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May 23, 2022

MEMO

TO: Chair Arndt, and Title 49 Committee Members
FROM: Jill Maclean, AICP
SUBJECT: AME2022 0003: Proposed Amendments to Subdividing on Arterials

INTRODUCTION

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

SUMMARY OF REVISIONS

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

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

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

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

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

ATTACHMENTS

Attachment A – Title 49 Land Use Code Chapter 49.35 DRAFT

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

ARTICLE I. GENERALLY

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

1 **49.35.110 Purpose.**

2 The purpose of this chapter is to:

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

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

7 **49.35.120 Improvements; generally.**

8 (a) The developer must install all of the required improvements within the boundaries of the development, and
9 may be required to make improvements beyond the development boundary in order for all of the
10 improvements to function properly. In addition, improvements must be designed and constructed to provide
11 for future extension to adjoining lands.

12 (b) If a publicly maintained street serves an area outside the roaded service area boundary as a result of a
13 subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to
14 include the roaded area and newly created subdivision.

15 (Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 5, 1995; Serial No. 2002-20, § 2, 8-5-2002; Serial No. 2015-
16 03(c)(am), § 21, 8-31-2015; Serial No. 2016-26(b), § 7, 4-3-2017, eff. 5-3-2017)

17 **49.35.130 Standard specifications.**

18 (a) Compliance with specifications. Except as otherwise provided, all subdivision improvements shall be in
19 accordance with the latest revision of the City and Borough subdivision standard specifications and details on
20 file in the engineering and public works department.

21 (b) The director of engineering and public works may prescribe different or additional standards if unusual or
22 unforeseen conditions exist in a particular development, and the alternative meets or exceeds the intent of
23 the original standard.

24 (c) Change of standards. Prior to a substantial change in the standards generally applicable to required
25 subdivision improvements, the director of engineering and public works or the director of engineering and
26 public works' designee shall hold a public hearing on the proposed change. The hearing shall be preceded by
27 ten days' published notice. The standards may be changed in response to comments received at the hearing
28 or received at any other time prior to the effective date. The standards shall become effective 30 days after
29 the first notice of the hearing is published. The manager may shorten the notice period or waive the
30 requirement for a hearing and may specify an earlier effective date if the manager finds an emergency exists
31 or that other conditions warrant such action. If the hearing is held with less than three days' published
32 notice, a second hearing preceded by ten days' published notice shall be held.

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

35 **49.35.140 Construction plans.**

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

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

73 **ARTICLE II. STREETS¹**

74 **DIVISION 1. IN GENERAL**

75 **49.35.210 Street system.**

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

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

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

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

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

116 **49.35.220 Street names**

Commented [JM4]: No changes proposed at this time

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

135 **49.35.230 Roadway classification map**

Commented [JM5]: No changes proposed at this time

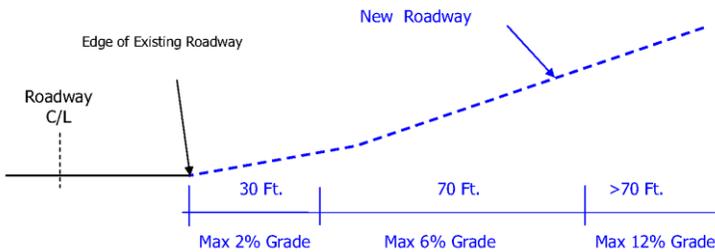
- 136 There are adopted roadway classification maps A—D, dated June 5, 2006, as the same may be amended
137 from time to time by ordinance. These maps set forth the classification of streets and roadways within the CBJ. The
138 roadway classification maps will govern references to streets in this title.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

143 **49.35.240 Improvement standards.**

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

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

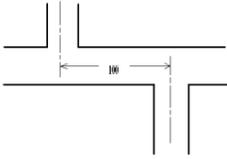
- 180 (1) *Maximum.* Grades on arterial streets must not exceed six percent. Grades on other streets must not
 181 exceed 12 percent.
- 182 (2) *Minimum.* The minimum grade for all streets is one-half percent.
- 183 (3) *Cross slope.* The minimum cross slope on all streets is three percent.
- 184 (4)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



Maximum Grades at the Intersection of a New Roadway

194
 195 **Figure 1**
 196

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



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

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204
205

Figure 2

206

(f) *Curves.*

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208

(1) *Design.* Curves shall be designed in accordance with "A Policy on Geometric Design of Highways and Streets."

