Chapter 49.10
ADMINISTRATION AND COMPLIANCE

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ARTICLE I.
PLANNING COMMISSION*
49.10.100 Establishment.

There is established the planning commission for the City and Borough to perform the areawide functions of planning, platting and zoning for the City and Borough.
(Serial No. 87-49, § 2, 1987)

49.10.110 Membership; term of office.

(a) The members of the commission shall be nine citizens who are residents of the City and Borough and who shall serve without pay but may be paid an honorarium. Members of the commission shall be appointed by the assembly.

(b) Members of the commission shall be appointed for a term of three years. Terms shall end on December 31 of the third year, provided that a member shall continue to serve until a successor is appointed and takes office. Appointments to fill vacancies shall be for the unexpired term. In the event a seat has six months or less remaining to the unexpired term, the assembly, at its discretion, may choose to appoint the member to the remainder of the current term as well as to the full term immediately following the expiration date of the unexpired term. No member of the planning commission who has served for three consecutive terms or nine years shall again be eligible for appointment until one full year has intervened, provided, however, that this restriction shall not apply:

(1) If there are no other qualified applicants at the time reappointment is considered by the assembly human resources committee, or

(2) To qualified board members serving in board seats for which a specific occupation or expertise is set forth by ordinance.

(c) Officers of the commission shall be chair, vice chair, clerk and assistant clerk elected by a majority vote of the members of the commission at the second meeting after the appointment of new commissioners each year or when necessary because of a vacancy.

(d) A vacancy in the planning commission shall exist under the following conditions:

(1) If a person appointed to membership fails to qualify and take office within 30 days of appointment;

(2) If a member departs from the City and Borough with the intent to remain away for a period of 90 or more days;

(3) If a member submits his or her resignation to the commission or assembly;

(4) If a member is unable to attend regular commission meetings for a period of more than 90 days;
If a member misses more than 40 percent of the regular commission meetings in a 12-month period; or

If a member is removed by the assembly, in its sole discretion, for the convenience of the City and Borough.

For the purposes of counting attendance, a member participating telephonically in accordance with the Assembly Rules of Procedure shall be counted as present.

The chair of the commission shall notify the clerk's office of any new vacancy on the planning commission. Upon notification, the assembly shall appoint a new member for the unexpired term.

Charter References: Quorum, § 3.16(e).

49.10.120 Seal.

The seal of the commission shall consist of two concentric circles within which appear the words "City and Borough of Juneau Planning Commission," "Seal" and "State of Alaska." It shall be retained in the custody of the director.

49.10.130 Meetings.

(a) Regular meetings shall be held on the second and fourth Tuesday of each month.

(b) Special meetings may be called by the chair or any three members of the commission. Public notice of special meetings shall be made 24 hours in advance and shall be supplied to the local news media and posted on the municipal bulletin board. Commission members will be notified by the department.

(c) Public notice for all permits and other land use ordinance actions shall be according to the requirements established for such actions.

(d) Meetings shall be conducted under Mason's Manual, as modified by the commission.

(e) The commission may, by motion, establish its own rules of procedure and committees, meeting times, dates and places, media for public notice, development application and evidentiary forms, referral and review agencies and procedures, and any other matter reasonably necessary or desirable for the full and complete conduct of its duties pursuant to this title and any other provision of law.

49.10.140 Decisions.

All permit actions of the commission shall be in the form of a notice of decision setting forth the reasons therefor and conditions thereon, if any, signed by the presiding officer of the commission, and promptly filed with the municipal clerk. Notice shall be mailed to the applicant with a copy retained in the department permanent records.
49.10.150 Committees.

Committees shall be established and appointments thereto made in accordance with the rules of order.

49.10.160 Office and staff.

(a) The department shall maintain the planning commission minutes, resolutions, records, reference materials, correspondence and maps, plats, and charts, all of which shall constitute public records of the City and Borough.

(b) The planning commission shall be furnished secretarial assistance at each regular or special meeting to assist in preparing its minutes and resolutions, and as required to prepare the commission's correspondence under the direction of the commission chair and the director.

