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155 S. Seward Street • Juneau, AK 99801

DATE: November 13, 2017

TO: Assembly Lands Committee

FROM: Teri Camery, Senior Planner
Community Development Department

SUBJECT: AME2016 0019
Proposed Deletion of CBJ Code 49.70.310(a)(2 and 3), Eagle Nest Buffers

A handwritten signature in black ink, appearing to be 'Teri Camery', is written over the 'TO' and 'FROM' fields of the memo.

INTRODUCTION AND BACKGROUND

Revision of the CBJ Code, Eagle Nest Buffers, Section 49.70.310(a)(2 and 3) has been on the Assembly and Planning Commission's priority list for several years because of challenges with implementation and enforcement of the ordinance and because of the high number of variances. The Community Development Department (CDD) and Planning Commission recommend deletion of the ordinance, rather than revision.

The Planning Commission's Title 49 Committee reviewed Eagle Nest Buffer Ordinance drafts at the August 3, 2016, and September 21, 2016, regular meetings. Review included consultation with Mr. Steve Lewis, raptor biologist with the U.S. Fish and Wildlife Service (USFWS). CDD staff followed these meetings with extensive consultation with the CBJ Law Department, additional meetings with USFWS, and research on past variance applications.

At the June 13, 2017, Planning Commission Committee of the Whole meeting, the Commission advised CDD to delete the ordinance because of challenges with revising and enforcing the ordinance. The Commission also noted the importance of eagles to the community and mentioned the option of voluntary eagle protection measures. At the August 8, 2017, Planning Commission regular meeting, the Commission formally recommended deletion of the ordinance without further discussion or public testimony. The Notice of Recommendation from August 8, 2017, and minutes from both Planning Commission meetings have been included as Attachments 1, 2 and 3.

To encourage voluntary eagle protection measures, CDD has developed a conceptual draft of a Bald Eagle Best Management Practices Brochure, included as Attachment 4. The USFWS reviewed the draft and provided helpful revisions. The final document will be available on-line and at the CBJ Permit Center when it is finalized and will also be distributed at public events, as warranted.

The purpose of this memo is to provide information and the opportunity for discussion before taking the proposed ordinance deletion to the full Assembly.

DISCUSSION

Implementation of the ordinance has been problematic because CDD has always relied heavily on the USFWS to determine the location of nests and also if a nest has actively nesting eagles, a key component of the ordinance. Due to staffing cuts, USFWS has not been able to provide this service to CBJ for approximately six years.

As discussed at the June 13, 2017, Planning Commission Committee of the Whole meeting, CDD evaluated many options for revising the ordinance, rather than deleting it. Each option had unresolvable issues. CDD must have a rational basis for all requirements and be internally consistent. However defining the key activities that are most disruptive to eagles and require regulation is difficult, and eagles have been habituated within urban areas. Even if a legally defensible ordinance could somehow be developed, CDD does not have the capacity to identify and track eagle nest locations, and the USFWS has not been able to provide this service for many years. Bald eagles have never been endangered or threatened in the State of Alaska, and evidence indicates that the local population is increasing.

Finally, the USFWS has a federal permit, titled an Eagle Take Permit, which allows applicants to disturb an eagle and avoid violating the Federal Bald Eagle Protection Act, often with mitigation conditions attached to minimize harm. Project Managers for all large-scale developments, especially the Alaska Department of Transportation and Public Facilities, have applied for and received this permit, and this permit has often been used as justification for approval of CBJ variances.

ATTACHMENTS

- Attachment 1: Planning Commission Notice of Recommendation from August 8, 2017 Hearing
- Attachment 2: Excerpt from Planning Commission Minutes, August 8, 2017
- Attachment 3: Excerpt from Planning Commission Committee of the Whole Minutes, June 13, 2017
- Attachment 4: Bald Eagle Best Management Practices Draft Brochure
- Attachment 5: 2013 Comprehensive Plan policies
- Attachment 6: Current Code re: Eagle Nest Buffers
- Attachment 7: Ordinance with proposed deletions



Community Development

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PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: August 17, 2017
File No.: AME2016 0019

City and Borough of Juneau
City and Borough Assembly
155 South Seward Street
Juneau, AK 99801

Proposal: Planning Commission Recommendation to the City and Borough Assembly regarding Deletion of CBJ Code 49.70.310(a)(2 and 3), Eagle Nest Buffers.

