

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

June 28, 2017

Marine View Building, 4th Floor Conference Room, 230 S. Franklin St.
3:15 PM

- I. **ROLL CALL**
- II. **APPROVAL OF AGENDA**
- III. **APPROVAL OF MINUTES**
 - A. April 26, 2017 Draft Minutes - Title 49 Committee Meeting
- IV. **AGENDA TOPICS**
 - A. Panhandle Code Changes
 - B. Proposed minor change to privately maintained access roads in public rights-of-way
- V. **COMMITTEE MEMBER COMMENTS AND QUESTIONS**
- VI. **ADJOURNMENT**

Meeting Agenda of the
City and Borough of Juneau
Title 49 Committee of the Planning Commission

Wednesday, April 26, 2017
Community Development Department, Large Conference Room
3:15 p.m. to 4:30 p.m.

Members Present:

Dan Miller, Carl Greene, Paul Voelckers, Dan Hickok (Alternate)

Members Absent:

Kirsten Shelton-Walker

Staff Present:

Laura Boyce (CDD), Jill Maclean (CDD), Tim Feldstead (CDD & JCOS)

Public Present:

Laura Baker, Stefanie Jones, Crystal Schmitz, Erich Schaal, Darren Snyder (UAS Cooperative Extension), Darrell Wetherall, submitted letter from Madi Nolan Grimes

I) Call to Order

Meeting called to order at 3:15 pm.

II) New Business

a) Livestock Ordinance

The Juneau Commission on Sustainability's Livestock Committee came before the Title 49 Committee looking for feedback on the following topics:

- Is proposed categorization of animals appropriate (i.e. poultry, small livestock and large livestock)? The weight separation between small and large livestock and rabbits warrant discussion.
- Should roosters be allowed in all zoning districts if the lot size is big enough (is 10,000 sq. ft. a big enough minimum for roosters to be kept)? Why should potentially acceptable roosters be banned from zones where noisy female poultry such as guinea fowl, ducks etc. are currently allowed?
- Are the suggested minimum lot sizes, buffers and number of animals per square foot appropriate? The allowance for the same number of juvenile poultry under a certain 4 months could result in 20 adult sized chickens on a lot.
- Are the zoning districts in which each livestock category can be kept appropriate?

Paul Voelckers invited the members of the public in attendance to speak and share their comments on the points listed above. He said the committee was especially interested to hear about rooster issues.

Public Comment:

Erich Schaal raises chickens and started chicken group on Facebook. Now he is involved with JCOS around this issue of poultry. Juneau is unique, he said, because the city and borough is both urban and rural. Places such as Swampy Acres is considered a "farm" but is zoned D10. He thinks Juneau can handle higher numbers of chickens than is currently allowed on properties. Also, he noted, this would not be an experiment, people

already have these animals on their properties. We already know about the complaints, which are low he said. He feels there is no reason to not make them legitimate. Current code has a buffer related to the nearest neighbor's house. He thinks this is a wrong approach and instead buffers should relate to current property boundaries. For example, if a neighbor subdivides their property and builds a new dwelling closer to the property line, this will affect livestock activity on the neighboring lot since now a house is closer to the chicken coop.

Laura Baker stated she is interested in large livestock – horses particularly. She said she is happy with the work that has been done on the draft Table of Permissible Uses.

Crystal Schmitz pointed out that roosters' crows vary in volume depending on the animal. She had one rooster for a time that was quite loud and has since been relocated to a less densely zoned area of the borough. Now she has a new rooster whose crow is significantly quieter. Yet she has a continuing issue with one of her neighbors who is bothered by the crowing, whereas other neighbors who are closer to her home are not bothered or have chickens themselves. She wants to propose that enforcement be about decibels, not about all roosters. She thinks that would be easy to use a phone to measure decibels and decide if it complies or not. She also is concerned about the inequity of requiring a zoning category of D3 or higher for the keeping of chickens – only certain socio-economic segments of the population will be able to raise livestock. Also Crystal shared with the committee a letter from a neighbor who couldn't be in attendance, Madi Nolan Grimes.

