Chapter 49.70

SPECIFIED AREA PROVISIONS*

* Cross References: Building regulations, CBJ Code tit. 19.

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The purpose of the new growth area classification is to provide for flexibility in land use controls for a specific new growth area as designated in the comprehensive plan, while protecting the public health, safety and welfare by ensuring that the development will be consistent with the comprehensive plan and the carrying capacity of the land. The new growth areas classification accommodates new communities with a full range of uses and densities. Before development, each area shall be the subject of a master plan prepared by the developer. The plan shall establish use, density and design of development, and when approved by the assembly becomes an amendment to the comprehensive plan and this title. After an area has been designated and a master plan approved, specific phases or projects shall be processed pursuant to this title, with the master plan as the principal criterion for approval.

(Serial No. 87-49, § 2, 1987)

New growth areas should have the following characteristics:

1. Site conditions. The site should be:
(A) Physically capable of supporting urban level development;

(B) Equipped with potentially good land access, water access, or both; and

(C) Under unified ownership or control.

(2) Uses. Except as otherwise specified in the comprehensive plan, new growth areas should be mixed-type residential communities supported by an adequate level of recreational, public, industrial and commercial services, and should be capable of other support uses.

(3) Size. A new growth area project should include at least the number of residential units demonstrated by the developer as sufficient to create a viable community and to efficiently support roads and utilities, including community-level water, sewer, and drainage systems. The department will calculate the minimum acreage requirement for the project using a minimum density of four dwellings per acre and including additional acreage to accommodate open space, future expansion, and recreational, public and commercial uses.

(4) Design. The master plan should address and ensure:

(A) Aesthetically pleasing and energy efficient siting, design and construction techniques;

(B) Efficient provision and long-term maintenance of sewer, water, roads, schools and other public facilities;

(C) Preservation of vegetation, views, and other natural features;

(D) Provision of passive and active recreational activities, including pedestrian and bicycle access generally consistent with standards adopted by the American Society of Highway Transportation Officials and water access, open space, and community recreational facilities generally consistent with the standards adopted in the parks and recreation comprehensive plan; and

(E) Mitigation of land use conflicts.

(Serial No. 87-49, § 2, 1987; Serial No. 97-25, § 2, 1997)

49.70.130 Concept review.

(a) Preapplication conference. The purpose of the preapplication conference is to:

(1) Provide an opportunity for the proponents of a new growth area to explain the concept of their development to the department;

(2) Allow the department to explain to the developer the requirements of City and Borough land use laws and the potential impacts of this title and the plans adopted therein; and
(3) Allow the department to outline the concerns of the City and Borough with regard to the potential hazards inherent in the development of wetlands, steep slopes and hazard areas, and the conservation of marginal lands and open spaces having environmental value.

(b) Submittal requirements. The submittal requirements for a preapplication conference shall be:

(1) Documents.

(A) A legal description;

(B) A statement of the goals and objectives of the development; and

(C) An explanation of any unique features of the property proposed for new growth area.

(2) Maps showing existing site and vicinity conditions and including:

(A) Topography contour lines at intervals of ten feet or less;

(B) The location of streams, lakes, wetlands, drainage courses, floodplain areas, and other water features;

(C) The nature and extent of existing stands of trees and shrubs, ground cover and other vegetation;

(D) Existing access to and within the site including roads, peripheral roads, trails and sidewalks;

(E) Avalanche and landslide hazard areas, soils, and surface geology; and

(F) Sensitive area boundaries.

(3) A sketch plan showing proposed:

(A) Topography and water features;

(B) Streets, pedestrian, and bicycle access;

(C) Conceptual uses and densities; and

(D) Open space and recreational areas.

(c) Preapplication conference comments. The department will review the preapplication conference submittal materials and provide written comments to the applicant not more than 30 days after the date of the conference. The comments shall advise the applicant on the consistency of the proposal with the intent of this chapter, with adopted City and Borough plans, laws, and regulations, and on the compatibility of the proposed development with the surrounding area.
(d) **Subdivision review committee.** Prior to formal submittal, the master plan shall be reviewed for conceptual approval by the subdivision review committee of the commission. (Serial No. 87-49, § 2, 1987; Serial No. 97-25, § 3, 1997)

### 49.70.140 Master plan submittal procedure.

(a) The master plan shall be provided by the developer and shall propose:

1. The uses to be permitted;
2. The total number and type of dwelling units;
3. The total amount of commercial, industrial and office gross floor area;
4. Principal drainage systems or drainage requirements;
5. Principal circulation elements;
6. Open space and common facilities, and the method for maintaining them;
7. Schools, playgrounds, fire stations and other public facilities;
8. Public and private utilities, and the method for maintaining them;
9. Proposed phasing of the development; and
10. Such other requirements as may be applicable.

(b) The plan shall include the following basic development information for each phase of the development:

1. Permitted, accessory and conditional uses;
2. Minimum lot size;
3. Minimum yard requirements;
4. Maximum lot coverage;
5. Maximum height of structures;
6. Signs;
7. Parking;
(8) Loading;

(9) Open space and landscaping;

(10) Vehicular, pedestrian, and bicycle access;

(11) The number of dwelling units or the gross building area of commercial or industrial structures; and

(12) An estimated schedule of any phased development.

(Serial No. 87-49, § 2, 1987; Serial No. 97-25, § 4, 1997; Serial No. 97-49, § 5, 1998)

49.70.150 Commission action.

The commission shall consider the application and shall thereafter either forward it to the assembly with a recommendation for approval or conditional approval or will deny the application. Commission review shall be based on how well the proposal meets the requirements of this title, the comprehensive plan policies for new growth areas, and general community development principles. The commission may place conditions on any aspect of the development. The commission may require the developer to post bonds securing completion of the project in substantial compliance with the approved development plan in accordance with a timetable specified by the developer and approved by the commission.

(Serial No. 87-49, § 2, 1987; Serial No. 97-25, § 5, 1997)

49.70.160 Assembly action.

The assembly shall consider the commission recommendation and shall then deny, approve, or conditionally approve the master plan by ordinance. Approval of the master plan shall include any necessary comprehensive plan amendments and zone changes. The boundary of the master development plan and any specific use districts shall be shown on the official zoning maps.

(Serial No. 87-49, § 2, 1987)

49.70.170 Phasing.

Review of a proposal for phased development shall include analysis of whether each phase will, in combination with all previous phases, provide public utilities, public services, a circulation system, open space, and all other pertinent aspects of the overall master plan. The separate construction of any phase of a development shall require the appropriate permit approval under chapter 49.15. The permit review and approval of any initial phase of the development may take place concurrently with the master plan approval. The commission may require the developer to post bonds securing completion of the project in substantial compliance with the approved development plan in accordance with a timetable specified by the developer and approved by the commission.

(Serial No. 87-49, § 2, 1987; Serial No. 97-25, § 6, 1997)

49.70.180 Amendment of a master plan.

(a) After review and recommendation of the commission, the developer shall obtain approval by
ordinance from the assembly for the following amendments to a new growth area master plan:

(1) Any increase in the total number of authorized dwelling units in the development;
(2) Any decrease in the total open space acreage;
(3) Any increase in the total gross floor area of commercial or industrial structures;
(4) Any addition or deletion of any permitted principal use, conditional use or accessory use;
(5) Any change of more than one year in the development schedule for a phased development;
(6) Any density amendment that will result in a 25 percent or greater cumulative increase or decrease in the number of dwelling units in any phase of a phased development; or
(7) Any change in the acreage of any phase or phases of a phased development equal to or more than 25 percent of the total acreage of the development.

(b) The developer shall obtain approval by the commission for the following amendments to a new growth area master plan:

(1) Any change of density between phased development areas that will result in a cumulative increase or decrease of more than ten percent but less than 25 percent in the number of dwelling units in any phase of a phased development; and
(2) Any change in the acreage of any phase or phases of a phased development equal to more than ten percent but less than 25 percent of the total acreage of the phased development.

(c) All decisions of the director and commission on master plan amendments shall be final unless appealed by the developer to the commission or assembly as appropriate.
(Serial No. 87-49, § 2, 1987; Serial No. 97-49, § 6, 1998)

49.70.190 Zoning map.

Identification of new growth areas. Approved new growth areas shall be identified on the zoning map by the acronym "NGA" followed by a serial number.
(Serial No. 87-49, § 2, 1987)

ARTICLE II.

HILLSIDE DEVELOPMENT

49.70.200 Purposes.

The purposes of this article are to:
(1) Ensure that hillside development provides erosion and drainage control to protect adjoining parcels;

(2) Protect waterways from sedimentation and pollution;

(3) Minimize injury or damage to people or property from natural or artificial hazards in hillside development; and

(4) Minimize any adverse aesthetic impact of hillside development.

