

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

July 21, 2022
Virtual Meeting Only
12:00 PM

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I. ROLL CALL

II. APPROVAL OF AGENDA

III. AGENDA TOPICS

- A.** AME2022 0003: Proposed Amendment to Subdividing on Arterials
- B.** AME2017 0001: Proposed Revisions to the Juneau Coastal Management Program, CBJ 49.70.310

IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS

V. ADJOURNMENT



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May 23, 2022

MEMO

TO: Chair Arndt, and Title 49 Committee Members

FROM: Jill Maclean, AICP

SUBJECT: AME2022 0003: Proposed Amendments to Subdividing on Arterials

INTRODUCTION

The purpose of this memo is to present staff recommendations and proposed revisions to the Land Use Code related to development and access to the Title 49 Committee. Staff has been directed to identify “quick fixes” to the Code that remove barriers to development, specifically residential development. We recognize that other revisions may be worthwhile in Chapter 49.35; however, greater revision may necessitate a public process, and take more time. On May 12, 2022, the Title 49 Committee and staff agreed that we would commit to discussing the quick fixes and not attempt to rewrite entire sections or chapters. The intent is to get in, get out, and create as much flexibility in the Land Use Code that is reasonable with smaller (less time consuming) fixes and adjustments.

SUMMARY OF REVISIONS

Note: Each bullet below has the associated Land Use Code citation, and an approximate Line Number to support ease in discussing the changes.

This packet includes this cover memo, and the existing Chapter 49.35 Public and Private Improvements with track changes, including:

- Language striking the requirement of meeting the D1 lot size standard (36,000 square feet), if subdividing along an arterial (49.35.210, ~Line 91);
- Language striking the regulation that these same properties cannot be further subdivided, and replaced with language stating that further subdivision is permissible if the subdivision meets code (49.35.210, ~Line 93);
- Language striking the requirement of “direct and practical access” must be through the frontage (49.35.250 Access, ~Line 359);
- Language recommending splitting two sentences that recently came into question that makes the language more user-friendly (49.35.262, ~Line 402);

- A grammatical revision changing “zone” to “zoning” on ~Line 419;
- Language clarifying that when using private shared access, the parent lot may choose to use the right-of-way for access similar to panhandle subdivisions (49.35.263, ~Line 450).

Staff recommends that the Title 49 Committee favorably recommend these amendments to the Planning Commission.

ATTACHMENTS

Attachment A – Title 49 Land Use Code Chapter 49.35 DRAFT

PART II - CODE OF ORDINANCES
TITLE 49 - LAND USE
Chapter 49.35 - PUBLIC AND PRIVATE IMPROVEMENTS
ARTICLE I. GENERALLY

ARTICLE I. GENERALLY

Commented [JM1]: No changes proposed at this time
Go to Line 91 [(49.35.210(b)(3))]

49.35.110 Purpose.

The purpose of this chapter is to:

- (1) Establish design and development criteria for public and private improvements; and
- (2) Outline the procedures and responsibilities of the developer for furnishing plans and completing the improvements.

(Serial No. 87-49, § 2, 1987; Serial No. 2016-26(b), § 6, 4-3-2017, eff. 5-3-2017)

49.35.120 Improvements; generally.

- (a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands.
- (b) If a publicly maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly created subdivision.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 5, 1995; Serial No. 2002-20, § 2, 8-5-2002; Serial No. 2015-03(c)(am), § 21, 8-31-2015; Serial No. 2016-26(b), § 7, 4-3-2017, eff. 5-3-2017)

49.35.130 Standard specifications.

- (a) Compliance with specifications. Except as otherwise provided, all subdivision improvements shall be in accordance with the latest revision of the City and Borough subdivision standard specifications and details on file in the engineering and public works department.
- (b) The director of engineering and public works may prescribe different or additional standards if unusual or unforeseen conditions exist in a particular development, and the alternative meets or exceeds the intent of the original standard.
- (c) Change of standards. Prior to a substantial change in the standards generally applicable to required subdivision improvements, the director of engineering and public works or the director of engineering and public works' designee shall hold a public hearing on the proposed change. The hearing shall be preceded by ten days' published notice. The standards may be changed in response to comments received at the hearing or received at any other time prior to the effective date. The standards shall become effective 30 days after the first notice of the hearing is published. The manager may shorten the notice period or waive the requirement for a hearing and may specify an earlier effective date if the manager finds an emergency exists or that other conditions warrant such action. If the hearing is held with less than three days' published notice, a second hearing preceded by ten days' published notice shall be held.

(Serial No. 87-49, § 2, 1987; Serial No. 92-09, § 2, 1992; Serial No. 99-34, § 5, 1-24-2000; Serial No. 2002-20, § 3, 8-5-2002; Serial No. 2015-03(c)(am), § 22, 8-31-2015)