Stefanie Jones is in favor of the recommendations now before the committee. She also is particularly interested in large livestock.

Darren Snyder from the UAS Cooperative Extension stated he was in attendance in support of the work that has been done drafting the new ordinance. He said that the extension service and the university is at the ready to provide mediation and other assistance to the city when there are concerns from neighbors and to assist folks with best practices in the keeping of livestock. He is in favor of permitting roosters on any lot and then addressing problems as they arise, on a case-by-case basis.

Paul Voelkers asked about the advantages of keeping roosters. Darren said that roosters help reduce pecking order problems within a flock. Food security issues are addressed with good healthy populations, and roosters help keep populations healthy. Roosters are also good "watch dogs" for homes. Darren also encourages more rabbit production for food purposes but said they shouldn't be considered with same limitations as small livestock as they are quite different creatures, for example they make virtually no noise.

Darrel Wetherall is a member of the board of the Juneau Commission on Sustainability. He has learned of the strong interest from the public for food sustainability and thinks the city needs to take a good look and support the keeping of chickens and livestock. He believes there needs to be more leniency in zoning and rules because parcels are not getting bigger, and we are locked into tight proximity here in Juneau.

Paul Voelkers asked if the Cooperative Extension could play a role in enforcement. Darren said he couldn't see taking over that role, but they could help with a process of conflict resolution.

Dan Hickok asked if there were bear issues involved with keeping livestock. Not if things are done right, said Darren, especially with electric fences. No more issues than there might be with trash or dogs.

Dan Miller said we accept the ambient noise of the community, be it ravens or roosters. But he can sympathize with people who are disturbed by noise.

Discussion on the Table of Permissible Uses:

Tim Felstead gave committee members an overview of how the table has been organized.

Does the bird count include juveniles, asked Dan Miller? This is not fully determined and needs feedback, said Tim. How do you measure age, asked Carl Greene? Tim said it was determined by plumage but would be difficult to enforce.

Dan Miller asked how the keeping of rabbits is currently being managed. It is not, said Tim. Likely this is because there are less noise concerns than chickens. Dan Miller asked why they are lumped together with small livestock if they are a different type of critter. Tim said it could be appropriate to move them into the same category as poultry. Do we have similar restrictions for pets asked Dan Hickok? Somewhat, Tim replied. The Table of Permissible Uses only kicks in if there are 6 or more dogs being kept. There is no limitation for the keeping of cats.

Carl Greene asked about where decibel level might be measured. Tim thinks Gastineau Humane Society (GHS, Animal Control) does not do assessments like that. They may have an informal policy, he said, but will make individual assessments when there is a complaint. Dan Miller said that some years ago the Assembly brought up the idea of developing a noise ordinance, and the Planning Commission was charged with doing a study about that. In the end the commission threw up their hands and determined it an impossible task, he said.

Tim Felstead said speaking from his traffic analysis background there has to be standards of work to take such measurements such as distance from the animal when collecting data. It may be possible to do this, but what is the threshold? People have different tolerances for noise.

Paul Voelkers asked about animal control and the Gastineau Humane Society. Tim said animal control is covered under objectionable animal ordinances related to domesticated animals and also disturbing the peace. Is there draft language in the table under specified uses, asked Paul? The question of enforcement needs to be cleared up before the ordinance moves forward, said Tim. This is still something the JCOS Livestock Committee needs to work on.

Paul Voelkers asked for thoughts from the public about types of enclosures and having that level of specificity for the ordinance. Erich Schaal commented that there are natural controls like wild predatory birds if people let chickens go free range. There will be outliers always, he said, just as there are with dog owners. For chickens, following best management practices would keep flocks intact and healthy. It is recommended that anyone keeping livestock have a shelter with 3 sides. And even if the poultry are allowed free range, there needs to be a way to confine the animals to the property.

Is there a category concerning slaughter, asked Paul Voelkers? In Alaska people do all sorts of things with the animals they hunt or fish. Maybe domesticated animals are no different. He wondered if it would be appropriate to go as far as saying slaughter should not take place in full view of the neighbors. A number of the public in attendance responded saying that they didn't think it fair in this environment which includes many hunters and fisher folk that the treatment of domestic animals be different regarding the preparation of the animal for consumption.