(Serial No. 87-49, § 2, 1987)

49.70.210 Scope.

This article applies to all development on hillsides in the City and Borough, except:

(1) Development on hillside lots which does not involve:

   (A) Removal of vegetative cover;

   (B) Excavation of any slope in excess of 18 percent;

   (C) Creation of a new slope in excess of 18 percent for a vertical distance of at least five feet; or

   (D) Any hazard area identified on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1--8, as the same may be amended from time to time by the assembly by ordinance or any other areas determined to be susceptible to geophysical hazards.

(2) This article does not apply to an excavation below finished grade for basements and footings of a building, a retaining wall or other structure authorized by a building permit, provided that this shall not exempt any fill made with the material from such excavation nor any excavation having an unsupported height greater than two feet after the completion of the associated structure;

(3) Graves;

(4) Refuse disposal sites controlled by other regulations;

(5) Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate or clay provided such operations do not affect the location or peak volume of runoff, the location or amount of standing water, or the lateral support for, the stresses in, or the pressure upon, any adjacent or contiguous property;

(6) Exploratory excavations less than 200 square feet in area and under the direction of a civil engineer with knowledge and experience in the application of geology in the design of civil work;
(7) An excavation which:

(A) Is less than two feet in depth and covers less than 200 square feet; or

(B) Does not create a cut slope greater than five feet in height or steeper than 1 1/2 horizontal to one vertical;

(8) A fill less than one foot in depth and intended to support structures which fill is placed on natural terrain with a slope flatter than five horizontal to one vertical, which does not exceed 20 cubic yards on any one lot and which does not obstruct a drainage course;

(9) A fill less than three feet in depth and not intended to support structures which fill is placed on natural terrain on a slope flatter than five horizontal to one vertical, which does not exceed 50 cubic yards on any one lot and which does not obstruct a drainage course; or

(10) Minor development.

(Serial No. 87-49, § 2, 1987; Serial No. 2006-15, § 22, 6-5-2006)

49.70.220 Hillside development endorsement application.

(a) **Endorsement required.** Except as set forth in section 49.70.210, all development on hillsides shall be pursuant to a hillside development endorsement to the allowable or conditional use permit otherwise required.

(b) **Compliance.** The developer shall apply for and obtain a hillside development endorsement prior to any site work other than land and engineering surveys and soils exploration. If soils exploration requires construction of a drilling pad, platform, or other structure not exempt under section 49.70.210, then a hillside development endorsement for the pad, platform or structure shall be obtained.

(c) **Application.** Contemporaneous with an application for an allowable or conditional use permit, the developer shall submit one copy of a hillside development application, supporting materials, and fee to the department. The department shall forward the application to the municipal engineer. Applications shall be submitted prior to application for any associated building permit. The engineer shall return an incomplete application to the applicant within three working days of submission.

(Serial No. 87-49, § 2, 1987)

49.70.230 Fees.

The City and Borough shall charge the developer the gross hourly rate for professional review of the application and for inspection. The developer shall deposit one percent of the value of the site development, excluding that portion of the site determined by the engineer to be subject to a public transmission facility permit, in a specially designated reserve account, against which the City and Borough may bill its documented time and expenses. The developer shall promptly replenish this amount when requested, and no endorsement may be issued if there is any deficiency in the developer's reserve account. All unexpended funds in the reserve account shall be returned to the developer upon final approval of development or when the engineer is satisfied.
that the work under the hillside development endorsement has been completed and the requirements of this chapter have been met.
(Serial No. 87-49, § 2, 1987)

49.70.240 Submission requirements; application.

The application shall be accompanied by the following materials, which shall be signed and stamped by a licensed civil engineer, architect, geologist or land surveyor:

1. A vicinity map, at a clear and legible scale, showing roads, place and street names and natural waterbodies;

2. Site maps, showing the present condition of the site at a clear and legible scale compatible with the size of the development and including:
   - Two-foot contours for flat terrain or five-foot contours for steep terrain and extending 50 feet in all directions beyond the development site; 12 percent line, 30 percent line;
   - Water bodies, tidelands and drainage ways from the development site to accepting natural waterbody;
   - Lot boundaries and easements for the site and adjacent lots; and
   - Existing improvements on the site and adjacent lots, including structures, roads, driveways and utility lines.

3. The application shall include a finished proposed site plan at a clear and legible scale including:
   - Finished grade at two-foot contours for flat terrain or five-foot contours for steep terrain and extending 50 feet in all directions beyond the development site; 12 percent line, 30 percent line;
   - Water bodies, tidelands and drainage ways, and temporary and permanent drainage systems from the development site to the accepting natural waterbody;
   - Lot boundaries, easements and setback lines;
   - The location of improvements including structures, roads, driveways, utility lines, culverts, walls and cribbing;
   - Clearing limits of existing vegetative cover; and
   - A cross section of the development site.

4. The application shall include detailed engineering drawings of roads, driveways, parking areas, structural improvements for foundations, off-site stormwater runoff systems; cross sections and
(5) A description of the source and type of any off-site fill, and the site for depositing excess fill;

(6) A landscaping plan, including all trees to be retained in excavation areas, all plant species and locations; temporary slope protection measures; erosion and siltation control measures; seeding or sodding materials, a planting and maintenance program; and methods of stabilization and protection of bare slopes;

(7) An engineering geologic report, including a summary of the relevant surface and bedrock geology of the site, a discussion of active geologic processes with conclusions and recommendations regarding the effect of geologic factors on the proposed development; data regarding the nature, distribution and relevant parameters of existing soils, recommendations for grading procedures; design criteria for corrective measures as necessary, and recommendations covering the suitability of the site for the proposed development;

(8) A work schedule, by phase; and

(9) Such other different or more detailed submissions as the engineer may require.

(Serial No. 87-49, § 2, 1987)

49.70.250 Standards for approval.

Hillside development shall meet the following minimum standards:

(1) Roads. The City and Borough road standards shall apply to hillside development, except that:

(A) Modification of standards. The engineer or planning commission may modify road standards as identified in subsections (1)(B) and (C) of this section, if:

(i) The developer's traffic analysis and circulation, land ownership, and development patterns indicate future use of the roadway at less than collector street levels;

(ii) The modification would enable the development to meet, or more closely approximate, the criteria set forth in section 49.70.260; and either

(iii) The proposed road or access in question would result in a permanent cul-de-sac; or

(iv) A secondary access to the proposed development exists or will be developed as a part of the project.

(B) Road width. The width of a section of residential roadway may be narrowed to 20 feet, with a single four-foot pedestrian way and underground storm drain system, if:

(i) The section is not more than 200 feet in length, and is separated from other such
sections by at least 100 feet of standard roadway;

(ii) No entrances, intersections or parking are allowed in the section;

(iii) Guard rails, if any, are designed to permit the passage of plowed snow;

(iv) There is at least a 200-foot line of sight along the centerline of the section;

(v) The section enables the development to meet, or more closely approximate, the criteria set forth in section 49.70.260;

(vi) Grouped off-street parking spaces are provided at the entry to the section; and

(vii) Adequate provision is made for storage of snow.

(C) Road grade. The grade of a section of residential roadway may be increased to a maximum of 15 percent if:

(i) The section is not more than 200 feet in length and separated from other such sections by at least 100 feet of roadway;

(ii) No entrances or intersections are allowed in the section;

(iii) Through intersections at the end of the section have approaches at least 50 feet long measured from the edge of the traveled way of the crossroad and are at a grade of eight percent or less; intersections requiring a full stop have approaches no less than 20 feet long at a grade of two percent or less, or no less than 50 feet long at a grade between two and six percent;

(iv) Any guard rails are designed to permit the passage of plowed snow;

(v) All sight distances conform to standards of the American Association of State Highway and Transportation Officials; and

(vi) The section enables the development to meet, or more closely approximate, the criteria set forth in section 49.70.260.

(2) Weather. The engineer may prohibit a developer from earthmoving during periods of very wet soil conditions, in which case the permit shall be extended by a like period.

(3) Sediment. The developer shall not allow any increase in sediment to flow off-site during or after construction if such would be likely to cause an adverse impact on a down slope lot or waterbody.

(4) Peak discharge. The developer shall ensure that during and after construction of major development, the peak discharge of all streams and natural drainage ways at the down slope
boundary shall be no greater than that occurring prior to excavation.
(Serial No. 87-49, § 2, 1987)

49.70.260 Criteria.

The commission shall consider the extent to which development meets the following criteria:

1. **Soil erosion.** Soil disturbance and soil erosion shall be minimized and the effects thereof mitigated.

2. **Existing vegetation.** Depletion of existing vegetation shall be minimized.

3. **Contours.** The developer shall recontour the finished grade to natural-appearing contours which are at or below 30 percent or the natural angle of repose for the soil type, whichever is lower, and which will hold vegetation.

4. **Time of exposure and soil retention.** The developer shall minimize the period of time that soil is exposed and shall employ mats, silt blocks or other retention features to maximize soil retention.

