the construction of on-site wastewater treatment and disposal systems.

(B) The director of engineering and public works shall review the report and make a recommendation to the director for minor subdivisions and to the



commission for major subdivisions. The director of engineering and public works will not make independent findings but will make a recommendation as to the adequacy of the data provided and of the methodology proposed in the report for wastewater treatment and disposal.

(C) If adequate soils are not available onsite, the applicant can propose alternative methods for individual on-site wastewater systems. Alternative methods may include mound systems, marine outfalls, or other suitable wastewater systems. Review and approval of a proposal under this section must meet the applicable requirements of subsections (i) and (ii) of this section.

(c) *Residential wastewater systems – property owner responsibility.* The responsibilities of individual property owners for their individual wastewater systems are as follows:

(1) *Permitting.* All the owners of lots in new minor and major residential subdivisions using cluster or on-site wastewater systems must obtain a City and Borough on-site wastewater treatment and disposal system (OWTDS) permit from the engineering and public works department, and have completed construction and inspection of the system prior to issuance of any certificate of occupancy. The requirements for obtaining a wastewater treatment and disposal system permit, and the permit fees, shall be established by regulations issued by the manager pursuant to CBJ 01.60.

(2) *Limited maintenance contract required.* In addition, the property owners in new residential minor and major subdivisions shall be required to enter into a contract with the department of public works or its designee for inspection, monitoring, and treatment plant pumping of the private wastewater facility. All other maintenance of the wastewater system is the responsibility of the property owner.

(3) Violation of this section is an infraction.

(c) Compliance with (b) of this section does not exempt the developer or individual property owners from meeting all requirements of the Alaska State Department of Environmental Conservation regarding approval of wastewater systems.

### **Section 31. Repeal and Reenactment of Section. CBJ 49.35.420 Oversizing**

lines, is repealed and reenacted to read:

**49.35.420 Oversizing lines.**

When the subdivider is required to install connecting lines, to increase the size of existing public lines, or to install a distribution system as part of a subdivision proposal, the director for minor subdivisions and the commission for major subdivisions, after reviewing a recommendation from the director of engineering, may require any or all parts of such installation to be oversized if the director of engineering finds it likely that within the expected life of the new construction an increase in capacity will be required to serve other areas.

**Section 32. Repeal of Section.** CBJ 49.35.430 Private treatment systems, is repealed and reserved.

**Section 33. Repeal and Reenactment of Section.** CBJ 49.35.510 Drainage plans, is repealed and reenacted to read:

**49.35.510 Drainage plans.**

(a) The developer must provide a total surface drainage plan for approval by the director of engineering. This plan is an extension of the report submitted with the preliminary plat required by CBJ 49.15.411. The plan must be prepared by a civil engineer licensed to practice in the State of Alaska, must show all drainage facilities, and must include:

(1) The calculated increase in stormwater runoff resulting from the proposed development as well as the runoff from the total drainage area(s) associated with the site. Runoff calculation shall be based on a fully developed subdivision and a 25-year storm event.

(2) An evaluation of existing drainage ways and structures located between the development and the receiving water body shall verify that the existing drainage ways can accommodate the increased runoff.

(3) All public and any required private drainage facilities.

(4) A demonstration of how drainage from the proposed subdivision will outlet into an established drainage channel, unless an alternative drainage way is approved by the director of engineering and public works.

(b) *Easements.* All development must be provided with necessary drainage easements, and drainage facilities adequate to prevent increased surface or subsurface runoff to abutting properties.

(c) *Drainage systems required.* The developer must install all on and off-site improvements necessary to deal with increases in or changes to existing flows as shown on

the approved drainage plan.

(d) *Construction timing.* Any drainage improvements required by this section must be constructed and approved prior to or at the same time as the completion of any street construction.

**Section 34. Repeal of Section.** CBJ 49.35.530 Municipal planned area drainage system, is repealed and reserved.

**Section 35. Repeal of Section.** CBJ 49.35.540 Easements, is repealed and reserved.

**Section 36. Repeal and Reenactment of Article.** CBJ 49.35, Article VI Pedestrian Access, is repealed and reenacted to read:

## ARTICLE VI. PUBLIC ACCESS

**49.35.610 Pedestrian and bicycle access.**

**49.35.620 Streams and bodies of water.**

**49.35.630 Trailhead dedications or easements.**

**49.35.640 Acceleration and deceleration lanes.**

**49.35.610 Pedestrian and bicycle access.**

(a) *Shared use pathways.* Shared-use pathways for pedestrian and bicycle use may be required through blocks longer than 600 feet, or where deemed necessary to provide reasonable circulation within and between residential areas, or to provide access to schools, playgrounds, shopping centers, transportation or other community facilities according to the following:

(1) *Shared-use pathway width.* The width of a shared use path must not be less than 10 feet.

(2) *Construction standards.* Shared-use pathways, where required, must be constructed according to the Alaska Department of Transportation and Public Facilities preconstruction manual on “Bicycle Ways.” The director of engineering and public works may approve alternative construction when deemed appropriate to the

conditions of the site.

(3) *Right-of-way width.* A shared-use pathway must be located in dedicated right-of-way with a minimum width of 15 feet. The width of the right-of-way may be modified by the director for minor subdivisions and by the commission for major subdivisions, to accommodate the width of the fully constructed pathway and/or topographic features of the site.

(4) *Construction timing.* Shared-use pathways must be constructed prior to occupancy of any dwellings on lots located adjacent to the pathway, or at the time of all subdivision improvements are accepted by the City and Borough, whichever comes first.

(b) *Sidewalks.* The subdivider shall construct sidewalks according to table 49.17.525 in any residential subdivision, in all streets furnished with curbs and gutters, and in any commercial subdivision within the Urban Service Area.

(1) *Minimum width.* The minimum width of sidewalks is five feet.

(2) *Waiver.* The director, after consulting with the director of engineering and public works, may waive the requirement for sidewalks and allow alternative pedestrian improvements to be constructed upon a written finding that the alternative will:

(A) Take advantage of natural features of the site or implement the Juneau Non-Motorized Transportation Plan; and

(B) Provide a safety, quality, and functional equivalent to the requirement being waived.

#### **49.35.620 Streams and bodies of water.**

The developer shall convey such easements or make such dedications as may be made necessary in order to provide public access to all streams and public bodies of water.

#### **49.35.630 Trailhead dedications or easements.**

The developer shall convey such easements or make such dedications as may be made necessary in order to provide public access to existing trails.

#### **49.35.640 Acceleration and deceleration lanes.**

(a) If a driveway serves right-turning traffic from a parking area providing 200 or more parking spaces, and the road has a peak-hour traffic volume exceeding 750 vehicles per hour, an acceleration lane at least 200 feet long and at least ten feet wide measured from the driveway to the acceleration lane shall be provided.

(b) If a driveway serves as an entrance to a land development providing 100 or more parking spaces, a deceleration lane shall be provided for traffic turning right into the driveway from the road. The deceleration lane shall be at least 200 feet long and at least 13 feet wide measured from the road curb radius. A minimum 35-foot curb return radius shall be used from the deceleration lane in the driveway.

