

# Agenda

## Planning Commission - Title 49 Committee City and Borough of Juneau

May 12, 2022  
Virtual Meeting Only  
12:00 PM

This virtual meeting will be held by video and telephonic participation only. To join the webinar, paste this URL into your browser: <https://juneau.zoom.us/j/83513841514>. To participate telephonically, call: 1-346-248-7799 or 1-669-900-6833 or 1-253-215-8782 or 1-312-626-6799 or 1-929-436-2866 or 1-301-715-8592 and enter Webinar ID: 835 1384 1514

### **I. ROLL CALL**

### **II. APPROVAL OF AGENDA**

### **III. AGENDA TOPICS**

- A. AME2017 0001: Proposed Revisions to the Juneau Coastal Management Program, 49.70.310
- B. Status Update of All Ordinances Currently Under Review

### **IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS**

### **V. ADJOURNMENT**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

**49.70.310(c) Coastal Development and Special Habitats**

(1) The purpose of this section is to manage and protect the natural resource values of Juneau’s coastline and special habitats.

(2) The following standards shall apply:

(a) Fish and seafood propagation, processing, and mariculture

(i) 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 whenever reasonable. Upland areas shall be managed to maintain water quality standards necessary for the propagation of anadromous fish species.

(ii)

Fisheries enhancement and mariculture 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.

(b) Uses and activities in the coastal area which will not conform to the standards contained in subsection a of this section or to the standards of 49.70.310(d)(2), Special Waterfront Area General Standards 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 reasonable alternative to meet the public need for the proposed use or activity which would conform to the standards contained in ~~subsections a-b~~ of this section or to the standards of 49.70.310(d)(2), Special Waterfront Area General Standards, and
- ~~(3) All feasible and prudent steps to maximize conformance with the standards contained in subsections (b-c) of this section will be taken.~~

**Commented [TC1]:** Clarifying language added per Committee request. If the final numbering on the ordinance should change, staff notes that this is intended to refer to Special Waterfront Area General Standards.

**Commented [TC2]:** At the 4/21/22 meeting there was confusion on where the public need standard applied, and both staff and the Committee overlooked the additional citation in (b) above which referred to the Special Waterfront Area General Standards. This language is now included twice, which is redundant and may not be necessary, however it avoids confusion.

**49.70.310(d) Special waterfront areas.**

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

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

- 38 (b) to promote pedestrian access to the downtown waterfront with a seawalk; and  
 39 (c) to provide special policies for other unique Special Waterfront Areas.
- 40 (2) *General standards.*
- 41 (a) The Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each  
 42 special waterfront area, and the maximum seaward limits for permanent development in  
 43 each special waterfront area. The land or water inside the boundaries shown on the Special  
 44 Waterfront Area Map is subject to the provisions of this section.
- 45 (b) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the  
 46 expansion of upland area is specifically prohibited unless clear and convincing evidence is  
 47 provided showing that all of the following conditions exist such that:
- 48 (i) Strict compliance with the policy would prevent the applicant from making a reasonable  
 49 use of the property or would make compliance unreasonably burdensome;
- 50 (ii) Fill is the only means to allow development of the property which is similar to other  
 51 properties in the vicinity;
- 52 (iii) Less than the proposed fill would prevent the applicant from making a reasonable use of  
 53 the property or would make compliance unreasonably burdensome; and
- 54 (iv) Provided, log and mining transfer facilities and the following public facilities are exempt  
 55 from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment  
 56 plant lines and outfalls, and transportation facilities.
- 57 (v) Fill for expansion of the upland area is fill intended for structural support. Examples  
 58 include structural support of buildings, parking lots, and related facilities. Fill for expansion of  
 59 the upland area does not include fill used for rock walls, bank stabilization, and similar uses.
- 60 (c) Fill proposals within the special waterfront areas are not subject to the fill prohibition of  
 61 subsection 49.70.310(d)(ii)(b) relating to coastal development.
- 62 (d) If new site-specific information becomes available which clearly indicates that crucial habitats  
 63 exist within the Special Waterfront Areas, and if after consultation with the City and Borough  
 64 and state resource agencies, these entities concur, a specific evaluation pursuant to  
 65 subsection 49.70.310(c)(2)((b) will be immediately required for projects within the crucial  
 66 habitat areas.
- 67 (e) A change to the special waterfront areas may be initiated by the submittal of new information  
 68 regarding habitats to the department. To initiate a program change new information must be  
 69 based on detailed site-specific studies which indicate that the habitat is substantially more  
 70 productive than was indicated in the information which was available on May 22, 1986.
- 71
- 72
- 73 (3) *Special policies for the special waterfront areas.*
- 74 (a) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except  
 75 that necessary to construct a public boat ramp.