Property Address: Borough Wide

Hearing Date: August 8, 2017

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated August 1, 2017, and recommended that the City and Borough Assembly adopt staff's recommendation for deletion of CBJ Code 49.70.310(a)(2 and 3), Eagle Nest Buffers.

Attachments: August 1, 2017 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding AME2016 0019.

This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ §01.50.020 (b).

Project Planner: _____

Teri Camery, Senior Planner
Community Development Department

Benjamin Haight, Chair
Planning Commission

City and Borough Assembly
File No.: AME2016 0019
August 17, 2017
Page 2 of 2



Filed With City Clerk

August 21, 2017

Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this recommended text amendment. ADA regulations have access requirements above and beyond CBJ - adopted regulations. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

MINUTES
Planning Commission
REGULAR MEETING
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
August 8, 2017

I. ROLL CALL

Ben Haight, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:04 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Nathaniel Dye, Percy Frisby, Dan Miller, Kirsten Shelton, Carl Greene

Commissioners absent: Dan Hickok, Michael LeVine

Staff present: Rob Steedle, CDD Director;
Beth McKibben, Planning Manager;
Teri Camery, Senior Planner; Tim Felstead, Planner II;
Allison Eddins, Planner II;
Robert Palmer, Assistant Municipal Attorney;
Dan Bleidorn, Deputy Land Manager

Assembly members: Debbie White, Loren Jones

II. APPROVAL OF MINUTES

July 11, 2017 Regular Planning Commission meeting minutes

MOTION: *by Mr. Dye, to approve the July 11, 2017, regular Planning Commission meeting minutes with any small changes by Commission member or staff.*

VIII. **UNFINISHED BUSINESS** - None

IX. **REGULAR AGENDA**

AME2016 0019: Deletion of CBJ code 49.70.310 (a) (2 and 3), Eagle Nest Buffers.

Applicant: City & Borough of Juneau

Location: Borough-Wide

Staff Recommendation

Staff recommends that the Planning Commission forward the draft text amendment to the Assembly with a recommendation for approval.

Ms. Camery reported that the ordinance proposed for deletion states that development is prohibited within 330 feet of an eagle nest on public land and within 50 feet of an eagle nest on private land. The Title 49 committee reviewed eagle nest buffer ordinance drafts at several of its meetings a year ago. The review included consultation with the US Fish and Wildlife Service and CDD staff. CDD staff followed these meetings with extensive consultation with the CBJ Law Department, and performed research on past variance applications, said Ms. Camery.

For many years now, since the Fish and Wildlife Service has experienced staffing cuts, the City has not been able to enforce the existing eagle ordinance, said Ms. Camery. There is not staff available to enforce the ordinance, she said.

The 2013 Juneau Comprehensive Plan contains a number of policies regarding eagle nests, said Ms. Camery. The Comprehensive Plan explicitly says that the existing eagle ordinance may need to be amended in light of the 2011 changes to federal law, she said. Deletion of the ordinance is consistent with the Comprehensive Plan because a federal permit exists that addresses eagle protection and development, and because local eagle populations appear to be increasing with the protections offered by other code requirements and policies, said Ms. Camery.

Even though this ordinance is being considered for deletion, said Ms. Camery, this does not mean that the City is giving up eagle protection, she said. The Comprehensive Plan policies will remain in place, she said. Many of these policies can still be addressed through the development review process and by other departments, she noted.

