

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

December 16, 2021
Virtual Meeting Only
12:00 PM

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I. ROLL CALL

II. APPROVAL OF AGENDA

III. AGENDA TOPICS

A. AME2017 0001: Proposed Revisions to CBJ 49.70.310

IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS


V. ADJOURNMENT



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DATE: December 13, 2021

TO: Title 49 Committee

FROM: Teri Camery, Senior Planner, CFM 

SUBJECT: AME2017 0001: Proposed Revisions to CBJ Code 49.70.310

INTRODUCTION

The purpose of this memo is to present staff recommendations and proposed revisions from Title 49 Committee meetings in July, October, and November 2021, and selected revisions from the internal review of the anadromous waterbody ordinance by former CDD employee Ms. Savage. Per the Committee's direction, revisions have not been presented in the track changes format. However, a tracked changes version is included for reference. Comments have been provided on the margins as needed.

Attachments include the original Juneau Coastal Management Program ordinance; existing code and an outline of proposed sections; draft Anadromous Waterbody Protection ordinance and draft coastal management program language for 49.70; and a new floathome ordinance for inclusion in Specified Use Areas, CBJ 49.65.1300.

SUMMARY OF MOST RECENT REVISIONS

Staff has made recommended revisions to the anadromous waterbody ordinance, and overhauled the former coastal management ordinance into three code sections: 49.70.320 Coastal Development and Special Habitats; 49.70.330, Special Waterfront Areas; and 49.65.1300 Specified Use Provisions, Floathomes, and Floating Structures.

ATTACHMENTS

Attachment A – Existing Code and Proposed Organization
Attachment B – Revised Draft Ordinance
Attachment C – Revised Draft Ordinance in Track Changes
Attachment D – Original Juneau Coastal Management Program

Current ordinance

49.70.310

(a) Development in the following areas is prohibited:

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

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

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

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

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

Except for the setback area necessary for such developments or disturbances, the remaining setback shall be vegetated or revegetated, where feasible and prudent, and such vegetation or revegetation shall be kept or arranged to maximize shade on the stream or lake. A variance is required for any other development or disturbance in the setback prohibitions of this section.

Proposed ordinance, AME20210011 Anadromous Waters Catalog revision

49.70.310 Habitat.

(a) Development in the following areas is prohibited:

- (1) On Benjamin Island within the Steller sea lion habitat;
- (2) Within 50 feet from the ordinary high water mark of streams designated in the most recent Alaska Department of Fish and Game Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes ~~Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update;~~ and
- (3) Within 50 feet from the ordinary high water mark of lakeshores designated in the most recent Alaska Department of Fish and Game Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes ~~Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.~~

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

- (1) Within 25 feet from the ordinary high water mark of stream corridors designated in the most recent Alaska Department of Fish and Game Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes ~~Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update;~~ and
- (2) Within 25 feet from the ordinary high water mark of lakeshores designated in the most recent Alaska Department of Fish and Game Atlas and Catalog of Waters Important for the

Spawning, Rearing, or Migration of Anadromous Fishes Appendix B of the comprehensive plan of the City of Borough of Juneau, 2013 Update.

Suggested organization:

49.70.310 Anadromous Waterbody Protection.

Staff notes that (a) (2 and 3) and (b) (1 and 2) from 49.70.310 existing code and the proposed AME2021-0011 have been integrated into this change.

49.70.320 Coastal Development and Special Habitats

New umbrella heading for part of the old JCMP. Staff has also moved the prohibition on development on Benjamin Island from the original 49.70.310 to this section.

49.70.330 Special Waterfront Areas

49.65.1300 Specified Use Provisions: Floathomes and Floating Structures

49.70.310 Anadromous Waterbody Protection

(a) *Purpose*

The purpose of this chapter is to protect and preserve the stability of anadromous fish habitat through:

1. Controlling alteration and mitigating disturbances to riparian buffers;
2. Preserving riparian habitat and restricting the removal of natural riparian vegetation;
3. Controlling pollution sources;
4. Prohibiting certain uses and structures detrimental to anadromous waters and riparian habitat;
5. Decreasing erosion, sedimentation, and damage to riparian buffers; and
6. Regulating access to and within the riparian buffer.

(b) *Applicability*

This chapter applies to anadromous waterbodies listed in the most recent Alaska Department of Fish and Game *Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes* [hereafter, *Catalog*].

(c) *Establishment of Buffers*

All waterbodies listed in the *Catalog* shall have an inner buffer measuring from 0 to 25 feet adjacent to the waterbody and an outer buffer measuring from 25 feet to 50 feet.

(1) *Measurement of Buffers*

- (A) The buffer shall be measured by the horizontal distance from the Ordinary High Water Mark, as determined by a licensed surveyor, using the Ordinary High Water Mark definition in CBJ 49.80.120.
- (B) On coastal lots, the transition point from the waterbody buffer to the zero setback of tidewater shall be at the point where Mean High Water and Ordinary High Water meet, as determined by a licensed surveyor.

(d) *Anadromous waterbody permit required*

Any development within the inner (0-25 feet) or outer (25 -50 feet) buffer requires an Anadromous Waterbody Permit issued by the director, unless otherwise directed or exempted.

(1) *Uses not requiring a permit*

- (A) Mining activities conducted entirely below the Ordinary High Water Mark. Mining activities must conform with CBJ 49.65.100.
- (B) Placement of fish weirs by a resource agency.
- (C) Placement of water quality or water quantity monitoring equipment by a resource agency.

(2) *Prohibited Uses in the Inner and Outer Buffer*

- (A) Storage of fuel, explosives, or other hazardous materials.

(3) *Uses not listed*

Similar use determinations shall be made by the director. Uses not listed, not eligible for a similar use determination, or not otherwise prohibited may be allowed with a Conditional Use Permit issued by the commission.

(e) Uses requiring an anadromous waterbody permit

- (1) An Anadromous Waterbody Permit issued by the director must be obtained prior to beginning development within the inner or outer buffer.
- (2) An applicant who requires a permit under this chapter must file an application with the department according to the requirements established in XXX, Contents of Application.
- (3) Limbs that overhang the waterbody immediately adjacent to the stream shall be subject to the standards of the inner buffer.
- (4) When a development is both above and below the Ordinary High Water Mark, an Anadromous Waterbody Permit shall be required unless otherwise exempted.
- (5) Uses that overlap buffers shall be subject to the most restrictive buffer standard.
- (6) Anadromous waterbody permits shall undergo a Tier One or Tier Two review process as outlined in sections 49.70.310(h).

(f) Uses allowed within the 0 to 25 foot inner buffer

The following uses and types of development are allowed within the 0 to 25 foot inner buffer with approval of an Anadromous Waterbody Permit, approved by the director, provided that those uses cannot be reasonably completed outside of the inner buffer, and meet the Riparian Vegetation Standards and Anadromous Waterbody Best Management Practices listed in 49.70.13XX:

- (A) Bank and buffer restoration, including but not limited to removal of debris, removal of abandoned machinery and vehicles, grading and stabilization of banks and related cleanup activities, and preservation or restoration of riparian vegetation;
- (B) Bank stabilization conducted in accordance with the ADF&G 2005 revised edition of Streambank Revegetation and Protection: A Guide for Alaska. Additional requirements, including a grading permit and/or Floodplain Development Permit may apply. Bank stabilization must conform with CBJ 47.70 Article IV, Flood Hazard Areas.
- (C) Bridges, utilities, and related public and private infrastructure, including culverts, that conform with CBJ 49.70 Article IV, Flood Hazard Areas;
- (D) Construction of a fence;
- (E) Public Safety measures. Developments to address a threat to public safety, including but not limited to the following, are allowed within the 0-25 foot buffer with the following special requirements:
 1. Placement of surveillance equipment;
 2. Removal of individual or select trees that present an immediate and direct, visually-documented threat of falling onto a structure;
 3. Removal of individual or select trees to mitigate potential damage to a structure, with a letter of documentation from a licensed arborist;
 4. Removal of individual or select trees or vegetation to improve visibility in an area with criminal activity as documented by the Juneau Police Department. Removal of vegetation shall be allowed only after less-damaging alternatives have been evaluated and proven unsuccessful;

Commented [TC1]: Licensed arborist language will be flagged for Law.

- (F) Removal of non-native invasive plant species, as listed in an official document specific to the State of Alaska, with documentation that removal and disposal methods will not contribute to invasive species spread;
- (G) Stormwater management to improve water quality and/or water quantity, which conforms with the 2010 CBJ Manual of Stormwater Best Management Practices;
- (H) Trail construction or trail maintenance for accessing a waterbody crossing.

Commented [TC2]: In early reviews of the ordinance, resource agencies indicated that new trail construction within the 0-25 foot buffer should not be allowed due to impacts such as removal of vegetation, shading, and filtration. However existing trails in the 0-25 foot should be allowed to be maintained, and trails that cross the waterbody should be allowed. New trails are allowed in the 25-50 foot buffer but not in the 0-25.

(g) Uses allowed within the 25 to 50 foot outer buffer

In addition to the uses and types of development allowed in the inner buffer, the following uses and types of development are allowed within the outer buffer with approval of an Anadromous Waterbody Permit, approved by the Director, provided that those uses cannot reasonably take place outside of the buffer, and provided that those uses meet the Riparian Vegetation Standards and Best Management Practices listed in 49.70.13XX:

- (A) Trail construction and trail maintenance parallel to a waterbody;
- (B) Grading, vegetation removal, and placement of utilities associated with construction of a structure; and
- (C) Viewshed and light enhancement. Selective removal of woody vegetation shall be allowed with the following special requirements:
 - a. Vegetation removal shall be the minimum necessary to meet the applicant's stated purpose and need for the development;
 - b. Vegetation removal shall be mitigated with the placement of additional vegetation in other areas of the inner and outer buffer where possible.

(h) Tier One and Tier Two Review. Tier One review is intended for common developments with minimal impacts to the buffer. Tier Two review is intended for developments with the potential for higher impacts to the buffer and requires agency review.

(A) Tier One Anadromous Waterbody Permits are required for the following types of development:

- (1) Bridges, utilities, and related public and private infrastructure, including culverts;
- (2) Construction of a fence;
- (3) Grading, vegetation removal, and placement of utilities associated with construction of a structure.
- (4) Removal of non-native invasive plant species, as listed in an official document specific to the State of Alaska, with documentation that removal and disposal methods will not contribute to species spread;
- (5) Stormwater management to improve water quality and/or water quantity;
- (6) Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody;
- (7) Trail construction or trail maintenance parallel to a waterbody;
- (8) Viewshed and light enhancement;

(B) Tier Two Anadromous Waterbody Permits are required for the following developments:

- (1) Bank and buffer restoration;
- (2) Bank stabilization;
- (3) Public safety measures.

The following table provides a list of uses with the review level and allowed buffer zone. Additional specifications are included in 49.70xxx

Use	Review Level		Buffer Zone	
	Tier 1	Tier 2	Inner	Outer
Bank and buffer restoration		X	X	X
Bank stabilization		X	X	X
Bridges, utilities, and related public and private infrastructure, including culverts	X		X	X
Construction of a fence	X		X	X
Grading, vegetation removal, and placement of utilities associated with construction of a structure.	X			X
Public Safety measures		X	X	X
Removal of non-native invasive plant species	X		X	X
Stormwater management to improve water quality and/or water quantity	X		X	X
Trail construction or trail maintenance for a waterbody crossing	X		X	X
Trail construction or trail maintenance parallel to a waterbody	X			X
Viewshed and light enhancement	X			X

Commented [TC3]: This would refer to the previous sections that provide more description of the uses and some specific requirements, such as for bank and buffer restoration, bank stabilization, public safety, viewshed and light enhancement, and invasive species.

