

Chapter 49.15

PERMITS*

***Administrative Code of Regulations cross reference--** Subdivision survey requirements, Part IV, § 04 CBJAC 005.010; platting requirements, Part IV, § 04 CBJAC 010.010.

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ARTICLE I.

IN GENERAL

49.15.110 Permits required.

No person may perform or cause to be performed any development work within the City and Borough except in accordance with a valid development permit, or early start or fast track authorization approved under the provisions of chapter 19.01 of the building code.

(Serial No. 87-49, § 2, 1987; Serial No. 97-26, § 3, 1997)

49.15.120 Who may submit permit applications.

(a) Applications for permits will be accepted only from persons who have, or upon issuance of the permit, will have the legal authority to take action in accordance with the permit. All applications must be signed by the owners or lessees of the land to be subject to the permit.

(b) The director may require an applicant to submit evidence of authority to submit an application in accordance with subsection (a) of this section.

(Serial No. 87-49, § 2, 1987)

49.15.130 Complete applications.

(a) All applications for permits must be complete, signed and accompanied by the applicable fee before the permit-issuing authority can accept the application.

(b) An application is complete when it contains all of the information necessary to determine if the development will comply with all of the requirements of the permit applied for.

(c) Permit applications shall contain a permission form signed by the applicant and the property owner granting permission to City and Borough officials, employees, and agents to enter upon the site during reasonable hours, to examine and inspect the site as part of the permitting procedure.

(Serial No. 87-49, § 2, 1987; Serial No. 91-51, § 2, 1991)

49.15.140 Application format and submittals.

The director shall decide the form and type of information required for each type of application, and may, when a particular application warrants, authorize less or require more information than normally specified.

(Serial No. 87-49, § 2, 1987)

ARTICLE II.

DEVELOPMENT GENERALLY

49.15.210 Type of development permit required.

The type of development permit required for a particular use shall be as specified in the Table of Permissible Uses in chapter 49.25, article III.
(Serial No. 87-49, § 2, 1987)

49.15.220 Minor and major development.

The intent of this chapter is to require a shortened approval process for minor developments and a more detailed review by the commission for major developments according to the following:

- (1) Unless otherwise specified in this title, minor development shall require department approval. If the director determines that a series of applications for minor developments, taken together, constitute a major development, the applications shall be subject to the appropriate major development permit procedures and standards.
- (2) Except as otherwise specified in this title, a major development shall require one or more of the following approvals or permits:
 - (A) Allowable use permit;
 - (B) Conditional use permit;
 - (C) Preliminary plat approval;
 - (D) Final plat approval.

(Serial No. 87-49, § 2, 1987)

49.15.230 Public notice.

Public notice of planning commission consideration of development permits and rezonings shall be provided as follows:

- (1) Permit consideration shall be included as an item in the posted agenda.
- (2) Notice of the meeting, and the agenda item shall be published in a newspaper of general circulation in the City and Borough a minimum of ten days prior to the date of the meeting.
- (3) The developer shall post a sign on the site at least 14 days prior to the meeting. The sign shall be visible from a public right-of-way, shall be between four square feet and 32 square feet in area, shall have a red background, and shall indicate in white lettering, 216-point or larger, that a development permit or rezoning, as applicable, has been sought for the site, the date of the hearing thereon, and that further information is available from the director. The developer shall

maintain the sign and shall remove it within 14 days after final action on the application.

- (4) The director shall mail notice of the application and the initial meeting thereon to the owners of record of all property located within 500 feet of the property subject to the permit or rezoning.
- (5) The applicant shall deliver individual written notice by certified mail, return receipt requested of the application and the initial meeting thereon to each tenant of any multifamily residential development for which the application seeks a change in use.

(Serial No. 87-49, § 2, 1987; Serial No. 99-15, § 2, 1999)

49.15.239 Effective date.

A minor development permit shall be effective upon execution by the director. A major development permit shall be effective upon approval by the commission. A development permit shall not be final until the disposition of any appeal thereof, or until the time for appeal has run and no appeal has been filed.

(Serial No. 97-01, § 4, 1997)

49.15.240 Development permit expiration.

A development permit shall become void 18 months after its effective date if no associated building permit, right-of-way permit or similar permit for construction has been issued and substantial construction progress pursuant thereto made, or if no plat has been issued in accordance with the plans for which the development permit was authorized. A development permit shall become void if all building permits issued for the development expire or become void.

(Serial No. 87-49, § 2, 1987; Serial No. 97-01, § 5, 1997)

49.15.250 Development permit extension.

Upon an application submitted at least 30 days before the expiration of an existing major development permit, the commission shall hold a hearing to consider whether the permit should be extended. At least ten days prior to the hearing, notice thereof 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 municipality. At the hearing, the burden of proof for the justification for a permit extension shall rest with the applicant. Upon written findings that such burden has been met, the commission 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 commission shall deny the application whereupon the applicant may submit the entire project, including the previously authorized use, to a full review by the commission as though it were a new application. Upon application and consideration pursuant to this section, the commission may grant no more than one additional extension, the maximum duration of which shall be 18 months.

(Serial No. 87-49, § 2, 1987)

ARTICLE III.

TYPES OF DEVELOPMENT

49.15.310 Department approval.

- (a) *Purpose.* The department shall review minor developments to ensure compliance with this title.
- (b) *Application form.* The director shall provide a minor development application form to be submitted as part of the application process for a building permit.
- (c) *Preapplication conference.* Prior to submitting an application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application.
- (d) *Community development director procedure.*
- (1) *Review of application.* The director shall review the application, consult with the applicant, and approve a minor development permit unless:
 - (A) The application is incomplete;
 - (B) Issuance of the requested permit is beyond the director's authority according to the table of permissible uses; or
 - (C) The development as proposed will not comply with one or more requirements of this title.
- (2) *Conditions on approval.* The director may condition department approval as necessary to ensure compliance with this title.

(Serial No. 87-49, § 2, 1987)

49.15.320 Allowable use permit.

- (a) *Purpose.* An allowable use permit is established for uses allowed in a particular zoning district but which, due to size, intensity or particular characteristics must be reviewed and approved by the planning commission. To ensure the compatibility of the use with the location, the commission may attach conditions to the permit to help mitigate external impacts. Conditions that may be attached to the permit are limited to those listed in subsection (f) of this section.
- (b) *Preapplication conference.* Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the allowable use permit procedure. The director shall discuss with the developer, regulations which may limit the proposed development as well as the standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this title. A copy of this subsection shall be provided to the developer at the conference.
- (c) *Submission.* The developer shall submit to the director one copy of the completed application together with all attachments and the permit fee.

(d) *Application review procedure.*

- (1) The director shall endeavor to determine whether the application is complete as intended by the developer, shall advise the applicant whether or not the application is acceptable and, if it is not, what corrective action may be taken.
- (2) After accepting the application, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.
- (3) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.
- (4) The director shall forward the application to the commission together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor.

(e) *Decision.* The commission shall consider the allowable use permit application. The commission shall review the director's recommendation with respect to:

- (1) Whether the application is complete;
- (2) Whether the requested permit is appropriate according to the table of permissible uses;
- (3) Whether the development as proposed will comply with the other requirements of this title; and
- (4) Whether conditions are necessary for approval. The commission shall approve the application and grant the permit unless it finds, by a preponderance of the evidence, that one or more of the criteria have not been met. In either case the commission shall adopt written findings setting forth the basis for its decision.

(f) *Conditions on approval; allowable uses.* The commission may condition an allowable use permit upon one or more of the following:

- (1) *Development schedule.* A reasonable time limit may be imposed on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that development is not used or occupied prior to substantial completion of required public or quasi-public improvements, or to implement other requirements.
- (2) *Use.* Use of the development may be restricted to that indicated in the application.
- (3) *Owners' association.* The formation of an association or other agreement among developers, homeowners or merchants, or the creation of a special district may be required for the purpose of holding or maintaining common property.