MOTION: *by Mr. Voelckers, to accept staff's findings, analysis and recommendations, and to approve AME2016 0019, deletion of CBJ code 49.70.310 (a) (2 and 3) of eagle nest buffers.*

The motion passed by unanimous consent

Agenda
Planning Commission
Committee of the Whole
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
June 13, 2017

I. ROLL CALL

Ben Haight, Chairman, called the Committee of the Whole (COW) meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:11 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Dan Miller, Percy Frisby, Dan Hickok, Kirsten Shelton-Walker, Carl Greene

Commissioners absent:

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Teri Camery, Senior Planner; Jill Maclean, Senior Planner; Robert Palmer, Assistant Municipal Attorney

Assembly members:

II. REGULAR AGENDA

~~a. **AME2016 0002:** Variances - Commissioner training and discussion about proposed amendments.~~

~~Providing background on this item, Mr. Steedle said that they have been working on variances for quite a while. Most of the work involves clarifying the language and ascertaining that the criteria are very clear. Since there has been a change in the Title 49 Committee, the staff wants to make sure that the entire Commission is aware and involved in the process, said Mr. Steedle. They want to ensure that they have code that is well understood, he said. The behavior of past commissioners has deviated somewhat from the intent of the variance, said Mr. Steedle. The other two items on the agenda for this meeting reflect the other two areas in which they are building flexibility into the code, he said. They have to be careful to develop enough flexibility within the code so that Juneau residents can build on their property, said Mr. Steedle. The Alaska Planning Commission handbook of which all Commission members should have~~

~~Mr. Steedle said two of those code changes are next on the agenda. He said they would return to the Commission with new proposed code language and further analysis.~~

~~Mr. Voelckers asked if the work the staff will be doing on the proposed code changes would come back before the Committee of the Whole or if it would first go to the Title 49 committee.~~

~~Mr. LeVine said this seems like an important topic and that it would be good to bring it back before the Committee of the Whole.~~

~~Chairman Haight clarified that the staff will bring the new information back before the Committee of the Whole at a future scheduled meeting.~~

b. AME2016 0019: Proposed amendments to buffers around eagle nests.

Ms. Camery said they are before the Commission for specific direction on how to deal with eagle nests. The current ordinance prohibits development within 330 feet of an eagle nest on public land, and within 50 feet of an eagle nest on private land. That buffer increases to 330 feet during the nesting season if the nest has actively nesting eagles, said Ms. Camery.

The eagle ordinance is tied to the code definition of development which includes a lot of irrelevant activities which has caused a lot of unnecessary restrictions and variances in the past, said Ms. Camery. The United States Fish and Wildlife Service (USFWS) has an optional federal permit, entitled an eagle take permit, which allows applicants to disturb an eagle and avoid violating the federal bald Eagle protection act, often with mitigation conditions attached to minimize harm, explained Ms. Camery.

Virtually all past variances requested for eagle nests have been approved, said Ms. Camery. They have had great difficulty with implementation of the eagle ordinance, said Ms. Camery, with identification of the eagle nests and especially with the identification of active eagle nests. They can no longer rely on active staff with the Fish and Wildlife Service for those identification purposes, she said. Their staff has been cut and they can no longer offer those services, she added.

CDD needs a scientific, defensible, rational basis for regulations, said Ms. Camery. CDD has looked at regulating non-urban eagles versus urban eagles, since urban eagles are not as sensitive to development as non-urban eagles, she said. CDD could not come up with any definable regulation monitors for eagles, such as noise, heavy equipment, or activity, said Ms. Camery. Also, CDD cannot even identify where current eagle nests exist and whether they are active or not, said Ms. Camery.

There is also the potential option of deleting the ordinance, she said. The eagle take permit of the Fish and Wildlife Service has often been cited as a reason for a variance, said Ms. Camery.

The local population of eagles is increasing, said Ms. Camery. They are not endangered, she added. Either deletion or revision of the ordinance could potentially be justified by the Comprehensive Plan, said Ms. Camery.

CDD would like direction from the Planning Commission on whether or not they should continue evaluating revision options or whether the direction would be to delete the ordinance, said Ms. Camery.

Mr. Frisby asked how it was determined whether a nest was active or inactive.

That is exactly the problem, said Ms. Camery. They have relied on the Fish and Wildlife Service for this information in the past, and that agency can no longer provide that information, she said.

Ms. McKibben said another issue raised by the Fish and Wildlife Service is that eagles do not necessarily use the same nest year after year. An active nest one year does not mean that it will be an active nest the following year, she explained.

Commission Comments and Questions

Mr. Voelckers asked if the question has come up as to whether The Fish and Wildlife Service has perceived that the CBJ should have any role in protecting eagles. He said perhaps this is simply a redundancy from which the municipality can remove itself.

