



MEMORANDUM

DATE: May 17, 2021
TO: Michael Levine, Chair of Planning Commission
FROM: Robert Palmer, Municipal Attorney
SUBJECT: Ordinance 2021-13 Draft vPC, Amend Title 49 re Habitat and Coastal Zone Mgmt.

In 1970, Congress enacted the Coastal Zone Management Act to facilitate coastal development by involving state and local governments in “consistency determinations.” In 1977, the Alaska Legislature enacted the Alaska Coastal Management Act, which allowed the State and municipalities to participate in the decision making process. The CBJ quickly followed by enacting the Juneau Coastal Management Program, CBJC 49.05.200(b)(1)(A), and a robust set of “enforceable policies,” CBJC 49.70.900-960, which articulated the CBJ’s priorities for consistency determinations pursuant to State law. That regulatory framework existed for approximately 35 years.

In 2011, by operation of AS 44.66.020 and .030, the Alaska Coastal Management Act was repealed. Without the Alaska Coastal Management Act, the local enforceable policies of CBJC 49.70.900-960 are historical artifacts of a regulatory framework that no longer exists.

Unfortunately, because CBJC 49.70.900-960 remained in code for the last decade, its presence has recently caused chaos. Notably, CDD staff recently approved a grading permit to cut trees and undertake a grading project along Duck Creek in violation of 49.70.310 by applying a provision from the coastal management section, 49.70.950(f). Currently, the only tool to deviate from the setback provisions of 49.70.310 is a variance, CBJC 49.20.200.

Given the 2011 repeal of the underlying State law and the recent Duck Creek permitting error, I worked with CDD Director Maclean to propose amendments to Title 49 that eliminated the confusion between 49.70.310 and 49.70.900-960. The attached draft does the following:

Section 2: Repeals the overarching Juneau Coastal Management Plan

Section 3: Repeals all of the “enforceable policies” of the Coastal Management code

Section 4: Adds an exception to 49.70.310 for water-dependent facilities

Staff request: Consider any amendments and then recommend Ord. 2021-13 for Assembly introduction.