

**MEMORANDUM** 13-061

**TO: JO JOHNSON  
CITY CLERK  
CITY OF HOMER**

**FROM: THOMAS F. KLINKNER**

**RE: REPUBLICATION OF CITY CODE**

**FILE NO.: 506,742.101**

**DATE: MAY 3, 2013**

---

I have prepared a draft ordinance that makes technical corrections to the City Code in anticipation of its republication. The ordinance is based on the recommendations in the legal review by Code Publishing. Since the ordinance is presented as a set of technical corrections to the Code, I have avoided amendments that make any significant substantive change, although the legal review recommended several of such changes. The following memorandum addresses each item in the legal review, indicating where the recommended change appears in the ordinance, or explaining why the ordinance does not include the recommended change.

**1. Animals and the Infraction System.** I agree that an overhaul of the penalty structure in Title 20 is in order. We have begun the process of establishing a bail forfeiture schedule for violations of the City Code in HCC 1.16.040, and most animal violations should be incorporated in that schedule. However, this is a larger, stand-alone project that should include the re-examination of penalty amounts to determine whether they are consistent with current animal regulation policy. Therefore, the ordinance does not address this recommendation.

**2. Zoning Code and Level One Site Development Standards.** HCC 21.95.040 and 21.95.060 respectively require that the Planning Department and Planning Commission review all amendments to the Zoning Code. The schedule for adopting this ordinance does not allow for Planning Department or Planning Commission review. Therefore, I recommend deferring all recommended amendments to the Zoning Code to a separate ordinance that will be subject to Planning Department and Planning Commission review.

**3. Adoption by Reference.** As this recommendation involves the Zoning Code, it is subject to my response under 2, above.

4. **HCC 1.70.010 and 1.70.020.** On the assumption that five is the correct number of members of the Public Arts Committee, Sections 2 and 3 of the ordinance amend HCC 1.70.010(a) and HCC 1.70.020(a) respectively as recommended in the legal review.
5. **HCC 3.01.025.** I need clarification from the Finance Department regarding how HCC 3.01.025 should read. Based on that clarification, I will insert the required amendment in Section 4 of the ordinance.
6. **HCC 3.05.005.** Section 5 of the ordinance amends HCC 3.05.005 as recommended in the legal review.
7. **HCC 3.16.080.** The recommended change appears to be an editorial matter that does not require a code amendment.
8. **HCC 5.16.100.** Section 6 of the ordinance amends this section to limit the civil penalty for a subsequent offense within two years to the statutory maximum of \$1,000 per day.
9. **HCC 5.38.060.** Section 7 of the ordinance repeals this section, and Section 1 of the ordinance adds penalties for violating HCC 5.38.010 to the bail forfeiture schedule in HCC 1.16.040.
10. **HCC 6.08.010.** Section 8 of the ordinance amends HCC 6.08.010 as recommended in the legal review.
11. **HCC 6.12.010.** Sections 9 and 10 of the ordinance amend HCC 6.12.010 as recommended in the legal review.
12. **HCC 6.12.020.** With the amendments to HCC 6.12.010 in Sections 9 and 10 of the ordinance, there is no need to amend HCC 6.12.020.
13. **HCC 7.04.023.** Section 11 of the ordinance amends HCC 7.04.023 as recommended in the legal review, and also updates the statutory authority for adopting the state bail forfeiture schedule.
14. **HCC 7.06.100.** Section 12 of the ordinance deletes the footnote to HCC 7.06.100 as recommended in the legal review.
15. **HCC 7.08.020.** Section 13 of the ordinance adopts HCC 21.03.040 as the source of the definition of the term "arterial" as used in HCC 7.08.020.
16. **HCC 7.08.060.** Section 14 of the ordinance corrects the erroneous reference to state regulations in HCC 7.08.060 that is identified in the legal review, and makes other grammatical changes.
17. **HCC 7.20.030.** Section 15 of the ordinance amends HCC 7.20.030 as recommended in the legal review.