- (4) *Dedications.* Conveyance of title, easements, licenses or other property interests to government entities, public utilities, owners' associations, or other common entities may be required.
- (5) *Performance bonds.* The commission may require the posting of a bond or other surety or collateral approved as to form by the city attorney to guarantee the satisfactory completion of all improvements required by the commission. The instrument posted shall provide for partial releases of no less than ten percent of the original amount posted.
- (6) *Commitment letter.* The commission may require a letter from a public utility or public agency legally committing it to serve the development if such service is required by the commission.
- (7) *Covenants.* The commission may require the execution and recording of covenants, servitudes or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.
- (8) *Revocation of permits.* The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the responsibility of the owner to apply for a new permit. Any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.
- (9) *Habitat.* Development in the following areas may be required to minimize environmental impact:
 - (A) Developments within 330 feet of an eagle nest located on private land; and
 - (B) Developments in wetlands and intertidal areas, including freshwater marshes, saltwater marshes and intertidal flats.
- (10) *Sound.* Conditions may be imposed to discourage sound in excess of 65 dBa at the property line during the day or 55 dBa at night.
- (11) *Screening.* The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.
- (12) *Drainage.* The commission may require on and off-site drainage improvements in excess of the minimum requirements of this title.

(Serial No. 87-49, § 2, 1987)

49.15.330 Conditional use permit.

(a) *Purpose.* A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses. The conditional use permit procedure is intended to afford the commission the flexibility necessary to make determinations appropriate to individual sites. The commission may attach to the permit those conditions listed in subsection (g) of this section as well as any further conditions necessary to mitigate external adverse impacts. If the commission

determines that these impacts cannot be satisfactorily overcome, the permit shall be denied. The procedures and standards established in this section shall also be applied to major subdivision preliminary plat approval pursuant to section 49.15.430.

(b) *Preapplication conference.* Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the conditional use permit procedure. The director shall discuss with the developer, regulation which may limit the proposed development as well as standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this subsection shall be provided to the developer at the conference.

(c) *Submission.* The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.

(d) *Director's review procedure.*

- (1) The director shall endeavor to determine whether the application accurately reflects the developer intentions, shall advise the applicant whether or not the application is acceptable and, if it is not, what corrective action may be taken.
- (2) After accepting the application, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.
- (3) The director shall forward the application to the planning commission together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor. The director shall make those determinations specified in subsections (1)(A)--(1)(C) of subsection (e) of this section.
- (4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.
- (5) Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:
 - (A) Will materially endanger the public health or safety;
 - (B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or
 - (C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.

(e) *Review of director's determinations.*

(1) At the hearing on the conditional use permit, the planning commission shall review the director's report to consider:

(A) Whether the proposed use is appropriate according to the table of permissible uses;

(B) Whether the application is complete; and

(C) Whether the development as proposed will comply with the other requirements of this title.

(2) The commission shall adopt the director's determination on each item set forth in paragraph (1) of this subsection (e) unless it finds, by a preponderance of the evidence, that the director's determination was in error, and states its reasoning for each finding with particularity.

(f) *Commission determinations; standards.* Even if the commission adopts the director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the hearing, that the development will more probably than not:

(1) Materially endanger the public health or safety;

(2) Substantially decrease the value of or be out of harmony with property in the neighboring area;
or

(3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

(g) *Specific conditions.* The commission may alter the director's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:

(1) *Development schedule.* A reasonable time limit may be imposed on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighborhood, to ensure that development is not used or occupied prior to substantial completion of required public or quasi-public improvements, or to implement other requirements.

(2) *Use.* Use of the development may be restricted to that indicated in the application.

(3) *Owners' association.* The formation of an association or other agreement among developers, homeowners or merchants, or the creation of a special district may be required for the purpose of holding or maintaining common property.

(4) *Dedications.* Conveyance of title, easements, licenses, or other property interests to government entities, public utilities, owners' associations, or other common entities may be required.

- (5) *Performance bonds.* The commission may require the posting of a bond or other surety or collateral approved as to form by the city attorney to guarantee the satisfactory completion of all improvements required by the commission. The instrument posted may provide for partial releases.
- (6) *Commitment letter.* The commission may require a letter from a public utility or public agency legally committing it to serve the development if such service is required by the commission.
- (7) *Covenants.* The commission may require the execution and recording of covenants, servitudes, or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.
- (8) *Revocation of permits.* The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the sole responsibility of the owner to apply for a new permit. In other cases, any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.
- (9) *Landslide and avalanche areas.* Development in landslide and avalanche areas, designated 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 assembly ordinance, shall minimize the risk to life and property.
- (10) *Habitat.* Development in the following areas may be required to minimize environmental impact:
 - (A) Developments within 330 feet of an eagle's nest located on private land; and
 - (B) Developments in wetlands and intertidal areas.
- (11) *Sound.* Conditions may be imposed to discourage production of more than 65 dBA at the property line during the day or 55 dBA at night.
- (12) *Traffic mitigation.* Conditions may be imposed on development to mitigate existing or potential traffic problems on arterial or collector streets.
- (13) *Water access.* Conditions may be imposed to require dedication of public access easements to streams, lake shores and tidewater.
- (14) *Screening.* The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.
- (15) *Lot size or development size.* Conditions may be imposed to limit lot size, the acreage to be developed or the total size of the development.
- (16) *Drainage.* Conditions may be imposed to improve on and off-site drainage over and above the

minimum requirements of this title.

(17) *Lighting.* Conditions may be imposed to control the type and extent of illumination.

(18) *Other conditions.* Such other conditions as may be reasonably necessary pursuant to the standards listed in subsection (f) of this section.

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

ARTICLE IV.

MINOR AND MAJOR SUBDIVISIONS*

***Administrative Code of Regulations cross references**--Survey, monumentation, and platting standards, Part IV, § 04 CBJAC 005.010 et seq.; platting requirements, Part IV, § 04 CBJAC 010.010 et seq.

Cross References: Public ways and property, CBJ Code tit. 62; utilities, CBJ Code tit. 75.

49.15.410 Generally.

(a) This article is intended to:

(1) Regulate the subdivision of land by furthering the orderly layout and use of land;

(2) Standardize construction procedures for public rights-of-way and utilities;

(3) Establish a procedure for vacating or revising existing subdivision lines;

(4) Establish a procedure for reviewing boundary and land survey plats for recording;

(5) Provide for the use of shadow plats, in transition areas, in order to accommodate eventual redevelopment at higher densities in the designated urban service area not served by public sanitary sewer or public water when initially developed; and

(6) Establish a procedure for minor lot consolidations.

(Serial No. 87-49, § 2, 1987; Serial No. 95-40, § 2, 1996)

49.15.420 Minor subdivisions.

(a) *Applicability.* A minor subdivision procedure may be used for subdivision of a parcel into not more than four lots; provided, no minor subdivision may be filed or approved:

(1) For the subdivision of a parcel any part of which is within a landslide or avalanche area identified as such in the comprehensive plan or attachments thereto;

(2) If it is a part of or made in connection with a present or projected subdivision development as determined by the director; or

(3) If the property is within a parcel any part of which has been subdivided by a minor subdivision within the preceding 24 months unless the proposed subdivision creates no new lots.

(b) *Process.* The minor subdivision process shall be used for the review and recording of boundary and land survey plats. Such subdivision may include boundary retracement surveys, accretion surveys, the original monument recovery, or restoration surveys, but does not include leases of less than 55 years.

(c) *Submittals.*

(1) An application for a minor subdivision shall be submitted and approved in conformity with the department approval process set forth in articles I and II of this chapter and the standards set forth in this section.

(2) The application shall include the application fee, and five blue or black line prints on paper, 18 by 24 inches, 22 by 36 inches, or 24 by 36 inches in size. The application shall also include separate plans for construction of any improvements required or proposed. The department may require the submission of topographic maps.

(3) The minor subdivision shall be prepared by a professional land surveyor licensed to practice in the state.

(4) A title block shall be located in the lower right hand corner of the plat and shall contain:

(A) The proposed name of the subdivision in prominent letters;

(B) The location of the subdivision area identified by reference to U.S. Survey, public land description or prior subdivision name;

(C) The date of submission;

(D) Identification of the horizontal scale, which shall be 100 feet to the inch or larger unless a smaller scale is approved by the department; and

(E) The name and address of the owner and subdivider and the name of the land surveyor.

(d) *Process.* Minor subdivisions shall be reviewed and approved under the department approval process in articles I and II of this chapter as well as the following sections:

(1) The department shall, within ten working days of receipt of a complete application, approve the plat, disapprove the plat, inform the applicant of the date when action on the plat may be expected, or approve the plat with conditions. Failure to take action in accordance with this subsection does not constitute plat approval.

(2) Upon notification of plat approval, the applicant shall complete required surveying and monumentation, make corrections to the plat and submit a black line, mylar, reproducible plat of

the subdivision on mylar, 18 by 24 inches, 22 by 36 inches, or 24 by 36 inches in size.