**Section 37. Amendment of Section.** CBJ 49.35.720, Provision of utilities (Reserved), is amended by adding a new section to read:

**49.35.720 Utility access.**

(a) Public rights-of-way or easements, together with the right of ingress and egress, shall be provided where necessary for public utilities. Where easements are required, and approved, for public water systems, sanitary sewers, storm drainage facilities, or other similar public uses, the following requirements apply:

(1) *Width.* All easements must be accessible for maintenance and must have adequate space within the easement to accomplish maintenance, excavation, and stockpiling of material. The minimum width for a public easement that does not abut a public right-of-way is 20 feet, unless otherwise required by the director of engineering.

(2) *Surface.* Easements shall be graded and compacted to provide a suitable surface for access and maintenance.

(3) *Restricted access.* Where easements adjoin a public street, the director of engineering and public works may require improvements to prevent access by the public.

(b) The director or planning commission shall require easements to be shown on a plat that grants access or other rights in the favor of certain properties. These private easements are not dedicated to or maintained by the public and must be noted as such on the plat.

(c) A note must be added to the plat stating the purpose of the easement, the grantee of the easement, restrictions on the easement use, and whether the easement is permanent or temporary, or private or public.

**Section 38. Amendment of Chapter.** CBJ 49.40 Access, Parking and Traffic, is amended to read:

**CHAPTER 49.40**

**ACCESS, PARKING AND TRAFFIC**

**Section 39. Repeal of Article.** CBJ 49.40, Article I Access, is repealed and reserved.

**Section 40. Amendment of Section.** CBJ 49.65.610 Bungalow lot subdivisions, is amended to read:

**49.65.610 Bungalow lot subdivisions.**

(a) Subdivisions creating bungalow lots must meet the following requirements:

(1) Lots must be served by municipal water and sewer and publicly maintained roads.

(2) In zoning districts D1, D3, D5, D10-SF and D10, subdivisions shall not exceed two bungalow lots for each standard lot.

(3) In zoning districts D15 and D18, bungalow lots may be platted without creating standard lots.

(4) A note shall be included on all plats which create bungalow lots, providing: "At the time of plat recording, structures on (lot and block number for all bungalow lots) were limited to one 1,000 square foot detached single-family residence per lot; other restrictions apply as well. See the City and Borough of Juneau Land Use Code for current regulations."

(5) Lots created through the Planned Unit Development process shall not be further subdivided into bungalow lots.

**Section 41. Amendment of Section.** CBJ 49.65.620 Review procedure, is amended to read:

**49.65.620 Review procedure.**

(a) The review procedure for bungalow lot subdivisions shall be:

(1) In zoning districts D1, D3, D5, D10-SF and D10:

(A) A minor subdivision procedure may be used for subdivision of a parcel into not more than four lots, provided that no fewer than one standard lot for each bungalow lot shall be created through this process.

(B) Subdivisions containing one standard lot and two bungalow lots shall be processed as major subdivisions.

(2) In zoning districts D15 and D18, bungalow lots may be platted through the subdivision process set forth in Chapter 49.15, Article IV, ~~Minor and Major Subdivisions.~~

**Section 42. Amendment of Section.** CBJ 49.65.700 Purpose, is amended to read:

**49.65.700 Purpose.**

The purpose of this article is to allow, in certain residential districts, the development of common wall residential structures that are where each dwelling and underlying property is held under separate ownership.

**Section 43. Amendment of Section.** CBJ 49.65.705 Procedure, is amended to read:

**49.65.705 Procedure.**

~~An application shall be made for a development permit to construct a common wall residential structure. An application for four or fewer units shall be considered under the department approval process and one for over four dwelling units shall be considered under the allowable use procedure.~~

The development of a common wall subdivision involves a two-step approval process: the approval of a development permit and the approval of a common wall subdivision permit.

**Section 44. Repeal and Reenactment of Section.** CBJ 49.65.710 Four dwellings or less, is repealed and reenacted to read:

**49.65.710 Development permits.**

(a) The development permits required for construction of common wall development are either department review, or planning commission review under the conditional use permit process. The particular permit is determined by which zoning district within which the project is located, and the proposed number of units, in accordance with the CBJ Table of Permissible Uses.

(1) *Department review.*

(A) *Application submittals.* The following submittals are required with an application for department approval:

(i) Building plans that meet the requirements of this chapter and Title 19.

(ii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include information necessary to demonstrate that the proposed common wall development will be able to comply with all the dimensional standards of this article after the parcel and structure have been divided.

(iii) A draft set of common wall agreements and homeowner agreements which set forth the rights and obligations of the owners for all common elements of the development.

(B) *Application review.* The application shall be reviewed by the director in accordance with CBJ 49.15.310.

(2) *Planning commission review.*

(A) *Application submittals.* The following submittals shall be required with the conditional use permit application:

(i) Building plans that include a detailed site plan and elevations of the proposed structures. Plans suitable for a building permit application are not required at this time.

(ii) A draft set of common wall agreements and homeowner's agreements which set forth the rights and obligations of the owners for all common elements of the development.

(iii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include that information necessary to demonstrate that the proposed common wall development will comply with all the dimensional standards of this article after the parcel and structure have been divided.



(B) *Application review.* The commission will review and approve the application in accordance with CBJ 49.15.330.

**Section 45. Repeal and Reenactment of Section.** CBJ 49.65.720 Five dwellings or more, is repealed and reenacted to read:

**49.65.720 Common wall subdivision.**

(a) The applicant shall submit an application to subdivide the common wall development into individual dwellings and lots in accordance with 49.15.401, 49.15.402, CBJ 49.65 Article VII, and the following additional requirements:

(1) *Preliminary plat.* The following additional items will be submitted with the preliminary plat:

(A) An as-built survey that includes all structures and the location of the common walls in relation to the proposed common property lines.

(B) Framing inspections that document substantial construction of all units in accordance with the preliminary plans approved by the director or the commission through the department approval, or the conditional use process, respectively.

(C) Final common wall agreements and/or homeowners' agreements suitable for recording.

(b) *Final Plat.* After review and approval of the final plat, in accordance with CBJ 49.15.412, the plat and the common wall agreement documents may be recorded by the department at the State Recorder's Office at Juneau at the applicant's expense, after issuance of final occupancy permits.

**Section 46. Amendment of Section.** CBJ 49.65.730 Utilities, is amended to read:

**49.65.730 Separate Utilities.**

All common wall dwellings must be served by individual public water and sewer services unless ~~suitable easements and maintenance agreements are provided~~ unless otherwise authorized by CBJ Title 75.

**Section 47. Repeal and Reenactment of Section.** CBJ 49.65.735 Parking and access, is repealed and reenacted to read:

**49.65.735 Parking and access**

- (a) Common wall development shall meet the parking requirements for single-family dwellings in accordance with CBJ 49.40.
- (b) For common wall structures of three or more dwellings, access to public rights-of-way may be restricted to common driveways for each pair of dwellings.
- (c) The commission can consider alternative parking and access proposals, such as common parking areas, under the conditional use permitting process.
- (d) All common parking and access arrangements shall include appropriate easements and homeowners' agreements.