49.10.170 Duties.

(a) Comprehensive plan review. Once every two years the commission shall undertake a general review of the comprehensive plan and shall recommend appropriate amendments to the assembly. Proposed map changes shall be reviewed on a neighborhood or community basis as directed by the planning commission.

(b) Review of the capital improvements program. Upon adequate notice which shall be provided by the director, the commission shall review annually the capital improvements program of the City and Borough and submit its recommendations to the assembly.

(c) City and borough land acquisitions, disposals and projects. The commission shall review and make recommendations to the assembly on land acquisitions and disposals as prescribed by title 53, or capital improvement project by any City and Borough agency. The report and recommendation of the commission shall be based upon the provisions of this title, the comprehensive plan, and the capital improvements program.

(d) Development code amendments. The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezonings, indicating compliance with the provisions of this title and the comprehensive plan.

(e) Land use actions.

(1) All plats approved by the platting board prior to adoption of Serial No. 87-49 are ratified, notwithstanding the use of the commission seal or resolution.

(2) The commission shall hear and decide all major development permit applications, density bonus requests and appeals of decisions made by the director.
ARTICLE II.

BOARD OF ADJUSTMENT

49.10.200 Organization.

The board of adjustment is created. The commission is the board of adjustment.

(1) Meetings of the board shall be held at the call of the chair of the board.

(2) The chair, or in the absence of the chair, the vice chair, may administer oaths and compel attendance of witnesses.

(3) All meetings of the board shall be open to the public.

(4) The board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record.

(Serial No. 87-49, § 2, 1987; Serial No. 96-41, § 14, 1996)

49.10.210 Duties.

The board of adjustment shall have and shall be limited strictly to the powers and duties prescribed by this chapter and as elsewhere provided in this title to:

(1) Hear and decide variance requests other than de minimus variances.

(2) Rule upon map boundary questions and interpret the text of the title as provided in section 49.20.300.

(3) Make similar use determinations as provided in section 49.20.320.

(Serial No. 87-49, § 2, 1987)

ARTICLE III.

DESIGN REVIEW BOARD (RESERVED)

ARTICLE IV.

ADVISORY COMMITTEES

49.10.400 Subdivision review committee.

(a) Establishment and purpose. There is established a subdivision review committee, as a standing committee of the planning commission, for the City and Borough whose purpose is to provide comments on subdivisions and to assist the department staff in review of subdivisions.
(b) Membership. Membership shall consist of a minimum of four members of the planning commission appointed by the chair of the commission.

(c) Officers. The committee shall elect a chair to conduct the meetings and a vice chair to serve in the chair's absence.

(d) Meetings. Meetings shall be held as necessary, and shall be preceded by at least three days' public notice.

(Serial No. 87-49, § 2, 1987)

State Law References: Open meetings of governmental bodies, AS 44.62.310.

49.10.410 Historic resources advisory committee.

(a) Establishment. There is established the Juneau historic resources advisory committee.

(b) Membership. The committee shall consist of nine members appointed by the assembly. Members shall be appointed for a term of three years. The assembly shall invite applications for membership from archaeologists, historians, architects, people knowledgeable in the customs and language of the Tlingit and Haida people, owners of locally recognized historic property, people familiar with the operations and issues relating to the city museum, teachers, and the general public.

(c) Officers. The committee shall select its own officers.

(d) Meetings. The committee shall meet monthly.

(e) Staffing. The community development and parks and recreation departments shall provide such staff support and assistance as the committee may require to the extent funds are available.

(f) Duties. The duties of the committee shall include:

(1) Reviewing and making recommendations about local projects that might affect properties identified in the local historic preservation plan;

(2) Reviewing and developing nominations to the National Register of Historic Places for properties within the City and Borough;

(3) Cooperating and consulting with the assembly, the historic district commission, the community development department and the state historic commission on matters concerning historical districts and historic, prehistoric and archaeological preservation in the City and Borough;

(4) Reviewing and making recommendations about the collections, exhibitions, educational programs, long range plans, and other pertinent activities of the Juneau-Douglas City Museum;

(5) Cooperating and consulting with the parks and recreation department and the parks and recreation advisory committee on matters concerning the Juneau-Douglas City Museum; and
ARTICLE V.