49.35.140 Construction plans.

- (a) *Generally.* The developer must submit construction plans for all proposed public improvements and associated private improvements and utilities within and outside the proposed development's boundary.
- (b) *Construction plan submittal.*
 - (1) *Plan sets.* Prior to submittal of the final plat, and before the start of any construction, the developer must furnish to the City and Borough Permit Center complete sets of construction plans, profiles, details, and special construction provisions for all existing and proposed improvements. The director of engineering and public works shall determine the number of plan sets to be submitted. Plan sets will be forwarded to the appropriate City and Borough departments and agencies.
 - (2) *Engineer's stamp.* Construction plans must be stamped by the professional engineer licensed in the State of Alaska who is responsible for the improvement designs. Multiple engineer stamps are required for plans with multiple discipline designs, e.g., civil, electrical, structural engineering.
- (c) *Construction plan—Details.*
 - (1) *Size.* All construction plans shall be submitted on 22- by 34-inch sheets. The director of engineering and public works may approve alternative sheet sizes.
 - (2) *Information.* The drawings must contain the following information:
 - (A) Name of subdivision.
 - (B) Type of work.
 - (C) Date.
 - (D) Name of engineer preparing the drawings and the engineer's stamp.
 - (E) Space for approval signature by the director of engineering and public works.
 - (F) A north arrow and scale.
 - (3) *Scale.* Horizontal scale must be one inch equals 50 feet or greater. Vertical scale must be one inch equals five feet or less with a minimum scale of one inch equals ten feet. The director of engineering and public works may approve alternative scales.
 - (4) *Benchmarks.* The locations, elevations and description of datum of permanent benchmarks must be shown.
 - (5) *Street profiles.* Profiles of streets shall indicate finished and existing grades for centerline of the street and shall extend a minimum of 200 feet beyond the limits of the proposed project or, if intersecting an existing street, extend to the far side of the existing street.
 - (6) *[Details to be included.]* Plans and profiles, where applicable, shall include location, elevation, size, materials, and all other details of the proposed improvements.
 - (7) *[Complete data.]* Complete survey data must be shown for all horizontal and vertical curves.
 - (8) *[Location of utilities.]* Construction plans shall include the location of all existing and proposed utilities.
- (d) *As-built drawings.* The developer, upon completion of required improvements, must submit a reproducible and digital format copy of as-built plans unless otherwise required by the director of engineering and public works.

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(Serial No. 87-49, § 2, 1987; Serial No. 2015-03(c)(am), § 23, 8-31-2015)

ARTICLE II. STREETS¹

DIVISION 1. IN GENERAL

49.35.210 Street system.

- (a) *[In general.]* Subdivision street systems shall be designed for the most advantageous development of the entire neighborhood area and shall meet the following criteria:
- (1) The street system shall provide for connecting streets into adjoining unsubdivided lands.
 - (2) Subdivision street systems shall be designed to maximize the number of connecting streets in a given area in order to reduce the volume of traffic and traffic delays on major streets (arterials and major collectors), to minimize bypass and through trips on residential streets, and to increase the number of local street connections facilitating safer bicycle and pedestrian travel.
 - (3) Traffic calming should be taken into account in street layout and design.
- (b) *Major and minor arterials.* Except as provided in subsection (3) of this section, if a new subdivision involves frontage along an arterial street:
- (1) The plat shall note that no lots shall access directly onto the arterial;
 - (2) Access shall be provided onto an interior access street or a separate frontage road.
 - (3) A parcel of land with less than 500 feet of frontage on a street, or with less than 350 feet in depth may be subdivided so as to allow access directly onto a minor arterial street if all of the following conditions are met:
 - (A) All of the resulting lots must meet the minimum lot area standard for a single-family dwelling in the D-1 the zoning district and density bonuses are not permissible (36,000 square feet).
 - (B) All of the lots must share a common access point, and further subdivision of the newly created lots is not allowed.
 - (C) Common access to all lots is required and back out parking is prohibited. The applicant must submit a plan that shows the feasibility of off street parking for all lots and an adequate area for a turnaround to prevent back out parking.
 - (D) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, all of which must be acceptable to the director, that ensures the required common access will be constructed and maintained by the property owners.
 - (E) The proposed subdivision must meet all other applicable subdivision standards and requirements.
- (c) *Collector streets.* Collector streets in adjoining subdivisions shall be continued in the new subdivision as needed.

Commented [JM2]: Lots are required to have a minimum frontage. See below Line 359 [(49.35.250(b))]

Commented [JM3]: If the further subdivision can meet code, why is not permissible? See below line 102 (49.35.210(b)(3)(E))

¹Cross reference(s)—Public ways and property, CBJ Code tit. 62.

- 106 (1) *Major collectors.* Except as provided in subsection (C) of this section, if a new subdivision involves
107 frontage along a major collector street:
- 108 (A) The plat shall note that no lots shall access directly onto the major collector.
- 109 (B) Access shall be provided onto an interior access street or a separate frontage road.
- 110 (C) Exception a parcel of land with less than 500 feet of frontage or less than 350 feet of depth may
111 be subdivided so as to allow access directly onto a major collector street.
- 112 (2) *Minor collectors.* Access for lots is allowed directly onto minor collector streets if no other restrictions
113 apply.
- 114 (Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 6, 1995; Serial No. 2002-20, § 4, 8-5-2002; Serial No. 2015-
115 03(c)(am), § 24, 8-31-2015)

116 **49.35.220 Street names.**

Commented [JM4]: No changes proposed at this time

- 117 (a) *New streets.* Street names must be unique in order to avoid confusion. When streets are extended, the name
118 must remain the same for the new segment. Proposed street names shall be shown on preliminary plats. The
119 names of streets fronting 13 or fewer lots shall be approved by the director through the minor subdivision
120 processes. The names of streets fronting more than 13 lots shall be approved by the commission at the time
121 of preliminary plat approval for major subdivisions.
- 122 (b) *Existing streets.* The commission shall approve applications to change the name of any existing public street
123 or right-of-way.
- 124 (1) *Application.* The application must be on a form provided by the department and accompanied by:
- 125 (A) The application fee.
- 126 (B) Signed letters of approval from a majority of property owners whose properties have access to
127 the public street proposed for the name change.
- 128 (2) *Procedure.* After public hearing, the commission shall review the proposed street name change for
129 consistency with this section, and, upon a finding that the change is consistent with this section and
130 that the majority of property owners whose properties have access to the public street proposed for
131 the name change approve of the change, shall approve the application.
- 132 (3) *Sign replacement.* If the name change is approved, the applicant shall be responsible for replacing all
133 existing street name signs as specified by the department.
- 134 (Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 7, 1995; Serial No. 2015-03(c)(am), § 25, 8-31-2015)