(i) *Tier One application requirements.*

(1) *Pre-application conference.* A pre-application meeting is not required for Tier One review.

(2) *Tier One Submission.* The applicant shall submit to the department one copy of the completed permit application together with all supporting materials and the permit fee.

- (A) A graphic and legal description of the property and property boundaries;
- (B) A site plan or graphic depicting the location of the proposed project on the parcel;
- (C) A narrative statement describing the proposed action, potential impacts to riparian habitat as defined pursuant to 49.70.13XX, and measures to mitigate impacts to riparian habitat, if applicable; and
- (D) Additional information as determined by the director.

(3) *Approval process.*

(i) Review of application. The director shall review the application, consult with the applicant, and approve an anadromous waterbody permit unless:

- (a) The application is incomplete;

(b) Issuance of the requested permit is beyond the director's authority according to the table of permissible uses; or
 (c) The development as proposed will not comply with one or more requirements of this title.

(ii) Conditions on approval. The director may condition department approval as necessary to ensure compliance with this title.

(j) *Tier Two application requirements.*

(1) *Pre-application conference.* Prior to submission of an Anadromous Waterbody application, the applicant shall meet with the director for the purpose of discussing the site, the proposed development activity, and the permit procedure. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the applicant or the director shall be regarded as binding or authoritative for purposes of this code.

(2) *Tier Two Submission.* The applicant shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.

(A) A graphic and legal description of the property and property boundaries;

(B) A map of existing conditions including, at a minimum, existing topography, drainage features, structures, significant natural and artificial conditions of the land, and existing vegetation; and

(C) A narrative statement describing the existing conditions, proposed activities, and site restoration plan, including:

- i. Proposed activities and methods, in conformance with the Best Management Practices and Riparian Vegetation Standards pursuant to 49.70.XX;
- ii. A description of how the development meets the purpose of the ordinance;
- iii. Existing site conditions;
- iv. An explanation of why the development must be located within the inner or outer buffer;
- v. Anticipated temporary and/or permanent changes to habitat resulting from proposed uses and activities;
- vi. Existing species of vegetation and proposed species to be used for revegetation;
- vii. Schedule for development activity, removal of vegetation, revegetation, and the method by which the activity shall be conducted, in conformance with the Best Management Practices and Riparian Vegetation Standards pursuant to 49.70.13XX;
- viii. Maintenance schedule, if applicable;
- ix. Additional requirements as listed in 49.70.XX, if applicable;
- x. Additional information as determined by the Director.

Commented [TC4]: Would refer to special requirements for public safety measures, and viewshed and light enhancement as noted in the previous section

(k) *Director's review procedures.*

Upon receipt of an application and the required filing fee, the department shall review the submission for completeness.

Upon a determination that the application is complete, the department shall transmit the application to interested agencies. Referral agencies shall be invited to respond within 15 days unless an extension is

requested and granted in writing for good cause by the director. Tier One reviews with minor impacts may have a reduced agency review period at the Director's discretion. Tier Two reviews may be reviewed by an additional scientific board, such as the Wetlands Review Board, for advisory recommendations at the Director's discretion.

The Department shall issue an Anadromous Waterbody Permit Notice of Decision, with findings and conditions that ensure conformance with the Purpose and Intent of this ordinance. The permit will expire 18 months after the effective date if no Building Permit or Grading Permit has been issued and/or substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date in accordance with CBJ 49.15.250.

(I) Anadromous Waterbody Best Management Practices.

Anadromous Waterbody Best Management Practices shall apply to all uses or types of development within the inner or outer buffer:

(A) Delineate and flag work limits prior to commencing any activities to preserve existing vegetation outside of the work area and minimize impacts to the buffer. To protect large trees near, but outside of, the work area, the boundary for the natural area to be preserved should be extended to the tree drip line to protect the root zone from damage. The work limits must remain clearly marked until all work is complete. Within the work limits, the disturbed area shall be limited to that required for construction including access. Complete or partial removal of and damage to native vegetation shall be limited to the minimum necessary to achieve the project purpose;

(B) When existing vegetation must be removed from the buffer, the buffer shall be revegetated with native plant species that are present or appropriate for that area within one growing season. The buffer shall be revegetated and such revegetation shall be kept or arranged to enhance fish habitat. Areas previously degraded by human activity shall be revegetated;

(C) Erosion and sediment control Best Management Practices shall be used during construction activities to protect waterbodies sediment deposition and turbidity due to adjacent soil disturbance activities. Selected BMPs must be implemented in accordance with the standards in the Alaska Storm Water Guide (<http://dec.alaska.gov/water/wnpspc/stormwater/docs/AKSWGGuide.pdf> (DEC, 2011);

(D) All discharge material shall be free from toxic pollutants in toxic amounts as defined by state law;

(E) Uses and activities shall implement measures to minimize pollutant discharges into the waterbody and buffer including but not limited to providing for water management, establishing staging, fueling, and maintenance areas outside of the buffer;

(F) Development allowed within the buffer must be constructed so as not to impede floodwaters or impede fish passage and must conform with CBJ 49.70 Article IV, Flood Hazard Areas;

(G) Developments must comply with the 2010 CBJ Manual of Stormwater Best Management Practices.

(m) *Riparian vegetation standards.* Riparian vegetation standards shall apply to all uses or types of development within the inner or outer buffer. All uses and types of development within the inner and outer buffer shall include a vegetation plan to maintain or restore the buffer to the following standards:

(A) The vegetation plan shall consider a diversity of native species appropriate for the site conditions found in the Recommended Plan List in Appendix E of the CBJ's Manual of Stormwater Best Management Practices (2010) and/or the Plant Selection List in the Alaska Department of Fish and Game's Stream Revegetation and Protection: A Guide for Alaska (2005). The vegetation plan shall favor natural plant reclamation from neighboring plant communities when possible. If the site was considered to be in a natural state prior to the use/activity, the area shall require revegetation with the same species. The plan shall also implement any standards from the Landscaping and Lawn/Vegetation Management sections in the CBJ's Manual of Stormwater Best Management Practices (2010), identified by staff as applicable to the permitted development; and

(B) Uses and activities shall not introduce or redistribute invasive species.

(n) *Mitigation measures.* Mitigation measures may be required by the Commission or department to address impacts and ensure conformance with the Purpose of this ordinance. Mitigation measures include, but are not limited to:

(A) Standard erosion and stormwater runoff control measures;

(B) Restoration and maintenance of native vegetation and water quality protection functions;

(C) Removal of non-conforming structures from the buffer.

(D) Other measures as agreed upon by the director or the commission and applicant, such as removal of riprap, jetties, debris, or structures that may be detrimental to fish habitat, improvements to water treatment systems, or widening buffers in other areas.

(o) *Conformance with permit.*

After approval of the permit, staff shall inspect the site prior to commencement of activity to ensure the site is properly marked and the site matches the plans submitted with the application. Staff shall inspect the site upon project completion to ensure maintenance of vegetation, conformance with approved plans, and conformance with title.

(p) *Stream channel alteration.* A stream shall not be moved, ditched, or piped, unless a conditional use permit is issued with consideration of potential impacts including the following:

(A) Practical alternatives to moving, piping, or otherwise altering the channel;

(B) The potential to increase flooding or erosion problems upstream or downstream;

(C) Any potential obstruction of water flow;

(D) The flow lines of the altered section of the channel as related to those in the existing channel at the endpoints of the alteration;

(E) The adequacy of the gradient/meander balance, grade control, and bed stability to maintain the natural stream function of water conveyance and sediment transport;

(F) Conformance with CBJ 47.70 Article IV, Flood Hazard Areas, where applicable; and

(G) Conformance with the Purpose of this ordinance.

(q) *Emergency permits.*

(1) In an emergency, the director may issue a temporary permit, in writing, to protect life and property from imminent danger or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by the emergency providing that:

(A) An emergency permit shall only authorize the minimum amount of work required to mitigate the emergency situation;

(B) An emergency permit is not intended to provide for any work beyond that necessary to provide for a safe environment. Any additional work shall follow applicable permitting procedures set forth in this chapter; and

(C) Work shall be conducted using Best Management Practices to ensure that any adverse effect on the anadromous water body and buffers is minimized.

(2) The written permit shall include the following:

(A) A description of the activity;

(B) A description of the emergency; and

(C) A narrative describing why the activity is necessary to protect life and property from imminent danger or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by the emergency.

(3) Conditions may be attached to emergency permits to comply with this title. A final report that includes the plans and specifications for the work that was completed must be submitted to the department within 60 days of the date of the emergency. The director may require mitigation to repair damage to the anadromous waters or adjacent buffers and ensure conformance with the Purpose of this ordinance. All permitting shall be defined and be started within two weeks of the emergency.

49.80 *Definitions*

“Emergency” means a sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

“Erosion” means significant sloughing, washout, or discharge of soil arising from manmade sources or causes.

“Stormwater management” means the use of structural or non-structural practices designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates, and other detrimental changes that affect water quality and habitat.

“Surveillance equipment” means equipment capable of capturing or recording data, including images, videos, photographs or audio for purposes of addressing a threat to public safety

“Threat to public safety” means anything which is injurious to the safety or health of a household or neighborhood.

CBJ 49.85.100 is amended to read:

(21) Anadromous Waterbody Permit Application

(A) Tier One \$75

(B) Tier Two \$200

314

315 **49.70.320 Coastal Development and Special Habitats**

316 (a) The purpose of this section is to manage and protect the natural resource values of Juneau's
317 coastline and special habitats including Stellar sea lion habitat, wetlands, rivers, streams, and lakes.

318 (b) The following policies shall apply:

319 (1) Development is prohibited on Benjamin Island within the Stellar sea lion habitat;

320 (2) Dredging and filling shall be prevented in highly productive tideflats and wetlands, subtidal
321 areas important to shellfish, and water important for migration, spawning and rearing of salmon,
322 unless there is a significant public need for the project and there is no reasonable alternative to
323 meet the public need.

324 (3) Shoreline industrial developments, ports, harbors and marinas shall be sited, designed,
325 constructed and operated such that:

326 (A) Facilities for proper handling of sewage, refuse, fuel and waste oil are provided;

327 (B) All reasonable steps are taken to prevent water pollution by incorporating best
328 management practices;

329 (4) Ports, harbors and docks shall be located away from extensive tideflats and wetlands and so
330 as not to obstruct fish passage along the coast or in waters used by anadromous fish.

331 (5) Fish and seafood propagation and processing and aquaculture

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

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

340 (6) Public Safety.

341 (a) Coastal development shall not impair lawful navigation, and navigable waters shall be kept
342 free of unnecessarily hazardous or obstructive development.

343 (c) The habitats contained in subsection (d) of this section shall be managed so as to maintain or
344 enhance the biological, physical and chemical characteristics of the habitat which contribute to its
345 capacity to support living resources.

346 (d) In addition to the standard contained in subsection (c) of this section, the following standards shall
347 apply to the management of the following habitats:

348 (1) Estuaries shall be managed so as to ensure adequate waterflow, natural circulation patterns,
349 nutrients, and oxygen levels, and to avoid the discharge of silt, toxic wastes and the
350 destruction of productive habitat;

Commented [TC5]: This is existing code language that has been moved to the coastal development for clarity. The anadromous waterbody ordinance will replace the existing 49.70.310 and this single item would be left hanging unless moved to another section.

Commented [TC6]: Retain in Habitat Section despite duplication. Language is specific and has been used in reviews of coastal developments and allows CDD to obtain needed habitat information. Staff could not find a clear definition of "highly productive tideflats and wetlands" as requested by the Committee. This determination will be made through information gathered in the agency review process for Conditional Use Permits.