**Section 48. Amendment of Section.** CBJ 49.65.740 Density, is amended to read:

**49.65.740 Density.**

The density allowed for common wall dwellings in any zoning district is the density specified for dwellings other than duplexes in that district and in accordance with CBJ 49.25, Article V.

**Section 49. Amendment of Section.** CBJ 49.65.750 Dimensional standards, is amended to read:

**49.65.750 Dimensional standards.**

...

(3) *Minimum side yard setback.* ~~The minimum side yard setback from the common property line is reduced to zero feet for the common wall only. The remaining side yard setbacks shall be ten feet in a D-5 zone, three feet in a D-10 SF zone, and five feet in a D-10, D-15, D-18 or MU2 zone. For any significant part of the structure opposite the common property line but not connected to the structure on the other lot, a five foot minimum setback from the common property line shall be maintained or a minimum five foot maintenance easement and adequate homeowners agreement provided. The minimum side yard setback from the common property line is reduced to zero feet. The remaining side yard setbacks shall be ten feet in a D5 zone, three feet in a D10-SF zone, and five feet in a D10, D15, D18 or MU2 zone.~~ The minimum side yard setback from the common property line is reduced to zero feet. The remaining side yard setbacks shall be ten feet in a D5 zone, three feet in a D10-SF zone, and five feet in a D10, D15, D18 or MU2 zone.

**Section 50. Amendment of Section. CBJ 49.70.210 Scope, is amended to read:**

**49.70.210 Applicability and Scope.**

(a) This article applies to all development on hillsides in the City and Borough that involves the following; ~~except:~~

~~(1) Development on hillside lots which does not involve:~~

~~(1) (A) Removal of vegetative cover;~~

~~(2) (B) Excavation of any slope in excess of 18 percent;~~

~~(3) (C) Creation of a new slope in excess of 18 percent for a vertical distance of at least five feet; or~~

~~(4) (D) Any hazard area identified on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1—8, as the same may be amended from time to time by the assembly by ordinance or any other areas determined to be susceptible to geophysical hazards.~~

(b) All hillside development endorsement applications shall be reviewed by the planning commission, except the following may be reviewed by the director:

~~(1)(2) This article does not apply to~~ An excavation below finished grade for basements and footings of a building, a retaining wall or other structure authorized by a building permit, provided that this shall not exempt any fill made with the material from such excavation nor any excavation having an unsupported height greater than two feet after the completion of the associated structure.

~~(2)(3) Graves.~~

~~(4) Refuse disposal sites controlled by other regulations;~~

~~(3)(5) Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate or clay provided such operations do not affect the location or peak volume of runoff, the location or amount of standing water, or the lateral support for, the stresses in, or the pressure upon, any adjacent or contiguous property.~~

~~(4)(6) Exploratory excavations less than 200 square feet in area and under the direction of a civil engineer with knowledge and experience in the application of geology in the design of civil work.~~

(5)(7) An excavation which:

(A) Is less than two feet in depth and covers less than 200 square feet; or

(B) Does not create a cut slope greater than five feet in height or steeper than 1½ horizontal to one vertical.

(6)(8) A fill less than one foot in depth and intended to support structures which fill is placed on natural terrain with a slope flatter than five horizontal to one vertical, which does not exceed 20 cubic yards on any one lot and which does not obstruct a drainage course.

(7)(9) A fill less than three feet in depth and not intended to support structures which fill is placed on natural terrain on a slope flatter than five horizontal to one vertical, which does not exceed 50 cubic yards on any one lot and which does not obstruct a drainage course.

(8)(10) Minor development.

**Section 51. Amendment of Section.** CBJ 49.70.220 Hillside development endorsement application, is amended to read:

**49.70.220 Hillside development endorsement application.**

(a) ~~Endorsement required.~~ Except as set forth in section 49.70.210, all All development on hillsides shall be pursuant to a hillside development endorsement ~~to the allowable or conditional use permit otherwise required.~~

(b) ~~Compliance.~~ The developer shall apply for and obtain a hillside development endorsement prior to any site work other than land and engineering surveys and soils exploration. ~~If soils exploration requires construction of a drilling pad, platform, or other structure not exempt under section 49.70.210, then a hillside development endorsement for the pad, platform or structure shall be obtained.~~

(c) ~~Application.~~ Contemporaneous with an application for an allowable or conditional use permit, the developer shall submit one copy of a hillside development application, supporting materials, and fee to the department. ~~The department shall forward the application to the municipal engineer. Applications shall be submitted prior to application for any associated building permit. The engineer shall return an incomplete application to the applicant within three working days of submission.~~

**Section 52. Repeal and Reenactment of Section.** CBJ 49.70.40 Submission requirements; application, is repealed and reenacted to read:

**49.70.240 Application.**

The application shall be accompanied by the following materials, which shall be signed and stamped by a civil engineer, architect, geologist or land surveyor licensed in the State of Alaska:

- (1) A vicinity map, at a clear and legible scale, showing roads, place and street names and natural waterbodies.
- (2) Site maps, showing the present condition of the site at a clear and legible scale compatible with the size of the development and including:
  - (A) Two-foot contours for flat terrain or five-foot contours for steep terrain and extending 50 feet in all directions beyond the development site; 12 percent line, 30 percent line;
  - (B) Water bodies, tidelands and drainage ways from the development site to accepting natural waterbody;
  - (C) Lot boundaries and easements for the site and adjacent lots; and
  - (D) Existing improvements on the site and adjacent lots, including structures, roads, driveways and utility lines.
- (3) The application shall include a finished proposed site plan at a clear and legible scale that includes the following information:
  - (A) Finished grade at two-foot contours for flat terrain or five-foot contours for steep terrain and extending 50 feet in all directions beyond the development site; 12 percent line, 30 percent line.
  - (B) Water bodies, tidelands and drainage ways, and temporary and permanent drainage systems from the development site to the accepting natural waterbody.
  - (C) Lot boundaries, easements and setback lines.
  - (D) The location of improvements including structures, roads, driveways, utility lines, culverts, walls and cribbing.

(E) Clearing limits of existing vegetative cover.

(F) A cross section of the development site.

(4) The application shall include detailed engineering drawings of roads, driveways, parking areas, structural improvements for foundations, off-site stormwater runoff systems; cross sections and road elevations.

(5) A description of the source and type of any off-site fill, and the site for depositing excess fill.

(6) A landscaping plan, including all trees to be retained in excavation areas, all plant species and locations; temporary slope protection measures; erosion and siltation control measures; seeding or sodding materials, a planting and maintenance program; and methods of stabilization and protection of bare slopes.

(7) An engineering geologic report, including a summary of the relevant surface and bedrock geology of the site, a discussion of active geologic processes with conclusions and recommendations regarding the effect of geologic factors on the proposed development; data regarding the nature, distribution and relevant parameters of existing soils, recommendations for grading procedures; design criteria for corrective measures as necessary, and recommendations covering the suitability of the site for the proposed development.

(8) A work schedule, by phase.

(9) Such other different or more detailed submissions as may be required.

**Section 53. Amendment of Section.** CBJ 49.70.260 Criteria, is amended to read:

**49.70.260 Criteria.**

The commission or director shall consider the extent to which the development meets the following criteria:

(1) *Soil erosion.* Soil disturbance and soil erosion shall be minimized and the effects thereof mitigated.