The Fish and Wildlife Service is supportive of the City's ordinance, said Ms. Camery. The federal eagle permit is not required, said Ms. Camery. It is a liability shield for major developments, she said. The City's ordinance is a requirement and it does offer protection which the federal regulation does not, she explained.

Mr. LeVine said he sees the problem that the municipality has standards but there is no way to ascertain if those standards are being met. He said he is of the opinion that the lack of information makes it impossible to know if the standards are being met and there is no way to enforce those standards. It is difficult to have an eagle ordinance when it cannot be ascertained if it is needed and if needed, could not be reviewed and could not be enforced, he added.

Mr. Dye asked if Ms. McKibben knew the nesting range of eagles.

Ms. Camery said she thought it was a range of at least a half mile to a mile.

Mr. Dye said the urban service area boundary would not be beneficial, then.

Mr. Miller asked if the U.S. Fish and Wildlife Service with their take permit has supplemental information for the public such as brochures. He said it would be helpful if there is already a

pamphlet listing general standards which could be identified which could then be dispersed to the public.

Ms. McKibben said they have spent hours with Fish and Wildlife, and if there was some easily identifiable criteria which they could use they would have already presented that to the Commission.

Mr. Voelckers said if there is no perception of a vulnerability, and the City has no resources and no evidence or criteria, it is a fight in which the City should not engage in. Mr. Voelckers said he would be comfortable with the City getting out of the eagle regulation business.

Mr. LeVine said if they were going to regulate eagle nests it would be the best solution to put the onus on the property developer to identify the nest. If they found a nest, they would then need to come speak with a City representative, he said.

Mr. Dye asked how they would enforce the above scenario.

There is a prohibition on the taking of eagles under the Migratory Bird Treaty Act, said Mr. LeVine.

Chairman Haight asked if this is something that could be added to a building permit.

Mr. Voelckers said if there were not clear objective criteria and some way to implement those rules then they could easily develop into a scenario where conscientious people would identify eagle nests and those who were not so scrupulous would not.

Mr. Miller said perhaps they could have no code for those eagles already acclimated to the urban service area and some form of a checklist regarding eagles for those constructing outside of the urban service area.

Mr. Steedle said the urban service area boundary has been discussed by the staff, but that it is actually a poor proxy for where eagles are habituated. He said that Stabler's Quarry is outside of the urban service area boundaries and that the eagles are just fine in that location. He said with the resources that they have perhaps as far as they can take it is educating the public about the necessity of being aware and respectful of eagle nests. The City does not have the ability to enforce an eagle ordinance, he added.

Mr. Frisby said he felt that giving up on the eagle nest issue altogether was not a positive way to address the issue.

Mr. Hickok asked if they were to remove the ordinance if it would need to go before the Assembly. They will not even know where the eagle nests are if they do not have the capacity to inspect the property for those nests, said Mr. Hickok.

Mr. Miller said in the Community Development Department reception area there are a number of handouts. He said perhaps they could have the handout available for those seeking a building permit to educate on the subject.

Mr. Steedle asked the Commission if they would like the staff to bring forward the ordinance with the deletion of the eagle nest portion for their review, or if there is some further research the Commission would like the staff to conduct on this matter.

Mr. LeVine said he felt this may be the best recommendation. He said they cannot direct staff to go work harder on something that they have already worked very hard to resolve.

Mr. Steedle said they will be back at the next Committee of the Whole with streamside buffers and variances.

III. **OTHER BUSINESS** - None

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

V. **ADJOURNMENT**

The meeting was adjourned at 6:59 p.m.



Alaska and Canada have the largest populations of breeding Bald Eagles in North America. Breeding bald eagles occupy "territories," areas they defend against intrusion by other eagles. In addition to the active nest, a territory may include one or more alternate nests (nests maintained but not used for nesting in a given year). Bald eagles generally nest near coastlines, rivers, or lakes that provide a food supply. They often nest in mature or old-growth trees; snags (dead trees); cliffs; rock promontories; and sometimes on structures such as power poles and communication towers. In forested areas, bald eagles often select the tallest trees with limbs strong enough to support a nest that can weigh more than 1,000 pounds. Eagle nests are usually about 4-6 feet in diameter and 3 feet deep.