135 **49.35.230 Roadway classification map.**

Commented [JM5]: No changes proposed at this time

- 136 There are adopted roadway classification maps A—D, dated June 5, 2006, as the same may be amended
137 from time to time by ordinance. These maps set forth the classification of streets and roadways within the CBJ. The
138 roadway classification maps will govern references to streets in this title.
- 139 (Serial No. 2015-03(c)(am), § 26, 8-31-2015)
- 140 Editor's note(s)—Sec. 26 of Serial No. 2015-03(c)(am) , adopted Aug. 31, 2015, repealed and reenacted § 49.35.230
141 in its entirety to read as herein set out. Former § 49.35.230 pertained to design criteria and derived from
142 Serial No. 87-49, 1987; and Serial No. 95-27, 1995.

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49.35.240 Improvement standards.

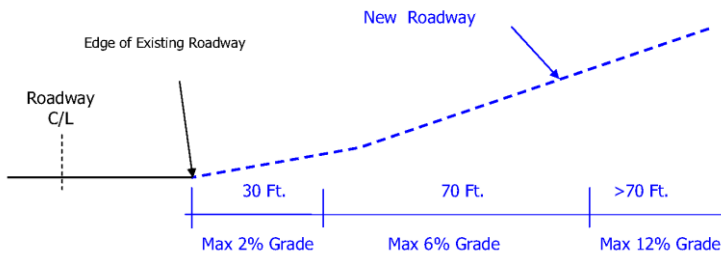
Commented [JM6]: No changes proposed at this time.
Go to Line 350 for next proposed change.

- (a) *Right-of-way widths.* The minimum right-of-way width of proposed streets is as follows:
- (1) Arterials: 100 feet; minor, 80 feet.
 - (2) Collectors: 60 feet.
 - (3) Streets other than arterials and collectors: 60 feet.
 - (4) Cul-de-sacs: temporary or permanent turnaround: a diameter of 120 feet.
 - (5) Alleys: 20 feet.
 - (6) Stairways and other non-motorized access routes: 15 feet.
 - (7) Half streets. Whenever there exists a dedicated or platted half street or alley adjacent to the tract of land to be developed, the other half of the street or alley must be platted, dedicated, and the entire street or alley constructed to current improvement standards.
 - (8) Substandard width. Any previously platted right-of-way with less than the minimum standards identified for the traffic generated shall be improved to meet the minimum requirements established by this title.
- (b) *Right-of-way minimum width reductions.* The director may reduce minimum right-of-way width requirements:
- (1) For a collector, the right-of-way width may be reduced by up to ten feet.
 - (2) For streets with less than 500 average daily trips, or a privately maintained access road in a right-of-way, the width may be reduced by up to 25 feet.
 - (3) Where the dedicated right-of-way abuts and runs parallel to an exterior property line, will serve as a half-street, and will be developed as a low volume street or a driveway in a right-of-way, the width may be reduced by up to 30 feet.
 - (4) Alleys and stairway right-of-ways may be reduced by up to five feet.
 - (5) The director shall make written findings supporting right-of-way minimum width reductions granted under this section. The director's findings shall state that:
 - (A) The applicant has provided room for electric utility features and demonstrates that if the road is upgraded in the future to include additional sidewalks that there is sufficient right-of-way for construction of the sidewalks without need for retaining walls over two feet in height.
 - (B) There is sufficient right-of-way or easements to allow for drainage improvements required by construction of the sidewalks.
 - (C) That any driveways shall be constructed to accommodate the elevations of future sidewalks.
 - (D) No additional right-of-way width will be required in order to provide for sufficient access to abutting lands.
 - (E) There is sufficient room for snow storage.
- (c) *Sight distance.* Sight distances for intersection, passing and stopping must be in accordance with the specifications set forth in "A Policy on Geometric Design of Highways and Streets".
- (d) *Street grades.* Street grades are as follows:

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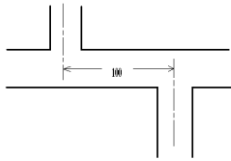
- 180 (1) *Maximum.* Grades on arterial streets must not exceed six percent. Grades on other streets must not
181 exceed 12 percent.
- 182 (2) *Minimum.* The minimum grade for all streets is one-half percent.
- 183 (3) *Cross slope.* The minimum cross slope on all streets is three percent.
- 184 (4) *Exception.* Grades for all streets in hillside areas may be increased under certain circumstances
185 according to chapter 49.70, article II, hillside development.
- 186 (e) *Intersections.*
- 187 (1) *Corner sight distance.* Corner sight distance must be in accordance with CBJ 49.35.240, however, in no
188 case shall the sight distance be less than 200 feet.
- 189 (2) *Intersection angle.* Intersections of right-of-way lines must not be less than 60 degrees. The
190 intersection of the centerline of the constructed roadway must not be less than 80 degrees.
- 191 (3) *Grade.* The grade for the approach leg of a new roadway at an intersection must not exceed two
192 percent for the first 30 feet, measured from the edge of the existing roadway. The grade for the next
193 70 feet of the new roadway must not exceed six percent (See Figure 1).



Maximum Grades at the Intersection of a New Roadway

Figure 1

- 194
- 195
- 196
- 197 (4) *Adjustment to grade.* In certain circumstances, the director of engineering and public works may
198 require the centerline grade to be adjusted to ensure the grades along the edge of the intersecting
199 street do not exceed the maximum grades listed above.
- 200 (5) *Alignment.* A proposed street that will intersect with an existing cross street shall, whenever
201 practicable, align with an existing street intersection on the opposite side of the cross street. Street
202 jogs that have center line offsets of less than 100 feet, shall not be permitted (See Figure 2).



