

*Mayor's Veto
upheld June 12, 1995
memo 95-186*

CITY OF HOMER
HOMER, ALASKA

ORDINANCE 95 - 13 (A)

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING TITLE 21, ZONING AND PLANNING, INCLUDING, BUT NOT LIMITED TO USES RELATING TO DAY CARE FACILITY; DAY CARE HOME; FACTORY BUILT DWELLING; GROUP CARE HOME; HOTEL; MOBILE HOMES; AND ROOMINGHOUSES

BE IT ORDAINED BY THE HOMER CITY COUNCIL:

Section 1. HCC 21.32.050 is repealed in its entirety and reenacted as Section 21.32.432 as follows:

21.32.432 Beardinghouse Roominghouse.
"Beardinghouse" "Roominghouse" means a dwelling containing not more than five guest rooms which are used, rented or hired out to be occupied for sleeping purposes by guests. A beardinghouse roominghouse shall not accommodate in excess of fifteen guests. A roominghouse shall also include any structures associated with the dwelling, such as guest cabins, provided that a conditional use permit was obtained for any associated structures, if a permit is required in order to have more than one building containing a permitted principal use on the lot.

The intent of this Section 1 is to clarify that a roominghouse must be located in conjunction with a dwelling. For example, a five-bedroom single-family dwelling in which rooms are rented (whether long or short term) is a roominghouse. Likewise, a roominghouse includes a single-family dwelling with a guest cabin that is made available for rental, provided that a conditional use permit was obtained to build the cabin and that the cabin accommodates fifteen or fewer guests. In contrast, a roominghouse cannot be located in conjunction with a building in which there are no cooking facilities because the building would not be a "dwelling." The definition of roominghouse encompasses both short- and long-term rental of guest rooms, in contrast to the definition of hotel and motel.

Section 2. HCC 21.32.135 is repealed in its entirety and reenacted as follows:

21.32.135 Condominium. "Condominium" means a single dwelling unit in a multiple-family dwelling, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

Section 3. HCC 21.32.145 is repealed in its entirety and reenacted as follows:

21.32.145 Day care facility. "Day care facility" means any establishment for the care of children, whether or not for compensation, excluding day care homes and schools. Such day care facility must also be duly licensed by the State, if so required by State law or regulation.

Section 4. HCC 21.32.146 is repealed in its entirety and reenacted as follows:

21.32.146 Day care home. "Day care home" means a dwelling unit of a person(s) who regularly provides care, whether or not for compensation, during part of the 24-hour day to ~~six~~ eight or less children at any one time, not including adult members of the family residing in the dwelling. Such day care home must also be duly licensed by the State, if so required by State law or regulation. A day care home may provide care for the entire 24-hour day on a temporary basis if permitted to do so by State law, regulation or permit. The term "day care home" is not intended to include baby-sitting services of a casual, nonrecurring nature, child care provided in the child's own home, or cooperative, reciprocating child care by a group of parents in their respective dwellings. Child care providers should note that a person caring for two or more children unrelated to that person may be subject to State licensing requirements, and that State laws and regulations may restrict the number of unrelated children receiving care to less than eight, whether or not a license is required.

The intent of this Section 4 is: (1) to clarify that a day care home is incidental to the primary use of a dwelling for residential purposes; (2) to allow a child care provider to provide full-time care on a temporary basis (for example, when a parent is away due to business or illness); provided, that such full-time care is permitted under State law, regulation, or a temporary permit issued by the Department of Youth and Family Services; and (3) to clarify that a child care provider who cares for children in the children's residence is not operating a day care home for purposes of the zoning code.

Section 5. HCC 21.32.152 is repealed in its entirety and reenacted as HCC 21.32.155 as follows:

21.32.155 Dwelling. "Dwelling" or "dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one family.

Section 6. HCC 21.32.170 is repealed in its entirety and reenacted as HCC 21.32.160 as follows:

21.32.160 Duplex dwelling. "Duplex dwelling" means a building designed or arranged to be occupied by two families living independently, the structure having only two dwelling units.

Section 7. HCC 21.32.153 is repealed in its entirety and reenacted as HCC 21.32.165 as follows:

21.32.165 Factory built dwelling. "Factory built dwelling" means a structure containing one or more dwelling units built off-site, other than a manufactured home, which: (1) is designed only for erection or installation on a site-built permanent foundation; (2) is not designed to be moved once so erected or installed; and (3) is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing.