(2) *Existing vegetation.* Depletion of existing vegetation shall be minimized.

(3) *Contours.* The developer shall recontour the finished grade to natural-appearing contours which are at or below 30 percent or the natural angle of repose for the soil type, whichever is lower, and which will hold vegetation.

(4) *Time of exposure and soil retention.* The developer shall minimize the period of time that soil is exposed and shall employ mats, silt blocks or other retention features to maximize soil retention.

(5) *Replanting.* The developer shall mat, where necessary, and plant all exposed soil in grass or other soil-retaining vegetation and shall maintain the vegetation for one full growing season after planting.

(6) *Drainage.* The developer shall minimize disturbance to the natural course of streams and drainage ways. Where disturbance is unavoidable, the developer shall provide a drainage system or structures which will minimize the possibility of sedimentation and soil erosion on-site and downstream and which will maintain or enhance the general stream characteristics, spawning quality, and other habitat features of the stream and its receiving waters. Where possible, development shall be designed so lot lines follow natural drainage ways.

(7) *Foundations.* The developer shall ensure that buildings will be constructed on geologically safe terrain.

(8) *Very steep slopes.* The developer shall minimize excavation on slopes over 30 percent.

(9) *Soil retention features.* The developer shall minimize the use of constructed retention features. Where used, their visual impact shall be minimized through the use of natural aggregate or wood, variation of facade, replanted terraces, and the like.

(10) *Wet weather periods.* The developer shall minimize exposure of soil during the periods of September 1—November 30 and March 1—May 1.

**Section 54. Amendment of Section.** CBJ 49.70.270 Conditions on approval, is amended to read:

**49.70.270 Conditions on approval.**

The commission or director may place conditions upon a hillside development endorsement as necessary or desirable to ensure that the spirit of this chapter will be implemented in the manner indicated in the application. Fulfillment of conditions shall be certified by the engineer. The conditions may consist of one or more of the following:

(1) *Development schedule.* The commission or director may place a reasonable time limit on or require phasing of construction activity associated with the development or any portion thereof, in order to minimize construction-related

disruption to traffic and neighbors or to ensure that the development is not used or occupied prior to substantial completion of required improvements.

(2) *Dedications.* The commission or director may require conveyances of title or other legal or equitable interests to public entities, public utilities, a homeowner's association, or other common entities. The developer may be required to construct any public facilities, such as drainage retention areas, to City and Borough standards prior to dedication.

(3) *Construction guarantees.* The commission or director may require the posting of a bond or other surety or collateral providing for whole or partial releases, in order to ensure that all required improvements are constructed as specified in the approved plans.

(4) *Lot size.* If justified by site topography, the commission or director may require larger lot areas than prescribed by zoning requirements.

**Section 55. Amendment of Section.** CBJ 49.70.710 Subdivisions in transition zones shadow platting, is amended to read:

**49.70.710 Subdivisions in transition zones shadow platting.**

(a) *Contents of application.* When a plat is submitted under chapter 49.15, article IV for a ~~major~~ subdivision of five or more lots in a transition zone, the application shall include a shadow plat of the property. The shadow plat shall be a sketch plat overlay of the actual lot layout proposed. This overlay shall reflect as nearly as possible the future resubdivision of the parcels into smaller lots, based upon the density and lot size allowed after public sewer and water are provided.

(b) *Commission decision.* The director for minor subdivisions, and the commission for major subdivisions shall review and approve the application ~~for a major subdivision~~ based on how well the proposed lot layout will lend itself to future resubdivision as well as other requirements of this title.

**Section 56. Amendment of Section.** CBJ 49.80.120 Definitions, is amended to read:

**49.80.120 Definitions.**



*Development permit* means department approvals, subdivision permits and approvals, allowable use permits, special use permits and conditional use permits.

...

~~*Minor development* means a subdivision of four or fewer lots in any zoning district; minor development is also classified by zoning district as follows:~~

~~*Rural Reserve District:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 10,000 square feet or using less than one acre of land.~~

~~*Single Family Residential Districts:* A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 5,000 square feet or using less than 10,000 square feet of land.~~

~~*Multifamily Family Residential Districts:* A residential development containing eight or fewer dwelling units, eight or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 5,000 square feet or using less than 10,000 square feet of land.~~

~~*Commercial and Mixed Use Districts:* A residential development containing 12 or fewer dwelling units, 12 or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 10,000 square feet or using less than one half acre of land.~~

~~*Industrial Districts:* Non-residential buildings of 15,000 square feet or using less than one acre of land.~~

...

*Public sewer and water system* means any system that is operated by a municipality, governmental agency, or a public utility licensed as such by the state for the collection, treatment and disposal of wastes, ~~and the~~ furnishing of potable water and fire protection.

*Public way* means pedestrian ways, rights-of-way, and streets and any other way held for or held open by a public entity ~~the municipality~~ for purposes of public access.

...

*Right-of-way* means ~~a strip~~ a defined area of land, including surface, overhead and underground space, reserved or granted by deed, easement or dedication ~~condemned and occupied or intended to be occupied by a~~ for a street, alley, utility, walkway, sidewalk, road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and or other similar uses public ways.

...

*Roadway* means the portion of a street intended for vehicular traffic; where curbs are laid, the portion of the street between the back of the curbs.

...

*Street* means ~~the entire right of way of a public way which affords the principal means of access to properties abutting the right of way~~ a thoroughfare improved or intended to be improved for vehicular and pedestrian travel permanently open to general public use that affords the principal means of access, frontage and address to individual buildings, lots and blocks. Streets include a road, avenue, place, drive, boulevard, highway or other similar means of public thoroughfares except an alley. Unless otherwise indicated, the term street shall refer to both public and private streets. A street may be located on private property and not be publicly owned or maintained if it performs the poles of a public street.

...

*Street, ~~major~~ arterial*, means a street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterials and collectors.

...

*Subdivider* means the developer or owner of a subdivision.

...

*Subdivision* means ~~the division, redivision, or development of land into two or more lots, or land leases of 55 or more years~~ the division or redivision of a tractor or parcel of land into two or more lots, sites or other divisions and the act of developing, constructing or improving property with a subdivision as required by CBJ Title 49.

...

*Urban service boundary* means the boundary of the urban service area established in the comprehensive plan.

**Section 57. Amendment of Section.** CBJ 49.80.120 Definitions, is amended by the addition of the following definitions to be incorporated in alphabetical order:

*Cluster wastewater system* means a system with individual on-site wastewater treatment and a shared wastewater collection system under some form of common ownership, other than public ownership, that collects wastewater from two or more dwellings and conveys it for disposal to a suitable site near the dwellings.

*Common facilities* means streets, sidewalks, parking areas, community buildings, refuse disposal systems, sewer systems, and water systems, held in common ownership by planned unit development homeowners.

*Common open space* means open space held in common ownership by planned unit development homeowners. Buildings, parking areas, and similar improvements may be located in and included in the calculation of common open space if related and necessary to the function of the open space. Stormwater drainage and flood storage may be located in and included in the calculation of the common open space. Common on-site sewage disposal systems, but not individual septic systems, may be located in and included in the calculation of common open space. Streets may be located in but shall not be included in the calculation of common open space.