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

Commented [TC8]: Sections (5) is recommended for retention despite some duplication of state authority because these policies provide more detailed standards of review for the Conditional Use Permit process and support the 2013 Juneau Comprehensive Plan implementing action 5.13-1A4, page 60, which states "Support mariculture that does not have unacceptable impacts on important fish and wildlife habitat and other maritime-related activities and ensure adherence with state law and protocols on mariculture practices. Use of invasive species or harmful food or waste products in these operations shall be prohibited." At a minimum, these policies ensure that fisheries development must have all required state permits. The determination of what adversely impacts important fisheries habitat, migratory routes, and harvest, and shorelines critical for the fisheries resource base will be informed by the agency review process for Conditional Use Permits.

Commented [TC9]: Duplicates USCG authority. Proposed to retain to provide a more specific standard of public safety review for coastal developments.

- 351 (2) Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and
 352 oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of
 353 important habitat, and the discharge of toxic substances;
- 354 (3) Rivers, streams and lakes shall be managed so as to protect natural vegetation, water quality,
 355 important fish or wildlife habitat and natural waterflow.
- 356
- 357 (e) Uses and activities in the coastal area which will not conform to the standards contained in
 358 subsections (b-d) of this section may be allowed if the following standards are met:
- 359 (1) There is a significant public need for the proposed use or activity;
- 360 (2) There is no reasonable alternative to meet the public need for the proposed use or activity
 361 which would conform to the standards contained in subsections (b-d) of this section; and
- 362 (3) All reasonable steps to maximize conformance with the standards contained in subsections
 363 (b-d) of this section have been taken.

Commented [TC10]: These items have been retained despite duplication with state authority because of 2013 Comprehensive Plan policies that indicate the importance of these resources to the community, as described in Chapter 7, pp 77-86.

Commented [TC11]: Retain in Habitat section. This section has been used to allow approval of developments that have unavoidable habitat impacts but have a high public need and no feasible alternatives. One example is the Alaska Glacier Seafoods Seafood processing plant, which filled important intertidal habitat but had mitigation and was considered a public need.

371 **49.70.330 Special waterfront areas.**

- 372 (a) Purpose. The purpose of this section to encourage development of marine and marine-related
 373 facilities in established Special Waterfront Areas coastal areas with lower habitat value. Other
 374 purposes include:
- 375 (1) to provide greater protection for coastal areas outside of Special Waterfront Areas with higher
 376 habitat value, including a prohibition on intertidal fill used for expansion of upland areas;
- 377 (2) to promote pedestrian access to the downtown waterfront with a seawalk; and
- 378 (3) to provide special policies for other unique Special Waterfront Areas.
- 379 (b) *General standards.*
- 380 (1) The Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each
 381 special waterfront area, and the maximum seaward limits for permanent development in
 382 each special waterfront area. The land or water inside the boundaries shown on the Special
 383 Waterfront Area Map is subject to the provisions of this section.
- 384 (2) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the
 385 expansion of upland area is specifically prohibited unless clear and convincing evidence is
 386 provided showing that all of the following conditions exist such that:
- 387 (A) Strict compliance with the policy would prevent the applicant from making a reasonable
 388 use of the property or would make compliance unreasonably burdensome;
- 389 (B) Fill is the only means to allow development of the property which is similar to other
 390 properties in the vicinity;

- 391 (C) Less than the proposed fill would prevent the applicant from making a reasonable use of
392 the property or would make compliance unreasonably burdensome;
- 393 (D) The proposed project will not be detrimental to the public health, welfare and safety or
394 to other properties in the vicinity;
- 395 (E) Provided, log and mining transfer facilities and the following public facilities are exempt
396 from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines,
397 treatment plant lines and outfalls, and transportation facilities.
- 398 (F) Fill for expansion of the upland area is fill intended for structural support. Examples
399 include structural support of buildings, parking lots, and related facilities. Fill for
400 expansion of the upland area does not include fill used for rock walls, bank stabilization,
401 and similar uses.
- 402 (3) Fill proposals within the special waterfront areas are not subject to the fill prohibition of
403 subsection 49.70.330(b)(2) relating to coastal development. Each fill proposal shall be
404 individually reviewed to ensure that configuration, timing, composition and construction
405 practices will minimize impacts on habitats and meet the water quality standards. The size of
406 any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain
407 integrity of the fill, maintain or enhance habitat values, or to fulfill other requirements of this
408 section.
- 409 (4) If new site-specific information becomes available which clearly indicates that crucial habitats
410 exist within the Special Waterfront Areas, and if after consultation with the City and Borough
411 and state resource agencies, these entities concur, a specific evaluation pursuant to
412 subsection 49.70.320(e) will be immediately required for projects within the crucial habitat
413 areas.
- 414 (5) A change to the special waterfront areas may be initiated by the submittal of new information
415 regarding habitats to the department. To initiate a program change new information must be
416 based on detailed site-specific studies which indicate that the habitat is substantially more
417 productive than was indicated in the information which was available on May 22, 1986.
- 418 (c) *Special policies for the special waterfront areas.*
- 419 (1) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except
420 that necessary to construct a public boat ramp.
- 421 (2) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area
422 except as needed by the U.S. Coast Guard for its purposes or as allowed by the state
423 department of fish and game for habitat maintenance and enhancement.
- 424 (3) No floating structures are allowed within 300 feet of the mouths of streams in the Thane
425 special waterfront area.
- 426 (4) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.
- 427 (5) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a
428 natural beach for salmon resting.
- 429 (6) Seawalk. A pedestrian access easement and walkway intended to provide a continuous
430 pedestrian path along the entire downtown waterfront area, shall be included with all future
431 development or redevelopment along the downtown waterfront shoreline. This walkway, to
432 be known as the seawalk, shall be a continuous path along the entire downtown waterfront

Commented [TC12]: Special Waterfront Areas were determined long ago to be areas of low habitat value. This section is for the situation (which has never happened in my tenure) where new information has come forward that indicates that a Special Waterfront Area has crucial habitats. If CBJ and state resource agencies accept that, then regulation refers back to the public need standard, which says that if a development has unavoidable habitat impacts there must be a demonstrated public need. The specific evaluation referred to is not a habitat evaluation—it's the evaluation of the public need criteria.

as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk, property owners developing or redeveloping property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and Borough equal to 20 percent of the final project cost for a seawalk constructed to public assembly standards for the section abutting their property. Unless the alignment of the seawalk requires otherwise, owners of property along the waterfront shoreline within the area encompassed by the Long Range Waterfront Plan developing or redeveloping their property shall dedicate all easements necessary for construction of a seawalk 16 feet in width.

(A) Reserved.

(B) Reserved.

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

(D) Reserved.

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

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

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

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

Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

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

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

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

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

-
- 474 (A) Mooring devices for watercraft;
475 (B) Watercraft transiting the City and Borough that are not intended for residential use in
476 excess of 30 days in any 12 calendar months;
477 (C) Seafood processors whose primary purpose is to receive fish and shellfish from
478 harvesting boats and prepare it for further transportation; and
479 (D) Watercraft intended to transport cargo to, from or within the City and Borough.

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481
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1 49.70.3104 Anadromous Waterbody Protection

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2 (a) Purpose

3 The purpose of this chapter is to protect and preserve the stability of anadromous fish habitat through:

- 4 1. Controlling shoreline alteration and mitigating disturbances to riparian buffers;
- 5 2. Preserving nearshore riparian habitat and restricting the removal of natural riparian vegetation;
- 6 3. Controlling pollution sources;
- 7 4. Prohibiting certain uses and structures detrimental to anadromous waters and riparian habitat;
- 8 5. Decreasing significant erosion, sedimentation, and damage to riparian the buffers; and ground
- 9 or surface water pollution, and damage to riparian wetlands and riparian ecosystems;
- 10 6. Prohibiting certain uses and structures detrimental to the shore land area;
- 11 7.6. Regulating improved access to and within the habitat protection riparian buffer; and
- 12 8. Regulating building setbacks from anadromous waterbodies.

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13 (b) Applicability

14 This chapter applies to anadromous waterbodies listed in the most recent Alaska Department of Fish
 15 and Game Atlas and Catalog of Waters Important for the Spawning, Rearing, or Migration of
 16 Anadromous Fishes [hereafter, Catalog].

17 This chapter applies to waterbodies listed in the most recent Alaska Department of Fish and Game
 18 Anadromous Waters Catalog [hereafter, Catalog].

19 (c) Establishment of Buffers

20 All waterbodies listed in the Catalog shall have an inner buffer measuring from 0 to -25 feet adjacent to
 21 the waterbody and an outer buffer measuring from 25 feet to 50 feet.

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22 (1) Measurement of Buffers

23 (A) The buffer shall be measured by the horizontal distance from the Ordinary High Water
 24 Mark, as determined by the Community Development Department a licensed surveyor, using
 25 the Ordinary High Water Mark definition in CBJ 49.80.120.

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26 (B) Standards shall apply to any portion of a tree (i.e. limbs or trunk) within the buffer.

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27 (C) (B) On coastal lots, the transition point from the waterbody buffer to the zero setback of
 28 tidewater shall be at the point where Mean High Water and Ordinary High Water meet, as
 29 determined by a licensed surveyor.

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30 (D)(A) When a development is both above and below the Ordinary High Water Mark, an
 31 Anadromous Waterbody Permit shall be required unless otherwise exempted.

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32 (d) Anadromous waterbody permit required

33 Any development within the inner (0-25 feet) or outer (25 -50 feet) anadromous waterbody buffer
 34 requires a valid Anadromous Waterbody Permit issued by the director, unless otherwise directed or
 35 exempted.

(1) *Uses not requiring a permit*

(A) Mining activities conducted entirely below the Ordinary High Water Mark. Mining activities must conform with CBJ 49.65.100.

(B) Placement of fish weirs by a resource agency.

~~(A)(C)~~ Placement of water quality or water quantity monitoring equipment by a resource agency.

~~(B)(A) Placement of fish weirs by a resource agency.~~

~~(C) Placement of surveillance equipment.~~

~~(D)(A) Mining activities conducted entirely below the Ordinary High Water Mark.~~

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(2) *Prohibited Uses in the Inner and Outer Buffer*

(A) Storage of fuel, explosives, or other hazardous materials.

~~(B) Storage of explosives.~~

(3) *Uses not listed*

Similar use determinations shall be made by the Director. Uses not listed, not eligible for a similar use determination, or not otherwise prohibited may be allowed with a Conditional Use Permit issued by the commission.

~~(4) Variances and conditional use permits~~

~~Uses that cannot comply with the Best Management Practices and Landscaping Standards listed in section 49.70.13XX may apply for a variance unless otherwise prohibited. Uses not listed may apply for a Conditional Use Permit unless otherwise prohibited.~~

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(e) Uses requiring an anadromous waterbody permit

(1) An Anadromous Waterbody Permit issued by the ~~d~~Director must be obtained prior to beginning development within the inner or outer ~~anadromous waterbody~~ buffer.

(2) An applicant ~~A developer~~ who requires a permit under this chapter must file an application with the department according to the requirements established in ~~XXX~~, Contents of Application.

(3) Limbs that overhang the waterbody immediately adjacent to the stream shall be subject to the standards of the inner buffer.

(4) When a development is both above and below the Ordinary High Water Mark, an Anadromous Waterbody Permit shall be required unless otherwise exempted.

(5) Uses that overlap buffers shall be subject to the most restrictive buffer standard.

