

Presented by: The Manager
Presented: 03/20/2023
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ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2022-47

An Ordinance Repealing Title 49 Provisions Related to Wetland Review Board Authority.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Chapter. Chapter 49.10 is amended by repealing and reserving Article VII:

ARTICLE VII. RESERVED. WETLANDS REVIEW BOARD

~~49.10.700 Establishment and functions.~~

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

~~(a) The wetlands review board shall serve as the decision making body for the issuance of wetlands development permits in Category C and D wetlands, and enhancement project permits in Category EP wetlands, in accordance with the Juneau Wetlands Management Plan and the General Permit for wetlands development issued by the U.S. Army Corps of Engineers and administered by the City and Borough. The wetlands review board will apply the permit review procedures and standards set forth in section 49.70.1000 et seq.~~

1
2 ~~(b) The wetlands review board shall administer the City and Borough's wetlands~~
3 ~~mitigation bank, as established in the Juneau Wetlands Management Plan and in~~
4 ~~subsection 49.70.1085(b). The wetlands review board shall develop and maintain a~~
5 ~~long term mitigation strategy for Juneau wetlands as described in subsection~~
6 ~~49.70.1085(a)~~

7
8 ~~(c) The wetlands review board shall prepare an annual report on the status of the~~
9 ~~mitigation bank.~~

10
11 **~~49.10.710 Membership.~~**

12 ~~The members of the wetlands review board shall be nine residents of the City and Borough~~
13 ~~who shall serve without pay. Two shall be members of the planning commission, and seven~~
14 ~~shall be members of the public.~~

15
16 **~~49.10.720 Appointment.~~**

17 ~~Planning commission members shall be appointed by the commission. Public board~~
18 ~~members shall be appointed by the assembly. When public members are appointed, the~~
19 ~~assembly shall consider obtaining the broadest possible representation of members with~~
20 ~~knowledge of the values, functions and uses of wetlands, such as fish or wildlife biology,~~
21 ~~geology, hydrology, land use planning, and engineering. Appointments to fill vacancies shall be~~
22 ~~for the unexpired term only.~~

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24
25 **~~49.10.730 Term of office.~~**

~~Members shall be appointed for staggered terms of three years.~~

1
2 **~~49.10.740 Quorum.~~**

3 ~~The presence of five members constitutes a quorum. Except as authorized by Charter~~
4 ~~Section 3.16(e), any action of the board requires five or more affirmative votes to be approved.~~
5

6 **~~49.10.750 Officers.~~**

7 ~~The wetlands review board shall elect a chair to conduct the meetings of the board and a~~
8 ~~vice chair to serve in the absence of the chair, provided the chair and vice chair shall not be~~
9 ~~members of the commission.~~
10

11
12 **~~49.10.760 Unexcused absences.~~**

13 ~~If a member without first being excused for good cause by the wetlands review board~~
14 ~~misses three consecutive regular meetings, that member's position shall become vacant without~~
15 ~~action by the board. The wetlands review board or its chair shall immediately inform the~~
16 ~~assembly of the vacancy.~~
17

18
19 **~~49.10.770 Meetings.~~**

20 ~~(a) Regular meetings. The wetlands review board shall hold one regular meeting each~~
21 ~~month as necessary to conduct board business.~~

22 ~~(b) Special meetings. The wetlands review board may hold special meetings upon the call~~
23 ~~of the chair or any two members. At least 24 hours before the meeting, personal notice~~
24 ~~shall be given to each board member designating the time, place, and purpose of the~~
25 ~~special meeting, or written notice shall be left at each member's usual place of~~
~~residence. At least 24 hours before the meeting, copies of the notice shall also be~~

1
2 delivered to the newspapers of general circulation in the municipality and to the
3 commercial radio and television stations operating in the municipality.

4 ~~(e) Public notice. No business may be transacted at any special meeting except as stated~~
5 ~~in the notice of the meeting. All meetings of the wetlands review board shall be~~
6 ~~publicly noticed in the same manner as other City and Borough boards and~~
7 ~~commissions, and shall be conducted in accordance with the Alaska Open Meetings~~
8 ~~Act.~~
9

10
11 **~~49.10.780 Record of meetings.~~**

12 ~~Minutes all meetings shall be kept and shall be a public record. All records of the wetlands~~
13 ~~review board are public records and must be available to the public in the same manner as~~
14 ~~other City and Borough records, provided that upon request of a business, person or other~~
15 ~~entity working with the wetlands review board, proprietary information in any application or~~
16 ~~report of that business, person or entity presented to the wetlands review board shall be kept~~
17 ~~confidential by the wetlands review board to the extent allowed by AS 09.23.110 and AS~~
18 ~~09.23.120, or other applicable law. Information to be maintained as confidential must be~~
19 ~~specified and marked as "confidential" by the business, person, or other entity.~~
20

