



## HOUSING AND DEVELOPMENT TASK FORCE

Appointed by the City & Borough of Juneau's Mayor

### Meeting Agenda

Friday, January 7, 2022

12:00 P.M. – 1:30 P.M.

Marine View Building, 4<sup>th</sup> Floor Conference Room & Zoom Webinar

Members of the public may listen in or watch by following one of these options.

Please click the link to join the meeting:

<https://juneau.zoom.us/j/82702375136>, or call 1-669-900-6833 or 1-253-215-8782 or 1-346-248-7799 or 1-929-436-2866 or 1-301-715-8592 or 1-312-626-6799, and enter Webinar ID: 827 0237 5136

### Assembly Charge

The purpose of this task force shall be to provide helpful advice to the Assembly regarding housing and development issues.

Specifically, the task force is asked to:

1. Review the path that a project must take to gain approval. Identify areas where pathways may be improved, keeping in mind staff constraints. Evaluate the current pre-application process and make recommendations.
2. Discuss possible structures to engage a working group that interfaces with land and facility developers in the industry.
3. Consistent with Assembly goals, identify general processes and areas in existing Title 49 code that inhibit growth and development. The goal is to identify and prioritize tasks or projects that could be worked on by this task force or other groups.

- A. Call to Order
- B. Approval of Agenda
- C. Minutes
  - a. November 12, 2021 Draft Minutes
  - b. December 10, 2021 Draft Minutes
- D. Comments About Last Meeting
- E. Title 49 Update – Specific Revisions to Title 49 by Developers
- F. Discussion of Table of Dimensional Standards and Related Code Sections
- G. Public Comment (10 Minutes)
- H. Suggestions for Next Agenda
- I. Next Meeting Date is January 21, 2022

**THE CITY AND BOROUGH OF JUNEAU, ALASKA**  
**HOUSING & DEVELOPMENT TASK FORCE**  
November 12, 2021 – Meeting Minutes

**A. CALL TO ORDER**

The meeting of the Housing and Development Task Force (HDTF) was held in the 4<sup>th</sup> Floor Conference Room of the Marine View Building, and was called to order by Ex-Officio Chair Loren Jones at 12:03a.m.

**Roll Call**

**Members Present:** Ex-Officio Chair Loren Jones, Vice Chair Maria Gladziszewski, Michelle Hale (via Zoom), Paul Voelkers, Nathaniel Dye (via Zoom), Dave Hanna, Bill Heumann (via Zoom), and Wayne Jensen.

**Members Absent:** None.

**Staff Present:** CDD Director Jill Maclean, City Manager Rorie Watt, Mayor Beth Weldon,

**B. Approval of Agenda**

**MOTION** by Ms. Gladziszewski to include “Review the Ordinance” to the Agenda. Chair Jones added “**b. Ordinance Review**” under Item D.

**MOTION** by Ms. Hale for the committee to discuss Mr. Heumann’s memo. Chair Jones added “**c. Discussion Regarding Mr. Heumann’s Memo**” to the Agenda.

**C. Approval of Minutes**

**A. October 29, 2021 DRAFT Meeting Minutes**

Mr. Jones noted that the October 29, 2021 Meeting Minutes were in need of correction. The minutes were sent back for correction.

**D. Comments About Last Meeting**

**a. Review Memo to Mayor/Assembly**

Mr. Jones explained that Ms. Gladziszewski had provided a memo which included a revised written version of her motion from the previous HDTF meeting.

Mr. Voelkers shared that he appreciated the new motion’s clarity, but noted that it did not mention the “opt-out” ordinance that had been discussed.

Ms. Gladziszewski explained that the “opt-out” ordinance was separate from this motion, as this motion in particular represented the committee’s recommendations to the Assembly’s priority list.

Ms. Hale added that this motion’s intent was to bring forth the HDTF’s recommendations to the Assembly prior to their priority-setting retreat in early December.

Mr. Hanna commented that he approved of the motion.

Mr. Dye suggested that it may be helpful to add clarifying language to the motion, and to reorganize the wholesale rewrite of the Comprehensive Plan to be placed prior to the rewrite of Title 49.

Ms. Gladziszewski disagreed with the suggestion, saying the rewrite of Title 49 should be considered first priority.

There was a discussion about rewriting the Land Use Code, specifically the process of a rewrite resulting in hiring a consultant to go through the Land Use Code.

Mr. Jones agreed that writing the Comprehensive Plan could result in subsequent rewrites further down the line.

Ms. Gladziszewski spoke to the vastness of the Comprehensive Plan, and said that they do not need an update of the Comprehensive Plan to update Title 49.

Ms. Maclean agreed with Mr. Dye's suggestion of writing the Comprehensive Plan prior to rewriting Title 49, and advised the committee to take into consideration the Systemic Racism Review Committee review process of the Comprehensive Plan, particularly zoning issues.

Ms. Maclean further explained that a full review of the Comprehensive Plan with consultants would be a three-year process, during which the committee could implement some changes to Title 49, but not a wholesale rewrite.

Mr. Dye spoke to the Planning Commission's reliance on the Comprehensive Plan to make changes to aspects such as zoning laws, industrial lands, commercial use versus residential use properties, etc. He explained that these changes are made based on the Comprehensive Plan, not based on Title 49.

