

Presented by: The Manager  
Introduced: 11/07/2016  
Drafted by: A. G. Mead

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2016-26(b)**

**An Ordinance Amending the Land Use Code Relating to Access Standards.**

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. Repeal of Section.** CBJ 49.15.424 Access, is repealed and reserved.

**Section 3. Repeal of Division.** CBJ 49.15 Article IV, Division 4, Privately Maintained Access in Rights-of-way, is repealed and reserved.

**Section 4. Amendment of Section.** CBJ 49.15.442 Improvement standards, is amended to read:

**49.15.442 Improvement standards.**

The following improvement standards apply to remote subdivisions:

- (1) CBJ 49.35.250, Access.
- (2) CBJ 49.35.240, Improvement standards.
- (3) CBJ 49.35.310, Water systems.
- (4) CBJ 49.35.410, Sewer systems.

**Section 5. Amendment of Chapter.** The title of CBJ 49.35 Public Improvements, is amended to read:

**Chapter 49.35**

**PUBLIC AND PRIVATE IMPROVEMENTS**

...

**Section 6. Amendment of Section.** CBJ 49.35.110 Purpose, is amended to read:

**49.35.110 Purpose.**

The purpose of this chapter is to:

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

**Section 7. Amendment of Section.** CBJ 49.35.120 Public improvements; generally, is amended to read:

**49.35.120 Improvements; generally.**

- (a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands.
- (b) If a publicly-maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly-created subdivision.

**Section 8. Amendment of Table. 49.35.240** Table of roadway construction standards, is amended to read:

<i>Avg. Daily Trips (ADT)</i>	<i>Adopted Traffic Impact Analysis Required</i>	<i>Sidewalks</i>	<i>Travel Way width</i>	<i>Street lights</i>	<i>Width</i>	<i>Paved Roadway Required</i>	<i>Publicly maintained</i>
≥ 500	Yes	Both sides	26 ft.	At all intersections	60 ft. Public ROW <sup>ii</sup>	Yes	Yes
212 to 499	Maybe	One side	24 ft.	At all intersections	60 ft. Public ROW <sup>ii</sup>	Yes	Yes
0 to 211	No	Not required	22 ft.	At intersection of subdivision street(s) and external street system	60 ft. Public ROW <sup>ii</sup>	Yes	Yes
0 to 211	No	Not required	20 ft. <sup>i</sup>	At intersection of subdivision street(s) and external street system	60 ft. Public ROW <sup>ii</sup>	No, if outside the urban service area	No
0 to 70	No	Not required	20 ft. <sup>i</sup>	No	50 ft. private easement	No <sup>iii</sup>	No

Notes:

<sup>i</sup> Or as required by the Fire Code at CBJ 19.10.

<sup>ii</sup> ROW width may be reduced as prescribed at CBJ. 49.35.240.

<sup>iii</sup> Except as provided by CBJ 49.35.262(b)(9).

**Section 9. Amendment of Article. CBJ 49.35, Article II,** is amended by adding a new section to read:

**49.35.250 Access.**

(a) *Principal access to the subdivision.* Except as provided below, 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. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.

- (1) Principal access to remote subdivisions. The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.
- (b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:
  - (1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;
  - (2) Use of an existing publicly maintained street;
  - (3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or
  - (4) A combination of the above.
- (c) *Privately maintained access within a subdivision.* Lots shall front and have direct access to a publically maintained street except as:
  - (1) *Privately maintained public access.* A subdivision may create new lots served by a privately maintained access within a public right-of-way not maintained by an agency of government as provided by CBJ 49.35, Article II, Division 2. All lots must have either a minimum of 30 feet of frontage on a right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.
  - (2) *Private shared access.* A lot in a subdivision is exempt from having the minimum frontage on a public right-of-way when a shared access is approved pursuant to CBJ 49.35, Article II, Division 1. All lots served by a shared access shall have a minimum of 30 feet of frontage on the shared access.
- (d) *Remote subdivisions accessible by navigable waterbodies.* All lots in a remote subdivision solely accessible by navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to, either the navigable water or a right-of-way. The right-of-way must have direct and practical access to the navigable water.
- (e) *Access within remote subdivisions accessible by pioneer paths.* All lots must either have direct and practical access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

**Section 10. Amendment of Article.** CBJ 49.35, Article II, is amended by adding a new division to read:

**DIVISION 1. PRIVATE SHARED ACCESS**

**49.35.260 Purpose.**

Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a private easement consistent with this division.

**49.35.261 Application.**

An applicant must submit the following to request shared access:

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

**49.35.262 Standards.**

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

(b) *Approval criteria.* The director may approve a subdivision, with or without conditions, that has a shared access if all of the following criteria are met:

- (1) The shared access will be located in a private easement completely on the lots served.
- (2) The shared access serves four or fewer lots. If a subsequent common wall residential subdivision is intended to be served by shared access, the common wall parent lot shall count as two lots.
- (3) The shared access does not endanger public safety or welfare.
- (4) The shared access complies or can be improved to comply with the emergency service access requirements of CBJ 19.10.
- (5) The use of each lot served by the shared access shall be limited to one single family residence and an accessory apartment.
- (6) The total Average Daily Trips resulting from the subdivision shall not exceed 70.
- (7) Shared access is only allowed in RR and D-1, D-3, D-5, and D-10 SF zoning districts defined by CBJ 49.25.210.

(8) Shared access is prohibited if the subdivision abuts a parcel that does not have alternative and practical frontage on a publicly maintained right-of-way.