21
22 **~~49.10.790 Rules of procedure.~~**

23 ~~Meetings shall be conducted under Robert's Rules of Order and such additions or~~
24 ~~amendments to the rules as may be adopted by the wetlands review board.~~
25

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2 **Section 3. Amendment of Chapter.** Chapter 49.70 is amended by repealing and
3 reserving Article X:

4 **ARTICLE X. RESERVED. WETLANDS MANAGEMENT**

5
6 **~~49.70.1000 Purpose.~~**

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

14
15 ~~(b) A wetlands permit is established for review and approval of development activities~~
16 ~~proposed on Category C and D wetlands and enhancement activities proposed on~~
17 ~~Category EP wetlands, as designated in the Juneau Wetlands Management Plan and~~
18 ~~in the general permit issued by the U.S. Army Corps of Engineers and administered~~
19 ~~by the City and Borough. Development activities covered by the wetlands permit~~
20 ~~include residential, commercial, industrial, transportation and public use activities~~
21 ~~that involve the mechanical clearing, excavating, or discharge of dredged or fill~~
22 ~~material on wetlands.~~

23
24
25 **~~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~~

1
2 permit issued by the U.S. Army Corps of Engineers and administered by the City and
3 Borough.

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

14
15
16 **49.70.1060 Jurisdiction of wetlands permit.**

17 ~~The wetlands permit applies to development activities requiring mechanical clearing,~~
18 ~~excavating or placement of dredged or fill material on Category C and D wetlands, and~~
19 ~~enhancement activities on Category EP wetlands, with the following exceptions:~~
20

- 21 (1) ~~Nationwide permits. If the activity proposed by the applicant is covered by a~~
22 ~~nationwide permit issued by the U.S. Army Corps of Engineers, no wetlands permit~~
23 ~~from the City and Borough will be required provided the activity is conducted in~~
24 ~~compliance with the requirements of the nationwide permit.~~
25 (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,~~

1
2 hazardous waste disposal, battery transfer yards, commercial auto repair garages,
3 and fuel storage sites. These activities, in order to be undertaken, must be authorized
4 by a permit issued by the U.S. Army Corps of Engineers.
5

6 **~~49.70.1065 Permit review procedure.~~**
7

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

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

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

23 ~~(3) Staff report. The department's report to the wetlands review board presented at~~
24 ~~the meeting will include the following:~~
25

~~(A) Information, regarding the project, the management designation for the~~
~~wetland unit under the Juneau Wetlands Management Plan, the applicability~~

1
2 of the shoreline corridor designation rules and the residential road corridor
3 designation rules to the wetland unit, and the applicability of the policies of
4 the Juneau Coastal Management Program;

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

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

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

13 (iii) ~~Recommended project modifications or best management practices to~~
14 ~~avoid or minimize project impacts on wetland acreage and values; and~~

15 (iv) ~~Recommended restoration, rehabilitation or compensation as required~~
16 ~~under the standards of section 49.70.1080, including any proposed use of~~
17 ~~the mitigation bank for compensation;~~

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

23 (D) ~~A recommendation to the wetlands review board for approval of the project~~
24 ~~with or without specified conditions, or a recommendation for denial. A~~
25 ~~recommendation for denial of a permit may be based on available practicable~~

1
2 alternatives, or inability to mitigate against loss of wetland functions and
3 values, as required under the standards set forth in section 49.70.1080.

4 ~~(4) Wetlands review board action. The wetlands review board will evaluate the~~
5 ~~application for compliance with the standards of section 49.70.1080. The wetlands~~
6 ~~review board will presume that there is no less damaging practicable alternative~~
7 ~~site for the proposed development. This presumption will be evaluated in the~~
8 ~~department's report, and may be reversed by the wetlands review board on~~
9 ~~consideration of the information presented during the permit review process. The~~
10 ~~wetlands review board may grant a wetlands permit as described in the original~~
11 ~~permit application or with conditions necessary for compliance with the standards~~
12 ~~of section 49.70.1080. The wetlands review board may require that the applicant~~
13 ~~submit revised plans, narratives and other information, which reflect the~~
14 ~~conditions applied by the wetlands review board, prior to issuance of the permit.~~
15 ~~The wetlands review board will make a final decision on a permit no later than~~
16 ~~60 days after the director determines that the application is complete. The~~
17 ~~director shall issue a wetlands permit in accordance with wetlands review board~~
18 ~~action on the application.~~