Mr. Voelkers recommended removing the word "wholesale" from the motion, and to add "and/or partial rewrites". The new language would read as follows: "The HDTF does not have a recommendation at this time regarding how this gets done, but possibilities include: hiring a firm to do a rewrite, selective editing of key sections, or using existing staff in committee processes."

Hearing no further edits, Mr. Jones will work with CDD staff to bring the revised motion to the Assembly.

#### **b. Ordinance Review**

Ms. Maclean reviewed the ordinance and highlighted the lines which contained edits or adjustments.

Mayor Weldon asked for clarification on the difference between a development application and a pre-application.

Ms. Maclean explained that a development application could include variances, sub-applications, Conditional Use Permits, etc. She further clarified that a pre-application is typically required for

most applications, and includes a pre-application conference in which the developer can meet with the Planning Commission, General Engineering, the Building Division, and the Fire Marshal to discuss the application.

Ms. Gladziszewski noticed a typo (“an” instead of “and”) on Line 3, Page 4 of the ordinance.

Mr. Dye had a question about the language (from “required” to “may be required”) regarding sketch plots in the ordinance.

Ms. Gladziszewski noted that this language would make sketch plots optional in the application process.

Mr. Dye explained that sketch plots are required for a major subdivision application.

Ms. Maclean clarified that this language is specifically for a pre-application process; the actual submission of a major subdivision application would still require the inclusion of a sketch plot.

Mr. Watt cautioned that adding more flexibility to the pre-application process could result in potential delays later down the line. He added that he was not advising against this, but was bringing attention to the potential consequences.

Mr. Hanna said that they had discussed the potential consequences at length, and felt that this process could help applicants move their projects along smoothly.

Mr. Heumann echoed Mr. Hanna’s comments, and also understood Mr. Watt’s concerns. He mentioned that there are oftentimes smaller projects in which the pre-application process is not necessary; and the CDD Director has the discretion to strongly suggest the pre-application process to applicants as needed.

Mr. Dye asked if this ordinance would be referred back to the Planning Commission.

Mr. Jones explained that this would be brought to the Law Department and CDD, then will be introduced to the Assembly following standard procedure.

Ms. Gladziszewski noted that it could be forwarded to the Planning Commission following its introduction to the Assembly.

There was further discussion about the pre-application process.

Ms. Maclean described opting out of the pre-application conference as a missed opportunity for applicants to discuss their project with several CBJ departments altogether. She clarified that she was not opposed to this ordinance, but would like for developers to consider the opportunity available to them.

Mr. Hanna suggested CDD produce a handout that would list the negative outcomes that may arise from opting out of the pre-application conference.

Ms. Hale asked when the pre-application conference first became a requirement.

Ms. Maclean said that it may have come into effect following the 2010 rewrite, or after the 2015 rewrite.

Mr. Jensen spoke to the value of the pre-application process, but also felt it would be helpful if the process could be done in a timely manner.

Mr. Dye clarified that the pre-application conference has been in the Code since the 1987 rewrite.

### **c. Discussion Regarding Mr. Heumann's Memo**

Mr. Heumann shared that his memo addressed the industry-wide concern regarding the permitting process; he further explained how streamlining the process could boost productivity and help meet the demands of the housing market.

Mr. Voelkers referenced the line in the memo which stated that developers are unable to obtain permits, and asked Mr. Heumann to clarify if the concerns surrounding the permitting process were a matter of timeliness, or if permits were being denied to developers.

Mr. Heumann clarified that it was more an issue of a timeliness rather than the inability to receive permits.

Mr. Voelkers asked Mr. Heumann if there was a notable difference in the timing or the permitting process compared to previous years.

Mr. Heumann said that the process to obtain a permit had become more difficult in recent years.

There was a discussion about the timing of the permitting process.

Ms. Maclean spoke to the difficulties presented by the Code when developing land, and to the additional difficulties of living, working, and housing in Juneau. She felt that CDD have been producing permits in a reasonable amount of time, especially considering that they are working with limited staff during a pandemic.

There was a discussion about variances. Ms. Maclean explained the challenges associated with issuing multiple variances, often risking the chance of the variance being appealed and going through a lengthy legally involved appeal process.

Mr. Heumann commented on the lack of affordable housing, and the legal and financial resources that could be provided by the City.

Mr. Hanna shared his perspective on the increasing costs for various CBJ projects and utilities throughout town, and recommended the committee discuss cheaper developments at a future meeting.

Mr. Watt noted that every neighborhood in Juneau has benefitted from public funding, and very few neighborhoods have come into being (meeting full dimensional standards) by developers.

There was further discussion regarding the table of dimensional standards and variances.

**E. Discussion of Possible Metrics Related to Workload/Priorities**

Chair Jones addressed that this item is currently in motion, but would not be fully discussed at today's meeting as the committee was running short on time.

**F. Public Comment (10 Minutes)**

None.

**G. Suggestions for Next Agenda**

The next meeting date is scheduled to be held on December 10, 2021.

The agenda items for the next meeting will include dimensional standards, a discussion with the Law Department about variances, and scheduling future meetings for 2022.

