

# City Council



Monday

May 13, 2013

Worksession 4:00

Committee of the Whole 5:00 pm

Regular Meeting 6:00 pm

City Hall Cowles Council Chambers  
491 E. Pioneer Avenue  
Homer, Alaska



# May 2013

Monday 13 <sup>th</sup>	<b>CITY COUNCIL</b> Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.
Tuesday 14 <sup>th</sup>	<b>LEASE COMMITTEE</b> Special Meeting 3:00 p.m.
	<b>ECONOMIC DEVELOPMENT ADVISORY COMMISSION</b> Regular Meeting 6:00 p.m.
Wednesday 15 <sup>th</sup>	<b>PLANNING COMMISSION</b> Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
Thursday 16 <sup>th</sup>	<b>PARKS AND RECREATION ADVISORY COMMISSION</b> Regular Meeting 5:30 p.m.
Monday 20 <sup>th</sup>	<b>CITY COUNCIL</b> Worksession 5:15 p.m.
Tuesday 21 <sup>st</sup>	<b>TRANSPORTATION ADVISORY COMMITTEE</b> Regular Meeting 5:30 p.m.
Wednesday 22 <sup>nd</sup>	<b>PARKS AND RECREATION ADVISORY COMMISSION</b> Spring Park Walk Through 1:00 p.m.
	<b>PORT AND HARBOR ADVISORY COMMISSION</b> Regular Meeting 6:00 p.m.
Thursday 23 <sup>rd</sup>	<b>1% ART SELECTION COMMITTEE – SPIT TRAIL</b> Meeting 1:00 p.m.
Monday 27 <sup>th</sup>	<b>CITY OFFICES CLOSED</b> in observance of Memorial Day.
Tuesday 28 <sup>th</sup>	<b>CITY COUNCIL</b> Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.

## **Regular Meeting Schedule**

**City Council 2<sup>nd</sup> and 4<sup>th</sup> Mondays 6:00 p.m.**  
**Library Advisory Board 1<sup>st</sup> Tuesday 5:00 p.m.**  
**Economic Development Advisory Commission 2<sup>nd</sup> Tuesday 6:00 p.m.**  
**Parks and Recreation Advisory Commission 3<sup>rd</sup> Thursday of the month with exception of December 5:30 p.m.**  
**Planning Commission 1<sup>st</sup> and 3<sup>rd</sup> Wednesday 6:30 p.m.**  
**Port and Harbor Advisory Commission 4<sup>th</sup> Wednesday 5:00 p.m.**  
**Transportation Advisory Committee Quarterly 3<sup>rd</sup> Tuesday 5:30 p.m.**  
**Public Arts Committee Quarterly 3<sup>rd</sup> Thursday 5:00 p.m.**  
**Lease Committee Quarterly 2<sup>nd</sup> Thursday 3:00 p.m.**  
**Permanent Fund Committee Quarterly 2<sup>nd</sup> Thursday 5:15 p.m.**

**MAYOR AND CITY COUNCILMEMBERS AND TERMS**

**BETH WYTHER, MAYOR – 14**

**FRANCIE ROBERTS, COUNCILMEMBER – 15**

**BARBARA HOWARD, COUNCILMEMBER – 14**

**DAVID LEWIS, COUNCILMEMBER – 14**

**BRYAN ZAK, COUNCILMEMBER – 13**

**BEAUREGARD BURGESS, COUNCILMEMBER – 15**

**JAMES DOLMA, COUNCILMEMBER - 13**

**City Manager, Walt Wrede**

**City Attorney, Thomas Klinkner**

<http://www.cityofhomer-ak.gov/cityclerk> home page access, Clerk's email address is:  
[clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us) Clerk's office phone number: direct line 235-3130, other  
number 435-3106.



MAYOR BETH WYTHE  
COUNCIL MEMBER FRANCIE ROBERTS  
COUNCIL MEMBER BARBARA HOWARD  
COUNCIL MEMBER DAVID LEWIS  
COUNCIL MEMBER BRYAN ZAK  
COUNCIL MEMBER BEAUREGARD BURGESS  
COUNCIL MEMBER JAMES DOLMA  
CITY ATTORNEY THOMAS KLINKNER  
CITY MANAGER WALT WREDE  
CITY CLERK JO JOHNSON

## **WORKSESSION AGENDA**

### **1. CALL TO ORDER, 4:00 P.M.**

Mayor Wythe has requested excusal.

### **2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

### **3. Fishin' Hole Subdivision Lot 2, Tract 1-A, KPB Parcel 181-03-117**

Memorandums 13-008 and 13-069 from City Planner as backup.

**Page 3**

Memorandum 13-032 from City Manager as backup.

**Page 9**

### **4. COMMENTS OF THE AUDIENCE**

### **5. ADJOURNMENT NO LATER THAN 4:50 P.M.**

Next Regular Meeting is Tuesday, May 28, 2013 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



**City of Homer**  
**Planning & Zoning**  
491 East Pioneer Avenue  
Homer, Alaska 99603-7645

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**MEMORANDUM 13-008**

**TO:** Mayor Wythe and the Homer City Council  
**THRU:** Walt Wrede, City Manager  
**FROM:** Rick Abboud, City Planner  
**DATE:** December 31, 2012  
**SUBJ:** Pier One Theater/Campground Site

**Introduction**

Options for short term and long term development of the lot have been discussed with several commissions (Planning, Port and Harbor, Parks and Rec, and Economic Development). In addition to the staff reports and other guiding documents, below is a summary of minutes and notes taken from the discussion of the commissions.

**Summary**

After meeting with the various groups identified in the introduction consensus has been gained on several items found in the reports.

- Seasonal barge work could be accomplished outside of the camping season (although there was concern with site remediation after barges left).
- Kayak launch area identified on the map is supported as long as associated improvements were not such that they could not be moved if the area was needed for future development and adequate separation from barge activities was provided.
- It was recognized that the Port and Harbor Enterprise fund should benefit from activities on the site.
- It was agreed that the site should be developed in a way that presented the least constraint for future activities. Permanent improvements should be carefully sited and not compromise future revenue generating activities.
- The picnic shelter could be moved to the fishing hole area.
- Road leading to outer dock road should be improved and better delineated.
- No one was dead set about not wishing to lease 10,000 square feet on the lot but did agree that favored sites would be closest to the highway as not to impede future beach access and general lot circulation.
- Comments about a \$1 lease ranged from those not in favor(P&H), to creating some review standard considerations that include review of mission statement and form 990(PC), to outward endorsement of the Wooden Boat Society(EDC).

**HOMER ADVISORY PLANNING COMMISSION UNAPPROVED REGULAR MEETING  
SEPTEMBER 5, 2012**

**PUBLIC COMMENT**

Bumpo Bremicker, city resident, commented regarding the Pier 1 site. He went down and measured a 10,000 sf and it really isn't a lot of area, just 100x100. He referenced the aerial photo noting where the area for the barge haul out is drawn in. If the Wooden Boat Society was able to get 10,000sf, it would be about a quarter of the area where the camping is shown. The staff report says that it represents 12 campsites, but that isn't how they are laid out and it appears to him there are about 5 sites. If the city gets money from five campsites during the summer, minus the cost of maintaining them and it really isn't that much money. They might be willing to come up with enough to compensate the City for losing five campsites. Maybe they could use fifty feet of frontage, 100 feet is something they just threw out. He mentioned the Parks and Recreation Commission supported the barge haul out, it's a good idea people have just thrown out there, and doesn't know if there is any real planning of it, or where the money is coming from. If it is going to make so much money then why isn't Herndon doing it?

**A. Staff Report PL 12-49, Pier 1 Land Use**

City Planner Abboud reviewed the aerial photo and a concept of the barge haul out facility.

The Commission commented in favor of the concept of the barge haul out. They recognized that it is a facility that could economically benefit the City both for the harbor and for workers needing lodging, food, and other amenities. It appears to be a workable project in that the barge haul out will be operational in the off season, shutting down in the spring as the tourist traffic increases.

**HOMER ADVISORY PLANNING COMMISSION UNAPPROVED REGULAR MEETING  
SEPTEMBER 19, 2012**

**PUBLIC COMMENT**

Lance Peterson, city resident, commented regarding the Pier One Theater site. He encouraged the Commission to consider requiring not for profit leases provide IRS form 990 which contains information about the mission of the organization, the impact, number of participants, budget, programs, affiliations, and so on. It provides a wealth of information which would give easy access to a number of things to evaluate. The bottom line for not for profits is not the dollar sign, it is the determination if this set of activities is a real benefit to the Homer community. That is what he advocates they assess.

**A. Staff Report PL 12-49, Pier 1 Land Use**

Chair Erickson expressed appreciation for Lance Peterson's feedback at the worksession regarding criteria for non profit consideration. She thinks it would be good to adopt some kind of criteria for dealing with non profits.

Commissioner Venuti expressed agreement with marking the access road better to the area. He added that there shouldn't be any permanent improvements regarding the kayak launch. Kayaks can be launched anywhere in that area and as opportunities come forward the launch location may need to be relocated.

Commissioner Stead commented regarding non profits, and when reviewing leasing criteria, it is important to be cognizant that non profits can make money and can provide for leases for their facilities. It happens all the time. An example of something that could occur out there and pay its way is a school. The North House Folk School in Grand Marais, MN is a school on public leased property and provides for a lot of different entities to have access to the harbor. It is a non profit that makes money and brings a lot of people to Grand Marais. There are other



# City of Homer

## Planning & Zoning

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### MEMORANDUM 13-069

**TO:** MAYOR WYTHER AND HOMER CITY COUNCIL  
**THROUGH:** WALT WREDE, CITY MANAGER  
**FROM:** RICK ABOUD, CITY PLANNER  
**DATE:** May 7, 2013  
**SUBJECT:** Fishing Hole Campground Site Plan

**Requested Action:** Recommend Approval of the draft site plan for the campground, day use parking, and Kachemak Bay Water Trail kayak launch site.

#### Introduction

On April 24th, there was a workshop held on the Spit to discuss the kayak launch. One of the outcomes of the meeting was the City Administration and the Harbormaster agreed that a better spot for the kayak launch would be further up the Spit, near the Fishing Hole. Grouping all the recreational activities together made more sense in the long run. If a marine industrial use comes in, the original kayak launch may have to be moved. It seemed like a lot of effort when a better, long term solution was to move the launch.

Staff met with representative of the Kachemak Bay Water Trail to discuss the idea. There was agreement that this new location would be acceptable while recognizing some trade off in relation with their first choice. There was also a strong desire to keep this project on schedule. The water trail group would like to have a location locked in so they can pursue funding and construction, with the goal of completion in 2014.

The water trail folks have been fortunate to have the volunteer services of a landscape architect. Jonny Hayes PLA/ASLA/CPSI, of the Anchorage firm Bettisworth North Architects and Planners, volunteered his services and time to facilitate the workshop. Landscape Architects are like a civil engineer, and they are a registered licensed profession, with a stamp. They frequently work on site design; traffic flow, building location, architecture, drainage and landscaping etc. Mr. Hayes has also agreed to work on this new launch location. With the change in location of the kayak launch, the City recognized that the scope of work that Mr. Hayes volunteered to do had changed quite a bit. The Planning Department has some limited funds to pay for these changes to the plan outside the scope of the launch facility. Mr. Hayes is now waiting for direction before creating a comprehensive site plan, that will account for traffic flow and overall use of land between the fishing hole and Pier 1, including a potential wooden boat lease location. Our goal out of all this is not only to have a more permanent home for the kayak launch, but also a better flow for the whole property. This site plan will create a better park area around that portion of the Fishing Hole, plan for long term traffic flow, which will in turn preserve the main campground area for potential marine industrial use.

Another item that has changed is the Public Works Department has requested to move the camp ground office onto the site. The current location across the street is subject to a lot of storm damage. Due to beach erosion, significant damage to the build occurs regularly. It's a very small building, easy to move, and it will be cheaper for the taxpayers in the long run if it wasn't damaged by storms every year.

This draft site plan will be submitted to the Planning, Parks and Recreation and Port and Harbor Advisory Commissions for comments in May, concluding with a resolution from Council in June.

### **Analysis**

The conceptual draft site plan is attached. Planning staff met with Parks maintenance Coordinator Otteson at the campground to come up with ideas and explore options. Right now the whole area is one big parking lot; kind of ugly and a lot of space is wasted. The parks area could be much more functional. The site plan is really reworking the existing space into a more functional, attractive layout.

The plan considers the following element:

- Revise circulation and layout for RV Campground to address potential future Marine industrial and other desired elements, as outlined below,
- Relocating the existing Offices for camp attendant + fee collection,
- Maintain Pier One Theater while improving access/parking as appropriate,
- Adding a designated 'Day Use Area' adjacent to the existing fishing area,
- Adding a multi-use 'Day Use Shelter' at the northeast edge of the fishing area,
- Adding a Kachemak Bay Water Trail Launch Site that includes non-motorized boat launch facilities, appropriate signage, etc.,
- Proposed site and approximate circulation for a 10,000 SF 'Wooden Boat Society Headquarters/Offices' along Homer Spit Road, and
- Connect to, and maintain, existing Day Use, Fish Cleaning Station and Campground Dump Station areas.

If the concept is found acceptable, I plan to seek comments of committees and commissions and present before the council for approval in June. Of course we are still looking for direction in regards to any lease proposal that might be considered as outlined by the City Manager.

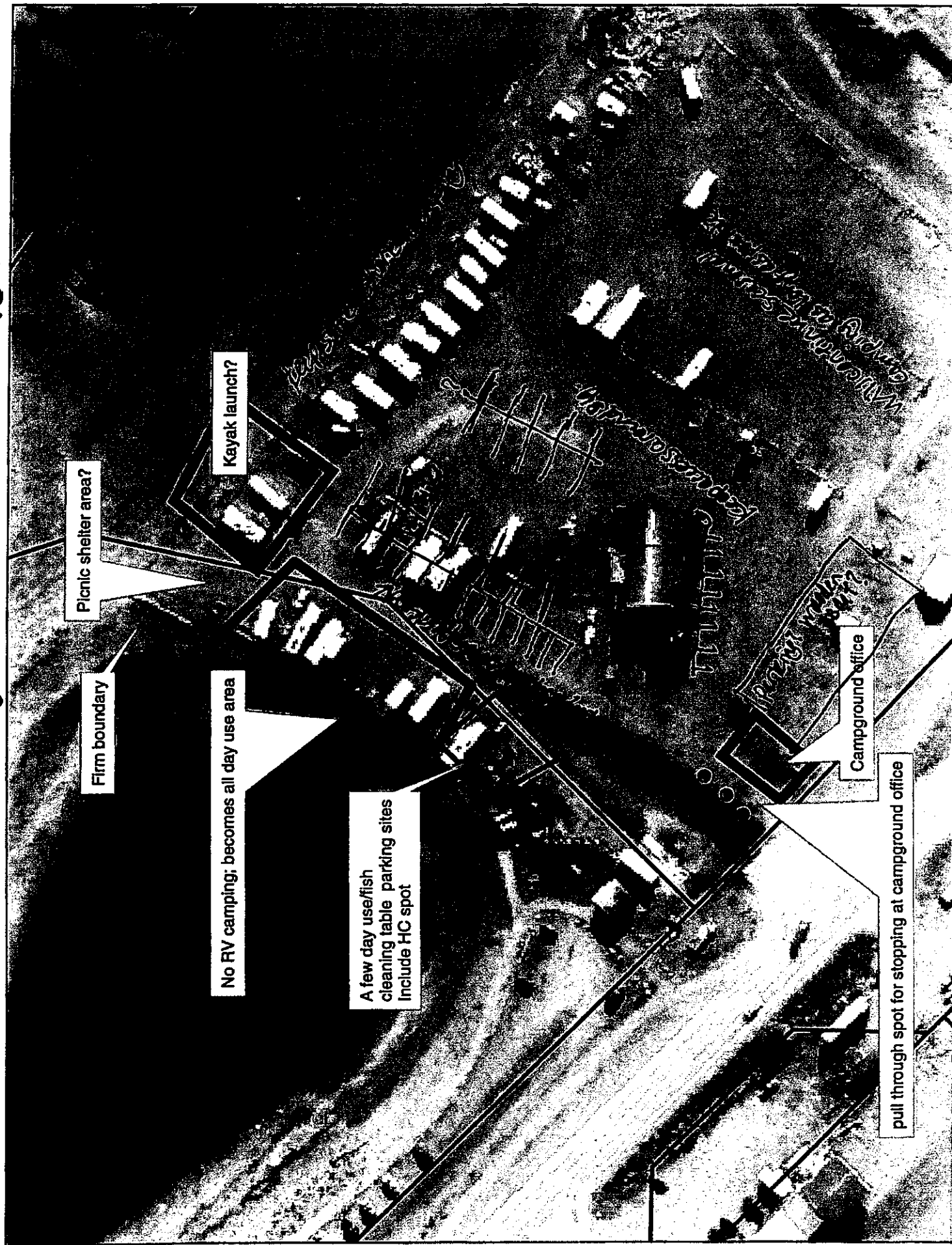
### **Recommendation:**

Review information and provide comments and direction.

### **Attachments**

1. SITE PLAN dated May 8, 2013

# 5-8-13 Draft Site Plan Concept



## MEMORANDUM 13-032

**TO:** Mayor Wythe and Homer City Council

**FROM:** Walt Wrede

**DATE:** February 20, 2013

**SUBJECT:** TRACT 1-A, Fishing Hole Subdivision # 2

At the last meeting on February 11, the Council heard a presentation from the Wooden Boat Society about its desire to lease land on Tract 1-A, sometimes referred to as the Pier One Lot. Several Council members inquired about what the proper steps and process would be for it to formally consider a lease proposal on this property. It was agreed that I would provide a memorandum outlining the steps and recommending a course of action.

There are several steps Council should take in order to stay consistent with the provisions contained in the Code, the Lease Policies, and the Land Allocation Plan:

1. Make the Land Available for Lease: Every year the Council revises and approves the Land Allocation Plan. An important part of this process is establishing which City parcels are available for lease. With the exception of the Pier One lease, Tract 1-A is currently not available for lease. Council could make it available by passing a Resolution amending the Land Allocation Plan. As part of the resolution approval process, Council should also consider 1) How much land to make available for lease, 2) the location 3) whether it is only available to non-profits that meet zoning and other land use regulation requirements, and 4) Whether to make the property available to Wooden Boat Society exclusively or RFP it as preferred by the Lease Policies.
2. Forward Instructions to the Lease Committee. The instructions would include information about the land now available for lease, and depending upon what Council decides, the instructions could include requesting recommendations about exclusive use, direction to issue an RFP, and direction to develop a new set of evaluation criteria specific to non-profits.
3. Follow the Process: Regardless of whether the City chooses to go with an RFP or an exclusive opportunity to lease for the Wooden Boat Society, there is a formal process to follow already established in the Lease Policies. For example, the RFP, proposal, review, and recommendation to Council process is well established. Similarly, if the Council wishes to go "sole source" so to speak, without the benefit of an RFP, it must make and adopt findings about why it is in the public interest to do so. The Lease Committee is required to make recommendations to Council in that circumstance also.

**RECOMMENDATION:** The first step is to consider whether to make the property, or a portion of it, available for lease. This involves amending the Land Allocation Plan. The City Clerk reminded me that Council is scheduled to have a workshop on the Land Allocation Plan with the affected Commissions in late March. That would be the perfect time to discuss this and get input from the Commissions at the

same time. The Council could take action if it chooses when it amends and approves the Land Allocation Plan at the following meeting. I would recommend deferring action until that time.

possibilities than just what we are talking about and he encouraged them to think even broader. He reiterated that non profits need to pay their way.

Discussion ensued regarding the lease policies, current uses on the lot, and concerns in effective dealings with non profits.

**Rick Abboud's notes from Homer Advisory Planning Commission meeting 9/19/12**

- Consider mission statement review for lease considerations
- Evaluate form 990 non-profit document in consideration of lease
- Keep access road open improve condition and mark better
- Kayak launch with caveat that it be reviewed for long range use in lot (able to move to new site if necessary)
- Support for moving shelter to fishing hole area

**PARKS AND RECREATION ADVISORY COMMISSION UNAPPROVED REGULAR MEETING SEPTEMBER 20, 2012**

C. Staff Report from Rick Abboud, City Planner, re: Pier One Theater/Campground  
Ms. Engebretsen provided some insight on this subject.

Discussion ensued and the commissioners offered some suggestions on some of the best uses for the parcel and agreed by consensus that the road into the parcel requires improvements and that the campground should be redesigned. The area used for day use and bar-b-que need to be maintained. The picnic shelter could be relocated but definitely needed improvements.

Reconfiguring the road next to the area where dredge spoils are dumped and reconfigure the land gained for the campground.

**Julie Engebretsen's notes from Parks and Recreation Advisory Commission meeting of 9/20/12**

**P&R Advisory Commission Notes on Pier 1 property 9/20/2012**

- Keep the barge moorage far enough from the kayak launch so they don't interfere with each other
- Would rather see private enterprise provide barge haul out services than the City. Don't want the City to compete with private enterprise
- The campground and barge haul out are not compatible. Concern about the spring transition from barge haul out, back to campground. What will happen to all the paint chips, etc? Who will do the re-grading and put the campground back together?
- Campground needs a face lift. Need to maximize number of spaces for camping, and protect the viewshed.
- Protect the day use area over by the fishing hole. Don't allow camping there. A Shelter/BBQ area would be nice.
- Fine if the existing shelter is removed. Its just about falling down.
- Concern over future leases and vehicles and pedestrians crossing Homer Spit Road. Don't want to create traffic problems like the Spit has further down.
- The proposed lease area is underutilized. There is room for something else to happen.
- Like the idea of a grassy berm along the trail, and defining the camping spaces from the road. A concert mound might work closer to Pier 1.

**PORT AND HARBOR ADVISORY COMMISSION UNAPPROVED REGULAR MEETING  
SEPTEMBER 26, 2012**

**A. Memo to City Commissions from City Planner Abboud Re: Pier One/Campground Site dated September 14, 2012**

City Planner Abboud reviewed the staff report with the aerial photo referencing the camping, suggested area for the barge haul out, Pier One Theater, the water trail kayak launch, and the Wooden Boat Society.

The group discussed the concepts presented by City Planner Abboud and expressed their concerns about the idea of non profits getting the \$1 per year lease rates on property on the spit. Non profits benefit our community but it is foolish to be giving the land away. They don't think there should be a permanent structure for the kayak launch because it would be better for them to have the ability to relocate the launch when needed. They supported keeping the campground in place until another viable use comes up. City Planner Abboud noted the Port and Harbor Commission comments are in line with the Planning Commission's ideas for the site.

They talked about other concerns including the spit trail, load launch ramp, dredging, and parking.

**Rick Abboud's notes from the Port and Harbor Advisory Commission meeting on 9/26/12**

- not in favor of \$1 lease
- positive about kayak launch if not barrier to future development options (concerned about scale of permanent/non moveable improvements
- desire to improve 'haul' road
- agreeable to campground use in the interim
- long range idea in support of marine school

**ECONOMIC DEVELOPMENT ADVISORY COMMISSION UNAPPROVED REGULAR  
MEETING NOVEMBER 13, 2012**

Bumppo Bremicker, city resident, member of the Kachemak Bay Wooden Boat Society, to speak about the Agenda item A under New Business the Pier One Parcel. He stated he talked to Rick Abboud, City Planner, in September 2012 regarding a place for the Wooden Boat Society. Mr. Bremicker proceeded to read a statement regarding the previous attempt to lease a 10,000 sf area of that parcel, the current intent to use it as a Barge Haul out; reviewed the area being suggested for use by the Kachemak Bay Water Trail Group; of the value the Wooden Boat Society has brought to the City over the last 20 years; and the amount of money saved, almost \$20,000 towards constructing a permanent building. He outlined what the Wooden Boat Society proposal for the space. Mr. Bremicker distributed a handout to the Commission entitle "Summer 2014". Mr. Bremicker went on to state that the Wooden Boat Society has been in discussions with the Kachemak Bay Water Trail group and are considering joining efforts since each group can work with the other.

Dave Seaman, president of the Wooden Boat Society, spoke on petitioning the City for a Lease and that they have always held their festival on the Spit. He explained that to haul their boats too far would cause a problem and he advocated the site that they have recommended. Mr. Seaman further noted the areas that they have been directed away from the water and pointed out the area that provided the best access. He did mention that he would be in favor of over-slope however there would be a higher cost to implement. He described how they would move in and set up and as the years have gone by they have accumulated more equipment so would definitely appreciate a fixed spot for a permanent home. He noted that they are more a social and learning club and not in business to profit. He would like the support of the EDC.

Mr. Bremicker stepped up to provide a more detailed description on the selected or preferred location using the overhead aerial on the Pier One Parcel in response to questions from staff. Mr. Seaman proceeded to explain that there is a preference to be closer to the Harbor since it is more protected, however will accept the alternatives, as outlined by the Wooden Boat Society and using the area recommended by the Water Trail and joining forces with them would be adequate to accommodate their intents. He thanked the Commissioners for their time.

Jim Lunny, Vice President, Wooden Boat Society, was present to advocate for the commissioners support by expressing the value he feels the Society offers and brings to the community as a whole; he reiterated comments that have been provided by other members of the Wooden Boat Society. Mr. Lunny added that the annual festivals attract a number of visitors and that could grow with the opportunity of a more permanent place to house the equipment. He further noted that having a more permanent home would open up the opportunity to teach also. Mr. Lunny pointed out that Port Townsend and Lake Union in Washington with a population base 200 times Homer each have separate events on the same bay, both well attended and what value is added to their respective communities.

Mr. Wagner commented that it is all Economic Development and hopefully it can be brought together and approved by the City.

Mr. Faulkner questioned the proposed water trail and commented on the Wooden Boat Society providing more revenue than has been proposed. He did acknowledge that it was an out of the way corner. He thanked them for coming to the meeting.

#### A. Marine/commercial district zoning on Spit - Pier One Lot Planning

Chair Sarno read the title into the record and stated that she may have a conflict being a member of the Wooden Boat Society.

Staff deferred to the Clerk. Ms. Krause stated that having declared a possible conflict it would be the commissioners present to vote if she actually did have a conflict.

There was a brief discussion and the commissioners determined that Chair Sarno did not have a conflict. The discussion that followed made the following points:

1. Attendance by the City Planner to speak on behalf of the enclosed memo and information would have been preferred.
2. The background on the money that purchased the land and for what purpose and how and when they get their money returned.
3. Harbor users paying higher fees to support the arts.
4. The \$1 per year does not adequately pay back the value to the Enterprise Fund.
5. They are not a theater company they are a harbor. They have the responsibility to earn money for the Harbor.
6. Competition for existing Kayak Rental companies.
7. Discussion may be needed with existing businesses and the Water Trail group.
8. The location selected by the Water Trail/Wooden Boat is appropriate.
9. The Barge Basin is full and employing local residents a barge Haul out has been discussed long term and will provide earning potential for the community.

After further comments Chair Sarno inquired if the Commission was ready to issue a recommendation or wanting to postpone a decision until the next meeting. For the most part all commissioners were in favor of the idea having the Water Trail and the Wooden Boat Society there but wanted more details on the proposed plans.

Ms. Davis, responded to Chair Sarno, that the proposed Water Trail/Wooden Boat usage would be very good for the younger residents of the area offering an opportunity to work with adults.

Staff noted that they could have all the parties available for discussion at the next meeting if desired.

The commission agreed by consensus to postpone further discussion to the next meeting.

The commissioners did not discuss other prospects or recommendations as outlined in Staff Report 12-53 dated September 14, 2012 from Rick Abboud, City Planner in any further detail.

There was no further discussion.

#### COMMENTS OF THE AUDIENCE

Mr. Bremicker commented on parking in downtown Homer and he identified a large parcel of property that is owned by the City that could be used as a central parking lot and even noted that the individual parking at businesses downtown could be minimized. Next Mr. Bremicker commented on the purpose of the Wooden Boat Society and offering the opportunity to the people to build and sail their small wooden craft along with the kayaks. They have no intention

to offer competition with any other existing business. They want to work together with everyone and they do have a plan. He noted that at \$0.50 per sq ft for \$1875.00 commercial rate they may be able to negotiate for that; putting the Wooden Boat out near the road would not work for their needs, Mr. Bremicker recommended using it for other businesses and knocking down the existing building as it was unsafe.

Mr. Seaman commented that they are not in the boat livery business, but would be amenable to maybe working with existing businesses; however they have no intention of performing that service; he commented that they did a tour of the Spit in kayaks a few years back with Dave Brann and it was very interesting and had a great time. Mr. Seaman commented on the proposed Barge Haul out and that it would not impair the camping in the summer.

Mr. Larry Sloan, city resident, commented on RV parking, not clear what is meant by temporary, questioned if it is over-nite or day use; Legislation available for business start-up general regarding Charter and Halibut fishing, he is reading that there are too many operators and not enough product; he suggested recommending the forum reschedule to a few weeks earlier before the Council meeting on January 25, 2012 since Council will be making a decision on natural gas in regards to the availability of adequate gas for the City. Since gas and oil were to be to major attendees this would provide some very relevant information for Council. In regards to the Wooden Boat Society, he stated he was in agreement with the comments on commercial operators and the social aspect of some value but not enough to counter the necessity of paying the operations and maintenance of the Spit. The commercial aspects have to have priority.

#### **COMMENTS OF THE COMMISSIONERS**

Commissioner Wagner commented on including a Business Plan in their Proposal or simple Budget may help. He also is glad the Commission is back meeting again.

Commissioner Faulkner commented that Mr. Seaman meet with Mr. Brann before the next meeting to clarify their intent. He did state it was his intent to attend the Water Trail meeting. He also encouraged the Commissioners to come up with someone to fill his seat.

Commissioner Schmitt commented that it was always very interesting being on the commission; it gives a good perspective of both the community and the local government on what is going on; he did appreciate the Wooden Boat Society has enjoyed working with wood and sailing wooden boats; he definitely wants to see them on the Spit and they need to work it out so it benefits them and the existing businesses; it is all part of the process. He looks forward to hearing the rest of it at the next meeting.

Ms. Davis thanked the Wooden Boat Society and has certainly been a fan and agrees with everyone on the commission that clear lines need to be drawn and should not impede on existing businesses but believes it is a great idea.

#### **ECONOMIC DEVELOPMENT ADVISORY COMMISSION UNAPPROVED REGULAR MEETING DECEMBER 11, 2012**

#### **PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA**

Trish Lillibridge commented on the Wooden Boat Society proposal. She is member of the group and speaking on her own behalf. She said they had a successful booth at the Nutcracker Faire and their members constructed the booth and demonstrated excellent wood building skills. They had a sheet for the public to sign if they support the bid for a permanent location on the spit and they received about 180 signatures. They received positive feedback from people in the community and the enthusiasm and excitement was great. The Wooden Boat Society has been active in Homer for about 20 years.

#### **VISITORS**

A. Dave Brann, Kachemak Water Trail

Dave Brann co-chair of the Kachemak Bay Water Trail Association gave the Commission an overview of their progress and the benefits of having a trail head on the lot where the Pier 1 Theater is located. The water trail is a defined route around the bay from the Homer Spit to Seldovia that is connected by camp sites, lodges, day use areas, and so on. Goals include providing more access to locations throughout the bay and contributing to economic vitality of the communities around the bay. He has looked at a variety of economic studies done by water trails around the country. Right now there are about 200 established water trails, including coastal, river, and lake trails. Water trails create community economic benefits by serving as a community amenity as a destination type of experience and an attraction for visitors and residents. It can encourage local entrepreneurship in creating new opportunities for area businesses seeking to diversify or expand their offerings. Water trails are very popular around the country right now and this will provide a huge opportunity for entrepreneurs to get on board. Fostering regional destination tourism by providing strategic planning and management is necessary to create broader visitation appeal and ensure stewardship of the bay and education. Mr. Brann said the group is working closely with Seldovia in planning the other trail head site, and also folks in Halibut Cove and other businesses around the bay. Outdoor recreation, tourism, and water sports are a way to broaden the structure in communities that may rely on one or two industries. Building a community's sense of pride and well-being through opportunities for residents to enjoy and preserve their local natural resources is key. Although it has been promoted nationally, a big part of this is for local benefit. Mr. Brann explained the Maine Island Trail, created in the '80s to connect state owned islands along the coast, has grown to cover 375 miles of the Maine coast, with 150 sites to camp or for day use areas. Annually the water trail brings in \$1.75 million in spending to Maine's economy, including \$553,000 annually from people using the water trail. The Northern Forest Canoe Trail, an inland trail from New York to Maine, brings in \$12 million in economic impacts to that region. Mr. Brann said in his own work he has identified 6 potential user groups that would contribute to the area with 150 user days from May through September and five participants from each group it equals 4500 user days in the 5 month period. If each person generates \$100 per day in spending, there is potential to create \$450,000 in the area. The numbers add up pretty quick. The economic vitality chapter in the Comprehensive Plan recommends investing in local infrastructure, parks, and civic improvements that serve locals as well as visitor by promoting longer stays, increased expenditures, and more repeat visitation as a form of economic development. The Water Trail Association is a strong supporter of the Wooden Boat Society and they have shared goals of making the groups stronger as well as the economic picture in Homer. They support a home on the Spit and the Wooden Boat Facility a trail head start. There are already water trail groupies that are ready to come.

In response to questions Mr. Brann explained that the Association received a grant and is working on a website for the Kachemak Bay Water Trail, there is a national system being created and when ours is complete we will be in line to be a member of the National Water Trail system. He attended tonight to provide information. He will keep the commission updated and let them know if any actions for support are needed. Mr. Brann thinks it makes sense for the kayak launch to be with the Wooden Boat site in the same place on the spit and explained what would be needed for an effective launch site, including parking and informational signage.