5. **Replanting.** The developer shall mat, where necessary, and plant all exposed soil in grass or other soil-retaining vegetation and shall maintain the vegetation for one full growing season after planting.

6. **Drainage.** The developer shall minimize disturbance to the natural course of streams and drainage ways. Where disturbance is unavoidable, the developer shall provide a drainage system or structures which will minimize the possibility of sedimentation and soil erosion on-site and downstream and which will maintain or enhance the general stream characteristics, spawning quality, and other habitat features of the stream and its receiving waters. Where possible, development shall be designed so lot lines follow natural drainage ways.

7. **Foundations.** The developer shall ensure that buildings will be constructed on geologically safe terrain.

8. **Very steep slopes.** The developer shall minimize excavation on slopes over 30 percent.

9. **Soil retention features.** The developer shall minimize the use of constructed retention features. Where used, their visual impact shall be minimized through the use of natural aggregate or wood, variation of facade, replanted terraces, and the like.

10. **Wet weather periods.** The developer shall minimize exposure of soil during the periods of September 1--November 30 and March 1--May 1.

(Serial No. 87-49, § 2, 1987)

49.70.270 Conditions on approval.

The commission may place conditions upon a hillside development endorsement as necessary or
desirable to ensure that the spirit of this chapter will be implemented in the manner indicated in the application. Fulfillment of conditions shall be certified by the engineer. The conditions may consist of one or more of the following:

1. **Development schedule.** The commission may place a reasonable time limit on or require phasing of construction activity associated with the development or any portion thereof, in order to minimize construction-related disruption to traffic and neighbors or to ensure that the development is not used or occupied prior to substantial completion of required improvements.

2. **Dedications.** The commission may require conveyances of title or other legal or equitable interests to public entities, public utilities, a homeowner's association, or other common entities. The developer may be required to construct any public facilities, such as drainage retention areas, to City and Borough standards prior to dedication.

3. **Construction guarantees.** The commission may require the posting of a bond or other surety or collateral providing for whole or partial releases, in order to ensure that all required improvements are constructed as specified in the approved plans.

4. **Lot size.** If justified by site topography, the commission may require larger lot areas than prescribed by zoning requirements.

(Serial No. 87-49, § 2, 1987)

**ARTICLE III.**

**SENSITIVE AREAS***

*Administrative Code of Regulations cross reference--Sensitive areas and parks, Part IV, § 04 CBJAC 020.010 et seq.

49.70.300 Landslide and avalanche areas.

(a) **Generally.**

1. Development in all landslide and avalanche areas shall minimize the risk of loss of life or property due to landslides and avalanches.

2. Boundaries of potential and severe avalanche areas will be as shown on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1--8, as the same may be amended from time to time by the assembly by ordinance.

3. Notwithstanding any other provision, all subdivision other than a boundary line relocation and all development greater than a single-family dwelling within landslide or avalanche areas shall require a conditional use permit.

4. If a developer disagrees with the boundaries shown on the maps, the developer may seek
departmental relocation of the boundaries by submitting site specific studies prepared by a civil engineer experienced in avalanche and landslide analysis. Such studies shall include detailed analyses of topography, vegetation, potential snow accumulation, and other factors. The results should indicate actual hazard area boundaries and potential debris flow direction, time, distance and mass. If, in the opinion of the city engineer, the studies clearly establish that the map boundaries are inaccurate and the proposed development is outside a severe avalanche area or outside any avalanche or landslide area, the department shall proceed accordingly.

(5) The commission may require mitigating measures certified as effective by a professional engineer for development in landslide and avalanche areas. Such measures may include dissipating structures or dams, special structural engineering, or other techniques designed for the site. Mitigating measures may also include reduction in the proposed density.

(b) *Severe avalanche areas.*

(1) Notwithstanding any other provision, no development or any part of a development, which is within a severe avalanche area shall, by the addition of bedrooms, conversions of buildings, or otherwise, increase the density of that parcel; provided, however, that a single-family house may be constructed on a vacant lot.

(2) No subdivision shall be approved which creates a lot lacking sufficient building space outside a severe avalanche area.

(c) *Warning and disclaimer of liability.* Avalanches and landslides may occur outside hazard areas in excess of engineering expectations. The location and severity of the event may be increased by manmade or natural causes. This article does not imply that land outside of designated hazard areas, or uses permitted within such areas, will be free from danger or damage. This article shall not create liability on the part of the City and Borough of Juneau or any officer or employee thereof for any damages that result from reliance of this article or any administrative decision lawfully made under this article.

(Serial No. 87-49, § 2, 1987; Serial No. 90-03, § 1, 1990; Serial No. 2006-15, § 23, 6-5-2006)

**49.70.310 Habitat.**

(a) Development in the following areas is prohibited:

(1) On Benjamin Island within the stellar sea lion habitat;

(2) Within 330 feet of an eagle nest on public land;

(3) Within 50 feet of an eagle nest on private land, provided that there shall be no construction within 330 feet of such nest between March 1 and August 31 if it contains actively nesting eagles;

(4) Within 50 feet of the banks of streams designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 1995 Update; and
(5) Within 50 feet of lakeshores designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 1995 Update.

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

(1) Within 25 feet of stream designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 1995 Update; and


(Serial No. 87-49, § 2, 1987)

49.70.320 Watersheds.

Development in watersheds designated in the comprehensive plan of the City and Borough of Juneau, 1995 Update, shall not cause degradation of the existing water quality or ground water recharge capabilities of the site according to standards established by the state department of environmental conservation. Upon request of the director, the developer shall provide evidence of compliance by certification of a professional engineer.

(Serial No. 87-49, § 2, 1987)

ARTICLE IV.

FLOOD HAZARD AREAS*

* Cross References: Building regulations, tit. 19

49.70.400 Floodplain.

(a) Purpose. The purpose of this article is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. Other purposes are to:

(1) Combine with present zoning requirements, certain restrictions made necessary for the floodways to promote the aforesaid purposes;

(2) Prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazards;

(3) Minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage;

(4) Reduce the financial burdens imposed on the community, its governmental units, and its individuals by frequent and periodic floods and overflow of lands;

(5) Permit certain uses which can be appropriately located in the floodway and which will not impede the flow of floodwaters, or otherwise cause danger to life and property, at or above or
below their locations along the floodway;

(6) Ensure that potential buyers are notified that property is in an area of special flood hazards; and

(7) Ensure that those who occupy the areas of special flood hazards assume responsibilities for their actions.

(b) **Interpretation.**

(1) In the interpretation and application of this article, all provisions shall be considered as minimum requirements and shall be liberally construed in favor of the governing body.

(2) This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where the provisions of this article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(3) This article shall apply to all areas of special flood hazards within the jurisdiction of the City and Borough of Juneau.

(4) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City and Borough of Juneau, Alaska" dated August 4, 1980, and the flood insurance rate maps, and the flood boundary and floodway maps, effective date, February 4, 1981, and identified as panels 020009; 0300B; 0700B; 0723B; 0865B; 0870B; 0885B; 0890B; 0895B; and 0925B; and the flood insurance rate maps and the flood boundary and floodway maps, effective date, September 28, 1990, and identified as panels 020009; 0878C; 0878; 0880C; and 0880; are adopted by reference and declared to be part of this article. The flood insurance studies will be on file with the department.

(c) **Methods of reducing losses.** In order to accomplish its purpose, this article includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and
(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(d) General standards for flood hazard protection. In all areas of special flood hazards the following standards shall be met:

(1) Anchoring.

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(C) An alternative method of anchoring may be used if the system is designed to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the building official that this standard has been met.

(2) Construction materials and methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed or located so as to prevent water from entering during a flood.

(3) Utilities.

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision proposals.
(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(D) Where base flood elevation data has not been provided or is not available from another authoritative source, shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres.

(5) Review of building permits. Where elevation data are not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to ensure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and may be based on historical data, high water marks, photographs of past flooding, and other similar or relevant data. Failure to elevate construction at least two feet above grade in these zones may result in higher insurance rates.

(6) Other permits. All development permits shall be reviewed to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

(7) Alteration of watercourses. Altered or relocated portions of a watercourse shall be maintained so that the flood-carrying capacity is not diminished.

(e) Specific standards for flood hazards protection. In all areas of special flood hazards where base flood elevation data has been provided, the following provisions are required:

(1) All construction. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(B) The bottom of all openings shall be no higher than one foot above grade.

(C) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
(3) **Nonresidential construction.** New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or base flood depth; or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below the base flood level of the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) Be certified by an engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on the engineer's or architect's development or review of the structural design, specifications, and plans. Such certification shall be provided to the building official;

(D) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (e)(1) of this section; and

(E) Applicants proposing to floodproof nonresidential buildings shall be notified at the time of building permit application that flood insurance premiums shall be based on rates that are one foot below the floodproofed level.

(4) **Manufactured homes.** All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (d)(1)(B) of this section.