Dan Hickok commented that he thinks this is over analyzing the situation.

Staff requested suggestions from the committee as they continue work on the draft ordinance:

Carl Green doesn't see how regulating the number of feet from neighbors will work for placing livestock enclosures. He thinks the regulation has to be about annoyance to the neighbors. Paul Voelkers asked how the reasonableness of a complaint might be assessed. Carl suggested considering a certain percentage of the neighbors as an assessment of reasonableness. Jill Maclean said that setbacks are more about best management practices in the hopes of avoiding complaints. Tim Felstead said that buffers can be required for odor issues and some noise mitigation. There are other parts of the CBJ code that already deal with noise complaints, he said.

Dan Miller likes the table and the diagram. However, he has concerns about roosters and their locations. He suggested that there should be a large area requirement, such as 20,000 feet.

Carl Green said that if there are problems with roosters then the committee should hone in on that topic. He also wonders why the ordinance talks about ducks. Dan Hickok thinks roosters should be a separate category.

Touch points:

- Are there opinions about weight separation? The committee members did not have strong feelings in this regard.
- Rabbits should be moved into the same category as poultry.
- Roosters should have their own category. Darren Snyder said there are ways to keep roosters in control, like putting them in the garage during certain hours of the night.
- Lot size should determine the numbers of animals allowed.
- There are questions about selling eggs or other animal products. There should be a distinction between commercial and non-commercial operations.
- What about waste? Composting is a good way to take care of this. People pay for the waste to use on their gardens. Odor can be mitigated.
- Enforcement and complaints needs more work.
- GHS has limited resources to respond to noise and does not respond to other complaints like odor. JPD has ultimate responsibility for enforcement.

VI. Next Meeting

Wednesday, May 17, 3:15 pm

VII. Adjournment

The meeting adjourned at 4:47 pm.



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June 27, 2017

Memorandum

A handwritten signature in black ink, appearing to read "BMc", is positioned to the right of the "To:" line of the memorandum.

To: Title 49 Committee

From: Beth McKibben, AICP, Planning Manager

RE: Proposed amendments to 49.15.423 - Panhandle lots - AME2017 0003.

Attachments:

- A- January 30, 2017 memo to T46
- B- T49 recommendations
- C- Most recent draft ordinance

The Title 49 Committee considered amendments to the panhandle section of code. The January 30, 2017 memorandum from staff is attached (Attachment A). At that meeting the committee discussed staff's suggested amendments and made recommendations on additional changes. The Committee's suggestions are found in Attachment B. The proposed amendments were sent to Law for review and discussion. CDD staff and Law staff met and considered further amendments. The proposed amendments are summarized below and found in Attachment C. Because some of the proposed language is significantly different than what the Committee recommended and there are several new concepts included, staff felt it was best to bring the language back to the Committee for further consideration.

A summary of the proposed amendments is found below:

Lot Area Reduced

The proposed amendment would allow for any lot to be subdivided through the panhandle provisions if *the lots created meet the minimum dimensional standards of the underlying zoning district*. This means that both the front lot and the panhandle lot will have the minimum square feet of lot area and will meet both lot width and depth requirements. *The flagpole/handle/stem of the panhandle lot would not be used to calculate lot area*. This will preserve the density requirements of the underlying zoning district.

Width Flagpole/Handle/Stem Reduced

The proposed amendment would also reduce the minimum width of the flagpole/handle/stem of

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the panhandle lot. Currently it is required to be 30-feet wide. *The proposed amendment would require a minimum width of 20-feet for the stem.* This will facilitate the subdivision of larger lots in zoning districts that have a small minimum lot size. At the same time it assures adequate access to the right-of-way and sufficient room for a driveway.

Driveway Grade

The current code requires the maximum grade of the driveway to be no more than 15%. Through our work on shared access, we understand that the Fire Department accessible grade is 10%. The Fire Marshall can approve grades of more than 10% on a case by case basis. The most current draft language removes the grade and specifies “*as required by the Fire Code at CBJ 19.10.*” This means that the subdivider may apply to the Fire Marshal for an exception to the Fire Code to have a driveway grade of more than 10%.