**Commented [TC3]:** This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed. Special Waterfront Areas were determined long ago to be areas of low habitat value. This section is for the situation (which has never happened) where new information 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, it can still be approved if there is demonstrated public need and impacts have been minimized. The specific evaluation referred to here is not a habitat evaluation—it's the evaluation of the public need criteria.

**Commented [TC4]:** At the 4/21/22 meeting the Committee recommended deletion of this section if changes to the special waterfront area maps would require approval by the Planning Commission and Assembly. Staff will provide clarification on this question prior to the next meeting.

- 
- 76 (b) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area  
 77 except as needed by the U.S. Coast Guard for its purposes or as allowed by the state  
 78 department of fish and game for habitat maintenance and enhancement.
- 79 (c) No floating structures are allowed within 300 feet of the mouths of streams in the Thane  
 80 special waterfront area.
- 81 (d) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.
- 82 (e) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a  
 83 natural beach for salmon resting.
- 84 (f) Seawalk. A pedestrian access easement and walkway intended to provide a continuous  
 85 pedestrian path along the entire downtown waterfront area, shall be included with all future  
 86 development or redevelopment along the downtown waterfront shoreline. This walkway, to  
 87 be known as the seawalk, shall be a continuous path along the entire downtown waterfront  
 88 as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk,  
 89 property owners developing or redeveloping property along the waterfront shoreline within  
 90 the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and  
 91 Borough equal to 20 percent of the final project cost for a seawalk constructed to public  
 92 assembly standards for the section abutting their property. Unless the alignment of the  
 93 seawalk requires otherwise, owners of property along the waterfront shoreline within the  
 94 area encompassed by the Long Range Waterfront Plan developing or redeveloping their  
 95 property shall dedicate all easements necessary for construction of a seawalk 16 feet in  
 96 width.
- 97 (i) Reserved.
- 98 ~~(Bii)~~ Reserved.
- 99 (iii) The seawalk shall not be required for existing buildings located along the water's edge  
 100 until additions or alterations, or both, in excess of 50 percent of the gross square  
 101 footage of the existing structure are proposed or undertaken within a 36-month period  
 102 as determined by the City and Borough building division. General maintenance or repair  
 103 work is exempt from this requirement.
- 104 (iv) Reserved.
- 105 (g) Interpretation of the Special Waterfront Area Map. The purpose of this subsection is to assist users  
 106 of the Special Waterfront Area Map.
- 107 (i) Lines which apparently follow street or right-of-way centerlines shall be construed as  
 108 following such centerlines.
- 109 (ii) Lines which apparently follow property or lot boundary lines shall be construed as following  
 110 such boundary lines.
- 111 (iii) Lines at the first and second rock dumps shall represent a line 100 feet upland from the mean  
 112 high water line. Lines on other land and water areas where there are no survey lines shall be  
 113 construed by using the scale of the Special Waterfront Area Map. Where doubt arises over  
 114 the location of a line, the parties shall first establish the true scale of the map by using a

115 known distance between points visible on the map. The outside, or seaward edge of the line  
116 appearing on the map shall then be construed as the line.

117 Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

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

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

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

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

134  
135  
136  
137  
138  
139  
140  
141  
142  
143

144 Definitions 49.80

145

146 *Banks, beaches, and beds critical to the preservation of the fisheries resource base* means areas that that  
147 are either catalogued or documented as critical to the fisheries resource base, or expressed as such by a  
148 state or federal resource agency.

149

150 *Important fish and wildlife habitat* means the waters and/or surrounding land areas that are either  
151 catalogued or documented habitats or expressed as important by a state or federal resource agency.