(f) **Additional provisions in Zones V1-V30, VE and/or V.** In areas designated as Zones V1-V30, VE and/or V, the following provisions shall also apply:

(1) All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

(A) The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to or above the base flood level; and

(B) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (f)(1)(A) and (B) of this section.

(2) The local administrator shall maintain records of the elevation (in relation to mean lower low water) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-V30 and VE, and whether or not such structures contain a basement.

(3) All new habitable construction shall be located landward of the reach of mean high tide.

(4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and, water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten pounds per square foot and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(A) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(B) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(5) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

(6) The use of fill for structural support of buildings within Zones V1-30 may be allowed only when certified by an engineer or architect that the standards of this chapter are satisfied.

(Serial No. 87-49, § 2, 1987; Serial No. 90-46, §§ 2--9, 1990)

49.70.410 Exceptions.

(a) The board of adjustment shall hear all applications for an exception from the provisions of this article, and shall be limited to the powers granted in this article and those necessarily implied to ensure due process and to implement the policies of this article.
(b) In passing upon such application, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

1. The danger that materials may be swept onto other lands and cause injury to other persons or property;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(c) Exceptions may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (b)(1)--(b)(11) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the exception increases.

(d) Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the board may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.

(e) Exceptions may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.
(f) Exceptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(g) Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

(h) Exceptions shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the exception would result in exceptional hardship to the applicant; and

(3) A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.

(i) Submission requirements.

(1) If the building official determines that a proposed development lies within a special flood hazard area, a special flood hazard permit fee shall be collected and the following information shall be provided before further processing of a building permit:

(A) Elevation of the lowest floor, including a basement, of all structures;

(B) Elevation to which any structure has been floodproofed;

(C) Certification by an engineer or architect that the floodproofing methods for any nonresidential structure meet generally accepted floodproofing standards;

(D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

(E) Description of the plan for maintenance of the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished; and

(F) When base flood elevation data have not been provided, the building official shall obtain, review and reasonably apply any base flood elevation and floodway data available from federal, state or other sources.

(j) Warning and disclaimer of liability. The degree of flood protection required by this article is intended for minimum regulatory purposes only and is based on general scientific and engineering principles. Floods larger than expected, can and will occur. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City and Borough, any officer or employee thereof, or the Federal Insurance Administration for any flood damages
that result from reliance on this article or any administrative decision lawfully made thereunder.
(Serial No. 87-49, § 2, 1987; Serial No. 90-46, § 10, 1990)

ARTICLE V.

HISTORIC DISTRICT*

* Cross References: Building regulations, CBJ Code tit. 19.

49.70.500 Purpose.

The superimposed historic district shall be used in conjunction with other zoning districts and is established to define those areas of the City and Borough that meet state or federal standards for historic districts or that otherwise have special historic significance that merit additional consideration in land use regulation.
(Serial No. 87-49, § 2, 1987)

49.70.510 Map.

There is adopted for the purpose of defining the HST district in the City and Borough, the Juneau Downtown Historic District map, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. Additional height requirements shall be as specified in chapter 49.25, article IV. The map, as adopted or as amended, may identify special historic districts within the general historic district for the purpose of applying special regulations aimed at preserving or enhancing the special characteristics of the identified districts.
(Serial No. 87-49, § 2, 1987; Serial No. 2006-15, § 24, 6-5-2006)

49.70.520 Historic district design review and approval required.

No person may alter or change the exterior of, or erect any structure, or authorize, permit or cause the same to be done within the HST superimposed historic district except in accordance with a site development plan approved under the provisions of section 49.70.530.
(Serial No. 87-49, § 2, 1987; Serial No. 99-22, § 11, 1999)

49.70.530 Standards for historic district design review.

(a) Historic district design review shall be conducted by the department in the case of minor developments and by the commission in the case of major developments. The reviewing agency may approve a site development plan located within a historic district when it is satisfied that the site development under the plan as submitted or as ordered changed by the agency will:

(1) In the case of modifications to existing buildings, preserve the outward historical appearance and original design; or

(2) In the case of new construction, preserve the harmony of scale, architectural style, sidewalk level
use and materials of the existing locale.

(b) In reviewing an application within a historic district, the reviewing agency shall use applicable guidelines and policies contained in the downtown historic district development plan and any other plan or program adopted by the assembly, acting as the Juneau historic district commission. The commission may adopt, and the agency shall apply, regulations establishing downtown historic district standards as set forth in section 49.75.220.

(Serial No. 87-49, § 2, 1987; Serial No. 99-22, § 12, 1999)

ARTICLE VI.

DESIGN REVIEW DISTRICT (RESERVED)

ARTICLE VII.

TRANSITION ZONES

49.70.700 Transition zones, generally.

(a) **Purpose.** A transition zone is an overlay zone district for certain lands located in the urban service boundary that are set aside for higher density development after public water and sewer have been provided. Transition zones shall be identified as such by the designator "T" on the official zoning maps adopted pursuant to section 49.25.110. The overlay district specifies the current lower density zoning classification as well as the proposed increase. The increase in density will take place at the time public services are provided.

(b) **Applicability.** All properties in transition zones shall comply with the provisions of this article.

(Serial No. 87-49, § 2, 1987)

49.70.710 Subdivisions in transition zones shadow platting.

(a) **Contents of application.** When a plat is submitted under chapter 49.15, article IV for a major subdivision in a transition zone, the application shall include a shadow plat of the property. The shadow plat shall be a sketch plat overlay of the actual lot layout proposed. This overlay shall reflect as nearly as possible the future resubdivision of the parcels into smaller lots, based upon the density and lot size allowed after public sewer and water are provided.

(b) **Commission decision.** The commission shall review and approve the application for a major subdivision based on how well the proposed lot layout will lend itself to future resubdivision as well as other requirements of this title.

(Serial No. 87-49, § 2, 1987)

49.70.720 Zoning upgrade.

For lands located within a transition zone, the zoning will be upgraded to the higher density classification at the time public water, sewer or other required improvements are provided according to the following procedures:
(1) Procedure. A zoning upgrade in a transition zone may be initiated by either of two different procedures:

A. The applicant for a major development permit in a transition zone may make a concurrent request for a zoning upgrade. The plans accompanying the development permit application shall be based upon the density requested. A request for a zoning upgrade shall include preliminary plans and a determination by a certified engineer that such improvements are feasible.

B. The planning commission may initiate a zoning upgrade if the public sewer, water, or other required improvements already exist or will be provided by the City and Borough.

(2) Hearing and decision.

A. Hearing. The commission shall consider the upgrade at a hearing upon notice provided in accordance with section 49.15.230. The commission shall base its decision to grant the upgrade on the determination of the feasibility of providing public water, sewer, and other required improvements. The staff report to the commission shall include a review of the plans and a feasibility report by the City and Borough engineer. The feasibility of providing public services shall consider the ability of the existing sewer and water system to handle the increased demand created by the proposed development.

B. Decision.

(a) The commission may grant a zoning upgrade only to the classification indicated by the prefix (T) on the official zoning maps. A change to any other classification shall be considered pursuant to section 49.75.130.

(b) The commission shall determine the boundary of the area to be upgraded.

(c) If the public water, sewer or other required improvements are not constructed or bonded, the commission may grant only conditional approval to the zoning upgrade request. The effective date of the zoning upgrade will be the date of final acceptance or bonding of the improvements.

(Serial No. 87-49, § 2, 1987; Serial No. 93-45, § 2, 1993)

ARTICLE VIII.

RESERVED* 

*Editors Note: Serial No. 2006-15, § 25, adopted June 5, 2006, effective July 6, 2006, repealed Art. VIII, §§ 49.70.800--49.70.820, which pertained to height district. See also the Code Comparative Table.

49.70.800--49.70.820 Reserved.
ARTICLE IX.

COASTAL MANAGEMENT

49.70.900 General provisions.

(a) This article establishes the coastal management enforceable policies of the Juneau Coastal Management Program.

(b) The director shall be responsible for carrying out the provisions of this article except as such is specifically delegated to other parties. The director is specifically authorized to carry out and is responsible for:

1. All functions allocated to the City and Borough under the state's consistency decision making procedure set forth in 6 AAC 50;

2. The rendering of local consistency decisions for the City and Borough on all building permit applications;

3. The rendering of consistency decisions for the City and Borough on all development applications under the authority of the planning department established under this article;

4. The receipt, storage and management of all records pertaining to decisions and actions carried out under this article.

(Serial No. 87-49, § 2, 1987)

49.70.905 Coastal development.

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

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

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

3. The placement of structures and the discharge of dredged or fill material into coastal water shall, at a minimum, comply with Parts 320--330, et seq., Title 33, Code of Federal Regulations (Vol. 51 of the Federal Register, pp. 4120641260, November 13, 1986)

4. Dredging and filling shall be prevented in highly productive tideflats and wetlands, subtidal areas important to shellfish, and water important for migration, spawning and rearing of salmon and other sportfish species, unless there is a significant public need for the project and there is no feasible and prudent alternative to meet the public need.
(5) Shoreline industrial developments, ports, harbors and marinas shall be sited, designed, constructed and operated such that:

(A) Lawful navigation is not impaired;

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

(C) All feasible and prudent steps are taken to prevent water pollution by incorporating best management practices; and

(D) Adequate access and utility access are available or can be provided.