(6) Anadromous waterbody permits shall undergo a Tier One or Two review process as outlined in sections 49.70.310(h).

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(f3) Uses allowed within the 0 to 25 foot inner buffer

The following uses and types of development are allowed within the 0 to 25 foot inner buffer with approval of an Anadromous Waterbody Permit, approved by the ~~d~~Director, provided that those uses cannot be reasonably completed outside the inner buffer, and meet the Riparian Vegetation Standards and Anadromous Waterbody Best Management Practices listed in 49.70.13XX:

(A) Bank and buffer restoration, including but not limited to removal of debris, removal of abandoned machinery and vehicles, grading and stabilization of banks and related cleanup activities, and preservation or restoration of riparian vegetation;

(B) Bank stabilization conducted in accordance with the ADF&G 2005 revised edition of Streambank Revegetation and Protection: A Guide for Alaska, where applicable. Bank stabilization projects requiring rip rap require review and approval by the Director of Engineering and Public Works. Additional requirements, including a grading permit and/or Floodplain Development Permit may apply. Bank stabilization must conform with CBJ 47.70 Article IV, Flood Hazard Areas, where applicable.

(C) Bridges, utilities, and related public and private infrastructure, including culverts, that conform with CBJ 49.70 Article IV, Flood Hazard Areas;

(D) Construction of a fence;

(E) Public Safety measures. Developments to address a threat to public safety, including but not limited to the following, are allowed within the 0-25 foot buffer with the following special requirements:

1. Placement of surveillance equipment;
2. Removal of individual or select trees that present an immediate and direct, visually-documented threat of falling onto a structure;
3. Removal of individual or select trees to mitigate potential damage to a structure, with a letter of documentation from a licensed arborist;
4. Removal of individual or select trees or vegetation to improve visibility in an area with criminal activity as documented by the Juneau Police Department. Removal of vegetation shall be allowed only after less-damaging alternatives have been evaluated and proven unsuccessful;

(F) Removal of non-native invasive plant species, as listed in an official document specific to the State of Alaska, with documentation that removal and disposal methods will not contribute to invasive species spread;

(G) Stormwater management to improve water quality and/or water quantity, which conforms with the 2010 CBJ Manual of Stormwater Best Management Practices;

(H) Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody;

~~(B)(A) Removal of non-native invasive plant species, as listed in an official document specific to the State of Alaska;~~

~~(C)(A) Stormwater management to improve water quality and/or water quantity;~~

~~(D)(A) Construction of a fence;~~

~~(E)(A) Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody;~~

~~(F) Bridges, utilities, and related infrastructure, including culverts that conform with CBJ 49.70 Article IV, Flood Hazard Areas, where applicable;~~

Commented [TC1]: This is the former language of 49.70.950(e) for degraded buffer areas. At the July 2021 Committee meeting the committee recommended that these uses be allowed rather than mandatory, so staff has put that section here.

Commented [TC2]: Per Committee direction, staff has added a definition of "threats to public safety." Staff notes that public safety is used throughout T49 and other city ordinances and there is no adopted definition.

Commented [TC3]: Licensed arborist language will be flagged for Law.

Commented [TC4]: In early reviews of the ordinance, resource agencies indicated that new trail construction within the 0-25 foot buffer should not be allowed due to impacts such as removal of vegetation, shading, and filtration. However existing trails in the 0-25 foot should be allowed to be maintained, and trails that cross the waterbody should be allowed. New trails are allowed in the 25-50 foot buffer but not in the 0-24.

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- (G) Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures;
- (H) Removal of vegetation to mitigate damage to structures require a letter of documentation from a licensed arborist; or
- (I) Removal of individual or select trees or vegetation in the Jordan Creek Corridor south of Egan Drive on Juneau International Airport property that constitute a threat to public safety due. Removal of vegetation shall be allowed only after less damaging alternatives have been evaluated and proven unsuccessful; or
- (J) Bank stabilization conducted in accordance with the ADE&C Streambank Revegetation and Protection Guide, where applicable. Bank stabilization projects requiring rip rap require review and approval by the Director of Engineering and Public Works. Additional requirements may apply. Bank stabilization must conform with CBJ 47.70 Article IV, Flood Hazard Areas, where applicable.

(g4) Uses allowed within the 25 to 50 foot outer buffer

In addition to the uses and types of development allowed in the inner buffer, the following uses and types of development are allowed within the outer buffer with approval of an Anadromous Waterbody Permit, approved by the Director, provided that those uses cannot reasonably take place outside of the buffer, and provided that those uses meet the Riparian Vegetation Standards and Best Management Practices listed in 49.70.13XX:

- (A) Trail construction and trail maintenance parallel to a waterbody; Selective removal of branches or trees for viewshed enhancement;
- (B) Grading, vegetation removal, and placement of utilities associated with construction of a structure; and;
- (C) Viewshed and light enhancement. Selective removal of woody vegetation shall be allowed with the following special requirements:
 - a. Vegetation removal shall be the minimum necessary to meet the applicant's stated purpose and need for the development;
 - b. Vegetation removal shall be mitigated with the placement of additional vegetation in other areas of the inner and outer buffer where possible.
- (B) Trail construction parallel to a waterbody; or
- (C) Grading, vegetation removal, and placement of utilities associated with construction of a structure.

(h#) Tier One and Tier Two Review. Tier One review is intended for common developments within minimal impacts to the buffer. Tier Two review is intended for developments with the potential for higher impacts to the buffer and requires agency review.

- (A) Tier One Anadromous Waterbody Permits are required for the following types of development:

- (1) (4) Bridges, utilities, and related public and private infrastructure, including culverts;
- (2) Construction of a fence;
- (3) (9) Grading, vegetation removal, and placement of utilities associated with construction of a structure.
- (4) Bridges, utilities, and related public infrastructure, including culverts;

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- (3) Removal of non-native invasive plant species, as listed in an official document specific to the State of Alaska, with documentation that removal and disposal methods will not contribute to species spread;
- (5) Stormwater management to improve water quality and/or water quantity;
- (6) Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody;
- (7) Trail construction or trail maintenance parallel to a waterbody;
- (8) Selective removal of branches or trees for viewshed enhancement; Viewshed and light enhancement; and
- (9) Bank and buffer restoration that requires only removal or replacement of vegetation; or
- (9) Grading, vegetation removal, and placement of utilities associated with construction of a structure.

(B) Tier Two Anadromous Waterbody Permits are required for the following developments:

- (1) Bank and buffer restoration with activities that exceed removal or replacement of vegetation with hand tools;
- (2) Bank stabilization;
- (3) Public Safety measures. Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures; or
- (4) Removal of vegetation to address damage to structures shall require a letter of documentation from a licensed arborist. Public safety measures.

The following table provides a list of uses with the review level and allowed buffer zone. Additional specifications are included in 49.70xxxx.

Use	Review Level		Buffer Zone	
	Tier 1	Tier 2	Inner	Outer
Bank and buffer restoration <u>with activities that exceed removal or replacement of vegetation with hand tools.</u>		X	X	X
<u>Bank stabilization.</u>		X	X	X
<u>Bridges, utilities, and related public and private infrastructure, including culverts.</u>	X		X	X
<u>Bank and buffer restoration that require only removal or replacement of vegetation with hand tools.</u>	X		X	X
Construction of a fence.	X		X	X
<u>Bridges, utilities, and related public infrastructure, including culverts.</u>	X		X	X
<u>Grading, vegetation removal, and placement of utilities associated with construction of a structure.</u>	X			X
<u>Public Safety measures</u>		X	X	X

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Commented [TC5]: This would refer back to the previous sections that provide more description of the uses and some specific requirements, such as for bank and buffer restoration, bank stabilization, public safety, viewshed and light enhancement, and invasive species.

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Removal of non-native invasive plant species.	X		X	X
Stormwater management to improve water quality and/or water quantity.	X		X	X
Bank stabilization.		✖	✖	✖
Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures. Removal of vegetation to address damage to structures shall require a letter of documentation from a licensed arborist.		✖		✖
Removal of individual or select trees or vegetation in the Jordan Creek Corridor south of Egan Drive on Juneau International Airport property that constitute a threat to public safety due. Removal of vegetation shall be allowed only after less damaging alternatives have been evaluated and proven unsuccessful.		✖	✖	✖
Selective removal of branches or trees for viewshed enhancement.	✖			✖
Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody.	X		X	X
Trail construction parallel to a waterbody	X			X
Viewshed and light enhancement	X			X
Grading, vegetation removal, and placement of utilities associated with construction of a structure.	✖			✖

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(g) Tier One application requirements.

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(1) *Pre-application conference.* ~~Prior to submitting a Tier One Anadromous Waterbody Permit, a pre-application is not required. A pre-application meeting is not required for Tier One review.~~

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(2) *Tier One Submission.* The developer shall submit to the ~~department director~~ one copy of the completed permit application together with all supporting materials and the permit fee.

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(A) A graphic and legal description of the property and property boundaries;

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(B) A site plan or graphic depicting the location of the proposed project on the parcel;

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(A)(C)

196 ~~(B)~~(D) A narrative statement describing the proposed action, potential impacts to habitat
197 values as defined pursuant to 49.70.13XX, and measures to mitigate impacts to ~~habitat~~
198 values, riparian habitat, if applicable; and
199 ~~(C)~~(E) Additional information as determined by the ~~d~~Director.

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200 ~~(3) Department approval. Approval process.~~

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201 ~~(A) Purpose. The department shall review developments to ensure compliance with this title.~~

202 ~~(B) Application form. The director shall provide a minor development application form to be~~
203 ~~submitted as part of the application process for a building permit.~~

204 ~~(C) Community development director procedure.~~

205 (i) Review of application. The director shall review the application, consult with the
206 applicant, and approve an ~~n~~minor development development anadromous waterbody
207 permit unless:

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208 (a) The application is incomplete;

209 (b) Issuance of the requested permit is beyond the director's authority according to
210 the table of permissible uses; or

211 (c) The development as proposed will not comply with one or more requirements of
212 this title.

213 (ii) Conditions on approval. The director may condition department approval as
214 necessary to ensure compliance with this title.

215 (iii) Vegetation shall be maintained according to submitted plans.

216
217 ~~(j)~~ ~~(h)~~ Tier Two application requirements.

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218 (1) ~~Pre-application conference. Prior to submission of an Anadromous Waterbody application, the~~
219 ~~applicant shall meet with the director for the purpose of discussing the site, the proposed~~
220 ~~development activity, and the permit procedure. It is the intent of this section to provide for an~~
221 ~~exchange of general and preliminary information only and no statement by either the applicant or~~
222 ~~the director shall be regarded as binding or authoritative for purposes of this code. Prior to~~
223 ~~submission of an Anadromous Waterbody application, the developer shall meet with the director for~~
224 ~~the purpose of discussing the site, the proposed development activity, and the permit procedure.~~
225 ~~The director shall discuss with the developer, regulation which may limit the proposed development~~
226 ~~as well as standards or bonus regulations which may create opportunities for the developer. It is the~~
227 ~~intent of this section to provide for an exchange of general and preliminary information only and no~~
228 ~~statement by either the developer or the director shall be regarded as binding or authoritative for~~
229 ~~purposes of this code. A copy of this subsection shall be provided to the developer at the~~
230 ~~conference.~~

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232 (2) Tier Two Submission. The ~~developer applicant~~ shall submit to the director one copy of the
233 completed permit application together with all supporting materials and the permit fee.