DRAFT



Best Management Practices

Protecting Nesting Eagles in Juneau



City & Borough of Juneau

City & Borough of Juneau

155 S. Seward Street
Juneau, AK 99801

<http://www.juneau.org/>

Tel: 907 586 0770

Juneau Cares about Eagles

Are you planning any development? If your property is near an eagle nest this fact sheet will provide you with important information about protecting these birds and enhancing enjoyment of your property.

Until recently the CBJ had regulations that prohibited development within 50 feet of an eagle nest on private property and 330 feet during March 1 to August 31. But because Bald Eagles are protected by the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act, because of the challenge in identifying eagle nests, and because many of Juneau's eagles are habituated to human activity, the CBJ regulations were repealed.

Eagles are not endangered or threatened in Alaska, but they remain an important, legally protected symbol, and valuable member of the Juneau ecosystem. With some thoughtful consideration, bald eagles will continue to nest in Juneau neighborhoods. In Southeast Alaska, the active nesting season is March 1 through August 31. Eaglets typically hatch from mid-May through early June, and fledge (leave the nest) in August. Both are sensitive periods for young eagles. Newly hatched chicks cannot maintain their body temperature without the warming shelter provided by their brooding mother, who may be flushed from the nest by loud, obtrusive activity. As nestlings approach fledging in August, they become more active, stretching their developing wings and hopping among the branches of their nest tree. If frightened by tree clearing, construction, or other highly visible or noisy activity, they may jump or fall from the tree before they are able to fly, exposing them to injury or death. Human actions that cause loss of eagles, their nests, or eggs, are prohibited by Federal law, unless allowed by permit.

These guidelines are intended to provide developers and landowners with tools to minimize impacts to bald eagles. For more information on habitat needs and ways to minimize impacts, go to the 2007 Federal Bald Eagle Management Guidelines at:

https://www.fws.gov/alaska/eaglepermit/pdf/national_guidelines.pdf

✓ Maintain a 330-foot buffer from eagle nests for all vegetation removal and construction activity. If you can't, try to follow these additional guidelines:

✓ Retain as many trees as possible, removing only what is necessary when eagles are not nesting (September 1 through February 28).

✓ Avoid noisy, obtrusive construction, blasting, clearing and similar activities during the March 1 to August 31 nesting season, especially within the critical hatching and fledging periods from May 15 to June 15 and from August 1 to 31.

✓ Eagles vary in their tolerance of human activity near their nests. Most eagles nesting near people will not be disturbed by less-obtrusive projects like interior construction, or building fences, sheds, or other small structures. Eagle pairs that nest near long-established, ongoing human activity often tolerate greater disturbance. Eagles nesting far from humans are typically more sensitive, so extra effort to avoid seasonal disturbance may be necessary when developing a remote property.

✓ If you can avoid loud, visible disturbances within 330 feet of an active nest during the nesting season, eagles will likely continue to nest successfully nearby. If you can't follow these guidelines, and are concerned that your activities could disturb eagles, you may qualify for a permit from the U.S. Fish & Wildlife Service, which would allow disturbance, or in some cases removal, of an eagle nest. The U.S. Fish and Wildlife Service office in Juneau can be reached at 907-780-1160.

www.fws.gov/alaska/fisheries/fieldoffice/juneau/directory.htm



The 2013 CBJ Comprehensive Plan states the following:

POLICY 7.14. TO PROTECT AREAS SURROUNDING IDENTIFIED EAGLE NESTS FROM CONFLICTING LAND USES.

Standard Operating Procedures

7.14 - SOP1 Mature trees that, typically, are suitable for eagle nests should be retained within 1/8th of a mile of the coast.

7.14 - SOP2 In situations where lands are proposed for private platting next to CBJ-owned lands, and if the private party is willing, the CBJ government will consider exchanging land of equal value for those lands within 330 feet of the eagle nest tree and retain it as an eagle management area.

7.14 - SOP3 Prohibit the cutting of trees near shoreline areas for the purpose of eradicating nesting eagles or of preventing eagles from nesting therein.