152

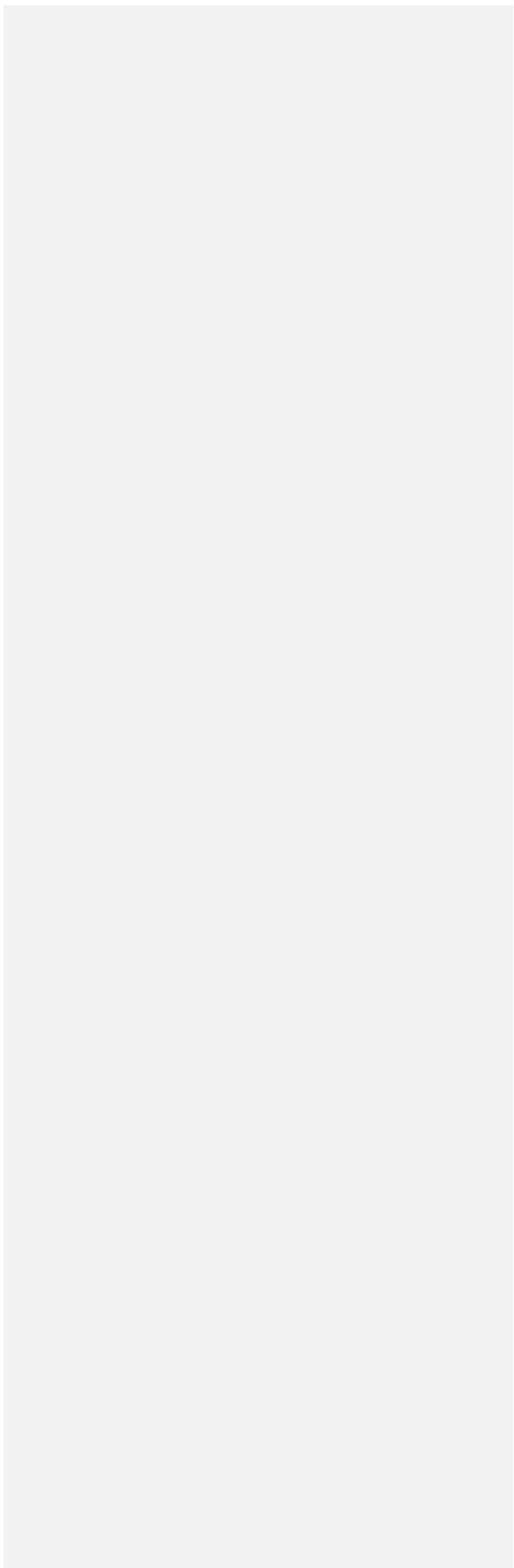
153 *Significant fish or shellfish species* means species that are either catalogued or documented as important  
154 to Southeast Alaska, or expressed as such by a state or federal resource agency.

155

156

---

157  
158



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

**49.70.310(c) Coastal Development and Special Habitats**

(1) The purpose of this section is to manage and protect the natural resource values of Juneau’s coastline and special habitats.

(2) The following standards shall apply:

(a) Fish and seafood propagation, processing, and mariculture

(i) 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 whenever reasonable. Upland areas shall be managed to maintain water quality standards necessary for the propagation of anadromous fish species.

(ii)

Fisheries enhancement and mariculture 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.

(b) Uses and activities in the coastal area which will not conform to the standards contained in subsection a of this section or to the standards of 49.70.310(d)(2) 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 reasonable alternative to meet the public need for the proposed use or activity which would conform to the standards contained in subsections a-b of this section; and
- (3) All feasible and prudent steps to maximize conformance with the standards contained in subsections (b-c) of this section will be taken.

**49.70.310(d) Special waterfront areas.**

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

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

**Commented [TC1]:** Recommended for retention despite some duplication of state authority because these policies provide more specific 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. Staff has proposed definitions at the end of this section.

**Commented [TC2]:** 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 to minimize impacts and was considered a public need. Without this section, an important public project could potentially be denied based on habitat impacts.

**Commented [TC3]:** Clarifying language added per Committee request. If the final numbering on the ordinance should change, staff notes that this is intended to refer to Special Waterfront Area General Standards.