*Community wastewater and disposal system* means a system with a shared wastewater treatment and collection system under some form of common ownership, other than public ownership, that collects wastewater from two or more dwellings and conveys it to a treatment plant and disposal system located on a suitable site near the dwellings.

*Conservation lot* means an undeveloped or remediated parcel where building development is permanently prohibited. A conservation lot is intended to preserve open space, environmentally sensitive areas, scenic views, wetlands, and buffers.

*Density bonus* means an increase in allowable density above that otherwise allowed in the zoning district in which the planned unit development is located.

*Improved common open space* means common open space containing common facilities, recreational equipment, parks, gardens, picnic areas, landscaping, or other outdoor improvements.

*Natural area park* means a lot owned by a government and characterized by areas of natural quality designed to serve the entire community by providing fish and wildlife habitat, open space/natural areas, access to water, and opportunities for passive and dispersed recreation activities. Development is prohibited except for structures, roads, and trails necessary for public use, education, maintenance, and protection of the resource.

*Panhandle lot* means a lot where the only owned access to the right of way is a narrow strip of land, the width of which is less than the minimum required by code.

*Planned unit development* means a tract of land at least two acres in area, under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to approved preliminary and final development plans. Planned unit developments shall comply with all requirements of the land use code, except to the extent that such requirements are superseded by a permit issued pursuant to this article.

*Private improvements* means those improvements required as part of a subdivision or other land use permit that will not be maintained by the City and Borough or other agency of government.

*Privately maintained access road* means a road that the department or the

commission has permitted to be constructed at less than full public street standards in an existing right-of-way. Privately maintained access roads can be used by the public and can provide access to more than one parcel, but will not be publicly maintained. A privately maintained access road is distinguished from an ordinary driveway in that an ordinary driveway provides access between a parcel of land and the public portion of the street, and is not for public access (See Figure 6).

*Public improvements* means any construction incidental to servicing or furnishing facilities to a development, including but not limited to: streets; retaining walls; street signs and markings; curbs and gutters; street lights and associated power conduits; sidewalks; shared use pathways; sewer mains, pump stations, service laterals, manholes, cleanouts and all associated parts; storm sewer mains, manholes, catch basins, pump stations, service laterals, and all associated parts; water mains, fire hydrants, service laterals, valves, pump stations, reservoirs, and all associated parts.

*Public square* means an area dedicated for public use for temporary leisure, assembly, markets, and similar uses.

*Quasi-public* means property or infrastructure that is normally owned by the public sector, but owned by the private sector serving in the public interest.

*Radial distance* means the shortest distance measured along a radius extending from a point of the object being measured from to a point on the object being measured to.

*Roadway Width* is measured as the paved section of a paved street or from shoulder to shoulder on a gravel street.

*Sight distance* means the distance that a driver needs to react appropriately to a situation, including stopping sight distance, passing sight distance, and intersection sight distance.

*Undisturbed common open space* means common open space left in its natural condition.

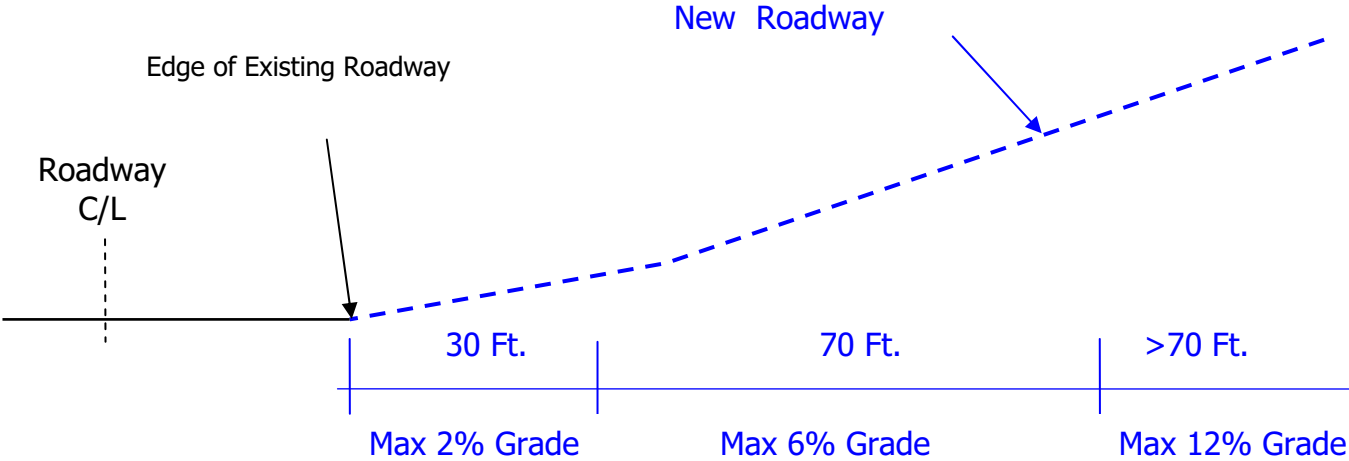
**Section 57. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Merrill Sanford, Mayor

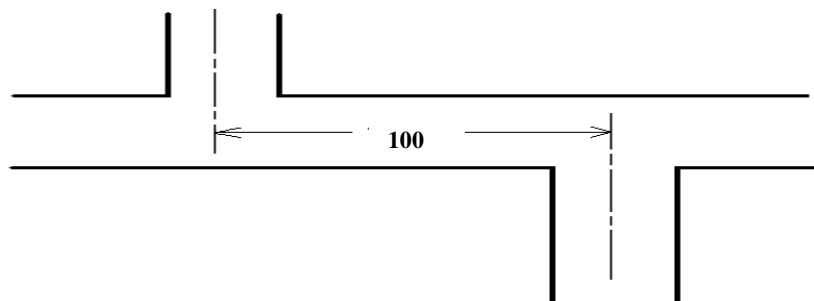
Attest:

\_\_\_\_\_  
Laurie J. Sica, Municipal Clerk



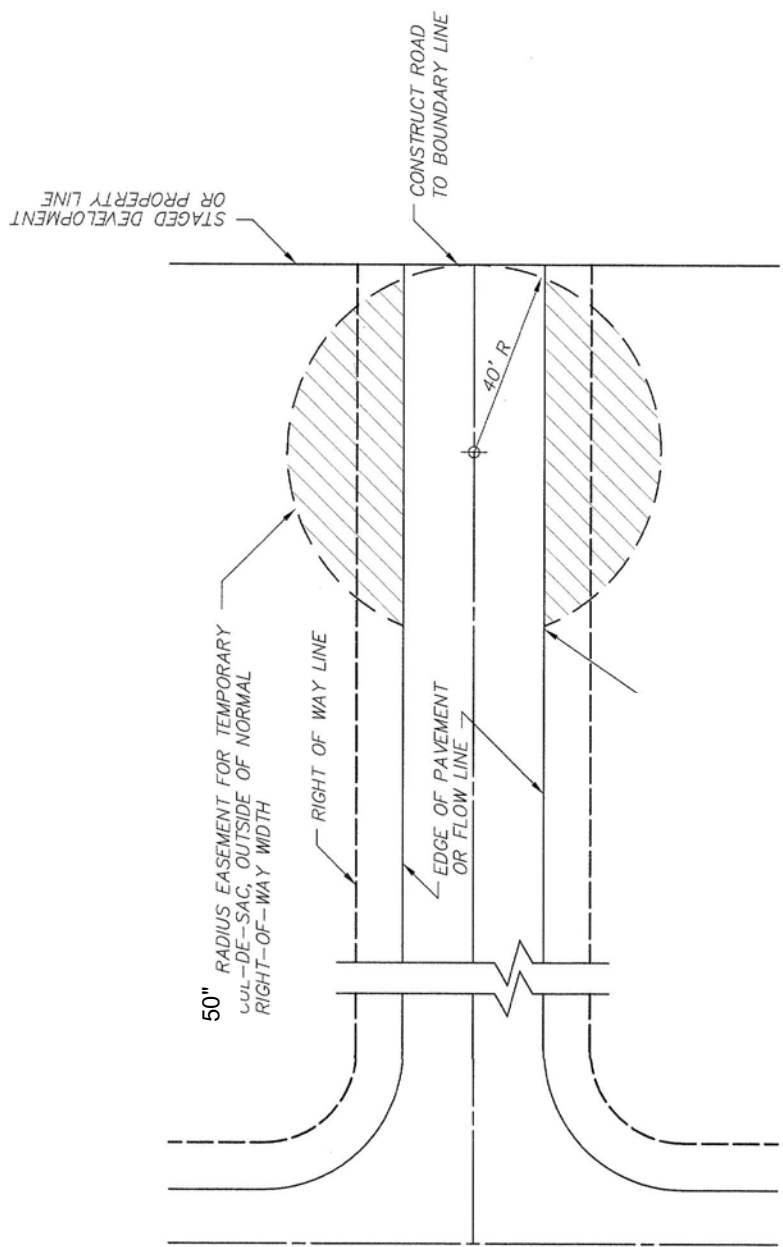
Maximum Grades at the Intersection of a New Roadway

FIGURE 1



**Street jogs shall be no less than 100' apart, measured from the center of the street.**

**FIGURE 3**



(NOT TO SCALE)

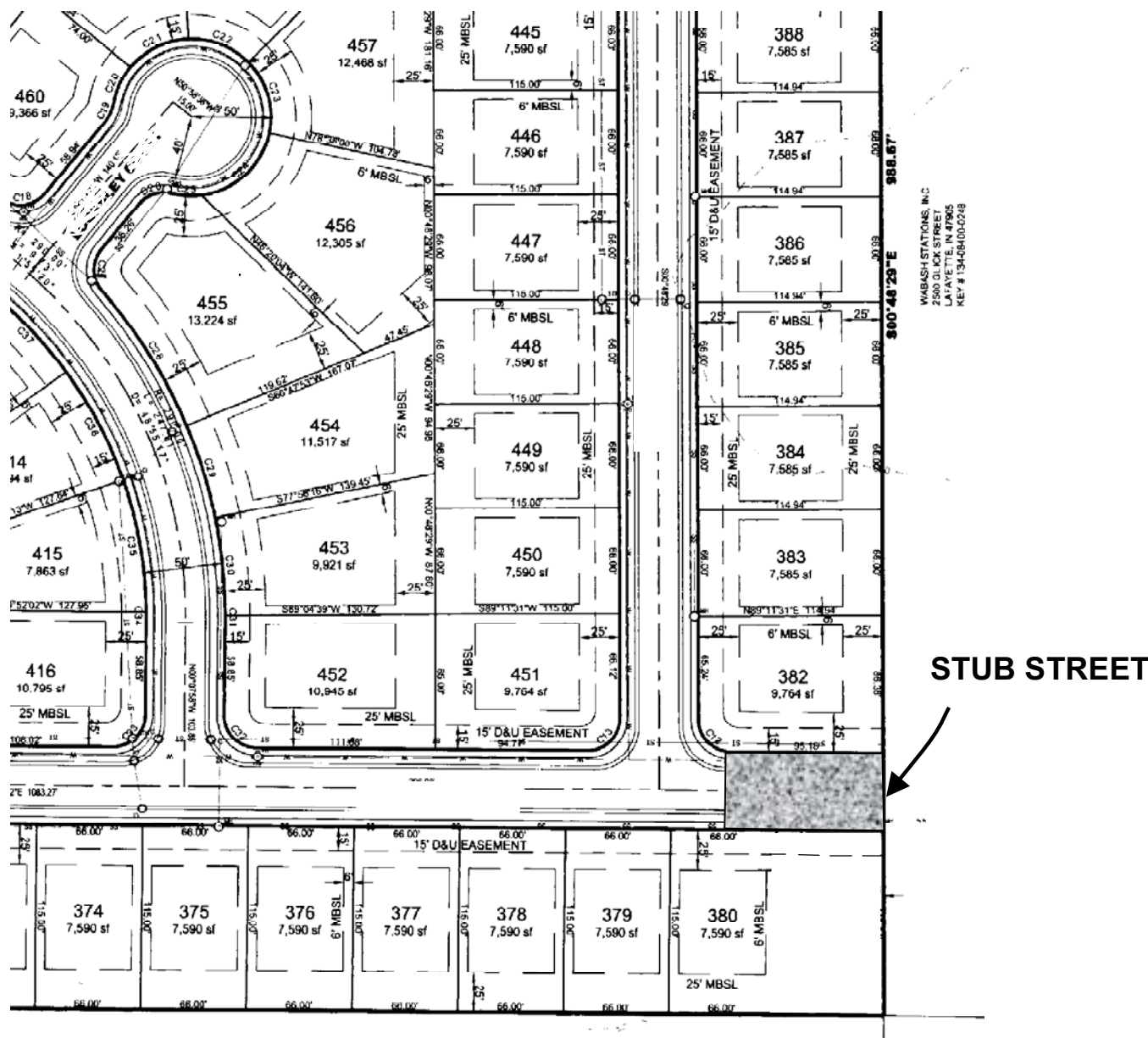


FIGURE 5.



