

## **Resolution 14-005 Requesting the Alaska Legislature Amend Alaska Statute 16.20.590 Establishing the Kachemak Bay Critical Habitat Area by Changing the Critical Habitat Area Boundary to Exclude the City of Homer Port and Harbor**

**Resolution ID:** 14-005

**Resolution Status:** Adopted

**Resolution Effective Date:** Mon Jan 13th, 2014

**Resolution Summary:**

A Resolution of The City Council of Homer, Alaska, Requesting That the Alaska Legislature Amend Alaska Statute 16.20.590 Establishing the Kachemak Bay Critical Habitat Area by Changing the Critical Habitat Area Boundary to Exclude the City of Homer Port and Harbor and Municipal Lands Immediately Adjacent to Port Facilities Necessary for Port Operations, and Make the Statute Consistent With the Stated Intent of the Critical Habitat Area Management Plan. Mayor/Council.

CITY OF HOMER

HOMER, ALASKA

Mayor/Council

RESOLUTION 14-005

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, REQUESTING THAT THE ALASKA LEGISLATURE AMEND ALASKA STATUTE 16.20.590 ESTABLISHING THE KACHEMAK BAY CRITICAL HABITAT AREA BY CHANGING THE CRITICAL HABITAT AREA BOUNDARY TO EXCLUDE THE CITY OF HOMER PORT AND HARBOR AND MUNICIPAL LANDS IMMEDIATELY ADJACENT TO PORT FACILITIES NECESSARY FOR PORT OPERATIONS, AND MAKE THE STATUTE CONSISTENT WITH THE STATED INTENT OF THE CRITICAL HABITAT AREA MANAGEMENT PLAN.

WHEREAS, AS 16.20.590 creates the Kachemak Bay Critical Habitat Area and establishes its boundaries; and

WHEREAS, The established boundaries include and encompass the City of Homer Port and Harbor including municipal tide and submerged lands within the harbor basin and adjacent to the dock and port facilities; and

WHEREAS, The introduction chapter of the Kachemak Bay and Fox River Critical Habitat Areas Management Plan specifically states that “the plan does not apply to federal or municipal lands within the critical habitat areas”; and

WHEREAS, There is additional correspondence available in the record which indicates that the drafters of the Critical Habitat Management Plan did not intend to include the Homer Port and Harbor within the Critical Habitat Area Boundaries; and

WHEREAS, The apparent conflict between the Statute and the Critical Habitat Management Plan with respect to the Homer Port and Harbor has created legal ambiguity about both the enforceability of the municipal lands exemption provision in the Plan and the Department of Fish and Game's ability to permit certain legitimate activities at the port; most notably oil and gas drill rigs attempting to dock for the purpose of maintenance and repair; and

WHEREAS, The Critical Habitat Management Plan states that any vessel that drops an anchor or moors at a dock for more than 14 days, must obtain a permit from the Alaska Department of Fish and Game; a requirement that is inefficient and clearly impractical for a large municipal port and harbor facility; and

WHEREAS, Because the port and harbor is within the Critical Habitat Area boundaries, the City has experienced costly and time consuming permitting hurdles for construction projects, even when those projects comprised replacing and repairing existing infrastructure; and

WHEREAS, There is a compelling public interest in bringing the statute into alignment with the Critical Habitat Area Management Plan and the intent of its drafters because it will eliminate legal uncertainty, clarify the permitting process, stimulate the local economy, and enhance marine safety and environmental protection; and

WHEREAS, The proposed boundary change would serve to improve environmental protection in Kachemak Bay and the Lower Cook Inlet because oil and gas drilling rigs in particular would have a safe and secure place to dock for maintenance, repair, and emergencies services; and

WHEREAS, Homer has the only year-around ice free, deep water port on Cook Inlet, has been designated as a Port of Refuge by the U.S. Coast Guard, and has the resources and assets required to improve marine safety, enhance environmental protection, and respond to emergencies at sea; and

WHEREAS, The City of Homer has a deep appreciation for the Kachemak Bay Critical Habitat Area designation and the adopted Management Plan because it protects the resources which provide the very foundation of the local economy, lifestyle, and quality of life; and

WHEREAS, The Amendments to the Critical Habitat Area boundary proposed by the City are very limited and intended solely to remove the port and harbor and municipal lands immediately adjacent from the Critical Habitat Area; and

WHEREAS, If the Homer Port and Harbor is removed from the Critical Habitat Area, activities there remain subject to all applicable state and federal statutes and regulations governing ports and activities in marine waters; and

WHEREAS, The City stipulates that it does not propose or support any other amendments to the Kachemak Bay Critical Habitat Area or Plan as part of this request.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby requests that the Alaska Legislature amend Alaska Statute 16.20.590 establishing the Kachemak Bay Critical Habitat Area by changing the critical habitat area boundaries to exclude the City of Homer Port and Harbor and municipal lands immediately adjacent to port facilities necessary for port operations, and make the statute consistent with the stated intent of the Critical Habitat Area Management Plan.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 13th day of January, 2014.

CITY OF HOMER

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MARY E. WYTHE, MAYOR

ATTEST:

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JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

Resolution Files  [Resolution 14-005](#)

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