Driveways

The current code requires that panhandle lots share one access and requires it to be shown on the plat with an easement or plat note. The code further requires a maintenance agreement for the shared driveway. The Community Development Department’s (CDD) past practice has been to allow the shared access to be located anywhere within the lots created by the panhandle subdivision. The purpose of the stem has been considered as the means to meet the requirement for frontage on a publicly maintained right-of-way and not necessarily to provide access. Staff recommended to the Title 49 Committee that language be added to the code that would allow the Director of Community Development, in consultation with the Fire Marshal and Director of Engineering, to allow alternative locations when topography or other physical constraints prohibit the preferred location. The Committee further refined that language as follows:

(I) The access way or driveway shall be located, if possible, in the stem of the panhandle lot. Alternative alignments may be approved by the Director of Community Development, in consultation with the Fire Marshal and Director of Engineering to allow alternative locations when pre-existing construction, topography or other constraints prohibit the preferred location.

During our work with Law, we were informed that allowing for access to panhandle lots as described above, or anywhere outside the stem, creates a legal problem in that if we require the stem for access and then allow the driveway to be located elsewhere, we have in effect “taken” the value of the stem because it cannot be used for anything other than access. Title 49 can dictate development requirements, but the takings doctrine provides limits on what Title 49 can require. For example, if the purpose of a panhandle is for vehicle access from a dwelling to a right of way, then the access needs to be in the panhandle and the panhandle must be capable of being developed for access. If a panhandle regulation requires the panhandle but the panhandle is too steep or if the access is located elsewhere, the CBJ may be subject to a taking because the panhandle has no regulatory purpose.

The current language reflects this guidance and *requires the access to the rear lot through the stem.* If

there is a shared driveway is must be shown on the plat and a maintenance agreement recorded.

This current version does offer something new in regard to access. It allows the front lot to have its own access to the right-of-way if the driveway can be approved by CBJ.

"Access shall be located in the panhandle. A lot fronting a right-of-way may have a separate and additional access if approved by CBJ 62.36."

Because the proposed amendments to the panhandle regulations allow for smaller lots be to be "panhandled" allowing each lot to have separate access is consistent with the bungalow requirements. The section is specific to CBJ driveway approval, with the intent that smaller lots on residential streets that meet the CBJ driveway requirements for separation from other driveways and intersections can continue to be allowed. Currently many of these lots already have an approved second driveway access.

How many lots

Staff suggested removing the prohibition on limiting panhandle subdivisions to two lots, and further recommended driveway specifications for when four lots share a driveway. Lots with right-of-way frontage on AKDOT streets will continue to be limited to one shared driveway. The Committee asked that those driveway specifications for more than two lots sharing a driveway be removed. The current draft of the proposed amendments to the panhandle requirements includes the limitation of *no more than 2 lots in a panhandle subdivision*. This will not prohibit pairs of panhandle subdivisions from sharing a driveway. It will prohibit 3 or more lots being "panhandled" or "nested" and sharing a driveway. This is important so as to not create inconsistency with the new private shared access. It is staff's intent that when pairs of panhandle lots are created the access to the rear lots will be shared within the stem of the two lots. If the front lots do not receive CBJ driveway permits for direct access to CBJ streets then they will also use the stem for access. A maintenance agreement will be required for the shared driveway.

Setbacks

Previous discussions with the Title 49 Committee did not address setbacks other than where the front setback is measured for the rear lot. The new private shared access section of code requires the front yard setback to be measured from the access easement. To ensure the panhandle regulations are consistent with private shared access staff recommends that the *front lot of a panhandle subdivision be treated as a corner lot, and choose the front setback and street side setback from either the right-of-way or the stem of the panhandle lot*. Staff further recommends that the *private shared access regulations be amended to allow lots fronting both the easement and a public right-of-way be treated as a corner lot and choose a front yard setback and a street side yard setback*. This provides consistency with corner lots and the recommendations for panhandle lots and creates some flexibility for the front lot in the share private access subdivision. The language shown in the attachment C is for

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setback for the front lot of a panhandle subdivision is conceptual. If the Committee agrees with the concept staff will work with Law to draft language to be included in the ordinance presented to the Commission for consideration. Additionally, language will be included that also provides the front lot in a private shared access subdivision to be treated as a corner lot and choose a front and side street setback.