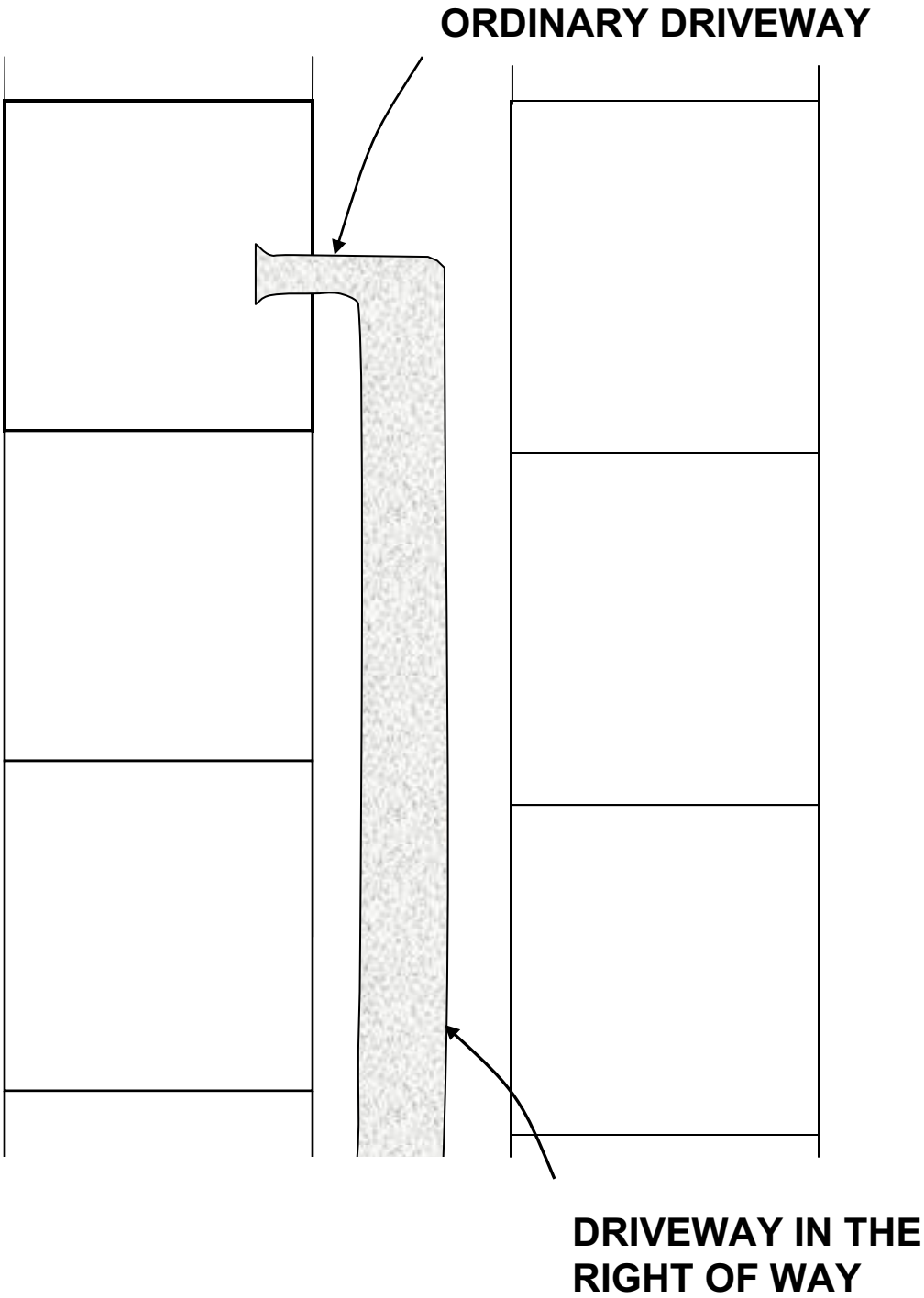
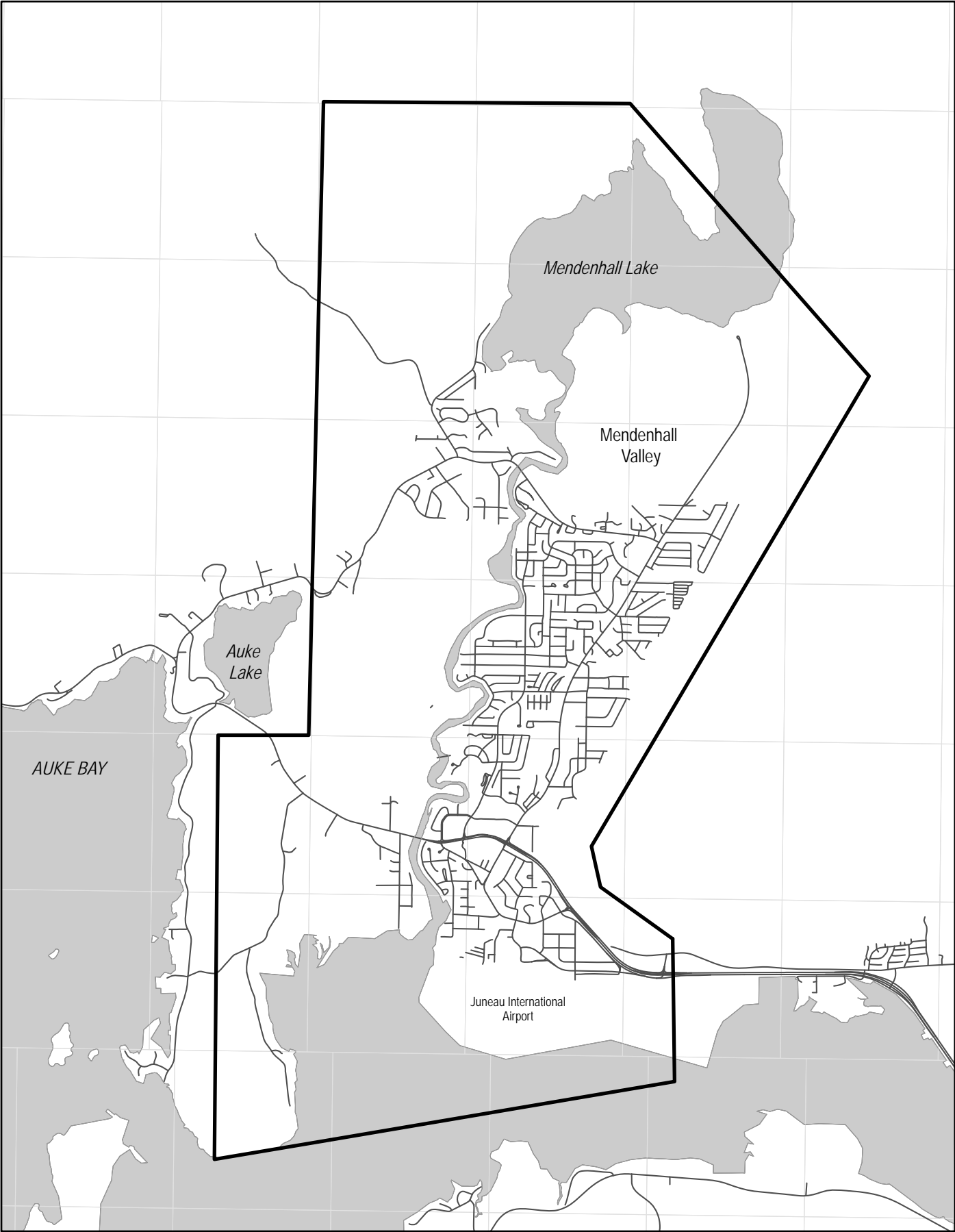
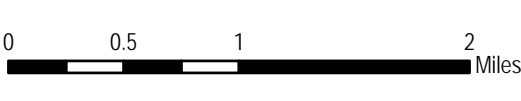


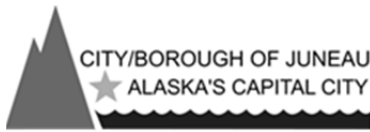
FIGURE. 6



Project source: P:\quinn\Projects\CDD\Overlay districts\paving\_requirement.mxd

**STREET PAVING REQUIREMENT**  
**BOUNDARY**  
**ATTACHMENT A**





**Law Department  
City & Borough of Juneau**

**MEMORANDUM**

TO: Subdivision Review Committee  
 FROM: Amy Gurton Mead, Municipal Attorney  
 Robert Palmer, III, Assistant Municipal Attorney  
 DATE: April 17, 2015  
 SUBJECT: Subdivision Ordinance

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Dear SRC Members:

There are four subject areas we need policy direction on before we can finalize a draft of the subdivision ordinance (2015-03) for the Commission to review.