(9) The portion of the shared access in the right of way or the first 20 feet from the edge of the public roadway shall be paved, whichever length is greater.

(10) Lots must meet the minimum standards for the zone district according to the Table of Dimensional Standards excluding the shared access easement. A buildable area must exist without the need for a variance.

(c) *Approval process.*

(1) Upon preliminary plat approval by the director, the applicant shall construct the shared access pursuant to the corresponding standard in Table 49.35.240 for a roadway with 0 to 70 average daily trips. A financial guarantee cannot be used as a condition of construction.

(2) The shared access easement shall be recorded.

(3) The following shall be noted on a plat or in a recorded decision that contains a shared access:

(i) The private easement is for access, drainage, and utilities and shall be specifically identified.

(ii) The owner(s) of the lots served by the private access easement acknowledge the City and Borough is not obligated and will not provide any maintenance or snow removal in the private easement.

(iii) The owner(s) of the lots served by the private access easement shall be responsible and liable for all construction and maintenance of the shared access from the edge of the publically maintained travel lane.

(iv) Except a subsequent common wall subdivision depicted on this plat, the lots served by the private access easement are prohibited from subdividing unless the access is upgraded to a public street, dedicated to, and accepted by the City and Borough.

(v) Owner of a lot served by the private access easement shall automatically abandon all rights to and usage of the private access easement except for utilities, if any, if a publically maintained street serves that lot.

(vi) A lot with frontage on a public street and on the shared access is prohibited from having vehicular access to the public street except through the shared access.

**49.35.263 Other Shared Access Requirements.**

- (a) If a shared access is approved, the applicant must apply for and receive a right-of-way permit to construct the shared access.
- (b) If the director determines that a street sign is required for a health, safety, or welfare reason, the applicant shall install a street sign provided by the City and Borough at the applicant's expense.
- (c) The front yard setback shall be measured from the shared access easement.
- (d) The width of the shared access easement may be reduced up to 20 feet if the director finds there is sufficient area for the provision of utilities, drainage, snow storage, and that it is unlikely for the shared access easement to expand in the future to a public street.
- (e) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.
- (f) The standards identified in this article do not apply to any preexisting shared access previously permitted by the department.

**Section 11. Amendment of Article.** CBJ 49.35, Article II, is amended by adding a new division to read:

**DIVISION 2. PRIVATELY MAINTAINED ACCESS IN A RIGHT-OF-WAY**

**49.35.270 Purpose.**

A privately maintained access road serving 13 or fewer lots located outside the urban service area may be constructed within a public right-of-way and constructed to less than full public street construction standards.

**49.35.271 Application.**

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

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

**49.35.272 Access agreement.**

- (a) An access agreement must be executed between the City and Borough and all property

owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

- (1) In exchange for the grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;
- (2) The grantee acknowledges that the City and Borough is not obligated to provide any maintenance, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;
- (3) The grantee and the grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the location, design, maintenance, or use of the privately maintained access;
- (4) The grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;
- (5) The City and Borough will have unimpeded access in the right-of-way.
- (6) The grantee is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately maintained access road and public right-of-way according to the conditions established in this agreement;
- (7) The City and Borough will record a copy of the agreement, at the grantee's expense, with the state recorder's office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;
- (8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 average daily trips as determined by the director;
- (9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;



(10) Any development that increases the estimated traffic above 211 average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

#### **49.35.273 Standards.**

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

(b) *Approval criteria.* A subdivision may be approved, with or without conditions, with privately maintained access in a public right-of-way if all of the following criteria are met:

(1) The subdivision is located outside of the Urban Service Boundary;

(2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;

(3) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;

(4) The proposed privately maintained access does not endanger public safety or welfare;

(5) The proposed privately maintained access will be improved to provide for emergency service access;

(6) A privately maintained access shall only serve property in which the maximum allowable residential density uses do not exceed 211 average daily trips as determined by the director; and

(7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed with or without a conditional use permit, even if accessory apartments are not currently proposed.

(8) Privately maintained access is prohibited unless:

(A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way; or

(B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.35.272.

(c) *Approval process.*

(1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of decision have been satisfied.

(2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access has been constructed consistent with corresponding standard in 49.35.240 for a roadway with 0 to 211 average daily trips.

(3) The access agreement is recorded prior to recording the final plat.

(4) The director may impose conditions necessary for public, health, safety, and welfare upon approving the subdivision.

**49.35.274 Other requirements.**

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

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

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

**Section 12. Amendment of Section.** CBJ 49.80.120 is amended by the addition of the following definitions to be incorporated in alphabetical order:

*Access point* means any improvement designed for a motor vehicle to travel from or onto a right-of-way including, a driveway, a parking area, or street that intersects an existing street, and any similar improvements.

*Travel way* means the portion of the roadway for the movement of vehicles, exclusive of shoulders.

**Section 13. Amendment of Section.** CBJ 49.80.120 is amended to read as follows:

*Common driveway* means a commonly shared or used pedestrian or vehicular way that connects or serves two or more properties within a common wall development.

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*Roadway* means that portion of a street intended for vehicular traffic, including shoulders. The sum of the traveled way and shoulder widths constitutes the roadway width.

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**Section 14. Amendment of Section.** CBJ 49.80.120 is amended by deleting the following definition in its entirety:

*Roadway width* is measured as the paved section of a paved street or from shoulder to shoulder on a gravel street.

**Section 15. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this 3<sup>rd</sup> day of April, 2017.

  
Kendell D. Koelsch, Mayor

Attest:

  
Laurie J. Sica, Municipal Clerk