(6) To the extent feasible and prudent, ports, harbors and docks shall be located away from extensive tideflats and wetlands and so as not to obstruct fish passage along the coast or in waters used by anadromous fish.

(7) To the extent feasible and prudent, piers, wharfs, and floating docks shall be installed in waters that have adequate natural flushing capacities. If solid fill must be used, it shall be located and constructed to maintain water circulation in the harbor.

(8) Excavation, shoreline alteration and disturbance of anadromous streams, tideflats and wetlands shall be minimized in the construction and operation of port, harbor, dock and industrial facilities.

(9) To the extent feasible and prudent, the area immediately surrounding small boat harbors shall be reserved for water-related and water-dependent uses.

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

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

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

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

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

(B) Fill is the only means to allow development of the property which is similar to other properties in the vicinity;
(C) Less than the proposed fill would prevent the applicant from making a reasonable use of the property or would make compliance unreasonably burdensome;

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

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

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

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

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

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

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

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

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

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

(E) Where feasible and prudent, no more than one floathome shall be allowed for every 500 feet of lineal shoreline measured at mean high tide unless multiple floathome moorage is specifically allowed under subsection (15) of this section;

(F) Floathomes shall be constructed and maintained to avoid a dilapidated, abandoned, derelict or unattended appearance;

(G) All refuse shall be securely stored pending removal;

(H) Floathomes shall float generally level and have at least one foot of freeboard;

(I) Where the need for upland access to the floathome is anticipated, the floathome shall be sited to ensure that there is proper and adequate legally recorded upland access to the site;

(J) Floathomes shall be placed so that required or desired onshore services and facilities can be efficiently extended;

(K) Floathomes shall be allowed in an area only after adjacent upland owners are notified;

(L) Floathomes shall be sited and operated to avoid creating or increasing noise and air pollution. Emissions from heaters and stoves, if otherwise lawful, may be allowed;

(M) Persons wishing to place floathomes adjacent to shorelines having road access must show that at least two onshore legally recorded parking places not on a public right-of-way are available and that floathome residents will have clear access to these parking places across the shoreland adjacent to the floathome; and

(N) Floathomes may be allowed without conditional use approval in developed marinas if the owner or operator assumes responsibility for providing fresh water, sewage disposal and solid waste disposal.

(15) Floating camps or multipurpose floating structures intended in whole or in part for residential purposes and meant to support mining, fishing, logging, tourist or other activities may be allowed under the conditional use procedure provided they meet all of the standards for floathomes set forth in subsection (14) of this section.

(16) Development intended to provide moorage for two or more floathomes may be allowed as conditional uses in the nonprohibited areas shown on Juneau Coastal Management Plan Map 2, provided the developer:
(A) Owns, or has a nonrevocable lease, for at least 30 years in duration, for the upland area adjacent to the water area to be developed;

(B) Provides at least two off-road parking spaces for each floathome;

(C) Provides fresh water, sewer with approved onshore disposal, and electricity to each floathome;

(D) Provides fire control protection approved by the City and Borough fire chief; and

(E) Provides to the floathomes, by site selection, physical improvements, or design of the floathomes, protection from storms, such that the floathomes will be safe from waves higher than two feet.

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

(A) Mooring devices for watercraft;

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

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

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

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

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

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

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

(A) Water-dependent uses and activities;

(B) Water-related uses and activities; and

(C) Uses and activities which are neither water-dependent nor water-related, for which there is no feasible and prudent inland alternative to meet the public need for the use or
activity.
(Serial No. 87-49, § 2, 1987; Serial No. 92-41, § 2, 1992)

49.70.910 Geophysical hazards.

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

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

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

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

(e) Mitigating measures are required for development in areas of moderate hazard. These may include dissipating structures or dams, appropriate structural engineering, or other techniques that respond to the specific site hazards.

(f) Residential, commercial and industrial development is prohibited in floodways. Culverts and bridges are not subject to this prohibition.

(g) Structures near watercourses shall be designed to reduce the impact of flooding and to allow for natural drainage.

(h) Sand and gravel operations, recreation activities, open space, and parking lots may be allowed in 100-year floodplains only if they do not increase the flood hazard.

(i) Industrial equipment and raw materials stored in 100-year floodplains shall be adequately bermed or otherwise protected.

(j) Disposal of hazardous materials in 100-year floodplains is prohibited. No new development which will involve storage of hazardous materials will be permitted in the 100-year floodplain unless there is no feasible and prudent alternative and unless safety measures are provided to prevent accidental discharge.

(k) Establishment of sanitary landfills in floodplains is prohibited.
(Serial No. 87-49, § 2, 1987)

49.70.915 Recreation.

(a) In developing areas:
1. Recreational developments adjacent to bodies of water shall be located, designed, constructed, and managed to minimize adverse effects on other uses and to provide safe, healthy conditions for recreationists.

2. Recreational developments shall, wherever feasible and prudent, preserve or enhance scenic views and vistas as well as improve the aesthetic value of the area.

3. Access to natural areas, such as fishing streams and hunting areas, shall be a combination of linear trails or easements and small parking areas to minimize user concentration on small portions of the shore or upland areas.

(b) Facilities for water-dependent recreation, such as fishing, swimming, and boating, and water-oriented recreation, such as picnicking, hiking, and walking, shall be located near the shoreline. Non-water-related recreation facilities shall be located away from the shoreline unless no feasible and prudent inland alternative exists to meet the public need.

(c) Auke Creek, the east bank of Auke Lake, and Lake Creek outside federal lands shall be protected with shoreline public easements and greenbelts for public access and habitat purposes.

(Argument No. 87-49, § 2, 1987)

**49.70.920 Energy facilities.**

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

1. Site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements;

2. Site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs;

3. Consolidation of facilities;

4. Consider the concurrent use of facilities for public or economic reasons;

5. Cooperate with landowners, developers, and federal agencies in the development of facilities;

6. Select sites with sufficient acreage to allow for reasonable expansion of facilities;

7. Site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements;

8. Select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;
(9) Encourage the use of vessel traffic control and collision avoidance systems;

(10) Select sites where development will require minimal site clearing, dredging, and construction in productive habitats;

(11) Site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries, haulout grounds and waterfowl nesting areas;

(12) Site facilities so that the design and construction of these facilities and support infrastructures in coastal areas will allow for free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;

(13) Site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;

(14) Site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;

(15) Select sites in areas which are designated for industrial purposes and where industrial traffic is minimized through population centers; and

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

(Serial No. 87-49, § 2, 1987)

49.70.925 Transportation and utilities.

(a) Highway and airport design, construction and maintenance shall take all feasible and prudent steps to prevent alteration of water courses, wetlands and intertidal marshes, and aesthetic degradation.

(b) Where roads and trails cross anadromous streams, the design and construction of bridges and culverts shall allow free passage of fish, and shall take all feasible and prudent steps to prevent habitat disturbance. Phasing of construction shall be done to avoid critical migration periods for salmon and other anadromous species.

(c) Roads and utilities shall be designed and built so as to protect shore features and other uses that may be affected by pollution, flooding, erosion and other adverse effects.

(d) Prior to disposal of state or City and Borough lands, public access routes, such as roads and trails, shall be identified and dedicated.

(e) Where feasible and prudent, bike trails shall be provided.
(f) Transportation and utility routes and facilities shall be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility.

(g) Parking areas shall include suitable drainage controls to prevent ponding and excessive concentrated runoff. Such areas shall be buffered by a minimum ten-foot-wide natural vegetation strip, as feasible and prudent, from shorelines and adjacent uses, and shall be sited, screened, and maintained to minimize dust.

(h) Development shall only locate in areas where utilities are available, or can be economically extended, or can be developed as part of the project, or where suitable on-site utilities are possible.

(i) Utility corridors shall, wherever feasible and prudent, be integrated with roads and other transportation corridors.

(j) Where feasible and prudent, overhead lines shall be located so as not to interfere with scenic vistas.

(Serial No. 87-49, § 2, 1987)

49.70.930 Fish and seafood propagation and processing.

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

(b) Fisheries enhancement and aquaculture shall maintain or restore quality and normal circulation patterns of affected waters at optimum levels consistent with applicable state standards. Aquaculture hatcheries and fisheries shall be protected from significant water quality degradation by other users.

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

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

(Serial No. 87-49, § 2, 1987)

49.70.935 Timber harvest and processing.

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

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

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

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

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

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

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

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

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

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

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

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

(Serial No. 87-49, § 2, 1987)

49.70.940 Mining and mineral processing.

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

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

(Serial No. 87-49, § 2, 1987)
49.70.945 Subsistence.