**H. ADJOURNMENT**

*There being no further business to be brought before the committee, the Housing & Development Task Force meeting was adjourned by Chair Jones at 1:15p.m.*

**THE CITY AND BOROUGH OF JUNEAU, ALASKA**  
**HOUSING & DEVELOPMENT TASK FORCE**

December 10, 2021 – Meeting Minutes

**A. CALL TO ORDER**

The meeting of the Housing and Development Task Force was held in the 4<sup>th</sup> Floor Conference Room of the Marine View Building, and was called to order by Chair Loren Jones at 11:03a.m.

**Roll Call**

**Members Present:** Ex-Officio Chair Loren Jones, Dave Hanna, Wayne Jensen, Bill Heumann, Paul Voelckers, Nathaniel Dye (via Zoom)

**Members Absent:** Vice Chair Maria Gladziszewski and Michelle Hale.

**Staff Present:** City Manager Rorie Watt, Mayor Beth Weldon, City Attorney Robert Palmer, Community Development Department Director Jill Maclean, CDD Administrative Assistant Chelsea Wallace,

**B. Approval of Agenda**

*Hearing no changes, the agenda was approved as presented.*

**C. Approval of Minutes**

**a. September 30, 2021 Draft Minutes**

**b. October 15, 2021 Draft Minutes**

**c. October 29, 2021 Draft Minutes**

Mr. Voelckers noted that the October 29 Meeting Minutes listed him as being present at the meeting, when he was actually absent and traveling during that time.

*Hearing no further comments, the September 30 and October 15 Minutes were approved as presented.*

**D. Comments About Last Meeting**

There were no comments about the November 12, 2021 meeting.

**E. Review of Variance Ordinance**

Mr. Jones referenced the discussion surrounding variances at the November 12 meeting, which prompted him to invite City Attorney Robert Palmer to today's meeting to provide additional insight to variance-related ordinances.

Mr. Palmer thanked Mr. Jones for the introduction, and identified two key concepts essential to this discussion: the Conditional Use Permit and the concept of variances. He described the Conditional Use Permit as a permit approval process designed to provide flexibility to

developers, whereas a variance is a request that violates the law as it is written. He further explained that variances are not meant to be used for flexibility purposes.

Mr. Palmer gave a general overview describing the legal processes, comparing State law practice to local Assembly rulings in relation to variances.

Mr. Voelkers added that variances are often rather difficult to obtain, and heavily rely on geographical and physical limitations.

Mr. Hanna mentioned that 30% of Juneau's ordinances are in some way related to Title 49. He said that this number of ordinances is a testament to an underlying problem that is in need of being addressed, adding that a functional Title 49 would not necessitate such a high amount of ordinances.

Mr. Voelkers asked CDD Director Maclean to define the criteria in which a Conditional Use Permit is necessary.

Ms. Maclean explained that the CUP process is often determined on the number of dwelling units, bedrooms, and acreage. She suggested the committee to keep neighborhoods in mind when considering the CUP process, and to recognize the impact that rezoning may have on neighboring properties.

Mr. Jones shared his experience from attending a significant amount of Planning Commission meetings over the past nine years, saying that the public process is often the most contentious part of the CUP process. He spoke to the importance of allowing the public the ability to weigh in by opting for a thorough public comment period.

Mr. Jones asked Ms. Maclean to clarify where in the process the public comment period begins prior to a Planning Commission decision, such as a neighborhood meeting hosted by CDD. Ms. Maclean shared that the initiation of the public comment period is at her discretion as CDD Director, and typically depends on the type of permit being issued. She added that she takes this aspect of her role very seriously, and has adopted the Systemic Racism Review Committee criteria into her decision-making. Ms. Maclean also added that CDD strives to issue notice to the public at least six weeks in advance, beyond the standard two week public notice requirement.

There was further discussion surrounding the Conditional Use Permit process.

## **F. Assembly Retreat Update**

Mayor Weldon provided an update on the Assembly Retreat that was held on December 4, where the Assembly met to decide upon the Assembly Goals for 2022. Mayor Weldon reported that the Assembly considered the revision of Title 49 and updating the Comprehensive Plan as Assembly Goals related to the Housing and Development Task Force.



Mayor Weldon added that one of the Assembly Goals involved allocating funds for the purpose of accomplishing the goals they established.

Mr. Watt reported that the Assembly discussed revising and improving Title 49, facilitating housing, the implementation of projects and strategies that further develops the Affordable Housing Action Plan, and continue utilizing the Affordable Housing Fund.

Mr. Voelkers asked if the Assembly had considered an entire rewrite of Title 49 or selective upgrades to Title 49 as needed.

Mayor Weldon said that the sentiment of the Assembly seemed to be to revise Title 49 as needed.

### **G. Examples of Permitting Delays**

Mr. Jones recommended this topic be included in the agenda for a future meeting.

### **H. Recommendations for Changes to Title 49**

Mr. Heumann shared that the developers held a meeting on December 7, the general consensus from this meeting expressed that a revised Title 49 should include specific requirements for the timing of the permitting process. He added that one of the biggest problems shared amongst local developers was identified as a lack of communication between developers and the City. Mr. Heumann provided examples of this through his experiences with the City from past developer projects.

Mr. Hanna agreed with Mr. Heumann's report, and said that communication issues was one of the biggest concerns discussed at the developer meeting. He acknowledged the staffing issues at CDD, and suggested the City address the empty positions through contracting outside help.

Mr. Voelkers noted that one of the first actions taken by this committee was to modify the pre-application process. He asked if a streamlined pre-application process would help address concerns regarding timing.