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(2) *Vertical curve.* The minimum length of vertical curves is 200 feet unless otherwise approved by the director of engineering and public works.

211

(g) *Cul-de-sacs.*

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(1) *Length.* Streets designed to have one end permanently closed shall be no more than 600 feet and not less than 150 feet in length measured from the center of the intersection to the radius point of the turnaround. The director for minor subdivisions, and the commission for major subdivisions, may authorize a longer or shorter cul-de-sac if it is found that the unique characteristics of the site warrant modification to the length.

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218
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(2) *Temporary cul-de-sacs.* Temporary cul-de-sacs will be allowed where a street can practically be extended to provide for connecting streets into an adjoining undeveloped land, is located in a right-of-way or in an easement for public access, and if the following are met:

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(A) The temporary portions of the cul-de-sac shall be easements on the plat rather than as dedicated right-of-way. Such easements shall allow for public access and maintenance as if it were dedicated right-of-way until such time the easements are vacated. The easements shall not contribute towards lot area.

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225

(B) All of the cul-de-sac must be constructed to permanent street construction standards except as noted in (G) below.

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227
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(C) The CBJ will record a release of the easements for the temporary portions of the cul-de-sac at the state recorder's office at Juneau at the time the cul-de-sac is removed and the street improvements have been extended.

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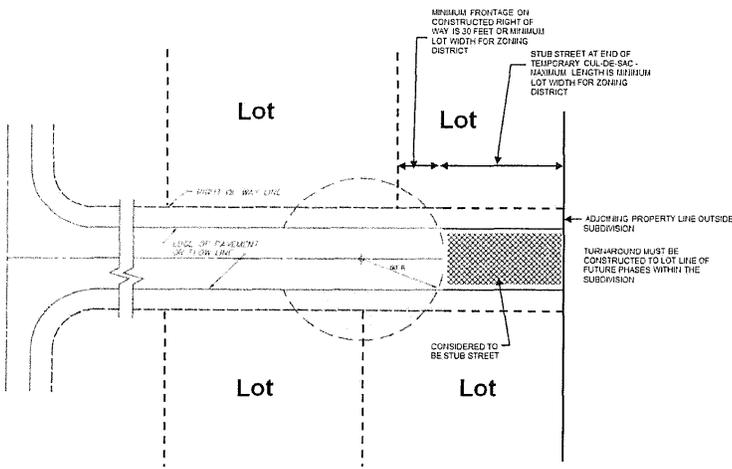
(D) Easement lines for the temporary cul-de-sac will be considered front property lines for determining building setbacks.

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(E) All improvements, including utilities and private driveways, must be designed to accommodate the eventual extension of the street and reversion of the temporary cul-de-sac to adjoining

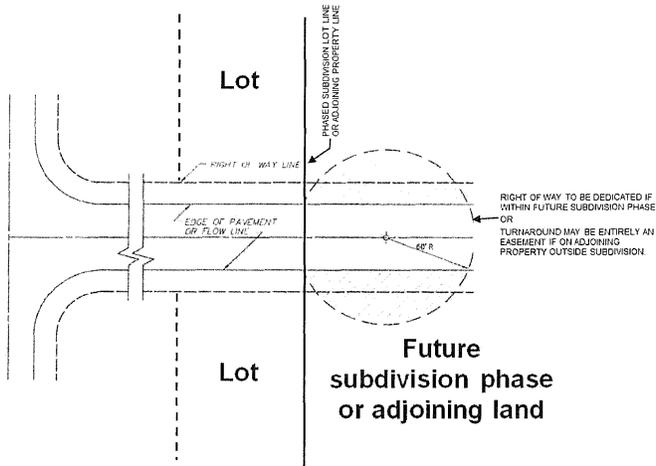
233 properties. The construction plans shall demonstrate those improvements connecting through a
234 temporary cul-de-sac will still comply with CBJ standards after the temporary cul-de-sac is
235 removed.