Development Guideline

7.14 - DG1 Private land within the eagle management radius should be left undeveloped or subdivided into large lots, the largest of which should contain the nest tree. Roads should be located as far from the nest as possible, preferably landward from the nest tree. Low density residential or open space/natural areas uses should be located within the eagle management radius.

Implementing Actions

7.14 - IA1 Amend the Land Use Code to include variance criteria that apply specifically to requests to allow development within the buffer area around a bald eagle nest. Developing these criteria is of crucial importance in order to allow responsible development within 330 feet of eagle nests, especially those nests that post-date adjacent development. It may be appropriate to adopt regulations for development near eagle nests based on the level of tolerance of the subject eagles to human activity.

7.14 - IA2 Work with the United States Fish and Wildlife Service (USFWS) on an as-needed basis to identify eagle nest locations and best practices.

7.14 - IA3 Consider designating as Natural Areas or other low impact land use categories areas where eagles tend to nest in concentrations.

7.14 - IA4 Request that the USFWS evaluate the Bald Eagle in the Urban Service Area in terms of population, behavior and tolerance of human presence and activity. Consider any new suggestions from the USFWS for enhancing the presence and health of eagles in the urban area.

7.14 - IA5 Support the efforts of a local non-profit eagle rehabilitation facility to rescue, heal and return to the wild, injured or vulnerable eagles and to educate the public as to the health and well-being of the species.

Eagle Nest Buffer ordinance

CBJ Code 49.70.310(a)(2 and 3) states:

(a) Development in the following areas is prohibited:

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

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

The Code definition of development (49.80.120) states:

Development means any of the following:

(1) Construction, reconstruction or enlargement of a structure involving more than 120 square feet;

(2) A subdivision;

(3) Conduct of a home occupation;

(4) Change in use of a lot, including any structure thereon;

(5) Installation or emplacement of a mobile or modular home;

(6) Removal of substantial vegetative cover;

(7) Excavation, dredge or fill activity;

(8) Installation of a sign;

(9) For the purposes of Chapter 49.65, Article I, the work performed in relation to a deposit, subsequent to exploration but prior to extraction of commercial quantities of a mineral commodity, aimed at, but not limited to, preparing the site for mining, defining an ore deposit, conducting pilot plant operations, and construction of roads or ancillary facilities;

(10) Any site work in preparation or anticipation of the above.

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-47 PC v. 1

An Ordinance Amending the Land Use Code Relating to Development in the Vicinity of Eagle Nests.

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

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

Section 2. Amendment of Section. CBJ 49.60.200 Sensitive areas, is amended to read:

49.60.200 - Sensitive areas.

A development in ~~eagle nesting areas~~, stream corridors and lake shores, wetlands and intertidal areas or any combination thereof, as shown on the sensitive areas map, may be awarded:

- (1) Bonus points for interests in land which protect additional land within or adjacent to such sensitive areas beyond that which is required in chapter 49.70;
- (2) Bonus points for an interest other than a deed providing for public access through sensitive area lands, either required or voluntarily reserved; and
- (3) Bonus points for a deed to the City and Borough of required or reserved sensitive area lands.

Section 3. Amendment of Section. CBJ 49.70.310 Habitat, is amended to read:

1
2 **49.70.310 Habitat.**

3 (a) Development in the following areas is prohibited:

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

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

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

9 ~~(2) (4)~~ Within 50 feet of the banks of streams designated in Appendix B of the
10 comprehensive plan of the City and Borough of Juneau, 2013 Update; and

11 ~~(3) (5)~~ Within 50 feet of lakeshores designated in Appendix B of the comprehensive plan
12 of the City and Borough of Juneau, 2013 Update.

13
14 (b) In addition to the above requirements there shall be no disturbance in the following
15 areas:

16 (1) Within 25 feet of stream designated in Appendix B of the comprehensive plan of
17 the City and Borough of Juneau, 2013 Update; and

18 (2) Within 25 feet of lakeshores designated in Appendix B of the comprehensive plan
19 of the City of Borough of Juneau, 2013 Update.
20

21 **Section 5. Effective Date.** This ordinance shall be effective 30 days after its
22 adoption.

23 Adopted this _____ day of _____, 2017.

24 _____
Kendell D. Koelsch, Mayor

25 Attest:

Laurie J. Sica, Municipal Clerk