- (3) Prior to plat recording, the applicant shall construct, or provide a guarantee satisfactory in form to the city attorney and providing for the construction of, all required improvements.
- (4) The director may sign the plat upon a determination that the subdivision and plat meet all of the requirements of this chapter and title. The department shall retain a duplicate reproducible mylar copy of the plat furnished by the applicant or the City and Borough, as the director may determine. The original shall be recorded by the department.

(e) *Improvements.* The improvement and construction requirements of this title shall apply to all minor subdivisions, except that:

- (1) The requirements of subsection 49.15.430(1)(O) shall not apply;
- (2) No improvements shall be required if no additional lots are created; and
- (3) For minor subdivisions designated as remote subdivisions pursuant to section 49.70.1110, the director may:
 - (A) Authorize a lesser improvement than that which would otherwise be required by subsection 49.15.460(5)(D) upon a finding that such lesser improvement would provide sufficient and practical access to lots created by the subdivision and that the developer has established a system for common maintenance of the improvements by property owners within the subdivision.
 - (B) Waive the requirements of subsection 49.15.460(5)(D) upon a finding that construction of the required right-of-way is not necessary to provide for sufficient and practical access to lots created by the subdivision and would be an unnecessary public maintenance burden.
 - (C) To the extent consistent with topography, existing easements, and the need to promote access between neighbors, require that coastal lots in remote subdivisions include a pedestrian easement between lots at the line of extreme high tide.

(f) *Survey, monumentation and certification.* The commission shall, by regulation adopted under chapter 01.60, establish and enforce survey, monumentation, and certification requirements for minor subdivisions.

(g) *Design.* Minor subdivisions shall meet the design standards set out in this title.

(h) *Panhandle lots.*

- (1) The subdivision of a parcel with a panhandle lot may be allowed in order to facilitate the subdivision of large parcels which are insufficiently wide but otherwise meet all other requirements for subdivision. Panhandle lots may be created by subdivision under this section if

the new lots meet the following additional requirements:

- (A) The front and panhandle lots must meet all the dimensional and area requirements of this title, except that part of the panhandle lot abutting the public way must be at least 30 feet wide and, in a D-1 zoning district, up to 30 feet of the width of the panhandle of the rear lot may be used in determining the width of the front lot. The common property line shall be limited to two changes of direction. The lot width for the panhandle lot shall be the distance between its side boundaries measured behind the back lot line of the front lot which line shall also be the front lot line of the panhandle lot for purposes of determining front yard setback. That part of the panhandle lot lying between its front lot line and the point at which it abuts the public way shall be no less than 30 feet in width.
- (B) The minimum lot size for each lot shall be 20,000 square feet for lots serviced by a community sewer system, public sewer system or a marine outfall and 40,000 square feet for lots not so serviced. Any marine outfall serving the lots shall extend to a point four feet below mean lower low water, and each lot using such disposal must abut the salt water to a minimum width of 30 feet.
- (C) Only one access to the public right-of-way may be permitted for the two lots. Such access shall be designated on the plat. Off-street parking shall be provided in an amount sufficient to meet municipal requirements. A driveway plan shall be submitted and approved by the director prior to recording of the plat, and construction of off-street parking shall be completed prior to issuance of a building permit. There shall be no back-out parking onto collectors or arterials.
- (D) Any portion of a driveway not located in a public right-of-way shall have a maximum grade not exceeding 15 percent. A profile of the proposed driveway centerline shall be submitted as a part of the plat application.
- (E) Existing driveways and access points not meeting the requirements of this subsection (h) of this section must be abandoned, and improvements thereto removed and relocated prior to recording of the plat.

(2) Neither lot resulting from a panhandle subdivision may be subject to further panhandle subdivisions.

(i) *Common wall subdivision.* Common wall development as described in article VII of chapter 49.65 shall be approved by the minor subdivision procedures of this section if four or fewer common wall dwellings and lots are proposed and the following requirements are met:

(1) The subdivision may be approved only when:

- (A) The structure on each of the proposed lots has been completed and a permanent or temporary certificate of occupancy for all of the dwelling units within the structure has been issued by the building official; or

- (B) The developer has submitted a financial guarantee meeting the formal requirements of section 49.55.110 and providing that the structures will be completed in compliance with the requirements of title 19 and this title.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 2, 1995; Serial No. 96-41, § 15, 1996; Serial No. 2005-06, § 2, 5-23-2005)

Administrative Code of Regulations cross reference--Minor subdivisions, Part IV, § 04 CBJAC 015.010.

49.15.430 Major subdivisions.

The major subdivision procedures shall be used for subdivision of a parcel into five or more lots, including the resubdivision of existing parcels into five or more lots or the adjustment of the boundary of five or more parcels. Major subdivision approval shall be a two-step process. The first step shall consist of preliminary plat approval and construction authorization by the commission pursuant to the conditional use permit process set out in section 49.15.330. The second step shall be approval of the final plat by the commission pursuant to section 49.15.440. A sketch plat provided by the applicant is recommended for the preapplication conference.

- (1) *Submittals; preliminary plat.* Application for preliminary plat approval shall be accompanied by a preliminary plat meeting the following requirements:
 - (A) The preliminary plat shall be prepared by a registered professional land surveyor, registered in the state and shall be submitted to the department not less than 20 working days prior to the commission meeting at which it is to be reviewed.
 - (B) A title block shall be located in the lower right-hand corner and shall contain:
 - (i) The proposed name of the subdivision;
 - (ii) The location of the proposed subdivision area, identified by U.S. Survey or public land description;
 - (iii) The date of submission;
 - (iv) Identification of the horizontal scale, which shall be 100 feet to the inch or larger; and
 - (v) The name and address of the owner and subdivider, and the name of the land surveyor of the preliminary layout.
 - (C) The preliminary plat shall show the boundaries of all property on the proposed subdivision site including contiguous property under the control of the subdivider, even if only a portion is being subdivided. If the plat submitted covers only a part of the tract under the control of the subdivider, a sketch of the prospective street system of the unplatted part shall be submitted and the street system shall be reviewed in light of the existing thoroughfare element of the comprehensive plan and the major thoroughfare plan.

- (D) The monuments used to establish the basis of bearing shall be identified and located.
- (E) The plat shall indicate the locations, widths and names of all existing or platted public ways within or adjacent to the tract, as well as existing structures, easements, watercourses, U.S. Survey lines and numbers, and other important features.
- (F) Existing sewer and water mains, drainage culverts or other underground structures within the tract shall be shown with pipe sizes and grades indicated. Existing pole lines, ditches, canals, natural drainage channels and open waterways shall be shown.
- (G) The applicant shall provide certification from a qualified engineer licensed by the state, indicating that the proposed lots are large enough and have soil of sufficient permeability to permit the construction of approved systems for on-lot waste disposal.
- (H) The plat shall show the results of any test to determine adequate soil conditions which may affect the development of the subdivision.
- (I) The plat shall clearly indicate the method by which the subdivider proposes to manage surface and subsurface drainage for the subdivision and the effect of such method on the adjacent areas.
- (J) The plat shall indicate all parcels of land intended to be dedicated for public use or reserved by deed for the use of all of the property owners in the proposed subdivision, together with the purposes and conditions or limitations on such reservations, if any.
- (K) The layout, names, grades and widths of proposed rights-of-way and easements within the subdivision shall be shown.
- (L) The layout, dimensions and number of proposed lots and blocks shall be shown.
- (M) The identification, location and elevation of the benchmark used to establish vertical control shall be shown.
- (N) Topography.
 - (i) For slopes of less than five percent, the plat shall show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions.
 - (ii) For slopes of five percent or more, the plat shall show contours with an interval of not more than five feet if the ground slope is regular and no special features require additional information for planning or construction purposes. If irregular slopes or special features are present, contours with an interval of not more than two feet shall be shown.
- (O) Any sensitive area, flood hazard area, landslide or avalanche hazard area, or portion

thereof within the proposed subdivision shall be delineated and identified on the plat.