Mr. Jensen explained that the pre-application process typically takes up to a year, during which the project often morphs and changes, which in turn results in further delays in the pre-application process.

There was further discussion regarding the details and the timing of the pre-application process.

Ms. Maclean explained that the issue regarding the pre-application schedule was recently brought to her attention, and she was able to fix that problem the following day. She encouraged the development sector to plan further out with their scheduling, noting that the winter months are often a slower time for CDD. Ms. Maclean also said that putting hard deadlines into Code would be difficult; if the developers were asking CDD to consider adopting hard deadlines into Code, she noted that in order to do so, pre-applications would need to be detailed, specific, and meeting the requirements set by the state.

Ms. Maclean provided an update on recently filled CDD staff positions.

**I. Public Comment (10 Minutes)**

Municipal Clerk Beth McEwen mentioned that the draft Assembly Retreat Meeting Minutes would be posted later that day, prior to the Regular Assembly Meeting on December 13.

**J. Suggestions for Next Agenda**

Mr. Jones set the agenda for the next meeting to include a discussion related to the Table of Dimensional Standards, permitting, and Title 49.

There was a discussion about Title 49 in relation to the local housing shortage.

**K. Next Meeting Date**

Mr. Jones recommended the committee set the next HDTF meetings to be held on January 14 and January 28.

Ms. Maclean shared that she would be travelling during January 28.

Mr. Jones suggested setting the next meeting dates to be held on January 7 and January 21.

**L. ADJOURNMENT**

*There being nothing else to come before the Housing & Development Task Force, the meeting was adjourned by Chair Loren Jones at 1:30p.m.*

PART II - CODE OF ORDINANCES  
TITLE 49 - LAND USE  
Chapter 49.25 - ZONING DISTRICTS  
ARTICLE IV. DIMENSIONAL STANDARDS

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*ARTICLE IV. DIMENSIONAL STANDARDS*

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#### **49.25.400 Minimum dimensional standards.**

There is adopted the table of minimum dimensional standards, table 49.25.400. Minimum dimensional standards for all zoning districts shall be according to the table of minimum dimensional standards, subject to the limitations of the following sections and as otherwise specifically noted in the special area or use sections, chapters 49.65 and 49.70.

(Serial No. 87-49, § 2, 1987; Serial No. 89-32, § 2, 1989; Serial No. 98-09, § 5(Exh. B), 1998; Serial No. 98-20, § 2(Exh. A), 1998; Serial No. 2004-13, § 2, 9-27-2004; Serial No. 2006-13, § 2, 5-15-2006; Serial No. 2007-13, § 2, 4-2-2007; Serial No. 2012-24, § 3, 5-14-2012, eff. 6-14-2012 ; Serial No. 2021-28 , § 4, 8-23-2021, eff. 9-22-2021)

TABLE 49.25.400

TABLE OF DIMENSIONAL STANDARDS

Zoning Regulations	RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	MU	MU2	LC	GC	WC	WI	I
Minimum Lot Size <sup>1</sup>															
Permissible Uses	36,000	36,000	12,000	7,000	3,600 <sup>10</sup>	6,000	5,000	5,000	4,000	4,000	2,000	2,000	2,000	2,000	2,000
Bungalow <sup>9</sup>		18,000	6,000	3,500	2,500	3,000	3,000	2,500							
Duplex	54,000	54,000	18,000	10,500											
Common Wall Dwelling				7,000	3,600 <sup>10</sup>	5,000	3,500	2,500		2,500					
Single-family detached, two dwellings per lot	72,000	72,000	24,000												
Minimum lot width	150'	150'	100'	70'	40'	50'	50'	50'	50'	50'	20'	20'	20'	20'	20'
Bungalow <sup>9</sup>		75'	50'	35'	25'	25'	25'	25'							
Common wall dwelling				60'	40'	40'	30'	20'		20'					
Maximum lot coverage															
Permissible uses	10%	10%	35%	50%	50%	50%	50%	50%	None	80%	None	None	None	None	None
Conditional uses	20%	20%	35%	50%	50%	50%	50%	50%	None	80%	None	None	None	None	None

Maximum height permissible uses	45'	35'	35'	35'	35'	35'	35'	35'	None	45' <sup>4</sup>	45'	55'	35' <sup>4</sup>	45' <sup>4</sup>	None
Accessory	45'	25'	25'	25'	25'	25'	25'	25'	None	35'	35'	45'	35' <sup>4</sup>	45' <sup>4</sup>	None
Bungalow <sup>9</sup>		25'	25'	25'	25'	25'	25'	25'							
Minimum front yard setback <sup>3</sup>	25'	25'	25'	20'	20' <sup>10</sup>	20'	20'	20'	0'	5' <sup>5,8</sup>	25'	10'	10'	10'	10'
Minimum street side yard setback	17'	17'	17'	13'	10'	13'	13'	13'	0'	5'	17'	10'	10'	10'	10'
Minimum rear yard setback <sup>3</sup>	25' <sup>2</sup>	25'	25'	20'	10'	20'	15'	10'	0'	5'	10'	10'	10'	10'	10'
Minimum side yard setback <sup>3</sup>	15' <sup>2</sup>	15'	10'	5'	3'	5'	5'	5'	0'	5'	10'	10'	10'	10'	0'
Common wall dwelling				10' <sup>6</sup>	3'	5' <sup>7</sup>	5' <sup>7</sup>	5' <sup>7</sup>		5' <sup>7</sup>					

