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**CITY OF HOMER  
HOMER, ALASKA**

Lewis

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

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.

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

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.

33 THE CITY OF HOMER ORDAINS:

34  
35 Section 1. Homer City Code Chapter 21.12 is amended as follows

36  
37 Section 21.12.020 Permitted uses and structures.

38  
39 The following uses are permitted outright in the Rural Residential District:

40  
41 a. Single-family dwelling;

42  
43 b. Duplex dwelling;

44  
**Added language**. Deleted language ~~stricken through.~~

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

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

- 88 n. Mobile homes, subject to the requirements of HCC 21.54.100;  
89  
90 o. Day care homes; provided, however, that outdoor play areas must be  
91 fenced;  
92  
93 p. Recreational vehicles, subject to the requirements of HCC 21.54.320;  
94  
95 q. Open space, but not including outdoor recreational facilities  
96 described in HCC 21.12.030;  
97  
98 r. As an accessory use, one small wind energy system per lot having a  
99 rated capacity not exceeding 10 kilowatts;  
100  
101 s. One detached dwelling unit, excluding mobile homes, as an accessory  
102 building to a principal single family dwelling on a lot serviced by City  
103 water and sewer services in compliance with HCC Title 14;  
104  
105 t. One detached dwelling unit, excluding mobile homes, as an accessory  
106 building to a principal single family dwelling on a lot that is over one  
107 acre and not serviced by City water and sewer services  
108  
109 **u. Limited marijuana cultivation facility as defined in state law**  
110 **subject to the following provisions:**  
111 **1. The facility shall only be located on lots greater than**  
112 **20,000 square feet.**  
113 **2. The facility shall comply with HCC 21.59, Off-site Impacts.**  
114 **3. The facility shall be setback 50 feet from the lot line.**  
115

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

117 Section 21.18.020 Permitted uses and structures.

118 The following uses are permitted outright in the Central Business District,  
119 except when such use requires a conditional use permit by reason of size, traffic  
120 volumes, or other reasons set forth in this chapter:

- 121 a. Retail business where the principal activity is the sale of merchandise  
122 and incidental services in an enclosed building;  
123 b. Personal service establishments;  
124 c. Professional offices and general business offices;  
125 d. Restaurants, clubs and drinking establishments that provide food or  
126 drink for consumption on the premises;

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

- 127 e. Parking lots and parking garages, in accordance with  
128 Chapter 21.55 HCC;  
129 f. Hotels and motels;  
130 g. Mortuaries;  
131 h. Single-family, duplex, and multiple-family dwellings,  
132 including townhouses, but not including mobile homes;  
133 i. Floatplane tie-up facilities and air charter services;  
134 j. Parks;  
135 k. Retail and wholesale sales of building supplies and materials, only if  
136 such use, including storage of materials, is wholly contained within one  
137 or more enclosed buildings;  
138 l. Customary accessory uses to any of the permitted uses listed in the  
139 CBD district; provided, that a separate permit shall not be issued for the  
140 construction of any detached accessory building prior to that of  
141 the main building;  
142 m. Mobile homes, provided they conform to the requirements set forth  
143 in HCC 21.54.100;  
144 n. Home occupations, provided they conform to the requirements of  
145 HCC 21.51.010;  
146 o. Ministorage;  
147 p. Apartment units located in buildings primarily devoted to business or  
148 commercial uses;  
149 q. Religious, cultural, and fraternal assembly;  
150 r. Entertainment establishments;  
151 s. Public, private and commercial schools;  
152 t. Museums and libraries;  
153 u. Studios;  
154 v. Plumbing, heating and appliance service shops, only if such use,  
155 including the storage of materials, is wholly within an  
156 enclosed building;  
157 w. Publishing, printing and bookbinding;  
158 x. Recreational vehicle parks only if located south of the  
159 Sterling Highway (Homer Bypass) from Lake Street west to the

160 boundary of the Central Business District abutting Webber Subdivision,  
161 and from Heath Street to the west side of Lakeside Village Subdivision,  
162 provided they shall conform to the standards in HCC 21.54.200 and  
163 following sections;

164 y. Taxi operation limited to a dispatch office and fleet parking of no  
165 more than five vehicles; maintenance of taxis must be conducted within  
166 an enclosed structure, and requires prior approval by the City Planner  
167 of a site, access and parking plan;

168 z. Mobile food services;

169 aa. Itinerant merchants, provided all activities shall be limited  
170 to uses permitted outright under this zoning district;

171 bb. Day care homes and facilities; provided, however, that outdoor play  
172 areas must be fenced;

173 cc. Rooming house, bed and breakfast and hostel;