#### **B. Dave Seaman, Wooden Boat Society**

Dave Seaman, commented on behalf of the Wooden Boat Society. He showed the Commission photos of logos and designs done by local artists for the society's logo and events, of people enjoying the activities related to the society, boat restoration projects, and boat building classes through the college. Mr. Seaman noted there is still industry in town for wood boats and always jobs available for shipwrights of any skill level. Also, the Wooden Boat Society sponsors a sea shanty singing group called the Rubber Bootleggers. He reviewed their recommendation for the location of the Wooden Boat Society building, noting that the location they selected would be out of the way for a year round site with a lot of potential for usage, and reviewed their building plan. Any support the Commission can give for the Wooden Boat Society to acquire space on the spit would be helpful.

### **PENDING BUSINESS**

#### **A. Marine Commercial District Zoning on the Spit- Pier One lot planning**

City Planner Abboud reviewed the staff reports which provide an over view of the site, recommended layout for the uses, and explained that there is a process for determining who will lease property on the spit. Harbormaster Hawkins provided feedback supporting the proposed layout. He provided an overview of what the barge haul out may entail and the financial benefit to the Port and Harbor enterprise fund and the opportunity created for work. He also elaborated about the kayak launch facility pointing out that after launching kayaks, people would park in the public parking area. They have been working on the Wooden Boat proposal for a few years, an issue is that building a permanent structure is a commitment and he thinks it needs to be located where it is a good fit and the City won't be sorry they committed to down the road.

The Commission discussed the suggested land use options, raised questions about road layout in relation to the dredge spoils and the potential location for a permanent structure for the Wooden Boat Society as shown in the site plan.

**FAULKNER/SCHMITT MOVED TO ACCEPT THE PLAN PROPOSED BY THE PORT AND HARBOR AND PLANNING STAFF AND FURTHER RECOMMEND THAT THE CITY COUNCIL SUPPORT THE EFFORTS BY THE WOODEN BOAT SOCIETY LOCATE A BUILDING ON THE SITE.**

Mr. Faulkner commented that he would support a dollar per year lease.

**VOTE: NON OBJECTION: UNANIMOUS CONSENT**

Motion carried.

#### **Rick Abboud's notes from the Economic Development Commission meeting on 12/11/12**

- positive about short-term plan as presented
- good with idea of offering an area near Spit Road for lease
- did support an opportunity for the Wooden Boat Society



## City of Homer Planning & Zoning

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### STAFF REPORT 12-49

TO: Planning Commission, Economic Development Commission, Port and Harbor  
Commission, Parks and Recreation  
FROM: Rick Abboud, City Planner  
DATE: August 31, 2012  
SUBJ: Pier One Theater/Campground Site

#### Executive Summary

We are preparing a plan for use of the Pier One lot on the spit. The result of this will be to address a short and long term plan for the lot so that activities can proceed with guidance.

The lot has multifaceted interests and uses in the present and future. This report summarizes these various interests and evaluates how they may work together. Presently, the only significant capital improvement is the Pier One Theater Building. Other activities can easily make way for future development considerations.

Development considerations for the near future include a proposed barge haul out facility, kayak launch, and possible lease opportunity for a 10,000 square foot (sf) section of the lot. These activities could coincide with present ongoing activities of camping, dredge spoil storage, Pier One Theater and parking.

When the property was obtained with Port Enterprise funds, it was envisioned that it one day may be used for harbor expansion. Several options have been presented by the Corp of Engineers for a harbor expansion, none of which would include utilizing this land. A concern still exists that the use of the land should compensate the Port Enterprise Fund.

Recently the City Council has been approached by a non-profit requesting a long term lease for 10,000 sf to include a placement of a structure for nominal consideration. City staff, council along with the various committees and commissions are somewhat mixed on whether this proposal would be in the best interests of the city.

This report suggests a short term scenario for the various interests. It is left undecided whether or not the site should support an operation such as the Wooden Boat Society. This may be dependent on a long range evaluation of future opportunities. The various concerns and interest are described in greater detail below. You are being asked to evaluate the options and provide comments and recommendations.

## **Introduction**

At request of the City Council, Administration was requested to create a planning document for proposed uses of the lot. This was brought to their attention as a result of a request from the Wooden Boat Society's request for a 10,000 sf. parcel for nominal consideration to conduct activities at the site. The Council felt they could not respond to the request until planning for the entire parcel was considered. *I am looking for comments and/or motions in support of recommendation or even new recommendations.*

## **Background**

Funds to purchase this site were provided from the Port Enterprise Fund. The entire lot is just over 11 acres (nearly 4 acres of the lot is tidal), part of which was land purchased from World Seafoods Inc. in 1983. In 1983, a price of \$1,500,000 was agreed upon for the purchase of approximately 20 acres in the vicinity of the fishing hole. The current lot configuration includes several acres not subject to that sale. According to the Borough Assessing Department, the 2012 Total Value of the lot and improvements are listed at \$1,719,900 including the "Low" graded theater (listed as warehouse/storage) valued at \$72,000. The relation of the assessment to market value is debatable. Water and sewer service is not connected to the structure. Functionally, the site contains approximately 7 acres not in the tidal zone.

## **Current Activity**

### ***Pier One Theater***

Pier One Theater was granted a 5 year lease for nominal compensation last year. The theater structure is approximately 3,600 square feet (sf) and 31 parking spaces are allotted. The activity of Pier One is conducted from mid-May through mid-September. Average attendance of the performances is 75-80 people and capacity is 100. This year Pier One has painted the building and been the recipient of grants to replace the roof on the structure after it was damaged by a storm. The rest of the site consists of camping spaces and a worn picnic shelter, which are in close proximity to the nearby fish cleaning station, RV dump and restrooms found on the fishing lagoon parcel.

### ***Camp Grounds***

Over 80 city operated campground sites are located on and near the site and are in operation from April 1 through October 30. The campsites directly adjacent to the fishing hole are actually not part of the Pier One lot. The city charges \$15/night for RV's and \$8/night for tents. RV's generally dominate tent sites. According to the city's web site, "Amenities include Fishing Hole sites, beach sites, fish cleaning tables, handicapped accessible restroom facilities, potable water, and easy access to one of the city's RV dump sites. Pier One Theatre is next door for weekend evening entertainment." It is estimated that 30% of the total annual campground revenue of \$150,000 is generated at this site.

Campsites are spread throughout the site and delineated with pieces of driftwood. A desire has been expressed to do away with the drift wood and delineate the spaces otherwise. While a covered picnic area serves the site, it is desirable to provide more green spaces for the campers. One fire ring is provided next to the picnic shelter. The shelter area is quite exposed and is usually windy and noisy next to the highway. The proposed Spit Trail extension will be constructed between the shelter and the road.

### ***Dredge Spoils***

C:\Documents and Settings\Johnson\Local Settings\Temporary Internet Files\Content.Outlook\03RHIIX0\SR 12-49 Pier One Lot planning 2 0.docx

The portion of the lot nearest to the harbor is used for the storage of dredge spoils after they are dewatered. It is not anticipated that the demand for this use will change anytime in the near future as this is a requirement of the Corp of Engineers for harbor dredging. So far, there are not long- or short-range plans to move this to another site. Approximately 1.6 acres of the site is devoted to this use.

#### *Access Road*

An access road supporting truck traffic leads to Freight Dock Road and is located between the dredge spoils piles and the camp ground. This allows for industrial traffic to avoid conflict with the Public Boat Launch. It has been suggested that this road could be straightened to follow the edge of the lot line. The Port Direct is proposing to have the route paved. Currently the road works well to serve the dredge spoils area.

#### **Proposed Activities**

##### *Barge Mooring Facility*

After conversations with those expressing needs for a place to moor and service barges, the Port Director submitted a CIP proposal for a Barge Mooring Facility on the site. Attached are some conceptual representations of the facility. This would be a seasonal operation starting in fall and lasting until spring. Barges could moor in the tidal area or be dry docked on land while serviced. Barges serviced would have to ensure that an impermeable material is placed on the beach prior to use. With barge services wrapped up in May, the site could be repurposed for camping until fall. The proposed area for use may include the two interior rows of existing campgrounds and the beach sites that would access the area.

##### *Kayak Launch*

During the Comprehensive Plan discussions this parcel was identified as a place to provide for kayak launches into the bay. This was seen as an amenity that could be provided with little investment. The site provides an optimal entrance to the bay that does not interfere with the Small Boat Harbor traffic. Additionally, the proposed Kachemak Bay Water Trail has analyzed options for a launch site could be used as a starting gateway to the trail and identified the corner of the lot next to the armor rock protecting the port uplands as most desirable. The Water Trail Organization proposes to spearhead improvements to facilitate kayak launches. This corner of the lot is not currently utilized and has developed road/path access to the bay. The proposed launch site could be utilized without interfering with camping or proposed barge services.

##### *Wooden Boat Society*

The Wooden Boat Society requested a long term lease the use of 10,000 square feet located on the lot for \$1 in annual compensation. They have suggested that they would construct a structure on the site within a 5 year time frame. They would prefer a site on the water's edge for easier boat launches. In consideration that the most desirable camp spaces and a barge haul out operation at water's edge would and do generate considerable compensation, it seems that providing a space for a facility not providing direct revenue would not be a financially prudent endeavor at that location. Each dollar of direct compensation to the city is equal to the city tax collected on \$22.22 worth of service or goods. Ten Thousand square feet can provide over twelve camp spaces or over 40 parking spaces. The addition of a structure on the site is a long range endeavor will may limit other opportunities and will affect the view. Depending on site activity, year round boat building/rehabbing activities may conflict with the campground. The decision to provide such a lease is a political one. If space were to be provided the least view and site impacting might be a location between the Pier One building and the highway.

## **Comprehensive Plan**

The Comprehensive Plan provides

Although there are many recreational needs and opportunities on the Spit serving both local residents and visitors, these must be balanced within the overall context of the existing City of Homer Comprehensive Plan Parks and Recreation priorities, currently planned Capital Improvement Projects (CIP), and staff and maintenance resources and capacity.

Moreover, addition of proposed new park sites and improvements outside of existing parks is very difficult to implement on the Spit. As described in the Port and Harbor Section, a majority of the Spit's land and infrastructure is controlled by an Enterprise Fund. Port users— not local taxpayers—would be asked to fund these endeavors making them challenging to implement, despite their merits and public support.

Thus, two ideas that generated some excitement during the public process—a park and gathering place concept focused around the Pier One Theater, and a landmark plaza and drop-off zone. Both would be challenging to fund and implement. Pg 18 HSCP

This following section provides a vision for the Spit, but also recognizes some very important realities. One is that the Spit is unusual in that so much of it is owned by the City of Homer. In addition to standard municipal responsibilities such as parks and public facilities, the City also leases land to private companies. There are two types of goals that arise from this arrangement of land ownership:

- 1) There are universal concepts and goals that apply to all lands regardless of ownership such as zoning; and
- 2) There are policies the City as a land owner should examine.

Another reality is that the City itself further manages its lands based on the way the land was purchased. The Port and Harbor is operated as an Enterprise Fund, meaning that general revenues such as City wide property and sales taxes are not used to support operations. Port revenue is used to purchase port land and to benefit port operations, not the city as a whole. Pg 20 HSCP

A new community park and gathering area was a priority identified during the planning workshops. A possible site identified in the public process is a portion of the city campground between the fishing lagoon and Freight Dock Road, near Pier One Theater. It may be feasible to purchase the property from the Port and Harbor Enterprise Fund. The area was envisioned as a place for picnics, kayak load and launch, and other day use activities. Pg 26 HSCP

### **Goals for Economic Development:**

3.1 Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit.pg 30 HSCP

Goal 1.3 Provide public facilities that attract residents and visitors to the Spit

Objective: Provide enhanced park and recreation facilities

Strategies:

Identify and prioritize public recreation needs on the spit, and include projects on the CIP. Refer to the Master Parks and Recreation Plan, chapter 7, in the 2008 Comprehensive Plan.

Prepare a master plan for development of a new community gathering space at the site of the existing City campground north of Freight Dock Road (pier 1 area).

Provide kayak launching facilities.

Set aside a new community park.

Evaluate and develop a plan for non-boating access to fishing opportunities.

Construct weather-protected picnic and outdoor meeting facilities.

### **Zoning**

Current zoning of the lot is Marine Commercial. Taking into account the recommendations of the comprehensive plan, I would expect this area to remain Marine Industrial until it is determined that the site is ready to be used for park and/or recreation activities or until the comprehensive plan is updated to reflect another desired use. Kayak launching is a water dependent activity permitted outright in the Marine Commercial District as are dry docks.

### **What Now?**

I propose to have short and longer term consideration for the lot.

#### ***Short term 5-10 years***

Continue present activities and consider a few of the currently proposed ones

- camping, boat launch and kayak launch can all work together and do not constitute improvements that would restrict future proposals that could present a higher use in the future. These activities can easily make way for permanent improvements if desired.

- Pier One has a five year lease and should be re-evaluated as the term expires. It is a very old building without running water that has worked well for the seasonal activities it now supports. The structure itself needs to be monitored and improvements will continue to be necessary for its continued use.

- Wooden Boat Society needs a response. It needs to be considered if the community wishes to support a long term lease and a future improvement. As indicated in the comprehensive plan, this lot is supported by the enterprise fund and a long term lease for nominal compensation is not likely to provide a direct return to the fund.

- The remainder of the lot toward the highway could be used for additional recreational activities, perhaps improving upon the shelter area or incorporating additional green spaces and/or for additional parking or camping or any combination.

#### ***Longer term 10+ years***

Here we could especially use some input!

- present and proposed activities will continue to provide benefits to the city.

- depending on needs and desires, expansion of industrial or recreation could be proposed

- if there is no support for some reimbursement of funds to the enterprise fund the recreational options noted in the comprehensive plan should be modified.

- current activities can easily be moved or modified for gainful improvements.

### **Attachments**

1. Marine Industrial Zoning Code
2. 2012 – 2017 CIP Barge Mooring Facility
3. 2011 Land Allocation Plan – Pier One Theater
4. Site
5. Map

## **Chapter 21.30 MI Marine Industrial District**

### **Sections:**

- 21.30.010 Purpose.**
- 21.30.020 Permitted uses and structures.**
- 21.30.030 Conditional uses and structures.**
- 21.30.040 Dimensional requirements.**
- 21.30.050 Site and access plan.**
- 21.30.060 Traffic requirements.**
- 21.30.070 Site development requirements.**
- 21.30.080 Nuisance standards.**
- 21.30.090 Lighting standards.**

**21.30.010 Purpose.** The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism; giving priority to those water-dependent uses over other industrial, commercial and recreational uses. (Ord. 08-29, 2008).

**21.30.020 Permitted uses and structures.** The following uses are permitted outright in the Marine Industrial 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. Port and harbor facilities;
- b. Manufacturing, processing and packing of sea products;
- c. Cold-storage;
- d. Dry docks;
- e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;
- f. Marine equipment sales, rentals, service, repair and storage.
- g. Boat launching or moorage facilities, marinas, boat charter services;
- h. Warehouse and marshaling yards for storing goods awaiting transfer to marine vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based transportation;
- i. Other similar uses, if approved after a public hearing by the Commission, including but not limited to those uses authorized in the Marine Commercial District under HCC §§ 21.28.020 and 21.28.030, provided the Commission finds the use meets the following standards and requirements:
  - 1. The proposed use is compatible with the purpose of Marine Industrial District or provides a necessary service to water-dependent industry,
  - 2. The proposed use is compatible with land use development plans for the Homer Spit and the comprehensive plan,
  - 3. Public facilities and services are adequate to serve the proposed use, and
  - 4. The Port and Harbor Commission, after a public hearing, has made a written recommendation to the Commission concerning the proposed use, including specifically whether conditions (1) through (3) of this subsection are or may, with appropriate conditions, be met by the proposed use;

- j. Mobile food services;
- k. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;
- l. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54;
- m. As an accessory use, one small wind energy system per lot. (Ord. 09-34(A) §19 (part), 2009; Ord. 08-29, 2008).

21.30.030 Conditional uses and structures. The following uses may be permitted in the Marine Industrial District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

- a. Planned unit development, limited to water-dependent or water-related uses and excluding all dwellings;
- b. Boat sales, rentals, service, repair and storage, and boat manufacturing;
- c. Restaurants and drinking establishments;
- d. Extractive enterprises related to other uses permitted in the district;
- e. Campgrounds;
- f. Bulk petroleum storage;
- g. Caretaker's residence as an accessory to a permitted or conditionally permitted use;
- h. Heliports;
- i. Pipelines and railroads;
- j. More than one building containing a permitted principal use on a lot.
- k. Permitted uses that exceed 100 vehicles during peak hour or more than 500 vehicles per day based on the proposed land use and density, calculated utilizing the Trip Generation Manual, Institute of Traffic Engineers, most current edition;
- l. Indoor recreational facilities;
- m. Outdoor recreational facilities. (Ord. 08-29, 2008).

21.30.040 Dimensional requirements. a. Lot Size. The minimum lot size is 6,000 square feet.

b. Setbacks.

- 1. All buildings shall be set back 20 feet from all dedicated rights-of-way. Alleys are not subject to a 20 foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subparagraph (2) below.
- 2. Buildings shall be set back five feet from all other lot boundary lot lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.

c. Building Height.

- 1. The maximum building height shall be thirty-five feet.
- d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

- 1. The total square feet floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.
- 2. In no event may a conditional use permit or variance be granted that would allow a building to exceed the limits of subparagraph (d)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (d)(1). (Ord. 08-29, 2008; Ord. 08-27(S)§1, part, 2008).

21.30.050 Site and access plan. a. A zoning permit for a building or structure within the Marine Industrial District shall not be issued by the City without a level two site plan approved under HCC Chapter 21.73.

b. No zoning permit may be granted without a level two right-of-way access plan approved under HCC Chapter 21.73. (Ord. 08-29, 2008).

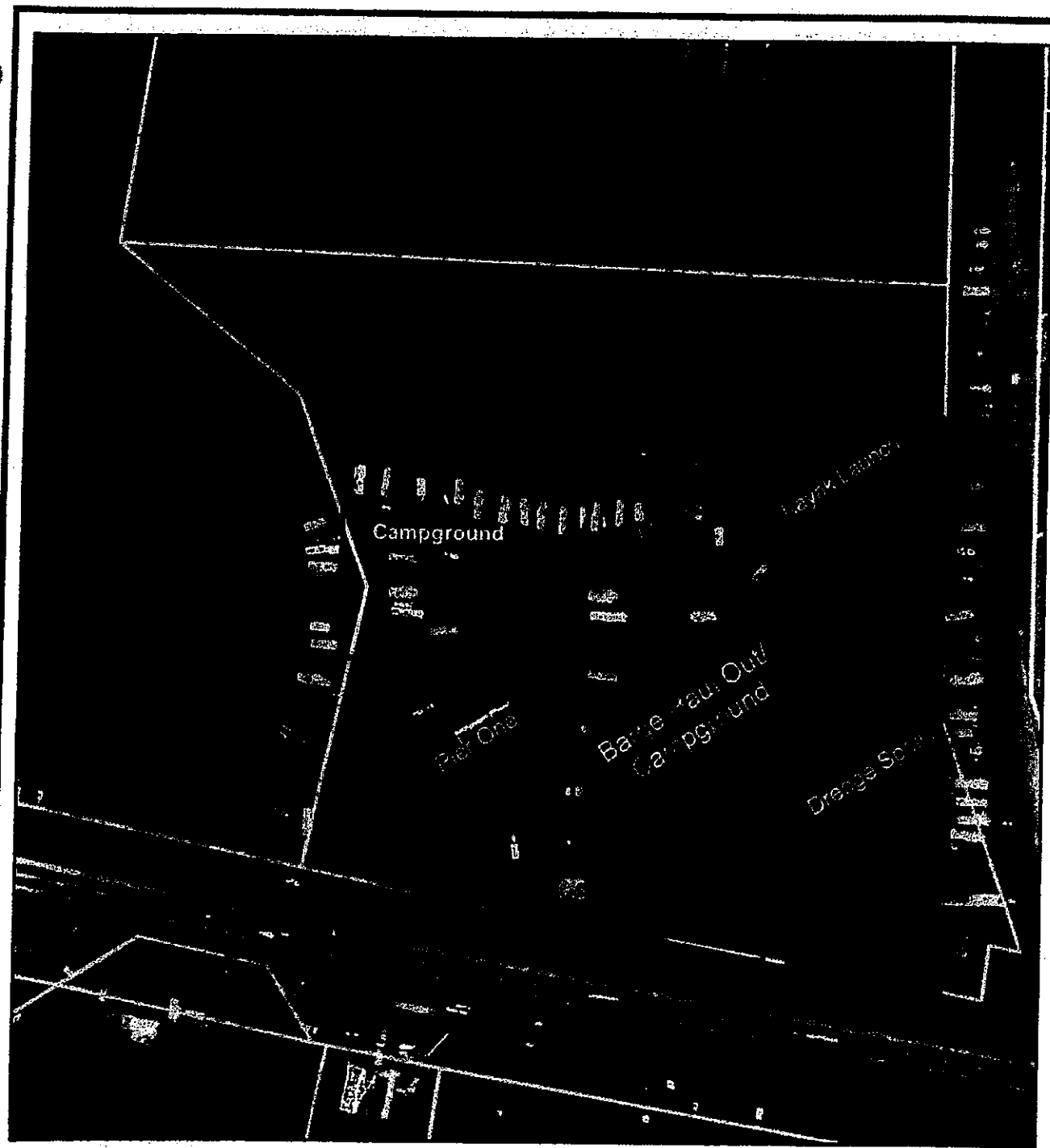
**21.30.060 Traffic Requirements.** A conditional use permit is required for every use that is estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

**21.30.070 Site Development Requirements.** a. All site development shall conform to the level two site development standards contained in HCC § 21.50.030.

b. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

**21.30.080 Nuisance Standards.** The nuisance standards of HCC § 21.59.010 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).

**21.30.090. Lighting Standards.** The level one lighting standards of HCC § 21.59.030 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).



**City of Homer**  
**Planning and Zoning Department**  
 8-15-12

## Pier One Site

0 50 100 150 200 400 Feet



**Disclaimer:**  
 It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.



## City of Homer Planning & Zoning

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### STAFF REPORT 12-53

TO: Planning Commission, Economic Development Commission, Port and Harbor  
Commission, Parks and Recreation  
FROM: Rick Abboud, City Planner  
DATE: September 14, 2012  
SUBJ: Pier One Theater/Campground Site

#### Summary

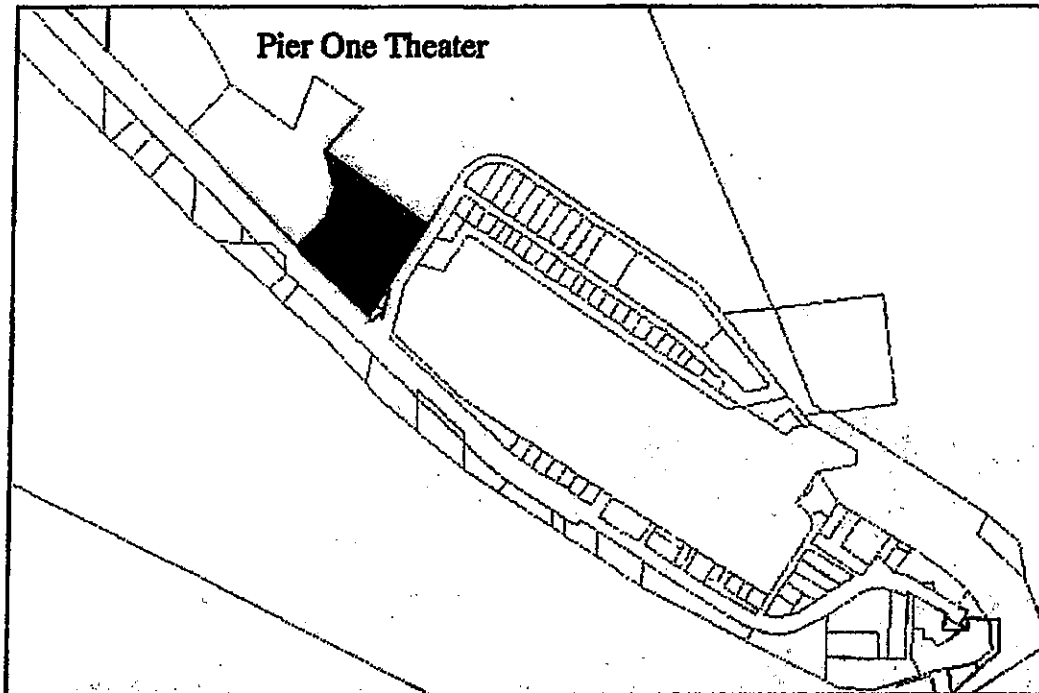
A very long report has been created describing several of the current and proposed activities on the site. A map outlining the activities is included. We are looking for comments.

As far as short-term activities are concerned, I feel that the proposed barge facility can produce revenues for the Port and Harbor while accommodating the current traditional use found (camping). We would be careful not to propose activities which would displace the most desirable camp spaces nearest to the water. A kayak launch could be accommodated in the corner at the water nearest to the road without impeding any current or proposed activity and would not introduce such improvements that could not be relocated if the need in the future arose. No other plan exists in the short term to relocate dredge spoils.

This leaves an acre on the site closest to the highway. The area is 4 times the amount of land requested for lease. Comments could be used as to the possibilities of a lease. If it was found that a lease with a permanent improvement is desirable, I would suggest that it be located between Pier One and the highway. This would introduce that least amount of constraint on the property for future uses and is the least impacting on the view shed. Perhaps a larger question is whether or not this is in the best interests of the City or the Port and Harbor Enterprise fund and what might be suggested to put it in the best light.

Comments are desired as to the compatibility of the various current and proposed uses in relation to a 5 – 10 year time frame. While I do not have much in the way of long-term plans for the lot, I suggest a review to reevaluate in 5 years or so. Do you have suggestions for the long range use of this lot?

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**Designated Use:** Fishing Lagoon

**Acquisition History:** Ordinance 83-26. Purchase from World Seafood.

**Area:** 11.27 acres

**Parcel Number:** 18103117

**2009 Assessed Value:** \$1,719,400 (Land: \$1,570,600 Structure: \$148,800)

**Legal Description:** HM0940043 T06S R13W S35 TRACT 1-A THE FISHIN HOLE SUB NO 2

**Zoning:** Marine Industrial

**Wetlands:** N/A

**Infrastructure:** Water, sewer, paved road access

**Address:** 3854 Homer Spit Road

This is a large parcel that is used several ways.

- Dredge spoils dewatering and storage
- City RV park/campground, and access to the only public RV dump on the spit
- Pier One Theater Lease. Theater leases the building only; not the land. Resolution 89-36A.
- Other summer only leases

**Resolution 2011-37(A):** Develop a plan which will consider designation of a 10,000 sq. ft. portion to make the land available for Request for Proposals.

**Leased to:** Pier One Theater

**Lease Renewal Options:**

**Expiration:** 12/9/2011 Resolution 2007-56

The Homer Spit Trail currently ends on this lot.

**Finance Dept. Code:**



## City of Homer Capital Improvement Plan • 2012 - 2017

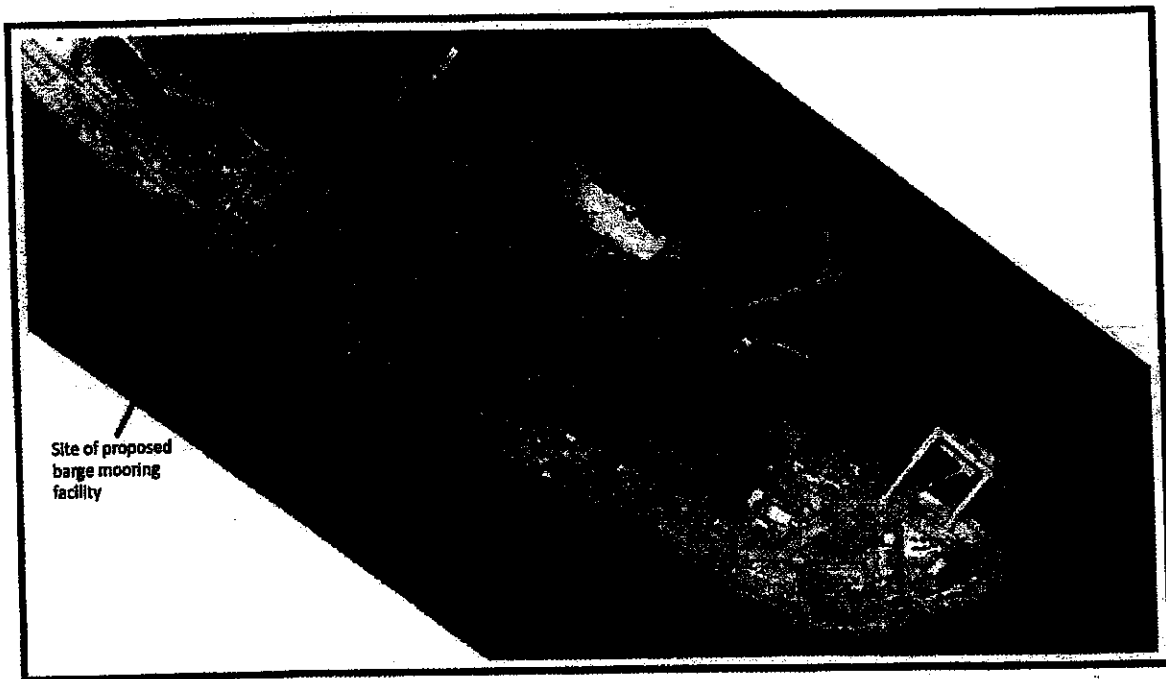
### Barge Mooring Facility

**PROJECT DESCRIPTION & BENEFIT:** This project will meet the needs of existing Homer businesses and attract additional business by constructing a barge mooring facility at Lot TR 1A (east of the Fishing Lagoon). The mooring facility will consist of a row of four or five piles driven perpendicular to the beach, extending down through the tidal area, eliminating the necessity of an offshore anchor and allowing use at various tide levels. Barges and other large shallow-draft vessels will be able to moor at the site while undergoing maintenance/repair work. When used in conjunction with bollard moorings on the beach, the pile moorings will also allow long-term storage at the site.

Cost: \$400,000

Schedule: 2013

Priority: 2



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COWLES COUNCIL CHAMBERS  
491 E. PIONEER AVENUE  
HOMER, ALASKA  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



**COMMITTEE OF THE WHOLE**  
**5:00 P.M. MONDAY**  
**MAY 13, 2013**

MAYOR BETH WYTHE  
COUNCIL MEMBER FRANCIE ROBERTS  
COUNCIL MEMBER BARBARA HOWARD  
COUNCIL MEMBER DAVID LEWIS  
COUNCIL MEMBER BRYAN ZAK  
COUNCIL MEMBER BEAUREGARD BURGESS  
COUNCIL MEMBER JAMES DOLMA  
CITY ATTORNEY THOMAS KLINKNER  
CITY MANAGER WALT WREDE  
CITY CLERK JO JOHNSON

### **COMMITTEE OF THE WHOLE AGENDA**

**1. CALL TO ORDER, 5:00 P.M.**

Mayor Wythe has requested excusal.

**2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

**3. Michelle Drew, Mikunda, Cottrell, & Co., Auditor's Report**

**4. Memorandum 13-068, from Community & Economic Development Coordinator, Re: Capital Improvement Plan Schedule for 2014 - 2019 & FY 2015 Legislative Requests.**

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**5. CONSENT AGENDA**

**Page 47**

**6. REGULAR MEETING AGENDA**

**Page 47**

**7. COMMENTS OF THE AUDIENCE**

**8. ADJOURNMENT NO LATER THAN 5:50 P.M.**

Next Regular Meeting is Tuesday, May 28, 2013 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Administration

491 East Pioneer Avenue  
Homer, Alaska 99603

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum 13-068

TO: Mayor Wythe and Homer City Council  
THROUGH: Walt Wrede, City Manager  
FROM: Katie Koester, Community and Economic Development Coordinator  
DATE: May 8, 2013  
SUBJECT: Capital Improvement Plan Development

---

It is time to start the process of identifying and prioritizing projects for inclusion in the 2013-2018 Capital Improvement Plan. This process involves the public, the Council, the advisory commissions, and local non-profit organizations and agencies. Council approval of the CIP schedule is the first step in the process.

The CIP schedule has been pushed up one month this year from previous years so the City can forward the City of Homer FY2015 Legislative Request to the Governor's office in the fall coinciding with the development of the Governor's Budget.

**RECOMMENDATION:** Approve 2014-2019 Capital Improvement Planning Process and FY2015 Legislative Request Development Schedule.

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**CITY OF HOMER**  
**2014-2019 CAPITAL IMPROVEMENT PLANNING PROCESS**  
**FY 2014 LEGISLATIVE REQUEST DEVELOPMENT SCHEDULE**

ACTION	TIME FRAME
City Council approval of schedule	May 13, 2013
Solicit new/revised project information from City departments, local agencies and non-profits	May 14
Input for new draft requested by	June 14
Prepare and distribute draft CIP to City advisory groups for review and input	(Meeting dates): Planning Commission June 19, July 17
	Parks and Recreation Commission June 20, July 18
	Port and Harbor Commission June 26, July 24
	Library Advisory Board July 2
	Economic Development Commission June 11, July 9
	Transportation Advisory Committee No meeting in time frame.
Administrative review and compilation	July 25 - August 7
City Council worksession to review proposed projects	August 12
Public Hearing on CIP/Legislative request	August 26
Adoption of resolutions by City Council	September 9
Administration compilation of CIP	September 10 – September 30
Administration forwards requests for Governor's Budget (Local Election)	October 1
Distribution of CIP and State Legislative Request	October 2013 & January 2014
Compilation/distribution of Federal Request	February 2014

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**COWLES COUNCIL CHAMBERS**  
**491 E. PIONEER AVENUE**  
**HOMER, ALASKA**  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



**REGULAR MEETING**  
**6:00 P.M. MONDAY**  
**MAY 13, 2013**

MAYOR BETH WYTHE  
COUNCIL MEMBER FRANCIE ROBERTS  
COUNCIL MEMBER BARBARA HOWARD  
COUNCIL MEMBER DAVID LEWIS  
COUNCIL MEMBER BRYAN ZAK  
COUNCIL MEMBER BEAUREGARD BURGESS  
COUNCIL MEMBER JAMES DOLMA  
CITY ATTORNEY THOMAS KLINKNER  
CITY MANAGER WALT WREDE  
CITY CLERK JO JOHNSON

## **REGULAR MEETING AGENDA**

**Worksession 4:00 p.m. and Committee of the Whole 5:00 p.m. in Homer City Hall Cowles Council Chambers.**

### **1. CALL TO ORDER, PLEDGE OF ALLEGIANCE**

Mayor Wythe has requested excusal.