Project proposals shall be designed so that opportunities for subsistence usage of coastal areas and resources are recognized and assured.
(Serial No. 87-49, § 2, 1987)

49.70.950 Habitat.

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

(1) Offshore areas;
(2) Estuaries;
(3) Wetlands and tideflats;
(4) Rocky islands and seacliffs;
(5) Barrier islands and lagoons;
(6) Exposed high energy coasts;
(7) Rivers, streams, and lakes; and
(8) Important upland habitat.

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

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

(1) Offshore areas shall be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery;

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

(3) Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;
(4) Rocky islands and seacliffs shall be managed so as to avoid the harassment of wildlife, the destruction of important habitat, and the introduction of competing or destructive species and predators;

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

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

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

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

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

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

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

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

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

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

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

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

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

(49.70.955) Air, land and water quality.

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

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

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

(49.70.960) Special waterfront areas.

(a) General standards.

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

(2) Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that necessary for the use
unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions of this section.

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

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

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

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

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

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

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

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

(A) Maritime activities including private boating, commercial boating of all types, visitor industry, including cruise ships and transient pleasure vessels, commercial fishing, charter fishing and boating, floatplane activity, and any other activity not involving a structure for the use of waterbodies for sport, recreation, or commerce;

(B) Floats, docks, jetties, groins, bulkheads, ramps, shore defense works, piers, wharfs, dolphins, and other structures needed to provide access between shore and waterbody or to protect and stabilize the shoreline;

(C) All forms and structures related to handling and storage of cargo which arrived by water and/or is intended to depart by water, including storage yards, warehouses, cranes and similar machinery, and marine railways;

(D) Any form or structure for manufacturing or repair which is related to maritime activity and which substantially requires or benefits from a shoreline location;

(E) Any form or structure associated with uses which need or substantially benefit from a shoreline location;

(F) Marine fuel, water and sanitation facilities including services and support for transient and permanent vessels;

(G) All forms of public, private, and commercial moorage;

(H) Public access facilities, including boat ramps, parks, promenades, sidewalks, viewing areas, benches, plazas, and other forms of public open spaces;

(I) Research and education facilities related to the waterbody they abut;

(J) Fish and shellfish propagation and management;

(K) Offices which are related to and a necessary part of permissible uses;

(L) Public utilities including lines, pump stations, transformer stations, and similar uses;

(M) Hotels, motels and other types of transient lodging which are designed to take advantage of the shoreline amenity and which will result in increased visual or physical public access to the shoreline;

(N) Restaurants, cafés, and other food or beverage facilities which are designed to take advantage of the shoreline amenity and which will result in increased visual or physical access to the shoreline;
Gift shops, entertainment facilities, ticketing agencies, and other visitor industry services;

Retail services directly linked to a maritime clientele, such as gear and supply stores, boat sales, and laundries. To be directly linked, the proposed use must show by design and orientation that the primary clientele will be persons arriving from or going to watercraft or working on or in conjunction with watercraft, and that the proposed use is reasonably located to be convenient to foot borne customers that are already found in the area or that can be expected to be in the area;

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

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

Residences;

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

Special policies for the special waterfront areas.

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

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.

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

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

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

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

(A) Reserved.

(B) Reserved.

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

(D) Reserved.

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

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

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

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

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

ARTICLE X.

WETLANDS MANAGEMENT*

* Cross References: Water and harbors, CBJ Code tit. 85.
49.70.1000 Purpose.

(a) This article establishes the standards of the Juneau Wetlands Management Plan as enforceable policies of the Juneau Coastal Management Program. These standards shall be used by the City and Borough wetlands review board in making local wetlands permitting decisions, and by the director in rendering the City and Borough's response on coastal management consistency determinations coordinated by the state for projects requiring a permit from the U.S. Army Corps of Engineers for discharge of dredged or fill material into waters of the United States.

(b) A wetlands permit is established for review and approval of development activities proposed on Category C and D wetlands and enhancement activities proposed on Category EP wetlands, as designated in the Juneau Wetlands Management Plan and in the general permit issued by the U.S. Army Corps of Engineers and administered by the City and Borough. Development activities covered by the wetlands permit include residential, commercial, industrial, transportation and public use activities that involve the mechanical clearing, excavating, or discharge of dredged or fill material on wetlands.

(Serial No. 92-42, § 2, 1992; Serial No. 95-35, § 5, 1995)

49.70.1055 Maps.

(a) The Category A, B, C, D and EP wetlands of the City and Borough are mapped in the Juneau Wetlands Management Plan Atlas, dated May 1994, and in the general permit issued by the U.S. Army Corps of Engineers and administered by the City and Borough.

(b) The determinations as to whether a land parcel is within a wetland unit classified as Category C, D, or EP and is, therefore, subject to a wetlands permit shall be made by the department. The department may request additional information from the permit applicant to aid in the determination. The department will provide a copy of its determination to the applicant and the U.S. Army Corps of Engineers. The department's determination will be subject to review, modification or revocation by the U.S. Army Corps of Engineers. The department will proceed with the wetlands permit process for wetland units classified as Category C, D, or EP unless and until it receives notice from the U.S. Army Corps of Engineers that the department's determination was in error.

(Serial No. 92-42, § 2, 1992; Serial No. 95-35, § 7, 1995)

49.70.1060 Jurisdiction of wetlands permit.

The wetlands permit applies to development activities requiring mechanical clearing, excavating or placement of dredged or fill material on Category C and D wetlands, and enhancement activities on Category EP wetlands, with the following exceptions:

1. Nationwide permits. If the activity proposed by the applicant is covered by a nationwide permit issued by the U.S. Army Corps of Engineers, no wetlands permit from the City and Borough will be required provided the activity is conducted in compliance with the requirements of the nationwide permit.
(2) Excluded activities. The following activities cannot be permitted under a wetlands permit issued by the City and Borough: placement of dredged or fill material in waters of the United States for purposes of heavy industry, dry cleaning operations, hazardous waste disposal, battery transfer yards, commercial auto repair garages, and fuel storage sites. These activities, in order to be undertaken, must be authorized by a permit issued by the U.S. Army Corps of Engineers. (Serial No. 92-42, § 2, 1992; Serial No. 95-35, § 8, 1995)

49.70.1065 Permit review procedure.

(a) Wetlands permits shall be reviewed by the wetlands review board as follows:

(1) Submittal. An application for a wetlands permit must be filed with the department and must include the required application fee. The application must contain a description of the location, the proposed activity, and the purpose and need for the project. The project description must include quantities of fill material, acreage of disturbed surface area, measures that the applicant proposes to take to comply with the standards of section 49.70.1080, source of fill and any off-site disposal locations. The application must include a site plan and narrative description.

(2) Director action. Upon a determination by the director that the application is complete, the director shall schedule the application for wetlands review board action at the next regular meeting. Public notice shall be provided as required in section 49.15.230. Copies of the application shall be distributed to the state and federal resource agencies and members of the public who submit a general request for the opportunity to review and comment on wetlands permit applications.

(3) Staff report. The department's report to the wetlands review board presented at the meeting will include the following:

(A) Information, regarding the project, the management designation for the wetland unit under the Juneau Wetlands Management Plan, the applicability of the shoreline corridor designation rules and the residential road corridor designation rules to the wetland unit, and the applicability of the policies of the Juneau Coastal Management Program;

(B) An assessment of how the project meets the standards of section 49.70.1080, including:

   (i) Any new information regarding the wetland functions listed in the Juneau Wetlands Management Plan and practicable alternatives to the proposed wetlands development;

   (ii) For Category C wetlands, recommendations for maintaining high or medium high individual wetland functional values either on-site or off-site, to the extent feasible and prudent;

   (iii) Recommended project modifications or best management practices to avoid or minimize project impacts on wetland acreage and values; and
(iv) Recommended restoration, rehabilitation or compensation as required under the standards of section 49.70.1080, including any proposed use of the mitigation bank for compensation;

(C) An estimate of cumulative changes in both function and acreage of the City and Borough wetlands base as a result of the project and any related mitigation. The estimate of cumulative changes will be primarily based on the information regarding individual wetlands functions included in the Juneau Wetlands Management Plan.

(D) A recommendation to the wetlands review board for approval of the project with or without specified conditions, or a recommendation for denial. A recommendation for denial of a permit may be based on available practicable alternatives, or inability to mitigate against loss of wetland functions and values, as required under the standards set forth in section 49.70.1080.