Street jogs shall be no less than 100' apart, measured from the center of the street.

Figure 2

(f) *Curves.*

- (1) *Design.* Curves shall be designed in accordance with "A Policy on Geometric Design of Highways and Streets."
- (2) *Vertical curve.* The minimum length of vertical curves is 200 feet unless otherwise approved by the director of engineering and public works.

(g) *Cul-de-sacs.*

- (1) *Length.* Streets designed to have one end permanently closed shall be no more than 600 feet and not less than 150 feet in length measured from the center of the intersection to the radius point of the turnaround. The director for minor subdivisions, and the commission for major subdivisions, may authorize a longer or shorter cul-de-sac if it is found that the unique characteristics of the site warrant modification to the length.
- (2) *Temporary cul-de-sacs.* Temporary cul-de-sacs will be allowed where a street can practically be extended to provide for connecting streets into an adjoining undeveloped land, is located in a right-of-way or in an easement for public access, and if the following are met:
 - (A) The temporary portions of the cul-de-sac shall be easements on the plat rather than as dedicated right-of-way. Such easements shall allow for public access and maintenance as if it were dedicated right-of-way until such time the easements are vacated. The easements shall not contribute towards lot area.
 - (B) All of the cul-de-sac must be constructed to permanent street construction standards except as noted in (G) below.
 - (C) The CBJ will record a release of the easements for the temporary portions of the cul-de-sac at the state recorder's office at Juneau at the time the cul-de-sac is removed and the street improvements have been extended.
 - (D) Easement lines for the temporary cul-de-sac will be considered front property lines for determining building setbacks.
 - (E) All improvements, including utilities and private driveways, must be designed to accommodate the eventual extension of the street and reversion of the temporary cul-de-sac to adjoining

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properties. The construction plans shall demonstrate those improvements connecting through a temporary cul-de-sac will still comply with CBJ standards after the temporary cul-de-sac is removed.

- (F) Temporary cul-de-sacs must provide required access and minimum frontage on a publically maintained right-of-way to all lots using the cul-de-sac as access. If the cul-de-sac is not extended to the adjoining property, the maximum length of an unconstructed right-of-way between the temporary cul-de-sac and the adjoining property shall be the minimum lot width for the zoning district. If the right-of-way is located in more than one zoning district, the shortest minimum lot width shall be used. The right-of-way between the constructed temporary cul-de-sac and the adjoining property shall be subject to the stub street requirements of this Title (See Figure 3).

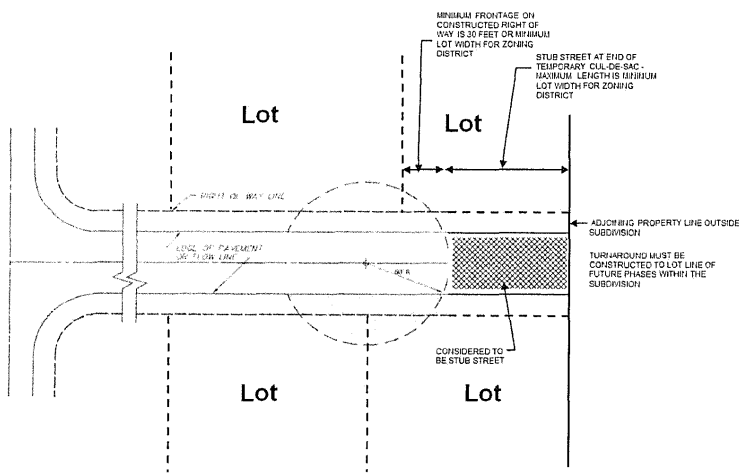


Figure 3

- (G) The temporary cul-de-sac may be located on property within the subdivision intended for future subdivision phases in conjunction with a platted right-of-way. It may also be located outside the subdivision boundary entirely within an easement (See Figure 4). If the temporary cul-de-sac is constructed on property outside of the subdivision boundary, then curb, gutter, and sidewalks are not required for the temporary cul-de-sac.

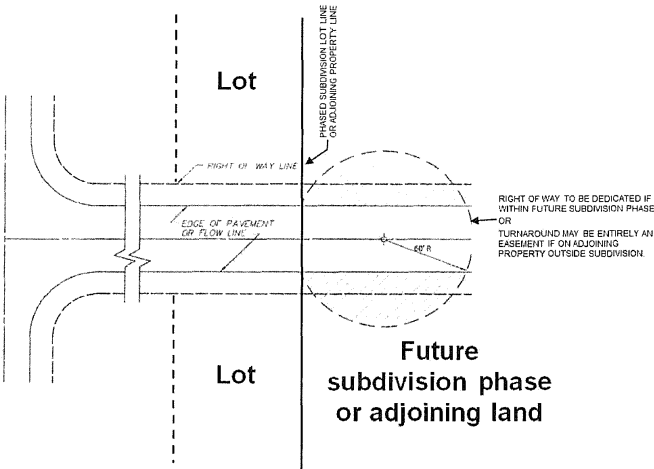


Figure 4

- (H) The plat shall include the following note "Temporary cul-de-sac easement shall be vacated upon extension of street unless the director determines all or a portion of the cul-de-sac may remain."
- (I) When the developer of adjoining property is required to connect to the temporary cul-de-sac, the temporary portions of the cul-de-sac shall be removed. The director, after considering public safety, costs, and recommendations of the director of engineering and public works department and of the fire marshal, shall determine if the developer may leave all or part of the temporary portions of the cul-de-sac. If any temporary cul-de-sac portion is removed, then the resulting constructed right-of-way shall conform to CBJ standards.
- (3) *Hammerhead turnarounds.* Hammerhead turnarounds may be built in lieu of a temporary cul-de-sac, upon approval by the director of engineering and public works.
- (h) *Streets construction standards.*
- (1) *Arterials.* The subdivider is not responsible for the construction of arterial streets, but may be required to dedicate the necessary right-of-way during the platting process.
- (2) *Other streets.* Other than arterials, street shall comply with the following:

Table 49.35.240 Table of roadway construction standards

Avg. Daily Trips (ADT)	Adopted Traffic Impact Analysis Required	Sidewalks	Travel Way Width	Street Lights	Width	Paved Roadway Required	Publicly Maintained

≥ 500	Yes	Both sides	26 ft.	At all intersections	60 ft. Public ROW ⁱⁱ	Yes	Yes
212 to 499	Maybe	One side	24 ft.	At all intersections	60 ft. Public ROW ⁱⁱ	Yes	Yes
0 to 211	No	Not required	22 ft.	At intersection of subdivision streets and external street system	60 ft. Public ROW ⁱⁱ	Yes	Yes
0 to 211	No	Not required	20 ft. ⁱ	At intersection of subdivision streets and external street system	60 ft. Public ROW ⁱⁱ	No, if outside the urban service area	No
0 to 70	No	Not required	20 ft. ⁱ	No	50 ft. private easement	No ⁱⁱⁱ	No

ⁱ Or as required by the Fire Code at CBJ 19.10.

ⁱⁱ ROW width may be reduced as prescribed at CBJ 49.35.240.

ⁱⁱⁱ Except as provided by CBJ 49.35.262(b)(9).

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

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

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

- (A) The proposed relocation will improve access to abutting or neighboring property not otherwise adequately served.
- (B) The subdivider has provided sufficient engineering information to demonstrate to the director of engineering and public works the feasibility of constructing a public street at the location of the relocated right-of-way.
- (C) The relocated right-of-way and the resulting subdivision layout will conform to all the other standards of this chapter.
- (D) The improvements required in the new right-of-way will not be less than those in the existing right-of-way.
- (E) No additional lots are being platted.

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(2) *Stub streets.*

- (A) The director for minor subdivisions and the commission for major subdivisions may waive the full construction of a roadway within a right-of-way that is required to provide access to a bordering property, and does not provide required access to any lot within the subdivision. A developer requesting a stub street waiver shall demonstrate in the construction plans that a street can reasonably be constructed to CBJ standards in the right-of-way. The commission or director may require provision of a roadbed, utility line extensions, or other appropriate improvements (See Figure 5).

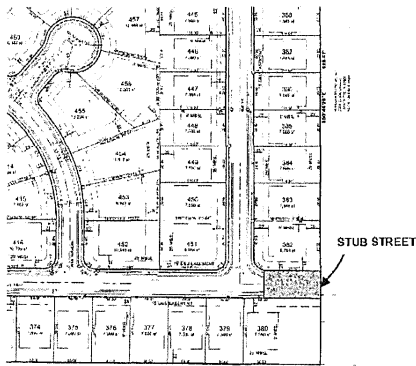


Figure 5

(B) Reserved.

- (C) When the developer of adjoining property is required to connect to the stub street, then the developer of the adjoining property will be required to construct the stub street to City and Borough standards at the time.

- (3) *Remote subdivisions accessible by navigable water.* The commission and the director may waive roadway improvements and other street construction requirements for remote subdivisions accessed solely by navigable water.

- (4) *Roadway construction standards waivers.* Roadway construction standards identified in Table 49.35.240 may be waived in accordance with this subsection for any street reconstruction project, not including routine maintenance; or any new street construction project located in a right-of-way platted before 1987. Waivers shall be in writing.

(A) Roadway construction standards may be waived by the director if:

- (i) The existing roadway does not comply with the roadway construction standards identified in Table 49.35.240;
- (ii) There are unique circumstances that make compliance with the requirements of the table unreasonable;
- (iii) The proposed project will not aggravate the intent of the requirements of this chapter; and
- (iv) The proposed project complies with the American Association of State Highway and Transportation Officials' guidelines.

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- (B) Roadway construction standards may be waived by the commission if:
- (i) The existing roadway does not comply with the roadway construction standards identified in Table 49.35.240;
 - (ii) There are unique circumstances that make compliance with the requirements of the table unreasonable;
 - (iii) The proposed project will not aggravate the intent of the requirements of this chapter; and
 - (iv) Unique circumstances make compliance with the American Association of State Highway and Transportation Officials' guidelines unreasonable, and the commission requires sufficient safeguards to protect public health, safety, and welfare under the circumstances.
- (j) *Pioneer path standards.* The following standards shall apply to remote subdivisions accessed by pioneer paths.
- (1) Interior access shall be provided solely by pioneer path in a right-of-way. The right-of-way width of a pioneer path within a remote subdivision shall be 60 feet.
 - (2) Grades for pioneer paths must not exceed 18 percent. The maximum cross slope grade must not exceed five percent.
 - (3) The width of a pioneer path shall not exceed 54 inches of tread, and must be located within a six-foot corridor.
 - (4) Pioneer paths shall be designed and constructed to prohibit vehicular traffic wider than 48 inches from using the path, which may include the use of boulders, bollards, or any other similar structure.
- (k) *Responsibility for improvements.* Unless otherwise provided, it shall be the responsibility of the subdivider to pay the cost of all right-of-way and street improvements caused by any development, as determined by the director.
- (Serial No. 87-49, § 2, 1987; Serial No. 88-30, § 2, 1988; Serial No. 2002-20, § 5, 8-5-2002; Serial No. 2006-15, § 8, 6-5-2006; Serial No. 2010-41, § 2, 1-10-2011; Serial No. 2015-03(c)(am), § 27, 8-31-2015; Serial No. 2016-26(b), 4-3-2017, eff. 5-4-2017; Serial No. 2018-08, § 2, 3-5-2018, eff. 4-5-2018; Serial No. 2019-08, § 2, 4-22-2019, eff. 5-23-2019)