Department Heads may be called upon from time to time to participate via teleconference.

### **2. AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

### **3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

### **4. RECONSIDERATION**

### **5. CONSENT AGENDA**

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Regular meeting minutes of April 22, 2013. City Clerk. Recommend adoption.

**Page 53**

- B. **Memorandum 13-060**, from Mayor Pro Tempore, Re: Appointment of Mike Barth to the Economic Development Advisory Commission. **Page 71**
- C. **Ordinance 13-17**, An Ordinance of the City of Homer, Alaska, Making Technical Corrections to the Homer City Code Before its Republication by Code Publishing, Inc. City Clerk. Recommended dates: Introduction May 13, 2013, Public Hearing and Second Reading May 28, 2013. **Page 75**
- Memorandum 13-061 from City Attorney as backup. **Page 85**
- D. **Ordinance 13-18**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Commercial Vessel Passenger Tax Program Pass Through Grant from the Kenai Peninsula Borough for FY 2012 in the Amount of \$21,710.00, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommended dates: Introduction May 13, 2013, Public Hearing and Second Reading May 28, 2013. **Page 107**
- E. **Resolution 13-042**, A Resolution of the City Council of Homer, Alaska, Amending the Homer Advisory Planning Commission Bylaws. Planning. Recommend adoption. **Page 123**
- Memorandum 13-062 from City Planner as backup. **Page 133**
- F. **Resolution 13-043**, A Resolution of the City Council of Homer, Alaska Accepting and Approving the Baycrest Overlook Interpretive Master Plan Submitted by the Public Arts Committee for the Improvement and Renovation of the Baycrest Hill Scenic Overlook and Rest Area. City Clerk/Public Arts Committee. Recommend adoption. **Page 185**
- G. **Resolution 13-044**, A Resolution of the Homer City Council Authorizing the Formation of the Webber Subdivision Road Reconstruction and Paving Special Assessment District and Authorizing the City Manager to Proceed with the Preparation and Construction of the Project. City Clerk. Recommend adoption. **Page 217**
- H. **Resolution 13-045**, A Resolution of the Homer City Council Electing to Participate in the AMLJIA Loss Control Incentive Program for the City of Homer for the 2012-2013 Policy Year. City Manager/Finance. Recommend adoption. **Page 239**
- I. **Resolution 13-046**, A Resolution of the Homer City Council Awarding the Contract to Conduct a Study on the Port and Harbor Rate Fee Structure and the Economic Impact of Mooring a MODU (Mobile Offshore Drilling Unit) at the Port of Homer's Deep Water Dock to the Firm of Northern Economics of Anchorage, Alaska, in the Amount of \$19,878.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk. Recommend adoption. **Page 241**

Memorandum 13-066 from Port and Harbor Director as backup. **Page 243**

- J. **Memorandum 13-068**, from Community & Economic Development Coordinator, Re: Capital Improvement Plan Schedule for 2014 - 2019 & FY 2015 Legislative Requests. **Page 249**

**6. VISITORS**

- A. Michelle Drew, Mikunda, Cottrell, & Co., Auditor's Report, 10 minutes.
- B. Linda Anderson, Lobbyist Report, 10 minutes.

**7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS**

- A. **Mayor's Recognition**, Jerry Lawver, Wastewater System Operator of the Year Award
- B. **Mayor's Proclamation** - National Public Works Week – May 19 - 25, 2013 **Page 253**
- C. **Mayor's Proclamation** – Peace Officers Memorial Day May 15 and National Police Week May 12 – 18, 2013 **Page 255**
- D. **Mayor's Proclamation**, National Missing Children's Day, May 25 **Page 257**
- E. Borough Report
- F. Commissions/Board Reports:
1. Library Advisory Board
  2. Homer Advisory Planning Commission
  3. Economic Development Advisory Commission
  4. Parks and Recreation Advisory Commission
  5. Port and Harbor Advisory Commission
- G. Thank you from Kachemak Heritage Land Trust and Bunnell Street Arts Center for Grants through The Homer Foundation. **Page 259**
- H. Thank you from Pratt Museum for City's contribution. **Page 263**

**8. PUBLIC HEARING(S)**

**A. WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT** **Page 265**

- B. Ordinance 13-11(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code §21.03.040 to Add a Definition of Lodging; Amending Homer City Code §§21.28.020, 21.28.030, 21.28.040 and 21.28.070, Regarding the Marine Commercial Zoning District; Amending Homer City Code §§21.30.020, 21.30.030, 21.30.040 and 21.30.070, Regarding the Marine Industrial Zoning District; and Adopting Homer City Code §21.50.040, Site Development Standards - Level 3, to Implement the Homer Spit Comprehensive Plan. Planning. Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013. **Page 275**

Memorandums 13-053 and 13-070 from City Planner as backup. **Page 283**

- C. Ordinance 13-12**, An Ordinance of the City Council of the City of Homer, Alaska, Amending the Homer City Zoning Map to Rezone Portions of the Marine Industrial (MI) Zoning District to Conservation (CONS), Marine Commercial (MC) and Open Space Recreational (OSR), and Amending the Homer City Zoning Map to Rezone a Portion of the Open Space Recreational (OSR) Zoning District to Marine Industrial (MI), to Implement the 2010 Homer Spit Plan. Planning. Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013. **Page 435**

Memorandum 13-054 from City Planner as backup. **Page 447**

- D. Ordinance 13-13**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant from the Alaska State Library in the Amount of \$5,906.00 for the Purpose of Acquiring Two Early Literacy Stations and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013. **Page 499**

- E. Ordinance 13-14**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2013 Operating Budget by Appropriating \$54,416.00 from the Port and Harbor Reserve Fund for Repairs to Deep Water Dock, Pioneer Dock, Fish Dock, C Float, and the Outfall Line. City Manager/Port and Harbor Director. Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013. **Page 507**

Memorandum 13-056 from Port and Harbor Director as backup. **Page 511**

- F. Ordinance 13-15**, An Ordinance of the City of Homer, Alaska, Authorizing Harbor Revenue Bonds of the City to be Issued in Series to Finance Harbor Improvements; Creating a Lien Upon Net Revenue of the Harbor for the Payment of the Bonds; and

- G. **Ordinance 13-16**, An Ordinance of the City of Homer, Alaska, Authorizing the Issuance and Sale of a Series of Harbor Revenue Bonds by the City in the Principal Amount Not to Exceed \$4,200,000 for the Purpose of Financing the Design, Construction, and Acquisition of Harbor and Related Capital Improvements; Establishing the Terms of the Bonds; and Authorizing the Sale of the Bonds. City Manager. Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013. **Page 531**

**9. ORDINANCE(S)**

**10. CITY MANAGER'S REPORT**

- A. City Manager's Report **Page 543**  
1. Memorandum 13-067 from Personnel Director, Re: Report from the Personnel Office. **Page 551**
- B. Bid Report **Page 553**

**11. CITY ATTORNEY REPORT**

**12. COMMITTEE REPORT**

- A. Public Arts Committee
- B. Transportation Advisory Committee
- C. Permanent Fund Committee
- D. Lease Committee
- E. Port and Harbor Improvement Committee
- F. Employee Committee Report

**13. PENDING BUSINESS**

**14. NEW BUSINESS**

**15. RESOLUTIONS**

- A. **Resolution 13-047**, A Resolution of the Homer City Council Awarding the Contract for Homer Restroom Facilities Improvements 2013 to the Firm of \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ in the Amount of \$\_\_\_\_\_ and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk. **Page 555**

- 16. **COMMENTS OF THE AUDIENCE**
- 17. **COMMENTS OF THE CITY ATTORNEY**
- 18. **COMMENTS OF THE CITY CLERK**
- 19. **COMMENTS OF THE CITY MANAGER**
- 20. **COMMENTS OF THE MAYOR**
- 21. **COMMENTS OF THE CITY COUNCIL**

22. **ADJOURNMENT**

Next Regular Meeting is Tuesday, May 28, 2013 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Session 13-10, a Regular Meeting of the Homer City Council was called to order on April 22, 2013 at 6:00 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: BURGESS, DOLMA, HOWARD, LEWIS, ZAK  
(telephonic)

ABSENT: ROBERTS (excused)

STAFF: CITY MANAGER WREDE  
CITY CLERK JOHNSON  
ACTING FINANCE DIRECTOR MOORE  
COMMUNITY & ECONOMIC DEVELOPMENT  
COORDINATOR KOESTER  
LIBRARY DIRECTOR DIXON  
IT MANAGER POOLOS  
PORT AND HARBOR DIRECTOR HAWKINS  
PUBLIC WORKS DIRECTOR MEYER

Councilmember Zak has requested telephonic participation.

Councilmember Roberts has requested telephonic participation or excusal.

Mayor Wythe called for a motion to allow Councilmembers Zak and Roberts to participate by telephone.

HOWARD/BURGESS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Roberts did not call in for the meeting. Mayor Wythe declared her absence as excused and there was no objection from the Council.

Council met for a Worksession from 4:00 p.m. to 4:47 p.m. to discuss the HERC Building. Council convened as a Committee of the Whole from 5:00 p.m. to 5:41 p.m. to discuss Ordinances 13-15 and 13-16, Consent Agenda, and Regular Meeting Agenda items.

Department Heads may be called upon from time to time to participate via teleconference.

## **AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The following changes were made to the agenda: **CONSENT AGENDA - Resolution 13-040**, A Resolution of the Homer City Council Directing the City Administration to Terminate All Survey, Design, and Cost Estimating Work on the Kachemak Drive Pathway. Mayor. Memorandum 13-059 from Parks and Recreation Advisory Commission, re: Resolution 13-040. Written public comments. **VISITORS** - Linda Anderson, Lobbyist Report, Legislative Worksession **ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS** Mayor Wythe's Report from Juneau Trip – April 2 – 5, 2013.

Lobbyist Linda Anderson was not able to travel to Homer today. Her report was postponed to the May 13, 2013 meeting.

Resolution 13-040 was moved from the Consent Agenda to Resolutions. Ordinances 13-11 and 13-12 were moved from the Consent Agenda to Ordinances.

Mayor Wythe called for a motion to approve the agenda as amended.

HOWARD/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

Bumppo Bremicker, city resident, told Council the Kachemak Drive Path Association was formed today to design, construct, and maintain a non-motorized trail on Kachemak Drive. The trail was adopted in the Homer Non Motorized Transportation and Trails Plan, Homer Area Transportation Plan, Climate Action Plan, Homer Accelerated Roads and Trails, and the Capital Improvement Plan. One percent of sales tax revenue is dedicated to a trail fund. There is \$300,000 in the fund, about \$100,000 per year. The Kachemak Drive Path Committee has

labored for 2.5 years to address safety concerns on Kachemak Drive for pedestrians and bicyclists.

Lynn Burt, Kachemak Drive Path Committee Member, added city staff recommended the trail design begin at the west end. The steep hill at the base of the Spit where Kachemak Drive climbs is the most dangerous section. The hill is a steep grade with impaired vision, causing near misses between bicyclists and motorists. Resolution 12-079(S) authorized \$20,000 for a survey and engineer estimate for the first ½ mile section. Public Works Director Carey Meyer supervised the survey. Two routes were considered: up the steep hill or along the Mud Bay Trail. The steep hill option was too expensive so Mr. Meyer directed the surveyor to stay along the beach for the Mud Bay Trail. Although disappointed, the KDPC supported the decision. They hoped with volunteer labor a safe route could be constructed. The engineering estimate for Mud Bay Trail was \$374,000 as it failed to factor volunteer labor. Now Mayor Wythe has sponsored Resolution 13-040 to terminate all work on the trail.

Lindianne Sarno, city resident and ex-member of Kachemak Drive Path Committee, commented a citizen's group has been formed. They are the Kachemak Drive Path Association and will assume responsibility for designing, building, and maintaining the Kachemak Drive trail. They propose a third of the HART trail fund be allocated for the trail and a third of the HART fund earnings each year thereafter until the trail is complete. They propose to use volunteer labor and will leverage funds as seed money to attract grants and donations. They will set up a working vacation on Kachemak Bay that includes camping, volunteer labor, and BBQs. They ask the City for a partnership in coordinating with government agencies.

Kevin Walker, Kachemak City resident, agrees with the previous speakers. He has developed plans with the State of Alaska. Review of the plan made him lose confidence. The steep slope on the path includes a 20 ft. drop at 1.9:1. The City recently approved road back slopes to be built at 1.5:1. He is confident we can build a 6-8 ft. wide trail up the slope; it is about 200 ft. and will need a boardwalk or retaining wall. He has volunteered for the new committee.

Tricia Lillibridge, city resident, commented the Kachemak Drive trail is a contentious issue. She suggested letting everyone stop and take a breath. Hardly anyone would be against a trail. There are volunteers that are willing to work.

Larry Slone, city resident, commented on Resolutions 13-039 and 13-040. He is a strong supporter of the water and sewer rate model. He recognized the members on the Water and Sewer Rate Task Force. If the new committee for the Kachemak Drive path is willing to find other means and funding for the expensive trail, that is great. The Mud Bay trail is a diamond in the rough that could be developed for a minimal amount of money. It complements the Spit Trail.

Beth Cumming, city resident and prior member of the Kachemak Drive Path Committee, commented on Resolution 13-040. She requested Council postpone action until late summer or fall. It will demonstrate a basic courtesy to acknowledge the hundreds of hours the committee has spent on the trail. It will allow the committee to reorganize and move forward to present a less costly plan.

Catriona Lowe commented on Resolution 13-040. Although there is a perception all bikes are safer on a recreational path, 12 mph bike speed is better moving with traffic on the road. A bike used to get to work at a higher speed is less safe on a separated bike path.

Maria Calhoun expressed support for the Month of the Young Child and the Sprout program.

Eric Bremicker, city resident, urged Council to support the Kachemak Drive multi-use trail. It will be a safe, usable trail that everyone can move along on.

## **RECONSIDERATION**

## **CONSENT AGENDA**

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Regular meeting minutes of April 8, 2013. City Clerk. Recommend adoption.
- B. **Memorandum 13-052**, from Mayor, Re: Reappointment of Marianne Aplin to the Public Arts Committee.
- C. **Ordinance 13-11**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code §21.03.040 to Add a Definition of Lodging; Amending Homer City Code §§21.28.020, 21.28.030, 21.28.040 and 21.28.070, Regarding the Marine Commercial Zoning District; Amending Homer City Code §§21.30.020, 21.30.030, 21.30.040 and 21.30.070, Regarding the Marine Industrial Zoning District; and Adopting Homer City Code §21.50.040, Site Development Standards - Level 3, to Implement the Homer Spit Comprehensive Plan. Planning. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.

Memorandum 13-053 from City Planner as backup.

Moved to Ordinances.

- D. **Ordinance 13-12**, An Ordinance of the City Council of the City of Homer, Alaska, Amending the Homer City Zoning Map to Rezone Portions of the Marine Industrial (MI) Zoning District to Conservation (CONS), Marine Commercial (MC) and Open Space Recreational (OSR), and Amending the Homer City Zoning Map to Rezone a Portion of the Open Space Recreational (OSR) Zoning District to Marine Industrial (MI), to Implement the 2010 Homer Spit Plan. Planning. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.

Memorandum 13-054 from City Planner as backup.

Moved to Ordinances.

- E. **Ordinance 13-13**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant from the Alaska State Library in the Amount of \$5,906.00 for the Purpose of Acquiring Two Early Literacy Stations and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.
- F. **Ordinance 13-14**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2013 Operating Budget by Appropriating \$54,416.00 from the Port and Harbor Reserve Fund for Repairs to Deep Water Dock, Pioneer Dock, Fish Dock, C Float, and the Outfall Line. City Manager/Port and Harbor Director. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.

Memorandum 13-056 from Port and Harbor Director as backup.

- G. **Ordinance 13-15**, An Ordinance of the City of Homer, Alaska, Authorizing Harbor Revenue Bonds of the City to be Issued in Series to Finance Harbor Improvements; Creating a Lien Upon Net Revenue of the Harbor for the Payment of the Bonds; and Establishing Covenants of the City Related to the Bonds. City Manager. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.
- H. **Ordinance 13-16**, An Ordinance of the City of Homer, Alaska, Authorizing the Issuance and Sale of a Series of Harbor Revenue Bonds by the City in the Principal Amount Not to Exceed \$4,200,000 for the Purpose of Financing the Design, Construction, and Acquisition of Harbor and Related Capital Improvements; Establishing the Terms of the Bonds; and Authorizing the Sale of the Bonds. City Manager. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.
- I. **Resolution 13-037**, A Resolution of the City Council of Homer, Alaska, Amending Resolution 13-030, Account Codes, for Light Vehicle Purchase Contract Award with

Kendall Ford Wasilla for the Fire Department and Police Department. City Clerk. Recommend adoption.

- J.     **Resolution 13-038**, A Resolution of the Homer City Council Establishing a Schedule for Approving a Rate Model and a New Water and Sewer Fee Schedule to Become Effective July 1, 2013. Mayor. Recommend adoption.
- K.     **Resolution 13-039**, A Resolution of the Homer City Council Accepting the Final Report of the Water and Sewer Rate Task Force, Declaring the Work of the Task Force to be Complete, Thanking the Members for Their Service, and Dissolving the Task Force. Mayor. Recommend adoption.
- L.     **Resolution 13-040**, A Resolution of the Homer City Council Directing the City Administration to Terminate All Survey, Design, and Cost Estimating Work on the Kachemak Drive Pathway. Mayor. Recommend adoption.

Moved to Resolutions.

- M.     **Resolution 13-041**, A Resolution of the Homer City Council Approving a Transfer of Responsibility Agreement (TORA) Between the City OF Homer and the Alaska Department of Transportation and Public Facilities (ADOT/PF) Regarding Federal Funding and Project Management Responsibilities for the Deep Water Dock Improvements Feasibility Study. City Manager. Recommend adoption.

Mayor Wythe called for a motion for the approval of the recommendations of the Consent Agenda as read.

BURGESS/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## VISITORS

- A.     Linda Anderson, Lobbyist Report

Lobbyist Linda Anderson was not able to travel to Homer today. Her report was postponed to the May 13, 2013 meeting.

**B. Best Beginnings Homer, Early Childhood Education Programs**

Lolita Brache, Best Beginnings, reported they are a coalition of many organizations and volunteers working together to create a support network for families and young children. Best Beginnings offers parenting classes and support and training for child care providers. Helping children succeed reduces criminal justice and welfare costs later in life. The group collaborates with MAPP on many goals. The literacy work group is headed by Ann Dixon with Claudia Haines providing story hour in Razdolna and McNeill area schools. Best Beginnings will be working with businesses to see what makes them family friendly. The Safe Kids Fair is scheduled for April 27<sup>th</sup>.

**C. Baycrest Overlook Improvement Committee, Design Recommendations**

Marianne Aplin, Baycrest Overlook Improvement Committee Member, and Emily Lochart, State Parks, unveiled the plan for the Baycrest Overlook improvements. The area is seen by the many people that enter Homer by highway. Planned improvements include two picnic facilities, trash containers, a pillar near the Halibut Fishing Capital sign to allow for self timer photos, more eco-friendly toilets, changing fence levels, reorganizing parking with striping, and more planters.

Mayor Wythe called for a recess at 7:03 p.m. and reconvened the meeting at 7:08 p.m.

**ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORTS**

**REPORT/COMMISSION**

**A. Mayor's Proclamation, Month of the Young Child, April 2013**

Mayor Wythe read and presented the proclamation to Lolita Brache and Jenny Martin of Best Beginnings.

**B. Mayor's Proclamation, Municipal Clerk's Week, May 5 - 11, 2013**

Mayor Wythe read and presented the proclamation to City Clerk Jo Johnson.

**C. Mayor's Proclamation, Bike Month, May 2013**

Mayor Wythe read and presented the proclamation to Catriona Lowe and members of the Bike Club.

D. **Mayor's Proclamation**, National Women's Health Week, May 12 – 18, 2013

Mayor Wythe read and presented the proclamation to representatives of Kachemak Bay Family Planning Clinic.

E. Borough Report

F. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission
5. Port and Harbor Advisory Commission

Bob Hartley, Port and Harbor Advisory Commissioner, expressed appreciation for getting the financing for the needed repairs at the port and harbor. It has been a long process and we are beginning to see light at the end of the tunnel.

G. Report from The Homer Foundation on City of Homer Grants Program 2013.

H. Thank you from Kachemak Kids Early Learning Center for \$2,800 Grant through The Homer Foundation.

I. Thank you from Homer Council on the Arts for \$4,900 Grant through The Homer Foundation.

J. Memorandum 13-055 from Community & Economic Development Coordinator, Re: Green Dot Update.

K. Mayor Wythe's Report from Juneau Trip – April 2 – 5, 2013

**PUBLIC HEARING(S)**

A. **Ordinance 13-06**, An Ordinance of the Homer City Council, Amending HCC 3.12.020 Permanent Fund Contributions, and HCC 3.12.060 Expenditures of Income, to Provide

that Five Percent of Income from the Homer Permanent Fund Income Sub-Fund is Available to be Appropriated for Grants to The Homer Foundation for the Benefit of the Community. City Clerk/Permanent Fund Committee. Introduction March 11, 2013, Referred to Committee, Public Hearing and Second Reading April 22, 2013.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 13-06 by reading of title only for second and final reading.

BURGESS/HOWARD - SO MOVED.

HOWARD/LEWIS - MOVED TO POSTPONE TO MAY 28, 2013 TO ALLOW THE PERMANENT FUND COMMITTEE TO LINE UP WITH U.S. BANK.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Ordinance 13-10**, An Ordinance of the City Council of Homer, Alaska, Amending the 2013 Operating Budget by Appropriating up to \$45,000 from the Water Reserve Fund for the Demolition of the Redwood Tank at the Water Treatment Plant. City Manager/Public Works Director. Introduction April 8, 2013, Public Hearing and Second Reading April 22, 2013.

**Ordinance 13-10(S)**, An Ordinance of the City Council of Homer, Alaska, Amending the 2013 Operating Budget by Appropriating up to \$45,000 from the Water Reserve Fund for the Demolition of the Redwood Tank at the Water Treatment Plant. City Manager/Public Works Director.

Mayor Wythe opened the public hearing.

Larry Slone, city resident, commented he viewed the blueprints and there may be asbestos covering the tank. He questioned if \$45,000 for the demolition was a proper reflection of costs.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion to substitute Ordinance 13-10(S) for Ordinance 13-10.

LEWIS/DOLMA - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe called for a motion for the adoption of Ordinance 13-10(S) by reading of title only for second and final reading.

LEWIS/BURGESS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### **ORDINANCE(S)**

- A. **Ordinance 13-11**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code §21.03.040 to Add a Definition of Lodging; Amending Homer City Code §§21.28.020, 21.28.030, 21.28.040 and 21.28.070, Regarding the Marine Commercial Zoning District; Amending Homer City Code §§21.30.020, 21.30.030, 21.30.040 and 21.30.070, Regarding the Marine Industrial Zoning District; and Adopting Homer City Code §21.50.040, Site Development Standards - Level 3, to Implement the Homer Spit Comprehensive Plan. Planning. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.

Memorandum 13-053 from City Planner as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 13-11 for introduction and first reading by reading of title only.

BURGESS/LEWIS – SO MOVED.

Councilmember Burgess noted the gentleman in the audience that would like to open a helicopter business on the Spit. Currently helicopters and heliports are allowable as a conditional use in Marine Commercial and Marine Industrial zoning districts.

BURGESS/LEWIS – MOVED TO AMEND TO ALLOW HELIPORTS AS A CONDITIONALLY PERMITTED ACTIVITY AND TO RETAIN THE LANGUAGE IN ALL SECTIONS THROUGHOUT.

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 13-12**, An Ordinance of the City Council of the City of Homer, Alaska, Amending the Homer City Zoning Map to Rezone Portions of the Marine Industrial (MI) Zoning District to Conservation (CONS), Marine Commercial (MC) and Open Space Recreational (OSR), and Amending the Homer City Zoning Map to Rezone a Portion of the Open Space Recreational (OSR) Zoning District to Marine Industrial (MI), to Implement the 2010 Homer Spit Plan. Planning. Recommended dates: Introduction April 22, 2013, Public Hearing and Second Reading May 13, 2013.

Memorandum 13-054 from City Planner as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 13-12 for introduction and first reading by reading of title only.

BURGESS/LEWIS – SO MOVED.

There were no changes requested.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **CITY MANAGER'S REPORT**

- A. City Manager's Report

1. Memorandum 13-057 from City Manager, Re: Strategic Planning.

1. Lillian Walli Special Assessment District: At the meeting, we will provide you with an update on the status of this project and discuss a strategy for bringing the anticipated costs down.
2. Strategic Planning and Mission Statement: Attached is a discussion paper on this topic which I hope to spend some time on during the verbal report.
3. Cruise Ship Grant Projects and Spit Trail: Quite a bit is happening here and we will provide a verbal update.
4. Enstar: Work is proceeding on the distribution system. We have had several meetings with the contractor so far and Public Works is coordinating closely regarding pipe location in the ROW.

City Manager Wrede reported Buccaneer provided a blow out control plan as requested. They redacted sensitive information such as personal phone numbers. The paper copy will be available to Council and the public.

Council asked to initiate the Lillian Walli Special Assessment District (SAD). Planning and Public Works found no harm in expanding the boundaries. They have received overwhelming support, with property owners showing much interest. The next step will be a resolution acknowledging the support and will direct Administration to take the next step. But first there is work to be done. Both Planning and Public Works believe there are problems with the way the area was platted. Currently the project is cost prohibitive. We would like to talk to property owners ahead of time and introduce a re-platting concept that includes more lots and less roads.

Public Works Director Carey Meyer provided a map of the Lillian Walli SAD. There are a lot of roads that are platted that are not cost effective. The cost estimate per lot is substantially more than lots currently on the market. An assessment of \$70,000 - \$80,000 per lot doesn't pencil out; it may be the reason why the subdivision was never developed. Refining the area to provide for lots only fronting one road will reduce 1,000 feet of road. There are currently 74 lots in the existing district. There would be 104 lots with the re-plat. These changes could mean a subdivision where the improvements would pencil out and create affordable lots. The lower portion of the subdivision is begging for affordable housing. That means smaller lots and multi-family units. As you go up the hill the lots are larger.

We normally provide a cost estimate to people within the SAD, but it is not reasonable now. Re-platting is a reasonable option. The City needs time to communicate with the property owners and let them know how values will transfer with re-plats. In most SADs the City is contributing a significant portion. In this case 100% of the cost would go to the property owners, due to their subdivision agreement. A letter will be sent to all property owners within the SAD to begin a planning session.

Mayor Wythe noted the original subdivision had eight lots owned by the City. It is Council's intent to get the SAD in place to allow the City to sell the lots. It will allow the City to recoup funds that are currently stranded assets.

City Manager Wrede referenced Memorandum 13-057 - Strategic Planning and Mission Statement. The Mayor, staff members, and he have been talking about more strategic planning and more coordination with the plans Council has adopted. As staff, we see an opportunity for a project and pick off things that tend to be easy, we have the money, have an opportunity, and time to complete. The idea is to see if Council sees the value in a more formal strategic plan. It would outline how to go about being more focused on goals that we achieve.

Mayor Wythe had asked City Manager Wrede about this several months ago. On the Juneau trips they were asked why we have projects on the top fifteen CIP (Capital Improvement Plan) that are not directly related to the business of the City of Homer. State and Federal funding will be drying up and going away. The more strategic the project planning can be, the better chances of funding. She recommends reducing the CIP list down to five instead of fifteen projects. We still have the complete book that goes to each representative that contains the other items. When they look at the CIP they see our top priorities. This year we made great strides with the funding for the port and harbor. The \$2M re-appropriation will come within \$300,000 of paying for the new port and harbor building and Skyline Fire Station. We developed a good plan for the harbor, the revenue stream was created, and \$500,000 set aside in separate fund. It was a pro-active presentation. She will be asking Council to put some work into developing a strategic plan by reviewing the six or seven different plans and determining their priority for development of the community. The Legislators will take it much more seriously if year after year they see the same things requested.

Councilmembers Howard, Lewis, Dolma, and Burgess agreed with the idea of forming a strategic plan.

Councilmember Zak sees this as a short term condition but doesn't know if it will be long term. In a few years we may add more to the list. We don't want to lose sight of opportunities.

Asked about the sale of dredge materials from the Fishing Hole, Port and Harbor Director Hawkins answered the sale of materials began last fall and will continue until the rest of the materials are hauled away. The entity will pay for the materials once they are all hauled off the Spit. Some materials were used to fill a campsite building on the Spit that was undercut.

Asked about payment on the receivables from the drill rig, Port and Harbor Director noted they are about a month behind. He is communicating with them to get caught up.

B. Bid Report

**CITY ATTORNEY REPORT**

**COMMITTEE REPORT**

- A. Public Arts Committee
- B. Transportation Advisory Committee
- C. Permanent Fund Committee
- D. Lease Committee
- E. Port and Harbor Improvement Committee
- F. Employee Committee Report
- G. Water and Sewer Rate Task Force

**PENDING BUSINESS**

**NEW BUSINESS**

**RESOLUTIONS**

- A. **Resolution 13-040**, A Resolution of the Homer City Council Directing the City Administration to Terminate All Survey, Design, and Cost Estimating Work on the Kachemak Drive Pathway. Mayor. Recommend adoption.

Memorandum 13-059 from Parks and Recreation Advisory Commission as backup.

Mayor Wythe called for a motion for the adoption of Resolution 13-040 by reading of title only.

LEWIS/HOWARD – SO MOVED.

Councilmember Lewis likes trails and agrees there is a trail needed there. He doesn't necessarily agree with the trail on Mud Bay. He would like to follow Beth Cumming's recommendations to postpone the resolution until the second meeting in September. It will give the Kachemak Drive Path Association time to come up with something before we close it down.

Councilmember Burgess referred to the trail as a sticky issue. The public may not have the insight into the complexity of the trail and the lack of communication. Council has to look at how we spend taxpayer money. We want to keep options open and support trails. Postponement will give time for people to come back and Council will reevaluate.

LEWIS/BURGESS - MOVED TO POSTPONE TO SEPTEMBER 23.

VOTE: (postponement) YES. DOLMA, ZAK, BURGESS, LEWIS

VOTE: NO. HOWARD

Motion carried.

### **COMMENTS OF THE AUDIENCE**

Eric Lee, city resident, thanked Councilmember Burgess for amending Ordinance 13-11 to provide heliports on the Spit. The conditional use permit protects folks on the Spit. A heliport with helicopter operations could bring added funds to the port.

Larry Slone, city resident, commented on Resolution 13-040. Failure to pass the resolution leaves the situation in limbo. The committee involved in designing the trail still has the opportunity to access city resources and request additional funds for trail design and development.

Bumppo Bremicker, city resident, commented on Juneau's diminishing funding. A volunteer group working, using money dedicated to trails, could build the trail much faster and could raise money. They have Kevin Walker for design and Dave Brann as the trail master.

Carey Meyer, city resident and Public Works Director, commented he has a pretty good track record in 14 years of listening and engaging stakeholders and coming up with a consensus as to how to proceed. He failed miserably with the Kachemak Drive Pathway. He does think we have a design that has value, but needs some tweaking. He hopes in September we can reengage and find a solution to the problem that we can afford and will be supported by everyone.

### **COMMENTS OF THE CITY ATTORNEY**

City Attorney Klinkner was not present.

### **COMMENTS OF THE CITY CLERK**

City Clerk Johnson thanked Mayor and Council for the proclamation.

## **COMMENTS OF THE CITY MANAGER**

City Manager Wrede commented Carey did not fail miserably. He went out of his way to listen to everyone that had an interest in the trail. He was trying to find a middle ground where everyone could get on board.

## **COMMENTS OF THE MAYOR**

Mayor Wythe commented the trail is a very contentious thing. She does not oppose it. We need a strategic plan as we have 30 active projects. Carey and the new project manager spend an inordinate amount of work time and their personal life time to keep all projects moving forward. They spend their free time supporting commissions and committees. Commissions and committees provide a valuable service to the Council. We could not do all of the work we request of them. Every year Council puts together a schedule that commissions will meet on a monthly basis. It provides a contained environment for the volume of projects from the commissions and committees. When we end up with commissions and committees that are meeting more than once a month we are using people's personal life time and taxpayer dollars to pay overtime for staff for those services. She keeps hearing people are being treated poorly when they are providing these services. These are employees of the City of Homer, not public servants. They have no obligation to the demands beyond the standards. Mayor Wythe's concern is the employees are spending a lot of time and getting zero appreciation. She served on the Water and Sewer Rate Task Force for nine months listening to people be totally and completely and inappropriately abusive to staff that was trying to help them. That is not okay. These people need to go home at the end of the day, without being abused and battered by the people they are trying to help. Committees are designed to come in and complete a project and move on. We have committees that have turned into perpetual living entities. Mayor Wythe will be coming to Council to ask them to review the committees to see if they have fulfilled their obligation. We need to give staff back some of their life. She urged commissions/committees to appreciate things staff does for them and save some taxpayer dollars. Every year we hear we need to tighten the belt; if you don't want to spend money we can't have 27 commissions and committees taking all the staff time. What are we willing to give up to keep the City running on the shoestring of income we have now? How can we live without increasing sales or property tax? In the eight years she has served on the Council we have had a vote to increase sales tax to pay for the library. We have honored the vote of the same citizens to not collect sales tax on food, a \$100,000 annual reduction. We have reduced the City's budget by over \$3M in eight years. The second year the State could not guarantee revenue sharing we quit using revenue sharing to balance the budget. When the State wouldn't give an additional \$25M in revenue sharing this year there was a human outcry. We may be the only community that has made that decision. Tonight we are discussing the HERC building, committees and commissions, and a strategic plan for projects. We are asking you to help us live within our means.