174 dd. Auto repair and auto and trailer sales or rental areas, but only on  
175 Main Street from Pioneer Avenue to the Sterling Highway,  
176 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,  
177 subject to the following additional requirements: Vehicles awaiting  
178 repair or service, inoperable vehicles, vehicles for parts, and vehicles  
179 awaiting customer pickup shall be parked indoors or inside a fenced  
180 enclosure so as to be concealed from view, on all sides. The fence shall  
181 be a minimum height of eight feet and constructed to  
182 prohibit visibility of anything inside of the enclosure. The portion of any  
183 vehicle exceeding eight feet in height may be visible outside of the  
184 fence. Vehicle parts (usable or unusable), vehicle service supplies, and  
185 any other debris created in the repair or servicing of vehicles shall also  
186 be stored indoors or inside the fenced enclosure out of view of the  
187 public;

188 ee. Farmers' market;

189 ff. Dormitory;

190 gg. Financial institutions;

191 hh. As an accessory use, one small wind energy system per lot having a  
192 rated capacity not exceeding 10 kilowatts;

- 193 ii. One detached dwelling unit, excluding mobile homes, as  
194 an accessory building to a principal single-family dwelling on a lot.  
195 **jj. Marijuana cultivation facilities, manufacturing facilities, retail**  
196 **facilities, and testing facilities as defined by state law.**

197  
198 Section 3. Homer City Code Chapter 21.24 is amended as follows:

199 Section 21.24.020 Permitted uses and structures.

200 The following uses are permitted outright in the General Commercial 1  
201 District, except when such use requires a conditional use permit by reason of  
202 size, traffic volumes, or other reasons set forth in this chapter.

- 203 a. Air charter operations and floatplane tie-up facilities;  
204 b. General business offices and professional offices;  
205 c. Dwelling units located in buildings primarily devoted to  
206 business uses;  
207 d. Auto repair;  
208 e. Auto and trailer sales or rental areas;  
209 f. Auto fueling stations and drive-in car washes;  
210 g. Building supply and equipment sales and rentals;  
211 h. Restaurants, including drive-in restaurants, clubs and drinking  
212 establishments;  
213 i. Garden supplies and greenhouses;  
214 j. Heavy equipment and truck sales, rentals, service and repair;  
215 k. Hotels and motels;  
216 l. Lumberyards;  
217 m. Boat and marine equipment sales, rentals, service and repair;  
218 n. Mortuaries;  
219 o. Open air businesses;  
220 p. Parking lots and parking garages, in accordance with  
221 Chapter 21.55 HCC;  
222 q. Manufacturing of electronic equipment, electrical devices, pottery,  
223 ceramics, musical instruments, toys, novelties, small molded products  
224 and furniture;  
225 r. Publishing, printing and bookbinding;

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

- 226 s. Recreation vehicle sales, rental, service and repair;  
227 t. Retail businesses;  
228 u. Trade, skilled or industrial schools;  
229 v. Wholesale businesses, including storage and distribution services  
230 incidental to the products to be sold;  
231 w. Welding and mechanical repair;  
232 x. Parks and open space;  
233 y. Appliance sales and service;  
234 z. Warehousing, commercial storage and mini-storage;  
235 aa. Banks, savings and loans, credit unions and other financial  
236 institutions;  
237 bb. Customary accessory uses to any of the permitted uses listed in the  
238 GC1 district; provided, that no separate permit shall be issued for the  
239 construction of any type of accessory building prior to that of the main  
240 building;  
241 cc. Dry cleaning, laundry, and self-service laundries;  
242 dd. Taxi operation;  
243 ee. Mobile food services;  
244 ff. Itinerant merchants, provided all activities shall be limited  
245 to uses permitted outright under this zoning district;  
246 gg. Recreational vehicle parks, provided they shall conform to the  
247 standards in Article II of Chapter 21.54 HCC;  
248 hh. Day care homes; provided, that a conditional use permit was  
249 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play  
250 areas must be fenced;  
251 ii. Rooming house and bed and breakfast;  
252 jj. Dormitory;  
253 kk. As an accessory use, one small wind energy system per lot.  
254 **ll. Marijuana cultivation facilities, manufacturing facilities, retail**  
255 **facilities, and testing facilities as defined by state law.**  
256