49.35.250 Access.

- (a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.
- (1) *Principal access to remote subdivisions.* The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.
- (b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way ~~through the frontage that complies or can be improved to comply with the emergency service access requirements of CBJ 19.10~~. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:
- (1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;

Commented [JM7]: Same language used below for PSAs. See Line 406 (49.35.262(b)(4))

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-
- 365 (2) Use of an existing publicly maintained street;
- 366 (3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-
- 367 way must be connected to another publically maintained street; or
- 368 (4) A combination of the above.
- 369 (c) *Privately maintained access within a subdivision.* Lots shall front and have direct access to a publically
- 370 maintained street except as:
- 371 (1) *Privately maintained public access.* A subdivision may create new lots served by a privately maintained
- 372 access within a public right-of-way not maintained by an agency of government as provided by CBJ
- 373 49.35, article II, division 3. All lots must have either a minimum of 30 feet of frontage on a right-of-way,
- 374 or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.
- 375 (2) *Private shared access.* A lot in a subdivision is exempt from having the minimum frontage on a public
- 376 right-of-way when a shared access is approved pursuant to CBJ 49.35, article II, division 2. All lots
- 377 served by a shared access shall have a minimum of 30 feet of frontage on the shared access.
- 378 (d) *Remote subdivisions accessible by navigable waterbodies.* All lots in a remote subdivision solely accessible by
- 379 navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to,
- 380 either the navigable water or a right-of-way. The right-of-way must have direct and practical access to the
- 381 navigable water.
- 382 (e) *Access within remote subdivisions accessible by pioneer paths.* All lots must either have direct and practical
- 383 access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning
- 384 district or use as provided in CBJ 49.25.400.
- 385 (Serial No. 2016-26(b) , § 9, 4-3-2017, eff. 5-3-2017)

386 DIVISION 2. PRIVATE SHARED ACCESS

387 49.35.260 Purpose.

- 388 Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a
- 389 private easement consistent with this division.
- 390 (Serial No. 2016-26(b) , § 10, 4-3-2017, eff. 5-3-2017)

391 49.35.261 Application.

- 392 An applicant must submit the following to request shared access:
- 393 (1) A preliminary plan and profile of the proposed shared access; and
- 394 (2) A proposed access easement, drainage and utility agreement.
- 395 (Serial No. 2016-26(b) , § 10, 4-3-2017, eff. 5-3-2017)

396 49.35.262 Standards.

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

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- 399 (b) *Approval criteria.* The director may approve a subdivision, with or without conditions, that has a shared
400 access if all of the following criteria are met:
- 401 (1) The shared access will be located in a private easement completely on the lots served.
- 402 (2) (i) The shared access serves four or fewer lots. *(insert return)*
- 403 (ii) If a subsequent common wall residential subdivision is intended to be served by shared access, the
404 common wall parent lot shall count as two lots.
- 405 (3) The shared access does not endanger public safety or welfare.
- 406 (4) The shared access complies or can be improved to comply with the emergency service access
407 requirements of CBJ 19.10.
- 408 (5) The use of each lot served by the shared access shall be limited to one single-family residence and an
409 accessory apartment.
- 410 (6) The total average daily trips resulting from the subdivision shall not exceed 70.
- 411 (7) Shared access is only allowed in RR and D-1, D-3, D-5, and D-10 SF zoning districts defined by CBJ
412 49.25.210.
- 413 (8) Shared access is prohibited if the subdivision abuts a parcel that does not have an alternative and practical
414 frontage on a publicly maintained right-of-way.
- 415 (9) The portion of the shared access in the right-of-way shall be paved or surfaced with materials
416 consistent with the adjacent public roadway. The length of the portion of the shared access in the
417 right-of-way shall consist of a minimum two-foot apron or as required by the governing agency of the
418 right-of-way.
- 419 (10) Lots must meet the minimum standards for the ~~fee~~ zoning district according to the table of
420 dimensional standards excluding the shared access easement. A buildable area must exist without the
421 need for a variance.
- 422 (c) *Approval process.*
- 423 (1) Upon preliminary plat approval by the director, the applicant shall construct the shared access
424 pursuant to the corresponding standard in Table 49.35.240 for a roadway with zero to 70 average daily
425 trips. A financial guarantee cannot be used as a condition of construction.
- 426 (2) The shared access easement shall be recorded.
- 427 (3) The following shall be noted on a plat or in a recorded decision that contains a shared access:
- 428 (i) The private easement is for access, drainage, and if applicable utilities, and shall be specifically
429 identified.
- 430 (ii) The owner(s) of the lots served by the private access easement acknowledge the City and
431 Borough is not obligated and will not provide any maintenance or snow removal in the private
432 easement.
- 433 (iii) The owner(s) of the lots served by the private access easement shall be responsible and liable for
434 all construction and maintenance of the shared access from the edge of the publicly maintained
435 travel lane.
- 436 (iv) Except a subsequent common wall subdivision depicted on this plat, the lots served by the
437 private access easement are prohibited from subdividing unless the access is upgraded to a
438 public street, dedicated to, and accepted by the City and Borough.

Commented [JM8]: Suggest separating these two sentences to draw a more clear distinction between the hierarchy of development

Commented [JM9]: Grammatical fix.