## **COMMENTS OF THE CITY COUNCIL**

Councilmember Lewis commented he agrees with the Mayor on everything she has said. We don't need the trail committee meeting until we make our decision. The majority of people want a trail connecting East End Road with the Spit. The bikers have said not all bikers will be using the Kachemak Drive trail. It is a narrow trail and he wishes them luck because it is not a lot of fun. We need to come up with the best plan. We have enough going on with the pipeline. He requests the trail take a back seat, but not totally do away with it.

Councilmember Burgess commented Mayor Wythe said it very well. The task with municipal government living within its means is an immense one. To the extent the community can be understanding of the real issues before us and be supportive, we all stand to gain. He asked the path committee to support us and help us when we try to support what you do. Setting up the dialogue in an antagonistic way does not end up with a productive result. His intention is to honor the work that was done and salvage as much value from it as possible. Mayor Wythe's goal is looking out for the value of taxpayers' money that has been spent. He voiced caution since most of the cost for the trail is materials. Volunteer labor may not make a huge dent in realizing a positive outcome. At the Committee of the Whole we had a 14 yr. old young lady from the Flex Program exploring the possibility of making the voting age 16 in Homer. Approval is needed on the State level. If you are old enough to drive a car, you are old enough to vote and keep us from sending you to a foreign country. The long term goal on the HERC building is how we see the role of the Community Recreation program. How do we fund operating costs of a community recreation program? Either form a service area or dedicate a tax. It has to pencil out and has to pay for itself. He thanked Sprout and Best Beginnings; a dollar invested in early childhood education pays dividends long into the future. This is a busy summer. He is having trouble hiring general laborers. There is a lot of potential and he is feeling the vibe. Take pride in the community.

Councilmember Dolma thanked everyone that came out tonight. Sometimes it is a long time to sit. He enjoyed the tag team presentation. He thanked the Mayor for her comments. A lot of what was said borders around that. We can have a TajMahal or a tent depending on what people want to pay for. As city council members we are prepared to do what the city wants to do.

Councilmembers Howard and Zak had no comments.

## **ADJOURNMENT**

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 8:22 p.m. The next Regular Meeting is Monday, May 13, 2013 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be

HOMER CITY COUNCIL  
REGULAR MEETING MINUTES  
APRIL 22, 2013

held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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JO JOHNSON, CMC, CITY CLERK

Approved: \_\_\_\_\_



## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the Mayor

491 East Pioneer Avenue  
Homer, Alaska 99603

[mayor@ci.homer.ak.us](mailto:mayor@ci.homer.ak.us)

(p) 907-235-3130

(f) 907-235-3143

## MEMORANDUM 13-060

TO: HOMER CITY COUNCIL

FROM: FRANCIE ROBERTS, MAYOR PRO TEMPORE

DATE: MAY 6, 2013

SUBJECT: APPOINTMENT OF MIKE BARTH TO THE ECONOMIC DEVELOPMENT ADVISORY COMMISSION

Mike Barth is appointed to the Economic Development Advisory Commission to fill the seat vacated by Brad Faulkner. His appointment will expire April 1, 2016.

### RECOMMENDATION:

Confirm the appointment of Mike Barth to the Economic Development Advisory Commission.

Fiscal Note: N/A

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CITY OF HOMER  
COMMISSION, COMMITTEE, BOARD & TASK FORCE  
APPLICATION FORM

CITY CLERKS OFFICE  
CITY OF HOMER  
491 E. PIONEER AVENUE  
HOMER, ALASKA 99603  
PHONE 907-235-3130  
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.  
This information is public and will be included in the Council Information packet.

Name  Date

Physical Address  City

Mailing Address  Zip Code

Phone  Work #  Cell #

Email Address

**NOTE:** The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
<input type="checkbox"/>	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
<input checked="" type="checkbox"/>	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2ND TUESDAY OF THE MONTH AT 6:00 P.M.
<input type="checkbox"/>	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
<input type="checkbox"/>	PARKS & RECREATION ADVISORY COMMISSION	3RD THURSDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PORT & HARBOR ADVISORY COMMISSION	4TH WEDNESDAY - JANUARY TO APRIL & SEPTEMBER TO DECEMBER AT 5:00 P.M. 4TH WEDNESDAY - MAY - AUGUST AT 6:00 P.M.
<input type="checkbox"/>	PUBLIC ARTS COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:00 P.M.
<input type="checkbox"/>	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
<input type="checkbox"/>	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
<input type="checkbox"/>	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	

I have been a resident of the City for  ☐ mos. ☐ yrs I have been a resident of the area for  28 ☒ mos. ☐ yrs.

I am presently employed as:  Self Employed - State Farm Insurance

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

I have been the owner of the State Farm Insurance office in Homer for the past 2 years.  
I have prior business and management experience as a General Manager in Anchorage.  
Education in Economics and Finance from Wayland Baptist University

Have you ever served on a similar commission, committee, board or task force?  YES

If so when and where?

I have served on the Homer Chamber of Commerce Board of Directors for 2 years.

When are you available for meetings? ☒ Weekly ☒ Monthly ☐ Bi-Monthly

I am interested in serving on the above because:

I believe the Economic Development Advisory Commission plays a vital role in continuing the economic growth and stability in the Homer area. As a small business owner, I understand the challenges that businesses encounter. I will be able to provide a perspective that will aid the commission in ensuring that the Homer community is a positive and thriving environment.

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☒ Yes ☐ No

If yes, please list organizations:  Homer Chamber of Commerce

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence?

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis?

If yes, is you use primarily: ☐ Commercial ☐ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

Print Form

**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-17**

An Ordinance of the City of Homer, Alaska, Making Technical Corrections to the Homer City Code Before its Republication by Code Publishing, Inc.

Sponsor: City Clerk

1. City Council Regular Meeting May 13, 2013 Introduction
  - a. Memorandum 13-061 from City Attorney as backup
  - b. Legal Analysis of Homer City Code by Code Publishing, Inc.



**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**ORDINANCE 13-17**

AN ORDINANCE OF THE CITY OF HOMER, ALASKA, MAKING  
TECHNICAL CORRECTIONS TO THE HOMER CITY CODE BEFORE ITS  
REPUBLICATION BY CODE PUBLISHING, INC.

WHEREAS, Code Publishing, Inc. has performed a legal analysis of the current Homer City Code, that has identified Code provisions that require technical correction before the republication of the Code; and

WHEREAS, It is desirable that the technical corrections identified by Code Publishing, Inc. be adopted before the Code republication to assure that the republished Code is as accurate and current as possible.

NOW, THEREFORE, THE CITY OF HOMER HEREBY ORDAINS:

Section 1. Subsection (c) of Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, is amended to read as follows:

(c) The following violations of this code are amenable to disposition without court appearance upon payment of a fine in the amount listed below.

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
<b><u>HCC 5.38.010</u></b>	<b><u>Feeding or baiting certain birds (first offense)</u></b>	<b><u>\$50</u></b>
<b><u>HCC 5.38.010</u></b>	<b><u>Feeding or baiting certain birds (second and subsequent offense)</u></b>	<b><u>\$200</u></b>
HCC 19.20.020	General rules	\$300
HCC 19.20.030	Park closure	\$150

Section 2. Subsection (a) of Homer City Code 1.70.010, Created; Membership, is amended to read as follows:

a. There shall be a City of Homer Public Arts Committee, hereinafter referred to as the Committee. The Committee shall consist of five members, who shall be appointed by the Mayor subject to confirmation by the City Council. Prior to making appointments, the Mayor may solicit nominations from the Pratt Museum, community arts groups, and the public. All members of the Public Arts Committee **should** ~~may~~ have a demonstrated interest and familiarity with arts

and culture, either through professional practice or volunteer work. When considering applicants, preference may be given to:

1. A working professional artist.
2. A person working in the public education community.
3. A City Council member.
4. A person with experience or training related to the arts, such as art history, or employment in fields such as architecture, education, curation, conservation, performing arts or visual arts.
5. A person representing the public at large.

Section 3. Homer City Code 1.70.020, Terms of members; Vacancies, is amended to read as follows:

1.70.020 Terms of members; Vacancies. a. Members of the Committee are appointed for two-year terms, with ~~two~~ three terms and ~~three~~ four terms commencing in alternate years.

b. A vacancy on the Committee is filled for the unexpired term by appointment by the Mayor subject to confirmation by the City Council.

c. The Committee may declare a vacancy in the office of a Committee member with three or more unexcused absences from successive regular and special meetings of the Committee.

Section 4. Homer City Code 3.01.025, Deposit of money, is amended to read as follows:

3.01.025 Deposit of money. All money collected by departments of the City shall be deposited with the Finance Director/Treasurer within three working days after collection, for amounts less than \$100, deposit Friday by 10:00 AM.

Section 5. Homer City Code 3.05.005, Budget Assumptions, is amended to read as follows:

3.05.005 Budget Assumptions. By the third Friday in September the City Manager shall present to the Council an overview of preliminary budget assumptions **for the next fiscal year of the City.** These preliminary assumptions will address by fund, revenue projections, tax and utility rates, program additions or deletions, wages and benefits, or other issues with potential impact on the City's overall financial condition.

Section 6. Subsection (b) of Homer City Code 5.16.100, Overhead charge, civil penalties, is amended to read as follows:

b. Whenever a nuisance is abated by the City, the owner of the property in question shall pay a civil penalty in addition to the actual costs and overhead charge. The civil penalty for abating a nuisance is \$300 for the first nuisance abated. For each subsequent nuisance that is abated by the City within two consecutive calendar years concerning property owned by the same person, the civil penalty shall be fifty percent of the cost of abatement or \$500, whichever is more, **but not exceeding \$1,000 per day that the nuisance has continued.** The civil penalty shall be imposed without regard to whether the nuisances abated by the City involve the same real property or are of the same character.

81           Section 7. Homer City Code 5.38.060, Violations and penalties, is repealed.

82  
83           Section 8. Homer City Code 6.08.010, Flight to avoid arrest, is amended to read as  
84 follows:

85  
86           6.08.010 Flight to avoid arrest. No person may avoid or attempt to avoid arrest by  
87 ~~shall intentionally evading evade a police law officer following the officer's a request or~~  
88 ~~command~~ by words or signal to stop. ~~Such request may be made verbally or by signal.~~

89  
90           Section 9. Subsection (a) of Homer City Code 6.12.010, Definitions, is repealed and  
91 reenacted to read as follows:

92  
93           a. "Controlled substance" means a drug, substance, or immediate precursor included in  
94 the schedules set out in AS 11.71.140 – 11.71.190, as amended.

95  
96           Section 10. Subsection (b) of Homer City Code 6.12.010, Definitions, is amended to  
97 read as follows:

98  
99           b. "Drug paraphernalia" means all items, equipment, devices, products and materials of  
100 any kind which are used, or intended for use, in planting, propagating, cultivating, growing,  
101 harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,  
102 analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling,  
103 or otherwise introducing into the human body a controlled substance as defined herein. Drug  
104 paraphernalia includes, but is not limited to:

105           1. Kits used or intended for use in planting, propagating, cultivating, growing, or  
106 harvesting of any species of plant which is controlled substance or from which a  
107 controlled substance can be derived;

108           2. Kits used or intended for use in manufacturing, compounding, converting,  
109 producing, processing, or preparing controlled substances;

110           3. Isomerization devices used or intended for use in increasing the potency of any  
111 species of plant which is a controlled substance;

112           4. Testing equipment used or intended for use in identifying or in analyzing the  
113 strength, effectiveness or purity of controlled substances except for use by or under the  
114 direction of law enforcement agencies or medical research or treatment facilities;

115           5. Scales and balances used or intended for use in weighing or measuring  
116 controlled substances;

117           6. Diluents and adulterants, such as quinine hydrochloride, mannitol, manite,  
118 dextrose and lactose, used or intended for use in cutting controlled substances;

119           7. Separation gins and sifters used or intended for use in removing twigs and  
120 seeds from, or in otherwise cleaning or refining, marijuana;

121           8. Blenders, bowls, containers, spoons and mixing devices used or intended for  
122 use in compounding controlled substances;

123           9. Capsules, balloons, envelopes and other containers used, intended for use, or  
124 designed for use in packaging small quantities of controlled substances;

125           10. Containers and other objects used or intended for use in storing or concealing  
126 controlled substances;

11. Hypodermic syringes, needles and other objects used or intended for use in injecting, controlled substances into the human body;

12. Objects used or intended for use in injecting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- ii. Water pipes;
- iii. Carburetion tubes and devices;
- iv. Smoking and carburetion masks;
- v. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- vi. Miniature cocaine spoons, and cocaine vials;
- vii. Chamber pipes;
- viii. Carburetor pipes;
- ix. Electric pipes;
- x. Air-driven pipes;
- xi. Chillums;
- xii. Bongs;
- xiii. Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors the following:

1. Statements by the manufacturer, owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of **AS 11.71.010 – 11.71.060, as amended** ~~AS 17.10 or AS 17.12~~;

4. The proximity of the object to controlled substance;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of **AS 11.71.010 – 11.71.060, as amended** ~~AS 17.10 or AS 17.12~~; the innocence of an owner, or of anyone in control of the object, as to a direct violation of **AS 11.71.010 – 11.71.060, as amended** ~~AS 17.10 or AS 17.12~~, shall not prevent a finding that the object is intended for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community;

14. Expert testimony concerning its use.

Section 11. Homer City Code 7.04.023, State schedule of minor traffic offenses and bail forfeiture--Adopted, is amended to read as follows:

7.04.023 State schedule of minor traffic offenses and bail forfeiture--Adopted. The City, pursuant to AS 28.05.151 ~~Chapter 76, SLA, 1987,~~ adopts the schedule of minor traffic offenses and bail forfeiture amounts contained in Rule 43.1 of the Alaska Rules of Administration ~~Rules Governing the Administration of All Courts.~~ A copy of Rule 43.1 is on file in the Office of the City Clerk, and is made a part of this section.

Section 12. Footnote 1 to Homer City Code 7.06.100, Penalty and fine schedule, is deleted:

~~[1] All vehicles operated within the City of Homer shall comply with this chapter by April 28, 2004.~~

Section 13. Subsection (b) of Homer City Code 7.08.020, Stopping or parking--Where prohibited, is amended to read as follows:

b. No parking shall be permitted on a City arterial, as defined in Section 21.03.040 ~~7.12.005 (a).~~

Section 14. Homer City Code 7.08.060, Violation--Penalty, is amended to read as follows:

7.08.060 Violation--Penalty. Unless another penalty is expressly provided, the penalties ~~penalty~~ for violating provisions of this chapter are the same as those listed in the State of Alaska Traffic Bail Forfeiture Schedule pursuant to Rule 43.1 of the Alaska Rules of Administration ~~Administrative Rules of the Alaska Rules of Court for~~ violations ~~violation~~ of 13 AAC 02.340 through 13 AAC 02.377 ~~13 AAC 02.337.~~

Section 15. Subsection (h) of Homer City Code 7.20.030, Use of snowmachines, is amended to read as follows:

7.20.030 Use of snowmachines. No person shall drive, operate, stop or move a snowmachine:

\* \* \*

h. Without having such snowmachine registered as provided for in AS Chapter 28.39 ~~Section 5.30.010, Alaska Statutes;~~

Section 16. The footnote to Homer City Code Chapter 8.04, Alcoholic Beverage Licenses, is amended to read as follows:

For statutory provisions authorizing municipalities to regulate alcoholic beverages ~~within the scope of authority specified by state law, see AS 29.35.210; for provisions defining the scope~~

of municipal authority, see AS 04.21.010 ~~AS 04.15.0780~~; for provisions authorizing municipal protest of state licensing board decisions, see AS 04.11.480 ~~AS 04.10.270~~.

Section 17. HCC 8.11.010, Applicable state law incorporated, is amended to read as follows:

8.11.010 Applicable state law incorporated. All statutes of the State of Alaska and any rules or regulations adopted by any state agency pertaining to public nuisances, food and food service establishments, public health and public sanitation applicable to a mobile food service, with particular reference but not limited to, Titles 17 and 18, Alaska Statutes, as amended, and 18 AAC 31.600, et seq., as amended, are incorporated by this reference as though fully set forth in this chapter.

Section 18. Subsection (a) of HCC 9.16.100, Exemptions, is amended to read as follows:

9.16.100 Exemptions. a. ~~Commencing January 1, 2009,~~ Sales sales of nonprepared food items from September 1st through May 31st of each year.

Section 19. Subsection (b) of HCC 14.04.020, Connection--Required, is amended to read as follows:

b. ~~After October 1, 1973, no~~ No person shall occupy and no person shall own, maintain or control any structure or premises used as a home, apartment, or other living quarters unless the structure is connected to the City sewer; nor, ~~after October 1, 1973,~~ shall any person occupy, maintain or control any structure or premises used for any commercial, industrial or business use unless the structure is connected to sewer; provided, however, that the provision of this subsection shall not apply if the existing sanitary facilities shall have been approved by the Alaska Department of Environmental Conservation as providing adequate disposal of wastes and continues to function as approved.

Section 20. HCC 14.05.215, IWAN required for significant industrial users, is amended to read as follows:

14.05.215 IWAN required for significant industrial users. No SIU may connect to or remain connected to the STW, or otherwise introduce or cause the entry of waste into the STW ~~after July 24, 1990,~~ without first obtaining an Industrial Wastewater Acceptance Notification (IWAN).

Section 21. Subsection (b)(2) of HCC 14.05.220, Application for industrial wastewater acceptance, is amended to read as follows:

2. The 2012 North American Industry Classification System (NAICS) Standard Industrial Classification (SIC) number of the SIU ~~according to the SIC manual of the U.S. bureau of the Budget, 1972,~~ as amended;

Section 22. Subsection (b) of HCC 18.20.010, Definitions, is amended to read as follows:

b. "Abandoned vehicle" is any vehicle, as defined by subsection (a), that has been discarded, left unattended, standing or parked in a public right-of-way upon or within 10 feet of the traveled portion of a highway or street, in excess of 48 hours; or that has been discarded, left unattended, standing or parked upon private property without the consent of the owner or person in charge of the property in excess of 24 hours; or that has been discarded, left unattended, standing or parked upon public property without the consent of the person in charge of the property for more than 30 days.

Section 23. HCC 18.28.080, Herring spawn covenant, is repealed.

Section 24. Footnote 1 to Homer City Code Chapter 19.08, Campgrounds, is deleted:

~~[1] For statutory provisions authorizing cities to provide and regulate recreational facilities, see A.S. 29.48.030(15).~~

Section 25. Subsection (b) of HCC 20.08.030, Nuisance animals, is amended to read as follows:

b. The owner of any animal shall not permit the same to defecate, dig upon or injure private property owned by another person or public property or a public thoroughfare.

Section 26. Subsection (b) of HCC 22.10.055, Underground utilities, is amended to read as follows:

b. All existing overhead utility wire or cable facilities, including, but not limited to, electric power, telephone, and telecommunications cables which shall, ~~April 14, 1987~~, be relocated and/or which receive major modifications, shall be placed underground unless the utility obtains an exception pursuant to the provisions of subparagraphs e. and f. of this section. Major modifications shall not include reconductoring, reinsulating or in-kind replacement. The provisions of this subparagraph shall apply equally to the abandonment of pole lines except that if one utility abandons a pole line another existing utility which shares that pole line may buy the pole line and continue to use the pole line for the acquiring utility's cable facilities.

Section 27. Subsection (c) of HCC 22.10.055, Underground utilities, is amended to read as follows:

c. ~~After October 24, 2006, all~~ All extensions of utility wire or cable facilities including, but not limited to, electric power, telephone, and telecommunications cables for the purpose of providing such utility service to any land not served before that date by overhead cable facilities shall be installed only as provided by HCC Chapter 14.50.

Section 28. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 28<sup>th</sup>  
day of May 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt Wrede, City Manager

\_\_\_\_\_  
City Attorney

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

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

**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

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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

March 13, 2013

Jo Johnson, City Clerk  
City of Homer  
491 East Pioneer Ave.  
Homer, AK 99603

Dear Ms. Johnson:

Attached you will find our legal analysis of the Homer City Code for your review. The code has been thoroughly reviewed for state and federal constitutional issues and apparent conflicts by our legal team. On the following pages, you may approve any recommended action steps and/or address questions. As you review our findings, you will notice that there is a column provided to the right of each comment. You may use this space for any personal notations and for any questions that you may have.

Our attorney has recommended items that need immediate action in order to bring the code into legal compliance, and, where possible, has recommended amending language for this purpose. Other changes that require legal drafting or a major revision by counsel are also indicated. A single "clean up" ordinance may be useful for all such recommended changes. Other recommendations that are not legally required are optional and may be made at any time. We have flagged all such items for consideration.

Please note that our legal team's analysis is not provided as legal practice advice to the municipality. As codifiers, we are, by definition, prohibited from making substantive non-editorial changes. Our report is not provided as legal advice on municipal issues, but as a reference tool to assist the municipality in analyzing the code's currency.

Thank you for your assistance in these matters. Please do not hesitate to contact us if you have any questions.

Sincerely,



Josh Clarridge, Editor  
Code Publishing, Inc.

Enclosure: legal analysis



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## **Homer, AK Legal Review**

### **General Comments**

Whenever a comment is made to “See [heading],” it refers to this section.

### **Animals and the Infraction System**

Title 20 divides animal-related penalties into an infraction system, the fees for which are listed in HCC 20.32.020. As a technical word, “infraction” carries no meaning in Alaska municipal law apart from a few traffic offenses; AS 29.25.070 describes violations as the only category of municipal-specific offenses. It appears the City is using the word “infraction” not as a separate offense but as a descriptor of five types of violations that carry lesser fines than most other violations. If so, that is fine, but the City should be aware that “infraction” has a meaning in HCC Title 20 that is specific to HCC Title 20.

Although this is not urgent, if and when the City revises HCC Title 20, it should consider changing the letter classification of its infraction system. HCC 20.32.020 describes the infraction fees as:

Class A	\$25
Class B	\$50
Class C	\$100
Class D	\$100-\$300
Class E	(General Penalty, i.e., maximum \$300)

This classification is the reverse of most codes. For example, AS 12.55.035(b)(2) through (4) lists the maximum fines for a person convicted of a felony as:

Class A	\$250,000
Class B	\$125,000
Class C	\$50,000

Although HCC Title 20 is perfectly acceptable from the standpoint of a citizen’s ability to look up the law and find definite answers, its classification system is “backwards” compared to most systems using letters to classify levels of offense. To that end, considering a revision of this system at some point may be beneficial.

### **Zoning Code and Level One Site Development Standards**

HCC 21.50.020 lists level one standards as being the default for “all zoning districts, unless otherwise provided.” Districts with level one standards have specific code sections that specify that standard (see HCC 21.12.050 and 21.14.050). This redundancy is not a specific problem, and the theory might be to cover bases with the default provision, but the City should be aware of the redundancy.

## **Adoption by Reference**

HCC Title 21 frequently refers to the “Trip Generation Handbook, Institute of Transportation Engineers (current edition).” In terms of legislative authority, there is a difference between adopting another branch of government’s law or rule as amended (for example, an Alaska statute’s definition or the current plumbing code) and adopting a third party’s conclusions (for example, the Institute of Transportation Engineers). In the latter case, the City is improperly delegating its power, because it is giving it out of the government and into a private entity.

The solution to this is to adopt a specific edition of third-party manuals in the code, amending the code with new manual editions when desired. The current edition of the Trip Generation Handbook, according to [www.ite.org](http://www.ite.org), is the second edition. Every reference to “current edition” of the Trip Generation Handbook in the HCC needs an ordinance amending it to “second edition.”

	Homer, AK	Action
	Legal Review – Attorney Findings	
	<b>Title 1</b>	
1.	<p><b>*1.70.010 Created; Membership.</b> The Public Arts Committee is established in subsection (a) of this section as having five members. HCC 1.70.020(a) says that committee member terms start in alternate years, three terms in one year and four in the next year, i.e., seven members. If the committee is five members, HCC 1.70.020(a) should be amended by ordinance, changing “four” to “two” in the description of alternating terms; if the committee is seven members, HCC 1.70.010 should be amended by ordinance to say “seven members” instead of “five members.” <b>Recommendation:</b> Does the City wish to address this issue prior to republication?</p> <p>*In the proof copy, this section will be renumbered as HCC 2.60.010.</p>	
2.	<p>HCC 1.70.010(a) states that “All members of the Public Arts Committee may have a demonstrated interest and familiarity with arts and culture, either through professional practice or volunteer work.” The use of “may” sounds like it is giving permission. The apparently intended word is “should.” <b>Recommendation:</b> Although not urgent, the next housekeeping ordinance should amend this section to clarify meaning.</p>	
	<b>Title 2</b>	
	No Comments	
	<b>Title 3</b>	
3.	<p><b>3.01.025 Deposit of money.</b> “All money collected by departments of the City shall be deposited with the Finance Director/Treasurer within three working days after collection, for amounts less than \$100, deposit Friday by 10:00 A.M.” Everything after the word “collection” appears to be attempting an exception to the three working days rule for all money. What that exception states is unclear. Are all amounts under \$100 to be deposited by 10:00 A.M. on the Friday of the week that money was collected? (This would be longer than three working days for money collected on Monday and shorter for money collected, e.g., at 9:00 A.M. on Friday.) Is the money to be deposited on Friday but before 10:00 A.M., or is any time in the week before Friday at 10:00 okay? Any of these answers should be fine, but only one of them is City policy, and the ordinance should be amended to state the policy clearly. <b>Recommendation:</b></p>	

	Does the City wish to amend this section by ordinance prior to republication?	
4.	<b>3.05.005 Budget Assumptions.</b> This section asks the City Manager to come up with “preliminary budget assumptions” by a deadline. Every other City Manager project related to the budget is for “the next fiscal year” or “the ensuing fiscal year.” The budget assumptions have no such clause. For the sake of uniformity and clarity, the City Manager’s budget assumption project should be specified as dealing with the next fiscal year. <b>Recommendation:</b> Although this is not urgent, the next housekeeping ordinance should amend this section.	
5.	<b>3.16.080 Local Bidder Preference.</b> This section has a footnote regarding its review in April 2003. This should be safe to delete. <b>Recommendation:</b> Shall we delete this footnote?	
	<b>Title 4</b>	
	No Comments	
	<b>Title 5</b>	
6.	<b>5.16.100 Overhead charge, civil penalties.</b> Subsection (b) of this section says that subsequent nuisances past the first will bear a civil penalty of “fifty percent of the cost of abatement or \$500, whichever is more.” It is not clear that this section intends to be limited by the maximum civil penalty of \$1,000 as established by HCC 1.16.020 and AS 29.25.070(b). Although those laws govern this section regardless, this section would be much clearer if language such as “pursuant to HCC 1.16.020” were added after “whichever is more.” <b>Recommendation:</b> Does the City wish to clarify this section by amending ordinance prior to republication?	
7.	<b>5.38.060 Violations and penalties.</b> Violations of Chapter 5.38 HCC regarding bird feeding are punishable by a fine of \$5-\$50 on the first conviction and \$25-\$200 on subsequent convictions, as well as “the cost of prosecution.” The cost of prosecution seems to be more like a fine than the actual cost of nuisance abatement, so challenges to this section likely would view paying for prosecution as an additional fine for violation. If the cost of prosecution would combine with the fine to a sum of over \$1,000, it would be over the maximum violation amount prescribed by HCC 1.16.010 and AS 29.25.070(a). Although it seems unlikely that prosecuting bird feeding would add up to nearly \$1,000, this section would be much clearer if language such as “pursuant to HCC 1.16.010” were added at the start of the section, prior to “Any person violating...” <b>Recommendation:</b> Does the City wish to clarify this section by amending ordinance prior to republication?	

	<b>Title 6</b>	
8.	<b>6.08.010 Flight to avoid arrest.</b> This section criminalizes intentional evasion of an officer's "request or command to stop." The catchline implies that this request or command to stop is during an arrest attempt. But since catchlines are not part of the substantive law (HCC 1.04.040), this section currently applies to every request or command to stop, even as law officers constitutionally require at least reasonable suspicion before detaining a citizen. <i>Waring v. State</i> , 670 P.2d 357 (Alaska, 1983) (quoting and applying <i>Florida v. Royer</i> , 460 U.S. 491 (1983)). <b>Recommendation:</b> If this section is only about avoiding arrest, as the non-binding catchline implies, then it should be amended by ordinance to say so; read as broadly as it is written, it is unconstitutional. Changing the phrasing to "No person shall avoid or attempt to avoid arrest by intentionally evading a law officer..." would be acceptable.	
9.	<b>6.12.010 Definitions.</b> Subsection (a) of this section defines controlled substances and related terms by AS 17.10 and 17.12. The court's list of "logically relevant factors" references these sections as well. Both have been repealed and replaced by portions of AS 11.71 and 17.30. See, for example, AS 11.71.900(4) for the new definition of controlled substances. As these are new laws rather than renumberings, adopting their definitions will require an amendment by ordinance. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
10.	<b>6.12.020 Sale of drug paraphernalia unlawful.</b> See comment for HCC 6.12.010 regarding Alaska's current drug laws. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
	<b>Title 7</b>	
11.	<b>7.04.023 State schedule of minor traffic offenses and bail forfeiture – Adopted.</b> This section references the Rules Governing the Administration of All Courts. The current name for this set of rules is the Alaska Rules of Administration. <b>Recommendation:</b> Shall we update this reference?	
12.	<b>7.06.100 Penalty and Fine Schedule.</b> The footnote for subsection (c) of this section mandates vehicle compliance by April 28, 2004. Assuming no legal actions are still pending on this section, the footnote may safely be deleted. <b>Recommendation:</b> Although it is not urgent, the next housekeeping ordinance should delete this footnote.	
13.	<b>7.08.020 Stopping or parking – Where prohibited.</b> This section references HCC 7.12.005(a) for the definition of a City arterial. That section no longer exists. There is a definition of an arterial in HCC 11.04.030 and another one in HCC 21.03.040, but if these are new	

	HCC sections rather than renumberings, for either definition to apply here, the City will need to adopt the definition in HCC 11.04.030 or 21.03.040 as the definition in HCC 7.08.020 by an amending ordinance. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
14.	<b>7.08.060 Violation – Penalty.</b> This section adopts Rule 43.1 of the Alaska Rules of Administration “for violation of 13 AAC 2.340 through 13.AAC 02.337.” As this adoption is listed in the City Code as going backwards, from 2.340, 2.337, it is unclear what is meant to be adopted. If either or both citations are typographical errors, we can correct them; otherwise, an ordinance will need to amend this section to those sections of Rule 43.1 that the City means to adopt. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
15.	<b>7.20.030 Use of snowmachines.</b> Subsection (h) of this section references snowmachine registration in AS 5.30.010. AS 5.30.010 is repealed; the current law is AS 28.39. As this is a new law rather than renumbering of an old one, the City will need to amend this section by ordinance. <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
	<b>Title 8</b>	
16.	<b>Chapter 8.04 Alcoholic Beverage Licenses.</b> The chapter footnote cites “A.S. 04.15.0780” regarding municipal authority on alcohol. The current law is AS 4.21.210. As this is a new law rather than renumbering the old one, adopting this in the footnote requires an amending ordinance. <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
17.	The footnote also cites municipal protest laws at “A.S. 04.10.270.” The current law is AS 4.11.480. As this is a new law rather than renumbering the old one, adopting this in the footnote requires an amending ordinance. <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
18.	<b>8.08.040 Referral – Fees.</b> The listed fee for a 60-day transient merchant’s license is \$330. The size of the fee is large enough that courts might consider it a confiscatory taking under due process law and overturn the code section. The license fee is 6.6 times the cost of an Alaska business license (\$50) and 13.2 times the amount of an annual transient merchant’s license in Kenai (\$25). If this law were challenged, the City likely would have to justify the disparity. (The City’s website states that the City “does not have any of its own business license or registration requirements.” <a href="http://www.cityofhomer-ak.gov/economicdevelopment/frequently-asked-questions">http://www.cityofhomer-ak.gov/economicdevelopment/frequently-asked-questions</a> ) A license amount more in line with other licenses would keep this law from getting overturned. <b>Recommendation:</b>	

	Does the City wish to address this issue prior to republication?	
19.	<b>8.11.010 Applicable state law incorporated.</b> This section references AS 17 and 18 as governing mobile food services. 18 AAC 31.600 <i>et seq.</i> is also on point as regulations particular to mobile food services. The law governs regardless of what HCC 8.11.010 says, but it might be helpful to include 18 AAC 31.600 <i>et seq.</i> in the code. <b>Recommendation:</b> Although it is not urgent, the next housekeeping ordinance might wish to include this reference.	
20.	<b>8.11.050 License – Application – Referral – Fees.</b> See comment for HCC 8.08.040. The disparity between the \$390 annual fee here and the business license and surrounding towns is not as extreme as the transient merchant fee (Kenai, for example, charges \$120 rather than \$390), but a court challenge still might view this as excessive. <b>Recommendation:</b> Does the City wish to address this section prior to republication?	
	<b>Title 9</b>	
21.	<b>9.16.100 Exemptions.</b> Subsection (a) of this section announces a seasonal exemption on nonprepared food items commencing January 1, 2009. Absent pending legal action or something similar, “Commencing January 1, 2009” may safely be deleted. <b>Recommendation:</b> Although it is not urgent, the next housekeeping ordinance may delete the start date on this exemption.	
	<b>Title 10</b>	
	No Comments	
	<b>Title 11</b>	
22.	<b>11.04.030 Definitions.</b> Subsection (h) of this section lists the Design Criteria Manual as a document from April 1985. HCC 11.04.058 lists this document as having been revised in February 1987, while HCC 11.20.030(f) says this was readopted in April 1987. There might not be an updated version of this manual, but if there is, an amending ordinance should specify the new edition. <b>Recommendation:</b> No action is required if there is no updated edition, but the City should be advised of the document date.	
23.	Subsection (k) of this section lists the Drainage Management Plan as documents from 1979 and 1982. See previous comment and recommendation for HCC 11.04.030.	
24.	Subsection (q) of this section lists the Non-Motorized Transportation and Trail Plan as a document from 2004. See previous comment and recommendation for HCC 11.04.030.	
25.	<b>11.04.058 Design Criteria Manual – Adopted.</b> This section	

	somewhat duplicates HCC 11.04.030 in discussing the Design Criteria Manual. See previous comment and recommendation for HCC 11.04.030.	
26.	<b>11.12.010 Street and house numbering plan adopted.</b> This section references a map from 1975. See previous comment and recommendation for HCC 11.04.030.	
27.	<b>11.20.030 Definitions.</b> Subsection (f) of this section references the Design Criteria Manual from 1985 and readopted April 1987. See previous comment and recommendation for HCC 11.04.030. Also, if the listed edition is current, HCC 11.04.030(h), 11.04.058, and 11.20.030(f) should be phrased to clearly reference the same edition of the document; this must be done by an amending ordinance.	
	<b>Title 12</b>	
	No Comments	
	<b>Title 13</b>	
28.	Many sections in this title reference AASHTO, ASTM, AWS or AWWA, and other standards for materials. <b>Recommendation:</b> The City may wish to check those references to see if they are still desired for City use.	
	<b>Title 14</b>	
29.	<b>14.04.020 Connection – Required.</b> Subsection (b) of this section gives itself a start date of October 1, 1973. Absent pending litigation or similar issues, these references may safely be deleted. <b>Recommendation:</b> Although this is not urgent, the next housekeeping ordinance may wish to delete the 1973 references.	
30.	<b>14.05.115 Definitions.</b> The definition of “discharge” references “section 307(b), (c), or (d) of the Act.” This is codified as 33 U.S.C. 1317(b), (c), or (d). Although unessential, citizens are more likely to find the relevant passage if provided with the U.S.C. citation. As this is a different numbering, we can change it with permission. <b>Recommendation:</b> Shall we change “section 307” to “33 U.S.C. 1317”?	
31.	<b>14.05.215 IWAN required for significant industrial users.</b> This section gives itself a start date of July 24, 1990. Absent pending litigation or similar issues, this reference may safely be deleted. <b>Recommendation:</b> Although this is not urgent, the next housekeeping ordinance may wish to delete the 1990 reference.	
32.	<b>14.05.220 Application for industrial wastewater acceptance.</b> Subsection (b)(2) of this section requires SIUs to file their SIC number via the 1972 SIC manual. The current edition of industrial	

	<p>codes is the 2012 North American Industry Classification System (NAICS); the last SIC manual edition was 1987. Should the City decide after review that it wishes to adopt the 2012 NAICS manual, it will need to amend subsection (b)(2) of this section.</p> <p><b>Recommendation:</b> Does the City wish to address this issue prior to republication?</p>	
33.	<p><b>14.05.315 Reporting requirements – General.</b> Subsection (e) of this section references reporting requirements of 43 CFR section 403.12. Based on HCC 14.05.320's correct reference, the reference to 43 CFR 403.12 appears to mean 40 CFR 403.12. If the City confirms this as a typographical error, we can make the correction.</p> <p><b>Recommendation:</b> Shall we make this correction?</p>	
	<b>Title 15</b>	
	No Comments	
	<b>Title 16</b>	
	(Reserved)	
	<b>Title 17</b>	
34.	<p><b>Chapter 17.04 Special Assessment Districts.</b> The note accompanying Chapter 17.04 HCC says that Chapter 17 was "repealed via Ordinance 12-15 April 10, 2012." This appears to mean "repealed and replaced" rather than simply repealed (if it was repealed without replacement, HCC Title 17 should be removed from the code). Based on the ordinances listed in Chapter 17.04 HCC and other sections, the note appears to refer only to Chapter 17.04 HCC. Upon confirmation of the City, this note should be changed to say "Chapter 17.04 HCC repealed and replaced" rather than "Chapter 17 repealed." As this is a note and not substantive law, we can change it.</p> <p><b>Recommendation:</b> Shall we make this change?</p>	
	<b>Title 18</b>	
35.	<p><b>18.20.010, 18.20.015.</b> These two sections discuss abandoned vehicles. HCC 18.20.010 defines an "abandoned vehicle" as "any vehicle...discarded, left unattended, standing or parked upon or within 10 feet of the traveled portion of a highway or street, in excess of 48 hours." HCC 18.20.015(a) prohibits "the parking, storing or leaving of any abandoned vehicle upon any public or private property within the City for any period of time in excess of periods specified in 18.20.010(b)." HCC 18.20.015(c) gives exceptions to the section's applicability.</p>	

	<p>The wording of these sections is not as tight as it needs to be to preserve individual property rights, due to the “parked...within 10 feet” clause. As the definition of “abandoned vehicle” in HCC 18.20.010 is worded, a functioning car parked on the street end of its driveway over a weekend for any reason would be an abandoned vehicle, as the end of the driveway is almost certainly “within 10 feet of the traveled portion of a highway or street.” If the car owner had nowhere to drive over a weekend, or a winter storm snowed the car in, the car would be abandoned and therefore a public nuisance by law.</p> <p>To fix this issue, the definition of “abandoned vehicle” in HCC 18.20.010 that involves vehicles “within 10 feet” should specify that it does not mean a car in a driveway. The easiest way to accomplish this is to change “street, in excess of 48 hours” to “street (excluding a driveway) in excess of 48 hours”. If the City has accepted parking areas similar to driveways, it should mention them in the exclusion as well. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?</p>	
36.	<p><b>18.28.080 Herring spawn covenant.</b> This section refers to AS 16.10.160, which is repealed. Alaska herring policy is now in AS 16.10.170 through 16.10.175, but none of it mentions restrictive covenants. There seems to be no specific authority to enact herring spawn covenants; as such, this section should be repealed.</p> <p><b>Recommendation:</b> Does the City wish to repeal this section by ordinance prior to republication?</p>	
	<b>Title 19</b>	
37.	<p><b>Chapter 19.08 Campgrounds.</b> The footnote listing statutory authority refers to a repealed statute, AS 29.48.030(15) (the entirety of AS 29.48 is repealed). The City does not have to include an AS reference at all; therefore, the best course of action seems to be deletion of the sentence. This will require an amending ordinance.</p> <p><b>Recommendation:</b> Does the City wish to amend this section by ordinance prior to republication?</p>	
38.	<p><b>19.08.070 Certain acts prohibited.</b> Subsection (b) of this section, prohibiting “unnecessary or unusual noise,” is too vague to be enforceable, as no camper can know what noises are a problem until they are charged with a violation. A better approach is to give specific decibel thresholds when measured from a distance. Although there are other approaches that give specifics, the City is already using this approach for motor vehicle noise levels to good effect (HCC 7.06.010(e)(1) through (3)). In any event, this section needs replacing with specific types or levels of noises to inform the public</p>	

	what constitutes a violation of this section. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
	<b>Title 20</b>	
39.	<b>20.08.030 Nuisance animals.</b> Subsection (a) of this section, prohibiting owners permitting animals to make “repeated or continued noise” in a manner that “annoy[s] another person,” is too vague to be enforceable, as no owner can know what noises are a problem until they are charged with a violation. A more specific and enforceable approach might include periods of time, e.g., “one hour sustained noise, or three hours’ total noise over three consecutive days.” There are many specific approaches that can work, but whatever they are must put animal owners on notice as to what they must prevent. <b>Recommendation:</b> Does the City wish to address this issue by ordinance prior to republication?	
40.	Subsection (b) of this section says that “The owner of any animal shall not permit the same to defecate, dig upon or injure private or public property or a public thoroughfare.” As written, this makes no exception for the animal defecating, digging upon, or injuring its owner’s property, which presumably is not meant to be an offense. Inserting “belonging to another person” between “public property” and “or a public thoroughfare” would correct the issue. To do so would require an amending ordinance. <b>Recommendation:</b> Does the City wish to amend this section by ordinance prior to republication?	
	<b>Title 21</b>	
41.	<b>21.02.010 Comprehensive Plan – Adoption.</b> Subsection (b) of this section lists several documents with various years of editions. There might not be updated versions of these documents, but if there are, an amending ordinance should specify the new editions. <b>Recommendation:</b> No action is required if there are no updated editions, but the City should be advised of the document dates.	
42.	<b>21.10.030 Zoning map.</b> Subsection (a) of this section says the current Homer Zoning Map is dated September 28, 1982. The map on the Homer website is dated April 4, 2012, but has yet to be adopted in the City Code. Assuming the 2012 map replaced the 1982 map, an amending ordinance should adopt the April 4, 2012, map officially. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
43.	<b>21.16.060 Traffic requirements.</b> See “Adoption by Reference.” <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
44.	<b>21.18.060 Traffic Requirements.</b> See “Adoption by Reference.” <b>Recommendation:</b> Does the City wish to amend by ordinance prior	

	to republication?	
45.	<b>21.20.100 Traffic Standards.</b> See “Adoption by Reference.” <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
46.	<b>21.22.040 Dimensional requirements.</b> Subsection (e)(3) of this section notes that nonconforming use may not “be expanded or enlarged in any manner beyond the size and intensity that existed on September 26, 2006.” The word “intensity” has no specifics attached to it, e.g., vehicular traffic or noise/light emission, and while that is acceptable, it is also the sort of word that can draw the City into lengthy legal battles with a property owner interpreting “intensity” differently. <b>Recommendation:</b> No action is required, but the City may wish to make an administrative interpretation or amend this ordinance to give specifics regarding intensity.	
47.	<b>21.27.060 Traffic Requirements.</b> See “Adoption by Reference.” <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
48.	<b>21.30.030 Conditional uses and structures.</b> See “Adoption by Reference.” <b>Recommendation:</b> Does the City wish to amend by ordinance prior to republication?	
49.	<b>21.41.040 Basis for establishing flood hazard areas.</b> The listed date of the Flood Insurance Study is September 25, 2009. If there is an updated study, it should be referenced here. <b>Recommendation:</b> Does the City wish to update this reference?	
50.	<b>21.50.120 Fences – Conditional fence permit.</b> The requirement in subsection (b)(3) of this section that fence appearance “is compatible with the design and appearance of other existing buildings and structures within the neighborhood,” is too vague to be enforceable, as there are no guidelines and/or specifics as to what is or is not compatible. An ordinance amending this section is required to give fence builders an idea of what will make a permit granted or denied. Normally, pure aesthetic choices are insufficient grounds for permit denial; something else must be present to enforce this provision. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
51.	<b>21.52.060 Commercial, noncommercial and industrial PUDs.</b> Subsection (b)(3) of this section requires PUDs to “be developed with a unified architectural treatment.” Similar phrasing appears in other city codes, but there does not appear to a standard definition for the term. As such, unless the City is aware of a specific definition that avoids being about pure aesthetics (see comments for HCC 21.50.120), this should be clarified by ordinance. <b>Recommendation:</b> Action is not as urgent on this section as it is with HCC 21.50.120, but the City may wish to add specifics if it cannot articulate to a resident what the term means apart from aesthetic considerations.	
52.	<b>21.54.250 Noise.</b> This section states that “Noise emanating from a	

	recreational vehicle park and its occupants shall not unreasonably disturb or interfere with the peace, comfort and repose of persons with ordinary sensibilities.” Although this is acceptable, it is ripe for a lengthy legal challenge due to lack of specifics. <b>Recommendation:</b> Specifying decibel levels, such as in HCC 7.06.010(e)(1) through (3), would cut off the uncertainty in this section, but no action is required.	
53.	<b>21.57.210 Building and Aesthetics.</b> See comments on HCC 21.50.120 regarding terms like “aesthetically pleasing” and “compatible.” These are too vague to be enforceable for the reasons stated in that comment. <b>Recommendation:</b> Does the City wish to address this issue prior to republication?	
54.	<b>21.59.010 Nuisances.</b> Subsection (d) of this section prohibits “objectionable heat or glare that unreasonably annoys or disturbs a person of ordinary sensibilities beyond the lot line of the site.” Although this is acceptable, it is ripe for a lengthy legal challenge due to lack of specifics. <b>Recommendation:</b> Specifying light output levels in lumens or a similar unit would cut off the uncertainty in this section, but no action is required.	
	<b>Title 22</b>	
55.	<b>22.10.030 Definitions.</b> Subsection (a) of this section lists the Non-Motorized Transportation and Trail Plan as a document from 2004. See comment and recommendation for HCC 21.02.010.	
56.	<b>22.10.055 Underground utilities.</b> Subsection (b) of this section requires several types of cables to be worked on by April 14, 1987. Absent ongoing litigation or similar concerns, this passage can be safely reworded to exclude this mandate. <b>Recommendation:</b> Although this is not urgent, the next housekeeping ordinance may condense this section to currently relevant parts.	

## Penalty Reference Guide

This is a list of Homer penalties and fines for all penalties other than the general penalty, should the City wish to update any of them. Currently, the maximum fines for each level of offense by state law are:

Violation: \$1,000

Civil Penalties: \$1,000

AS 29.25.070(a) and (b) cover municipality violations. AS 12.55.035 covers misdemeanors for the state and gives no guidance to municipalities, but the City Code rarely assigns misdemeanors, and those that are assigned are within limits for state punishment.

Homer currently has no set maximum for violations. Unlisted violation penalties are \$300, and Homer adopts the maximum for civil penalties. (HCC 1.16.010 and 1.16.020.)

Highlighted items have issues with their penalties. These issues are elucidated in the legal review comments, except for HCC Title 20. For HCC Title 20, see “Animals and the Infraction System” under General Comments.

Code	Subject Matter	Type If Listed	Max Fine in \$
1.79.070	Ethics Violation (HCC 1.18)	Civil Penalty	1,000
5.05.040	Smoking	Fine	25
5.06.060	Nuclear Waste	Fine	500
5.16.100	Nuisance Abatement	Civil Penalty	300, then 500
5.28.030	Discharge of Firearms	Fine	300
5.30.030	Hunting and Trapping	Fine	300
5.34.030	Summer Aircraft Landings	Fine	300
5.38.060	Bird Feeding	Fine	5-50, then 25-200, plus cost of prosecution
5.40.020	Bear Attraction	Fine	250-500 (Intent), or 50-300 (No intent)
6.16.020	Excessive Police Response	Fine	250
7.06.010(b)	Muffler Not Working Properly	Fine	500
7.06.010(c)	Muffler Modified/Excessive Noise	Fine	500
7.06.010(d)	Muffler Removed/Inoperative	Fine	500
7.06.010(e)	Noisy Vehicle (First Conviction)	Fine	100
7.06.010(e)	Noisy Vehicle (Second Conviction)	Fine	200
7.06.010(e)	Noisy Vehicle (Third Conviction)	Fine	300
7.06.010(e)	Sale of Noisy Vehicle (First)	Fine	100
7.06.010(e)	Sale of Noisy Vehicle (Second)	Fine	200
7.06.010(e)	Sale of Noisy Vehicle (Third)	Fine	300
7.08.045	Handicapped Parking	Fine	100

7.24.010	Drugs/Driving (First)	Fine	300 (min.)
7.24.010	Drugs/Driving (Second)	Fine	500 (min.)
10.08.110	Violation of 10.08.100(a-d)	Fine	1,000
10.08.110	Violation of 10.08.100(e-f) (First)	Fine	100
10.08.110	Violation of 10.08.100(e-f) (Second)	Fine	200
10.08.110	Violation of 10.08.100(e-f) (Third)	Fine	300
10.08.110	Violation of 10.08.100(e-f) (Fourth+)	Fine	1,000
10.08.220	Violation of 10.08.200-210 (First)	Fine	100
10.08.220	Violation of 10.08.200-210 (Second)	Fine	200
10.08.220	Violation of 10.08.200-210 (Third)	Fine	300
10.08.220	Violation of 10.08.200-210 (Fourth+)	Fine	1,000
14.05.435	Violation of 14.05	Civil Penalty	1,000
14.05.440	Violation of 14.05 (Criminal Penalty)	Misdemeanor	1,000
19.16.040	Vehicles on Homer Spit Beach (First)	Fine	25
19.16.040	Vehicles on Homer Spit Beach (Second)	Fine	250
19.16.040	Vehicles on Homer Spit Beach (Third+)	Fine	499
20.08.010	Dog at Large (First)	Violation (A)	25
20.08.010	Dog at Large (Second)	Violation (B)	50
20.08.010	Dog at Large (Third)	Violation (C)	100
20.08.010	Dog at Large (Fourth+)	Violation (D)	100-300
20.08.030	Nuisance Animals (First)	Violation (A)	25
20.08.030	Nuisance Animals (Second)	Violation (B)	50
20.08.030	Nuisance Animals (Third)	Violation (C)	100
20.08.030	Nuisance Animals (Fourth+)	Violation (D)	100-300
20.08.040	Cruelty to Animals	Violation (E)	1,000 (max.)
20.08.070	Keeping Large Animals (First)	Violation (A)	25
20.08.070	Keeping Large Animals (Second+)	Violation (E)	1,000 (max.)
20.08.080	Failure to Confine Female Dog in Heat	Violation (B)	50
20.08.090	Abandonment of Animals	Violation (B)	50
20.08.100	Maintenance and Sanitation	Violation (B)	50
20.08.110	Animal/Vehicle Accident	Violation (B)	50
20.12.010	Unlicensed Dogs	Violation (A)	25
20.12.020	Failure to Display Dog Tag	Violation (A)	25
20.20.010	Permitting Animals to Bite	Violation (C)	100
20.20.020	Killing/Maiming Biting Animals	Violation (E)	1,000 (max.)
20.20.030	Vicious Animal	Violation (D)	100-300
20.24.020	Interference with Title 20 Officer	Violation (D)	100-300
20.24.030	Unauthorized Removal of Animals	Violation (D)	100-300
20.24.040	Tampering with City Live Traps	Violation (D)	100-300
20.24.050	Removal of Quarantined Animals	Violation (D)	100-300
20.24.060	False Information Re: Title 20	Violation (C)	100

20.28.030	Failure to Pay Kennel License Fee	Infraction (B)	50
21.90.100	Title 21 Violation (When No Fine Listed on Bail Forfeiture Schedule)	Fine	75-300

**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-18**

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Commercial Vessel Passenger Tax Program Pass Through Grant from the Kenai Peninsula Borough for FY 2012 in the Amount of \$21,710.00, and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager

1. City Council Regular Meeting May 13, 2013 Introduction
  - a. Letter to Mayor Navarre requesting CVPT appropriation
  - b. Kenai Peninsula Borough Ordinance 2012-19-48
  - c. Grant Agreement



**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**ORDINANCE 13-18**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, ACCEPTING AND APPROPRIATING A COMMERCIAL VESSEL PASSENGER TAX PROGRAM PASS THROUGH GRANT FROM THE KENAI PENINSULA BOROUGH FOR CALENDAR YEAR 2012 IN THE AMOUNT OF \$21,710.00, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The State of Alaska collects revenues under the Commercial Vessel Passenger Tax Program and remits proceeds to boroughs which contain ports where cruise ships land; and

WHEREAS, The Kenai Peninsula Borough has received such funds for calendar year 2012 and decided to pass those revenues through to Homer and Seward; the communities where cruise ships land and utilize local infrastructure and services; and

WHEREAS, The Borough Assembly adopted KPB Ordinance 2012-19-48 which appropriated funds and authorized a pass through grant to the City of Homer in the amount of \$21,710.00.

WHEREAS, The grant funds must be used for port and harbor projects that benefit cruise ship passengers and the City has proposed to use the proceeds of this grant for engineering, design, and construction of the Ramp 3 replacement project.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby accepts and appropriates a Commercial Vessel Passenger Tax Program pass through grant from the Kenai Peninsula Borough for calendar year 2012 in the amount of \$21,710.00 as follows:

Appropriation:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
460-927	KPB CVPT Pass Through Grant for 2012	\$21,710.00

Section 2. The City Manager is authorized to execute the appropriate documents.

Section 3. This ordinance is a budget ordinance only, is not permanent, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt Wrede, City Manager

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

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

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



## City of Homer Administration

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

Telephone (907) 235-8121 x2222  
Fax (907) 235-3148  
E-mail [citymanager@ci.homer.ak.us](mailto:citymanager@ci.homer.ak.us)  
Web Site [www.ci.homer.ak.us](http://www.ci.homer.ak.us)

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February 21, 2013

Mayor Mike Navarre  
Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna, AK 99669

SUBJECT: 2012 Cruise Vessel Passenger Tax Receipts

Dear Mayor Navarre:

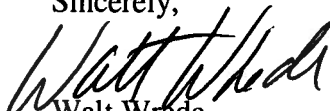
I am writing to confirm that the City of Homer wishes to receive the 2012 Commercial Vessel Passenger Tax receipts from the Borough. It is our understanding that you will be sponsoring an ordinance that would make the Borough's share of these tax receipts for vessel landings in Homer available to the City. The City appreciates that and understands that the amount to be passed through for calendar year 2012 is \$21,710.00.

The City of Homer recognizes that these funds must be used for port and harbor improvements that directly benefit cruise ship passengers. The City agrees to comply with the provisions contained in AS 43.52.200 – 43.52.295 and former SB 256 and HB 310. These funds will be used toward the replacement of Ramp 3 (design and/or construction). Ramp 3 is the oldest ramp in the Homer Boat harbor. This ramp is dangerously steep at low tide and it is not ADA accessible. This ramp is used by 100 or more cruise ship passengers each time a ship docks to access the tour boats that take them on excursions around Kachemak Bay.

The receipts from the 2011 CVPT of \$32,687.50 were also slated for this crucial project that is estimated to cost \$795,000.

Thank you very much for your time and consideration. Please do not hesitate to contact us if you have any questions.

Sincerely,

  
Walt Wrede  
City Manager

cc: Brenda Ahlberg, KPB Community & Fiscal Projects Manager



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# KENAI PENINSULA BOROUGH

## GRANT AGREEMENT

Total Grant Funds  
**\$21,710.00**

Authorizing Ordinance  
**O2012-19-48**

KPB Account Number  
**271.94910.13CPV.43011**

Total Grant Award  
**\$21,710.00**

Project Title  
**Commercial Passenger Vessel Tax Program**

Funding Source  
**State**

Grantee		Borough Contact Person	
Name	DUNS# <b>040171563</b>	Name	
<b>City of Homer</b>	EIN# <b>92-0030963</b>	<b>Brenda Ahlberg, Community &amp; Fiscal Projects Manager</b>	
Mailing Address		Mailing Address	
<b>491 E. Pioneer Avenue</b>		<b>144 N. Binkley Street</b>	
City/State/Zip		City/State/Zip	
<b>Homer AK 99603</b>		<b>Soldotna, AK 99669</b>	
Contact Person		Email	
<b>Walt Wrede, City Manager</b>		<b>bahlberg@borough.kenai.ak.us</b>	
Phone	Fax	Phone	Fax
<b>235-8121</b>	<b>235-3148</b>	<b>714-2153</b>	<b>714-2377</b>

The Kenai Peninsula Borough (*hereinafter* "Borough") and City of Homer (*hereinafter* "Grantee") agree as set forth herein.

**Section I:** The Borough shall pay Grantee for the performance of the project work under the terms outlined in this agreement. The amount of the payment is based upon project expenses incurred, which are authorized under this agreement. In no event shall the payment exceed \$21,710.00.

**Section II:** The Grantee shall perform all of the work required by this agreement.

**Section III:** The work to be performed under this agreement begins 04/16/2013 and shall be completed no later than 12/31/2014.

**Section IV:** the agreement consists of this page and the following attachments:

- A. Scope of Work and Use of Funds  
Payment Method and Reporting Requirements  
Standard Provisions
  - B. Financial/Progress Report
  - C. Signature Authorization Form
- Certificate(s) of Insurance – *provided by Grantee*

**Section V:** The Borough Clerk shall control the original, including any attachments filed.

Grantee	Borough
Signature:	Signature:
Authorized Signatory Name and Title <b>Walt Wrede, City Manager</b>	Authorized Signatory Name and Title <b>Mike Navarre, Mayor</b>
Date:	Date:
	Attest: Johni Blankenship, Borough Clerk

Approved as to form and legal sufficiency:

Holly Montague, Deputy Borough Attorney

## **FY13 KPB Grant Agreement**

City of Homer - Commercial Passenger Vessel Tax Program CY2012 Funds

### **Scope of Work and Use of Funds**

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**Project Description:** The purpose of this Borough Grant is to provide funding through the State of Alaska Commercial Passenger Vessel Tax Program, *hereinafter* referred to as CPVT, to the City of Homer, *hereinafter* referred to as “grantee.” The Grantee will use the funds for port and harbor projects impacted by cruise ship landings as governed by the Alaska Statutes (see “Source of Funds, page 2).

### **Project Management**

---

1. The project will be managed by the grantee.
2. The City Manager, or such other person(s) as indicated on Attachment C, shall be designated as the representative to receive or make all communications regarding the performance or administration of this agreement. The Borough Community & Fiscal Projects Manager, or such other person(s) as designated by the Borough Mayor, is hereby designated as the representative of the Borough to receive or make all communications, payment requests, and reports regarding the performance or administration of this agreement, and who approves payment under this agreement. The parties may change their representative upon written notification to the other party.

### **Key Contact Information**

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Brenda Ahlberg, Community & Fiscal Projects  
714-2153 • bahlberg@borough.kenai.ak.us Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna AK 99669

### **Project Approval**

---

The Assembly approved and appropriated CPVT funds from calendar year 2012 in the amount of \$21,710.00 to the grantee through KPB Ordinance 2012-19-48. Grantee shall cite KPB account number **271.94910.13CPV.43011** in correspondence and reporting forms.

Grant funds, or any earnings there from, may be spent only for the purposes of the grant project as described above. Any monies used for purposes not authorized by this agreement shall be refunded to the Borough immediately after such expenditures, with or without demand by the Borough. Request to amend the budget shall be submitted to the Community & Fiscal Projects Manager no less than ninety (90) days prior to performance period end date.

## **Project Performance Period**

Period: The performance period shall be effective for the period commencing on April 16, 2013 and ending on December 31, 2014. The grantee must liquidate all obligations not later than December 31, 2014. The Borough shall have no obligation for payment of services rendered by the grantee which are not performed within this specified period.

Request to Extend: Any determination to extend the project performance period is solely at the discretion of the Borough. A request to amend the performance period should be submitted not later than ninety (90) days prior to the established end date.

## **Funding**

1. Source of Funds:
  - a. This project is being funded in full through the State of Alaska Department of Commerce, Community & Economic Development, "Commercial Passenger Vessel Tax Program" (CPVT) as governed by AS 43.52.200 - 43.52.295.
  - b. All unexpended grant funds as of the end of the grant period must be returned to the Borough. Funds will be considered obligated if they have actually been expended or encumbered prior to the end date of the performance period.
2. Condition for Receipt of Funds: The grantee shall comply with AS 43.52.230 (b), federal legislation and court rulings that permit the use of these funds for port facilities, harbor infrastructure, and other services provided to the commercial passenger vessels and the passengers on board those vessels.
3. Funds, or earnings there from, shall not be expended for the purposes of lobbying activities before the Borough Assembly, the Alaska State Legislature or U.S. Congress.

## **Payment Terms and Reporting Requirements**

1. Payments:
  - a. The Grantee will be compensated for up to and not exceeded \$21,710.00 as determined by the State of Alaska for projects identified in the City of Homer's request letter dated February 21, 2013 and approved by Kenai Peninsula Borough Ordinance 2012-19-48.
  - b. Under no circumstances will funds be released to the Grantee unless all required reporting is current.
2. Reporting Requirements:
  - a. The Borough's approval of the proposed expenditures shall not be construed to mean that the Borough is liable in any manner whatsoever if it is determined by an agency or court of competent jurisdiction that the city's project does not satisfy the statutory criteria.
  - b. Upon completion of the projects, but no later than thirty days thereafter the agreement end date, the grantee shall provide a detailed written report to the Borough administration and assembly, explaining the use of these funds and their compliance with statutory requirements.

- c. The Grantee agrees to refund any such amounts, including principal, interest, costs, fees, fines, or other charges, if it is determined by a court of competent jurisdiction that the grantee's expenditure of the funds does not meet the statutory criteria.
- d. This agreement is not to be construed as entitlement to city receiving the future allocation of the Borough's CPVT.
- e. Failure to meet the reporting requirements set forth in this agreement may result in the Borough withholding future allocations of the borough's grant of CPVT funds.

**Mail OR Email Narrative and Fiscal Reports to:**

Brenda Ahlberg, Community & Fiscal Projects Manager  
Kenai Peninsula Borough  
144 N. Binkley St., Soldotna AK 99669  
(907) 714-2153 • bahlberg@borough.kenai.ak.us

**Standards for Financial Management**

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Financial Management System:

1. The grantee will maintain an accounting system and a set of accounting records that at a minimum, allows for the identification of individual projects by source of revenue and expenditures related to this project.
2. All costs will be supported by source documentation. Grantee shall retain all contracts, invoices, materials, payrolls, personnel records, conditions of employment, and other data relating to matters covered by this agreement for a period of three years after the completion date of the agreement, or until final resolution of any audit findings, claims, or litigation related to the grant.
3. The grantee's accounting records will be the basis for generating financial reports which must reflect accurate and complete data. In addition, financial records must be properly closed out at the end of the project period and all reports submitted in a timely manner.

**Procurement Standards**

---

The Grantee agrees to use a competitive process when making procurements for goods and services. These standards include but are not limited to the following:

1. Grantee may use its own procurement policies provided that they adhere to the applicable standards;
2. Grantee shall maintain a code of conduct which shall govern the performance of its officers, employees or agents in contracting with or expending grant funds; and
3. All procurement transactions shall be conducted in a manner so as to provide for maximum open and free competition.

**Audits and Monitoring**

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Audits:

1. Provisions of 2 AAC 45.010 shall apply to a Borough Grantee receiving a grant of \$100,000 or more from the Borough. An audit in compliance with 2 AAC 45.010 shall be

required on the performance of the grant conditions. Such audit report shall be due to the Borough no later than 30 days after the audit is completed, or 6 months after the expiration of the grant, whichever is sooner. A copy of a federal single audit report may be submitted to fulfill the requirements of this section.

2. An annual audited financial statement, certified by a Certified Public Accountant, shall be submitted by a Borough Grantee receiving a grant less than \$100,000 from the Borough. Such financial statement shall be due no later than 6 months from the termination of this agreement.
3. Grantees receiving less than \$100,000 from the Borough and receiving payments on a reimbursable basis are exempt from the audit requirements.

#### Monitoring:

1. The grantee may receive an on-site review from the Borough, or its authorized representatives, in addition to reviews from State of Alaska personnel representing the AK Department of Commerce, Community & Economic Development. Monitoring staff may review project and financial activity relating to the terms of this agreement. Upon request, the Borough shall be given full and complete access to all information related to the performance period of this agreement to ensure compliance with the project activities and consistently applied costs.
2. The grantee shall provide the Borough and its authorized representatives all technical staff, assistance and information needed to enable the Borough or the State personnel to perform its monitoring function. This assistance from the grantee includes, but is not limited to, information about the grantee's project operation, accounting and data-base systems.

#### Program and Financial Deficiencies:

1. Through audits, reviews, monitoring or other means, the Borough may find the grantee to have program or financial deficiencies in the performance of the agreement. Such deficiencies may include, but are not limited to, the areas of accounting, financial controls, budgeting, and/or project compliance issues. If deficiencies are found, the Borough may require the grantee to take corrective action and to submit a written corrective action plan to address identified deficiencies. All corrective action plans must be accepted by the Borough or its authorized representatives. Any corrective action must be satisfactorily completed within thirty days from the date of written notification.
2. The Borough, in its sole discretion, may require the grantee to submit periodic written verification that measures have been taken to implement the corrective action. If the grantee fails to demonstrate its compliance with the approved corrective action plan within the time constraints set by the Borough, the Borough may, at its option, exercise its rights to terminate the agreement. The Borough may exercise any of the other rights and remedies available to it at law or in equity.

#### **Standard Provisions**

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1. **No Maintenance or Further Funding Responsibility:** By signing this agreement, grantee certifies that it will not ask the Borough to operate or maintain its program, except as may be otherwise agreed to in writing signed by both parties. Grantee understands, acknowledges and agrees that the Borough shall not be responsible for any services, programs, maintenance, operations, or further funding to grantee, or actions related thereto, and has not,

and will not assume any such responsibility, all of such to be the sole and exclusive responsibility of grantee.

2. **Defense and Indemnification:** The Grantee shall indemnify, defend, save and hold the Borough, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys fees resulting from grantee or grantee's officers, agents, employees, partners, attorneys and suppliers' performance or failure to perform this agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the Borough or its agents, which are said to have contributed to the losses, failure, violations, or damage. However, grantee shall not be responsible for any damages or claim arising from the sole negligence or willful misconduct of the Borough, its agents, or employees. Grantee shall also not be required to defend or indemnify the Borough for damage or loss that has been found to be attributed to an independent party directly responsible to the Borough under separate written contract. If any portion of this clause is voided by law or court of competent jurisdiction, the remainder of the clause shall remain in full force and effect.
3. **Insurance:** Grantee shall purchase at its own expense and maintain in force at all times during the term of this agreement Commercial General Liability and Automobile Insurance. Such policies are to include bodily injury, personal injury, and property damage with respect to the property and the activities conducted by grantee in which coverage shall not be less than \$1,000,000 per occurrence or such higher coverage as specified by the Borough. The policy shall name the Borough as an additional insured. Borough approval shall be required for the amount of any deductible or self-insured retention.