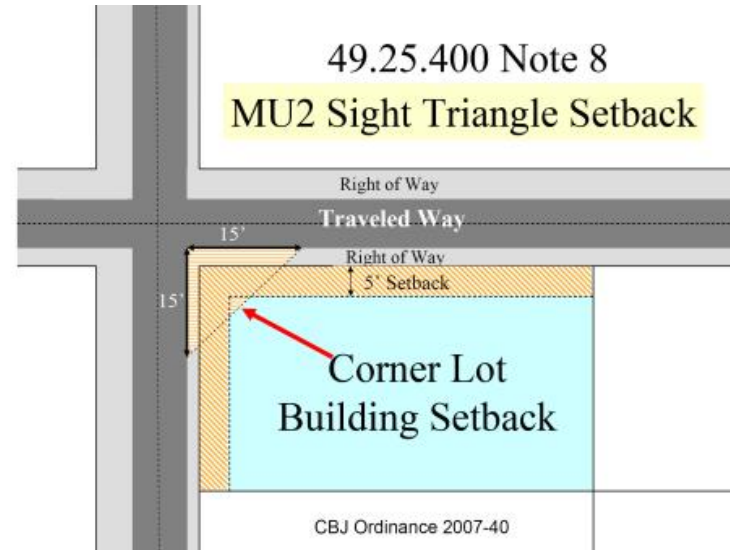
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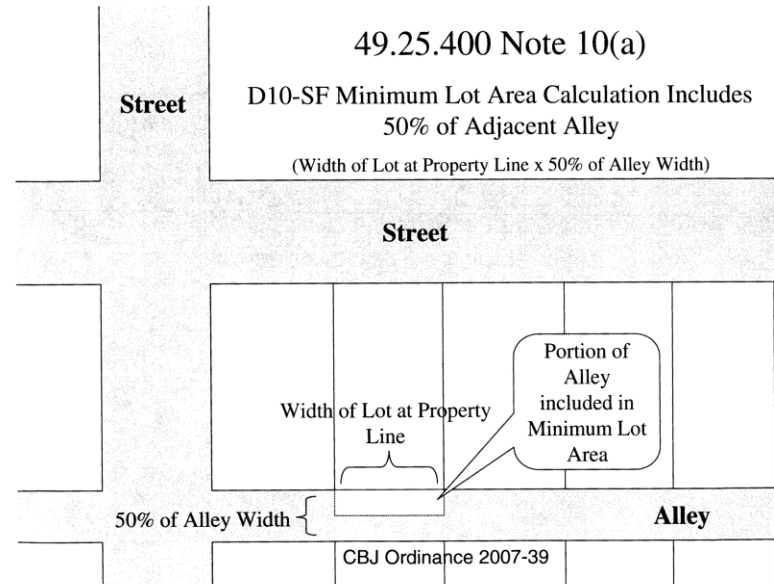
1. Minimum lot size is existing lot or area shown on chart in square feet.
2. Sixty feet between nonresidential and designated or actual residential site; 80 feet between industrial, extractive and other uses.
3. Where one district abuts another the greater of the two setbacks is required for both uses on the common property line.
4. (Height Bonus) Reserved.
5. (Pedestrian Amenities Bonus) Reserved.
6. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and ten-foot setback for the remaining side yards of the lot.
7. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and five-foot setback for the remaining side yards of the lot.
8. On corner lots, buildings shall be set back 15 feet from a street intersection. The area in which buildings shall be prohibited shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 15 feet, then connecting the points.
9. Special restrictions apply to construction on bungalow lots. See special use provisions 49.65.600.

10. For lots adjacent to an alley, the following reductions to the dimensional standards apply:

- (a) Minimal lot area includes 50% of adjacent alley (see graphic).
- (b) Reserved.
- (c) Minimum front yard setback of ten feet.

(Serial No. 2008-04, § 2, 2-25-2008, eff. 3-27-2008; Serial No. 2012-24, § 3, 5-14-2012, eff. 6-14-2012 ; Serial No. 2021-28 , § 4, 8-23-2021, eff. 9-22-2021)







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(Serial No. 2007-39, § 9, 6-25-2007; Serial No. 2007-40, § 2, 6-25-2007)

#### **49.25.410 Reserved.**

Editor's note(s)—Serial No. 2021-28 , § 5, adopted August 23, 2021, and effective September 22, 2021, repealed former § 49.25.410 in its entirety. Former 49.25.410 pertained to lot dimensions, and derived from Serial No. 87-49, of 1987.

#### **49.25.420 Height of building.**

- (a) The height of a building is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. Roofs with slopes greater than 75 percent shall be regarded as walls. The height of a stepped or terraced building is the height of the highest segment thereof.
- (b) The reference datum shall be whichever of the following yields the greater height of building:
  - (1) The highest point within a horizontal distance of five feet from the exterior wall of the building, when such point is not more than ten feet above the lowest point within said five-foot radius.
  - (2) An elevation ten feet higher than the lowest grade, when the highest point described in subsection (b)(1) of this section is more than ten feet above the lowest point.
- (c) Exceptions.
  - (1) Height limitations stipulated in this section shall not apply to tanks, church spires, belfries, cupolas, monuments, fire and hose towers, chimneys, flagpoles, masts, aerials, antennas, telecommunication and electrical transmission towers and other similar structures or facilities.
  - (2) Height calculations shall disregard any fill or construction which the director finds to have no significant purpose other than elevating the reference datum. In reaching such finding, the director shall consider only those architectural, structural, safety, aesthetic, access or other purposes claimed by the developer and supported by reasonable evidence.