19
20
21 ~~(5) Temporary emergency permit. In cases where there is an imminent threat to life~~
22 ~~or severe loss of property, the director may issue a temporary emergency wetlands~~
23 ~~permit without action of the wetlands review board. The permit may include~~
24 ~~conditions necessary to ensure compliance with the standards of section~~
25 ~~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.~~

1
2 **~~49.70.1070 Permit expiration.~~**

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

9
10 **~~49.70.1075 Permit extension.~~**

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

~~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~~

1
2 substituted for another. However, to the extent feasible and prudent,
3 individual environmental functions that are rated high or medium high in the
4 Juneau Wetlands Management Plan will be retained within the wetland unit.

5 (C) Category C wetlands may be developed if there is no net loss of aggregate
6 functional values in the roaded area. To the extent feasible and prudent,
7 individual environmental functions that are rated high or medium high in the
8 Juneau Wetlands Management Plan will be retained either within or outside
9 the wetland unit.
10

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

13 (E) Dedicated land refers to land that has special land use restrictions in addition
14 to wetlands restrictions. Dedicated land includes city and state parks, state
15 land, municipal rural reserves, and the Tongass National Forest. These lands
16 are not generally available for development because of public ownership and
17 associated restrictions. They have not been evaluated in the Juneau Wetlands
18 Management Plan because their management has generally already been
19 determined by the public agency that owns or manages the property. The
20 Mendenhall Wildlife Refuge and all estuaries are in this category. Dedicated
21 land is not available for general development.
22

23 (F) Enhancement potential (Category EP) wetlands are wetlands that have the
24 highest potential for environmental enhancement. These are, in large part,
25 wetlands that have been created or degraded by development. Enhancement
may be required only if the wetland is publicly owned. Publicly owned

1
2 ~~Category EP wetlands can only be used for enhancement projects, not for~~
3 ~~development.~~

4 ~~(5) Shoreline corridor designation rules.~~

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

18
19 ~~(B) For lacustrine wetlands (lakes), there shall be a 50 foot shoreline corridor~~
20 ~~measured from the ordinary high water of the shoreline. If the lacustrine~~
21 ~~wetland or adjacent palustrine wetland is designated Category A, then the 50-~~
22 ~~foot corridor shall be designated and managed as Category A. In all other~~
23 ~~cases, the corridor shall be designated and managed as Category B.~~

24
25 ~~(C) Shoreline corridors, alongside lakes and anadromous fish streams take~~
 ~~precedence over all other management categories and designations. For~~

1
2 example, if a shoreline corridor intersects a residential road corridor, the
3 shoreline corridor would be the applicable wetlands classification.

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

17
18 ~~(A) Undeveloped palustrine wetland residential parcels with no practicable~~
19 ~~upland development alternative shall have a temporary, 100 foot Category C~~
20 ~~designation corridor measured from the road frontage right of way, unless~~
21 ~~there is no building site with less than 20 percent slope in the temporary~~
22 ~~corridor. In this case, the temporary corridor is extended into the individual~~
23 ~~parcel until a building site with less than 20 percent slope is located. The~~
24 ~~definition of a suitable building site will be determined by the wetlands review~~
25 ~~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~~

1
2 is eliminated, except for a designated "envelope" surrounding and equaling 30
3 percent of the fill footprint. Once the fill is completed, the temporary corridor
4 reverts to the original wetlands management category, except that the 30
5 percent "envelope" remains.

6 (B) Developed palustrine residential parcels shall have a Category C designated
7 envelope that is 30 percent larger than their existing fill footprint. For
8 example, if the existing fill footprint is 1,000 square feet, then the existing fill
9 could be expanded under the guidelines of a Category C wetland, only up to
10 300 square feet.
11

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

16 (7) Best management practices. Best management practices are required for
17 development on any wetland. The conditions set forth in this subsection will be
18 prescribed for all wetland developments. The wetlands review board may
19 prescribe further conditions based on its analysis of individual projects for
20 Category C and D wetlands and comments received during the wetlands permit
21 review process.
22

23 (A) There shall be no work in the stream bed or that would adversely impact the
24 stream during egg incubation or out migration of salmon smolts.