COMMUNITY DEVELOPMENT DIRECTOR

49.10.500 Community development director.

The director is authorized and empowered to carry out all of the duties as set forth in this title and title 19, and shall have all other power and authority reasonably necessary or desirable to carry out those duties, including the power to delegate those duties to other employees of the department or other appropriate City and Borough agencies.

(CBJ Code 1970, § 49.05.150; Serial No. 87-49, § 2, 1987)

49.10.510 Approvals.

The director is authorized to approve minor subdivisions and to issue department approval under chapter 49.25 of this title.

(CBJ Code 1970, § 49.05.150; Serial No. 87-49, § 2, 1987)

49.10.520 Meetings.

The director or the director's designee should attend all regular and special commission meetings, committee of the whole meetings, and subdivision review committee meetings, as well as any public hearing or public meeting of the commission.

(Serial No. 87-49, § 2, 1987)

ARTICLE VI.

ENFORCEMENT

49.10.600 Emergency powers.

(a) When the department finds, after investigation, that a person is causing, engaging in or maintaining a condition or activity which, in the judgment of the department, presents an imminent or present danger to the health, safety or welfare of the people of the municipality or would result in or be likely to result in irreversible or irreparable damage to the natural resources or environment, and it appears to be prejudicial to the interests of the people of the municipality to delay action until an opportunity for a hearing can be provided, the department, without prior hearing, may order that person by notice to discontinue, abate or alleviate the condition or activity. The proscribed condition or activity shall be immediately discontinued, abated or alleviated.

(b) Upon receipt of an order of the department made under subsection (a) of this section, the person affected has the right to be heard and to present proof to the department that the condition or activity does not
constitute an actual or potential source of irreversible or irreparable damage to the public health, safety or welfare or to natural resources or the environment, or that the order may constitute a substantial private hardship.

(c) In the department's discretion or upon application made by the recipient of an order within 15 days of receipt of the order, the department shall schedule a hearing at the earliest possible time. The hearing shall be scheduled within five days of the receipt of the application. The submission of an application or the scheduling of a hearing does not stay the operation of the department's order made under subsection (a) of this section.

(d) After a hearing the department may affirm, modify or set aside the order. An order affirmed, modified or set aside after a hearing is subject to judicial review. The order is not stayed pending judicial review unless the department so directs. If an order is not immediately complied with, the city attorney, upon request of the department, may seek enforcement of the order.

(Serial No. 87-49, § 2, 1987)

49.10.610 Injunctions.

The superior court has jurisdiction to enjoin a violation of this title or of a lawful order of the department or permit, approval or term or condition of a permit, or approval issued under this title. In actions brought under this section, temporary or preliminary relief may be obtained upon a showing of imminent threat of continued violation, and probable success on the merits, without the necessity of demonstrating physical irreparable harm. The balance of equities in actions under this section may affect the timing of compliance, but not the necessity of compliance within a reasonable period of time.

(Serial No. 87-49, § 2, 1987)

49.10.620 Compliance order.

(a) When, in the opinion of the department, a person is violating or is about to violate a provision of this title, or a lawful order of the department, or a permit, or a term or condition of a permit, issued by the department under this section, the department may notify the person of its determination by personal service, or certified mail.

(b) The recipient of the determination must file with the department, within the time period specified in the notice, a report stating what measures have been and are being taken, or are proposed to be taken, to correct or control the conditions outlined in the notice.

(c) After the report is filed under subsection (b) of this section or the time period specified for it has elapsed, the department may issue a compliance order. A copy of the compliance order shall be served personally or sent by certified mail to the person affected. A compliance order is effective upon receipt.