**Commented [TC4]:** Purpose statement that covers all sections added per Committee request.

- 37 (b) to promote pedestrian access to the downtown waterfront with a seawalk; and  
 38 (c) to provide special policies for other unique Special Waterfront Areas.  
 39 (2) *General standards.*  
 40 (a) The Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each  
 41 special waterfront area, and the maximum seaward limits for permanent development in  
 42 each special waterfront area. The land or water inside the boundaries shown on the Special  
 43 Waterfront Area Map is subject to the provisions of this section.  
 44 (b) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the  
 45 expansion of upland area is specifically prohibited unless clear and convincing evidence is  
 46 provided showing that all of the following conditions exist such that:  
 47 (i) Strict compliance with the policy would prevent the applicant from making a reasonable  
 48 use of the property or would make compliance unreasonably burdensome;  
 49 (ii) Fill is the only means to allow development of the property which is similar to other  
 50 properties in the vicinity;  
 51 (iii) Less than the proposed fill would prevent the applicant from making a reasonable use of  
 52 the property or would make compliance unreasonably burdensome; and  
 53 (iv) Provided, log and mining transfer facilities and the following public facilities are exempt  
 54 from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment  
 55 plant lines and outfalls, and transportation facilities.  
 56 (v) Fill for expansion of the upland area is fill intended for structural support. Examples  
 57 include structural support of buildings, parking lots, and related facilities. Fill for expansion of  
 58 the upland area does not include fill used for rock walls, bank stabilization, and similar uses.  
 59 (c) Fill proposals within the special waterfront areas are not subject to the fill prohibition of  
 60 subsection 49.70.310(d)(ii)(b) relating to coastal development.  
 61 (d) If new site-specific information becomes available which clearly indicates that crucial habitats  
 62 exist within the Special Waterfront Areas, and if after consultation with the City and Borough  
 63 and state resource agencies, these entities concur, a specific evaluation pursuant to  
 64 subsection 49.70.310(c)(2)((b) will be immediately required for projects within the crucial  
 65 habitat areas.  
 66 (e) A change to the special waterfront areas may be initiated by the submittal of new information  
 67 regarding habitats to the department. To initiate a program change new information must be  
 68 based on detailed site-specific studies which indicate that the habitat is substantially more  
 69 productive than was indicated in the information which was available on May 22, 1986.  
 70  
 71  
 72 (3) *Special policies for the special waterfront areas.*  
 73 (a) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except  
 74 that necessary to construct a public boat ramp.

**Commented [TC5]:** Criteria have been substantially cut per Committee's direction

**Commented [TC6]:** The Committee requested further analysis of this section at the March 2022 meeting. Staff has concluded that this language was part of the JCMP as part of past agency cooperation efforts and to ensure that CBJ was not approving uses that would be denied by other agencies. This also served as a courtesy to the applicant. However the standard requires additional review by CBJ, is difficult to conclusively determine, and could create delays. Therefore staff is recommending deletion.

**Commented [TC7]:** Upland area is defined in code

**Commented [TC8]:** Same intent as original language but minimized with state agency references deleted.

**Commented [TC9]:** The Committee requested further analysis of this section at the March 2022 meeting. Staff recommends deleting this text, except for the first clarifying statement, on the premise that Special Waterfront Areas are areas of established industrial development with low habitat value. Therefore this additional review of the fill area is not necessary.

**Commented [TC10]:** This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed. Special Waterfront Areas were determined long ago to be areas of low habitat value. This section is for the situation (which has never happened) where new information 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, it can still be approved if there is demonstrated public need and impacts have been minimized. The specific evaluation referred to here is not a habitat evaluation—it's the evaluation of the public need criteria.

**Commented [TC11]:** This is the same language as in the original JCMP, except that references to state agencies and the state program have been removed.

**Commented [TC12]:** This section has been moved but otherwise not changed.

- 
- 75 (b) Gold Creek Mouth Protection Area. No structures or activities shall be allowed in this area  
 76 except as needed by the U.S. Coast Guard for its purposes or as allowed by the state  
 77 department of fish and game for habitat maintenance and enhancement.
- 78 (c) No floating structures are allowed within 300 feet of the mouths of streams in the Thane  
 79 special waterfront area.
- 80 (d) A public fishing pier on the south side of the Juneau-Douglas Bridge may be allowed.
- 81 (e) A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a  
 82 natural beach for salmon resting.
- 83 (f) Seawalk. A pedestrian access easement and walkway intended to provide a continuous  
 84 pedestrian path along the entire downtown waterfront area, shall be included with all future  
 85 development or redevelopment along the downtown waterfront shoreline. This walkway, to  
 86 be known as the seawalk, shall be a continuous path along the entire downtown waterfront  
 87 as depicted in the Long Range Waterfront Plan. In lieu of constructing the required seawalk,  
 88 property owners developing or redeveloping property along the waterfront shoreline within  
 89 the area encompassed by the Long Range Waterfront Plan shall pay a fee to the City and  
 90 Borough equal to 20 percent of the final project cost for a seawalk constructed to public  
 91 assembly standards for the section abutting their property. Unless the alignment of the  
 92 seawalk requires otherwise, owners of property along the waterfront shoreline within the  
 93 area encompassed by the Long Range Waterfront Plan developing or redeveloping their  
 94 property shall dedicate all easements necessary for construction of a seawalk 16 feet in  
 95 width.
- 96 (i) Reserved.
- 97 (Bii) Reserved.
- 98 (iii) The seawalk shall not be required for existing buildings located along the water's edge  
 99 until additions or alterations, or both, in excess of 50 percent of the gross square  
 100 footage of the existing structure are proposed or undertaken within a 36-month period  
 101 as determined by the City and Borough building division. General maintenance or repair  
 102 work is exempt from this requirement.
- 103 (iv) Reserved.
- 104 (g) Interpretation of the Special Waterfront Area Map. The purpose of this subsection is to assist users  
 105 of the Special Waterfront Area Map.
- 106 (i) Lines which apparently follow street or right-of-way centerlines shall be construed as  
 107 following such centerlines.
- 108 (ii) Lines which apparently follow property or lot boundary lines shall be construed as following  
 109 such boundary lines.
- 110 (iii) Lines at the first and second rock dumps shall represent a line 100 feet upland from the mean  
 111 high water line. Lines on other land and water areas where there are no survey lines shall be  
 112 construed by using the scale of the Special Waterfront Area Map. Where doubt arises over  
 113 the location of a line, the parties shall first establish the true scale of the map by using a