(Serial No. 87-49, § 2, 1987; Serial No. 99-26, § 2, 2000)

#### **49.25.430 Yard setbacks.**

No portion of any of the items listed in subsection (1) of this section may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table of dimensional standards in table 49.25.400, except as otherwise noted in this section. An alley or walkway is not subject to front setbacks unless it is the primary access to the lot.

- (1) *Buildings, as building is defined in 49.80.120, and the following items:*
  - (A) Motor vehicle fuel dispensing pumps and associated overhead canopies or roofs;
  - (B) Carports;
  - (C) Radio and television antennas, masts and towers (including telecommunications towers), any of which are 25 feet or greater in height or 25 square feet or greater in area at the base or foundation; and dishes greater than five feet in diameter; and
  - (D) Above ground fuel and water storage tanks with a volume greater than 660 gallons.

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(2) *Street right-of-way line determined.* The street right-of-way line shall be determined by reference to a recorded map, monuments, right-of-way easements, right-of-way maps, or other means. The setback shall be measured from such right-of-way line.

(3) *Multiple frontage lots.* Buildings on lots bordered by two or more rights-of-way must meet the front yard setback from one lot line adjoining the rights-of-way. Setbacks from the remaining lot lines adjoining rights-of-way will be considered street side yards.

On undeveloped corner lots or corner lots on which existing buildings conform to required setbacks, the owner may establish the rear yard opposite either right-of-way frontage. The remaining yard(s) not fronting on a street right-of-way will be considered a side yard(s).

On lots with existing buildings that have nonconforming setbacks, setbacks for yards shall be established based on the yard that most closely meets the respective setback requirement.

Lots bordered by three or more rights-of-way shall not be required to provide a rear yard setback.

A front yard for a lot not bordered by a right-of-way shall be established on the lot line where access is provided to the lot.

(4) *Projections into required yards.*

(A) *Architectural features.* Architectural features and roof eaves may project into a required yard four inches for each foot of yard setback required but no closer than two feet to the side and rear lot lines.

(i) In the MU2 zoning district, architectural features, roof eaves, and canopies may project into a required front or street side yard setback to the front or street side yard property line.

(B) *Enclosures.* Bay windows, garden windows, chimney and ventilation shafts, and other similar enclosed structures that do not increase the building's floor area may project four feet into any required yard provided that the maximum length of projection along the building does not exceed 15 lineal feet for any one yard. In no instance shall the projecting structure be closer than three feet to a lot line.

(C) *Structures unheated.* The following unheated structures are allowed in required yard setbacks, as provided below, and provided that roof eaves associated with these structures may be no closer than two feet to any side or rear lot line.

(i) Unenclosed balconies, connecting deck stairways, walkways, ramps and landings with or without roofs, may extend to the front lot line or street side lot lines provided the structure does not exceed five feet in internal width exclusive of support structure and is no closer than three feet to a side or rear lot line;

(ii) Arctic entries not exceeding 65 square feet gross floor area, and no closer than five feet to any property line;

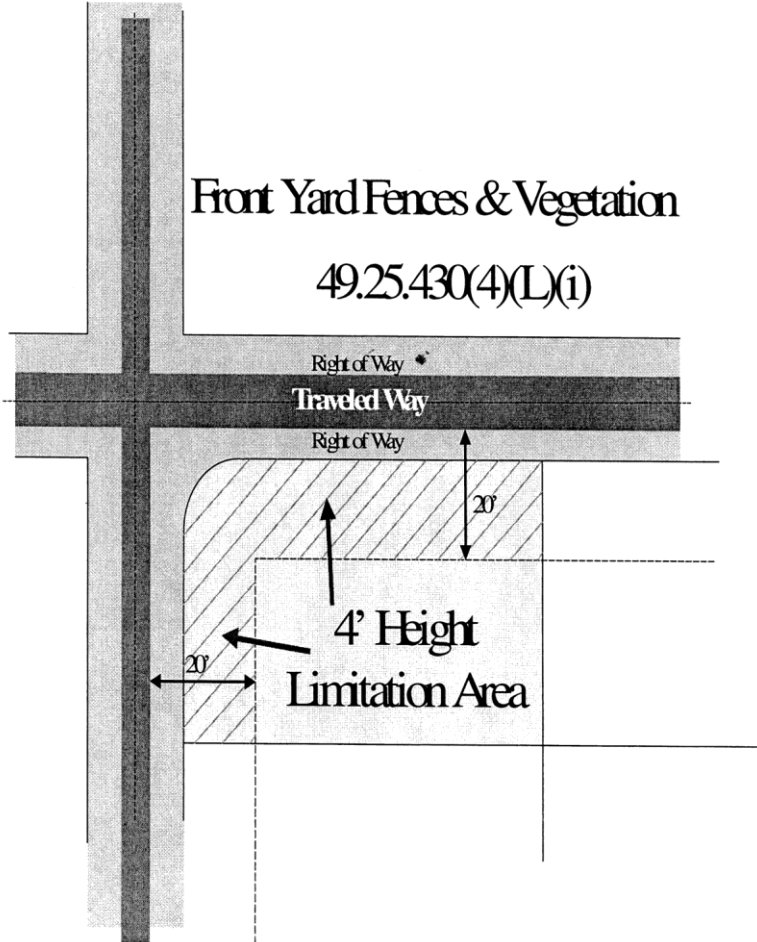
(iii) Enclosures for outdoor fuel tanks, detached storage sheds, greenhouses, playhouses, refuse containers, woodsheds, and similar accessory buildings, if less than four feet high in a front or street side yard and ten feet high in a side yard, and 12 feet high in a rear yard. The total encroachment into a yard, regardless of the number of encroaching buildings, shall be no more than 40 square feet in a front yard, 65 feet in a side yard, and 120 square feet in a rear yard. Where a structure is located in more than one setback, the more restrictive standards shall prevail. In no instance shall the enclosure be closer than three feet to a lot line;