- (P) A vicinity map or key map shall be shown on the preliminary layout. The scale shall be adequate to clearly identify the location of the parcel and the map shall show the relative location of the proposed plat and major road system.
 - (Q) For developments in areas where public or community water is not available, the plat shall include a statement that the subdivider will provide a community water system or that individual wells will be used. The proposed source and system must meet all applicable state requirements and must be capable of producing and delivering not less than 75 gallons per person, per day; population and development densities used for the purpose of determining system capacity shall be based on population and development densities which exist in similar areas. This subsection shall not apply to submittals for a subdivision designated as a remote subdivision pursuant to section 49.70.1110.
 - (R) In transition areas, a shadow plat shall be submitted in accordance with section 49.70.710.
- (2) *Commission action.*
- (A) The commission shall review the proposal and approve, conditionally approve or disapprove the plat, according to the conditional use permit process. Approval of the preliminary plat shall not constitute final acceptance of the subdivision.
 - (B) If on-site sewage disposal, on-site water, or community water is proposed, the commission may grant no more than conditional approval until it has reviewed and approved a report by a registered, qualified engineer or geologist which clearly supports the legal and physical availability of adequate soils or water, as applicable.
- (3) *Preliminary plat approval.*
- (A) Notice of approval of the preliminary plat and of the completion of all applicable conditions shall constitute authorization for the subdivider to proceed with the preparation of the final plat and plans and specifications for the improvements required in this chapter and chapter 49.35.
 - (B) Prior to the construction of any improvements required in this chapter and chapter 49.35, or the submission of any bond or surety, the subdivider shall furnish to the department all plans and specifications necessary for the improvements. These plans shall be examined by the City and Borough engineer and shall be approved if determined to be in accordance with the engineering requirements of acceptable standards, as approved by the assembly.
 - (C) Expiration of a preliminary plat shall be according to section 49.15.240. Approval of a final plat consisting of a portion of the preliminary plat will not extend the expiration date of the remaining lots.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 3, 1995; Serial No. 99-34, § 3, 1-24-2000)

49.15.440 Final plat.

After completion of all conditions and commission acceptance of the preliminary plat in accordance with conditional use permit procedures, the final plat shall be submitted for review and approval according to the following:

- (1) *Final plat submittal.* The final plat may constitute only that portion of the approved preliminary layout which the developer proposes to record and develop at the time of submittal, so long as such portion itself meets the requirements of this title without reference to possible future stages. The final plat shall be prepared by a professional land surveyor, registered in the state, shall be filed with the department and shall meet the survey, monumentation, and certification requirements established by the commission by regulation under chapter 01.60.
- (2) *Approval procedure.*
 - (A) After acceptance of an application and a final plat the director shall schedule the final plat for commission action.
 - (B) If commission action on the final plat is scheduled to occur more than 12 months after approval of the preliminary plat, public notice of impending commission action on the final plat may be required.
 - (C) The director shall make a recommendation to the commission. The recommendation shall include a description of the manner in which all conditions of the preliminary plat have been met.
- (3) *Commission action.* The commission shall approve the final plat if the plat substantially conforms to the approved preliminary plat and all applicable conditions have been satisfactorily completed.
- (4) *Notes, restrictions and covenants.* The commission may place such conditions upon granting of final plat approval as are necessary to preserve the public welfare in accordance with subdivision regulations. When such a condition of approval entails a restriction upon the use of all or part of the property being subdivided, a note specifying such restrictions shall be placed on the face of the plat. Such note shall constitute a restrictive covenant in favor of the municipality and the public, and shall run with the land, enforceable against all subsequent owners. Any such restrictive covenant may be enforced against the subdivider or any subsequent owner by the municipality by injunction or other appropriate action, in the same manner as a permit or permit condition, pursuant to CBJ 49.10.600--660, or by any specifically affected member of the public.

(Serial No. 87-49, § 2, 1987; Serial No. 96-41, § 16, 1996; Serial No. 2005-22, § 2, 8-8-05)

49.15.445 Minor lot consolidation.

- (a) *Eligibility.* The procedure set forth in this section may be used to consolidate four or fewer

abutting lots of record into one, provided that at the time of application and until final plat approval, the following are true:

- (1) All lots proposed for consolidation are under common ownership.
- (2) Local improvement district and other special assessments levied against the lots are paid in full.
- (3) All property taxes owing on the lots have been paid in full.
- (4) The lots are located in the same zoning district.
- (5) Consolidation of the lots does not create a zoning or building violation.

(b) *Application.*

- (1) Application for a minor lot consolidation shall be submitted on a form provided by the department. The form shall be accompanied by:
 - (A) The application fee;
 - (B) Written evidence that the parcels are in common ownership;
 - (C) Written evidence that all City and Borough assessments have been paid in full and all taxes owing have been paid;
 - (D) A written legal description of the new parcel providing a unique lot or tract designation and a drawing showing the location of all existing and proposed lot lines and boundaries. If the director finds that the description or drawing does not clearly identify the new lot, the director may require the applicant to provide a plat prepared by a professional land surveyor licensed to practice in the state.

(c) *Procedure.* If the director finds that the application is complete and the proposed consolidation is eligible pursuant to subsection (a) of this section, the department shall prepare and provide to the applicant a notice of lot consolidation setting forth such finding and a legal description of the new lot. The notice shall provide for acceptance of the consolidation by notarized signature thereon by the owner or owners of the new lot, and upon such execution, the department shall cause the form to be recorded.

(Serial No. 95-40, § 4, 1996)

49.15.450 Street vacations.

The following section applies to a subdivision in which any portion of an existing platted right-of-way to be is vacated.

- (1) *Submittal and permit process.*
 - (A) *Petition.* No platted street may be vacated except upon petition of the municipality or the

owners of the majority of the front footage of the land fronting that part of the street to be vacated. The petition shall be filed with the department accompanied by a copy of the existing plat.

- (B) Considered. All street vacations shall be considered by the commission after public notice according to section 49.15.230.
- (C) Simple street vacation. If the request involves a simple street vacation or one which includes the resubdivision of four or fewer lots, the submittal and platting requirements for a minor subdivision shall be met.
- (D) Complex street vacation. If the request involves a complex street vacation or the resubdivision of more than four lots the application must follow the procedures and platting requirements for approval of a major subdivision.
- (E) Order of street vacation. After a public hearing before the commission, the applicant shall furnish to the department a proposed order of vacation which shall contain the legal description of the area vacated and other relief requested. The order shall be accompanied by the appropriate plat showing the vacation.
- (F) Title to vacated area.
 - (i) Land lying within a vacated public area shall become part of the lots bordering on the vacated area in proportion, to the front footage thereof except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to. That portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the addition bordering on the street. If a public square is vacated, the title to it vests in the City and Borough. If the property vacated is a lot or tract, title vests in the owner of record.
 - (ii) If the City and Borough originally acquired the vacated area for legal consideration or by express dedication to and acceptance by the City and Borough other than required subdivision platting, then before final vacation the fair market value of the vacated area shall be deposited with the platting authority to be paid over to the City and Borough on final vacation.

(Serial No. 87-49, § 2, 1987)

49.15.460 Design.

The following design standards shall apply to all subdivisions.

- (1) *Blocks.* Blocks, the length, width and shape of blocks shall be determined with due regard to building site conservation and the special needs of the type of use contemplated.
- (2) *Streets.* Proposed public street systems shall be designed in accordance with articles I and II of chapter 49.35.

- (3) *Topography.* Consideration shall be given to design limitations imposed and opportunities presented by slopes, waterways and other topographic features. Scenic areas, sensitive areas and locations with important historical interest shall be taken into consideration during subdivision layout.
- (4) *Lots.*
- (A) *Generally.*
- (i) Subdivision lots shall meet the minimum dimensional standards established by chapter 49.25, article IV, provided that in cases of difficult topography or other circumstances rendering compliance impracticable, the director may approve other configurations if the lot:
- (a) Meets the minimum lot size requirement;
- (b) As drawn, is capable of containing a rectangle having two sides equal in length to the minimum lot width requirement and two sides equal in length to the minimum lot depth requirement;
- (c) Has direct and practical access to a street maintained by an agency of government; and
- (d) Has at least one practical building location.
- (ii) The shape, orientation and setback lines of lots shall be appropriate for the development proposed.
- (B) *Side lot lines.* Side lot lines should be at angles to straight streets and radial to curved streets unless topographic conditions require otherwise.
- (C) *Double frontage lots.* Except for corner lots, double frontage lots should be avoided. When such lots are permitted by the commission, the plat shall indicate which abutting street is not approved for access.
- (D) *Lot descriptions.*
- (i) All lots shall be numbered consecutively. In the event of phased subdivisions, the earlier numbering system may be continued.
- (ii) Bearing, distance and any curve data shall be shown for each lot line.
- (iii) For resubdivisions or right-of-way vacations, the lines and identification of the previous lots may be shown by light dashed lines, figures, letters, or by a separate plat on the same sheet showing the prior location of lot lines.