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234 (A) A graphic and legal description of the property and property boundaries;

235 ~~(B) A map of existing conditions including, at a minimum, existing topography, drainage~~
236 ~~features, structures, significant natural and artificial conditions of the land, and existing~~
237 ~~vegetation; and~~

~~(B) A map showing the existing topography, vegetation, drainage features, structures, significant natural and artificial conditions of the land, existing vegetation; and~~

(C) A narrative statement describing the existing conditions, proposed activities, and site restoration plan, including:

- i. Proposed activities and methods, in conformance with the Best Management Practices and Riparian Vegetation Standards pursuant to 49.70.13XX;
- ii. A ~~narrative description~~ of how the development meets the purpose of the ordinance;
- iii. Existing ~~s~~Site conditions;
- iv. A ~~narrative n explanation~~ of why the development must be located within the inner or outer buffer;
- v. Anticipated temporary and/or permanent changes to habitat resulting from proposed uses and activities;
- vi. Existing species of vegetation and proposed species to be used for revegetation;
- vii. -Schedule for development activity, removal of vegetation, revegetation, and the method by which the activity shall be conducted, in conformance with the Best Management Practices and Riparian Vegetation Standards pursuant to 49.70.13XX;
- viii. Maintenance schedule, if applicable;
- ~~ix. Removal of vegetation to address a public safety issue requires a letter of documentation from a CBJ Public Safety Official. Removal of trees to address damage to structures requires a letter of documentation from a licensed arborist; and Additional requirements as listed in 49.70.XX, if applicable.~~
- ~~xix.~~ Additional information as determined by the Director.

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Commented [TC6]: Would refer to special requirements for public safety measures, and viewshed and light enhancement as noted in the previous section

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~~(k)~~ Director's review procedures.

Upon receipt of an application and the required filing fee, the department shall review the submission for completeness.

Upon a determination that the application is complete the department shall transmit the application to interested agencies. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director. Tier One reviews with minor impacts may have a reduced agency review period at the Director's discretion. Tier Two reviews may be reviewed by an additional scientific board, such as the Wetlands Review Board, for advisory recommendations at the Director's discretion.

The Department shall issue an Anadromous Waterbody Permit Notice of Decision, with findings and conditions that ensure conformance with the Purpose and Intent of this ordinance. The permit will expire 18 months after the effective date if no Building Permit or Grading Permit has been issued and/or substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date in accordance with CBJ 49.15.250.

277 ~~(k) Conformance with permit.~~
 278 ~~After approval of the permit, staff shall inspect the site prior to commencement of activity to ensure the~~
 279 ~~site is properly marked and the site matches the plans submitted with the application. Staff shall inspect~~
 280 ~~the site upon project completion to ensure maintenance of vegetation, conformance with approved~~
 281 ~~plans, and conformance with title.~~

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282 (i)

283 ~~(1)~~ ~~Anadromous W~~waterbody Best Management Practices. ~~that Anadromous Waterbody Best~~
 284 ~~Management Practices shall~~ apply to all uses or types of development within the inner or outer buffer:

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285 (A) Delineate and flag work limits prior to commencing any activities to preserve existing
 286 vegetation outside of the work area and minimize impacts to the buffer. To protect large trees
 287 near, but outside of, the work area, the boundary for the natural area to be preserved should be
 288 extended to the tree drip line to protect the root zone from damage. The work limits must remain
 289 clearly marked until all work is complete. Within the work limits, the disturbed area shall be
 290 limited to that required for construction including access. Complete or partial removal of and
 291 damage to native vegetation shall be limited to the minimum necessary to achieve the project
 292 purpose;

293
 294 (B) When existing vegetation must be removed from the buffer, the buffer shall be revegetated
 295 with native plant species that are present or appropriate for that area within one growing season.
 296 The buffer shall be revegetated and such revegetation shall be kept or arranged to enhance fish
 297 habitat. Areas previously degraded by human activity shall be revegetated;

298
 299 (C) Erosion and sediment control Best Management Practices shall be used during construction
 300 activities to protect waterbodies sediment deposition and turbidity due to adjacent soil
 301 disturbance activities. Selected BMP's must be implemented in accordance with the standards in
 302 the Alaska Storm Water Guide

303 (<http://dec.alaska.gov/water/wnpspc/stormwater/docs/AKSWGGuide.pdf> (DEC, 2011);

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304
 305 (D) All discharge material shall be free from toxic pollutants in toxic amounts as defined by state
 306 law;

307
 308 (E) Uses and activities shall implement measures to minimize pollutant discharges into the
 309 waterbody and buffer including but not limited to providing for water management, establishing
 310 staging, fueling, and maintenance areas outside of the buffer;

311
 312 (F) Structures allowed within the buffer must be constructed so as not to impede floodwaters or
 313 impede fish passage; and

314
 315 (G) Developments must comply with the 2010 CBJ Manual of Stormwater Best Management
 316 Practices.

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317
 318 ~~(2)~~ ~~(m)~~ Riparian vegetation standards. Riparian vegetation standards shall apply to all uses
 319 or types of development within the inner or outer buffer. All uses and types of development

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within the inner and outer buffer shall include a vegetation plan to maintain or restore the buffer to the following standards:

(A) The vegetation plan shall consider a diversity of native species appropriate for the site conditions found in the Recommended Plan List in Appendix E of the CBJ's Manual of Stormwater Best Management Practices (2010) and/or the Plant Selection List in the Alaska Department of Fish and Game's Stream Revegetation and Protection: A Guide for Alaska (2005). The vegetation plan shall favor natural plant reclamation from neighboring plant communities when possible. If the site was considered to be in a natural state prior to the use/activity, the area shall require revegetation with the same species. The plan shall also implement any standards from the Landscaping and Lawn/Vegetation Management sections in the CBJ's Manual of Stormwater Best Management Practices (2010), identified by staff as applicable to the permitted development; and

(B) Uses and activities shall not introduce or redistribute invasive species.

~~(n3)~~ *Mitigation measures.* Mitigation measures may be required by the Commission or ~~d~~Department to address impacts and ensure conformance with the Purpose of this ordinance. Mitigation measures include, but are not limited to:

(A) Standard erosion and stormwater runoff control measures;

(B) Restoration and maintenance of native vegetation and water quality protection functions;

(C) Removal of non-conforming structures from the buffer.

(D) Other measures as agreed upon by the director or the commission and applicant, such as removal of riprap, jetties, debris, or structures that may be detrimental to fish habitat, improvements to water treatment systems, or widening buffers in other areas.

~~(ok)~~ Conformance with permit.

After approval of the permit, staff shall inspect the site prior to commencement of activity to ensure the site is properly marked and the site matches the plans submitted with the application. Staff shall inspect the site upon project completion to ensure maintenance of vegetation, conformance with approved plans, and conformance with title.

~~(4) Stream channel alteration.~~ A stream shall not be moved, ditched, or piped, ~~unless a~~ except as follows:

~~After approval by the director of engineering and public works, and a~~ Cissuance of a conditional ~~use permit is issued,~~ with consideration of potential impacts including the following:

(A) Practical alternatives to moving, piping, or otherwise altering the channel;

(B) The potential to increase flooding or erosion problems upstream or downstream;

(C) Any potential obstruction of water flow;

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(D) The flow lines of the altered section of the channel as related to those in the existing channel at the endpoints of the alteration;

(E) The adequacy of the gradient/meander balance, grade control, and bed stability to maintain the natural stream function of water conveyance and sediment transport;

(F) Conformance with CBJ 47.70 Article IV, Flood Hazard Areas, where applicable; and

(G) Conformance with the Purpose ~~and Intent~~ of this ordinance.

(g) Emergency permits.

(1) In an emergency, the director may issue a temporary permit, in writing, to protect life and property from imminent danger or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by the emergency providing that:

(A) An emergency permit shall only authorize the minimum amount of work required to mitigate the emergency situation;

(B) An emergency permit is not intended to provide for any work beyond that necessary to provide for a safe environment. Any additional work shall follow applicable permitting procedures set forth in this chapter; and

(C) Work shall be conducted using Best Management Practices to ensure that any adverse effect on the anadromous water body and buffers is minimized.

(2) The written permit shall include the following:

(A) A description of the activity;

(B) A description of the emergency; and

(C) A narrative describing why the activity is necessary to protect life and property from imminent danger or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by the emergency.

(3) Conditions may be attached to emergency permits to comply with this title. A final report that includes the plans and specifications for the work that was completed must be submitted to the department within 60 days of the date of the emergency. The director may require mitigation to repair damage to the anadromous waters or adjacent buffers and ensure conformance with the Purpose ~~and Intent~~ of this ordinance. All permitting shall be defined and started within two weeks of the emergency.

49.80 Definitions.

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388 “Emergency” means a sudden unexpected occurrence, either the result of human or natural forces,
389 necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property,
390 essential public services, or the environment.

391 “Erosion” shall mean significant sloughing, washout, or discharge of soil arising from manmade sources
392 or causes.

393 “Surveillance equipment” means equipment capable of capturing or recording data, including images,
394 videos, photographs or audio for purposes of addressing a threat to public safety

395 “Threat to public safety” means anything which is injurious to the safety or health of a household or
396 neighborhood.

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398 Prior existing uses and structures

399 ~~A. Intent. There are uses which were conducted, and structures which were under construction, or~~
400 ~~exist and were in use before the enactment of this ordinance which would be prohibited or restricted~~
401 ~~under the terms of this ordinance or future amendments. It is the intent of this section to allow these~~
402 ~~prior existing uses or structures to continue but not be increased, expanded, or intensified. Any prior~~
403 ~~existing uses or structures must still comply with other applicable laws.~~

404 ~~B. The burden of proof is on the applicant to show that a prior existing use or structure~~
405 ~~existed, when the use or structure was established, and the size, location, and level of use.~~

406 ~~C. Structures. Structures which were under construction or in use before the effective date~~
407 ~~of any provision of this chapter, but that would be prohibited or restricted under the terms~~
408 ~~of this chapter, shall be allowed to continue, provided that a structure under construction~~
409 ~~must have been substantially completed by (date)~~

410 ~~1. Upon Proof of Nonconforming Status in accordance with (new non-conforming code)~~
411 ~~principal structures may be replaced, repaired or reconstructed within three years after~~
412 ~~damage or destruction. If a principal structure is not substantially damaged and only a~~
413 ~~portion of the structure has been damaged or destroyed, only that portion may be repaired~~
414 ~~or replaced. The height of an original principal structure and area encompassed by the~~
415 ~~original footprint cannot be increased, unless necessary to comply with the requirements of~~
416 ~~—(non-conforming code). The structure must be similar in size and use to the structure~~
417 ~~being repaired or replaced. Repair, replacement, or reconstruction may only encompass the~~
418 ~~same square footage that the structure occupied prior to damage or destruction, and the~~
419 ~~structure must be more compliant with this chapter which shall be determined by~~
420 ~~application of mitigation measures set forth in — to the maximum extent practicable. Staff~~
421 ~~will determine the mitigation measures to be used consistent with the following conditions:~~
422 ~~a. The structure will not increase significant erosion, sedimentation, damage to the buffers, ground or~~
423 ~~surface water pollution, and damage to riparian wetlands and riparian ecosystems.~~

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Commented [JM8]: I’m inclined to strike this entire section, as the nonconforming section of code should cover it

Commented [TC9]: This is a new section that has not been reviewed by the Planning Commission T49 Committee. This language comes almost entirely from Kenai Peninsula Borough Code 21.18.090 with only minor modifications. It also needs to be consistent with 40.30, Non-conforming sections, which has been adopted since this revision was last reviewed by the Title 49 Committee and other entities.

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Commented [BM10]: This paragraph could refer to the new nonconforming language –specifically requiring the applicant to comply with the Proof of Nonconforming Status process and requirements.