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



243
244 **Figure 3**
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246 (G) The temporary cul-de-sac may be located on property within the subdivision intended for future
247 subdivision phases in conjunction with a platted right-of-way. It may also be located outside the
248 subdivision boundary entirely within an easement (See Figure 4). If the temporary cul-de-sac is
249 constructed on property outside of the subdivision boundary, then curb, gutter, and sidewalks
250 are not required for the temporary cul-de-sac.



251
252 **Figure 4**
253

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

268
269 Table 49.35.240 Table of roadway construction standards

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

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

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271

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

272

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

273

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

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275

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

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

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

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284

(A) The proposed relocation will improve access to abutting or neighboring property not otherwise adequately served.

285

286

(B) The subdivider has provided sufficient engineering information to demonstrate to the director of engineering and public works the feasibility of constructing a public street at the location of the relocated right-of-way.

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288

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(C) The relocated right-of-way and the resulting subdivision layout will conform to all the other standards of this chapter.

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(D) The improvements required in the new right-of-way will not be less than those in the existing right-of-way.

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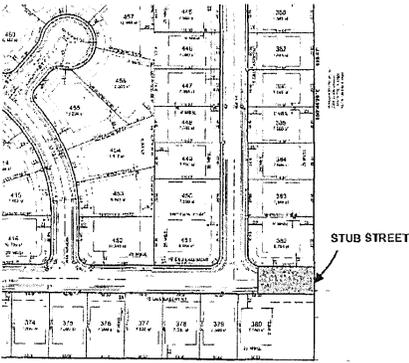
293

(E) No additional lots are being platted.

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



302

303 **Figure 5**

304

- 305 (B) Reserved.
- 306 (C) When the developer of adjoining property is required to connect to the stub street, then the
- 307 developer of the adjoining property will be required to construct the stub street to City and
- 308 Borough standards at the time.
- 309 (3) *Remote subdivisions accessible by navigable water.* The commission and the director may waive
- 310 roadway improvements and other street construction requirements for remote subdivisions accessed
- 311 solely by navigable water.
- 312 (4) *Roadway construction standards waivers.* Roadway construction standards identified in Table
- 313 49.35.240 may be waived in accordance with this subsection for any street reconstruction project, not
- 314 including routine maintenance; or any new street construction project located in a right-of-way platted
- 315 before 1987. Waivers shall be in writing.
- 316 (A) Roadway construction standards may be waived by the director if:
- 317 (i) The existing roadway does not comply with the roadway construction standards identified
- 318 in Table 49.35.240;
- 319 (ii) There are unique circumstances that make compliance with the requirements of the table
- 320 unreasonable;
- 321 (iii) The proposed project will not aggravate the intent of the requirements of this chapter; and
- 322 (iv) The proposed project complies with the American Association of State Highway and
- 323 Transportation Officials' guidelines.

(Supp. No. 139)