(4) Wetlands review board action. The wetlands review board will evaluate the application for compliance with the standards of section 49.70.1080. The wetlands review board will presume that there is no less damaging practicable alternative site for the proposed development. This presumption will be evaluated in the department's report, and may be reversed by the wetlands review board on consideration of the information presented during the permit review process. The wetlands review board may grant a wetlands permit as described in the original permit application or with conditions necessary for compliance with the standards of section 49.70.1080. The wetlands review board may require that the applicant submit revised plans, narratives and other information, which reflect the conditions applied by the wetlands review board, prior to issuance of the permit. The wetlands review board will make a final decision on a permit no later than 60 days after the director determines that the application is complete. The director shall issue a wetlands permit in accordance with wetlands review board action on the application.

(5) Temporary emergency permit. In cases where there is an imminent threat to life or severe loss of property, the director may issue a temporary emergency wetlands permit without action of the wetlands review board. The permit may include conditions necessary to ensure compliance with the standards of section 49.70.1080. The permit shall be in effect only until the next regular meeting of the wetlands review board, when formal action on the permit application can be taken.

(Serial No. 92-42, § 2, 1992; Serial No. 95-35, § 9, 1995)

49.70.1070 Permit expiration.

A wetlands permit shall expire 18 months after issuance if no associated building permit, right-of-way permit, or similar permit for construction has been issued and substantial construction progress pursuant thereto made, unless otherwise specified in the wetlands permit or unless the permit is extended by the wetlands review board under section 49.70.1075. The permittee shall restore the site to pre-project conditions upon expiration of a wetlands permit.

(Serial No. 92-42, § 2, 1992)
49.70.1075 Permit extension.

Upon an application submitted at least 30 days before the expiration of a wetlands permit, the wetlands review board shall hold a hearing to consider whether the permit should be extended. At least ten days prior to the hearing, notice of such hearing shall be mailed to the property owners of record adjacent to the land included in the application and at least two days prior to the hearing, a general notice thereof, shall be printed in a newspaper of general circulation in the City and Borough. At the hearing, the burden of proof for the justification for a permit extension shall rest with the applicant. Upon written findings that the applicant's burden has been met, the wetlands review board may grant an extension not to exceed 18 months, but shall not delete from, amend or add to the conditions contained in the permit. Upon written findings that the applicant's burden has not been met, or that the conditions contained in the permit should be changed, or both, the wetlands review board shall deny the application, and the applicant may submit the entire project, including the previously authorized use, to a review by the wetlands review board as though it were a new application. A new application fee will be assessed for a permit extension. The wetlands review board may grant no more than one permit extension, the maximum duration of which shall be 18 months.

(Original Code 1992, § 2, 1992)

49.70.1080 Standards for review of wetlands permits.

(a) The standards set forth in this section will be applied by the wetlands review board in its review and approval of wetland permits. These standards will also be applied by the director to wetland development activities not covered by the general permit, through the coastal management consistency process coordinated by the state for projects requiring dredge and fill permits from the U.S. Army Corps of Engineers.

(b) The standards for review of wetlands permits are as follows:

(1) All individual wetlands will be managed in accordance with the wetland management designations presented in the charts and maps in the Juneau Wetlands Management Plan, the shoreline corridor designation rules, and the residential road corridor designation rules described in subsections (b)(5) and (6) of this section, respectively.

(2) Shoreline corridor designation rules and residential road corridor designation rules take precedence over the underlying wetland management designations presented in the Juneau Wetlands Management Plan.

(3) Shoreline corridor designation rules take precedence over the residential road corridor designation rules.

(4) Category A, B, C, D and EP wetlands will be managed according to the following management guidelines:

(A) Category A wetlands may be developed only if there is no net loss of individual functional values in the wetland unit. One environmental function cannot be substituted for another.

(B) Category B wetlands may be developed only if there is no net loss of aggregate
functional values in the wetland unit. One environmental function can be substituted for another. However, to the extent feasible and prudent, individual environmental functions that are rated high or medium high in the Juneau Wetlands Management Plan will be retained within the wetland unit.

(C) Category C wetlands may be developed if there is no net loss of aggregate functional values in the roaded area. To the extent feasible and prudent, individual environmental functions that are rated high or medium high in the Juneau Wetlands Management Plan will be retained either within or outside the wetland unit.

(D) Category D wetlands can be developed using best management practices. Project design and scheduling must minimize adverse impacts.

(E) Dedicated land refers to land that has special land use restrictions in addition to wetlands restrictions. Dedicated land includes city and state parks, state land, municipal rural reserves, and the Tongass National Forest. These lands are not generally available for development because of public ownership and associated restrictions. They have not been evaluated in the Juneau Wetlands Management Plan because their management has generally already been determined by the public agency that owns or manages the property. The Mendenhall Wildlife Refuge and all estuaries are in this category. Dedicated land is not available for general development.

(F) Enhancement potential (Category EP) wetlands are wetlands that have the highest potential for environmental enhancement. These are, in large part, wetlands that have been created or degraded by development. Enhancement may be required only if the wetland is publicly owned. Publicly owned Category EP wetlands can only be used for enhancement projects, not for development.

(5) Shoreline corridor designation rules.

(A) For riverine wetlands (rivers), all catalogued anadromous fish streams shall have a 50-foot shoreline corridor on each side of the stream, measured from ordinary high water in the main channel. The 50-foot corridor shall be designated and managed as wetlands Category A. This rule applies only to wetlands adjacent to anadromous fish streams included in the "Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes," published by the state department of fish and game, and streams that were nominated for inclusion in the catalog as of October 31, 1991. The shoreline corridor extends upstream to the limit of anadromous fish use indicated in the catalog. Additional streams may be catalogued by the state department of fish and game subsequent to the approval of the Juneau Wetlands Management Plan. Once catalogued, these streams would also be subject to the shoreline corridor designation rules.

(B) For lacustrine wetlands (lakes), there shall be a 50-foot shoreline corridor measured from the ordinary high water of the shoreline. If the lacustrine wetland or adjacent palustrine wetland is designated Category A, then the 50-foot corridor shall be designated and managed as Category A. In all other cases, the corridor shall be designated and managed
as Category B.

(C) Shoreline corridors, alongside lakes and anadromous fish streams take precedence over all other management categories and designations. For example, if a shoreline corridor intersects a residential road corridor, the shoreline corridor would be the applicable wetlands classification.

(6) Residential road corridor designation rules. The residential road corridor designation rules allow residential development on certain palustrine (vegetated nontidal) Category A or B wetlands under the Category C guidelines. The rules apply only to residential parcels where public water is already provided, the parcel is already affected by development, the parcel is subdivided into small lots, and the parcels have been approved for application of the residential road corridor rule in the general permit issued by the U.S. Army Corps of Engineers. The rules allow residential development applications to be reviewed under Category C guidelines in cases where the residential parcel is in a development corridor served by public water utility lines and existing local access roads, and the property owner has no practicable upland alternative to wetlands development. Existing local access roads and public water utility lines mean those built as of October 31, 1991.

(A) Undeveloped palustrine wetland residential parcels with no practicable upland development alternative shall have a temporary, 100-foot Category C designation corridor measured from the road frontage right-of-way, unless there is no building site with less than 20 percent slope in the temporary corridor. In this case, the temporary corridor is extended into the individual parcel until a building site with less than 20 percent slope is located. The definition of a suitable building site will be determined by the wetlands review board in relation to the particulars of the application and the underlying land use classification zone. Once a fill permit is obtained, the temporary corridor is eliminated, except for a designated "envelope" surrounding and equaling 30 percent of the fill footprint. Once the fill is completed, the temporary corridor reverts to the original wetlands management category, except that the 30 percent "envelope" remains.

(B) Developed palustrine residential parcels shall have a Category C designated envelope that is 30 percent larger than their existing fill footprint. For example, if the existing fill footprint is 1,000 square feet, then the existing fill could be expanded under the guidelines of a Category C wetland, only up to 300 square feet.

(C) Undeveloped residential parcels with an upland practicable alternative on the parcel shall retain their original designated management category. When a practicable alternative is available on the parcel, the development corridor is not available.

(7) Best management practices. Best management practices are required for development on any wetland. The conditions set forth in this subsection will be prescribed for all wetland developments. The wetlands review board may prescribe further conditions based on its analysis of individual projects for Category C and D wetlands and comments received during the wetlands permit review process.
(A) There shall be no work in the stream bed or that would adversely impact the stream during egg incubation or out-migration of salmon smolts.

(B) Filtration curtains shall be used to protect streams from turbidity due to adjacent soil disturbance activities.

(C) Existing wetlands vegetation shall be stripped in mats and repositioned over regraded soil.

(D) The amount of fill shall be restricted to the minimum amount necessary to achieve stated project purposes.

(E) Hydrology surrounding the discharge site shall be maintained with the use of culverts, if necessary. Activities shall not adversely impact adjacent wetlands by causing ponding, drainage, siltation or inadvertent fill.

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

(G) Erosion at the construction site shall be controlled through revegetation and other appropriate means. Exposed soils shall be revegetated within one year.

(H) All work must be completed within three years of issuance of the wetlands permit.