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- (iv) Temporary boat or recreational vehicle shelters consisting of a plastic, canvas or similar cover material applied to a frame for winter storage provided that the cover and associated framework are removed during the period of April 15 through September 30 and provided that the shelter is no closer than three feet to a lot line;
  - (v) Other enclosures, devices, structures or accessories deemed by the director to be similar to a building or to those other items listed in this subsection.
- (D) *Uncovered porch, terrace, or patio.* An uncovered porch, terrace, or patio extending no more than 30 inches above the finished grade may be no closer than three feet to a side lot line and no closer than ten feet to a front, street side or rear lot line.
- (E) *Unenclosed porches or decks.* Unenclosed first story porches or decks, with or without roof, and with or without non-sight obscuring safety rails less than 44 inches in height, may project no more than six feet into any yard setback, provided, however, such projection is no closer than five feet to a lot line. Eaves may project a maximum of three feet from these structures.
- (F) *Sloping lots.* If the natural gradient of a sloping lot, from front to rear, exceeds 25 percent, the front yard setback shall not be less than the established yard of a dwelling, not including accessory structures, such as garages and storage buildings, which occupies an adjoining lot. In no instance shall the setback be less than five feet.
- (G) *Shoreline properties.* In any zoning district, yard setbacks are not required from tidewater lot lines.
- (H) *Carports and garages.* A minimum setback of five feet from any property line shall apply to carports and garages in any residential zoning district if:
- (i) The topography of the lot makes construction a hardship;
  - (ii) The carport or garage has a maximum height of 17 feet measured from the finished garage floor level, instead of from the datum established in 49.25.420(b), and a maximum gross floor area of 600 square feet;
  - (iii) Sight distance is approved by the director; and
  - (iv) Enclosed space directly under the garage shall be subject to the above setback exception, and no additional stories are allowed on top of the garage.
- (I) *Parking decks.* A parking deck, no part of which exceeds one foot above the level of the adjoining roadway, and which does not include other uses, is exempt from the setback requirements of this chapter; provided a non-sight-obscuring safety rail not more than 42 inches in height is allowed.
- (J) *Substandard lots.* If the lot width is less than required, the corresponding side, street side, or rear setbacks may be reduced to the same percentage that the lot width bears to the zoning district requirements, except that in no case shall the side, street side, and rear yard setbacks be less than half those required by this chapter, or five feet, whichever is greater.
- (K) *Existing substandard setbacks.* A new building may have a front yard setback equal to the average front yard setback of the three closest adjacent buildings, or a street side yard setback equal to the average street side yard setback of the three closest adjacent buildings, or a rear yard setback equal to the average rear yard setback of the three closest adjacent buildings. The average calculation shall be made using one building per lot. If any of the three buildings used in the averaging calculation is located a greater distance from the required setback, then the required front yard setback, or street side yard setback, or rear yard setback shall be used to calculate the average. An existing building located on the subject lot may be used as one of the three buildings to calculate the setback determination.

For purposes of this section, the buildings used in averaging must be either conforming or legally nonconforming enclosed buildings or carports and have a wall or column height of at least seven feet measured from the finished grade. Porches, bay windows, and temporary buildings allowed to project into setbacks cannot be used for averaging. In no instance shall the required setback be less than half that required by this chapter or ten feet, whichever is greater.