Illustrations

Staff recommends the *additions of illustrations to clarify the language of code*. This draft includes an example illustration of where the front yard setback is measured from for the rear lot. Staff further recommends illustration(s) to clarify the front the side yard setbacks. When the draft ordinance is presented to the Commission for public hearing it will contain illustrations. It is our intent that the illustrations be clear and helpful. The one in the draft ordinance is not necessarily exactly what will be included in the ordinance presented to the Commission, but is included for the Committee's conceptual approval.

Lot size and marine outfall

The current draft ordinance shows paragraph (a)(2) as being removed. Initially this was because the changes to minimum lot size for panhandle lots. Staff has subsequently discussed minimum lot size for lots not on public sewer as well the requirements for marine outfall with the section manager of Department of Environmental Conservation, Division of Water, Wastewater Engineering Support & Plan Review Section. He indicated that the state no longer has a minimum lot size requirement for lots with onsite wastewater disposal. Additionally, marine outfalls are still allowed by the State, but the requirements in the CBJ code may not be sufficient depending in the individual location of the lot and proposed outfall. Therefore staff recommends *adding language which requires that any lot not served by a public sewer system will comply with the current DEC regulations for wastewater disposal*. If the committee agrees staff will work with Law to draft the specific language to be included in the ordinance.

Recommendation

Staff recommends the Committee review and discuss the information above. Please focus on the concepts and not the specific wording. Once the Committee has agreed staff will work with Law to draft an ordinance which will then be scheduled for public hearing by the Commission. The key concepts for the Committee to discuss are in italics throughout this staff report.



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January 30, 2017

Memorandum

To: Title 49 Committee

From: Beth McKibben, AICP, Planning Manager

RE: Proposed amendments to 49.15.423 - Panhandle lots - AME2017 0003.

The Planning Commission has expressed interest in amending the panhandle lot provisions in Title 49. The purpose of the amendment is to allow for the creation of smaller panhandle lots. Title 49 states that panhandle subdivisions may be allowed in order to facilitate the subdivision of large parcels that are insufficiently wide but otherwise meet all other requirements for subdivision. These requirements have been seen as too restrictive. Currently, the minimum lot size for a lot created by a panhandle subdivision is 20,000 square feet when served by City and sewer, and 36,000 when sewer is not available. By allowing smaller lots to be subdivided through the panhandle provisions, more “in fill” lots could be created in the zoning districts that have smaller minimum lot size requirements. These lots would have frontage on a public right-of-way.

Lot Area Reduced

The proposed amendment would allow for any lot to be subdivided through the panhandle provisions if the lots created meet the minimum dimensional standards of the underlying zoning district. This means that both the front lot and the panhandle lot will have the minimum square feet of lot area, and meet both lot width and depth requirements. The flagpole/handle/stem of the panhandle lot would not be used to calculate lot area. This will preserve the density requirements of the underlying zoning district.

Width Flagpole/Handle/Stem Reduced

The proposed amendment would also reduce the minimum width of the flagpole/handle/stem of the panhandle lot. Currently it is required to be 30-feet wide. The proposed amendment would require a minimum width of 20-feet for the stem. This will facilitate the subdivision of larger lots in zoning districts that have a small minimum lot size. At the same time it assures adequate access to the right-of-way and sufficient room for a driveway.

Driveway Location

The current code requires that a panhandle lots share one access and requires it be shown on the plat with an easement or plat note. The code further requires a maintenance agreement for the shared

driveway. The Community Development Department's (CDD) past practice has been to allow the shared access to be located anywhere within the lots created by the panhandle subdivision. The purpose of the stem has been considered as the means to meet the requirement for frontage on a publicly maintained right-of-way and not necessarily to provide access. Recently, it has been discussed that the shared access should be located only within the stem or shared equally, with half the driveway within the handle of the panhandle lot, half on the front lot. Staff asks the Title 49 Committee to consider this. If this is the desired or preferred driveway alignment then staff recommends adding that requirement to code. This will ensure that the public and future staff understand this requirement. If this is the preferred location for the driveway, staff recommends language be added to the code that would allow the Director of Community Development, in consultation with the Fire Marshal and Director of Engineering, to allow alternative locations when topography or other physical constraints prohibit the preferred location.

Driveway Grade

The current code requires the maximum grade of the driveway to be no more than 15%. Through our work on shared access we understand that the Fire Department accessible grade is 10%. The Fire Marshall can approve grades of more than 10% on a case by case basis. Staff recommends the maximum grade be amended to be 10% or as required by the Fire Code at CBJ 19.10. This means that the subdivider may apply to the Fire Marshal for an exception to the Fire Code to have a driveway grade of more than 10%.

Driveway specifications

Also included in the proposed amendment is language which is specifically directed at panhandle subdivisions that involve four lots rather than the typical two lots created in a panhandle form. This would require the driveway serving four lots be at least 20-feet wide and paved. This is more specific than is proposed for a two lot panhandle subdivision. When 3 or more dwellings are involved Fire Code requirements apply. One of those code requirements is a minimum driveway width of 20-feet.

The Committee should discuss whether a minimum width of 20-feet for the shared driveway and paving are appropriate requirements for a four lot subdivision. It is consistent with the draft "shared access" ordinance which may serve up to four lots (note the number of lots may change). Is this a requirement the Committee recommends for driveways serving a two lot panhandle subdivision? The Fire Code would require a 20-foot wide driveway for multi-family developments on panhandle lots, even if it was a two lot subdivision.

Attachments:

- A. Existing 49.15.423 Panhandle lots.
- B. Proposed amendments to 49.15.423.
- C. Language to consider for driveway location.

Existing 49.15.423

49.15.423 Panhandle lots.

- (a) The subdivision of a parcel creating a pan-handle 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 requirements detailed below.
 - (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 one and one-half 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 served by a public sewer system shall be 20,000 square feet. 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 low water, and each lot using such disposal must abut the salt water to a minimum 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 of 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.

Existing 49.15.423

49.15.423 Panhandle lots.

- (a) The subdivision of a parcel creating a pan-handle 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 as required for the underlying zone. Panhandle lots may be created by subdivision under this section if the new lots meet the requirements detailed below.
- (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~~ 20 feet wide.
 - (C) The panhandle portion of the lot shall not be longer than 300 feet in D-1 zones and one and one-half 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.~~
 - (E) The panhandle portion of the lot will not be used to calculate lot area.
 - (F) The common property line between the lots ~~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 lot lines ~~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.* Shall meet the dimensional requirements for the underlying zoning district, including minimum lot depth and width excluding the panhandle portion of the subdivision.
OR The required lot area, width and depth shall not include any portion of the panhandle.
~~Each lot served by a public sewer system shall be 20,000 square feet. 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 low water, and each lot using such disposal must abut the salt water to a minimum 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 of 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~~ 10 percent or as required by the Fire Code at CBJ 19.10. 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~~ No lot resulting from a panhandle subdivision may be further divided into another panhandle subdivision.
- (c) Panhandle lot configurations that enable four lots to be accessed by a common driveway are allowed provided that the shared driveway is at least 20 feet wide and paved at the time of final plat approval. All other requirements for panhandle lots in this section must be met.

Language to Consider for Driveway Location

- (l) The access way or driveway shall be located in the stem of the panhandle lot, or shared equally between stem of the panhandle lot and the front lot. Alternative alignments may be approved by the Director of Community Development, in consultation with the Fire Marshal and Director of Engineering to allow alternative locations when topography or other physical constraints prohibit the preferred location.

49.15.423 - Panhandle lots.

(a) The subdivision of a parcel creating 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 as required for the underlying zone. Panhandle lots may be created by subdivision under this section if the new lots meet the requirements detailed below.

(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~~20 feet wide.