Section 8. HCC 21.32.160 is repealed in its entirety and reenacted as HCC 21.32.170 as follows:

21.32.170 Multiple-family dwelling. "Multiple-family dwelling" means a building or a portion thereof designed for occupancy by three or more families living independently in separate dwelling units which may or may not share common entrances and/or other spaces.

Section 9. HCC 21.32.165 is repealed in its entirety and reenacted as HCC 21.32.175 as follows:

21.32.175 Single Family dwelling. "Single family dwelling" means a detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

Section 10. HCC 21.32.190 is repealed in its entirety and reenacted as HCC 21.32.190 as follows:

21.32.190 Family. "Family" means an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit in a dwelling unit.

Section 11. HCC 21.32.225 is repealed in its entirety and reenacted as follows:

21.32.225 Group care home. "Group care home" means a facility, required to be licensed by the State, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes or those suffering the effects of drugs or alcohol. The term "group care home" is not intended to include day-care homes, day care facilities, foster homes, schools, hospitals, jails or prisons.

Section 12. HCC 21.32.245 is repealed in its entirety and reenacted as follows:

21.32.245 Hotel or motel. "Hotel" or "motel" means any building, portion of a building, or group of buildings containing six or more guest rooms which are used, rented or hired out to be occupied for sleeping purposes by guests. "Hotel" or "motel" also means any building, portion of a building, or group of buildings containing five or less guest rooms which are used, rented or hired out to be occupied for sleeping purposes by more than fifteen guests. The term "hotel" or "motel" is not intended to include single, duplex or multiple family dwellings, or portions thereof that are rented for periods of one month or more.

The intent of this Section 12 is to clarify that short-term (i.e., of less than one month) of six or more guest room constitutes a hotel, regardless whether the six rooms are located in one dwelling, or in six separate buildings. For example, if the owner of a triplex in which each unit has two guest rooms is operating a hotel if each of the units is available for short-term rental. If two units are available for short-term rental, and one unit is made available only for long-term rental, the triplex is not a hotel. The intent of the Section 12 is also to clarify that a small number of rooms used to accommodate a large number of people is a hotel. For example, a youth hostel with two large guest rooms, each of which accommodates eight people, is a hotel.

Section 13. HCC 21.32.325 is repealed in its entirety and reenacted as follows:

21.32.325 Mobile home; manufactured home. "Mobile home" or "manufactured home" means a structure, transportable in one or more sections: (1) which in the traveling mode is 8 feet or more in width or 40 feet or more in length, or when erected on site is 320 square feet or more; and (2) which is built on a permanent chassis and is designed for use as a dwelling with or without a

permanent foundation when the plumbing, heating, and electrical systems contained therein are connected to the required utilities. A mobile home shall be construed to remain a mobile home whether or not wheels, axles, hitch or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a recreational vehicle or a factory built dwelling.

Section 14. HCC 21.32.330 is repealed in its entirety and reenacted as follows:

21.32.330 Mobile home park. "Mobile home park" means a parcel of land developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.

Section 15. HCC 21.32.415 is repealed in its entirety and reenacted as follows:

21.32.415 Recreational vehicle. "Recreational vehicle" is a vehicular unit, other than a manufactured home, whose gross floor area is less than 320 square feet, which is designed as temporary lodging for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, and fifth-wheel trailer.

Section 16. The following sections are hereby repealed in their entirety:

HCC 32.32.050	Boardinghouse
HCC 21.32.155	Dwelling groups
HCC 21.32.175	Dwelling unit
HCC 21.32.335	Motel
HCC 21.32.350	Nursing home
HCC 21.32.525	Trailer
HCC 21.32.530	Trailer court, camp, park or lot; and
HCC 21.32.532	Travel trailer

Section 17. HCC 21.44.020(e) is amended as follows:

e. ~~Boardinghouses~~ Roominghouses

Section 18. HCC 21.45.020(g) is amended as follows:

g. ~~Boardinghouses~~ Roominghouses

Section 19. HCC 21.47.020(d) is amended as follows:

d. ~~Boardinghouses~~ Roominghouses

Section 20. HCC 21.47.020(h) which allows group care homes as a permitted use in the Residential Office District, is repealed in its entirety.