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

258 Section 21.26.020 Permitted uses and structures.  
.....

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

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

- 262                   a. Production, processing, assembly and packaging of fish, shellfish and
- 263                   seafood products;
- 264                   b. Construction, assembly and storage of boats and boat equipment;
- 265                   c. Manufacture and assembly of pottery and ceramics, musical
- 266                   instruments, toys, novelties, small molded products, electronic
- 267                   instruments and equipment and electrical devices;
- 268                   d. Research and development laboratories;
- 269                   e. Trade, skills or industrial schools;
- 270                   f. Publishing, printing and bookbinding facilities;
- 271                   g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
- 272                   rentals, service and repair, excluding storage of vehicles or equipment
- 273                   that is inoperable or in need of repair;
- 274                   h. Storage and distribution services and facilities, including truck
- 275                   terminals, warehouses and storage buildings and yards, contractors'
- 276                   establishments, lumberyards and sales, or similar uses;
- 277                   i. Airports and air charter operations;
- 278                   j. Underground bulk petroleum storage;
- 279                   k. Cold storage facilities;
- 280                   l. Parking lots and parking garages, in accordance with
- 281                   Chapter 21.55 HCC;
- 282                   m. Mobile commercial structures;
- 283                   n. Accessory uses to the uses permitted in the GC2 district that are
- 284                   clearly subordinate to the main use of the lot or building, such as
- 285                   wharves, docks, restaurant or cafeteria facilities for employees; or
- 286                   caretaker or dormitory residence if situated on a portion of the
- 287                   principal lot; provided, that separate permits shall not be issued for the
- 288                   construction of any type of accessory building prior to that of the main
- 289                   building;
- 290                   o. Taxi operation;
- 291                   p. Mobile food services;

- 292 q. Itinerant merchants, provided all activities shall be limited  
293 to uses permitted outright under this zoning district;  
294 r. Recreational vehicle parks, provided they shall conform to the  
295 standards in Chapter 21.54 HCC;  
296 s. Hotels and motels;  
297 t. Dormitory;  
298 u. As an accessory use, one small wind energy system per lot;  
299 v. Open air business.  
300 **w. Marijuana cultivation facilities, manufacturing facilities, retail**  
301 **facilities, and testing facilities as defined by state law.**

302  
303 Section 5. Homer City Code Chapter 21.27 is amended to read as follows:  
304

305 Section 21.27.020 Permitted uses and structures.  
306

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

- 310 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,  
311 rentals, service and repair;  
312 b. Drive-in car washes;  
313 c. Building supply and equipment sales and rentals;  
314 d. Garden supplies and greenhouses;  
315 e. Boat and marine equipment sales, rentals, manufacturing, storage  
316 yard, service and repair;  
317 f. Welding and mechanical repair;  
318 g. Restaurants, including drive-in restaurants, clubs and drinking  
319 establishments;  
320 h. Religious, cultural, and fraternal assembly;  
321 i. Studios;  
322 j. Personal services;  
323 k. Agricultural activities, including general farming, truck farming,  
324 nurseries, tree farms and greenhouses;  
325 l. Private stables;  
326 m. Storage of heavy equipment, vehicles or boats;  
327 n. Plumbing, heating and appliance service shops;  
328 o. Home occupations on a lot whose principal permitted use is  
329 residential, provided they conform to the requirements of HCC  
330 21.51.010;  
331 p. Mortuaries and crematoriums;

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

- 332 q. Open air businesses;  
333 r. Parking lots and parking garages, in accordance with Chapter 21.55  
334 HCC;  
335 s. Manufacturing, fabrication and assembly;  
336 t. Retail businesses;  
337 u. Trade, skilled or industrial schools;  
338 v. Wholesale businesses, including storage and distribution services  
339 incidental to the products to be sold;  
340 w. Parks and open space;  
341 x. Warehousing, commercial storage and mini-storage;  
342 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a),  
343 (b) and (c);  
344 z. Dry cleaning, laundry, and self-service laundries;  
345 aa. Mobile food services;  
346 bb. As an accessory use, one small wind energy system per lot;  
347 cc. Production, processing, assembly and packaging of fish, shellfish  
348 and seafood products;  
349 dd. Research and development laboratories;  
350 ee. Storage and distribution services and facilities, including truck  
351 terminals, warehouses and storage buildings and yards, contractors'  
352 establishments, lumberyards and sales, or similar uses;  
353 ff. Cold storage facilities;  
354 gg. Mobile commercial structures;  
355 hh. Single-family and duplex dwellings, only as an accessory use  
356 incidental to a permitted principal use; provided, that no permit shall  
357 be issued for the construction of an accessory dwelling prior to the  
358 establishment of the principal use;  
359 ii. The repair, replacement, reconstruction or expansion of a single-  
360 family or duplex dwelling, including a mobile home, that existed  
361 lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts,  
362 notwithstanding any provision of Chapter 21.61 HCC to the contrary;  
363 provided, that a mobile home may not be used to replace or expand  
364 such a dwelling;  
365 jj. Customary accessory uses to any of the uses permitted in the EEMU  
366 district that are clearly subordinate to the main use of the lot or  
367 building, including without limitation wharves, docks, storage facilities,  
368 restaurant or cafeteria facilities for employees; or caretaker or  
369 employee dormitory residence if situated on a portion of the same lot  
370 as the principal use; provided, that no permit shall be issued for the  
371 construction of any type of accessory building prior to the  
372 establishment of the principal use;  
373 kk. Taxi operation;  
374 ll. Itinerant merchants, provided all activities shall be limited to uses

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

375 permitted outright under this zoning district;  
376 mm. More than one building containing a permitted principal use on a  
377 lot;  
378 nn. The outdoor harboring or keeping of dogs, small animals and fowl  
379 as an accessory use to a residential use in a manner consistent with the  
380 requirements of all other provisions of the Homer City Code and as long  
381 as such animals are pets of the residents of the dwelling and their  
382 numbers are such as not to unreasonably annoy or disturb occupants of  
383 neighboring property.