1. **Remote subdivisions.**

The policy issue that arose due to the conflict between the current and proposed subdivision code and the approval of a remote subdivision map amendment to include Hidden Valley Tract B, was outlined in the memorandum dated April 9, 2015.

Regardless of the direction provided – whether the SRC identifies a way to distinguish roaded remote subdivisions from other non-remote subdivisions or if the SRC decides to create a new type of remote subdivision not accessible by vehicular traffic (a “recreational” subdivision) – the Remote Area Map provision (49.15.441) should be deleted. Given that remote subdivisions are no longer defined by geography but will now be categorized as navigable remote and either roaded remote or “recreational,” where the latter two can appear anywhere in the CBJ, the map is no longer relevant.

The other code sections that will need to be revised based on the SRC’s direction are:

49.15.411(h)(5)	Preliminary plat
49.15.440	Purpose
49.15.442	Characteristics
49.15.443	Remote subdivisions
49.35.240(c)(4)	Street design and construction standards
49.35.310(e)(3)	Water systems

2. **Street standards.**

In the draft forwarded to the Commission by the SRC at section 49.35.240 Street design and construction standards, developers constructing subdivisions generating 250 ADT or less

may install a 22 foot gravel roadway (except in the Mendenhall Valley). There is no provision in the current draft requiring a subsequent developer who causes the ADT to increase above 250 to improve the gravel roadway. (In the current draft, 251 ADT and up require a paved roadway.)

If this was the SRC's intent, the only change that needs to be made is to remove 49.35.240(c)(3) *Cost equivalent*. (If there is no provision requiring the developer to incur the cost of the improvement, providing an alternative that allows a developer to develop the street to a different standard that is the 'cost equivalent' has no relevancy.)

If the SRC's intent is to require developers who cause the ADT to increase above 250 to incur the cost of paving (and any other required improvements), we suggest adding a new subsection to 49.35.240, just above the subsection on "cost equivalent," to read:

(3) It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements caused by any development that increases the estimated traffic above 250 average daily trips as determined by the director.

(4) *Cost equivalent*. If a proposed subdivision includes dedication of a right-of-way that extends an existing street, the director may allow a subdivider to construct all or a portion of the existing street, as well as the proposed street, to a standard of improvement that would result in a cost equivalent to that of meeting the full improvement standards for the construction of the proposed street. The director will base its decision to allow this cost equivalent alternative on whether the proposal meets or exceeds the intent of the original standard.

We were unsure what the intent of the cost equivalent section was. It would be helpful for the SRC to articulate its intent so that we may clarify that section.

And as Mr. Voelckers and I discussed, there appears to be a need for clarifying 49.35.240(a)(H), which currently reads:

(H) *Substandard width or improvements*. Any previously platted right-of-way with less than the minimum standards identified for the traffic generated shall be improved to meet the minimum requirements established by this title. Such determination shall be made by the department for minor subdivisions, and the planning commission for major subdivisions.

### **3. Street Maintenance.**

Under the current, proposed draft, the 22 foot gravel road allowed per 49.35.240 must be a publicly maintained street absent specific language providing otherwise. (This is because we do not articulate any difference between the gravel 22 foot road and a paved 22 foot road with respect to public maintenance.) If that was the intent, there is no change recommended.

If it was not the SRC's intent to require the CBJ to maintain 22 foot gravel roads, we suggest amending the table at 49.35.240 to read:

Avg. Daily Trips (ADT) <sup>i</sup>	Adopted traffic impact analysis required	Sidewalks	Curb and Subsurface Drainage	Travel way width	Street lights	ROW Width <sup>iii</sup>	Paved Roadway Required	Publicly Maintained
≥ 500	Yes	Both sides	Both sides	26 ft.	Continuous	60 ft	Yes	Yes
251 to 499	Maybe	One side	One side	24 ft.	At all intersections	60 ft.	Yes	Yes
0 to 250	No	Not required	Not required	22 ft.	At intersection of subdivision streets and external street system	60 ft.	Yes	Yes
0 to 250	No	Not required	Not required	22 ft <sup>ii</sup>	At intersection of subdivision streets and external street system	60 ft.	No <sup>iv</sup>	No

#### **4. Privately Maintained Access Roads**

Section 49.15.434 is the section concerning privately maintained access road agreements. Subsection 9 provides:

The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new maintenance agreement.

As written, this subsection prohibits further subdivision unless the existing owners consent. If an original lot owner wants to subdivide one lot into two, or if another developer wanted to subdivide such that the ADT on the privately maintained access road increased beyond 250, the developer and the existing property owners would need to execute a new private maintenance agreement. Complications arise, however, if the existing owners refuse to execute a new private maintenance agreement. Allowing the existing owners the power to regulate an abutting property owner's ability to subdivide is an illegal delegation of the CBJ's zoning authority.

Could the CBJ refuse to approve a subdivision that is requesting to be served by the privately maintained access if the existing owners refuse to execute a new agreement? Yes, but only if there is vertical privity between the existing owners and the proposed developer (such that the proposed developer is a successor in interest to the original agreement) or if alternative access to a publicly maintained right-of-way is available to the developer.

A similar but slightly different issues is as follows: Because the CBJ cannot force the owner of the abutting property to sign the private maintenance agreement and because the CBJ cannot compel the owners of the subdivision with the privately maintained access road to modify the private maintenance agreement, the only time a privately maintained access could be allowed is when the abutting property has frontage on a publicly maintained right of way. Thus, if a subdivision wants a privately maintained access road, then in the subdivision process, the developer must provide access to the publically maintained right-of-way for the abutting property. (Think of a gated private subdivision with an independent 60' right-of-way along one side to provide access to the abutting property or a subdivision with a separate 30' panhandle.)

Both of these scenarios can be addressed by adding a new subsection to 49.15.433 Design criteria, to read:

(6) A subdivision proposed to be served by a privately maintained access is prohibited unless the abutting parcels have alternative and practical frontage on a publicly maintained right-of-way.

The final issue concerns “Landlocked” abutting public property (where the abutting property to the subdivision with a privately maintained access road is public property.) Under the proposed ordinance, the CBJ, as property owner of an abutting lot, may be in the position of having to sign a private maintenance access agreement in order for the subdivision to move forward. The CBJ may not be able to enter into a private maintenance agreement because the CBJ could not enter into an agreement with itself agreeing (indemnity, etc.). Nor does it make sense for the CBJ to execute a contract agreeing that “it” would provide maintenance as a property owner but that “it” wouldn’t provide maintenance as the CBJ.

To address this issue, we propose adding another new subsection to 49.15.433 to read:

(7) A subdivision proposed to be served by a privately maintained access is prohibited if publically owned property is served by the privately maintained access.

We look forward to seeing you next Thursday.