(5) *Rights-of-way.*

- (A) All lots shall have at least 30 feet of frontage on a dedicated right-of-way, except that a lot located within a subdivision designated as a remote subdivision pursuant to section 49.70.1110 shall be exempt from this requirement, upon a finding by the director or planning commission, as appropriate, that:
- (i) Sufficient and practical access is provided by at least 30 feet of frontage on a navigable waterbody; and
 - (ii) There is no reasonable probability in the foreseeable future that frontage on a dedicated right-of-way will be necessary for access to the lot.
- (B) A new right-of-way dedicated as a part of a plat shall meet the requirements for rights-of-way set out in chapter 49.35.
- (C) Any previously platted right-of-way less than 50 feet in width shall be expanded to meet the minimum dimensions established by this title. The department may require additional right-of-way dedication if an existing right-of-way is 50 feet or more in width but less than the minimum required by chapter 49.35.
- (D) The department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 4, 1995; Serial No. 99-34, § 4, 1-24-2000)

49.15.470 Recorded plats legalized.

(a) *Generally.* All plats recorded before March 30, 1953, whether executed and acknowledged in accordance with AS 40.15.050 or not, are validated and all streets, alleys or public thoroughfares on these plats are considered as having been dedicated to public use. This section does not prohibit the abandonment of a plat recorded before March 30, 1953, if a subsequent plat is filed indicating abandonment. The last plat of the area and the streets, alleys or thoroughfares shown on it are deemed to be the streets, alleys or thoroughfares dedicated to public use. The streets, alleys or thoroughfares shown on an earlier plat of the same area or any part of it which is in conflict with those shown on the official plat are deemed to have been abandoned and vacated.

(b) *Missing plats.* Where a recorded plat is missing and no present record is available except by reference to the missing plat, a counterpart copy, approved by the platting board, may be recorded as of the original date of the missing plat and after recordation has the same legal effect and notice as the original missing plat.

(Serial No. 87-49, § 2, 1987)

ARTICLE V.

DESIGN REVIEW PERMITS (RESERVED)

ARTICLE VI.

PLANNED UNIT DEVELOPMENTS

49.15.600 Purpose.

The general purpose of the planned unit development code is to permit flexibility in the regulation and use of land in order to promote its most appropriate use; to facilitate the adequate and economical provisions of streets and utilities; to preserve the natural and scenic qualities of open space; and to encourage, consistent with the goals and objectives of the comprehensive plan, residential developments that are planned, designed and developed to function as integral units. The specific purposes of the planned unit development code are to:

- (a) Encourage uses of land that are efficient, aesthetic, in harmony with the surrounding area, and consistent with the comprehensive plan and available public services;
- (b) Encourage innovation in site design and building layout, pedestrian and vehicular circulation, parking facilities and streets, configuration and use of open space, and mixing of housing types and compatible land uses;
- (c) Encourage economy and efficiency in common facilities;
- (d) Preserve and protect natural features, streams, lakes, wetlands, natural drainage channels, vegetation, and vistas;
- (e) Avoid avalanche, landslide, and flood hazard areas; and
- (f) Encourage development of quality housing at a reasonable price.

(Serial No. 97-12, § 2, 1997)

49.15.610 General provisions.

(a) *Zoning districts.* A residential planned unit development is allowed in zoning districts RR, D-1, D-3, D-5, D-10, D-15, D-18, and LC.

(b) *Permitted uses.* The uses allowed in the underlying zoning district, according to section 49.25.300, table of permissible uses, are permitted in all planned unit developments. The following additional uses are permitted in a residential planned unit development:

- (1) A mixture of single-family, two-family, and multifamily housing; and
- (2) A recreational facility or a planned unit development community center.

(Serial No. 97-12, § 2, 1997)

49.15.620 Planned unit development review process.

(a) *General procedure.* A proposed planned unit development shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and in the case of an application proposing a change in the number or boundaries of lots, section 49.15.430, major subdivisions, except as otherwise provided in this article. Approval shall be a two-step process, preliminary plan approval and final plan approval. In cases involving a change in the number or boundaries of lots, the preliminary and final plat submissions required by section 49.14.430 shall be included with the preliminary and final plan submissions required by this chapter.

(b) *Preapplication conference.* Prior to submission of an application, the director shall conduct an informal preapplication conference with the developer to discuss the proposed planned unit development. The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement made by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department. The conference shall include a discussion of the zoning, size, topography, accessibility, and adjacent uses of the development site; the uses, density and layout of buildings, parking areas, the open space and landscaping proposed for the development; the common facilities; the street layout and the vehicle and pedestrian circulation; the development schedule and the planned unit development permit procedures. The developer shall provide a sketch of the proposed planned unit development.

(Serial No. 97-12, § 2, 1997)

49.15.630 Preliminary planned unit development plan approval.

(a) *Application.* The developer shall submit to the department one copy of a complete planned unit development application, which shall include an application form, the required fee, any information required in subsection 49.15.430(1), the information required by this section, and any other information specified by the director.

(b) *Required submissions.* The application shall include the following material:

- (1) *Ownership.* The application shall identify, and shall be signed by or upon, the included written authorization of, all owners, lessees, and optionees of land within the boundaries of all phases of the planned unit development.
- (2) *Preliminary development plan.* The application shall include a preliminary development plan, explaining how the proposed planned unit development will achieve the purposes set forth in section 49.15.600. The preliminary development plan shall summarize the different land uses proposed, including the amount of land for housing, common open space, streets, and parking; the number and types of housing units and proposed density; the natural features to be protected and hazards to be avoided; and the public and private services to be provided.
- (3) *Design.* The application shall describe the design of the planned unit development, with particular attention to building massing, color, and architectural features; the layout of buildings, parking, and streets; and the circulation of traffic and pedestrians.
- (4) *Common open space, facilities, and general landscaping.* The preliminary plat shall show and describe improved and undisturbed common open space.

- (5) *Description of phased development.* The preliminary development plan for a phased planned unit development shall include:
- (A) A drawing and development schedule for each phase and for the entire planned unit development;
 - (B) The size and general location of proposed land uses for each phase at a projected level of density;
 - (C) A description of the streets connecting all the phases and where they will connect at the planned unit development boundaries;
 - (D) A description of how the developer will address the cumulative impacts of the phased development on the neighborhood and the natural environment;
 - (E) A description of the overall design theme unifying the phases; and
 - (F) An analysis of how each phase in the project will meet the requirements of subsection 49.15.650(b).

(c) *Department review.* The director shall advise the developer whether the planned unit development application is complete, and, if not, what the developer must do to make it complete. Within 45 days after determining an application is complete, the director shall schedule the preliminary plan for a public hearing before the commission. The director shall give notice to the developer and the public according to section 49.15.230.

(d) *Commission action.* The commission shall approve a planned unit development preliminary plan if it meets the requirements of section 49.15.330 and:

- (1) The design effectively provides for clustered buildings, mixed uses, or mixed housing types;
- (2) The development protects natural features and avoids natural hazards by reserving them as undisturbed open space;
- (3) The development is consistent with the land use code;
- (4) The development incorporates boundary buffers sufficient to separate adjacent property from dissimilar uses;
- (5) Utilities proposed for connection to the City and Borough system meet City and Borough standards, and all others are consistent with sound engineering practices, as determined by the City and Borough engineering department;
- (6) The configuration of the development provides for economy and efficiency in utilities, housing construction, streets, parking and circulation;

- (7) If the approval is for a phased development, that each phase is consistent with the preliminary development plan and design of the entire planned unit development; and
- (8) Adequately addresses the cumulative impacts of the phased development on the neighborhood and the natural environment.

(e) *Expiration.* Approval of a preliminary plan shall expire 18 months after the commission notice of decision unless a final plan for the entire project or, in the case of a phased development, the first phase thereof, is submitted to the department for commission action. An application for extension of a preliminary plan shall be according to section 49.15.250, development permit extension.

(Serial No. 97-12, § 2, 1997)

49.15.640 Final planned unit development plan approval.

(a) *Application.* Upon completion of all conditions of the preliminary plan, the developer shall submit an application, fee, and a final plan for commission approval.