(d) Within 15 days after receipt, the recipient may request a hearing before the commission to review the compliance order. Failure to request a hearing within 15 days after the receipt of a compliance order constitutes a waiver of the recipient's right of review.

(e) The commission shall hold a hearing within 20 days after receipt of a request for one under
subsection (d) of this section. After the hearing, the commission may rescind, modify or affirm the compliance order.

(f) Appeal from a decision of the commission shall be to the assembly in accordance with the provisions of section 49.20.200.

(g) The city attorney may seek enforcement of a compliance order.

(Serial No. 87-49, § 2, 1987)

49.10.630 Civil action for violation; damages.

(a) A person who violates or causes or permits to be violated a provision of this title or a regulation, a lawful order of the department, or a permit, approval, or term or condition of a permit or approval issued under this title is liable, in a civil action, to the municipality for a sum to be assessed by the court of not less than $25.00 nor more than $1,000.00 for the initial violation, nor more than $500.00 for each day thereafter on which the violation continues; or, in the case of operating without an appropriate notice, permit or for violations which are related to public health, safety and welfare, or cause substantial adverse effects on the environment, not less than $500.00 nor more than $5,000.00 for the initial violation nor more than $2,000.00 for each day thereafter on which the violation continues and which, in either case, shall reflect, when applicable:

(1) Reasonable compensation in the nature of liquidated damages for any adverse public health, safety, welfare or environmental effects caused by the violation, which shall be determined by the court according to the sensitivity of the receiving property, neighborhood or environment, and the degree to which the violation degrades existing neighborhood environmental quality;

(2) Reasonable costs incurred by the municipality in detection, investigation, and attempted correction of the violations; and

(3) The economic savings realized by the person in not complying with the requirement for which a violation is charged.

(b) Actions under this section may not be used for punitive purposes, and sums assessed by the court must be compensatory and remedial in nature.

(c) The court, upon motion of the department or upon its own motion, may defer assessment of all or part of that portion of the sum imposed upon a person under this section conditioned upon the person complying, within the shortest feasible time, with the requirement for which a violation is shown.

(d) As used in this section, "economic savings" means that sum which a person would be required to expend for the planning, acquisition, siting, construction, installation and operation of the facilities necessary to effect compliance with the standard violated.

(Serial No. 87-49, § 2, 1987)

49.10.640 Criminal penalties.

(a) A person who violates or who causes or permits a violation of this title or a lawful order of the
department, a permit, or a term or condition of a permit is guilty of an infraction.

(b) A person who negligently violates or who negligently causes or permits a violation of a provision of this title or of a lawful order of the department, a permit, or a term or condition of a permit is guilty of a Class B misdemeanor.

(c) A person who willfully or recklessly violates a provision of this title, or a lawful order of the department, or a permit, or a term or condition of a permit issued under this title is guilty of a Class A misdemeanor.

(d) Each day on which a violation described in subsections (a) through (c) of this section occurs is considered a separate violation.

(e) A person who fails to provide or falsely states information required under this title is guilty of a Class B misdemeanor. Each unlawful act constitutes a separate offense.

(Serial No. 87-49, § 2, 1987; Serial No. 2002-09, § 3, 3-18-2002)

49.10.650 Inspection warrant.

The department is authorized to seek administrative search warrants pursuant to section 01.35.015 of this Code for the purpose of investigating actual or suspected sources of damage caused by violations of this title or to ascertain compliance or noncompliance with this title or a permit, term or condition thereof issued under this title.

49.10.660 Remedies cumulative.

All remedies provided by this chapter are cumulative, and the securing of relief, whether injunctive, civil or criminal, under a section of this chapter does not prevent the municipality from obtaining relief under any other section of this chapter.

(Serial No. 87-49, § 2, 1987)

ARTICLE VII.

WETLANDS REVIEW BOARD

49.10.700 Establishment and functions.

There is established the wetlands review board of the City and Borough, whose purpose is to implement the provisions of the Juneau Wetlands Management Plan.