- 439 (v) Owner of a lot served by the private access easement shall automatically abandon all rights to
 440 and usage of the private access easement except for utilities, if any, if a publicly maintained
 441 street serves that lot.
- 442 (vi) A lot with frontage on a public street and on the shared access is prohibited from having
 443 vehicular access to the public street except through the shared access.
- 444 (Serial No. 2016-26(b), § 10, 4-3-2017, eff. 5-3-2017; Serial No. 2020-11, § 2, 4-27-2020, eff. 5-28-2020)

445 **49.35.263 Other shared access requirements.**

- 446 (a) If a shared access is approved, the applicant must apply for and receive a right-of-way permit to construct
 447 the shared access.
- 448 (b) If the director determines that a street sign is required for a health, safety, or welfare reason, the applicant
 449 shall install a street sign provided by the City and Borough at the applicant's expense.
- 450 (c) The front yard setback shall be measured from the shared access easement. The lot fronting on the public
 451 right-of-way, may have a separate and additional access if approved by the government entity that controls
 452 the right-of-way. The front yard setback shall be measured from the right-of-way and not the shared access.
- 453 (d) The width of the shared access easement may be reduced by up to 20 feet if the director finds there is
 454 sufficient area for the provision of utilities, drainage, snow storage, and that it is unlikely for the shared
 455 access easement to expand in the future to a public street.
- 456 (e) The director shall determine the placement location of mailboxes. The director may require additional
 457 improvements and design changes to enable efficient mail delivery and minimize traffic interferences.
- 458 (f) The standards identified in this article do not apply to any preexisting shared access previously permitted by
 459 the department.
- 460 (Serial No. 2016-26(b), § 10, 4-3-2017, eff. 5-3-2017)

Commented [JM10]: Does the "by" help clarify that the PSA may only be reduced by 20 ft.

(start with 50 ft width may be reduced to not less than 30 ft.)

In other words, the PSA cannot be less than 30ft. in width

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

Commented [JM11]: No changes past this point

462 **49.35.270 Purpose.**

- 463 A privately maintained access road serving 13 or fewer lots located outside the urban service area may be
 464 constructed within a public right-of-way and constructed to less than full public street construction standards.
- 465 (Serial No. 2016-26(b), § 11, 4-3-2017, eff. 5-3-2017)

466 **49.35.271 Application.**

- 467 On a preliminary plat application, the applicant must submit the following to request approval for a privately
 468 maintained access in a right-of-way:
- 469 (1) A preliminary plan and profile of the proposed privately maintained access road and any proposed
 470 public or private utilities; and
- 471 (2) A proposed access agreement as required by 49.35.272.
- 472 (Serial No. 2016-26(b), § 11, 4-3-2017, eff. 5-3-2017)

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(Supp. No. 139)

49.35.272 Access agreement.

- (a) An access agreement must be executed between the City and Borough and all property owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:
- (1) In exchange for the grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;
 - (2) The grantee acknowledges that the City and Borough is not obligated to provide any maintenance, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;
 - (3) The grantee and the grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the location, design, maintenance, or use of the privately maintained access;
 - (4) The grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;
 - (5) The City and Borough will have unimpeded access in the right-of-way.
 - (6) The grantee is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately maintained access road and public right-of-way according to the conditions established in this agreement;
 - (7) The City and Borough will record a copy of the agreement, at the grantee's expense, with the state recorder's office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;
 - (8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 average daily trips as determined by the director;
 - (9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;
 - (10) Any development that increases the estimated traffic above 211 average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;
 - (11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and
 - (12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

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-
- 516 (b) Prior to the City and Borough executing the access agreement:
- 517 (1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of
- 518 continuing the duties contained in the agreement; and
- 519 (2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the
- 520 City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and
- 521 maintenance of the privately maintained access road. The City and Borough shall be named as an
- 522 additional insured on any required policy.

523 (Serial No. 2016-26(b), § 11, 4-3-2017, eff. 5-3-2017)

524 **49.35.273 Standards.**

- 525 (a) *Agency review.* The director shall forward the complete application to the fire department and to the
- 526 engineering and public works department for review.
- 527 (b) *Approval criteria.* A subdivision may be approved, with or without conditions, with privately maintained
- 528 access in a public right-of-way if all of the following criteria are met:
- 529 (1) The subdivision is located outside of the Urban Service Boundary;
- 530 (2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each
- 531 limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;
- 532 (3) The proposed privately maintained access will be located in a public right-of-way that has not been
- 533 accepted for public maintenance;
- 534 (4) The proposed privately maintained access does not endanger public safety or welfare;
- 535 (5) The proposed privately maintained access will be improved to provide for emergency service access;
- 536 (6) A privately maintained access shall only serve property in which the maximum allowable residential
- 537 density uses do not exceed 211 average daily trips as determined by the director; and
- 538 (7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed
- 539 with or without a conditional use permit, even if accessory apartments are not currently proposed.
- 540 (8) Privately maintained access is prohibited unless:
- 541 (A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-
- 542 way; or
- 543 (B) The property owners of all abutting parcels are signatories of the access agreement required by
- 544 CBJ 49.35.272.
- 545 (c) *Approval process.*
- 546 (1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of
- 547 decision have been satisfied.
- 548 (2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access
- 549 has been constructed consistent with corresponding standard in 49.35.240 for a roadway with zero to
- 550 211 average daily trips.
- 551 (3) The access agreement is recorded prior to recording the final plat.
- 552 (4) The director may impose conditions necessary for public, health, safety, and welfare upon approving
- 553 the subdivision.