(b) *Homeowners' association.*

(1) The articles of incorporation and bylaws of the homeowners' association, required under AS 34.08, or this chapter, shall be prepared by a lawyer licensed to practice in the state.

(2) The association documents shall specify how common facilities shall be operated and maintained. The documents shall require homeowners to pay periodic assessments for the operation, snow removal, maintenance and repair of common facilities. The documents shall require that the governing body of the association adequately maintain common facilities.

(3) If planned unit development utilities or streets are not accepted for maintenance by the City and Borough, the homeowners' association documents shall clearly indicate that a special assessment may be levied in the future for extraordinary repairs or to perform necessary work in order to connect or dedicate common facilities to the City and Borough system. If the planned unit development is phased, the association documents shall specify how the cost to build, operate, and maintain improved common open space and common facilities shall be apportioned among homeowners of the initial phase and homeowners of later phases.

(4) The homeowners' association documents shall be recorded with the approved final plat, as required by state law, or both.

(c) *Commission action.* The commission shall approve the final plan if it substantially conforms to the approved preliminary plan and all requirements of this article.

(d) *Expiration.* An approved final plan shall expire 18 months after recording if the applicant fails to obtain an associated building permit and make substantial construction progress. An application for extension of a final plan shall be according to section 49.15.250, development permit extension.

(Serial No. 97-12, § 2, 1997)

49.15.650 Phased development.

(a) *Phasing allowed.* An applicant may develop a planned unit development in phases, provided the initial application includes a preliminary development plan sufficient to assess the cumulative effects of the entire planned unit development on the neighborhood and the environment according to the standards in subsection 49.15.630(b)(5)

(b) *Completion of an individual phase.* Each phase shall be so designed and implemented that, when considered with reference to any previously constructed phases but without reference to any subsequent phases, it meets the design and density standards applicable to the entire planned unit development. Construction and completion of common open space and common facilities serving each phase in a planned unit development shall proceed at a rate no slower than that of other structures in that phase. No phase shall be eligible for final plan approval until all components of all preceding phases are substantially complete.

(c) *Standards for phases.* Each phase of a planned unit development shall be reviewed according to the provisions of this chapter then current. Each phase of a planned unit development shall maintain design continuity with earlier phases. At no point during a phased development shall the cumulative density exceed that established in the approved preliminary plan.
(Serial No. 97-12, § 2, 1997)

49.15.660 Amendments to approved planned unit development plan.

(a) *Request for amendment.* The developer of a planned unit development may request an amendment to an approved preliminary or final planned unit development plan. The request shall state the reasons for the amendment and shall be submitted in writing to the director, who shall inform the developer within 15 days whether the request shall be processed as a minor amendment or major amendment.

(b) *Minor amendment.* A minor amendment may be submitted without a filing fee and may be approved by the director. For purposes of this section, a minor amendment is a change consistent with the conditions of the original plan approval, the general character of the overall planned unit development, and the criteria set out in subsection 49.65.630(d), and would result in:

- (1) Insignificant change in the outward appearance of the development;
- (2) Insignificant impacts on surrounding properties;
- (3) Insignificant modification in the location or siting of buildings or common open space;
- (4) No reduction in the number of parking spaces below that required;
- (5) A delay of no more than one year in the construction or completion schedule for the project or, in the case of a phased project, the phase for which the amendment is requested.

(c) *Major amendment.* All other amendments shall be reviewed by the commission upon payment of a filing fee and in accordance with the requirements of the original plan approval.

(Serial No. 97-12, § 2, 1997)

49.15.670 Planned unit development design standards.

- (a) *Zoning district standards.* The standards applicable to a planned unit development shall be those of the underlying zoning district except as provided in this section.
- (b) *Minimum site.* The minimum site area for a residential planned unit development, or the first phase of a phased development, shall be 2.0 acres in the D-10, D-15, D-18, and LC districts and 3.0 acres in the RR, D-1, D-3, and D-5 districts.
- (c) *Lot size.* There is no required minimum lot size within a planned unit development. Lot sizes will be established as part of the preliminary plan approval.
- (d) *Building height and spacing.* No structure shall exceed 35 feet in height as calculated in section 49.25.420, height of building. Each dwelling structure must be located at least ten feet from any other dwelling unless structurally attached thereto.
- (e) *Perimeter buffer.* There shall be a buffer of no less than 25 feet between the exterior boundary of the planned unit development and the nearest structure, road, or parking area within the development, unless the development includes a perimeter of transitional lots meeting the minimum dimensional standards in the zoning district. No building structures or parking areas may be located within the perimeter buffer.
- (f) *Common open space.*
 - (1) At least 30 percent of a residential planned unit development in the D-10, D-15, D-18, and LC zoning districts, and 40 percent in the RR, D-1, D-3, and D-5 zoning districts shall be common open space.
 - (2) Common open space shall be conveniently and appropriately located throughout the planned unit development in relation to the dwellings and natural features and in a manner reasonably accessible to all residents. At least 70 percent of the total common open space shall be provided as a single, contiguous unit.
- (g) *Density.*
 - (1) The number of dwelling units permitted in the development shall be calculated by multiplying the maximum number of dwelling units per gross acre permitted in the underlying zoning district by the number of acres in the planned unit development and rounding to the nearest whole number.
 - (2) Land and water bodies used in calculating allowable density shall be delineated on the preliminary and final plans in a manner allowing confirmation of acreage and density computations.
 - (3) The commission may award a density bonus as an incentive to add enhancements to the

development. The total bonus shall not exceed 15 percent of the density provided in subsection (g)(1) of this section and rounded to the nearest whole number and shall be the sum of individual density bonuses of up to:

- (A) One percent for each ten percent increment of common open space in excess of that required to a maximum bonus of five percent for open space 50 percent in excess of that required;
 - (B) Five percent for a mixture of housing units, at least 15 percent of which are designed for purchase via a monthly mortgage payment of no more than 30 percent of the median income in the City and Borough, as calculated by the Alaska Department of Labor;
 - (C) Three percent for a continuous setback of greater than 50 feet, designated in the plan as undisturbed open space along important natural water bodies, including anadromous fish streams, lakes, and wetlands;
 - (D) Five percent for excellence in siting, design, landscaping, and provision of common facilities and additional amenities that provide a distinctive development and unusual enhancement to the general area; and
 - (E) Five percent for dedication of a public right-of-way accessible to all lots.
- (4) A density bonus may be limited or denied to avoid the creation of:
- (A) Inconvenient or unsafe access to the development;
 - (B) Unreasonable adverse effects on adjacent property;
 - (C) Traffic congestion in the streets adjoining the development; or
 - (D) An excessive burden on sewer, water, parks, recreational facilities, schools or other existing or proposed public facilities.
- (h) *Access, pedestrian and vehicular circulation, and parking.*
- (1) The standards in chapter 49.40, access, parking, and traffic apply except as provided in this section.
 - (2) In a residential planned unit development, common parking and maneuvering areas shall be set back at least 25 feet from any point on the exterior boundary of the planned unit development and from any boundary of a phase not contiguous with a completed phase. A landscaped yard of at least ten feet shall be provided between a common parking area and a lot line within the planned unit development.
 - (3) Pedestrian or bicycle pathways shall be provided to facilitate movement within the development and to ensure access to common open space, common facilities and to public services, where

available.

- (4) The development shall have access to a public right-of-way. A planned unit development which adjoins undeveloped land shall provide for a right-of-way between the undeveloped land and an existing public right-of-way, where appropriate.
- (5) Access to each dwelling unit shall be via a public right-of-way or a private street or pedestrian way owned by the individual property owner or in common planned unit development ownership.
 - (i) *Services.*
 - (1) All common facilities shall be developed to Code standards as established in chapter 49.35 and chapter 49.40, unless waived or modified by the planning commission upon the recommendation of the engineering department. Water and sewer systems within 500 feet of the public system shall be developed to Code standards and connected to the public system.
 - (2) Private utilities such as a community water or sewer system shall be designed by a licensed engineer and approved by the engineering department. The homeowners' association shall annually retain a licensed engineer to inspect the private utility system and provide a report on its condition to the engineering department.
 - (3) An on-site disposal system shall be designed and approved by a licensed, qualified engineer and may be constructed to serve two or more dwelling units. The disposal system may be placed in the common open space. The applicant shall provide evidence that the site has soils of sufficient permeability to accommodate the proposed on-site system. The disposal system shall be designated on the final plan and any final plat.
 - (4) Private streets must at a minimum meet Code street construction requirements for roadbed design and slope erosion control, as specified in Code engineering standard details. Other street requirements may be waived by the commission upon recommendation of the engineering department and its own finding that any internal street intended to serve the planned unit development shall provide adequate ingress and egress; access shall be of a width adequate to serve anticipated traffic; design features of the planned unit development make standard street widths unnecessary; and the street will not create hazardous conditions for vehicular, bicycle or pedestrian traffic. Private streets must provide adequate fire safety and emergency access as approved by the fire chief, and shall include adequate provision for snow removal and storage.