(a) The wetlands review board shall serve as the decision-making body for the issuance of wetlands development permits in Category C and D wetlands, and enhancement project permits in Category EP wetlands, in accordance with the Juneau Wetlands Management Plan and the General Permit for wetlands development issued by the U.S. Army Corps of Engineers and administered by the City and Borough. The wetlands review board will apply the permit review procedures and standards set forth in section 49.70.1000 et seq.
(b) The wetlands review board shall administer the City and Borough's wetlands mitigation bank, as established in the Juneau Wetlands Management Plan and in subsection 49.70.1085(b). The wetlands review board shall develop and maintain a long-term mitigation strategy for Juneau wetlands as described in subsection 49.70.1085(a).

(c) The wetlands review board shall prepare an annual report on the status of the mitigation bank. (Serial No. 95-35, § 2, 1995)

49.10.710 Membership.

The members of the wetlands review board shall be nine residents of the City and Borough who shall serve without pay. Two shall be members of the planning commission, and seven shall be members of the public. (Serial No. 95-35, § 2, 1995)

49.10.720 Appointment.

Planning commission members shall be appointed by the commission. Public board members shall be appointed by the assembly. When public members are appointed, the assembly shall consider obtaining the broadest possible representation of members with knowledge of the values, functions and uses of wetlands, such as fish or wildlife biology, geology, hydrology, land use planning, and engineering. Appointments to fill vacancies shall be for the unexpired term only. (Serial No. 95-35, § 2, 1995)

49.10.730 Term of office.

Members shall be appointed for staggered terms of three years. (Serial No. 95-35, § 2, 1995)

49.10.740 Quorum.

The presence of five members constitutes a quorum. Except as authorized by Charter Section 3.16(e), any action of the board requires five or more affirmative votes to be approved. (Serial No. 95-35, § 2, 1995; Serial No. 2002-40, § 2, 11-4-2002)

Charter References: Quorum, § 3.16(e).

49.10.750 Officers.

The wetlands review board shall elect a chair to conduct the meetings of the board and a vice chair to serve in the absence of the chair, provided the chair and vice chair shall not be members of the commission. (Serial No. 95-35, § 2, 1995)

49.10.760 Unexcused absences.

If a member without first being excused for good cause by the wetlands review board misses three consecutive regular meetings, that member's position shall become vacant without action by the board. The
wetlands review board or its chair shall immediately inform the assembly of the vacancy.
(Serial No. 95-35, § 2, 1995)

49.10.770 Meetings.

(a) **Regular meetings.** The wetlands review board shall hold one regular meeting each month and shall hold additional regular meetings as the board may prescribe by resolution.

(b) **Special meetings.** The wetlands review board may hold special meetings upon the call of the chair or any two members. At least 24 hours before the meeting, personal notice shall be given to each board member designating the time, place, and purpose of the special meeting, or written notice shall be left at each member's usual place of residence. At least 24 hours before the meeting, copies of the notice shall also be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. No business may be transacted at any special meeting except as stated in the notice of the meeting. All meetings of the wetlands review board shall be publicly noticed in the same manner as other City and Borough boards and commissions, and shall be conducted in accordance with the Alaska Open Meetings Act.
(Serial No. 95-35, § 2, 1995)

49.10.780 Record of meetings.

Minutes all meetings shall be kept and shall be a public record. All records of the wetlands review board are public records and must be available to the public in the same manner as other City and Borough records, provided that upon request of a business, person or other entity working with the wetlands review board, proprietary information in any application or report of that business, person or entity presented to the wetlands review board shall be kept confidential by the wetlands review board to the extent allowed by AS 09.23.110 and AS 09.23.120, or other applicable law. Information to be maintained as confidential must be specified and marked as "confidential" by the business, person, or other entity.
(Serial No. 95-35, § 2, 1995)

49.10.790 Rules of procedure.

Meetings shall be conducted under Mason's Manual and such additions or amendments to the rules as may be adopted by the wetlands review board.
(Serial No. 95-35, § 2, 1995)