384 **oo. Marijuana cultivation facilities, manufacturing facilities, retail**  
385 **facilities, and testing facilities as defined by state law.**  
386

387 Section 6. Chapter 21.62 is hereby enacted as follows:  
388

389 **Chapter 21.62**

390  
391 **Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities**  
392

393 **Sections:**

394 **21.62.010 Scope.**

395 **21.62.020 Intent**

396 **21.62.030 Definitions**

397 **21.62.040 Pre-application conference.**

398 **21.62.050 Costs**

399 **21.62.060 Safety and Security Plan**

400 **21.62.070 Buffers.**

401 **21.62.080 General restrictions on all marijuana facilities.**  
402

403 **21.62.010 Scope**

404  
405 **a. This chapter applies to the operation of all marijuana cultivation,**  
406 **manufacturing, retail, and testing facilities within the city boundaries.**  
407

408 **b. This chapter in no way protects marijuana facilities from enforcement of**  
409 **federal law nor is it intended to sanction conduct or operations prohibited by law.**  
410 **All persons engaged in the marijuana industry within the city operate at their**  
411 **own risk and have no legal recourse against the City in the event that city laws**  
412 **are preempted, negated or otherwise found unenforceable based upon federal**  
413 **law prohibiting the sale, distribution, consumption or possession of marijuana.**  
414

415 **21.62.020 Intent**

416  
417 **a. This chapter is intended to impose regulations that prevent:**

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

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1. **The distribution of marijuana to minors;**
2. **Revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;**
3. **The diversion of marijuana from states where it is legal under state law in some form to other states where it is unlawful;**
4. **State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;**
5. **Violence and the use of firearms in the cultivation and distribution of marijuana;**
6. **Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;**
7. **The growing of marijuana on public lands and the attendant public safety and environmental dangers posted by marijuana production on public land; and**
8. **Marijuana possession or use on federal property.**

**21.62.030 Definitions [reserved]**

**21.62.040 Pre-application Conference.**

**21.57.050 Costs.**

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

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

**21.62.060 Safety and Security Plan**

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

461 **21.62.070 Buffers**

462  
463 a) **The Commission may require buffers, including berms, fences, trees, and**  
464 **shrubs, to minimize impacts to adjacent property. A landscaped buffer or**  
465 **combination of landscaping and berms of no less than ten feet in width will**  
466 **be required where the property with a marijuana facility adjoins districts**  
467 **in which marijuana facilities are prohibited or permitted only as a**  
468 **conditional use.**

469  
470 b) **The following buffer zones shall be applied to all marijuana facilities in all**  
471 **districts:**

- 472  
473 1. **Schools** **1000 feet**  
474 2. **Churches** **500 feet**  
475 3. **Jail** **500 feet**  
476 4. **Youth/rec. center** **500 feet**  
477 5. **Library** **200 feet**

478  
479 c) **Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday**  
480 **Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park**  
481 **must have 1000 feet or more buffers measured from the boundary of the**  
482 **park.**

483  
484 d) **For purposes of this section, “schools” mean property primarily used as a**  
485 **private or public elementary or secondary education facility or property**  
486 **primarily used as a post-secondary education facility, including but not**  
487 **limited to private, faith-based, and public colleges and universities.**

488  
489 **21.62.80 General restrictions applied to all marijuana facilities.**

490  
491 a) **All marijuana facilities in all districts shall comply with Section 21.59.030 of this**  
492 **title.**

493  
494 b) **An application for a conditional use permit under this chapter shall not be**  
495 **approved if the location of the facility violates the regulatory intent in Section**  
496 **21.62.020.**

497  
498 Section 7. This ordinance shall take effect upon its adoption by the Homer City  
499 Council.

500  
501 Section 8. This ordinance is of a permanent and general character and shall be  
502 included in the City code.

503

504 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this \_\_\_\_\_ day of  
505 \_\_\_\_\_ 2016.

506

507

CITY OF HOMER

508

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510

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

511

512 ATTEST:

513

514

515

\_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

517

518 AYES:

519 NOES:

520 ABSTAIN:

521 ABSENT:

522

523

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525 First Reading:

526 Public Reading:

527 Second Reading:

528 Effective Date:

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532 Reviewed and approved as to form:

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534

\_\_\_\_\_  
Mary K. Koester, City Manager

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

536

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

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