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

1
2 ~~(C) Existing wetlands vegetation shall be stripped in mats and repositioned over~~
3 ~~regraded soil.~~

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

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

9
10 ~~(F) All discharge material shall be free from toxic pollutants in toxic amounts as~~
11 ~~defined by state law.~~

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

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

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

24
25 ~~(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:~~

1
2 (A) ~~Avoid damage to the functional values by avoiding or relocating the~~
3 ~~development proposal.~~

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

7 (C) ~~Where the loss of functional values cannot be minimized, restore or~~
8 ~~rehabilitate the wetland to its predisturbance condition, to the extent feasible~~
9 ~~and prudent.~~

10 (D) ~~Where the loss of functional values at the development site is substantial and~~
11 ~~irreversible and cannot be avoided, minimized, or rectified, compensation for~~
12 ~~the loss of functional values are as follows:~~

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

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

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

22 (A) ~~Based on the extensive analysis of land use alternatives conducted in the land~~
23 ~~use inventory for the Juneau Wetlands Management Plan, the wetlands~~
24 ~~review board will presume that there is no practicable alternative for~~
25 ~~developments proposed on Category C and D wetlands. This presumption is~~

1
2 ~~rebuttable for individual projects, which means that the wetlands review~~
3 ~~board may still conclude that there is a practicable alternative based on its~~
4 ~~review of project specific information during the permit review process.~~

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

9
10 ~~(C) Where the wetland loss cannot be reduced by minimizing the development,~~
11 ~~mitigate by restoring or rehabilitating the wetland to its predisturbance~~
12 ~~condition, to the extent feasible and prudent.~~

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

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

17 ~~(1) Probability of success;~~

18 ~~(2) Potential gain in functional values;~~

19 ~~(3) Extent to which high and medium high functional values are retained;~~

20 ~~and~~

21 ~~(4) Cost effectiveness.~~

22
23 ~~(ii) In general, the order of preference for compensation for Category C~~
24 ~~wetlands is:~~

25 ~~(1) On site and in kind;~~

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

~~(3) Off site and in kind;~~

1
2 ~~(4) Off site and out of kind.~~

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

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

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

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

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

20
21 ~~(12) General permit conditions. Development activities on Category C and D wetlands~~
22 ~~shall comply with the general and specific conditions listed in the general permit~~
23 ~~issued by the U.S. Army Corps of Engineers and administered by the City and~~
24 ~~Borough, and those conditions are deemed to be incorporated into any wetlands~~
25 ~~permit. A copy of these conditions will be provided to the applicant as part of the~~
 ~~permit application materials and the wetlands permit.~~

~~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.~~

1
2 **~~49.70.1090 Reports on general permit administration.~~**

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

8
9 ~~(b) The department shall submit an annual report to the U.S. Army Corps of Engineers~~
10 ~~that includes the total acreage permitted for discharge of dredged and fill material,~~
11 ~~the number of permits granted, the average permit processing time, and enforcement~~
12 ~~activities.~~

13
14 **~~49.70.1095 Plan amendments.~~**

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

1
2 (b) ~~The Juneau Wetlands Management Plan will be reviewed and updated every five~~
3 ~~years to respond to new data and to improve its implementation. The review will be~~
4 ~~conducted by the wetlands review board, with assistance from the department and~~
5 ~~oversight and participation by the state and federal resource agencies. Public and~~
6 ~~agency comments on the implementation of the plan and any suggested changes will~~
7 ~~be solicited. The review will commence in sufficient time to complete the review and~~
8 ~~recommendations prior to renewal of the general permit. The review will include~~
9 ~~information on the number of wetlands permits issued through the local wetland~~
10 ~~permit process and by the U.S. Army Corps of Engineers, the number of acres filled~~
11 ~~in Category A, B, C and D wetlands, loss of wetland functions and values, the status~~
12 ~~and implementation of the mitigation bank, and other information necessary to~~
13 ~~evaluate cumulative impacts, other requirements of the U.S. Army Corps of~~
14 ~~Engineers, and compliance with the requirements of the Alaska Coastal Management~~
15 ~~Program.~~

16
17
18 **~~49.70.1097 Enforcement.~~**

19 ~~Enforcement procedures for wetlands permits are provided in sections 49.10.600—~~
20 ~~49.10.660. Local enforcement measures shall not supersede or replace the authority of the U.S.~~
21 ~~Army Corps of Engineers and the U.S. Environmental Protection Agency to enforce the Clean~~
22 ~~Water Act, including enforcement against unauthorized fills and violations of individual or~~
23 ~~general wetlands permits issued for discharges of dredged and fill material.~~
24
25

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2023.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk