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**CITY OF HOMER  
HOMER, ALASKA**

Mayor

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**ORDINANCE 16-04(A)(S-2)(A)**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING **HOMER CITY CODE 21.12, RURAL RESIDENTIAL;** HOMER CITY CODE 21.18, CENTRAL BUSINESS DISTRICT; HOMER CITY CODE 21.24, GENERAL COMMERCIAL 1; HOMER CITY CODE 21.26, GENERAL COMMERCIAL 2; HOMER CITY CODE 21.27, EAST END MIXED USE; HOMER CITY CODE 21.40 TO IDENTIFY THE ZONING DISTRICTS PERMITTING MARIJUANA FACILITIES AND ADOPTING CHAPTER 21.62 ENTITLED "MARIJUANA FACILITIES" REGARDING GENERAL LAND USE REQUIREMENTS FOR MARIJUANA CULTIVATION, MANUFACTURING, TESTING, AND RETAIL FACILITIES **TO BE EFFECTIVE ONLY UPON CERTIFICATION OF A MAJORITY VOTE REJECTING 16-07 THE PROPOSITION TO PROHIBIT MARIJUANA ESTABLISHMENTS IN THE CITY AT THE GENERAL ELECTION TO BE HELD IN THE CITY ON OCTOBER 4, 2016. A SPECIAL ELECTION TO BE HELD IN THE CITY ON APRIL 19, 2016.**

WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding the use of property within the City to cultivate, manufacturer marijuana or to operate a retail store selling marijuana; ~~and~~ **and the proposition to prohibit marijuana establishments in the city at the special election to be held on April 19, 2016; and**

WHEREAS, The City is dedicated to drafting regulations that prevent the distribution of marijuana to minors; prevents revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; prevents the diversion of marijuana from states where it is legal under state law in some form to other states; prevents state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; prevents violence and the use of firearms in the cultivation and distribution of marijuana; prevents drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; prevents the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public land; and prevents marijuana possession or use on federal property.

39 THE CITY OF HOMER ORDAINS:

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41 Section 1. Homer City Code Chapter 21.12 is amended as follows

42  
43 Section 21.12.020 Permitted uses and structures.

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[**Bold and underlined added**. Deleted language stricken through.]

45 The following uses are permitted outright in the Rural Residential District:

- 46
- 47 a. Single-family dwelling;
- 48 b. Duplex dwelling;
- 49 c. Multiple-family dwelling, only if the structure conforms to HCC
- 50 21.14.040(a)(2);
- 51 d. Public parks and playgrounds;
- 52 e. Rooming house, bed and breakfast and hostel;
- 53 f. Home occupations, provided they conform to the requirements of
- 54 HCC 21.51.010;
- 55 g. Agricultural activities, including general farming, truck farming,
- 56 livestock farming, nurseries, and greenhouses; provided, that:
- 57 1. Other than normal household pets, no poultry or livestock
- 58 may be housed and no fenced runs may be located within 100
- 59 feet of any residence other than the dwelling on the same lot;
- 60 2. No retail or wholesale business sales office is maintained on
- 61 the premises;
- 62 h. Private stables;
- 63 i. Private floatplane tie-down as an accessory use incidental to
- 64 residential use;
- 65 j. Storage of personal commercial fishing gear in a safe and orderly
- 66 manner and separated by at least five feet from any property line as an
- 67 accessory use incidental to residential use;
- 68 k. As an accessory use incidental to residential use, the private outdoor
- 69 storage of noncommercial equipment, including noncommercial
- 70 trucks, boats, and not more than one recreational vehicle in a safe and
- 71 orderly manner and separated by at least five feet from any property
- 72 line, provided no stored equipment, boat or vehicle exceeds 36 feet in
- 73 length;
- 74 l. Other customary accessory uses incidental to any of the permitted
- 75 uses listed in the RR district; provided, that no separate permit shall be
- 76 issued for the construction of any detached accessory building prior to
- 77 that of the main building;
- 78 m. Temporary (seasonal) roadside stands for the sale of produce grown
- 79 on the premises;
- 80 n. Mobile homes, subject to the requirements of HCC 21.54.100;
- 81 o. Day care homes; provided, however, that outdoor play areas must be
- 82 fenced;
- 83 p. Recreational vehicles, subject to the requirements of HCC 21.54.320;
- 84 q. Open space, but not including outdoor recreational facilities
- 85 described in HCC 21.12.030;
- 86

87 r. As an accessory use, one small wind energy system per lot having a  
88 rated capacity not exceeding 10 kilowatts;

89 s. One detached dwelling unit, excluding mobile homes, as an  
90 accessory building to a principal single family dwelling on a lot serviced  
91 by City water and sewer services in compliance with HCC Title 14;

92 t. One detached dwelling unit, excluding mobile homes, as an accessory  
93 building to a principal single family dwelling on a lot that is over one  
94 acre and not serviced by City water and sewer services

95 **u. Limited marijuana cultivation facility as defined in state law**  
96 **subject to the following provisions:**

97 **1. The facility shall only be located on lots greater than**  
98 **20,000 square feet.**

99 **2. The facility shall comply with HCC 21.59, Off-site Impacts.**

100 **3. The facility shall be setback 50 feet from the lot line.**

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102 Section 2. Homer City Code Chapter 21.18 is amended as follows:

103 Section 21.18.020 Permitted uses and structures.  
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104 The following uses are permitted outright in the Central Business District,  
105 except when such use requires a conditional use permit by reason of size, traffic  
106 volumes, or other reasons set forth in this chapter:  
.....

107 a. Retail business where the principal activity is the sale of merchandise  
108 and incidental services in an enclosed building;  
.....

109 b. Personal service establishments;

110 c. Professional offices and general business offices;

111 d. Restaurants, clubs and drinking establishments that provide food or  
112 drink for consumption on the premises;

113 e. Parking lots and parking garages, in accordance with  
114 Chapter 21.55 HCC;

115 f. Hotels and motels;

116 g. Mortuaries;

117 h. Single-family, duplex, and multiple-family dwellings,  
118 including townhouses, but not including mobile homes;

119 i. Floatplane tie-up facilities and air charter services;

120 j. Parks;

121 k. Retail and wholesale sales of building supplies and materials, only if  
122 such use, including storage of materials, is wholly contained within one  
123 or more enclosed buildings;

**[Bold and underlined added. Deleted language stricken through.]**

- 124 l. Customary accessory uses to any of the permitted uses listed in the  
125 CBD district; provided, that a separate permit shall not be issued for the  
126 construction of any detached accessory building prior to that of  
127 the main building;
- 128 m. Mobile homes, provided they conform to the requirements set forth  
129 in HCC 21.54.100;
- 130 n. Home occupations, provided they conform to the requirements of  
131 HCC 21.51.010;
- 132 o. Ministorage;
- 133 p. Apartment units located in buildings primarily devoted to business or  
134 commercial uses;
- 135 q. Religious, cultural, and fraternal assembly;
- 136 r. Entertainment establishments;
- 137 s. Public, private and commercial schools;
- 138 t. Museums and libraries;
- 139 u. Studios;
- 140 v. Plumbing, heating and appliance service shops, only if such use,  
141 including the storage of materials, is wholly within an  
142 enclosed building;
- 143 w. Publishing, printing and bookbinding;
- 144 x. Recreational vehicle parks only if located south of the  
145 Sterling Highway (Homer Bypass) from Lake Street west to the  
146 boundary of the Central Business District abutting Webber Subdivision,  
147 and from Heath Street to the west side of Lakeside Village Subdivision,  
148 provided they shall conform to the standards in HCC 21.54.200 and  
149 following sections;
- 150 y. Taxi operation limited to a dispatch office and fleet parking of no  
151 more than five vehicles; maintenance of taxis must be conducted within  
152 an enclosed structure, and requires prior approval by the City Planner  
153 of a site, access and parking plan;
- 154 z. Mobile food services;
- 155 aa. Itinerant merchants, provided all activities shall be limited  
156 to uses permitted outright under this zoning district;

- 157 bb. Day care homes and facilities; provided, however, that outdoor play
- 158 areas must be fenced;
- 159 cc. Rooming house, bed and breakfast and hostel;
- 160 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 161 Main Street from Pioneer Avenue to the Sterling Highway,
- 162 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,
- 163 subject to the following additional requirements: Vehicles awaiting
- 164 repair or service, inoperable vehicles, vehicles for parts, and vehicles
- 165 awaiting customer pickup shall be parked indoors or inside a fenced
- 166 enclosure so as to be concealed from view, on all sides. The fence shall
- 167 be a minimum height of eight feet and constructed to
- 168 prohibit visibility of anything inside of the enclosure. The portion of any
- 169 vehicle exceeding eight feet in height may be visible outside of the
- 170 fence. Vehicle parts (usable or unusable), vehicle service supplies, and
- 171 any other debris created in the repair or servicing of vehicles shall also
- 172 be stored indoors or inside the fenced enclosure out of view of the
- 173 public;
- 174 ee. Farmers' market;
- 175 ff. Dormitory;
- 176 gg. Financial institutions;
- 177 hh. As an accessory use, one small wind energy system per lot having a
- 178 rated capacity not exceeding 10 kilowatts;
- 179 ii. One detached dwelling unit, excluding mobile homes, as
- 180 an accessory building to a principal single-family dwelling on a lot.
- 181 **jj. Marijuana cultivation facilities, manufacturing facilities, retail**
- 182 **facilities, and testing facilities as defined by state law.**

183 .....

184 Section 3. Homer City Code Chapter 21.24 is amended as follows:

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185 Section 21.24.020 Permitted uses and structures.

186 The following uses are permitted outright in the General Commercial 1

187 District, except when such use requires a conditional use permit by reason of

188 size, traffic volumes, or other reasons set forth in this chapter.

189 .....

- 189 a. Air charter operations and floatplane tie-up facilities;

**[Bold and underlined added. Deleted language stricken through.]**

- 190 b. General business offices and professional offices;
- 191 c. Dwelling units located in buildings primarily devoted to
- 192 business uses;
- 193 d. Auto repair;
- 194 e. Auto and trailer sales or rental areas;
- 195 f. Auto fueling stations and drive-in car washes;
- 196 g. Building supply and equipment sales and rentals;
- 197 h. Restaurants, including drive-in restaurants, clubs and drinking
- 198 establishments;
- 199 i. Garden supplies and greenhouses;
- 200 j. Heavy equipment and truck sales, rentals, service and repair;
- 201 k. Hotels and motels;
- 202 l. Lumberyards;
- 203 m. Boat and marine equipment sales, rentals, service and repair;
- 204 n. Mortuaries;
- 205 o. Open air businesses;
- 206 p. Parking lots and parking garages, in accordance with
- 207 Chapter 21.55 HCC;
- 208 q. Manufacturing of electronic equipment, electrical devices, pottery,
- 209 ceramics, musical instruments, toys, novelties, small molded products
- 210 and furniture;
- 211 r. Publishing, printing and bookbinding;
- 212 s. Recreation vehicle sales, rental, service and repair;
- 213 t. Retail businesses;
- 214 u. Trade, skilled or industrial schools;
- 215 v. Wholesale businesses, including storage and distribution services
- 216 incidental to the products to be sold;
- 217 w. Welding and mechanical repair;
- 218 x. Parks and open space;
- 219 y. Appliance sales and service;
- 220 z. Warehousing, commercial storage and mini-storage;
- 221 aa. Banks, savings and loans, credit unions and other financial
- 222 institutions;

- 223 bb. Customary accessory uses to any of the permitted uses listed in the  
224 GC1 district; provided, that no separate permit shall be issued for the  
225 construction of any type of accessory building prior to that of the main  
226 building;
- 227 cc. Dry cleaning, laundry, and self-service laundries;
- 228 dd. Taxi operation;
- 229 ee. Mobile food services;
- 230 ff. Itinerant merchants, provided all activities shall be limited  
231 to uses permitted outright under this zoning district;
- 232 gg. Recreational vehicle parks, provided they shall conform to the  
233 standards in Article II of Chapter 21.54 HCC;
- 234 hh. Day care homes; provided, that a conditional use permit was  
235 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play  
236 areas must be fenced;
- 237 ii. Rooming house and bed and breakfast;
- 238 jj. Dormitory;
- 239 kk. As an accessory use, one small wind energy system per lot.
- 240 **ll. Marijuana cultivation facilities, manufacturing facilities, retail**  
241 **facilities, and testing facilities as defined by state law.**

242

243 Section 4. Homer City Code Chapter 21.26 is amended as follows:

244 Section 21.26.020 Permitted uses and structures.

245 The following uses are permitted outright in the General Commercial 2  
246 District, except when such use requires a conditional use permit by reason of  
247 size, traffic volumes, or other reasons set forth in this chapter:

- 248 a. Production, processing, assembly and packaging of fish, shellfish and  
249 seafood products;
- 250 b. Construction, assembly and storage of boats and boat equipment;
- 251 c. Manufacture and assembly of pottery and ceramics, musical  
252 instruments, toys, novelties, small molded products, electronic  
253 instruments and equipment and electrical devices;
- 254 d. Research and development laboratories;
- 255 e. Trade, skills or industrial schools;
- 256 f. Publishing, printing and bookbinding facilities;

**[Bold and underlined added. Deleted language stricken through.]**

- 257 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,  
258 rentals, service and repair, excluding storage of vehicles or equipment  
259 that is inoperable or in need of repair;
- 260 h. Storage and distribution services and facilities, including truck  
261 terminals, warehouses and storage buildings and yards, contractors'  
262 establishments, lumberyards and sales, or similar uses;
- 263 i. Airports and air charter operations;
- 264 j. Underground bulk petroleum storage;
- 265 k. Cold storage facilities;
- 266 l. Parking lots and parking garages, in accordance with  
267 Chapter 21.55 HCC;
- 268 m. Mobile commercial structures;
- 269 n. Accessory uses to the uses permitted in the GC2 district that are  
270 clearly subordinate to the main use of the lot or building, such as  
271 wharves, docks, restaurant or cafeteria facilities for employees; or  
272 caretaker or dormitory residence if situated on a portion of the  
273 principal lot; provided, that separate permits shall not be issued for the  
274 construction of any type of accessory building prior to that of the main  
275 building;
- 276 o. Taxi operation;
- 277 p. Mobile food services;
- 278 q. Itinerant merchants, provided all activities shall be limited  
279 to uses permitted outright under this zoning district;
- 280 r. Recreational vehicle parks, provided they shall conform to the  
281 standards in Chapter 21.54 HCC;
- 282 s. Hotels and motels;
- 283 t. Dormitory;
- 284 u. As an accessory use, one small wind energy system per lot;
- 285 v. Open air business.
- 286 **w. Marijuana cultivation facilities, manufacturing facilities, retail**  
287 **facilities, and testing facilities as defined by state law.**

291 Section 5. Homer City Code Chapter 21.27 is amended to read as follows:

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Section 21.27.020 Permitted uses and structures.

The following uses are permitted outright in the East End Mixed Use District, except when such use requires a conditional use permit by reason of size, traffic volumes, or other reasons set forth in this chapter:

- a. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair;
- b. Drive-in car washes;
- c. Building supply and equipment sales and rentals;
- d. Garden supplies and greenhouses;
- e. Boat and marine equipment sales, rentals, manufacturing, storage yard, service and repair;
- f. Welding and mechanical repair;
- g. Restaurants, including drive-in restaurants, clubs and drinking establishments;
- h. Religious, cultural, and fraternal assembly;
- i. Studios;
- j. Personal services;
- k. Agricultural activities, including general farming, truck farming, nurseries, tree farms and greenhouses;
- l. Private stables;
- m. Storage of heavy equipment, vehicles or boats;
- n. Plumbing, heating and appliance service shops;
- o. Home occupations on a lot whose principal permitted use is residential, provided they conform to the requirements of HCC 21.51.010;
- p. Mortuaries and crematoriums;
- q. Open air businesses;
- r. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- s. Manufacturing, fabrication and assembly;
- t. Retail businesses;
- u. Trade, skilled or industrial schools;
- v. Wholesale businesses, including storage and distribution services incidental to the products to be sold;
- w. Parks and open space;
- x. Warehousing, commercial storage and mini-storage;
- y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b) and (c);
- z. Dry cleaning, laundry, and self-service laundries;
- aa. Mobile food services;

**Added language**. Deleted language stricken through.

- 334 bb. As an accessory use, one small wind energy system per lot;  
335 cc. Production, processing, assembly and packaging of fish, shellfish  
336 and seafood products;  
337 dd. Research and development laboratories;  
338 ee. Storage and distribution services and facilities, including truck  
339 terminals, warehouses and storage buildings and yards, contractors'  
340 establishments, lumberyards and sales, or similar uses;  
341 ff. Cold storage facilities;  
342 gg. Mobile commercial structures;  
343 hh. Single-family and duplex dwellings, only as an accessory use  
344 incidental to a permitted principal use; provided, that no permit shall  
345 be issued for the construction of an accessory dwelling prior to the  
346 establishment of the principal use;  
347 ii. The repair, replacement, reconstruction or expansion of a single-  
348 family or duplex dwelling, including a mobile home, that existed  
349 lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts,  
350 notwithstanding any provision of Chapter 21.61 HCC to the contrary;  
351 provided, that a mobile home may not be used to replace or expand  
352 such a dwelling;  
353 jj. Customary accessory uses to any of the uses permitted in the EEMU  
354 district that are clearly subordinate to the main use of the lot or  
355 building, including without limitation wharves, docks, storage facilities,  
356 restaurant or cafeteria facilities for employees; or caretaker or  
357 employee dormitory residence if situated on a portion of the same lot  
358 as the principal use; provided, that no permit shall be issued for the  
359 construction of any type of accessory building prior to the  
360 establishment of the principal use;  
361 kk. Taxi operation;  
362 ll. Itinerant merchants, provided all activities shall be limited to uses  
363 permitted outright under this zoning district;  
364 mm. More than one building containing a permitted principal use on a  
365 lot;  
366 nn. The outdoor harboring or keeping of dogs, small animals and fowl  
367 as an accessory use to a residential use in a manner consistent with the  
368 requirements of all other provisions of the Homer City Code and as long  
369 as such animals are pets of the residents of the dwelling and their  
370 numbers are such as not to unreasonably annoy or disturb occupants of  
371 neighboring property.  
372 **oo. Marijuana cultivation facilities, manufacturing facilities, retail**  
373 **facilities, and testing facilities as defined by state law.**  
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377            Section 6. Chapter 21.62 is hereby enacted as follows:

378

379            **Chapter 21.62**

380

381            **Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities**

382

383            **Sections:**

384            **21.62.010 Scope.**

385            **21.62.020 Intent**

386            **21.62.030 Definitions**

387            **21.62.040 Pre-application conference.**

388            **21.62.050 Costs**

389            **21.62.060 Safety and Security Plan**

390            **21.62.070 Buffers.**

391            **21.62.080 General restrictions on all marijuana facilities.**

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393            **21.62.010 Scope**

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395            **a. This chapter applies to the operation of all marijuana cultivation,**  
396            **manufacturing, retail , and testing facilities within the city boundaries.**

397            **b. This chapter in no way protects marijuana facilities from enforcement of**  
398            **federal law nor is it intended to sanction conduct or operations prohibited by**  
399            **law. All persons engaged in the marijuana industry within the city operate at**  
400            **their own risk and have no legal recourse against the City in the event that city**  
401            **laws are preempted, negated or otherwise found unenforceable based upon**  
402            **federal law prohibiting the sale, distribution, consumption or possession of**  
403            **marijuana.**

404

405            **21.62.020 Intent**

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407            **a. This chapter is intended to impose regulations that prevent:**

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409            **1. The distribution of marijuana to minors;**

410            **2. Revenue from the sale of marijuana from going to criminal enterprises,**  
411            **gangs, and cartels;**

412            **3. The diversion of marijuana from states where it is legal under state law in**  
413            **some form to other states where it is unlawful;**

414            **4. State-authorized marijuana activity from being used as a cover or pretext**  
415            **for the trafficking of other illegal drugs or other illegal activity;**

416            **5. Violence and the use of firearms in the cultivation and distribution of**  
417            **marijuana;**

418            **6. Drugged driving and the exacerbation of other adverse public health**  
419            **consequences associated with marijuana use;**

**[Bold and underlined added. Deleted language stricken through.]**

- 420           **7. The growing of marijuana on public lands and the attendant public safety**  
421           **and environmental dangers posted my marijuana production on public**  
422           **land; and**  
423           **8. Marijuana possession or use on federal property.**

424  
425           **21.62.030 Definitions [reserved]**

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427           **21.62.040 Pre-application Conference.**

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429           **21.57.050 Costs.**

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431           **The cost of all permits, studies and investigation required under this**  
432           **chapter shall be borne by the applicant.**

433  
434           **When Title 21 requires a conditional use permit for a marijuana facility,**  
435           **the applicant must meet with the City Planner to discuss the conditional**  
436           **use permit process and any issues that may affect the proposed**  
437           **conditional use. This meeting is to provide for an exchange of general and**  
438           **preliminary information only and no statement made in such meeting by**  
439           **either the applicant or the City Planner shall be regarded as binding or**  
440           **authoritative for the purposes of this title.**

441  
442           **21.62.060 Safety and Security Plan**

443  
444           **A conditional use permit for a marijuana facility required by this title shall**  
445           **include an analysis of the ways in which the intent and purpose of this**  
446           **chapter have been met and the safety concerns identified in Sections**  
447           **21.62.010 and 21.62.020 will be addressed.**

448  
449           **21.62.070 Buffers**

450  
451           **a) The Commission may require buffers, including berms, fences, trees, and**  
452           **shrubs, to minimize impacts to adjacent property. A landscaped buffer or**  
453           **combination of landscaping and berms of no less than ten feet in width**  
454           **will be required where the property with a marijuana facility adjoins**  
455           **districts in which marijuana facilities are prohibited or permitted only as a**  
456           **conditional use.**

457  
458           **b) The following buffer zones shall be applied to all marijuana facilities in all**  
459           **districts:**

- 460                           **1. Schools \_\_\_\_\_ 1000 feet**  
461                           **2. Churches \_\_\_\_\_ 500 feet**

462           **[Bold and underlined added. Deleted language stricken through.]**



502 ATTEST:

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506 JO JOHNSON, MMC, CITY CLERK

507 AYES:

508 NOES:

509 ABSTAIN:

510 ABSENT:

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514 First Reading:

515 Public Reading:

516 Second Reading:

517 Effective Date:

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521 Reviewed and approved as to form:

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524 Mary K. Koester, City Manager

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526 Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas F. Klinkner, City Attorney

Date: \_\_\_\_\_