(j) *Stormwater management.* Facilities for the control and disposal of stormwater must be adequate to serve the development site and areas draining through the site. Where appropriate, natural drainage channels, swales, or other similar areas within the common open space may be used for stormwater management at the development. The homeowners' association shall provide the engineering department with an evaluation of offsite drainage outfalls for the additional runoff contributed by the planned unit development. The commission may require construction of offsite drainage improvements necessary to accommodate additional runoff from the development.

(Serial No. 97-12, § 2, 1997)

49.15.680 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common facilities means streets, sidewalks, parking areas, community buildings, refuse disposal systems, sewer systems, and water systems, held in common ownership by planned unit development homeowners.

Common open space means open space held in common ownership by planned unit development homeowners. Buildings, parking areas, and similar improvements may be located in and included in the calculation of common open space if related and necessary to the function of the open space. Stormwater drainage and flood storage may be located in and included in the calculation of the common open space. Common on-site sewage disposal systems, but not individual septic systems, may be located in and included in the calculation of common open space. Streets may be located in but shall not be included in the calculation of common open space.

Density bonus means an increase in allowable density above that otherwise allowed in the zoning district in which the planned unit development is located.

Improved common open space means common open space containing common facilities, recreational equipment, parks, gardens, picnic areas, landscaping, or other outdoor improvements.

Planned unit development means a tract of land at least two acres in area, under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to approved preliminary and final development plans. Planned unit developments shall comply with all requirements of the land use code, except to the extent that such requirements are superseded by a permit issued pursuant to this article.

Undisturbed common open space means common open space left in its natural condition.
(Serial No. 97-12, § 2, 1997)

Cross References: Definitions generally, CBJ Code § 01.15.010.

ARTICLE VII.

COTTAGE HOUSING DEVELOPMENTS

49.15.700 Purpose.

The purpose of this article is to:

- (a) Provide for development of housing that responds to changing demographics and smaller-sized households;
- (b) Provide for single-family cottage ownership in a neighborhood setting;

(c) Support the efficient use of land and higher density in-fill in developed areas;

(d) Provide additional opportunity for housing development; and

(e) Provide standards for cottage housing development and design.

(Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.710 General provisions.

(a) *Zoning districts.* A cottage housing development shall be permitted in the D-3, D-5, and D-10 residential districts.

(b) *Common interest community form of ownership required.* A cottage housing development must be developed as a common interest community pursuant to AS 34.08.010--34.08.995.

(c) *Water and sewer.* Cottage housing development shall be permitted only in areas served by municipal water and sewer at the time of application.

(Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.720 Cottage housing development review process.

(a) *General procedure.* A proposed cottage housing development shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and this article. Approval shall be a two-step process, preliminary plan approval and final plan approval.

(b) *Preapplication conference.* Prior to submission of an application, the applicant shall attend an informal preapplication conference with the community development department to discuss the proposed cottage housing development. The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues. The developer shall provide a sketch, drawn to scale, of the proposed cottage housing development. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department.

(c) *Neighborhood meeting.* The project applicant for a cottage housing development shall be required to hold at least one neighborhood meeting after the preapplication conference but before application submittal under 49.15.730. The purpose of the neighborhood meeting is to provide the public with a means of obtaining information about the proposal and an opportunity to comment on it at the early stages of the development. Public notice of the meeting shall be published in a newspaper of general circulation a minimum of ten days prior to the date of the meeting.

(Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.730 Preliminary plan approval.

(a) *Application.* The developer shall submit to the department one copy of a complete cottage housing development application, which shall include an application form, the required fee, the information required by this section, and any other information specified by the director.

(b) *Required submissions.* The application shall include the following material:

(1) *Preliminary development plan.* The application shall include a preliminary development plan illustrating how the proposed cottage housing development will achieve the purposes and standards set forth in this article. The preliminary development plan shall consist of a site plan prepared on paper, drawn to scale by an architect or architectural drafter, and shall display the following information:

- (A) The location, size, configuration, and dimensions of the lot on which the cottage housing development will be developed;
- (B) The location and footprint for each cottage;
- (C) A depiction of "ghost lines" that delineate the spacing around each cottage;
- (D) A delineation of the common open area;
- (E) The height and square footage of each cottage;
- (F) The parking locations, layout, circulation, ingress and egress;
- (G) The location, if applicable, of any buildings to be used in common by the residents of the cottage housing development;
- (H) The layout and dimensions of pedestrian circulation from the parking areas to the cottages, and connecting the cottages;
- (I) A design checklist listing the design features that constitute the required design points for each cottage, with illustrations;
- (J) A depiction of the driveway access from a publicly maintained street to the cottage housing development parking areas, with its dimensions; and
- (K) Any other information the director finds necessary to ensure compliance with this title.

(c) *Department review.* The director shall determine when the cottage housing development application is complete and advise the developer. Within 60 days of determining that an application is complete, the director shall schedule the preliminary plan for a public hearing before the commission. The department shall give notice of the hearing pursuant to 49.15.230.

(d) *Commission action.* The commission shall review the preliminary plan and approve, approve with conditions, or disapprove it pursuant to CBJ 49.15.330 and this article.

(e) *Preliminary plan approval.* The notice of decision on the preliminary plan shall constitute a final agency decision.

(f) *Expiration.* Pursuant to CBJ 49.15.240, approval of a preliminary plan shall expire 18 months after the commission's notice of decision is filed with the municipal clerk. An extension of a preliminary plan shall be according to section 49.15.250, development permit extension. (Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.740 Final plan approval.

(a) *Application for final approval.* Upon completion of all conditions of the preliminary plan, the developer may submit for commission review a final plan drawn on mylar at the same scale as the approved preliminary plan or according to other specifications by the department.

(b) *Unit owners' association.* The common interest community declaration, articles of incorporation, and bylaws of the unit owners' association shall be prepared by an attorney licensed to practice in Alaska. The association documents shall specify how the common elements and associated off-site improvements are to be maintained, and shall require unit owners to pay assessments for snow removal and other maintenance. Declarations, bylaws, and other documents shall be recorded as required by AS 34.08.010--34.08.995.

(c) *Commission action.* The commission shall approve the final plan if it complies with this title, substantially conforms to the approved preliminary plan, and all applicable conditions have been satisfactorily completed or for which a guarantee has been provided pursuant to CBJ 49.55.010.

(d) *Expiration.* Pursuant to CBJ 49.15.240, an approved final plan shall expire 18 months after the notice of decision is filed with the municipal clerk. An extension of a final plan shall be according to section 49.15.205, development permit extension. (Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.750 Amendments to approved cottage housing development plan.

(a) *Request for amendment.* The developer of a cottage housing development may request an amendment to an approved preliminary or final cottage housing development plan. The request shall state the reasons for the amendment and shall be submitted in writing to the director, who shall inform the developer within 30 days whether the request shall be processed as a minor amendment or major amendment.

(b) *Minor amendment.* A minor amendment may be submitted without a filing fee and may be approved by the director. For purposes of this section, a minor amendment is a change consistent with the conditions of the original plan approval, the general character of the overall cottage housing development, and the criteria set out in this article, which would result in:

- (1) Insignificant change in the outward appearance of the development;
- (2) Insignificant impacts on surrounding properties;
- (3) Insignificant modification in the location or siting of buildings or common open space;
- (4) No reduction in the number of parking spaces below that required;

(5) A delay of no more than one year in the construction or completion schedule for the project.

(c) *Major amendment.* All other amendments shall be reviewed by the commission upon payment of a filing fee and in accordance with the requirements of the original plan approval.
(Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.760 Cottage housing development standards.

(a) *General.* The standards applicable to a cottage housing development shall be those of the underlying zoning district except as provided in this article.

(b) *Density, lot area, and number of dwellings.* The intent of the density and lot area standards is to establish the density for a cottage housing development in the specified residential zoning districts.

(1) *Density.* A cottage housing development shall not exceed one dwelling unit per 4,500 square feet in the D-3 Zoning District, one dwelling unit per 3,600 square feet in the D-5 Zoning District, or one dwelling unit per 3,000 square feet in the D-10 Zoning District inclusive of property line setbacks, parking and access, spacing around cottages, and the common open area within the cottage housing development.

(2) *Number of dwellings allowed.* The minimum number of dwellings in a cottage housing development is four units. The maximum number of dwellings in a cottage housing development is 12 units, provided, however, that in a D-10 zoning district the maximum shall be 14 units.

(c) *Dimensional and site requirements.* It is the intent of the dimensional and site requirements section to provide for cottage housing developments that fit readily into existing residential neighborhoods by specifying maximum height and lot coverage; and to preserve the unique design and layout of a cottage housing development by addressing common area requirements and spacing between structures.

(1) *Right-of-way frontage.* At least one lot line of a cottage housing development lot must abut a public right-of-way for a distance of at least 30 feet.

(2) *Lot coverage.* Maximum lot coverage for all structures in a cottage housing development shall not exceed 60 percent of the lot area.

(3) *Setbacks and spacing.*

(A) Cottage housing development lot setbacks. Setbacks shall be as provided for the zoning district in which the cottage housing development lot is located.

(B) Spacing between cottages.

(i) Cottages shall be no less than five feet, and no more than 15 feet, from the common open area, measured from the facade of the cottage to the nearest delineation of the common open area.

(ii) Cottages shall be separated from each other by at least ten feet.

(4) *Common open area.*

- (A) A minimum of 250 square feet of common open area per cottage shall be included in every cottage housing development.
- (B) At least 50 percent of the front of each cottage shall face the common open area.
- (C) At least two sides of the common open area shall have cottages along its perimeter.
- (D) The perimeter of the common open area may have no more than seven changes of direction.

(Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.770 Exterior design standards for cottages.

(a) *Purpose.* It is the intent of the design standards section:

- (1) To ensure that cottage design is based on a coherent architectural concept;
- (2) To ensure that cottages possess architectural finish;
- (3) To ensure that cottages contribute positively to the architectural character of the neighborhood; and
- (4) To provide flexibility in design and contrast among individual cottages, while assuring attention to design amenities.

(b) *Exterior design requirements.* Each cottage in a cottage housing development must be designed to include a minimum of 34 points from the following table, including the specified minimum number of points from each category.

| Totals by Category | Points |
|----------------------------|------------------------|
| Facade | a minimum of 12 Points |
| Roof | a minimum of 10 Points |
| Windows and doors | a minimum of 8 Points |
| Landscaping and groundwork | a minimum of 4 Points |

| Facade | Points |
|--|----------|
| Cedar shingle siding or horizontal lap siding ¹ | 4 Points |
| Change of plane of front elevation | 3 Points |
| Bay Window | 3 Points |
| Gable detailing | 2 Points |

| | |
|--|----------|
| Exterior stonework, masonry, stone, rock, cultured stone, or brickwork | 2 Points |
| Three-tone paint on exterior walls and trim | 2 Points |
| Decorative gable vents | 1 Point |
| Architectural detailing on porch railings and posts | 1 Point |
| Gable detailing on porch roof | 1 Point |

¹Wood or hardi-plank. Exposed siding must be between four inches and seven inches in width.

| Roof | Points |
|--|----------|
| Wood shake or shingle roof | 4 Points |
| Architectural shingle roof ² | 3 Points |
| Architectural metal roof ³ | 3 Points |
| Gable dormer ⁴ | 3 Points |
| Gabled porch roof | 3 Points |
| Porch roof overhang to cover stairs ⁵ | 2 Points |
| Soffit detailing ⁶ | 2 Points |
| Roof brackets | 2 Points |
| Rooftop cupola or weathervane | 1 Point |

²A maximum of three points may be allowed for architectural and/or shake shingle roofing.

³Must be commercial quality with hidden fasteners.

⁴Shall not also be used for gabled porch roof or porch roof overhang.

⁵Shall not also be used for a change of plane of front façade or as a gable dormer or gabled porch roof.

⁶Exposed rafter tail painted or decoratively cut; soffit finished in shiplap or similar treatment.

| Windows and Doors | Points |
|--------------------------------------|----------|
| Mullioned windows ⁷ | 3 Points |
| Window trim ⁸ | 2 Points |
| Decorative window(s) on front facade | 2 Points |
| Front door lites or sidelites | 2 Points |
| Skylights or clerestory windows | 2 Points |
| Front door trim ⁹ | 1 Point |
| Window placement offset for privacy | 1 Point |

⁷ Minimum of two. Must be divided-lite windows with grillwork on the inside and outside of the window.

⁸ Must include cornice molding, jamb molding, and sill for all windows.

⁹ Must have cornice molding, parting bead, and plinth blocks.

| Landscaping and Groundwork | Points |
|---|----------|
| Wooden fence around cottage ¹⁰ | 2 Points |
| Front yard landscaping ¹¹ | 2 Points |
| Private yard sidewalks using pavers, stone or brick | 2 Points |
| Private yard sidewalks using stamped concrete | 1 Point |
| Architectural site lighting | 1 Point |

¹⁰ Not less than two, or more than three, feet high.

¹¹ Must include at least one dozen perennial bushes and/or trees native to the area or tolerant of local climate conditions. Landscaping does not include lawns.

(c) *Cottage floor area.* The intent of the floor area section is to ensure that the overall size of cottages remains smaller and incurs less visual impact than standard sized single-family dwellings, particularly given the increased density of cottage dwellings; to provide variety in cottage housing developments through a mixture of building sizes and footprints. Interior space is limited to the main floor and second floor or loft area of each cottage.

(1) *Interior space limitation.*

(2) *Main floor.* At least 50 percent of the cottages in a cottage housing development shall have first floor areas not exceeding 700 square feet. The maximum first floor area for each cottage shall be no more than 800 square feet.

(3) *Gross floor area.* The gross floor area of each cottage shall not exceed either one and one-half times the area of the first floor or 1,200 square feet, whichever is less.

(4) *Exceptions.* The following areas shall not be considered part of the gross floor area:

(A) Interior spaces with a ceiling height of five feet or less, such as in a second floor area under the slope of the roof.

(B) Arctic entries of not more than 40 square feet.

(5) *Plat or plan note required.* The total square footage of a cottage shall not be increased from its permitted size. A note shall be placed on the final plan or plat stating this limitation.

(d) *Porches required.* The intent of the porch requirement is to create outdoor space in each cottage that is visually and physically connected to the common open area and to other cottages.

- (1) Each cottage shall have an unenclosed, covered front porch of at least 80 square feet, with no porch side measuring less than eight feet.
- (e) *Height limit and roof pitch.*
 - (1) A cottage shall have a gable roof or a hipped roof. A cottage shall not have a flat roof.
 - (2) The maximum height of a cottage shall be 21 feet, provided, however, that the maximum height of a cottage with a roof slope of 6:12 shall be 25 feet.

(Serial No. 2005-52(b), § 3, 1-30-2006)

49.15.780 Access and parking.

- (a) *Purpose.* The intent of the access and parking standards is to minimize the visual impact of vehicles and parking areas for residents of the cottage housing development and adjacent properties, and to provide for adequate off-street parking for cottage housing developments.
 - (1) *Access.* Access to a cottage housing development shall be via a driveway not less than 22 feet in width for the driving lanes and not more than 800 feet in length, or via a public right-of-way. Driveway length shall be measured from the edge of the publicly maintained roadway where the driveway begins, to the lot line of the cottage housing development.
 - (2) *Parking requirement.* Each cottage housing development shall have two parking spaces per cottage.
 - (3) *Onsite parking required.* All parking for a cottage housing development shall be located on the cottage housing development lot.
 - (4) *Garages and carports.* Parking for one vehicle per cottage may be in a structure such as a garage or carport, provided the parking structure is adjacent to other parking spaces. Parking layout shall be designed to minimize the walking distance to the cottages.
 - (5) *Screening.* Driveway and parking areas shall be screened from properties adjacent to the cottage housing development lot by a buffer strip or a fence.
 - (6) *Adjoining spaces.* Parking spaces, including carports or garages, shall be in groups of not more than six adjoining parking spaces.

(Serial No. 2005-52(b), § 3, 1-30-2006)