Additionally, grantee shall purchase and maintain at its own expense worker's compensation and employers liability insurance for all employees per Alaska State Statutes who are performing work under this agreement.

**Proof of Insurance:** *Grantee shall deliver to the Borough certificates of insurance along with grantee's signature on this agreement. The certificates shall indicate the Borough as an additional insured. This insurance shall be primary and exclusive of any other insurance by the Borough. Failure to provide the certificate of insurance required by this section, or a lapse in coverage, is a material breach of the terms of this agreement entitling the Borough to terminate this agreement.*

4. **Relationship of Parties:** Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, or of partnership, or of joint venture between the parties hereto, it being understood and agreed that neither method of computation of payment nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Borough and independent grantee of funds.
5. **No Exclusive Service; No Property Interest:** The grantee understands, acknowledges and agrees that all supplies, materials and equipment purchased with the grant funds shall be and shall remain the property of the grantee, subject to all applicable State statutes and Federal regulations.

6. **Termination.** The Borough may terminate this agreement, by written notice, when it is in the best interest of the Borough. In the event that grantee does not perform the tasks as required in this agreement, or does not submit any required reports for verification of performance, the Borough may exercise its option to terminate this agreement.
7. **Permits, Taxes and Adherence to Local, State, and Federal Laws:** Signing of this agreement does not, in any manner, excuse grantee from complying with any other law, Alaska state statute or regulation, or Borough ordinance or regulation. Grantee must in all cases adhere to all local, state and federal laws and regulations that pertain to public funds, to the services performed pursuant to this agreement, and related to wages, taxes, social security, workers compensation, nondiscrimination, licenses, permits, and registration requirements. Grantee shall pay all taxes pertaining to its performance under this agreement, and shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to the performance under this agreement.
8. **Jurisdiction; Choice of Law:** Any civil action arising from this agreement shall be brought in the superior court for the Third Judicial District of the State of Alaska at Kenai. The law of the State of Alaska shall govern the rights and obligations of the parties.
9. **Non-Waiver:** The failure of the Borough at any time to enforce a provision of this agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this agreement or any part thereof, or the right of the Borough thereafter to enforce each and every protection hereof. No conditions or provisions of this grant agreement can be waived unless approved by the Borough in writing. Waiver by the Borough of any non-compliance by grantee, or excusing or extending performance, shall not be considered a waiver of any other rights of the Borough or a waiver of the right to terminate in the event of future breaches.
10. **No Third-Party Beneficiary:** This agreement is intended solely for the benefit of each party hereto. Nothing contained herein shall be construed or deemed to confer any benefit or right upon any third party.
11. **Environmental Requirements:** The grantee must comply with all environmental standards, to include those prescribed under State of Alaska and Federal statutes and Executive Orders.
12. **Entire Agreement:** This agreement represents the entire and integrated agreement between the Borough and grantee, and supersedes all prior, inconsistent negotiations, representations or agreements, whether written or oral. This agreement may be amended only by written instrument signed by both the Borough and grantee.



## **KENAI PENINSULA BOROUGH**

144 North Binkley Street • Soldotna, Alaska 99669-7599

**PHONE:** (907) 714-2153 • **FAX:** (907) 714-2377

**EMAIL:** bahlberg@borough.kenai.ak.us

**FROM:** City of Homer  
**KPB ACCOUNT:** 271.94910.13CPV.43011

**Contract Amount:** \$21,710.00  
**Ending:** 12/31/2014

### **Financial / Progress Report**

**Submit Report To:**

Brenda Ahlberg  
Community & Fiscal Projects Manager  
Kenai Peninsula Borough  
144 N. Binkley St., Soldotna, AK 99669

**Project Name:** Commercial Passenger Vessel Tax Program

**Date:**

**Report No.:**

**Quarter From:**

**To:**

#### **FINANCIAL REPORT:**

Cost Category	Authorized Budget	Expenditures from Last Report	Expenditures This Period	Total Expenditures to Date	Balance of Funds
	\$ -				
Personnel		-	-		\$ -
Travel		-	-	-	\$ -
Contractual	21,710.00	-	-	-	\$ 21,710.00
Supplies		-	-	-	\$ -
Other		-	-	-	\$ -
		-	-	-	\$ -
<b>TOTALS</b>	<b>\$ 21,710.00</b>	<b>-</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 21,710.00</b>

Advance funding	\$21,710.00
Expenditures applied to advance	-
Remaining Advance Balance	\$ 21,710.00

**PROGRESS REPORT:** Describe activities that have occurred during this reporting period. Describe any challenges you may have experienced, any foreseen problems, and/or any special requests. Attach additional pages.

**Grantee Certification:** I certify that the above information is true and correct, and that expenditures have been made for the purpose of, and in accordance with, applicable grant agreement terms and conditions.

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

Printed Name and Title: \_\_\_\_\_

## Signature Authorization Form

**Grant Program:** Commercial Passenger Vessel Tax Program - State Pass Thru Funding

**Agreement Number:** 271.94910.13CPV.43011

**Effective Date** 04/16/2013

**Name of Grantee** City of Homer

**DUNS# and Tax ID#** **DUNS # 040171563 TAX ID# 92-0030963**

### Point of Contact Information

*Program Manager, Chief Financial Officer, and Signatory Official must be three (3) different individuals.*

*Primary and Alternate Signatories: Grant Award/Amendments and Grant Reports*

**Program Manager Name** Brian Hawkins  
*Individual managing the project*

**PM Address** 491 E. Pioneer Ave., Homer, AK 99603

**PM Telephone** 907-235-3160

**PM Fax** 907-235-3152

**PM Email** bhawkins@ci.homer.ak.us

**Chief Financial Officer Name** Jo Earls  
*Authorized to certify financial expenditures and records*

**CFO Address** 491 E. Pioneer Ave. Homer, AK 99603

**CFO Telephone** 907-235-8121 907-435-3110

**CFO Fax** 907-235-3140

**CFO Email** \_\_\_\_\_@ci.homer.ak.us jearls@ci.homer.ak.us

**Signatory Official Name** Walt Wrede Mark Robl  
*City Manager*

**Signatory Official Address** 491 E. Pioneer Ave., Homer AK 99603 4060 Heath St., Homer, AK 99603

**Signatory Official Telephone** 907-235-8121 907-235-3150

**Signatory Official Fax** 907-235-3140 907-235-3151

**Signatory Official Email** wwrede@ci.homer.ak.us mrobl@ci.homer.ak.us

### Signatures required by each of the above-named individuals.

**Project Manager**

*Signature and Date*

**Chief Financial Officer**

*Signature and Date*

**Signatory Official**

*Signature and Date*

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**CITY OF HOMER  
HOMER, ALASKA**

Planning

**RESOLUTION 13-042**

A RESOLUTION OF THE CITY COUNCIL OF HOMER,  
ALASKA, AMENDING THE HOMER ADVISORY PLANNING  
COMMISSION BYLAWS.

WHEREAS, The Homer Advisory Planning Commission began review and discussion of  
their Bylaws and Policy and Procedures manual at their January 16, 2013 regular meeting; and

WHEREAS, The Homer Advisory Planning Commission introduced their final  
amendments to the Bylaws and Policy and Procedures manual at their March 6, 2013 meeting;  
and

WHEREAS, The Homer Advisory Planning Commission took final action to approve  
their recommendations and forward to the City Council for adoption at their April 3, 2013  
regular meeting; and

WHEREAS, Planning staff determined that the proposed amendment to the Policy and  
Procedures Manual regarding Zoning Ordinance Amendments Review Standards was  
accomplished with the adoption of Resolution 12-004.

NOW, THEREFORE, BE IT RESOLVED that the City of Council of Homer, Alaska  
hereby amends the Homer Advisory Planning Commission Bylaws, as shown in attachment A.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 13<sup>th</sup> day of May,  
2013.

CITY OF HOMER

\_\_\_\_\_  
FRANCIE ROBERTS, MAYOR PRO TEMPORE

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

Fiscal note: NA

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**HOMER ADVISORY PLANNING COMMISSION**  
**March 6, 2013 Draft BY-LAWS**

The Homer Advisory Planning Commission is established with those powers and duties as set forth in Title 1, Section 76, of the Homer City Code. The Commission is established to maximize local involvement in planning and to implement and recommend modifications to the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. The Commission's jurisdiction is limited to the area within the City boundaries and that area designated as the Homer Bridge Creek Watershed Protection District.

The Homer Advisory Planning Commission ("Commission") consists of seven members; no more than one may be from outside the city limits. Members will be appointed by the Mayor subject to confirmation by the City Council for three-year terms (except to complete terms). The powers and duties of the Commission are described in HCC 1.76.030.

- A. To abide by existing Alaska State law, Borough Code of Ordinances, where applicable, and Homer City Code pertaining to planning and zoning functions;
- B. To abide by Robert's Rules of Order, so far as this treatise is consistent with Homer City Code;
- C. Regular Meetings:

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

- 1. First and third Wednesday of each month at 6:30 p.m.
- 2. Agenda deadline is two weeks prior to the meeting date at 5:00 p.m. Agenda items requiring public hearing must be received three weeks prior to the Commission hearing. However, conditional use applications may be scheduled for public hearing in accordance with HCC 21.94. Preliminary plats must be submitted the Friday two weeks before the Commission meeting.
- 3. Items will be added to the agenda upon request of staff, the Commission or a Commissioner.
- 4. Public notice of a regular meeting shall be made as provided in HCC Chapter 1.14
- 5. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by vote of the Commission.  
 Procedure: The Chair will entertain a motion to extend the meeting until a specific time. After the motion has been seconded, the Commission will vote. A yes vote will extend the meeting until the specified time. A no vote will require that the Chair conclude business at or before 9:30 pm and immediately proceed to comments of the audience, the Commission and adjournment.

47  
48 **D. Special Meetings:**  
49

50 All Commission members should be physically present at the designated time and  
51 location within the City for the meeting. Teleconferencing is not permitted.  
52

- 53 1. Called by Chair or majority of the Commission.  
54 2. Require reasonable notification be given to the Planning Department staff  
55 and twenty-four hour notice to Commissioners.  
56 3. Public notice of a special meeting shall be made as provided in HCC  
57 Chapter 1.14  
58

59 **E. Duties and Powers of the Officers:**  
60

61 A Chair and Vice-Chair shall be selected annually in August or as soon thereafter  
62 as practicable by the appointive members. The Chair shall preside at all meetings  
63 of the Commission, call special meetings in accordance with the by-laws, sign  
64 documents of the Commission, see that all actions and notices are properly taken,  
65 and summarize the findings of the Commission for the official record. The Vice-  
66 Chair shall perform all duties and be subject to all responsibilities of the Chair in  
67 his/her absence, disability or disqualification of office. The Vice-Chair will  
68 succeed the Chair if he/she vacates the office before the term is completed to  
69 complete the un-expired term. A new Vice-Chair shall be elected at the next  
70 regular meeting.  
71

72 **F. Committees**  
73

- 74 1. The Chair shall appoint committees for such specific purposes as the  
75 business of the Commission may require. Committee appointments will be  
76 confirmed by the Commission. Committee membership shall include at  
77 least two Commissioners. Other Committee members may be appointed  
78 from the public.  
79 2. One Committee member shall be appointed Chair and be responsible for  
80 creating an agenda and notifying the City Clerk of meetings so they may  
81 be advertised in accordance with Alaska State Law and Homer City Code.  
82 3. One Committee member shall be responsible for furnishing summary  
83 notes of all Committee meetings to the City Clerk.  
84 4. Committees shall meet in accordance with Commission bylaws and  
85 Robert's Rules.  
86 5. All committees shall make a progress report at each Commission meeting.  
87 6. No committee shall have other than advisory powers.  
88 7. Per Robert's Rules, upon giving a final report, the Committee is  
89 disbanded.  
90  
91  
92

93 **G. Motions to Reconsider:**

94  
95 Notice of reconsideration shall be given to the Chair or Vice-Chair, if the Chair is  
96 unavailable, within forty-eight hours from the time the original action was taken.  
97 A member of the Commission who voted on the prevailing side on any issue may  
98 move to reconsider the commission's action at the same meeting or at the next  
99 meeting of the body provided the above 48-hour notice has been given.  
100 Consideration is only for the original motion to which it applies. If the issue  
101 involves an applicant, staff shall notify the applicant of the reconsideration.  
102

103 **H. Conflict of Interest:**

104  
105 A member of the Commission shall disqualify himself/herself from participating  
106 in any official action in which he/she has a substantial **financial** interest per HCC  
107 1.12. The member shall disclose any financial interest in the topic before debating  
108 or voting. The member cannot participate in the debate or vote on the matter,  
109 unless the Commission has determined the financial interest is not substantial.  
110

111 Following the Chair's announcement of the agenda item, the Commissioner  
112 should state that he has a conflict of interest. Once stated, the member should  
113 distance himself/herself from all motions. The Commission must move and vote  
114 on whether or not there is a conflict of interest. At this time, a motion shall be  
115 made by another Commissioner restating the disclosed conflict. Once the motion  
116 is on the floor the Commissioner can disclose his/her financial interest in the  
117 matter and the Commission may discuss the conflict of interest. A vote will then  
118 be taken. An affirmative vote excuses the Commissioner and he/she takes a seat  
119 in the audience or remains nearby. Upon completion of the agenda item, the  
120 Commissioner will be called back to join the meeting.  
121

122 **I. Situation of personal interest**

123  
124 A situation of personal interest may arise. For example, a Commissioner may live  
125 in the subject subdivision or may be a neighboring property owner. If the  
126 Commissioner feels that by participating in the discussion he/she may taint the  
127 decision of the Commission, or be unable to make an unbiased decision, the  
128 Commissioner should state his/her personal interest. The same procedure as  
129 above should be followed to determine the conflict.  
130

131 **J. Ex parte Communications**

132  
133 Ex parte contacts are not permitted in quasi-judicial actions. Ex parte  
134 communications can result in a violation of procedural due process. If a  
135 Commissioner finds him/herself about to be involved in ex parte contact the  
136 Commissioner should recommend that the citizen submit their comments in  
137 writing to the Commission or testify on record. If a Commissioner has been  
138 involved in an ex parte contact, the contact and its substance should be disclosed

at the beginning of the hearing. The Commissioner should state whether or not s/he thinks s/he can make an unbiased decision.

**K. Quorum; Voting:**

Four Commission members shall constitute a quorum. Four affirmative votes are required for the passage of an ordinance, resolution or motion. Conditional use permits and zoning variances require a majority plus one vote. Voting will be by verbal vote, the order to be rotated. The final vote on each resolution or motion is a recorded roll call vote or may be done in accordance with J. Consensus. For purposes of notification to parties of interest in a matter brought before the Commission, the Chair may enter for the record the vote and basis for determination.

The City Manager, or his/her designee and Public Works Director shall serve as consulting members of the Commission but shall have no vote.

**L. Findings:**

Findings will be recorded for conditional use permits, variances, acceptance of nonconforming status and zoning ordinance amendments. The findings will include the result of the vote on the item and the basis of determination of the vote, as summarized by the Chair or Vice-Chair, in the absence of the Chair.

**M. Consensus:**

The Commission may, from time-to-time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

**N. Abstentions:**

All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain. A motion to excuse a member from voting shall be made prior to the call for the question. A member of the Commission requesting to be excused from voting may make a brief oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate. An affirmative vote of the Commission excuses the Commissioner. A member may not explain a vote or discuss the question while the roll call vote is being taken. A member may not change his/her vote thereafter.

185 **O. Vacancies:**

186  
187 A Commission appointment is vacated under the following conditions and upon  
188 the declaration of vacancy by the Commission. The Commission shall declare a  
189 vacancy when the person appointed:

- 190  
191 1. Fails to qualify;  
192 2. Fails to take office within thirty days after his/her appointment;  
193 3. Resigns and the resignation is accepted;  
194 4. Is physically or mentally unable to perform the duties of his/her office;  
195 5. Misses three consecutive or six regular meetings in a calendar year; or  
196 6. Is convicted of a felony or of an offense involving a violation of his/her  
197 oath of office.  
198

199 **P. Procedure for Consideration of Agenda Items:**

200  
201 The following procedure will normally be observed:  
202

- 203 1. Staff presents report and makes recommendation;  
204 2. If the agenda item involves an applicant s/he may make a presentation;  
205 3. Commission may ask questions of the applicant and staff.  
206

207 **Q. Procedure for Consideration of Public Hearing Items:**

- 208  
209 1. Staff presents report and makes recommendation;  
210 2. Applicant makes presentation;  
211 3. Public hearing is opened;  
212 4. Public testimony is heard on item (presentation of supporting/opposing  
213 evidence by public – Commission may ask questions of public);  
214 5. Public hearing is closed;  
215 6. Rebuttal of evidence by staff (if any);  
216 7. Rebuttal of evidence by applicant (if any);  
217 8. Commission may ask questions of the applicant, and staff.  
218 9. The Commission will move/second to accept the staff report, with or  
219 without staff recommendations. The Commission will discuss the item,  
220 may ask questions of staff, and make amendments to the recommendations  
221 of staff. Amendments may be made by motion/second.  
222 10. The Commission may continue the topic to a future meeting. Once the  
223 public hearing is closed no new testimony or information will be accepted  
224 from the public. The Commission may ask questions of the applicant and  
225 staff.  
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231 **R. Procedure for Consideration of Preliminary Plats :**

232  
233 The following procedure will normally be observed:

- 234  
235 1. Staff presents report and makes recommendations;  
236 2. Applicant makes presentation;  
237 3. Public comment is heard on the item;  
238 4. Applicant may make a response;  
239 5. Commission may ask questions of applicant, public and staff.  
240

241 **S. The Commission shall act as a body. A member of the Commission may not**  
242 **speak or act for the Commission without recommendation or direction given**  
243 **by the Commission. The Chair or Chair's designee shall serve as the official**  
244 **spokesperson of the Commission.**  
245

246  
247 **ST. By-Laws Amended:**

248  
249 The by-laws may be amended at any meeting of the Commission by a majority  
250 plus one of the members, provided that notice of said proposed amendment is  
251 given to each member in writing. The proposed amendment shall be introduced at  
252 one meeting and action shall be taken at a subsequent Commission meeting. The  
253 by-laws will be endorsed by a resolution of the City Council.  
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255 **TU. Procedure Manual:**

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257 The policy and procedure manual will be endorsed by resolution of the City  
258 Council and may be amended at any meeting of the Commission by a majority  
259 plus one of the members, provided that notice of said proposed amendment is  
260 given to each member in writing. Proposed amendments to the procedure manual  
261 shall be introduced at one meeting and action shall be taken at a subsequent  
262 Commission meeting.  
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266 HOMER ADVISORY PLANNING COMMISSION  
267 491 E. PIONEER AVENUE  
268 HOMER, ALASKA  
269

DATE  
WEDNESDAY AT 6:30 P.M.  
COWLES COUNCIL CHAMBERS

270 **REGULAR MEETING**  
271 **AGENDA**

272 **1. Call to Order**

273  
274 **2. Approval of Agenda**

275  
276 **3. Public Comment**

277 The public may speak to the Planning Commission regarding matters on the agenda that are not  
278 scheduled for public hearing or plat consideration. (3 minute time limit).

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4. **Reconsideration**

5. **Adoption of Consent Agenda**

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

6. **Presentations**

7. **Reports**

8. **Public Hearings**

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

9. **Plat Consideration**

10. **Pending Business**

11. **New Business**

12. **Informational Materials**

13. **Comments of The Audience**

Members of the audience may address the Commission on any subject. (3 minute time limit)

14. **Comments of Staff**

15. **Comments of The Commission**

16. **Adjournment**

Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission. Notice of the next regular or special meeting or work session will appear on the agenda following "adjournment."





## City of Homer Planning & Zoning

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### MEMORANDUM 13- 062

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: RICK ABOUD, CITY PLANNER

DATE: April 9, 2013

SUBJECT: Resolution Amending the Homer Advisory Planning Commission Bylaws.

At the April 3<sup>rd</sup> Regular Meeting, a motion was approved to amend the HAPC Bylaws reflecting the desire of the HAPC to declare a standard in regards to representing the Commission.

Additionally, during the review of the Policy's and Procedure Manual, an older version of the Manual was reviewed and the only change that the Planning Commission recommended had already been accomplished with Resolution 12-004 and is not included for action by the Council today.

#### **Recommendation:**

The Homer Advisory Planning Commission recommends adoption of the resolution amending the Bylaws.

#### Attachments:

Draft Ordinance 13-XX  
Staff Reports  
HAPC Minutes  
Draft Bylaws

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**CITY OF HOMER  
HOMER, ALASKA**

**Planning**

**RESOLUTION 13-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF HOMER ALASKA  
AMENDING THE HOMER ADVISORY PLANNING COMMISSION  
BYLAWS.**

WHEREAS, the Homer Advisory Planning Commission has reviewed the Commission Bylaws; and

WHEREAS, the Homer Advisory Planning Commission recommended amendment of the Bylaws and Policies and Procedures Manual at their Regular Meeting of March 6, 2013; and

WHEREAS, the Homer Advisory Planning Commission approved a motion to amend the Bylaws at their Regular Meeting of April 3, 2013.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska amends the Homer Advisory Planning Commission Bylaws as shown in Attachment A.

ADOPTED BY THE HOMER CITY COUNCIL, ALASKA, this \_\_\_\_\_ day  
of \_\_\_\_\_ 2013.

**CITY OF HOMER**

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

**ATTEST**

\_\_\_\_\_  
**JO JOHNSON, CMC, CITY CLERK**



Session 13-04, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Vice Chair Bos at 6:30 p.m. on April 3, 2013 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, HIGHLAND, SLONE, STEAD

ABSENT: SONNEBORN, VENUTI

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK JACOBSEN

### **Approval of Agenda**

The agenda was approved by consensus of the Commission

### **Public Comment**

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

None

### **Reconsideration**

### **Adoption of Consent Agenda**

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

- A. Approval of Minutes of March 20, 2013 meeting
- B. Adoption of the February 6, 2013 Draft Policies and Procedures
- C. Adoption of March 6, 2013 Draft Bylaws

The Consent Agenda was approved by consensus of the Commission.

### **Presentations**

- A. Todd Schroeder of the Homer Soil and Water Conservation District Re: Diamond Creek Recreation Multi-Resource Management Plan

Todd Schroeder of the Homer Soil and Water Conservation District (HSWCD) offered a brief history of the city's acquisition of the Diamond Creek Recreation property. HSWCD received funding for technical planning assistance in regard to preservation of natural resources. He has worked with Planning Technician Engebretsen on this plan which is a framework for the city to be able to reference when making decisions regarding this property. The plan is also a requirement of the Federal Forest Legacy Program and the last major step in fulfilling the requirements of the program. The program provided for KHLT to purchase the land then turned it over to the city, as a requirement of the program. Having this area preserved is an important culture resource for the area. He explained that once the City Council adopts the plan, it will go to the State for approval, and then it is filed with the Forest Legacy Program. The plan is designed to fit within the framework of the Forest Legacy Program as far as protecting this resource. There is some ambiguity in the plan which was purposeful for allowing for trails and





# City of Homer Planning & Zoning

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## STAFF REPORT PL 13-22

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** March 6, 2013  
**SUBJECT:** Amending the HAPC Bylaws & Policies and Procedures March 6, 2013

### Introduction

The changes to the documents are listed below. If no other amendments are forwarded this will be added to the next agenda and off to the City Council after that.

### *Zoning Ordinance Amendments – Review Standards*

The review standards are found on page 8 of 9 in the Policies and procedures. Lines 338-346 will be struck and replaced with **In reviewing a code amendment or map amendment, the Commission must consider the standards of review as established in HCC 21.95.**

### *Representing the Planning Commission*

The language approved by motion is included on lines 241-244.

Please take time to review both the bylaws and policies and procedures for any comments or suggestions you may have for the rest of these documents.

Att.

Feb. 6, 2013 Draft Policies and Procedures

March 6, 2013 Draft Bylaws



None

**Pending Business**

- A. Staff Report PL 13-22, Amending the HAPC Bylaws and Policies and Procedures

HIGHLAND/BOS MOVED TO APPROVE THE AMENDMENTS TO THE HAPC BYLAWS AND POLICIES AND PROCEDURES AND BRING THEM BACK FOR FINAL APPROVAL AT THE NEXT REGULAR MEETING.

There was brief discussion that the amendments are complete.

VOTE: YES: BOS, STEAD, HIGHLAND, SONNEBORN, VENUTI, SLONE

Motion carried.

- B. Staff Report PL 13-23, Land Allocation Plan March 6, 2013

City Planner Abboud reviewed the staff report. In response to questions he reviewed the commission's previous recommendations regarding the Wooden Boat Society and explained they had made recommendations specific to the proposed lot layout, but not specific to the Wooden Boat Society.

SLONE/HIGHLAND MOVED FOR THE APPROVAL OF STAFF REPORT PL 13-23.

There was brief discussion relating to the Wooden Boat Society leasing property on the spit. It was noted that the Council will be discussing it at a future worksession and the material in the staff report specific to the lease is merely informational.

It was clarified that approving the staff report shows the commission's support for their comments as outlined in the report.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

**New Business**

- A. Staff Report PL 13-24, Diamond Creek Plan

City Planner Abboud reviewed the staff report.

Discussion ensued about some of the history of the city acquiring the property, and its designation and strict conservation easement specifications restricting uses on the property.

SLONE/SONNEBORN MOVED FOR THE APPROVAL OF STAFF REPORT PL 13-24 THE DIAMOND CREEK PLAN.

Commissioner Highland noted a point of correction that it is called the Diamond Creek Recreation Area Management Plan.





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## STAFF REPORT PL 13-20

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** Feb. 20, 2013  
**SUBJECT:** Amending the HAPC Bylaws & Policies and Procedures

### **Policies and Procedures/Bylaws**

#### ***Regular Meetings***

Meeting times are designated in section "C" of the bylaws. I presented some of the options at the last meeting and had not really been able to convince myself that another format other than the one we now have presents greater benefits overall. Some of the options I considered:

No regularly scheduled worksession. Pro- earlier regular meeting start time. Con- have to have advance notice of special meeting (worksession) that would alter regularly scheduled meeting.

Half hour worksessions. Pro- quicker worksessions good for one item. Con- a bit short for multiple items or training, then would need to alter regular meeting times to accommodate an occasional longer worksession.

One hour worksession once a month. Pro- one meeting could start earlier. Con- meeting time variation could cause confusion for participants.

Of course an option is to stick with what we have and cancel when necessary. Pro- regular meeting times consistent. Con- not able to bump meeting time forward.

In general, I am inclined to leave the schedule as is and cancel worksessions when necessary (like a probably should have done this time).

#### ***Public Testimony at Public Hearings***

Holly is scheduled for a Commissioner training March 6<sup>th</sup>. I am hoping that Commissioners will review the bylaws and consider any issues regarding the bylaws to bring up for discussion with Holly.

#### ***Zoning Ordinance Amendments – Review Standards***

The review standards are found on page 8 of 9 in the Policies and procedures. Lines 338-346 will be struck and replaced with **In reviewing a code amendment or map amendment, the Commission must consider the standards of review as established in HCC 21.95.**

#### ***Representing the Planning Commission***

Based on our discussion from the previous meeting I am bringing back some suggested language for your review. I left the old suggestions in case I did not get it right, for the Commission's review. If so desired, the Clerk has included a schedule for Planning Commissioners to present to the Council.

Please take time to review both the bylaws and policies and procedures for any comments or suggestions you may have for the rest of these documents.

Att.

Feb. 20, 2013 Draft Bylaws

Feb. 6, 2013 Draft Policy and Procedures

Commissioner Schedule

**HOMER ADVISORY PLANNING COMMISSION**  
**Feb. 20, 2013 Draft BY-LAWS**

The Homer Advisory Planning Commission is established with those powers and duties as set forth in Title 1, Section 76, of the Homer City Code. The Commission is established to maximize local involvement in planning and to implement and recommend modifications to the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. The Commission's jurisdiction is limited to the area within the City boundaries and that area designated as the Homer Bridge Creek Watershed Protection District.

The Homer Advisory Planning Commission ("Commission") consists of seven members; no more than one may be from outside the city limits. Members will be appointed by the Mayor subject to confirmation by the City Council for three-year terms (except to complete terms). The powers and duties of the Commission are described in HCC 1.76.030.

- A. To abide by existing Alaska State law, Borough Code of Ordinances, where applicable, and Homer City Code pertaining to planning and zoning functions;
- B. To abide by Robert's Rules of Order, so far as this treatise is consistent with Homer City Code;
- C. Regular Meetings:

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

- 1. First and third Wednesday of each month at 6:30 p.m.
- 2. Agenda deadline is two weeks prior to the meeting date at 5:00 p.m. Agenda items requiring public hearing must be received three weeks prior to the Commission hearing. However, conditional use applications may be scheduled for public hearing in accordance with HCC 21.94. Preliminary plats must be submitted the Friday two weeks before the Commission meeting.
- 3. Items will be added to the agenda upon request of staff, the Commission or a Commissioner.
- 4. Public notice of a regular meeting shall be made as provided in HCC Chapter 1.14
- 5. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by vote of the Commission.  
Procedure: The Chair will entertain a motion to extend the meeting until a specific time. After the motion has been seconded, the Commission will vote. A yes vote will extend the meeting until the specified time. A no vote will require that the Chair conclude business at or before 9:30 pm and immediately proceed to comments of the audience, the Commission and adjournment.

**D. Special Meetings:**

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

1. Called by Chair or majority of the Commission.
2. Require reasonable notification be given to the Planning Department staff and twenty-four hour notice to Commissioners.
3. Public notice of a special meeting shall be made as provided in HCC Chapter 1.14

**E. Duties and Powers of the Officers:**

A Chair and Vice-Chair shall be selected annually in August or as soon thereafter as practicable by the appointive members. The Chair shall preside at all meetings of the Commission, call special meetings in accordance with the by-laws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record. The Vice-Chair shall perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed to complete the un-expired term. A new Vice-Chair shall be elected at the next regular meeting.

**F. Committees**

1. The Chair shall appoint committees for such specific purposes as the business of the Commission may require. Committee appointments will be confirmed by the Commission. Committee membership shall include at least two Commissioners. Other Committee members may be appointed from the public.
2. One Committee member shall be appointed Chair and be responsible for creating an agenda and notifying the City Clerk of meetings so they may be advertised in accordance with Alaska State Law and Homer City Code.
3. One Committee member shall be responsible for furnishing summary notes of all Committee meetings to the City Clerk.
4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
5. All committees shall make a progress report at each Commission meeting.
6. No committee shall have other than advisory powers.
7. Per Robert's Rules, upon giving a final report, the Committee is disbanded.

**G. Motions to Reconsider:**

Notice of reconsideration shall be given to the Chair or Vice-Chair, if the Chair is unavailable, within forty-eight hours from the time the original action was taken. A member of the Commission who voted on the prevailing side on any issue may move to reconsider the commission's action at the same meeting or at the next meeting of the body provided the above 48-hour notice has been given. Consideration is only for the original motion to which it applies. If the issue involves an applicant, staff shall notify the applicant of the reconsideration.

**H. Conflict of Interest:**

A member of the Commission shall disqualify himself/herself from participating in any official action in which he/she has a substantial **financial** interest per HCC 1.12. The member shall disclose any financial interest in the topic before debating or voting. The member cannot participate in the debate or vote on the matter, unless the Commission has determined the financial interest is not substantial.

Following the Chair's announcement of the agenda item, the Commissioner should state that he has a conflict of interest. Once stated, the member should distance himself/herself from all motions. The Commission must move and vote on whether or not there is a conflict of interest. At this time, a motion shall be made by another Commissioner restating the disclosed conflict. Once the motion is on the floor the Commissioner can disclose his/her financial interest in the matter and the Commission may discuss the conflict of interest. A vote will then be taken. An affirmative vote excuses the Commissioner and he/she takes a seat in the audience or remains nearby. Upon completion of the agenda item, the Commissioner will be called back to join the meeting.

**I. Situation of personal interest**

A situation of personal interest may arise. For example, a Commissioner may live in the subject subdivision or may be a neighboring property owner. If the Commissioner feels that by participating in the discussion he/she may taint the decision of the Commission, or be unable to make an unbiased decision, the Commissioner should state his/her personal interest. The same procedure as above should be followed to determine the conflict.

**J. Ex parte Communications**

Ex parte contacts are not permitted in quasi-judicial actions. Ex parte communications can result in a violation of procedural due process. If a Commissioner finds him/herself about to be involved in ex parte contact the Commissioner should recommend that the citizen submit their comments in writing to the Commission or testify on record. If a Commissioner has been involved in an ex parte contact, the contact and its substance should be disclosed

at the beginning of the hearing. The Commissioner should state whether or not s/he thinks s/he can make an unbiased decision.

**K. Quorum; Voting:**

Four Commission members shall constitute a quorum. Four affirmative votes are required for the passage of an ordinance, resolution or motion. Conditional use permits and zoning variances require a majority plus one vote. Voting will be by verbal vote, the order to be rotated. The final vote on each resolution or motion is a recorded roll call vote or may be done in accordance with J. Consensus. For purposes of notification to parties of interest in a matter brought before the Commission, the Chair may enter for the record the vote and basis for determination.

The City Manager, or his/her designee and Public Works Director shall serve as consulting members of the Commission but shall have no vote.

**L. Findings:**

Findings will be recorded for conditional use permits, variances, acceptance of nonconforming status and zoning ordinance amendments. The findings will include the result of the vote on the item and the basis of determination of the vote, as summarized by the Chair or Vice-Chair, in the absence of the Chair.