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554 (Serial No. 2016-26(b) , § 11, 4-3-2017, eff. 5-3-2017)

555 **49.35.274 Other requirements.**

- 556 (a) If a preliminary plat with a privately maintained access in the public right-of-way is approved, the applicant
 557 must apply to the engineering and public works department for a permit to construct the privately
 558 maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and
 559 bonding may be required for final plan review, inspection, and construction of the access road and utilities.
- 560 (b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the
 561 privately maintained access is not maintained by the City and Borough.
- 562 (c) The director shall determine the placement location of mailboxes. The director may require additional
 563 improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

564 (Serial No. 2016-26(b) , § 11, 4-3-2017, eff. 5-3-2017)

565

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 do~~ not conform to the standards ~~s~~ contained in ~~this section 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~~ 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.~~

49.70.310(d)1) Special ~~waterfront~~ Waterfront areasAreas.

~~(1)~~ ~~Purpose.~~ The purpose of this section ~~is~~ to:

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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.

- 37 ~~a)~~ encourage development of marine and marine-related facilities in established Special
38 Waterfront Areas coastal areas with lower habitat value; ~~Other purposes include:~~
- 39 ~~(b) a)~~ to provide greater protection for coastal areas outside of Special Waterfront Areas with
40 higher habitat value, ~~including a prohibition on intertidal fill used for expansion of upland areas;~~
41 ~~and~~
- 42 ~~(b) to promote pedestrian access to the downtown waterfront with a seawalk; and~~
- 43 (c) ~~to~~ provide special policies for other unique Special Waterfront Areas.

45 ~~(2) General standards.~~

46 ~~(a)~~ The Special Waterfront Area Map, dated December 1, 1990, shows the boundaries of each
47 special waterfront area, and the maximum seaward limits for permanent development in each special
48 waterfront area. The land or water inside the boundaries shown on the Special Waterfront Area Map is
49 subject to the provisions of this section.

50 ~~(b)(a) Filling of intertidal areas below mean high tide outside of Special Waterfront Areas for the~~
51 ~~expansion of upland area is specifically prohibited unless clear and convincing evidence is provided~~
52 ~~showing that all of the following conditions exist such that:~~

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

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

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

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

62 ~~(v) Fill for expansion of the upland area is fill intended for structural support. Examples include~~
63 ~~structural support of buildings, parking lots, and related facilities. Fill for expansion of the upland area~~
64 ~~does not include fill used for rock walls, bank stabilization, and similar uses.~~

65 ~~(e) Fill proposals within the special waterfront areas are not subject to the fill prohibition of~~
66 ~~subsection 49.70.310(d)(iii)(b) relating to coastal development.~~

67 ~~(d)~~ If new site-specific information becomes available which clearly indicates that crucial habitats
68 exist within the Special Waterfront Areas, and ~~if~~ after ~~consultation concurrence from with~~ the City and
69 Borough and state resource agencies, ~~these entities concur~~, a specific evaluation ~~(link to line 8-12?)~~
70 ~~pursuant to subsection 49.70.310(c)(2)(b))~~ will be ~~immediately~~ required for projects within the crucial
71 habitat areas.

72 ~~(e)~~ A change to the ~~special Special waterfront Waterfront areas Areas boundaries~~ may be initiated
73 by the submittal of new information regarding habitats to the department. To initiate a program change,
74 new information must be based on detailed site-specific studies which indicate that the habitat is

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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.

substantially more productive than was indicated in the information which was available on May 22, 1986.

~~(3)~~ Special policies for the ~~special~~ Special waterfront Waterfront areas ~~Areas~~.

- (a) No additional intertidal fill may be allowed in the Tee Harbor special waterfront area except that necessary to construct a public boat ramp.
- (b) 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.
- (c) No floating structures are allowed within 300 feet of the mouths of streams in the Thane special waterfront area.

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

~~(ed)~~ A portion of the intertidal area near the mouth of Salmon Creek has been set aside as a natural beach for salmon ~~resting~~ no what in this zone - structures/development?

~~(f)~~ 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.

~~(i)~~ Reserved.

~~(Bii)~~ Reserved.

~~(iii)~~ 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.

~~(iv)~~ Reserved.

~~(g)~~ Interpretation of the Special Waterfront Area Map.

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Commented [TA5]:

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The purpose of this subsection is to assist users of the Special Waterfront Area Map.

- (i) Lines which apparently follow street or right-of-way centerlines shall be construed as following such centerlines.
- (ii) Lines which apparently follow property or lot boundary lines shall be construed as following such boundary lines.
- (iii) 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.

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2) Intertidal Fill outside Special Waterfront Areas

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

- (i) Compliance with the policy would prevent the applicant from making a reasonable use of the property or would be unreasonably burdensome;
- (ii) Fill is the only means to allow development of the property which is similar to other properties in the vicinity; and
- (iii) Fill for expansion of the upland area is fill intended for structural support. Examples include structural support of buildings, parking lots, and related facilities.

Log and mining transfer facilities as well as the following 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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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:

- (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.~~

Definitions 49.80

Banks, beaches, and beds critical to the preservation of the fisheries resource base means areas that are either catalogued or documented as ~~critical~~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.

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

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

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

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

~~(iv) 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.~~

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

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195 MOVE TO (extract):

196 49.35.650 Seawalk.

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

208 (i) Reserved.

209 (ii) Reserved.

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

215 (iv) Reserved.

216

217 MOVE TO TPU and rewrite:

218 Specified Use Provisions. 49.65.1300 Floathomes and Floating Structures

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

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

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

229 (A) Mooring devices for watercraft;

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

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

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

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236 49.15.330.g.10/18/19? Upland areas shall be managed to maintain water quality standards necessary
237 for the propagation of anadromous fish species.

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

240

241 Where to put this? keep?

242 Shorelines having banks, beaches, and beds critical to the preservation or enhancement of the fisheries
243 resource base shall be maintained in, or restored to, their original condition whenever reasonable.

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