Section 21. HCC 21.47.030 is amended by adding subsection i. as follows, the intent being to allow group care homes as a conditional use in the Residential Office District:

i. Group care homes.

Section 22. HCC 21.48.020 is amended by adding subsection ii. as follows, the intent being to allow day care homes as a permitted use in the Central Business District:

ii. Day care homes.

Section 23. HCC 21.48.020 is amended by adding subsection jj. as follows, the intent being to allow roominghouses as a permitted use in the Central Business District:

jj. Roominghouses.

Section 24. HCC 21.48.030 is amended by adding subsection m. as follows, the intent being to allow group care homes as a conditional use in the Central Business District:

m. Group care homes.

Section 25. HCC 21.49.020 is amended by adding subsection 39. as follows, the intent being to allow day care homes as a permitted use in the General Commercial 1 District, provided that a conditional use permit was obtained for the dwelling, if required:

39. Day care homes, provided that a conditional use permit was obtained for the dwelling, if required by 21.49.030.

Section 26. HCC 21.49.020 is amended by adding subsection 40. as follows, the intent being to allow roominghouses as a permitted use in the General Commercial I District:

40. Roominghouses.

Section 27. HCC 21.49.030 is amended by adding subsection 1. as follows, the intent being to allow day care facilities as a conditional use in the General Commercial 1 District:

1. Day care facilities.

Section 28. HCC 21.49.030 is amended by adding subsection m. as follows, the intent being to allow group care homes as a conditional use in the General Commercial 1 District:

m. Group care homes

Section 29. HCC 21.50.020 is amended by adding subsection z. as follows, the intent being to allow hotels and motels as a permitted use in the General Commercial 2 District:

z. Hotels and motels.

Section 30. HCC 21.50.030 is amended by adding subsection o. as follows, the intent being to allow day care facilities as a conditional use in the General Commercial 2 District:

o. Day care facilities.

Section 31. HCC 21.50.030 is amended by adding subsection p. as follows, the intent being to allow group care homes as a conditional use in the General Commercial 2 District.

p. Group care homes.

Section 32. HCC 21.61.080, subsections g. 2. and g. 3. are repealed and HCC 21.61.080 g.4. is renumbered as HCC 21.61.080 g.2.

The intent of this Section 28 is to eliminate an incorrect reference to the Alaska Statutes HCC 21.61.080 g. 2. requires mobile homes in mobile home parks to meet State standards for mobile home construction as set forth in Title 45, Chapter 30, of the Alaska Statutes. Title 45, Chapter 30, of the Alaska Statutes establishes remedies for purchasers of mobile homes with respect to mobile home dealers, but does not set standards for mobile home construction. HCC 21.61.080 g. 3. requires mobile homes in mobile home parks to be at least 450 square feet. The revised definition of mobile home in Section 13 of this Ordinance provides that mobile homes may be as small as 320 square feet, and the City does not wish to require mobile homes in parks to be larger than those permitted on individual lots.

Section 33. HCC 21.44.020 n. is amended to read as follows:

Mobile homes, subject to the requirements set forth in HCC 21.61.080 g. 1. and g. 2.

Section 34. HCC 21.48.020 p. is amended to read as follows:

Mobile homes, subject to the requirements set forth in HCC 21.61.080 g. 1. and g. 2.

Section 35. HCC 21.48.030 h. is revised to allow Day Care Facilities as a permitted use.

The intent of Sections 33 and 34 of this Ordinance is to revise HCC 21.44.020 n., which governs the placement of mobile homes in the Central Business District, to reflect the changes made to HCC 21.61.080 G. in Section 32 above.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA,
this 22nd day of May, 1995.

CITY OF HOMER

Harry E. Gregoire, Mayor

ATTEST:

Mary L. Calhoun, City Clerk

AYES: 6
NOES: 0
ABSTAIN: 0
ABSENT: 0

First Reading: 04-24-95
Public Hearing: 05-08-95
Second Reading: 05-22-95
Effective Date: 05-23-95

Reviewed and approved as to form and content:

Patti J. Whalin
City Manager

Gordon J. Tans
City Attorney

c:hcdamnd