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Commented [BM11]: The nonconforming section of code uses the 75% cost of replacement language that exists in our current code. The replacement is only allowed for accidental damage. If the damage is intentional then any replacement structures must comply w/current regulations.

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Commented [BM12]: You may want to rethink this. We allow for an upfill conditional use which I guess would apply to these structures. Do you think that is what you want?

Commented [TC13]: I am leaving this as is, because we do not want the option of an upfill CU in the stream buffer. We need every incentive for the non-conforming to be reduced, not increased.

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425 b. Permitting repair, reconstruction, or replacement shall be consistent with the purposes of
 426 this chapter as set forth in _____, the borough comprehensive plan, another applicable
 427 chapters of the borough code, and other applicable planning documents adopted by the
 428 borough;
 429 c. The reconstruction, replacement, or repair will not physically damage the adjoining
 430 property;
 431 d. Removal of materials or debris remaining from the damage or destruction; and
 432 e. Owner's compliance with other borough permits and ordinance requirements.
 433 2. The right to reconstruct in nonconformity with the chapter is forever lost if:
 434 a. the application for reconstruction or repair is not made within 24 months after the date of
 435 accidental damage or destruction or within 6 months prior to the owner's intentional
 436 damage or destruction or
 437 b. the application is approved but the structure is not substantially reconstructed within 3
 438 years of the date of the approval of the application for reconstruction.
 439 (i) For reasonable and sufficient cause shown for the delay, the Director of planning may
 440 authorize an extension not to exceed 12 months to complete reconstruction.
 441 (ii) To obtain an extension of time an applicant shall submit a written request for an
 442 extension to the department prior to the expiration of the 36 months reconstruction period.
 443 The applicant must show reasonable and sufficient cause for the extension.
 444 3. Nothing in this section prohibits reconstruction at any time in compliance with this
 445 chapter.
 446
 447 4. The provisions applicable to principal prior existing structures set forth in _____ also apply
 448 to the replacement, repair or reconstruction of accessory structures within the habitat
 449 protection district. In addition to those provisions the following rules apply to accessory
 450 structures:
 451 a. Accessory structures may be replaced or reconstructed outside of the habitat protection
 452 district without an anadromous waterbody permit.
 453 b. The applicant must document the specific circumstances that would prevent the accessory
 454 structure from being located outside of the stream buffer in order to be permitted to
 455 replace, or reconstruct the accessory structure within the stream buffer.
 456
 457 D. Uses. This chapter may not prohibit or restrict nonconforming uses that were allowed or
 458 not prohibited by law when established before the effective date of this chapter, provided
 459 that, such uses are conducted in the same location and are not enlarged to include a greater
 460 number of participants or to occupy a greater area of land. Nonconforming uses that cease
 461 to be used for 365 consecutive days shall be considered abandoned.
 462
 463 Upon Nonconforming Certification, a change to the prior existing use may be allowed if the
 464 change results in greater conformity with code. No change shall be granted unless the
 465 change reduces the nonconformity, by use of mitigation procedures pursuant to _____, to

Commented [BM14]: This could refer to nonconforming code...it would create consistency in our approach.

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Commented [BM15]: Do we want these uses to go thru the Proof of Nonconforming Status?

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466 ~~the maximum extent practicable. The Director will determine the mitigation measures to be~~
 467 ~~used consistent with the following conditions:~~
 468 ~~1. The use will not increase significant erosion, sedimentation, damage to the buffers,~~
 469 ~~ground or surface water pollution, and damage to riparian wetlands and riparian~~
 470 ~~ecosystems;~~
 471 ~~2. Permitting the use shall be consistent with the purpose of this code;~~
 472 ~~3. The use will not physically damage the adjoining property;~~
 473 ~~4. Removal of materials or debris resulting from the prior existing use; and~~
 474 ~~5. Developer's compliance with other borough permits and ordinance requirements.~~
 475
 476 ~~E. Director determinations regarding prior existing structures and prior existing uses may be~~
 477 ~~appealed to the commission.~~
 478
 479 ~~F. Nothing in this chapter shall prevent any change of tenancy, ownership or management of~~
 480 ~~any prior existing structure.~~
 481
 482 Amendment of Section. CBJ 49.85.100 ~~Generally,~~ is amended to read:
 483 ~~49.85.100 Generally.~~
 484 (21) Anadromous Waterbody Permit Application
 485 (A) Tier One \$75
 486 (B) Tier Two \$200
 487

Commented [BM16]: Changes to nonconforming uses are allowed outright to conforming uses. Changes to other nonconforming uses can be allowed through the Nonconforming Situation Review by the Board of Adjustment. You could say something along the lines of changes of prior existing uses can be allowed in conformity with 49.XX and the following conditions...and findings

Commented [JM17R16]: Changing from one noncom. use to another wasn't adopted

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

ARTICLE IX. COASTAL MANAGEMENT

49.70.900 General provisions.

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

(Serial No. 87-49, § 2, 1987)

49.70.320905 Coastal Development and Special Habitats

(a) The purpose of this section is to manage and protect the natural resource values of Juneau's coastline and special habitats including Stellar sea lion habitat, wetlands, rivers, streams, and lakes.

(b) The following policies apply to coastal development throughout the coastal zone shall apply:

(1) Development is prohibited on Benjamin Island within the Stellar sea lion habitat.

(1) To the extent feasible and prudent, coastal development shall be designed using best available technology to minimize hazards associated with physical conditions such as soil characteristics, slopes, geological features, surface and subsurface drainage, water tables, floodplains and shore forms of the site.

(2) To the extent feasible and prudent, coastal development shall be designed and operated to prevent adverse impact upon beaches and other physical shore features in the coastal zone.

(3) The placement of structures and the discharge of dredged or fill material into coastal water shall, at a minimum, comply with Parts 320—330, et seq., Title 33, Code of Federal Regulations (Vol. 51 of the Federal Register, pp. 41206-41260, November 13, 1986)

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Commented [TC1]: This is existing code language that has been moved to the coastal development for clarity. The anadromous waterbody ordinance will replace the existing 49.70.310 and this single item would be left hanging without a heading unless moved to another section.

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

Commented [TC2]: Retain in Habitat Section despite duplication. Language is specific and has been used in reviews of coastal developments and allows CDD to obtain needed habitat information. Staff could not find a clear definition of “highly productive tideflats and wetlands” as requested by the Committee. This determination will be made through information gathered in the agency review process for Conditional Use Permits.

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Commented [TC3]: Staff has deleted “feasible and prudent” and replaced with “reasonable” or “unreasonable” throughout the coastal development section, because these terms are currently used in code without definition. This wording will be flagged for review by Law.

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Commented [TC4]: Retain in Habitat Section despite duplication. Language is specific and has been used in reviews of coastal development. Includes items important to public safety and welfare that aren’t specifically called out in the Conditional Use Permit review.

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Commented [TC5]: Retain 70.905(6) in Habitat Section. Language is specific and has been used in reviews of coastal development. Includes items important to public safety and welfare that aren’t specifically called out in the Conditional Use Permit review.

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Commented [TC6]: Sections (5) is recommended for retention despite some duplication of state authority because these policies provide more detailed standards of ...

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Commented [TC7]: Retain 70.905(9) in Habitat section ...

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72 ~~(10) To the extent feasible and prudent, port and harbor uses shall minimize the negative~~
 73 ~~aesthetic impact of their use and activities, shall enhance and maintain the positive visual~~
 74 ~~aspects of their development, and shall provide opportunities for public viewing of such~~
 75 ~~positive aspects.~~

76 (6) Public Safety.

77 (a) Coastal development shall not impair lawful navigation, and navigable waters shall be kept
 78 free of unnecessarily hazardous or obstructive development.

79 (11) Navigable waters shall be kept free of unnecessarily hazardous or obstructive development.

80 (12) To the extent feasible and prudent, development shall not detract from the scenic qualities of
 81 the shorelines, shall be compatible with its surroundings and shall not significantly block
 82 scenic vistas.

83

84 (c) The habitats contained in subsection (d) of this section shall be managed so as to maintain or
 85 enhance the biological, physical and chemical characteristics of the habitat which contribute to its
 86 capacity to support living resources.

87 (d) In addition to the standard contained in subsection (c) of this section, the following standards shall
 88 apply to the management of the following habitats:

89 (1) Estuaries shall be managed so as to ensure adequate waterflow, natural circulation patterns,
 90 nutrients, and oxygen levels, and to avoid the discharge of silt, toxic wastes and the
 91 destruction of productive habitat;

92 (2) Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and
 93 oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of
 94 important habitat, and the discharge of toxic substances;

95

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

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

100 (1) There is a significant public need for the proposed use or activity;

101 (2) There is no reasonable alternative to meet the public need for the proposed use or activity
 102 which would conform to the standards contained in subsections (b) and (c) of this section;
 103 and

104 (3) All feasible and prudent steps to maximize conformance with the standards contained in
 105 subsections (b-d) of this section will be taken.

106

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Commented [TC8]: Duplicates USCG authority. Proposed to retain to provide a more specific standard of public safety review for coastal developments.

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Commented [TC9]: These items have been retained despite duplication with state authority because of 2013 Comprehensive Plan policies that indicate the importance of these resources to the community, as described in Chapter 7, pp 77-86.

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Commented [TC10]: Retain in Habitat section. This section has been used to allow approval of developments that have unavoidable habitat impacts but have a high public need and no feasible alternatives. One example is the Alaska Glacier Seafoods Seafood processing plant, which filled important intertidal habitat but had mitigation and was considered a public need.

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107 **49.70.330 Special waterfront areas.**

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

111 (1) to provide greater protection for coastal areas outside of Special Waterfront Areas with higher
112 habitat value, including a prohibition on intertidal fill used for expansion of upland areas;

113 (2) to promote pedestrian access to the downtown waterfront with a seawalk; and

114 (3) to provide special policies for other unique Special Waterfront Areas.

115 (b) General standards.

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116 (1) ~~(1) —The Juneau Coastal Management Plan Special Waterfront Area Map, dated December 1,~~
117 ~~1990, shows the boundaries of each special waterfront area, and the maximum seaward~~
118 ~~limits for permanent development in each special waterfront area. The land or water inside~~
119 ~~the boundaries shown on the Juneau Coastal Management Plan shown on the, Special~~
120 ~~Waterfront Area Map is subject to the provisions of this section. Uses allowed within the~~
121 ~~special waterfront areas as provided in this section are not allowed along other waterfronts~~
122 ~~within the City and Borough unless such uses are allowable outside the special waterfront~~
123 ~~areas under the terms of subsections 49.70.905(13) or (18) and other applicable provisions of~~
124 ~~the Juneau Coastal Management Plan.~~

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125 (2) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the
126 expansion of upland area is specifically prohibited unless clear and convincing evidence is
127 provided showing that all of the following conditions exist such that:

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128 A) Strict compliance with the policy would prevent the applicant from making a reasonable
129 use of the property or would make compliance unreasonably burdensome;

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130 B) Fill is the only means to allow development of the property which is similar to other
131 properties in the vicinity;

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132 C) Less than the proposed fill would prevent the applicant from making a reasonable use of
133 the property or would make compliance unreasonably burdensome;

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

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

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139 F) Fill for expansion of the upland area is fill intended for structural support. Examples
140 include structural support of buildings, parking lots, and related facilities. Fill for expansion of
141 the upland area does not include fill used for rock walls, bank stabilization, and similar uses.

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142 ~~(3)~~ Fill proposals within the special waterfront areas are not subject to the fill prohibition of
143 subsection 49.70.905(13) **330(b)(2)** relating to coastal development. Each fill proposal shall be
144 individually reviewed to ensure that configuration, timing, composition and construction
145 practices will minimize impacts on habitats and meet the water quality standards and other

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Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions requirements of this section.

