

ORDINANCE 97-3

AN ORDINANCE OF THE CITY OF HOMER AMENDING HOMER CITY CODE CHAPTER 21.64, ZONING NONCONFORMITY, RELATING TO ELIMINATION OF NONCONFORMING USES AND STRUCTURES AFTER ABANDONMENT, CHANGE, OR DISCONTINUANCE; AND ADDING DEFINITIONS.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code § 21.64.030, "Nonconforming structures and uses," is hereby amended to read as follows:

21.64.030 Nonconforming structures and uses. a. Except as provided in subsection b, all ~~All~~ structures and or ~~or~~ uses made nonconforming by this title may be continued and/or expanded only on the legal lot which contains the use or structure as of September 27, 1982, or as of such later date on which an amendment to this title first made a structure or use nonconforming.

b. Once a ~~the~~ use made nonconforming by this title is abandoned, changed, or discontinued, or ceases to be the primary use of a lot, the use of that lot shall thereafter conform to the regulations of the zone in which the lot is located, and the nonconformity shall not thereafter be resumed or allowed to continue. ~~or the structure not used for the specific use for more than one year, it shall not be re-permitted.~~

c. Once a structure made nonconforming by this title is abandoned or brought into conformity with this title, the structure shall thereafter conform to the regulations of the zone in which it is located, and the nonconformity shall not be allowed to continue.

Section 2. A new section 21.64.015, "Definitions," is hereby created to read as follows:

21.64.015 Definitions. For the purposes of chapter 21.64 the following words shall be interpreted or defined as set forth in this section, and such interpretations or definitions shall supersede any conflicting interpretations or definitions set forth elsewhere in this title.

"Abandon" means (a) with respect to a use, the cessation of such use for any length of time, combined with intent to indefinitely cease such use, or (b) with respect to a structure, the cessation of occupancy of such structure for any length of time, combined with intent to indefinitely cease occupancy of such structure.

"Change" means, with respect to a nonconforming use, that the nonconforming use has been converted to a different use for any period of time, regardless of intent.

"Discontinued" means that a nonconforming use has ceased, and has not substantially resumed, for a period of 12 consecutive months, regardless of intent.

"Occupy" or "occupancy" means actual physical occupancy of a structure or lot, regardless of intent.

"Primary use" means the primary activity actually conducted in a serious, substantial, and ongoing manner on a lot or in a structure, and for which the lot or structure is actually and primarily occupied and maintained, regardless of intent.

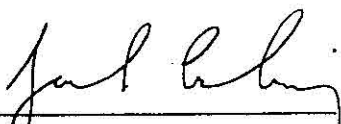
"Substantially resumed" means substantial and continuous resumption of the use as the primary use for a period of at least 60 consecutive days. Activity that does not meet this standard is not sufficient to interrupt a period of discontinuance.

"Use" means activity actually conducted on a lot or in a structure, and for which the lot or structure is actually occupied and maintained, regardless of intent.

Section 3. This ordinance is of a general and permanent nature and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 11th day of August, 1997.

CITY OF HOMER


JACK CUSHING, MAYOR

ATTEST:

Mary L. Calhoun

MARY L. CALHOUN, CMC, CITY CLERK

AYES: 5
NOES: 0
ABSTAIN: 0
ABSENT: 1

First Reading: 07-14-97
Public Hearing: 07-28-97
Second Reading: 08-11-97
Effective Date: 08-12-97

Reviewed and approved as to form and content:

Patti J. Whalin
PATTI J. WHALIN, CITY MANAGER

Gordon J. Tans
GORDON J. TANS, CITY ATTORNEY