


MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: February 9, 2012

TO: Juneau Planning Commission

FROM: Dale Pernula, Director 
Community Development Department

FILE NO.: AME2011 0006

SUBJECT: A Text Amendment to rewrite Title 53 - Real Property: Chapter 53.09.010 Policy; Article I: Status Maps and Resource Inventory; Article II: Classification; and Article III: Plan.

This matter was presented to the Planning Commission at a Committee of the Whole meeting held on January 31, 2012, as well as at prior meetings held in October and November, 2011. Attached is a memorandum from Cynthia Johnson, CBJ Deputy Land Manager, reviewing this process along with a Summary Analysis of Proposed Changes to Title 53, and a draft copy of the proposed Ordinance.

Based on discussions at the Committee of the Whole meeting, staff recommends that the Planning Commission forward the proposed Ordinance to the Assembly with a recommendation for adoption.

MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

TO: Dale Pernula, Director
Community Development Department

THRU: Heather Marlow
Lands and Resources Manager

FROM: 
Cynthia L. Johnson
Deputy Land Manager

SUBJECT: Rewrite of Title 53 – Real Property

DATE: February 3, 2012

The Lands and Resources Office has been working with the Law Department exploring opportunities to update and improve Title 53, which has not undergone a comprehensive review since the early 1980s.

Summary of Planning Commission Review

CBJ 53.09.100-170 pertains to land classification and the land management plan and contains frequent references to the Planning Commission. Accordingly, the Lands and Resources Office has sought support for the proposed changes from the Planning Commission. Staff presented its recommended changes to the Planning Commission at meetings on October 11th, and November 8th, 2011, and more recently at the Committee of the Whole meeting on January 31, 2012. The analyses for the proposed changes have been previously outlined in various staff reports to the commission and are restated in the attached "Summary: Analyses of Proposed Changes to Title 53: 53.09.100-170."

Committee of the Whole Review

At the Committee of the Whole meeting, the Lands and Resources Office provided an overview of the CBJ's land management plan, reviewed how Title 53 applies to the land management plan, and outlined the content and structure of an updated plan in light of the proposed Title 53 amendments.



CITY/BOROUGH OF JUNEAU
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Staff also suggested amendments to the draft ordinance in order to address concerns raised by the commission at its earlier meetings. Staff recommended the following revisions be made:

- 53.09.160(a)(7) pertaining to elements of the land management:

A statement of the major factors and assumptions which led to parcels being identified for long term disposal would be an element of the land management plan.

- 53.09.180(a)(3) addressing the contents of the new biennial status report:

The biennial status report should contain a description of planned land disposal activities for the next two years and an analysis of the Land Fund's ability to support those activities.

- 53.09.180 addressing the biennial status report:

A new section would require that the Planning Commission review the report, and after conducting a public hearing, transmit its recommendations to the Assembly.

Those modifications are included in the latest version of the draft Title 53 ordinance, an attachment to this memorandum. The attached ordinance also addresses 53.09.20 related to status maps and resource inventory. Because that section of the Code does not directly involve the Planning Commission, staff is not requesting the commission comment on it, only those sections pertaining to classification and the land management plan.

At the conclusion of its Committee of the Whole meeting, commissioners indicated they were satisfied with the changes and ready move the Title 53 amendments forward for a formal review at their next regularly scheduled meeting.

Recommendation

The Lands and Resources Office requests the Planning Commission provide a motion supporting the amendments proposed for 53.09.100-170, those sections of the Code pertaining to the classification of lands and the land management plan. With that support, staff will present the draft ordinance to the Assembly Lands Committee for review.

Attachments

Summary
Analyses of Proposed Changes to Title 53
53.09.100-170

Background

The purpose for conducting a review and rewrite of Title 53 includes:

- Removing outdated portions of the Code;
- Adding clarity;
- Revising the division's administrative processes to make them consistent with the Charter and like activities of other departments;
- Streamlining processes by delegating authority for some land transactions; and
- Modifying the structure of the land management plan and land disposal schedule, as prescribed in Title 53, to enable more efficient and timely updates.

The first section of Title 53, addressing how the CBJ acquires real property was previously amended, concluding in the adoption of Ordinance No. 2010-40. The most substantive changes to 53.09.010-53.09.170, pertaining to land classification and the land management plan are summarized below.

Article II: Classification System – 53.09.100-53.09.130

Description: 53.09.100-53.09.130 provides a system for classifying land owned by the CBJ according to the management intent for each parcel.

Proposed Action: We recommend deleting Article II, 53.09.100-53.09.130.

Analysis:

- The CBJ adopted the system of classifying its lands in 1983 at a time when its land holdings were rapidly expanding by thousands of acres as a result of the State's municipal land entitlement program. The classification process served as a framework for categorizing the newly acquired land according to broad land management goals. Larger parcels, sometimes encompassing several hundred acres, were often tagged with multiple classifications displaying the variety of planned or potential uses. Since that time, the CBJ Comprehensive Plan, expanded zoning coverage throughout the city and borough, and more recently the development of the Land Management Plan, and the Parks and Recreation Comprehensive Plan, all provide more specific guidance for the management of the CBJ's property.
- Classification has become a redundancy; its value eclipsed by the more comprehensive and detailed planning efforts.

Article III: Plan – 53.09.150-53.09.170

Description: 53.09.150-53.09.170 mandates the development of a land management plan, which provides a detailed land disposal schedule, all of which is updated at least every three years. The principles to guide the formulation of the plan and the contents of the plan are also specified.

Proposed Action: We recommend streamlining the review and updating of the land management plan by: (1) structuring the plan to be a document that serves as an inventory of CBJ lands with a long-range planning perspective, updated every ten years; and (2) separating out what is currently described as the “disposal schedule” and establishing instead a biennial report that focuses on near-term land disposals and acquisitions as well as provides an update on such activities since the previous report.

Analysis:

- The Code currently identifies the land disposal schedule as a subset of the land management plan. The Code prescribes that the land disposal schedule be based on a ten year planning horizon. It directs that the land management plan be updated at least every three years.
- Historically, the land management plan has been prepared in-house. The most recent plan was adopted in 1999. The updating of the land management plan has often been deferred as staff worked on other, high profile and time-sensitive projects.
- The concept behind the proposed Code change is to create a robust land management plan that serves both as a useful reference document and planning tool, addressing the broad policies and long range direction for the management of the CBJ’s lands. Designed as a document to guide the CBJ’s long-range interests, it would be updated every ten years.
- In contrast, the land disposal schedule would be part of a compact biennial report that would identify near term land disposals in context with the long range disposals described in the land management plan. Prepared and presented every two years, it would be a concise report designed to enable staff to provide timely updates. The anticipated result is a more efficient process that allows staff to be more nimble and responsive to the Assembly.

Presented by: The Manager
Introduced:
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2012-____

An Ordinance Amending the Land Management Code.

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 Code.

Section 2. Amendment of Chapter. Chapter 53.09 Management, is amended to read:
53.09.010 - Policy.

It is the policy of the City and Borough to manage its real property as a municipal resource and to use, retain and dispose of both improved and unimproved land to realize the maximum benefit of the municipality and its residents, including encouraging beneficial private economic activity and facilitating the provision of public services, guiding a rational growth pattern, preserving land for public and private use for present and future generations of City and Borough residents, meeting the need of City and Borough residents for private ownership, and stabilizing land values without making land available for purposes of speculation.

1 **53.09.015 – Authority.**

2 *The Lands and Resources Division shall have the authority to promulgate, pursuant to*
3 *CBJ 01.60, regulations to implement this title.*
4

5 **ARTICLE I. ~~STATUS MAPS AND RESOURCE INVENTORY~~**

6 **~~53.09.020 – Status maps and files.~~**

7
8 ~~(a) The manager shall prepare status maps upon which will be shown all City and~~
9 ~~Borough owned land and interests in land.~~

10 ~~— (b) Each parcel shall be assigned an identification number.~~

11 ~~— (c) The maps shall show as to each parcel the date acquired, method of acquisition, the~~
12 ~~grantee, the places the deed is recorded and filed, the approximate area, its classification, the~~
13 ~~serial number of the resolution establishing the classification, and the proposed disposal~~
14 ~~method and date if applicable.~~
15

16 **ARTICLE II. ~~CLASSIFICATION SYSTEM~~**

17 **~~53.09.100 – Classification definitions.~~**

18
19 ~~— (a) Land classified under this chapter shall be reserved and available for the uses set~~
20 ~~forth in this subsection and for similar or accessory uses thereto.~~

21 ~~(1) *Commercial/industrial* means and includes land which would be appropriately~~
22 ~~developed for commercial or industrial uses and land which, because of its~~
23 ~~location near major arterials, transportation or other facilities or certain~~
24 ~~natural resources, is most appropriately reserved for commercial or industrial~~
25 ~~development.~~

1 ~~(2) — *Public use* means and includes nondisposable lands which are presently~~
2 ~~appropriate for or which will be required in the future for one or more public~~
3 ~~uses, including recreation, education, public access, access to shorelines, public~~
4 ~~transportation, public facilities, open space, habitat protection and protection of~~
5 ~~environmentally sensitive lands.~~

6
7 ~~(3) — *Reserved use* means and includes lands which have not yet otherwise been~~
8 ~~classified or devoted to specific uses.~~

9 ~~(4) — *Residential* means and includes land which is connected to the road system, or~~
10 ~~is likely to be connected to the road system in the foreseeable future and which~~
11 ~~is reasonably developable for residential uses.~~

12 ~~(5) — *Residential recreational* means and includes land to which it is unlikely a~~
13 ~~connection to the road system will be provided in the foreseeable future but~~
14 ~~which nevertheless has a present potential for low density development for~~
15 ~~occasional residential recreational use.~~

16
17 ~~(6) — *Resource* means and includes land on or under which there are no known~~
18 ~~mineral or nonmineral deposits of commercial value, or upon which there are~~
19 ~~stands of commercial timber which either have now or will probably have~~
20 ~~commercial value when existing resources are depleted or when new population~~
21 ~~or commercial or industrial growth occurs or upon which it is believed present~~
22 ~~or future commercial deposits exist.~~

23 ~~— (b) — When a parcel is identified for a specific use for which it is to be reserved within its~~
24 ~~general classification, a subclassification setting forth the specific use shall be added to the~~
25 ~~general classification.~~

1 ~~—— (c) When a parcel should be used for more than one purpose, a multiple classification~~
2 ~~may be made with an identification of the priority use.~~

3 ~~—— (d) The classification of land under this chapter shall not control the use of the land~~
4 ~~after disposal; provided restrictions on use may be included in the conditions of sale or other~~
5 ~~conveyance document.~~

6
7
8 **~~53.09.110 Initial classification.~~**

9 ~~—— Unless classified by the City and Borough prior to receipt, all parcels of land exceeding~~
10 ~~five acres in size received by the City and Borough from any source which were not acquired~~
11 ~~for a specific use, are classified "reserved use," and may not be sold, leased, or otherwise~~
12 ~~transferred to a public agency or private party until placed in a classification other than~~
13 ~~reserved use. Reserved use classification shall not prohibit the granting of minor easements,~~
14 ~~rights of way, or use permits and similar lesser rights in such lands which will not adversely~~
15 ~~impact future uses of the land. To the extent practical, the City and Borough will avoid~~
16 ~~making specific classifications other than reserved use, or reclassifications out of the~~
17 ~~reserved use pool on a piecemeal basis and will attempt to integrate the classification process~~
18 ~~with the development of the land management program.~~

20
21 **~~53.09.120 Classification by planning commission.~~**

22 ~~—— (a) The planning commission shall classify each parcel of land exceeding five acres in~~
23 ~~size which is owned by the City and Borough. Prior to consideration of a classification or~~
24 ~~reclassification of land from reserved use, the planning commission shall first consider~~
25 ~~whether the land should be classified for a public use. The planning commission may classify~~

1 parcels of land selected by but not patented to the City and Borough. Different areas within a
2 parcel may be given different classifications.

3 ~~— (b) The planning commission shall take into account the comprehensive plan, actual~~
4 ~~growth patterns of the City and Borough, projections for future population growth,~~
5 ~~commercial, industrial and governmental activities and plans, geography, soil conditions,~~
6 ~~carrying capacity of the land, geophysical hazard areas, areas with special habitat values,~~
7 ~~existing public access routes, projected development pressures and patterns, the long term~~
8 ~~capital improvements program, resource inventories applicable to the parcels, private market~~
9 ~~demand for land suitable for specific uses, and plans for economic development, parks,~~
10 ~~recreation, drainage, and other plans adopted by the assembly, and other policies and~~
11 ~~information which are pertinent to the classification of the land.~~

12
13 ~~— (c) The planning department shall prepare for the planning commission a report on~~
14 ~~each parcel consisting of all information available on each parcel. The information shall~~
15 ~~include, but not be limited to, available plats, topographic maps, ground and aerial photos,~~
16 ~~soils and geological analyses, status of title, existing lawful and unlawful uses, specific or~~
17 ~~general references to the parcel in the comprehensive plan or any other plan adopted by the~~
18 ~~assembly, zoning, topography, development proposals received, resource inventory and~~
19 ~~analysis, land ownership and development pattern in the area, written comments and a~~
20 ~~summary of oral comments received during the planning commission hearing, correspondence~~
21 ~~from the manager, department heads and the school board, an estimate of the market value~~
22 ~~of the parcel if the proposed classification is other than public use, and such other information~~
23 ~~as may be pertinent to classifying the parcel.~~

24
25 ~~— (d) Prior to classifying any parcel, the planning commission shall solicit classification~~

1 recommendations from the director of public works, the director of parks and recreation, the
2 planning department, the manager, the assembly, and the school board.

3 ~~— (e) After proposing a classification, the planning commission shall hold at least one~~
4 ~~public hearing on its proposed classification. The hearing shall be preceded by at least 30~~
5 ~~days' public notice. After the hearing, the planning commission shall classify the property by~~
6 ~~resolution.~~

7
8 ~~— (f) If the planning commission determines that a parcel should be subdivided prior to~~
9 ~~disposal or use, it shall show the proposed boundaries and classifications for each new major~~
10 ~~parcel.~~

11 ~~— (g) The planning commission may make recommendations relating to the time parcels~~
12 ~~should be made available for disposal, conditions of disposal, and other recommendations~~
13 ~~relevant to disposal or use of the parcel.~~

14 ~~— (h) The planning commission, on its own motion, may change the classification of a~~
15 ~~parcel previously classified. The procedures set forth in this section for initial classification~~
16 ~~shall be followed for such reclassification.~~

17
18
19 **~~53.09.130 – Classification upon private request.~~**

20 ~~— (a) Upon the filing of a complete application by a private party requesting the~~
21 ~~classification or reclassification of one or more parcels, the planning commission shall~~
22 ~~consider and act on the request following the general procedures for an initial classification.~~

23 ~~— (b) The application shall contain an accurate description of the land, both the present~~
24 ~~and the requested classifications, a detailed explanation of the reasons for the requested~~
25 ~~classification, including any development proposals of the applicant, and shall be~~

1 accompanied by a base fee of \$150.00 plus a fee equal to the estimated cost of advertising and
2 other public notice. The base fee shall be adjusted by the manager from time to time to keep
3 pace with the increase or decrease in the cost of municipal services generally.
4

5 ARTICLE III. - PLAN

6 7 53.09.150 - Land management plan.

8 (a) The planning commission shall ~~draft and~~ recommend to the assembly a land
9 management plan for ~~all parcels classified other than reserved use City and Borough lands.~~
10 The plan shall address the retention, use, disposal, development, and subdivision of City and
11 Borough land and selected land and the acquisition of private lands for public purposes. *The*
12 *plan may be developed and adopted in stages. The plan shall identify the management intent*
13 *for each parcel of City and Borough land.* Prior to adoption of its recommendation, the
14 planning commission shall hold a public hearing on the draft plan. ~~The plan may be~~
15 ~~recommended in stages as long as each stage deals with all property of a particular~~
16 ~~classification, all property in a geographic area, all property to be disposed of within a certain~~
17 ~~time frame, or some other logical division which can be integrated with the stages of the plan.~~
18

19 (b) The commission shall recommend changes in the land management plan as
20 necessary.

21 (c) When developing a recommended land management plan or a change to the plan,
22 the planning commission shall be guided by the following principles:

- 23 (1) Multiple use should be encouraged;
- 24 (2) Use of land for natural resource extraction or removal should be consistent with
- 25 future use of the land;

- 1 (3) A sound local economy will be promoted;
- 2 (4) Development will be encouraged in areas where public services already exist or
- 3 can be economically extended or where development of a viable economic base
- 4 is probable;
- 5 (5) A significant quantity of land of a variety of types and locations should be
- 6 reserved to provide an opportunity for future decisions; adequate lands for
- 7 public development and public use, including recreational beaches with
- 8 appropriate uplands, should be reserved;
- 9 (6) Tidelands should be leased only for specific water-dependent and water-related
- 10 uses and not sold;
- 11 (7) Wetlands should be leased only for specific uses and not sold;
- 12 (8) Land should not be made available for residential, commercial, or industrial
- 13 development in areas that have significant landslide, avalanche, or floodplain
- 14 hazards unless the development proposal includes adequate mitigation
- 15 measures to prevent loss of life and property;
- 16 (9) Land should be made available to encourage a variety of housing opportunities
- 17 to meet the needs of residents;
- 18 (10) The region's scenic, environmental, and economically valuable natural
- 19 resources should be protected from the adverse impacts of urban development;
- 20 (11) Conflicts between residential and other land uses should be minimized;
- 21 (12) Land should be set aside for the necessary provision of transportation, public
- 22 facilities, and services;
- 23
- 24
- 25

1 (13) Lands and shoreline that possess recreational, scenic, wildlife, and other
2 environmental qualities should be preserved as open space.

3 (d) In developing its recommended plan ~~to implement the policies~~ *in light of the*
4 *principles* outlined in this section, the planning commission should consider, but without
5 limitation, the following *factors*:

- 6 (1) The supply of publicly owned lands to meet public needs;
7
8 (2) The supply of privately owned lands to meet the private- sector needs of the
9 community;
10 (3) The need of public agencies and the private sector for natural resources;
11 (4) ~~The classification of the land~~ *[Reserved]*;
12 (5) The comprehensive plan, the long term capital improvements program, and
13 other plans adopted by the assembly;
14 (6) Restrictions created by written instruments, zoning, and state and federal
15 regulations;
16 (7) Physical, economic, resource, population and social factors affecting the area
17 under consideration;
18 (8) Comments of the general public, affected landowners, state and federal
19 agencies, and local advisory groups;
20 (9) Ownership patterns and the disposal and development plans of private
21 landowners and state and federal agencies;
22
23 (10) The development and growth patterns and potentials of different areas of the
24 City and Borough;
25 (11) ~~Information available in the land resource inventory files~~ *[Reserved]*;

- 1 (12) The availability of municipal funds to subdivide or develop lands to facilitate
2 disposal for private development and use;
3
4 (13) The requirements of public access to and along public and navigable bodies of
5 water and the need to reserve public transportation corridors and utility
6 corridors;
7
8 (14) Other matters which are relevant to a land use management program.

9 **53.09.160 - Contents of the plan.**

10 (a) The plan shall contain the following elements:

- 11 (1) ~~A proposed ten-year long term disposal schedule identifying indicating, for the~~
12 ~~first five years of the plan, the parcels which should be transferred to private~~
13 ~~ownership and the calendar year during which and the method by which the~~
14 ~~parcels should be transferred; for the following five years, the parcels which~~
15 ~~parcels should be transferred to private ownership during that five-year period;~~
16
17 (2) ~~A schedule of subdivision activity required of the City and Borough in order to~~
18 ~~meet the disposal schedule for the next five years [Reserved];~~
19
20 (3) ~~A schedule for the development of municipal lands, including resource~~
21 ~~extraction and removal [Reserved];~~
22
23 (4) ~~A cash flow analysis of the land fund for at least five years following the~~
24 ~~adoption of the plan or revision of the current five year disposal period of the~~
25 ~~plan, predicated upon the disposal and development schedules of the plan~~
~~[Reserved];~~
(5) ~~A list of P~~proposed land acquisitions;

1 (6) A listing of ~~those lands~~ parcels to be retained for public use *and the intended*
2 *management description for each;*

3 (7) A statement of the major factors and assumptions which led to the parcels
4 *identified for long term disposal;* ~~A statement of the major factors and~~
5 ~~assumptions which led to the proposed disposal schedules retentions and~~
6 ~~acquisitions.~~

7
8 (8) A description of infrastructure development required of the City and Borough in
9 *order to support the long term disposal schedule.*

10 (b) The plan shall be reviewed by the planning commission if a major unanticipated
11 development affecting basic assumptions occurs and in any case at least every ~~three~~ ten years.
12 After a public hearing on the plan ~~or change of the plan~~, the commission may adopt or modify
13 *the proposed plan* ~~its proposal~~ and shall transmit its recommendations to the assembly.
14

15 **53.09.170 - Assembly action on plan.**

16
17 Upon receipt of a *proposed* land management plan ~~or a change~~ recommended by the
18 planning commission, the assembly shall consider the plan. ~~or change and may adopt the plan~~
19 ~~or change only after it conducts a public hearing on the matter after not less than six weeks'~~
20 ~~public notice.~~ The assembly may modify the plan ~~or change~~ and shall adopt ~~the plan or it~~
21 ~~change~~ by ~~resolution~~ ordinance.
22

23 **53.09.180 Biennial status report.**

24 (a) Biennially, the manager shall present to the Assembly a report on the status of City
25 *and Borough land disposals and acquisitions. The report shall include the following:*

- 1 (1) *A list of City and Borough lands that have been sold or otherwise conveyed out*
2 *of City and Borough ownership during the previous two years;*
3 (2) *Priorities for disposals for the next two years;*
4 (3) *A description of planned land disposal activities for the next two years and an*
5 *analysis of the Land Fund's ability to support those activities;*
6 (4) *A list of properties acquired by the City and Borough during the previous two*
7 *years; and*
8 (5) *A list of priorities for land acquisitions for the next two years.*

9
10 (b) *The Planning Commission shall review the report and, after conducting a public*
11 *hearing, shall transmit its recommendations to the Assembly.*

12 (c) *Upon review, the Assembly shall review and adopt the report, or modify and then*
13 *adopt the report by ordinance. The adopted report shall be a component of the land*
14 *management plan.*
15

16 **Section 3. Effective Date.** This ordinance shall be effective 30 days after its adoption.
17

18 Adopted this day of 2011.
19

20
21 _____
Bruce Botelho, Mayor

22 Attest:
23

24 _____
Laurie J. Sica, Clerk
25