- 324 (B) Roadway construction standards may be waived by the commission if:
- 325 (i) The existing roadway does not comply with the roadway construction standards identified
- 326 in Table 49.35.240;
- 327 (ii) There are unique circumstances that make compliance with the requirements of the table
- 328 unreasonable;
- 329 (iii) The proposed project will not aggravate the intent of the requirements of this chapter; and
- 330 (iv) Unique circumstances make compliance with the American Association of State Highway
- 331 and Transportation Officials' guidelines unreasonable, and the commission requires
- 332 sufficient safeguards to protect public health, safety, and welfare under the circumstances.
- 333 (j) *Pioneer path standards.* The following standards shall apply to remote subdivisions accessed by pioneer
- 334 paths.
- 335 (1) Interior access shall be provided solely by pioneer path in a right-of-way. The right-of-way width of a
- 336 pioneer path within a remote subdivision shall be 60 feet.
- 337 (2) Grades for pioneer paths must not exceed 18 percent. The maximum cross slope grade must not
- 338 exceed five percent.
- 339 (3) The width of a pioneer path shall not exceed 54 inches of tread, and must be located within a six-foot
- 340 corridor.
- 341 (4) Pioneer paths shall be designed and constructed to prohibit vehicular traffic wider than 48 inches from
- 342 using the path, which may include the use of boulders, bollards, or any other similar structure.
- 343 (k) *Responsibility for improvements.* Unless otherwise provided, it shall be the responsibility of the subdivider to
- 344 pay the cost of all right-of-way and street improvements caused by any development, as determined by the
- 345 director.
- 346 (Serial No. 87-49, § 2, 1987; Serial No. 88-30, § 2, 1988; Serial No. 2002-20, § 5, 8-5-2002; Serial No. 2006-15, § 8,
- 347 6-5-2006; Serial No. 2010-41, § 2, 1-10-2011; Serial No. 2015-03(c)(am), § 27, 8-31-2015; Serial No. 2016-26(b), 4-
- 348 3-2017, eff. 5-4-2017; Serial No. 2018-08, § 2, 3-5-2018, eff. 4-5-2018; Serial No. 2019-08, § 2, 4-22-2019, eff. 5-
- 349 23-2019)

350 **49.35.250 Access.**

- 351 (a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-
- 352 way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance,
- 353 shall be improved to the applicable standards for public acceptance and maintenance. It shall be the
- 354 responsibility of the subdivider to pay the cost of the right-of-way improvements.
- 355 (1) *Principal access to remote subdivisions.* The department shall designate the principal access to the
- 356 remote subdivision. Such access may be by right-of-way.
- 357 (b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in
- 358 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access
- 359 to the right-of-way ~~through the frontage that complies or can be improved to comply with the emergency~~
- 360 ~~service access requirements of CBJ 19.10].~~ The minimum frontage requirement on a right-of-way is 30 feet or
- 361 the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for
- 362 frontage and access can be accomplished by:
- 363 (1) Dedication of a new right-of-way with construction of the street to public standards. This street must
- 364 connect to an existing publicly maintained street;

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

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

386 DIVISION 2. PRIVATE SHARED ACCESS

387 49.35.260 Purpose.

388 Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a

389 private easement consistent with this division.

390 (Serial No. 2016-26(b) , § 10, 4-3-2017, eff. 5-3-2017)

391 49.35.261 Application.

392 An applicant must submit the following to request shared access:

- 393 (1) A preliminary plan and profile of the proposed shared access; and
- 394 (2) A proposed access easement, drainage and utility agreement.

395 (Serial No. 2016-26(b) , § 10, 4-3-2017, eff. 5-3-2017)

396 49.35.262 Standards.

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

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

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

Commented [JM9]: Grammatical fix.

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

445 **49.35.263 Other shared access requirements.**

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

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

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

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

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

Commented [JM11]: No changes past this point

462 **49.35.270 Purpose.**

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

466 **49.35.271 Application.**

467 On a preliminary plat application, the applicant must submit the following to request approval for a privately
468 maintained access in a right-of-way:

- 469 (1) A preliminary plan and profile of the proposed privately maintained access road and any proposed
470 public or private utilities; and
- 471 (2) A proposed access agreement as required by 49.35.272.

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

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473 **49.35.272 Access agreement.**

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

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

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

524 **49.35.273 Standards.**

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

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

555 **49.35.274 Other requirements.**

556 (a) If a preliminary plat with a privately maintained access in the public right-of-way is approved, the applicant
557 must apply to the engineering and public works department for a permit to construct the privately
558 maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and
559 bonding may be required for final plan review, inspection, and construction of the access road and utilities.

560 (b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the
561 privately maintained access is not maintained by the City and Borough.

562 (c) The director shall determine the placement location of mailboxes. The director may require additional
563 improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

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

565