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~~(3)~~ (4) If new site-specific information becomes available which clearly indicates that crucial habitats exist within the Special Waterfront Areas, and if after consultation with the City and Borough and state resource agencies, these entities concur, a specific evaluation pursuant to subsection 49.70.320(e) will be immediately required for projects within the crucial habitat areas.

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(5) A change to the special waterfront areas may be initiated by the submittal of new information regarding habitats to the department. To initiate a program change new information must be based on detailed site-specific studies which indicate that the habitat is substantially more productive than was indicated in the information which was available on May 22, 1986.

Commented [TC11]: Special Waterfront Areas were determined long ago to be areas of low habitat value. This section is for the situation (which has never happened in my tenure) where new information has come forward that indicates that a Special Waterfront Area has crucial habitats. If CBJ and state resource agencies accept that, then regulation refers back to the public need standard, which says that if a development has unavoidable habitat impacts there must be a demonstrated public needed. The specific evaluation referred to is not a habitat evaluation—it's the evaluation of the public need criteria.

~~Existing uses or activities in the subject areas may continue, provided, if conversion to another use or other modification is to be made, it shall conform to the requirements of the special waterfront areas.~~

~~(4) Uses identified as permissible in this article may be conditioned, through the coastal management consistency review process, to be consistent with or conform to the habitat standards contained in subsections 49.70.950(b) and (c). However, if new site-specific information becomes available after May 22, 1986, which clearly indicates that crucial habitats exist within the subject areas and if the state division of governmental coordination, after consultation with the City and Borough and state resource agencies, concurs, a specific evaluation pursuant to subsection 49.70.950(d) will be immediately required for projects within the crucial habitat areas.~~

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

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

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

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

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

~~(A) Strict compliance with the policy would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;~~

~~(B) Fill is the only means to allow development of the property which is similar to other properties in the vicinity;~~

~~(C) Less than the proposed fill would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;~~

~~(D) The proposed project meets the requirements of the other enforceable policies of the Juneau Coastal Management Plan;~~

~~(E) The proposed project will not be detrimental to the public health, welfare and safety or to other properties in the vicinity;~~

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

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

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

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(c) Special policies for the special waterfront areas.

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

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

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

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

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

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

(A) Reserved.

(B) Reserved.

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

(D) Reserved.

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

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

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

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

Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

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

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

Commented [TC12]: The former floathome prohibition area covers almost the entire borough, and the former language included a section allowing floathomes on privately-owned tidelands with a Conditional Use Permit. This language distills that language and drops the extensive list of additional requirements. The other requirements in the original list regarding public safety, impacts on surrounding neighborhoods, etc. may be addressed through the Conditional Use Permit process. We could consider adopting those requirements in an internal policy document.

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

(A) Mooring devices for watercraft;

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

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

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

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

(A) Floathomes shall not ground at low tide and must be located at least 300 feet from any anadromous fish streams. Mooring shall not obstruct recreational use of the shore. Fuel tanks shall be designed to protect against accidental contamination of the water. Seawater must be protected from contamination by fuel spills, and solid and liquid wastes;

(B) Floathomes shall not be located in the "prohibited area" shown on Juneau Coastal Management Plan Map 2, or areas with concentrations of shellfish, waterfowl, shorebirds, marine mammals, extensive tide flats, salt marshes and kelp or eelgrass beds; sites within 330 feet of eagle nest trees; developed recreation sites; heavily used recreation sites; or known historic and archeological sites. Floathomes may be allowed on privately owned tidelands within the prohibition area provided other provisions of this section are met;

(C) The placement of floathomes shall avoid blockage or interference to waterway channels used by waterborne traffic;

(D) Views from adjacent shoreline residences shall not be blocked if the main floor of the residence is located below 25 feet above sea level. The owner of any such residence within 500 feet on either side of the proposed floathome location may prevent that site from being used, by submitting a written objection at or before the time of consistency review or planning commission action, under the conditional use process. Such objection may not be considered after the consistency determination is issued, or planning commission action under the conditional use process;

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- (E) ~~Where feasible and prudent, no more than one floathome shall be allowed for every 500 feet of lineal shoreline measured at mean high tide unless multiple floathome moorage is specifically allowed under subsection (15) of this section;~~
- (F) ~~Floathomes shall be constructed and maintained to avoid a dilapidated, abandoned, derelict or unattended appearance;~~
- (G) ~~All refuse shall be securely stored pending removal;~~
- (H) ~~Floathomes shall float generally level and have at least one foot of freeboard;~~
- (I) ~~Where the need for upland access to the floathome is anticipated, the floathome shall be sited to ensure that there is proper and adequate legally recorded upland access to the site;~~
- (J) ~~Floathomes shall be placed so that required or desired onshore services and facilities can be efficiently extended;~~
- (K) ~~Floathomes shall be allowed in an area only after adjacent upland owners are notified;~~
- (L) ~~Floathomes shall be sited and operated to avoid creating or increasing noise and air pollution. Emissions from heaters and stoves, if otherwise lawful, may be allowed;~~
- (M) ~~Persons wishing to place floathomes adjacent to shorelines having road access must show that at least two onshore legally recorded parking places not on a public right of way are available and that floathome residents will have clear access to these parking places across the shoreland adjacent to the floathome; and~~
- (N) ~~Floathomes may be allowed without conditional use approval in developed marinas if the owner or operator assumes responsibility for providing fresh water, sewage disposal and solid waste disposal.~~
- (15) ~~Floating camps or multipurpose floating structures intended in whole or in part for residential purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed under the conditional use procedure provided they meet all of the standards for floathomes set forth in subsection (14) of this section.~~
- (16) ~~Development intended to provide moorage for two or more floathomes may be allowed as conditional uses in the nonprohibited areas shown on Juneau Coastal Management Plan Map 2, provided the developer:~~
- (A) ~~Owns, or has a nonrevocable lease, for at least 30 years in duration, for the upland area adjacent to the water area to be developed;~~
- (B) ~~Provides at least two off road parking spaces for each floathome;~~
- (C) ~~Provides fresh water, sewer with approved onshore disposal, and electricity to each floathome;~~
- (D) ~~Provides fire control protection approved by the City and Borough fire chief; and~~
- (E) ~~Provides to the floathomes, by site selection, physical improvements, or design of the floathomes, protection from storms, such that the floathomes will be safe from waves higher than two feet.~~

(17) Floating structures, other than those addressed in subsections (14), (15) and (16) of this section, intended for commercial or industrial purposes including, fish propagation, mineral extraction, mineral processing, timber extraction or processing, lodging, seafood processing, research, marine service and repairs, which will be fixed in one location for more than 30 days, may do so only after having obtained approval through the conditional use process. Provided, the following are exempt from the conditional use process requirement:

(A) Mooring devices for watercraft;

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

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

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

~~(18) Industrial and commercial uses on or adjacent to the shorelines of navigable waters must be located in the appropriate special waterfront designation established in section 49.70.960 unless:~~

~~(A) There is no feasible and prudent alternative to meet the public need for the use; and~~

~~(B) The nature of the use requires a specific location and no other location will suffice.~~

(19) In approving development in coastal areas, priority shall be given, in the following order, to:

(A) Water dependent uses and activities;

(B) Water related uses and activities; and

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

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

49.70.910 Geophysical hazards.

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

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

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

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

Commented [TC13]: Retain 70.905(18) and move to Special Waterfront Area section of Habitat.

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- (e) ~~Mitigating measures are required for development in areas of moderate hazard. These may include dissipating structures or dams, appropriate structural engineering, or other techniques that respond to the specific site hazards.~~
- (f) ~~Residential, commercial and industrial development is prohibited in floodways. Culverts and bridges are not subject to this prohibition.~~
- (g) ~~Structures near watercourses shall be designed to reduce the impact of flooding and to allow for natural drainage.~~
- (h) ~~Sand and gravel operations, recreation activities, open space, and parking lots may be allowed in 100-year floodplains only if they do not increase the flood hazard.~~
- (i) ~~Industrial equipment and raw materials stored in 100-year floodplains shall be adequately bermed or otherwise protected.~~
- (j) ~~Disposal of hazardous materials in 100-year floodplains is prohibited. No new development which will involve storage of hazardous materials will be permitted in the 100-year floodplain unless there is no feasible and prudent alternative and unless safety measures are provided to prevent accidental discharge.~~
- (k) ~~Establishment of sanitary landfills in floodplains is prohibited.~~
- ~~(Serial No. 87-49, § 2, 1987)~~

49.70.915 Recreation.

- (a) ~~In developing areas:~~
- (1) ~~Recreational developments adjacent to bodies of water shall be located, designed, constructed, and managed to minimize adverse effects on other uses and to provide safe, healthy conditions for recreationists.~~
 - (2) ~~Recreational developments shall, wherever feasible and prudent, preserve or enhance scenic views and vistas as well as improve the aesthetic value of the area.~~
 - (3) ~~Access to natural areas, such as fishing streams and hunting areas, shall be a combination of linear trails or easements and small parking areas to minimize user concentration on small portions of the shore or upland areas.~~
- (b) ~~Facilities for water dependent recreation, such as fishing, swimming, and boating, and water-oriented recreation, such as picnicking, hiking, and walking, shall be located near the shoreline. Non-water related recreation facilities shall be located away from the shoreline unless no feasible and prudent inland alternative exists to meet the public need.~~
- (c) ~~Auke Creek, the east bank of Auke Lake, and Lake Creek outside federal lands shall be protected with shoreline public easements and greenbelts for public access and habitat purposes.~~
- ~~(Serial No. 87-49, § 2, 1987)~~

49.70.920 Energy facilities.

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

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

(Serial No. 87-49, § 2, 1987)

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(Supp. No. 133)

49.70.925 Transportation and utilities.

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

~~(Serial No. 87-49, § 2, 1987)~~

49.70.930 Fish and seafood propagation and processing.

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

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~~(Supp. No. 132)~~

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

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

(Serial No. 87-49, § 2, 1987)

~~49.70.935 Timber harvest and processing.~~

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

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

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

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

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

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

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

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

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

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

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

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

522 ~~(Serial No. 87-49, § 2, 1987)~~

523 ~~**49.70.940 Mining and mineral processing.**~~

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

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

530 ~~(Serial No. 87-49, § 2, 1987)~~

531 ~~**49.70.945 Subsistence.**~~

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

534 ~~(Serial No. 87-49, § 2, 1987)~~

535 ~~**49.70.950 Habitat.**~~

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

- 537 ~~(1) Offshore areas;~~
- 538 ~~(2) Estuaries;~~
- 539 ~~(3) Wetlands and tideflats;~~
- 540 ~~(4) Rocky islands and seacliffs;~~
- 541 ~~(5) Barrier islands and lagoons;~~
- 542 ~~(6) Exposed high energy coasts;~~
- 543 ~~(7) Rivers, streams, and lakes; and~~
- 544 ~~(8) Important upland habitat.~~

545 ~~(b) The habitats contained in subsection (a) of this section shall be managed so as to maintain or~~
 546 ~~enhance the biological, physical and chemical characteristics of the habitat which contribute to its~~
 547 ~~capacity to support living resources.~~

548 ~~(c) In addition to the standard contained in subsection (b) of this section, the following standards shall~~
 549 ~~apply to the management of the following habitats:~~

- 550 ~~(1) Offshore areas shall be managed as a fisheries conservation zone so as to maintain or~~
 551 ~~enhance the state's sport, commercial, and subsistence fishery;~~
- 552 ~~(2) Estuaries shall be managed so as to ensure adequate waterflow, natural circulation patterns,~~
 553 ~~nutrients, and oxygen levels, and to avoid the discharge of silt, toxic wastes and the~~
 554 ~~destruction of productive habitat;~~

Commented [TC14]: Delete 70.940. Section has never been used and these issues are addressed in other areas of code.

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Commented [TC15]: Delete 70.945. Juneau is not a state-designated subsistence area and the policy has never applied to the borough.

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555 ~~(3) Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and~~
556 ~~oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of~~
557 ~~important habitat, and the discharge of toxic substances;~~

558 ~~(4) Rocky islands and seacliffs shall be managed so as to avoid the harassment of wildlife, the~~
559 ~~destruction of important habitat, and the introduction of competing or destructive species~~
560 ~~and predators;~~

561 ~~(5) Barrier islands and lagoons shall be managed so as to maintain adequate flows of sediments,~~
562 ~~detritus, and water, avoid the alteration or redirection of wave energy which would lead to~~
563 ~~the filling in of lagoons or the erosion of barrier islands, and discourage activities which would~~
564 ~~decrease the use of barrier islands by coastal species, including polar bears and nesting birds;~~

565 ~~(6) High energy coasts shall be managed so as to ensure the adequate mix and transport of~~
566 ~~sediments and nutrients and avoid redirection of transport process and wave energy; and~~

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

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

571 ~~(1) There is a significant public need for the proposed use or activity;~~

572 ~~(2) There is no feasible and prudent alternative to meet the public need for the proposed use or~~
573 ~~activity which would conform to the standards contained in subsections (b) and (c) of this~~
574 ~~section; and~~

575 ~~(3) All feasible and prudent steps to maximize conformance with the standards contained in~~
576 ~~subsections (b) and (c) of this section will be taken.~~

577 ~~(e) Each development which adjoins a river or stream which has been degraded by previous human~~
578 ~~activity shall, as part of its development plan, include provisions for rehabilitation of the stream or~~
579 ~~river, and shall be approved by the state department of fish and game. Such provisions shall be~~
580 ~~limited to removal of debris, removal of abandoned machinery and vehicles, grading and~~
581 ~~stabilization of banks and related clean-up activities, and shall include preservation or restoration~~
582 ~~of riparian vegetation. Restoration shall not be required beyond that needed to return the area to~~
583 ~~natural appearance and function; provided, the following are exceptions to this policy:~~

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

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

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

Commented [TC16]: Retain 70.950(d) in Habitat section.
This section has been used to allow approval of developments that have unavoidable habitat impacts but have a high public need and no feasible alternatives. One example is the Alaska Glacier Seafoods Seafood processing plant, which filled important intertidal habitat but had mitigation and was considered a public need.

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vegetated or revegetated, where feasible and prudent, and such vegetation or revegetation shall be kept or arranged to maximize shade on the stream.

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

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

~~(Serial No. 87-49, § 2, 1987)~~

49.70.955 Air, land and water quality.

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

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

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

~~(Serial No. 87-49, § 2, 1987)~~

49.70.960 Special waterfront areas.

~~(a) General standards.~~

~~(1) The Juneau Coastal Management Plan Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each special waterfront area, and the maximum seaward limits for permanent development in each special waterfront area. The land or water inside the boundaries shown on the Juneau Coastal Management Plan Special Waterfront Area Map is subject to the provisions of this section. Uses allowed within the special waterfront areas as provided in this section are not allowed along other waterfronts within the City and Borough unless such uses are allowable outside the special waterfront areas under the terms of subsections 49.70.905(13) or (18) and other applicable provisions of the Juneau Coastal Management Plan.~~

~~(2) Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that~~

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necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions of this section.

~~(3) Existing uses or activities in the subject areas may continue, provided, if conversion to another use or other modification is to be made, it shall conform to the requirements of the special waterfront areas.~~

~~(4) Uses identified as permissible in this article may be conditioned, through the coastal management consistency review process, to be consistent with or conform to the habitat standards contained in subsections 49.70.050(b) and (c). However, if new site specific information becomes available after May 22, 1986, which clearly indicates that crucial habitats exist within the subject areas and if the state division of governmental coordination, after consultation with the City and Borough and state resource agencies, concurs, a specific evaluation pursuant to subsection 49.70.050(d) will be immediately required for projects within the crucial habitat areas.~~

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

~~(6) Except as provided in subsection (a)(4) of this section, the significant public need and feasible and prudent alternative analysis under subsection 49.70.050(d) will not apply to state, federal or local permit applications previously submitted for all, or a part, of the affected area unless a change to the affected special waterfront area has become effective.~~

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

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

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

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

Commented [TC17]: Staff asked Law about water-dependent/water-related uses, and Law said it was an issue for the Commission and Assembly. After reviewing the TPU, staff recommends that these references be deleted. TPU letter N, which applies to Waterfront Commercial and Waterfront Industrial, states that the use must be water-related, water-dependent, or water-oriented. These definitions would include all the uses listed here.

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- ~~(A) Maritime activities including private boating, commercial boating of all types, visitor industry, including cruise ships and transient pleasure vessels, commercial fishing, charter fishing and boating, floatplane activity, and any other activity not involving a structure for the use of waterbodies for sport, recreation, or commerce;~~
- ~~(B) Floats, docks, jetties, groins, bulkheads, ramps, shore defense works, piers, wharfs, dolphins, and other structures needed to provide access between shore and waterbody or to protect and stabilize the shoreline;~~
- ~~(C) All forms and structures related to handling and storage of cargo which arrived by water and/or is intended to depart by water, including storage yards, warehouses, cranes and similar machinery, and marine railways;~~
- ~~(D) Any form or structure for manufacturing or repair which is related to maritime activity and which substantially requires or benefits from a shoreline location;~~
- ~~(E) Any form or structure associated with uses which need or substantially benefit from a shoreline location;~~
- ~~(F) Marine fuel, water and sanitation facilities including services and support for transient and permanent vessels;~~
- ~~(G) All forms of public, private, and commercial moorage;~~
- ~~(H) Public access facilities, including boat ramps, parks, promenades, sidewalks, viewing areas, benches, plazas, and other forms of public open spaces;~~
- ~~(I) Research and education facilities related to the waterbody they abut;~~
- ~~(J) Fish and shellfish propagation and management;~~
- ~~(K) Offices which are related to and a necessary part of permissible uses;~~
- ~~(L) Public utilities including lines, pump stations, transformer stations, and similar uses;~~
- ~~(M) Hotels, motels and other types of transient lodging which are designed to take advantage of the shoreline amenity and which will result in increased visual or physical public access to the shoreline;~~
- ~~(N) Restaurants, cafes, and other food or beverage facilities which are designed to take advantage of the shoreline amenity and which will result in increased visual or physical access to the shoreline;~~
- ~~(O) Gift shops, entertainment facilities, ticketing agencies, and other visitor industry services;~~
- ~~(P) Retail services directly linked to a maritime clientele, such as gear and supply stores, boat sales, and laundries. To be directly linked, the proposed use must show by design and orientation that the primary clientele will be persons arriving from or going to watercraft or working on or in conjunction with watercraft, and that the proposed use is reasonably located to be convenient to foot borne customers that are already found in the area or that can be expected to be in the area;~~

~~(Q) Retail establishments and restaurants catering to the needs of persons working in the special waterfront areas when close proximity is important to the function of permissible uses;~~

~~(R) Water oriented retail and/or office complexes where the value and income potential from retail or office uses will enable provision of public access and other water related amenities for use by the public. Such amenities must be provided at the same time as the facilities are completed, or earlier in time. An overall plan for the entire development must be presented with the permit application showing spaces and features that will be available to the public;~~

~~(S) Residences;~~

~~(T) The following accessory uses when associated with the uses set forth above: parking lots, spaces and structures, driveways, sidewalks, entrance structures, decorative structures, benches, landscaping features, awnings and similar improvements, and utility facilities.~~

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

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

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

~~(3) No floating structures are allowed within 200 feet of the mouths of streams in the Thane special waterfront area.~~

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

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

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

~~(A) Reserved.~~

~~(B) Reserved.~~

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

~~(D) Reserved.~~

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

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

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

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

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

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

ARTICLE IX. COASTAL MANAGEMENT

49.70.900 General provisions.

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

(Serial No. 87-49, § 2, 1987)

49.70.905 Coastal development.

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

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

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

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

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

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

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- (15) Floating camps or multipurpose floating structures intended in whole or in part for residential purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed under the conditional use procedure provided they meet all of the standards for floathomes set forth in subsection (14) of this section.
 - (16) Development intended to provide moorage for two or more floathomes may be allowed as conditional uses in the nonprohibited areas shown on Juneau Coastal Management Plan Map 2, provided the developer:
 - (A) Owns, or has a nonrevocable lease, for at least 30 years in duration, for the upland area adjacent to the water area to be developed;
 - (B) Provides at least two off-road parking spaces for each floathome;
 - (C) Provides fresh water, sewer with approved onshore disposal, and electricity to each floathome;
 - (D) Provides fire control protection approved by the City and Borough fire chief; and
 - (E) Provides to the floathomes, by site selection, physical improvements, or design of the floathomes, protection from storms, such that the floathomes will be safe from waves higher than two feet.
 - (17) Floating structures, other than those addressed in subsections (14), (15) and (16) of this section, intended for commercial or industrial purposes including, fish propagation, mineral extraction, mineral processing, timber extraction or processing, lodging, seafood processing, research, marine service and repairs, which will be fixed in one location for more than 30 days, may do so only after having obtained approval through the conditional use process. Provided, the following are exempt from the conditional use process requirement:
 - (A) Mooring devices for watercraft;
 - (B) Watercraft transiting the City and Borough that are not intended for residential use in excess of 30 days in any 12 calendar months;
 - (C) Seafood processors whose primary purpose is to receive fish and shellfish from harvesting boats and prepare it for further transportation; and
 - (D) Watercraft intended to transport cargo to, from or within the City and Borough.
 - (18) Industrial and commercial uses on or adjacent to the shorelines of navigable waters must be located in the appropriate special waterfront designation established in section 49.70.960 unless:
 - (A) There is no feasible and prudent alternative to meet the public need for the use; and
 - (B) The nature of the use requires a specific location and no other location will suffice.
 - (19) In approving development in coastal areas, priority shall be given, in the following order, to:
 - (A) Water-dependent uses and activities;
 - (B) Water-related uses and activities; and
 - (C) Uses and activities which are neither water-dependent nor water-related, for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.
- (Serial No. 87-49, § 2, 1987; Serial No. 92-41, § 2, 1992)

49.70.910 Geophysical hazards.

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

(Serial No. 87-49, § 2, 1987)

49.70.915 Recreation.

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

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

(Serial No. 87-49, § 2, 1987)

49.70.920 Energy facilities.

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

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

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

(Serial No. 87-49, § 2, 1987)

49.70.925 Transportation and utilities.

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

(Serial No. 87-49, § 2, 1987)

49.70.930 Fish and seafood propagation and processing.

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

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

(Serial No. 87-49, § 2, 1987)

49.70.935 Timber harvest and processing.

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

(Serial No. 87-49, § 2, 1987)

49.70.940 Mining and mineral processing.

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

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

(Serial No. 87-49, § 2, 1987)

49.70.945 Subsistence.

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

(Serial No. 87-49, § 2, 1987)

49.70.950 Habitat.

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

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

(Serial No. 87-49, § 2, 1987)

49.70.955 Air, land and water quality.

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

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

49.70.960 Special waterfront areas.

(a) *General standards.*

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

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

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

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

(D) Reserved.

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

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