(C) The panhandle portion of the lot shall not be longer than 300 feet in D-1 zones and one and one-half 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.~~

E. The panhandle portion of the lot will not be used to satisfy minimum lot area requirements.

(F) The common property line between the ~~lots~~ 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~~ lot lines 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 served by a public sewer system shall be 20,000 square feet. 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 low water, and each lot using such disposal must abut the salt water to a minimum of 30 feet.~~

Shall meet the dimensional requirements of the underlying zoning district, including minimum lot depth and width excluding the panhandle portion of the subdivision.

(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 of 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 ~~45-10~~ percent or as required by the Fire Code at CBJ 19.10. 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.

(I) The access way or driveway shall be located, if possible, in the stem of the panhandle lot. Alternative alignments may be approved by the Director of Community Development, in consultation with the Fire Marshal and Director of Engineering to allow alternative locations when pre-existing construction, topography or other constraints prohibit the preferred location.

Formatted: Justified

(b) ~~Neither~~ No lot resulting from a panhandle subdivision may be further divided into another panhandle subdivision.

Presented by: The Manager
Introduced:
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. xx

An Ordinance Amending the Land Use Code Relating to Subdivision Access.

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 xx. Amendment of Section. CBJ 49.15.423 Panhandle Lots is amended to read:

49.15.423 Panhandle lots.

(a) ~~The subdivision of a parcel creating 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 requirements ~~detailed below~~.

(1) Lot Dimensional requirements.

(A) The front and panhandle lots, excluding the panhandle, 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 2030 feet wide.

(C) The panhandle portion of the lot shall not be longer than 300 feet in D-1 zones or and one and one-half 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.~~

Comment [BM1]: Ron King suggested removing this...there is no survey reason...we could leave it in if we want tidy panhandles. I did once get a variance request to this requirement that was w/drawn because my denial was so strong.....

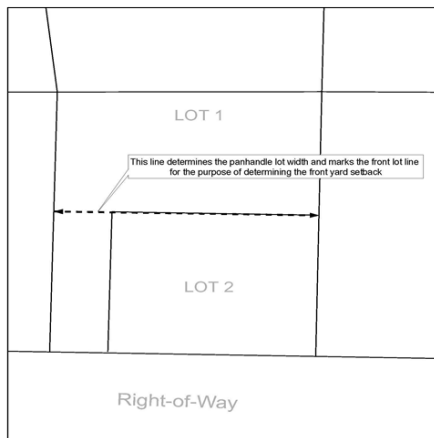
(G) The lot width for the panhandle lot shall be the distance between its side lot lines boundaries measured behind the back lot line of the front lot. ~~Such lot line shall also be considered the front lot line of the panhandle lot for the purpose of determining the front yard setback.~~

(2) ~~Minimum lot size. Each lot served by a public sewer system shall be 20,000 square feet. 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 low water, and each lot using such disposal must abut the salt water to a minimum of 30 feet.~~

(3) Setbacks.

(A) A lot fronting a right-of-way may establish a front yard setback or street side yard setback adjoining the right-of way or the panhandle.

(B) The front yard setback for the panhandle lot shall be measured from behind the back lot line of the front lot.



[add illustration for front and side street setbacks.....]

(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. Access shall be located in the panhandle. A lot fronting a right-of-way may have a separate and additional access if approved by CBJ 62.36. Access to each lot shall be designated on the plat and in the form of an easement or plat note.~~
 - (B) Off street parking shall be provided in an amount sufficient to meet the requirements of CBJ 49.40, article II.
 - (C) A driveway and parking plan that shows the feasibility of off-street parking shall be submitted and approved by the director prior to recording the plat.
 - (D) Back out parking is prohibited into a right-of-way.
 - (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 comply with emergency service access as required by CBJ 19.10. 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.
 - (I) The portion of the driveway in the right of way or the first 20 feet from the edge of the public roadway shall be paved, whichever length is greater.
- (b) Neither lot resulting from a panhandle subdivision may be further divided into another panhandle subdivision.

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

Adopted this ____ day of _____, 2017.

_____, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

DEFINITIONS....