114 known distance between points visible on the map. The outside, or seaward edge of the line  
115 appearing on the map shall then be construed as the line.

116 Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

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

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

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

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

133  
134  
135  
136  
137  
138  
139  
140  
141  
142

143 Definitions 49.80

144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155

*Banks, beaches, and beds critical to the preservation of the fisheries resource base* means areas that that are either catalogued or documented as critical to the fisheries resource base, or expressed as such by a state or federal resource agency.

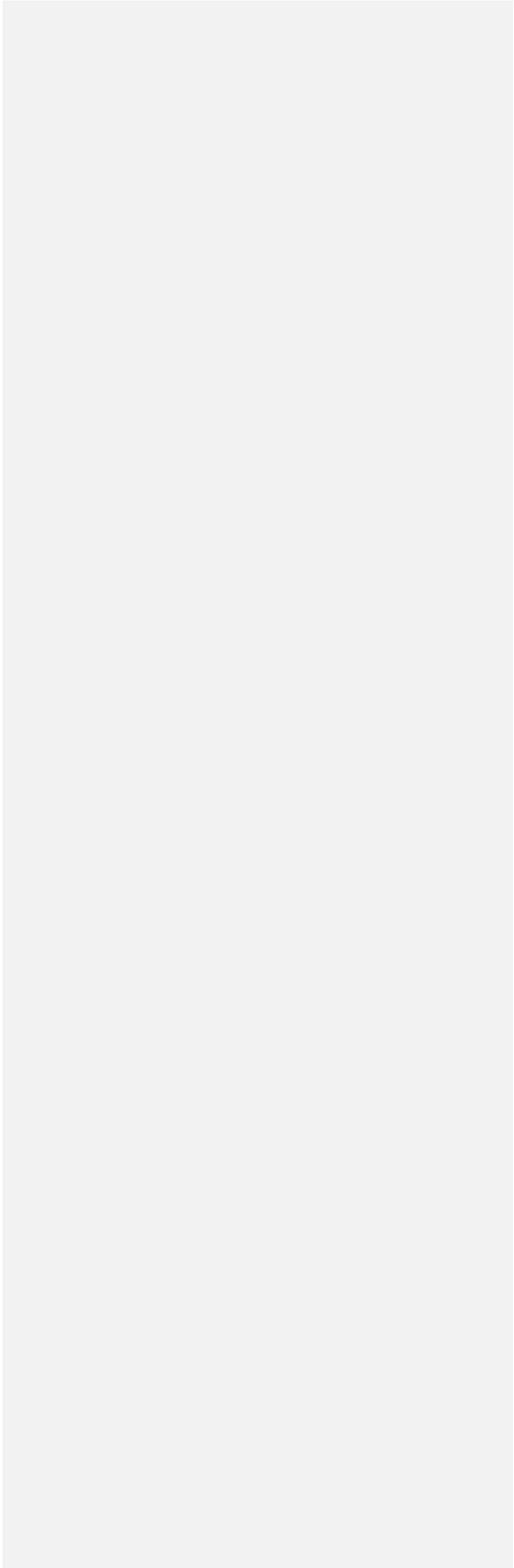
*Important fish and wildlife habitat* means the waters and/or surrounding land areas that are either catalogued or documented habitats or expressed as important by a state or federal resource agency.

*Significant fish or shellfish species* means species that are either catalogued or documented as important to Southeast Alaska, or expressed as such by a state or federal resource agency.

**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.

---

156  
157



## *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;

- (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.

- (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

- (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.

- (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.

- (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;

- (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.

- (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)