(8) Mitigation. For each wetland unit, individual functions which have potential for high values as presented in the Juneau Wetlands Management Plan will be considered during review of a project. Any new information regarding the value of individual wetland functions will be evaluated and considered during the review of a project. Individual wetland functions may either be demonstrated to be less or more important than the data in the Juneau Wetlands Management Plan indicate. As wetlands are developed, some functions may become scarce, increase in value, and require special consideration during a project review.

(9) The following mitigation policies will apply to a development proposal that would be located in Category A or B wetlands and that requires City and Borough, state or federal permits:

(A) Avoid damage to the functional values by avoiding or relocating the development proposal.

(B) Where loss or damage to the functional values cannot be avoided, minimize loss or damage by limiting the degree or magnitude of the development and the actions associated with conducting the development.

(C) Where the loss of functional values cannot be minimized, restore or rehabilitate the wetland to its predisturbance condition, to the extent feasible and prudent.
Where the loss of functional values at the development site is substantial and irreversible and cannot be avoided, minimized, or rectified, compensation for the loss of functional values are as follows:

(i) For Category A wetlands, the compensation actions must be in-kind and must be on-site, located as close as possible to the development site.

(ii) For Category B wetlands, the compensation actions may be in-kind or out-of-kind, provided the net aggregate values of the wetland unit are maintained. Compensation actions must occur on-site, located as close as possible to the development site.

The following mitigation policies will apply to a development proposal that would be located in Category C or D wetlands and that requires City and Borough, state or federal permits:

(A) Based on the extensive analysis of land use alternatives conducted in the land use inventory for the Juneau Wetlands Management Plan, the wetlands review board will presume that there is no practicable alternative for developments proposed on Category C and D wetlands. This presumption is rebuttable for individual projects, which means that the wetlands review board may still conclude that there is a practicable alternative based on its review of project-specific information during the permit review process.

(B) Where the development proposal is otherwise lawful and meets the requirements for a wetlands permit, minimize the loss of functional values by limiting the degree or magnitude of the development and the actions associated with conducting the development.

(C) Where the wetland loss cannot be reduced by minimizing the development, mitigate by restoring or rehabilitating the wetland to its predisturbance condition, to the extent feasible and prudent.

(D) Where the loss cannot be reduced by minimization and restoration/rehabilitation, mitigate by compensating for the loss as follows:

(i) For Category C wetlands, the form of compensation required will be selected on the basis of:

(1) Probability of success;
(2) Potential gain in functional values;
(3) Extent to which high and medium high functional values are retained; and
(4) Cost effectiveness.

(ii) In general, the order of preference for compensation for Category C wetlands is:
(1) On-site and in-kind;

(2) On-site and out-of-kind;

(3) Off-site and in-kind;

(4) Off-site and out-of-kind.

For small-scale developments (five acres or less), the mitigation bank may be used to meet this requirement.

(iii) For Category D wetlands, off-site compensatory mitigation is not required provided the minimization and restoration steps set forth above in subsections (b)(10)(B) and (C) of this section are followed and best management practices are employed.

(11) Some wetland units may receive a Category B designation for a portion of the unit and a Category C for the rest of the unit. If on-site mitigation is required as compensation for development within the Category B area of the wetland unit under subsection (b)(9)(D)(ii) of this section, the mitigation project should occur within the Category B wetland area unless:

(A) A suitable site or mitigation opportunity is not available within the Category B wetland area; or

(B) The same or greater environmental benefit could be gained with less expenditure by conducting a mitigation project with the Category C wetland area.

(12) General permit conditions. Development activities on Category C and D wetlands shall comply with the general and specific conditions listed in the general permit issued by the U.S. Army Corps of Engineers and administered by the City and Borough, and those conditions are deemed to be incorporated into any wetlands permit. A copy of these conditions will be provided to the applicant as part of the permit application materials and the wetlands permit.

(Serial No. 92-42, § 2, 1992; Serial No. 95-35, §§ 10, 11, 12, 1995)

49.70.1085 Mitigation.

(a) Mitigation strategy. In consultation with a working group comprised of state and federal resource agencies, the wetlands review board will develop a long-term, comprehensive wetlands mitigation strategy. The goal of the strategy will be to create the greatest environmental benefit for each mitigation expenditure. The strategy will include:

(1) Restoration and enhancement objectives with consideration to historical losses of wetland acreage and functional values;

(2) Suitable mitigation sites based on the degree and type of wetlands degradation at each site and
opportunities for obtaining the site for the mitigation bank;

(3) Appropriate and feasible mitigation projects for each identified site;

(4) Individual functional values that can be recreated at each site with a high probability of success; and

(5) Restoration and enhancement opportunities outside the proposed mitigation bank sites.

(b) *Mitigation bank.* A mitigation bank will be established to provide mitigation bank credit to satisfy compensation requirements for certain developments in Category C wetlands. Detailed procedures for the mitigation bank will be established by ordinance at a later date. In the interim, the wetlands review board will consider and require mitigation which meets the standards of section 49.70.270 on a case-by-case basis, when wetlands permits are issued.

(Serial No. 92-42, § 2, 1992)

**49.70.1090 Reports on general permit administration.**

(a) The department shall prepare and submit quarterly reports to the U.S. Army Corps of Engineers regarding the implementation of the general permit. The quarterly reports shall compile information on wetlands permits issued by the City and Borough under the general permit and shall include copies of all applications and wetlands permits.

(b) The department shall submit an annual report to the U.S. Army Corps of Engineers that includes the total acreage permitted for discharge of dredged and fill material, the number of permits granted, the average permit processing time, and enforcement activities.

(Serial No. 92-42, § 2, 1992)

**49.70.1095 Plan amendments.**

(a) Amendments to the Juneau Wetlands Management Plan and this article may be initiated by the City and Borough as necessary to include new wetland areas into the plan, incorporate new information regarding wetland values, revise wetland unit classifications, revise or supplement the standards for issuance of permits, or make other changes necessary for the proper management of wetlands in the Juneau area. Amendments will be subject to a public hearing process, review by the wetlands review board and the planning commission, and review and approval by the assembly. Amendments will require approval of the Alaska Coastal Policy Council and the Federal Department of Commerce, Office of Ocean and Coastal Resources Management, as a change to the Juneau Coastal Management Program. The approval of the U.S. Army Corps of Engineers will also be required if the amendments affect wetlands covered under the general permit.

(b) The Juneau Wetlands Management Plan will be reviewed and updated every five years to respond to new data and to improve its implementation. The review will be conducted by the wetlands review board, with assistance from the department and oversight and participation by the state and federal resource agencies. Public and agency comments on the implementation of the plan and any suggested changes will be solicited. The review will commence in sufficient time to complete the review and recommendations prior to renewal of the general permit. The review will include information on the number of wetlands permits issued
through the local wetland permit process and by the U.S. Army Corps of Engineers, the number of acres filled
in Category A, B, C and D wetlands, loss of wetland functions and values, the status and implementation of the
mitigation bank, and other information necessary to evaluate cumulative impacts, other requirements of the U.S.
Army Corps of Engineers, and compliance with the requirements of the Alaska Coastal Management Program.
(Serial No. 92-42, § 2, 1992)

49.70.1097 Enforcement.

Enforcement procedures for wetlands permits are provided in sections 49.10.600--49.10.660. Local
enforcement measures shall not supersede or replace the authority of the U.S. Army Corps of Engineers and the
U.S. Environmental Protection Agency to enforce the Clean Water Act, including enforcement against
unauthorized fills and violations of individual or general wetlands permits issued for discharges of dredged and
fill material.
(Serial No. 92-42, § 2, 1992)

ARTICLE XI.
REMOTE SUBDIVISION AREAS

49.70.1100 Purpose.

The purpose of the remote subdivision area classification is to provide for the waiver or reduction of
submittal, design, and improvement requirements related to access and potable water for privately owned
subdivisions in remote areas.
(Serial No. 99-34, § 8, 1-24-2000)

49.70.1110 Map.

There is adopted the remote subdivision area maps A--E, dated June 5, 2006, as the same may be
amended from time to time by the assembly by ordinance. For purposes of this Code, a remote subdivision is
one located within a remote subdivision area as shown on the maps. The director may recommend an
amendment to the maps upon a finding that the area recommended for designation as a remote subdivision area
conforms to the characteristics specified in section 49.70.1120.
(Serial No. 99-34, § 8, 1-24-2000; Serial No. 2006-15, § 26, 6-5-2006)

49.70.1120 Characteristics.

Privately owned land proposed for inclusion within a remote subdivision area should not be:

(a) In the general proximity of a capital improvement listed in the current capital improvements
program;

(b) Subject to a new growth area master plan, or other private plan adopted by the City and Borough;

(c) Connected to the road system; or
(d) Served by a right-of-way, sewer system, water system, fire protection service, or police protection service, operated or maintained by an agency of government.

(Serial No. 99-34, § 8, 1-24-2000)