**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 MINIMUM REQUIRED BY CODE.**

Comment [BM2]: Are we still good with this or do we need to amend it?

49.35 DIVISION 2 PRIVATE SHARED ACCESS....

**49.35.263(C) THE FRONT YARD SETBACK SHALL BE MEASURED FROM THE SHARED ACCESS
EASEMENT. A LOT FRONTING A RIGHT-OF-WAY MAY ESTABLISH A FRONT YARD SETBACK OR STREET
SIDE YARD SETBACK ADJOINING THE RIGHT-OF WAY OR THE PANHANDLE.**

Comment [BM3]: Language used should match panhandle....Rob I'll leave it to you to incorporate this into the ordinance format.



(907) 586-0715
CDD_Admin@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

TO: Title 49 Committee of the Planning Commission

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

A handwritten signature in black ink, appearing to read "L. Boyce", is positioned to the right of the "FROM:" line.

DATE: June 27, 2017

RE: Privately-Maintained Access in Public Rights-of-Ways (PMAs)

The Assembly directed staff to amend Title 49 to the Privately Maintained Access in Private Rights-of-Way (PMAs). PMAs were added to the Land Use Code in September, 2015, with the subdivision rewrite. This access option is available for subdivisions of up to 13 residential lots to plat a right-of-way but not to have to construct a full public street. A private access road can be constructed instead, with all owners sharing in the cost of its maintenance. When future development occurs that adds additional trips or lots that exceed the threshold, then a public street will need to be constructed before the additional development can occur.

This access option was in the draft ordinance as applicable borough-wide. At the Assembly public hearing, the ordinance was amended to allow this option outside of the Urban Service Boundary (USB) only. Since paved streets are an urban amenity, and since PMAs allow for un-paved streets, the Assembly felt that this option was best suited for more rural areas. However, since the Code was recently amended to allow shared driveways, which can be unpaved, anywhere in the Borough, the Assembly asked for PMAs to be an option borough-wide.

This proposed amendment would remove the restriction on PMAs to be only outside the urban service area; they would be a development option borough-wide. CDD requests input from the Title 49 Committee about this proposal and asks for it be considered at an upcoming Planning Commission meeting.

DIVISION 3. - PRIVATELY MAINTAINED ACCESS IN A RIGHT-OF-WAY

49.35.270 - Purpose.

A privately maintained access road serving 13 or fewer lots ~~located outside the urban service area~~ may be constructed within a public right-of-way and constructed to less than full public street construction standards.

49.35.271 - Application.

On a preliminary plat application, the applicant must submit the following to request approval for a privately maintained access in a right-of-way:

- (1) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities; and
- (2) A proposed access agreement as required by 49.35.272.

49.35.272 - Access agreement.

(a) 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 not being responsible for 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, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;
- (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 location, 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 is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately maintained access road and public right-of-way 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 211 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 access agreement;

(10) Any development that increases the estimated traffic above 211 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; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

49.35.273 - Standards.

(a) Agency review. The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) Approval criteria. A subdivision may be approved, with or without conditions, with privately maintained access in a public right-of-way if all of the following criteria are met:

- (1) ~~The subdivision is located outside of the Urban Service Boundary;~~
- (2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;
- (3) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;
- (4) The proposed privately maintained access does not endanger public safety or welfare;
- (5) The proposed privately maintained access will be improved to provide for emergency service access;
- (6) A privately maintained access shall only serve property in which the maximum allowable residential density uses do not exceed 211 average daily trips as determined by the director; and
- (7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed with or without a conditional use permit, even if accessory apartments are not currently proposed.
- (8) Privately maintained access is prohibited unless:
 - (A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way; or
 - (B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.35.272.

(c) Approval process.

- (1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of decision have been satisfied.
- (2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access has been constructed consistent with corresponding standard in 49.35.240 for a roadway with zero to 211 average daily trips.
- (3) The access agreement is recorded prior to recording the final plat.
- (4) The director may impose conditions necessary for public, health, safety, and welfare upon approving the subdivision.

49.35.274 - Other requirements.

- (a) If a preliminary plat with a 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 is not maintained by the City and Borough.
- (c) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.