**M. Consensus:**

The Commission may, from time-to-time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

**N. Abstentions:**

All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain. A motion to excuse a member from voting shall be made prior to the call for the question. A member of the Commission requesting to be excused from voting may make a brief oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate. An affirmative vote of the Commission excuses the Commissioner. A member may not explain a vote or discuss the question while the roll call vote is being taken. A member may not change his/her vote thereafter.

**O. Vacancies:**

A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission. The Commission shall declare a vacancy when the person appointed:

1. Fails to qualify;
2. Fails to take office within thirty days after his/her appointment;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of his/her office;
5. Misses three consecutive or six regular meetings in a calendar year; or
6. Is convicted of a felony or of an offense involving a violation of his/her oath of office.

**P. Procedure for Consideration of Agenda Items:**

The following procedure will normally be observed:

1. Staff presents report and makes recommendation;
2. If the agenda item involves an applicant s/he may make a presentation;
3. Commission may ask questions of the applicant and staff.

**Q. Procedure for Consideration of Public Hearing Items:**

1. Staff presents report and makes recommendation;
2. Applicant makes presentation;
3. Public hearing is opened;
4. Public testimony is heard on item (presentation of supporting/opposing evidence by public – Commission may ask questions of public);
5. Public hearing is closed;
6. Rebuttal of evidence by staff (if any);
7. Rebuttal of evidence by applicant (if any);
8. Commission may ask questions of the applicant, and staff.
9. The Commission will move/second to accept the staff report, with or without staff recommendations. The Commission will discuss the item, may ask questions of staff, and make amendments to the recommendations of staff. Amendments may be made by motion/second.
10. The Commission may continue the topic to a future meeting. Once the public hearing is closed no new testimony or information will be accepted from the public. The Commission may ask questions of the applicant and staff.

**R. Procedure for Consideration of Preliminary Plats :**

The following procedure will normally be observed:

1. Staff presents report and makes recommendations;
2. Applicant makes presentation;
3. Public comment is heard on the item;
4. Applicant may make a response;
5. Commission may ask questions of applicant, public and staff.

**S. Representing the Commission:**

**The Commission shall act as a body. A member, when representing the Commission may speak or act for the Commission in accordance with the recommendation or direction taken by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.**

Or

**The Commission shall act as a body. A member, when representing the Commission may not speak or act for the Commission without recommendation or direction given by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.**

Or

**The Commission shall act as a body. A member may only represent the Commission with consent of the body. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.**

**ST. By-Laws Amended:**

The by-laws may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting. The by-laws will be endorsed by a resolution of the City Council.

**TU. Procedure Manual:**

The policy and procedure manual will be endorsed by resolution of the City Council and may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of said proposed amendment is given to each member in writing. Proposed amendments to the procedure manual shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting.

HOMER ADVISORY PLANNING COMMISSION  
491 E. PIONEER AVENUE  
HOMER, ALASKA

DATE  
WEDNESDAY AT 6:30 P.M.  
COWLES COUNCIL CHAMBERS

## **REGULAR MEETING AGENDA**

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Public Comment**  
The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
- 4. Reconsideration**
- 5. Adoption of Consent Agenda**  
All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.
- 6. Presentations**
- 7. Reports**
- 8. Public Hearings**  
Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.
- 9. Plat Consideration**
- 10. Pending Business**
- 11. New Business**
- 12. Informational Materials**
- 13. Comments of The Audience**  
Members of the audience may address the Commission on any subject. (3 minute time limit)
- 14. Comments of Staff**
- 15. Comments of The Commission**
- 16. Adjournment**

Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission. Notice of the next regular or special meeting or work session will appear on the agenda following "adjournment."

Chair Erickson opened the public hearing. No public was present and the hearing was closed.

In response to questions about the wetlands, Mr. St Jean said he has applied for permitting through the Corps of Engineers and he does intend to build on pilings.

VENUTI/STEAD MOVED TO ADOPT STAFF REPORT PL 13-16, CUP 13-04 AT 4661 KACHEMAK DRIVE, REQUEST FOR A CONDITIONAL USE PERMIT FOR MORE THAN ONE BUILDING CONTAINING A PRINCIPAL USE ON THE LOT, WITH STAFF RECOMMENDATIONS AND FINDINGS.

Commissioner Highland expressed concern about three buildings on an area that is 80% wetlands. Point was raised that ACOE will make the determination on the wetlands and they are the experts.

Commissioner Bos commented that the development is consistent with the goals Comp Plan; he thinks the applicant's plan is good and likes the use of buffers.

Commissioner Slone commented that he understands the rural residential area as low density, primarily residential, but this recommendation is more consistent with urban residential. City Planner Abboud responded that urban residential allows multifamily dwellings as long as they are kept to 40% of the lot, meet the open space requirement, and 7500 square foot lots are allowable.

VOTE: YES: BOS, STEAD, HIGHLAND, SONNEBORN, VENUTI, ERICKSON, SLONE

Motion carries

### **Plat Consideration**

#### **Pending Business**

A. Staff Report PL 13-14, Amending the HAPC Bylaws and Policies and Procedures

City Planner Abboud reviewed his staff report.

The Commission did not have any recommendations to amend meeting times. They discussed the suggested verbiage options listed on item bylaw item S. Representing the Commission.

Commissioner Bos suggested the following language:

*The Commission shall act as a body. A member of the Commission may not speak or act for the Commission.*

There was discussion as to what language need to be included in the wording. Concern was raised with removing the words, *when representing the Commission*.

VENUTI/BOS MOVED TO UTILIZE THE SECOND PARAGRAPH AMENDED AS COMMISSIONER BOS PROPOSED.

There was no further discussion.

VOTE: YES: SONNEBORN, STEAD, VENUTI, ERICKSON, BOS

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
FEBRUARY 20, 2013

NO: HIGHLAND, SLONE

Motion carried.

Commissioner Slone raised the issue of extending the public comment time from three minutes to five minutes. Point was raised that the bylaws say that the three minute time limit may be adjusted up or down by two minutes by the Chair with concurrence of the body. The body discussed pros and cons of extending the time limit. Staff noted that Resolution 06-115(A) adopted by the City Council defines public comment time limits.

SLONE/HIGHLAND MOVED TO AMEND THE BYLAWS THAT THE TIMELIMIT FOR PUBLIC TESTIMONY IS LIMITED TO FIVE MINUTES.

Commissioner Highland noted that when they are discussing a controversial subject, three minutes is more than enough when you have a room full of public wanting to provide comments. When the public has a three minute time limit it encourages them to keep their information very succinct, and that is pretty important. The ability to adjust the time gives them flexibility if the need arises. She also noted that applicants are not held to the time limit.

VOTE: YES: SONNEBORN, SLONE

NO: STEAD, ERICKSON, BOS, HIGHLAND, VENUTI

Motion failed.

SLONE/HIGHLAND MOVED THAT UPON REQUEST OF A COMMISSIONER, THAT PORTION OF THE RECORD DESIGNATED BY HIM/HER SHALL BE PRESENTED TO THE CITY COUNCIL AT THEIR NEXT REGULARLY SCHEDULED MEETING.

Commissioner Slone commented that it would be included in whichever document it would be more relevant.

There was discussion that all the information the Commission considers in a decision making process, including minutes, is provided to the City Council when they take action on something the Commission considers. City Planner Abboud added that it is important that the body put on the record their discussion on findings, whether or not they approve of them, and especially if they propose new findings, so the decisions are clear and included in the record. Point was raised that the language suggested is more of minority position saying that the Commission voted this way, but I disagreed, and this why. It conflicts with the language they approved regarding representing the Commission.

Commissioner Slone explained he's suggesting that input they hear may show community thoughts and values are shifting regarding the City's laws, it is their job to pass that on to City Council.

There was extensive discussion about process, and using Homer City Code and the Comprehensive Plan in their decision making. Other comments included that any person can express their personal views as a citizen, and in previous actions the Council has received pages and pages of information from the Commission.

Commissioner Venuti called for the question. There was no objection to the Call for the Question.

HOMER ADVISORY PLANNING COMMISSION  
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VOTE: YES: SLONE

NO: STEAD, ERICKSON, VENUTI, HIGHLAND, BOS, SONNEBORN

Motion failed.

**New Business**

A. Staff Report PL 13-18, Land Allocation Plan

Chair Erickson noted that they discussed the Land Allocation Plan with Planning Technician Engebretsen and staff will bring a memorandum back at their next meeting.

**Informational Materials**

- A. City Manager's Report from January 28, 2013 City Council Meeting
- B. KPB Planning Commission Notice of Decisions

**Comments of the Audience**

Members of the audience may address the Commission on any subject. (3 minute time limit)

None

**Comments of Staff**

None

**Comments of the Commission**

Commissioner Highland asked if they could discuss wetlands in our CUP's at the next meeting. She knows they go on to the Corps of Engineers, but she feels like these things are important enough that it be part of the CUP discussion, on a larger basis. City Planner Abboud noted that her request is somewhat vague but encouraged any commissioner to talk to Planning staff about issues they have with a CUP. Ms. Highland said she would talk to staff. She also encouraged the group to read the City's Climate Action Plan. She has been reading it and it has some good information.

Commissioner Bos confirmed that City Attorney Wells will be at the next worksession. He noted they never have enough time with her.

Chair Erickson submitted her resignation from the Planning Commission effective immediately. She explained that she is increasingly distracted at the meetings as recent actions to finance the extension of the natural gas line to City residents will negatively impact her business. She feels that her personal situations require her full attention, forcing her to pull back from extra activities. She has enjoyed working with the Commission. She provided her written letter for the record.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 7:56 p.m. The next regular meeting is scheduled for March 6, 2013 at 6:30 p.m. in the City Hall Cowles Council Chambers.





## City of Homer Planning & Zoning

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### STAFF REPORT PL 13-14

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** Feb. 6, 2013  
**SUBJECT:** Amending the HAPC Bylaws & Policies and Procedures

#### **Policies and Procedures/Bylaws**

##### ***Public Testimony at Public Hearings***

I have been consulting with the City Attorney about our procedure in the bylaws regarding holding public hearings. When she reviews the current procedure, she finds them appropriate. If this is the case, perhaps we could benefit from a discussion about holding public hearings. I was hoping to have Holly available at this meeting but she is hopefully enjoying a well-deserved vacation. She is scheduled to hold a Planning Commissioner training at the worksession, March 6<sup>th</sup>.

We are having several public hearings between now and then and it would be good to take note of the specific concerns you may have with our script so that you may discuss them with Holly. She did remind me of my thought that it is the applicant's duty to make the case for approval of their proposal. The Planning Office does do all it can (and in the eyes of some, too much) to assist with the proposals we may receive. We are a small town though and we do wish to provide all the assistance we are able to help people get through the 'red tape'. As Commissioner's, you can do your best to prepare for the various proposals coming before you. Please ask about anything that you see as unclear. When you can, talk to staff prior to the meeting in case you bring up something that requires further research. Currently, Commissioner's do have the ability to ask questions of the staff and applicant after any rebuttal of evidence. This discussion is to be continued.

##### ***Zoning Ordinance Amendments – Review Standards***

The review standards are found on page 8 of 9 in the Policies and procedures. Lines 338-346 will be struck and replaced with **In reviewing a code amendment or map amendment, the Commission must consider the standards of review as established in HCC 21.95.**

##### ***Representing the Planning Commission***

Based on our discussion from the previous meeting I am bringing back some suggested language for your review. The attachment is not numbered in ordinance form but you will find the proposed changes under "S" in the Bylaws. If so desired, the Clerk has included a schedule for Planning Commissioners as the next agenda item.

Please take time to review both the bylaws and policies and procedures for any comments or suggestions you may have for the rest of these documents.

Att.

Feb. 6, 2013 Draft Bylaws & Feb. 6, 2013 Draft Policy and Procedures



**HOMER ADVISORY PLANNING COMMISSION**  
**Feb. 6, 2013 Draft BY-LAWS**

The Homer Advisory Planning Commission is established with those powers and duties as set forth in Title 1, Section 76, of the Homer City Code. The Commission is established to maximize local involvement in planning and to implement and recommend modifications to the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. The Commission's jurisdiction is limited to the area within the City boundaries and that area designated as the Homer Bridge Creek Watershed Protection District.

The Homer Advisory Planning Commission ("Commission") consists of seven members; no more than one may be from outside the city limits. Members will be appointed by the Mayor subject to confirmation by the City Council for three-year terms (except to complete terms). The powers and duties of the Commission are described in HCC 1.76.030.

- A. To abide by existing Alaska State law, Borough Code of Ordinances, where applicable, and Homer City Code pertaining to planning and zoning functions;
- B. To abide by Robert's Rules of Order, so far as this treatise is consistent with Homer City Code;
- C. Regular Meetings:

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

- 1. First and third Wednesday of each month at 6:30 p.m.
- 2. Agenda deadline is two weeks prior to the meeting date at 5:00 p.m. Agenda items requiring public hearing must be received three weeks prior to the Commission hearing. However, conditional use applications may be scheduled for public hearing in accordance with HCC 21.94. Preliminary plats must be submitted the Friday two weeks before the Commission meeting.
- 3. Items will be added to the agenda upon request of staff, the Commission or a Commissioner.
- 4. Public notice of a regular meeting shall be made as provided in HCC Chapter 1.14
- 5. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by vote of the Commission.  
Procedure: The Chair will entertain a motion to extend the meeting until a specific time. After the motion has been seconded, the Commission will vote. A yes vote will extend the meeting until the specified time. A no vote will require that the Chair conclude business at or before 9:30 pm and immediately proceed to comments of the audience, the Commission and adjournment.

**D. Special Meetings:**

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

1. Called by Chair or majority of the Commission.
2. Require reasonable notification be given to the Planning Department staff and twenty-four hour notice to Commissioners.
3. Public notice of a special meeting shall be made as provided in HCC Chapter 1.14

**E. Duties and Powers of the Officers:**

A Chair and Vice-Chair shall be selected annually in August or as soon thereafter as practicable by the appointive members. The Chair shall preside at all meetings of the Commission, call special meetings in accordance with the by-laws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record. The Vice-Chair shall perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed to complete the un-expired term. A new Vice-Chair shall be elected at the next regular meeting.

**F. Committees**

1. The Chair shall appoint committees for such specific purposes as the business of the Commission may require. Committee appointments will be confirmed by the Commission. Committee membership shall include at least two Commissioners. Other Committee members may be appointed from the public.
2. One Committee member shall be appointed Chair and be responsible for creating an agenda and notifying the City Clerk of meetings so they may be advertised in accordance with Alaska State Law and Homer City Code.
3. One Committee member shall be responsible for furnishing summary notes of all Committee meetings to the City Clerk.
4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
5. All committees shall make a progress report at each Commission meeting.
6. No committee shall have other than advisory powers.
7. Per Robert's Rules, upon giving a final report, the Committee is disbanded.

**G. Motions to Reconsider:**

Notice of reconsideration shall be given to the Chair or Vice-Chair, if the Chair is unavailable, within forty-eight hours from the time the original action was taken. A member of the Commission who voted on the prevailing side on any issue may move to reconsider the commission's action at the same meeting or at the next meeting of the body provided the above 48-hour notice has been given. Consideration is only for the original motion to which it applies. If the issue involves an applicant, staff shall notify the applicant of the reconsideration.

**H. Conflict of Interest:**

A member of the Commission shall disqualify himself/herself from participating in any official action in which he/she has a substantial **financial** interest per HCC 1.12. The member shall disclose any financial interest in the topic before debating or voting. The member cannot participate in the debate or vote on the matter, unless the Commission has determined the financial interest is not substantial.

Following the Chair's announcement of the agenda item, the Commissioner should state that he has a conflict of interest. Once stated, the member should distance himself/herself from all motions. The Commission must move and vote on whether or not there is a conflict of interest. At this time, a motion shall be made by another Commissioner restating the disclosed conflict. Once the motion is on the floor the Commissioner can disclose his/her financial interest in the matter and the Commission may discuss the conflict of interest. A vote will then be taken. An affirmative vote excuses the Commissioner and he/she takes a seat in the audience or remains nearby. Upon completion of the agenda item, the Commissioner will be called back to join the meeting.

**I. Situation of personal interest**

A situation of personal interest may arise. For example, a Commissioner may live in the subject subdivision or may be a neighboring property owner. If the Commissioner feels that by participating in the discussion he/she may taint the decision of the Commission, or be unable to make an unbiased decision, the Commissioner should state his/her personal interest. The same procedure as above should be followed to determine the conflict.

**J. Ex parte Communications**

Ex parte contacts are not permitted in quasi-judicial actions. Ex parte communications can result in a violation of procedural due process. If a Commissioner finds him/herself about to be involved in ex parte contact the Commissioner should recommend that the citizen submit their comments in writing to the Commission or testify on record. If a Commissioner has been involved in an ex parte contact, the contact and its substance should be disclosed

at the beginning of the hearing. The Commissioner should state whether or not s/he thinks s/he can make an unbiased decision.

**K. Quorum; Voting:**

Four Commission members shall constitute a quorum. Four affirmative votes are required for the passage of an ordinance, resolution or motion. Conditional use permits and zoning variances require a majority plus one vote. Voting will be by verbal vote, the order to be rotated. The final vote on each resolution or motion is a recorded roll call vote or may be done in accordance with J. Consensus. For purposes of notification to parties of interest in a matter brought before the Commission, the Chair may enter for the record the vote and basis for determination.

The City Manager, or his/her designee and Public Works Director shall serve as consulting members of the Commission but shall have no vote.

**L. Findings:**

Findings will be recorded for conditional use permits, variances, acceptance of nonconforming status and zoning ordinance amendments. The findings will include the result of the vote on the item and the basis of determination of the vote, as summarized by the Chair or Vice-Chair, in the absence of the Chair.

**M. Consensus:**

The Commission may, from time-to-time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

**N. Abstentions:**

All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain. A motion to excuse a member from voting shall be made prior to the call for the question. A member of the Commission requesting to be excused from voting may make a brief oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate. An affirmative vote of the Commission excuses the Commissioner. A member may not explain a vote or discuss the question while the roll call vote is being taken. A member may not change his/her vote thereafter.

**O. Vacancies:**

A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission. The Commission shall declare a vacancy when the person appointed:

1. Fails to qualify;
2. Fails to take office within thirty days after his/her appointment;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of his/her office;
5. Misses three consecutive or six regular meetings in a calendar year; or
6. Is convicted of a felony or of an offense involving a violation of his/her oath of office.

**P. Procedure for Consideration of Agenda Items:**

The following procedure will normally be observed:

1. Staff presents report and makes recommendation;
2. If the agenda item involves an applicant s/he may make a presentation;
3. Commission may ask questions of the applicant and staff.

**Q. Procedure for Consideration of Public Hearing Items:**

1. Staff presents report and makes recommendation;
2. Applicant makes presentation;
3. Public hearing is opened;
4. Public testimony is heard on item (presentation of supporting/opposing evidence by public – Commission may ask questions of public);
5. Public hearing is closed;
6. Rebuttal of evidence by staff (if any);
7. Rebuttal of evidence by applicant (if any);
8. Commission may ask questions of the applicant, and staff.
9. The Commission will move/second to accept the staff report, with or without staff recommendations. The Commission will discuss the item, may ask questions of staff, and make amendments to the recommendations of staff. Amendments may be made by motion/second.
10. The Commission may continue the topic to a future meeting. Once the public hearing is closed no new testimony or information will be accepted from the public. The Commission may ask questions of the applicant and staff.

**R. Procedure for Consideration of Preliminary Plats :**

The following procedure will normally be observed:

1. Staff presents report and makes recommendations;
2. Applicant makes presentation;
3. Public comment is heard on the item;
4. Applicant may make a response;
5. Commission may ask questions of applicant, public and staff.

**S. Representing the Commission:**

**The Commission shall act as a body. A member, when representing the Commission may speak or act for the Commission in accordance with the recommendation or direction taken by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.**

Or

**The Commission shall act as a body. A member, when representing the Commission may not speak or act for the Commission without recommendation or direction given by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.**

**ST. By-Laws Amended:**

The by-laws may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting. The by-laws will be endorsed by a resolution of the City Council.

**FU. Procedure Manual:**

The policy and procedure manual will be endorsed by resolution of the City Council and may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of said proposed amendment is given to each member in writing. Proposed amendments to the procedure manual shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting.

**REGULAR MEETING  
AGENDA**

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Public Comment**  
The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
- 4. Reconsideration**
- 5. Adoption of Consent Agenda**  
All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.
- 6. Presentations**
- 7. Reports**
- 8. Public Hearings**  
Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.
- 9. Plat Consideration**
- 10. Pending Business**
- 11. New Business**
- 12. Informational Materials**
- 13. Comments of The Audience**  
Members of the audience may address the Commission on any subject. (3 minute time limit)
- 14. Comments of Staff**
- 15. Comments of The Commission**
- 16. Adjournment**  
Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission. Notice of the next regular or special meeting or work session will appear on the agenda following "adjournment."



Motion carried.

**Plat Consideration**

A. Staff Report PL 13-07, Glacier View Subdivision 2013 Replat Preliminary Plat

City Planner Abboud reviewed the staff report.

There was no applicant to make a presentation.

There were no public comments.

Question was raised if the existing building is in the 15 foot utility easement. City Planner Abboud said he is unable to tell from the information he has and the applicant is not here to answer questions.

HIGHLAND/SLONE MOVED TO ADOPT STAFF REPORT PL 13-07, GLACIER VIEW SUBDIVISION 2013 REPLAT PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS AND FINDINGS.

STEAD/SLONE MOVED TO CHANGE NUMBER 11 TO SAY THE LOT IS SERVED BY CITY WATER AND SEWER.

There was no discussion of the amendment.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was no further discussion on the main motion as amended.

VOTE: (Main Motion as Amended): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

**Pending Business**

A. Staff Report PL 13-14, Amending the HAPC Bylaws and Policies and Procedures

City Planner Abboud commented that City Attorney Wells has reviewed the bylaws and policies and she is okay with the way they are laid out. He encouraged the Commission to give feedback if they have things that may not be working for them. There was brief discussion about the evening's public hearings, and the procedures in general.

There were comments in support of the City Planner providing a monthly report to be included with the Council's packet in lieu of Commissioner's attending and presenting at Council meetings. Chair Erickson said she would talk to the Mayor for feedback about the best option for the Commission to communicate information to the City Council.

The Commission considered the two verbiage options in the proposed section S. Representing the Commission.

SLONE/HIGHLAND MOVED TO ACCEPT THE PHRASEOLOGY, "THE COMMISSION SHALL ACT AS A BODY. A MEMBER MAY SPEAK OR ACT FOR THE COMMISSION IN ACCORDANCE WITH THE RECOMMENDATION OR DIRECTION TAKEN BY THE COMMISSION. THE CHAIR OR CHAIR'S DESIGNEE SHALL SERVE AS THE OFFICIAL SPOKESPERSON OF THE COMMISSION."

There was discussion whether to say a member may speak or act for the Commission "only" in accordance with. Some Commissioners expressed their preference of the second option for verbiage.

VOTE: NO: SONNEBORN, STEAD, SLONE, ERICKSON, BOS, HIGHLAND, VENUTI

Motion failed.

Chair Erickson recommended "The Commission shall act as a body. A member may not speak or act for the Commission without recommendation or direction given by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission."

City Planner Abboud asked them to think about the meeting times and benefits and drawbacks of changing the worksession and meeting times.

B. HAPC Representative Attendance at City Council Meeting Schedule

#### **New Business**

A. Staff Report PL 13-09, Spit Trail Construction 2013/2014. Presentation by Public Works Director, Carey Meyer during Work Session

Chair Erickson stated that Public Works Director Meyer gave a presentation at the worksession. He reviewed the plan for the new trail on the spit, the restrooms, and the art.

The Commission made the following recommendations:

- Increase the amount of benches along the trail, seven is not enough. Consider benches as art and memorial benches.
- Continue to consider drainage improvements during trail construction.
- Separation between the trail and parking areas
- Windbreaks, shelter, and awnings, especially at the dock.
- Consider cost savings and conservation in closing restrooms in the winter when traffic is minimal.
- Identify pedestrian crossing and promote traffic control, including designating a staff person at the load and launch ramp.
- Bicycle signage.
- Include first aid stations at the guard shack and at the load and launch pay station.

It was noted that a lot of these recommendations have to do with health and safety and should be forwarded to Public Works Director Meyer before the project gets to 90% design.

VENUTI/BOS MOVED ADOPT THE RECOMMENDATIONS.



# City of Homer Planning & Zoning

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## STAFF REPORT PL 13-05

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** Jan. 16, 2013  
**SUBJECT:** Policies, Procedures & Bylaws

### **Policies and Procedures/Bylaws**

#### ***Public Testimony at Public Hearings***

It is once again time to visit our policies, procedures and bylaws. I am consulting with our attorney, Holly about options regarding the positioning of way we talk public comment during public hearings. As of the writing of this report I do not have a recommendation yet. This change involves repositioning our ability to continue or reopen testimony in a public hearing.

#### ***Zoning amendments***

The policy and procedures regarding zoning amendments is dated. This has been changed in code and it is no longer accurate to have standards listed here, will amend with reference to current code.

#### ***Representing the Planning Commission***

Finally, I am proposing language that sets the ground rules for representing the Commission. At the last City Council meeting Commissioner Sloan presented the Planning Commission report. In the past, it was recognized that the Commission could be represented by the Chair or the Commission's designee. I just want to make sure that everyone is on the same page in regards to this issue. I believe that Commissioner Sloan fairly represented the Commission's activities, but I do believe that representation of the Commission should be done with concurrence of the Commission.

Here is my recommended language:

#### **Representing the Commission:**

**The Commission shall act as a body. A member, when representing the Commission may speak or act for the Commission in accordance with the recommendation or direction taken by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.**

#### ***Meeting times***

I have been considering all the options for adjusting our meeting times. Half-hour, none, or one hour once a month worksessions. I am hesitant to eliminate the scheduled worksession. This is a subject for consideration when we submit our changes and will think about it futher.



HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JANUARY 16, 2013

residential be included as well. Staff indicated that they don't want to become the motion detector police for home lighting; however pole lights might be something to consider. It would be better for a third party program to help educate homeowners on lighting options for their home.

**NEW BUSINESS**

A. Staff Report PL 13-01 Easement vs. ROW

City Planner Abboud reviewed his staff report and the intent to provide the Commission with a better understanding of easements and rights of way.

B. Staff Report PL 13-05 Amending the HAPC Bylaws Policies and Procedures

City Planner Abboud reviewed the staff report and his recommendations regarding the bylaws and policies and procedures. He said he is working with the city attorney to develop a process to work through public hearings and plats that make it possible for the body to suspend its rules to allow more testimony, and still ensure that all parties are fairly represented.

The Commission considered the idea of attending and giving a report at the City Council meetings. Concern was expressed about commissioner's speaking on behalf of the Planning Commission, without the consent of the commission. Point was raised that the Commission acts on items that can be appealed and discussing items of that nature at a Council meeting could raise issue should the Council be called to act as Board of Adjustment. Currently the minutes are not included in the Council packet, but they could be added.

SLONE/SONNEBORN MOVED THAT THE INTERACTION PROCESS BETWEEN THE PLANNING COMMISSION AND CITY COUNCIL BE REVIEWED FOR QUALITY AND SUFFICIENCY.

Comment was made that it is essential that the Planning Commission have representation at the City Council as it is the Commission's job to advise Council and if we don't have a clear line of communication, we are failing in our job.

Staff explained that other Commissioners attend Council meetings to give an overview of what their Commission is working on. A schedule of upcoming Council meetings will be provided in the next packet and the group can review it and decide if they want to participate in attending Council meetings to give a report.

VOTE: YES: HIGHLAND, SONNEBORN, SLONE  
NO: STEAD, VENUTI, ERICKSON, BOS

Motion failed.

**INFORMATIONAL MATERIALS**

- A. City Manager's Report from the January 14, 2012 City Council Meeting
- B. 2013 HAPC Meeting Dates
- C. KPB Notice of Decisions



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Planning

4 **RESOLUTION 12-004**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER,  
7 ALASKA, AMENDING THE HOMER ADVISORY PLANNING  
8 COMMISSION POLICY AND PROCEDURES MANUAL.  
9

10 WHEREAS, The Homer Advisory Planning Commission has reviewed the Policies and  
11 Procedures Manual; and  
12

13 WHEREAS, The Homer Advisory Planning Commission recommended amendment of  
14 the Policies and Procedures Manual at their Regular Meeting of November 16, 2011.  
15

16 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends the  
17 Homer Advisory Planning Commission Policies and Procedures Manual as shown in Attachment  
18 A.  
19

20 ADOPTED BY THE CITY COUNCIL of Homer, Alaska, this 9<sup>th</sup> day of January, 2012.  
21

22 CITY OF HOMER

23  
24   
25 JAMES C. HORNADAY, MAYOR  
26  
27

28 ATTEST:

29   
30  
31  
32 JO JOHNSON, CMC, CITY CLERK  
33

34 Fiscal Note: N/A  
35





# Policies and Procedures Homer Advisory Planning Commission



## 2012 Resolution 12-004

### QUALIFICATION STATEMENT

Nothing in this chapter should be considered in lieu of any applicable laws and procedures found in the Alaska State Statutes, the Kenai Peninsula Borough Code of Ordinances, where applicable, or the Homer City Code.

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## INTRODUCTION

The purpose of this policy manual is to clarify the role of the Homer Advisory Planning Commission ("Commission") in administration of the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. Further, this manual describes policies for the Commission that are supplementary or explanatory to the requirements of Homer City Code.

This manual is divided into sections, which explain the policies for administering and implementing the land use permitting ordinances and the zoning ordinance.

The policy and procedure manual will be endorsed by resolution of the City Council and may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of the proposed amendment is given to each member in writing. Proposed amendments to the procedure manual shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting.

## **PUBLIC TESTIMONY AND COMMENT**

The Commission invites citizen participation regarding matters brought before it for consideration.

For any public participation before the Commission, the citizen should walk to the microphone located at the rostrum directly in front of the Commission podium, sign in, and after receiving recognition from the Chair, state his/her name and address and purpose for appearing. Comments are limited to three minutes. In special circumstances, this time limit may be extended by two minutes by the Chair with concurrence of the body. Items that generate a large amount of citizen interest may be taken out of their regular position on the agenda at the discretion of the Commission as an accommodation to the public. Moving these items on a published agenda will be done at the beginning of the meeting, during the adoption of the agenda.

### **Comment time limits**

Comments and testimony are limited to three minutes. In special circumstances, this time limit may be adjusted by two minutes up or down by the Chair with concurrence of the body.

### **Public Comment**

Any citizen desiring to speak on any matter other than public hearing items or preliminary plats on the agenda may do so under "Public Comments." After the public comment period is introduced, the Chair may recognize any member of the public who wishes to address the Commission. No official action will be taken by the Commission under this item.

### **Public Hearings and Plats**

The public may comment on public hearing items and preliminary plats when those agenda items are addressed by the commission. These are generally items eight and nine on the regular agenda.

### **Comments on topics not on the agenda**

Any citizen desiring to speak on a matter not on the agenda may do so under "Comments of the Audience," item number thirteen on the regular agenda.

## **DELIBERATION of QUASI-JUDICIAL DECISIONS**

When making a quasi judicial decision, the Commission may choose to deliberate at an open meeting, or may choose to meet at a time, date and location set by the Commission. Such a meeting for deliberations only is not subject to the Open Meetings Act and is not required to be open to the public.

## **APPEALS (Quasi Judicial)**

### **PURPOSE**

The purpose of review of appeals before the Commission is to ascertain that errors of fact or interpretation have not been made pertaining to zoning matters. Generally, appeals to the Commission will be appeals of a determination, decision, or permitting matter decided upon by the City Planner.

The City Council, sitting as the Board of Adjustment, hears appeals of decisions made by the Commission. For example, conditional use permits, variance, etc, can be appealed to the Board of Adjustment, or a matter that was appealed to the Commission can be further appealed to the Board of Adjustment.

### **Public Hearing**

Appeals before the Commission require a public hearing. Notice of the public hearing will be in accordance with HCC 21.93 and HCC 21.94.

### **Review Standards**

In reviewing an appeal request, the Commission will consider:

1. Documentation of evidence;
2. The Record of Appeal; and
3. Controlling sections of Chapter 21 Homer City Code;
4. Any new evidence or testimony presented during the public hearing.

Once the public hearing is closed, the Commission cannot hear additional comments on the topic.

### **Determination**

All decisions will be in writing. The officially adopted minutes shall be made part of the decision. A specific statement of findings and reasons supporting the decision shall be made. Copies of the decision will be promptly mailed to the persons participating in the appeal.

An appeal from an action or determination of the Commission is to be filed with the city clerk within thirty days of the distribution of the decision document.

## **REVIEW OF BRIDGE CREEK WATERSHED PROTECTION DISTRICT**

### **PURPOSE**

The Commission may approve development within the Bridge Creek Watershed Protection District (BCWPD) subject to the standards provided in the zoning ordinance and in compliance with the Comprehensive Plan, for those uses or structures specified within the Bridge Creek Watershed Protection District ordinance. The purpose is to prevent the degradation of the water quality and protect the Bridge Creek Watershed to ensure its continuing suitability as a water supply source for the City's public water

utility. These provisions benefit the public health, safety, and welfare of the residents of the City of Homer and other customers of the city's water system by restricting land use activities that would impair the water quality, or increase the cost for treatment.

#### **Conditional Use**

A conditional use permit may be issued in accordance with Chapter 21.61 and subject to the requirements of the Bridge Creek Watershed Protection District Chapter 21.40.060 Conditional uses and structures, and/or Chapter 21.40.080 Erosion sediment control, Chapter 21.40.090 Agricultural activity, Chapter 21.40.100 Timber growing and harvesting operations, Chapter 21.40.110 Stream buffers, and Chapter 21.40.130 Exceptions to buffers.