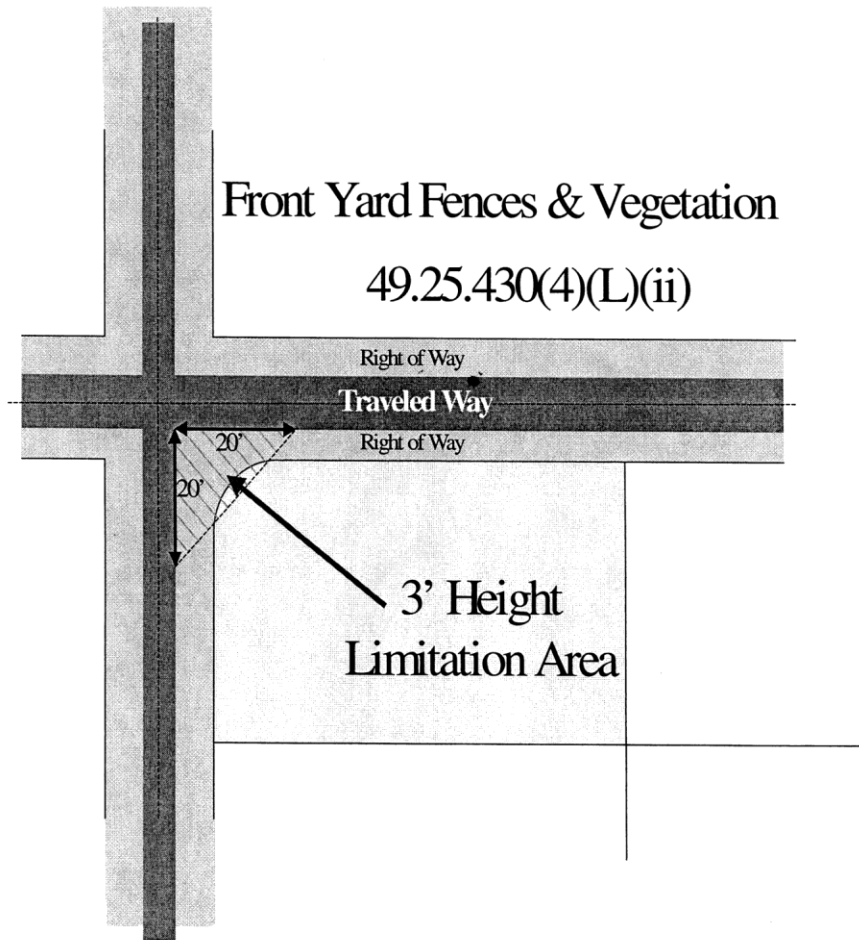
If there are fewer than three buildings within 500 feet of the subject property, then the required setback shall be the average of front yard setbacks, or street side yard setbacks, or rear yard setbacks, of such fewer buildings, using a maximum of one building per lot.

- (L) *Fences and vegetation.* For this section a "traveled way" is defined as the edge of the roadway shoulder or the curb closest to property.
  - (i) The maximum height of a sight obscuring fence or vegetation shall not exceed four feet within 20 feet of the edge of the traveled way. Trees are allowed within 20 feet of the edge of the traveled way provided they do not obscure view from a height of four feet to a height of eight feet above the ground;



- (ii) On corner lots the maximum height of a sight-obscuring fence or vegetation located within 20 feet of a street intersection shall not exceed three feet. The area in which sight-obscuring fences and vegetation is restricted shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 20 feet, then connecting the points. In this area, vegetation shall be maintained to a maximum height of three feet.

Trees are allowed in this area provided the trees do not obscure view from a height of three to eight feet above the ground.



- (M) *Additional stories.* The commission, through the conditional use permit process, may allow the addition of a second or third story atop or below an existing enclosed structure which projects into a required yard setback if the structure is either nonconforming or if a variance was previously granted for the structure. The commission may deny such request if it finds that the structure, with the addition, would result in excessive blockage of views, excessive restriction of light and air, or other deleterious impacts.
- (N) *Parcels adjoining publicly owned land.* The commission, through the conditional use permit process, may allow structural projections into required side or rear yard setbacks if the affected yard adjoins publicly owned land which has been placed in a park, open space, or similarly restrictive land management classification; provided such projections are minimized and are necessary to prevent substantial hardship to the applicant. The commission may deny such requests if it finds that the structure, with the addition, would result in excessive blockage of views, excessive restriction of light and air, or other deleterious impacts.
- (O) *Energy efficiency.* Energy efficiency improvements that do not increase interior square footage, such as exterior insulation, may project up to eight inches into a required yard. An energy efficiency improvement may not be approved under this section if it projects into the right-of-way or across a property line.

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(5) *Replacement and reconstruction of nonconforming structures.* The replacement and reconstruction of nonconforming structures in residential districts shall be governed by chapter 49.30.

(Serial No. 87-49, § 2, 1987; Serial No. 89-05, § 2, 1989; Serial No. 91-03, § 3, 1991; Serial No. 95-33, § 7, 1995; Serial No. 97-49, § 2, 1998; Serial No. 2004-13, § 3, 9-27-2004; Serial No. 2006-15, § 4, 6-5-2006; Serial No. 2007-40, § 3, 6-25-2007; Serial No. 2012-36, § 2, 9-17-2012 ; Serial No. 2015-03(c)(am), § 20, 8-31-2015 ; Serial No. 2018-06, § 2, 3-5-2018, eff. 4-5-2018 ; Serial No. 2019-37, § 3, 3-16-2020, eff. 4-16-2020 ; Serial No. 2021-28 , § 6, 8-23-2021, eff. 9-22-2021)

Cross reference(s)—Right-of-way encroachment permits, CBJ Code ch. 62.55.

#### **49.25.440 Lot coverage.**

Notwithstanding the lot coverage standards set forth in section 49.25.400, in the RR, rural reserve district, and the D-1, residential district, if the area of a lot is less than the minimum lot size, the corresponding maximum lot coverage for a dwelling may be increased in the same proportion as the inverse of the ratio of the actual lot area to the required lot area, except that in no case shall lot coverage exceed 50 percent.

(Serial No. 91-50, § 2, 1991)