18. **HCC Chapter 8.04.** Section 16 of the ordinance corrects statutory references in the footnote to HCC Chapter 8.04 as recommended in the legal review, and makes other statutory reference corrections.
19. **HCC 8.08.040.** The issue of the fee for a transient merchant's license is one of policy that should be addressed in a separate ordinance.
20. **HCC 8.11.010.** Section 17 of the ordinance amends HCC 8.11.010 to add a reference to 18 AAC 31.600, et seq. as recommended in the legal review.
21. **HCC 8.11.050.** The issue of the fee for a mobile food service license is one of policy that should be addressed in a separate ordinance.
22. **HCC 9.16.100.** Section 18 of the ordinance amends HCC 9.16.100 as recommended in the legal review.
23. **HCC 11.04.030(h) and (k), 11.04.058 and 11.20.030.** I am waiting for an answer from the Public Works Department to my question regarding the correctness of the references to documents in HCC 11.04.030(h) and (k), 11.04.058 and 11.20.030(f).
24. **HCC 11.04.030(q).** The reference in HCC 11.04.030(q) to the 2004 Non-Motorized Transportation and Trail Plan is correct.
25. **HCC 11.12.010.** The reference in HCC 11.12.010 to the 1975 street and house numbering plan is correct.
26. **HCC Title 13.** I recommend that the Public Works Department review the sources for material standards in this title and will incorporate any recommended changes in a separate ordinance.
27. **HCC 14.04.020.** Section 19 of the ordinance amends HCC 14.04.020 as recommended in the legal review.
28. **HCC 14.05.115.** HCC 14.05.115 should be changed as recommended in the legal review. This is an editorial matter that does not require a code amendment.
29. **HCC 14.05.215.** Section 20 of the ordinance amends HCC 14.05.215 as recommended in the legal review.
30. **HCC 14.05.220.** Section 21 of the ordinance amends HCC 14.05.220 as recommended in the legal review.
31. **HCC 14.05.315.** HCC 14.05.315 should be changed as recommended in the legal review. This is an editorial matter that does not require a code amendment.
32. **HCC Title 17.** I agree with the treatment of HCC Chapter 17.04 that the legal review recommends. This is an editorial matter that does not require a code

amendment. Also, it should be noted that HCC Chapter 17.08 was repealed by Ordinance 13-03(S)(2).

**33. HCC 18.20.010.** Section 22 of the ordinance amends HCC 18.20.010 in response to the recommendation of the legal review.

**34. HCC 18.28.080.** Section 23 of the ordinance repeals HCC 18.28.080 as recommended in the legal review.

**35. HCC Chapter 19.08.** Section 24 of the ordinance deletes the footnote to HCC Chapter 19.08 as recommended in the legal review.

**36. HCC 19.08.070.** I agree with the recommendation of the legal review that HCC 19.08.070(b) should be reexamined for enforceability. However, the issue of an alternative criterion for excessive noise is one of policy that should be addressed in a separate ordinance.

**37. HCC 20.08.030(a).** I agree with the recommendation of the legal review that HCC 20.08.030(a) should be reexamined for enforceability. However, the issue of an alternative criterion for nuisance animals is one of policy that should be addressed in a separate ordinance.

**38. HCC 20.08.030(b).** Section 25 of the ordinance amends HCC 20.08.030(b) as recommended in the legal review.

**39. HCC Title 21.** As noted under 2 above, HCC 21.95.040 and 21.95.060 respectively require that the Planning Department and Planning Commission review all amendments to the Zoning Code. The schedule for adopting this ordinance does not allow for Planning Department or Planning Commission review. Therefore, I recommend deferring all recommended amendments to the Zoning Code to a separate ordinance that will be subject to Planning Department and Planning Commission review.

**40. HCC 22.10.030.** The reference in HCC 22.10.030 to the 2004 Non-Motorized Transportation and Trail Plan is correct.

**41. HCC 22.10.055.** Sections 26 and 27 of the ordinance amend HCC 22.10.055(b) and (c) respectively as recommended in the legal review.

**42. Penalty Reference Guide.** The legal review provides a helpful reference for reviewing penalties for Code violations, many of which should be incorporated in the bail forfeiture schedule in HCC 1.16.040. However, any revision to penalties for Code violations is an issue of policy that should be addressed in a separate ordinance

TFK/TFK

cc: Walt Wrede