#### **Preliminary Plats**

The Commission will review and comment on all subdivision proposals within the Bridge Creek Watershed Protection District.

## **REVIEW POLICIES FOR CONDITIONAL USE PERMITS (Quasi -Judicial)**

### **PURPOSE**

It is recognized that there are certain uses which are generally considered appropriate in a district, provided that controls and safeguards are applied to ensure their compatibility with permitted principal uses. The conditional use permit procedure is intended to allow Commission consideration of the impact of the proposed conditional use on surrounding property and the application of controls and safeguards. This procedure assures that the conditional use will be compatible with the surrounding area and in keeping with the character and integrity of the neighborhood.

### **Public Hearing**

A public hearing before the Commission is required before a conditional use permit may be granted. Notice of the public hearing will be in accordance with HCC 21.94.

### **Review Standards**

The Commission has 45 days from the close of the public hearing to make a decision on a conditional use permit application. The applicant may agree, in writing, to the extension of the 45 day time period for Commission action.

The Commission may approve, approve with conditions, or disapprove an application. The Commission must prepare written findings and reasons supporting its decision. Approval of a conditional use permit requires five yes votes. If a conditional use permit is denied, the written findings and reasons for that decision will be approved by those who voted against the permit, even if the number against is less than a majority of the Commission.

**Specific conditions may be required.** Such conditions will be part of the terms under which the conditional use permit is granted and violations of such terms shall be deemed a violation of this ordinance. Failure to meet any time limitations imposed by the conditional use permit shall void the permit. An extension may be granted following a public hearing on the matter. Extensions will be granted for good cause only.

The development of the conditional use project or site, following issuance of the permit, will be in accordance with the conditions of the permit, standards of the zoning regulations and/or the approved site plan. Failure to observe any conditions or standards will be deemed a violation.

**Determination**

The Commission must make findings of fact sufficient to support its decision. Upon determination the Commission will document the decision and the basis for decision. The petitioner will be notified by mail by a copy of the meeting minutes and the decision documentation.

**Appeals**

The Commission Chair will alert the petitioner and other interested parties in attendance that an appeal of the Commission's decision is possible and that the appeal must be filed within thirty days of the distribution of the decision document.

## **NONCONFORMITY REVIEW POLICIES (Quasi -Judicial)**

**PURPOSE**

The Commission shall review and determine the nonconformity of certain structures and uses. The purpose of review is to establish the commencement date of use, establish the effective date of applicable regulations, and formally accept the nonconformity ~~and/or establish a reasonable schedule for termination of a nonconformity which significantly impairs the public health, safety and general welfare.~~

City code states which nonconformities are reviewed by the City Planner and which are reviewed by the Commission. Generally, the Commission will be reviewing nonconforming uses within the city, excluding the areas annexed on March 20, 2002.

**Public Hearing**

The Commission shall conduct a public hearing per HCC 21.94.

**Review Standards**

It shall be the responsibility of the owner to show proof of continuing nonconformity of any property, use or structure.

Prior to determining the nonconformity of a use or structure, the Commission will determine:

1. The commencement date of use;
2. The effective date of applicable regulations.

There may exist uses, or structures which were legal before the effective date of the controlling regulation, but which are now prohibited under the terms of the existing ordinance. See HCC 21.61.040.

To avoid undue hardships, actual construction lawfully begun prior to the effective date of the zoning ordinance will be allowed to continue provided the work will be carried on diligently. Actual construction is defined as the placement of materials in a permanent position and fastened to produce a product.

**Nonconforming Uses of Land/Structures**

When a lawful structure exists prior to September 28, 1982, or March 20 2002 for annexed areas, but does not meet the district or ordinance requirements, it shall be considered nonconforming. Nonconforming structures may be continued and/or expanded only on the legal lot if the nonconformity of the structure does not increase.

Legally existing structures are those that:

1. Exist prior to effective date of Ordinance 4-300-2 (Interim Zoning Ordinance) dated June 13, 1966.
2. Exist prior to effective date of Ordinance No. 33 (Kenai Peninsula Borough) dated May 2, 1967 and are in compliance with Ordinance 4-300-2.
3. Exist prior to effective date of Ordinance 78-13 (Kenai Peninsula Borough) dated May 16, 1978 and are in compliance with Kenai Peninsula Borough Ordinance No. 33 and Homer Ordinance 4-300-2.
4. Exist prior to effective date of Ordinance 82-15 (Homer Zoning Ordinance) dated September 28, 1982 and are in compliance with previous zoning ordinance requirements.

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.

The A lawful nonconforming use may continue so long as it remains lawful. No nonconforming use may be enlarged to occupy a greater area of land than was occupied as of the date it became nonconforming, or August 12, 2008, whichever is later. It may expand in accordance with 21.61.040. Once a use made nonconforming by this title is abandoned, changed, 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 which the lot is located, and the nonconformity shall not thereafter be resumed or allowed to continue.

~~A reasonable schedule for the termination of a nonconforming land use/structure which specifically impairs the public health, safety and general welfare will be established by amendment to the zoning ordinance. (See Zoning Amendment procedure.)~~

### **Determination**

Upon presentation of such proof that establishes the continuing nonconformity of any use or structure, the Commission shall formally accept the nonconformity, as a valid use or structure until such time as the use ceases. Upon determination by the Planning Commission staff will document the decision and basis for decision. The petitioner will be notified by mail by a copy of the relevant meeting minutes and the decision documentation.

### **Appeals**

The Commission Chair will alert the petitioner and other interested parties that an appeal of the Commission's decision is possible. The appeal must be filed within thirty days of the distribution of the decision document. The City Clerk will process all appeals.

## **PRELIMINARY PLAT REVIEW POLICIES**

### **PURPOSE**

The purpose of this policy statement is to clarify the position of the Commission with regard to their recommendations of acceptance or denial of preliminary plats. This review provides the opportunity for the City to make comments and recommendations to the Kenai Peninsula Borough Planning Commission. The Kenai Peninsula Borough holds platting powers for the entire borough, both inside and outside the city limits. The Homer Advisory Planning Commission acts as an advisory body to the Borough Planning Commission on plat matters inside city limits and within the Bridge Creek Watershed Protection District.

The preliminary plat process allows an exchange of information between the subdivider, the Planning and Zoning Office, and the Commission. Proper utilization of the preliminary process should result in a recommendation of approval for the majority of the plats.

### **Procedures**

**General.** Kenai Peninsula Borough Code 20.12.050 governs subdivisions in first class cities. A surveyor will submit one full size copy and a 11" x 17" reduced copy of the preliminary plat to the Planning Director when subdividing land in the City of Homer or the Bridge Creek Watershed Protection District. The Commission shall review the plat and take action within forty-nine days of the date of receipt unless the applicant agrees to an extension. Recommendations of the Commission based upon lawful ordinances shall be incorporated in the final plat.

The Commission will consider plats and make recommendations. The staff report and minutes are then forwarded to the borough planning department.

The borough planning commission makes the final determination. Once the preliminary plat has been accepted, the final plat is submitted to the borough for either administrative approval or approval by the borough planning commission.

## **ZONING ORDINANCE AMENDMENTS**

### **PURPOSE**

The Commission will review all proposals to amend the zoning ordinance or zoning map and make recommendations to the City Council per HCC 21.95. ~~Neither the Commission nor City Council may consider a zoning map amendment that establishes a new zone within an area of less than one acre, excluding streets and rights-of-way, except for the extension of existing district boundaries. Neither the Commission nor City Council may consider a zoning ordinance request which is substantially the same as any other amendment submitted within the previous nine months and which was rejected.~~

### **Initiation/Application**

Amendments to the zoning ordinance will be made in accordance with HCC 21.95. When the amendment request is accepted as complete by the Planning Department, the matter will be scheduled presented within 30 days to the ~~for the next~~ Planning Commission, ~~meeting~~ according to the Commission meeting schedule and due dates.

### **Public Hearing**

A public hearing before the Commission is required. Notice of the public hearing will be in accordance with HCC 21.94. In the case of a zoning ordinance amendment or major district boundary change, no notification of neighboring property will be required, but notices will be posted in at least three public places.

### **Review Standards**

Zoning text and zoning map amendments shall be reviewed according to HCC 21.95.

~~The Commission will generally review the zoning amendment to determine:~~

- ~~1. The public need and justification for the proposed change;~~
- ~~2. The effect on the public health, safety and welfare;~~
- ~~3. The effect of the change on the district and surrounding property; and~~
- ~~4. The relationship to the Comprehensive Plan and purposes of the zoning regulations.~~

~~A balanced decision on a rezone request is one that is not arbitrary, has legitimate public purpose and is consistent with the comprehensive plan.~~

### **Determination**

The Planning Commission shall submit to the City Council its written recommendations per 21.95.060(d) regarding the amendment proposal along with the Planning Department's report on the proposal, all written comments on the proposal, and an excerpt from its minutes showing its consideration of the proposal and all public testimony on the proposal. The Commission will make findings and send its written recommendations to the City Council along with meeting minutes and public records relating to the proposed amendment. Such recommendations of the Commission shall be advisory only and shall not be binding on the City Council.

## **POLICY FOR REVIEW OF ZONING VARIANCES (Quasi-Judicial)**

### **PURPOSE**

The Commission may grant a variance to provide relief when a literal enforcement of the regulations and standards of the zoning ordinance, Chapter 21, would deprive a property owner of the reasonable use of his real property.

The purpose of review is to ascertain that those conditions specified as necessary to granting a variance shall be satisfied; that the variance will be the minimum necessary to permit the reasonable use of land or structure, and that the variance will not be granted which will permit a land use in a district in which that use is otherwise prohibited.

### **Public Hearing**

A public hearing before the Commission is required before a variance may be granted. Notice of the public hearing will be in accordance with HCC 21.94.

### **Review Standards**

In reviewing a variance request and prior to granting a variance, the Commission must consider the standards of review as established in HCC 21.72. All of the conditions must exist before a variance can be granted.

### **Determination**

The Commission must prepare written findings and reasons supporting its decision. Approval of a variance requires five yes votes. If a variance is denied, the written findings and reasons for that decision will be approved by those who voted against the permit, even if the number against is less than a majority of the Commission. Upon determination, staff will document the decision and the basis for decision. The petitioner will be notified by mail with a copy of the meeting minutes (those portions that apply to the petition) and the decision documentation.

The Commission Chair will alert the petitioner and other interested parties that an appeal of the Commission's decision is possible. The appeal must be filed within thirty days of the distribution of the decision document. The City Clerk will process all appeals.



City Clerk/  
Public Arts Committee

A RESOLUTION OF THE CITY COUNCIL OF HOMER,  
ALASKA, ACCEPTING AND APPROVING THE BAYCREST  
OVERLOOK INTERPRETIVE MASTER PLAN SUBMITTED  
BY THE PUBLIC ARTS COMMITTEE FOR THE  
IMPROVEMENT AND RENOVATION OF THE BAYCREST  
HILL SCENIC OVERLOOK AND REST AREA.

## FRANCIE ROBERTS, MAYOR PRO TEMPORE

47 ATTEST:

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JO JOHNSON, CMC, CITY CLERK

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54 Fiscal information: Unbudgeted.

The background of the entire page is a light blue gradient. Overlaid on this are several abstract geometric elements: three sets of concentric circles in shades of blue, located in the upper right and lower right areas; and two thin, dark blue diagonal lines that intersect the circles and extend across the page.

# **Baycrest Hill Overlook Interpretive Plan**

**Prepared for: Baycrest Overlook Improvement Committee  
Prepared by: Alaska Division of Parks and Outdoor Recreation  
Funded by: City of Homer and Alaska Dept. of Fish and Game**

**4/19/2013**

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# BAYCREST HILL OVERLOOK INTERPRETIVE PLAN

## BACKGROUND

When you drive to Homer on the Sterling Highway, it is hard to resist pulling over at the Baycrest Hill Overlook—even if you have been there before. This gateway into Homer is the primary entrance to the community. This interpretive plan is part of a larger project to improve the gateways through which visitors enter Homer. Many agencies are involved in this project including:

- Homer Chamber of Commerce and Visitor Center
- City of Homer, Public Arts Committee
- Alaska Department of Transportation and Public Facilities
- Alaska Department of Fish and Game
- Pratt Museum
- Alaska Maritime National Wildlife Refuge
- Homer Garden Club
- Lake Clark National Park and Preserve
- Kachemak Bay National Estuarine Research Reserve
- Kachemak Bay Conservation Society
- Alaska Division of Parks and Outdoor Recreation

The view from the Baycrest Hill Overlook is stunning. So, one may ask, why provide anything other than benches and restrooms to meet my basic needs at this spot? Freeman Tilden, a legend in the field of interpretation, summed up the importance of interpretation when he quoted a National



VIEW FROM BAYCREST HILL OVERLOOK, PHOTO COURTESY OF MARGARET VISGER

Park Service administrative manual in his book *Interpreting Our Heritage*. It stated, "Through interpretation, understanding; through understanding, appreciation; through appreciation, protection."<sup>1</sup>

Interpretation goes beyond just providing facts and information. It provides an opportunity to connect the facts to our own experiences in life. The National Association for Interpretation states that it is a process "that forges emotional and intellectual connections between the interests of the audience and meanings inherent in the

<sup>1</sup> Quoted in Freeman Tilden, *Interpreting Our Heritage* (Chapel Hill: University of North Carolina Press, 1977), 38.

resource.”<sup>2</sup> Each individual can connect in their own way. The goal for interpretation is to provide the opportunity for visitors to explore how the resource or concept is meaningful to them.

This plan provides guidelines to help the Baycrest Improvement Committee make decisions regarding the establishment and maintenance of interpretive sites and services. It does this by considering the location and resource to be interpreted and comments from the public to decide how to tell effective, meaningful, and relevant stories at Baycrest Hill Overlook.

## PROJECT LOCATION

The Baycrest Hill Overlook is located at milepost 169.6 of the Sterling Highway. The pullout is signed and is approximately two miles from Homer on the southwest side of the Kenai Peninsula. Here, visitors may take in sweeping views of Kachemak Bay framed by the Kenai Mountains, nearby volcanoes, the Alaska Peninsula, and the Homer Spit.

## PLANNING PROCESS

Members of the public attended a meeting from 1:00-2:30 p.m. and a workshop from 4:00-6:00 p.m. at the Islands and Ocean Visitor Center on September 18, 2012. The purpose of the first meeting was to discuss draft goals, objectives, interpretive themes, topics, and concepts for the Baycrest Hill Overlook Interpretive Plan. The group crafted a primary interpretive theme and selected topics to be interpreted as subthemes. The second meeting, an evening workshop, was a hands-on event in which the public was invited to write a word or phrase about each of the eight topics chosen during the first meeting. This information was used to craft the interpretive subthemes outlined in this plan.<sup>3</sup>

Members of the public were also given the chance to provide additional feedback for the planning process by answering four questions on a form provided at the evening workshop. The form was also posted on the city’s website and comments were accepted until October 2, 2012. The following information provides a list of the written comments related to the form questionnaire. Some of these comments may seem repetitive because this is a comprehensive list.



PUBLIC WORKSHOP AT THE ISLANDS AND OCEAN VISITOR CENTER

<sup>2</sup> National Association for Interpretation, “Definitions Project,” available online: <http://www.definitionsproject.com/definitions/index.cfm> [October 3, 2012].

<sup>3</sup> Four additional meetings were held on October 23 and December 11, 2012 and January 15 and February 19, 2013. During these meetings, the committee discussed each of the sections of the plan, but they especially focused on interpretive themes and recommendations.

*What stories would you share about the Baycrest Hill Overlook with a visitor?*

- The view through the seasons
- Identifying landmarks
- Ecology of the Kachemak Bay/Cook Inlet watershed
- Diversity of marine/terrestrial wildlife
- The view from Baycrest was the “selling point” for many people who live in Homer
- The geologic story
- More history about Overlook Park—geological, biological, and how it became a park
- Eruptions of Augustine volcano
- Stories about falling in love with Homer and Kachemak Bay from this vantage point and making decisions to move to the community permanently
- The feeling residents get like they’ve come home when they see Baycrest
- Halibut fishing
- Baycrest is a favorite place for photographers and oil painters
- Provide information and orientation
- Interpret the cultural and biological aspects and geology of the bay (communities, critical habitat, and stewardship)

*What do you like most about Baycrest Hill Overlook?*

- The view (four people wrote that the view is what they like most)
- The openness and expansiveness—the ability to step right into this place
- It is one of the best combinations of city and wilderness views in Homer
- Eagles
- Ample parking
- Baycrest Hill Overlook is the place where most folks get that “Oh my gawd, this is gorgeous” moment.
- I love the beautiful flowers and plants
- Sunsets
- Feeling like you’re “home” when driving back from Anchorage and seeing the view at Baycrest
- Love the “Homer-Halibut Capital of the World” sign
- It’s a grand welcome to Kachemak Bay communities

*What, if anything, would you change at the Baycrest Hill Overlook to benefit visitors and Alaska residents?*

- Move the outhouse out of the view (off the viewing edge)
- Eliminate all local affiliates signage
- Emphasize native plantings in flower areas
- Add artistic interpretive signage that ID’s major horizon features
- Don’t do too much—the view is what’s so valuable
- More about what to do in Homer (where to visit)
- More wildlife and natural history

- Clear day photographic images of the four volcanoes aligned with the volcanoes in the distance on the handrail
- Include more plant interpretation into the displays
- A few benches would be nice in case some folks would like to spend a little more time enjoying the view
- More interpretation of tides and currents (point out how they enrich the bay but also open it to oil and gas development, thus possible oil spills)
- Good volcano interpretive displays with emphasis on Augustine
- More toilets—modern and heated
- Benches where one could comfortably enjoy this “spectacular place”
- Tables with benches for picnics, photo equipment, or writing
- Eco-friendly toilets
- Provide an area viewing platform so that visitors can see Overlook Park below
- Provide some picnic tables

*What effects do you foresee interpretation and improvements having on the overlook?*

- Inspiring visitors’ interests, hence sending them to certain local destinations and taking local adventures
- Concern—managing trash; opportunity to educate about importance of recycling
- Welcome home feeling for local residents
- To guide people to more points of interest in Homer
- People will have the opportunity to understand and be inspired by the forces responsible for the beauty before them and be filled with wonder
- It may require more parking
- Cost more in maintenance and upgrades in bathrooms and trash removal
- Care has to be taken to ensure that use does not spill over the rails to the fragile slope below the overlook as they are prone to erosion
- More visitors and possibly longer visits
- Make it the most beautiful welcome to Homer and Kachemak Bay
- Concerned that a site plan (drafted by landscape designer) isn’t being done first

## GOALS AND OBJECTIVES

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Guided by comments from the initial public scoping meetings, the following goals for interpretive media are general statements about what this plan hopes to accomplish through interpretation at the overlook. The corresponding objectives are specific ways to measure whether the goal has or has not been accomplished. Recommendations outlined later in this plan will correspond with the following goals and objectives.

1. **Welcome and orient** visitors to the Baycrest Hill Overlook and the Kachemak Bay communities in a comfortable setting.
  - After visiting the overlook, visitors will be able to confirm that they received adequate interpretive opportunities and orientation to major points of interest in the Kachemak Bay communities.

- While visiting the site, visitors will be able to easily locate and use amenities such as restrooms, benches, and picnic tables.
  - Visitors will be able to recognize a unified appearance of interpretive displays after visiting the overlook.
  - After viewing interpretive media at the overlook, a majority of travelers will express an interest in visiting one of the major points of interest in the local communities.
2. ***Instill stewardship and inspire*** visitors to learn about the diversity of the bay and the potential experiences awaiting those just arriving in Homer or returning home.
- The majority of visitors will be inspired by the interpretive media to personally relate to the interpreted resource after visiting the overlook.
  - After visiting the site, the majority of visitors will be able to state at least three facts about the surrounding landscape.
  - Immediately after viewing interpretive media, visitors will be able to paraphrase the interpretive theme used in three to five of the displays.
  - After viewing interpretive media, the majority of travelers will have a positive response toward efforts to protect the interpreted resources for future use.
3. ***Enhance*** the Baycrest Hill Overlook without detracting from the view
- After overgrown vegetation is cut back, visitors will have unobstructed views from vantage points along the fence and by the “Halibut Capital of the World” sign.
  - When implementing updates, the Baycrest Hill Overlook Improvement Committee will consider environmentally friendly alternatives to basic amenities such as toilets and recycling containers.
  - When implementing updates, the Baycrest Hill Overlook Improvement Committee will promote and encourage interpretive art such as metal sculptures, wood cutouts, and poetry.



BAYCREST HILL OVERLOOK, PHOTO COURTESY OF NICOLE ACEVEDO

## INTERPRETIVE THEMES

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The primary interpretive theme guides the focus, intent, and subject matter for interpretation at Baycrest Hill Overlook. Subthemes will support and reinforce the primary theme. Both the primary theme and the subthemes must relate to what can be seen from the overlook and should not repeat any other themes or topics from nearby interpretive sites.

### **PRIMARY INTERPRETIVE THEME:**

Homer, with its famous Spit, reaches into Kachemak Bay, inviting us to explore public lands, waters, and diverse communities beyond the end of the road, while drawing us back to the "Cosmic Hamlet by the Sea."

### **SUBTHEMES:**

**The Spit:** The Homer Spit, a striking geologic feature that has been shaped by a receding glacier, impacted by an earthquake, and shored back up, maintains our vital link to the bay's communities and resources.

**Volcanoes:** Perched on the Pacific Ring of Fire, this area is witness to our dynamic earth's simultaneous powers of creation and destruction as evidenced by the active volcanoes seen across Cook Inlet, and the continuously rising Kenai Mountains that dominate the horizon across Kachemak Bay.

**Bay and Inlet:** Kachemak Bay and Cook Inlet are wild, ecologically diverse, and expansive estuaries shaped by dramatic and dynamic forces, like earth movements, climate patterns, tides, and currents.

**Wildlife and Habitat:** Visitors may view a diverse range of terrestrial and marine life and their habitats from Baycrest Hill.

**Public Lands and Waters:** The surrounding public lands you can see from Baycrest Hill have been designated as special places such as parks and refuges that allow a seemingly endless list of recreational opportunities. (See Appendix A for a list of possible public lands to interpret.)

**Glaciers and Kenai Mountains:** The glaciers of Kachemak Bay and lower Cook Inlet are constantly reshaping the landscape and seasonally mixing freshwater with saltwater, creating a rich estuarine soup.

## EXISTING INTERPRETATION AND INFORMATION

Visitors to Baycrest Hill Overlook generally drive into the site from the north. A large welcome sign with multiple affiliation group logos is located at the northern entrance. The sign is somewhat dated, but effectively lets visitors know to pull over while also partially obscuring the view of the restrooms from the road.

A sign near the southern entrance proclaims that Homer, Alaska, is the "Halibut Fishing Capital of the World." This sign is very popular with visitors who take photos of their friends and family standing beneath the sign with the Kenai Mountains in the background.

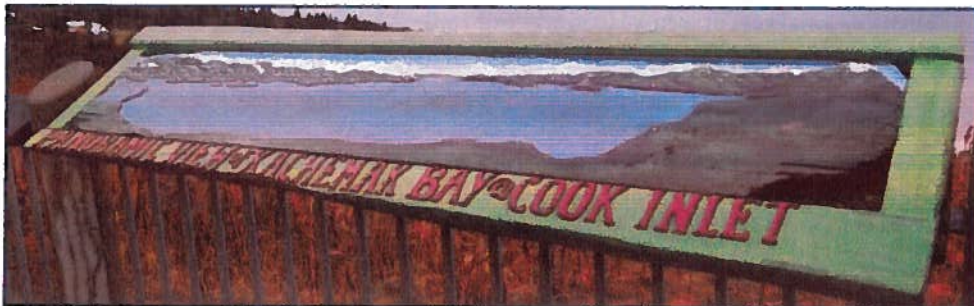
The overlook has three landscaped planters and some of the plants are edible and donated by the Homer Garden Club to the local food bank. There are nine benches at the overlook and two trash receptacles (the number changes seasonally) that are not bear-resistant. Visitors can use one of two spotting scopes located near the fence to look more closely at the scenic beauty and vibrant activities taking place in Kachemak Bay.

Currently, there is very little interpretation at Baycrest Hill Overlook. An interpretive panel about the Gold Rush era, titled "The Wheelbarrow Nightmare" is located in one of the planters. The topic seems out of place at an overlook welcoming visitors to Homer as it interprets gold mining on the Kenai Peninsula in general. The word "nightmare" is the largest word on the panel and is, therefore, the first word that visitors see as they walk from their vehicles to the overlook, potentially casting a negative and confusing shadow on an otherwise pleasant experience.



VISITORS READ THE INTERPRETION AT BAYCREST.  
PHOTO COURTESY OF NICOLE ACEVEDO

A panoramic wood carving placed on the top rail of the fence is painted to depict the natural features of the bay. Many of the features are numbered and identified. It is rotting and somewhat outdated, but was recently re-painted by a member of the community. Because the carving interprets a large area on a relatively small scale, visitors from outside the region may find it difficult to relate to the media and accurately identify the features in real life.



WOOD CARVING DEPICTING THE NATURAL FEATURES OF KACHEMAK BAY AND COOK INLET,  
PHOTO COURTESY OF JOE MEEHAN

## RECOMMENDATIONS

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Recommendations for improvements at Baycrest Hill Overlook should be realistic, achievable, and budget friendly, while showcasing the artistic side of Homer. It is important to remember that any new interpretation should not detract from the views from the overlook, but rather, they should enhance the view by providing opportunities for visitors to connect intellectually and emotionally to the resource. A site plan showing existing conditions and recommended projects follows this section of the interpretive plan.

### Interpretation and Art

It is recommended that the existing Gold Rush interpretive panel be removed and replaced with six new interpretive panels using the identified themes and a unified design scheme. The new interpretive panels should be placed at the overlook based on the topic and view. For example, when a visitor is reading about volcanoes, they should be able to see the volcanoes on the horizon. If necessary and useful, a QR code on the panels can be used to provide additional information. The committee could consider ordering two sets of interpretive panels if it is a cost effective way to plan for future replacements.

The interpretive theme, “Public Lands and Waters” is a complex theme and will most likely require a larger sized panel, up to 52 inches wide and 30.5 inches high. Due to its complex theme and the committee’s specific recommendations the following describes some of the details that should be included.

- Text should welcome and orient visitors to Homer and the surrounding public lands.
- Include a map of the surrounding area to identify these places
- Include a subset map of Homer with important points of interest.
- Text should identify Homer as an arts and fishing community and could use quotes from locals about how they fell in love with Homer when they saw the view from Baycrest.

The existing wood carving that is on the fence rail at the eastern end of the overlook should be replaced with three to five metal panoramic sculptures. The new sculptures should depict and identify the natural features as seen from their specific vantage points and be able to withstand the elements. The new metal art should be a part of the long fence line, but should not obstruct the view.

Details such as the type of metal and how it is applied to the fence should be left to the artist. The artist needs to consider the strength of these pieces of art because children may climb up on the fence and cause damage if they are not durable enough. It is also strongly recommended that the artwork has a “safe design” without any sharp or jagged edges.

Poetry works well as interpretive art and it could be utilized if possible in new designs such as the metal sculptures and it can enhance some of the recommended site amenities in the following section.

### Site Amenities

Many visitors and residents picnic at the overlook even though there are no picnic facilities. Up to four picnic tables should be added to the overlook with bear-resistant trash and recycling

containers within easy access of each picnic area. Two of the locations could be to the east and west of and adjacent to the core area of the overlook where cars currently park. If picnic facilities are placed in this area, a attractive barrier, such as concrete planters, should be placed in a wide buffer around the tables so that cars do not pull up close to picnickers enjoying the view. Concrete planters, or any other barrier that serves this purpose, also provides another opportunity to provide interpretive art. The other two locations for picnic tables could include one by the "Halibut Fishing Capital of the World" sign and one among the planters. (See the site plan following this section.)



"HOMER, ALASKA: HALIBUT FISHING CAPITAL OF THE WORLD"

Photography is a very popular activity at the overlook. Many visitors leave Baycrest with a photo of their friends and family standing below the "Halibut Fishing Capital of the World" sign as a memento of their trip that helps to make their experience at the site more memorable. A small pillar should be placed in the ground at a carefully selected spot in front of the sign so that visitors can take self portraits under the sign. This pillar could be artistically decorated so that visitors know that it is to be used as a camera base and could incorporate the halibut theme in the design. Depending on the size of the pillar, this may provide another opportunity to use interpretive poetry in the design. The area around the sign

also has a tendency to get very muddy due to heavy foot traffic and the area's climate. It would be beneficial to visitors if the surface area was covered with a durable material such as local beach pebbles and shells, crushed aggregate or another suitable material. Part of this design should include a curb to retain the material and separate it safely from the parking area.

The current restrooms function properly and seem to handle the current visitation; however, toilets that are more efficient exist. When funding is allocated for new toilets, consider using a more eco-friendly, low-maintenance, and weather-resistant type such as the CXT model and consider incorporating interpretive art in the design of new latrine buildings. At the time that new restrooms are installed, it would be possible to slightly relocate them so that the sidewalk could be pushed 10-12 feet, allowing for better views of Overlook Park.

Currently, only one section of the fence is low enough for children and visitors in wheelchairs to enjoy the view. If possible, alter the fence and railing so that there are more areas that allow for unobstructed viewing by visitors in wheelchairs as well those of small stature such as children.

Baycrest fortunately has a large parking area, but it could be better organized with striping, curbs, and planters, while continuing to provide space for large trucks and recreational vehicles.

### Partnerships

Currently, maintenance at the overlook is conducted at a community service level including the Rotary Club and the Garden Club in a partnership with the city and Alaska Department of Transportation and Public Facilities (DOT&PF). The city of Homer and DOT&PF should expand their

partnership so that vegetation that is impeding the view from interpretive panels and artwork can be removed or cut back.

The Homer Chamber of Commerce and DOT&PF should open a discussion about relocating the existing welcome sign that has affiliation group logos on it. The sign currently blocks the initial view that visitors could have when they drive to the overlook.

As new interpretation is developed for Baycrest, partnerships and agreements should be developed to determine who is responsible for maintenance.

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### VISITOR FLOW

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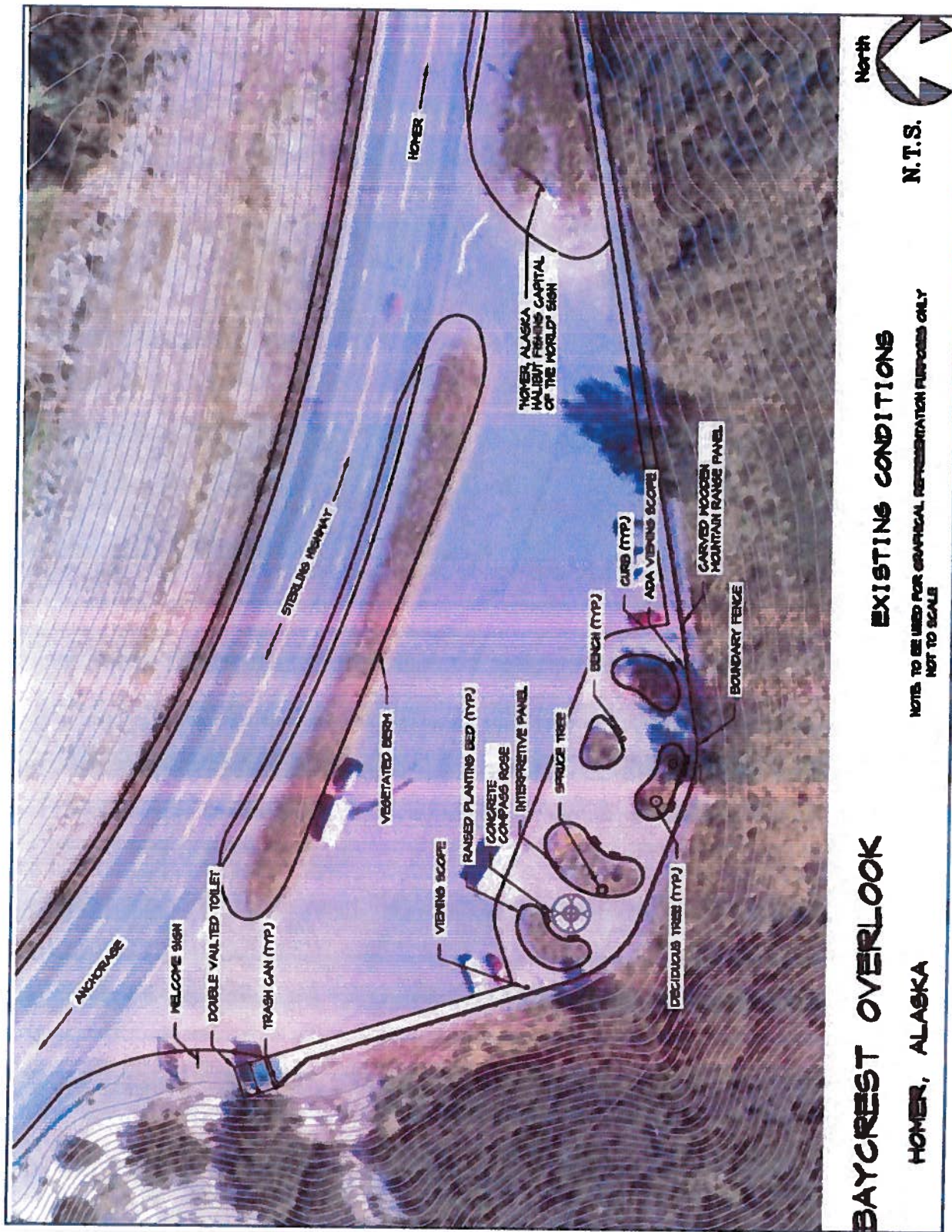
In most cases, visitors enter the site by personal vehicle from the north as they drive into Homer on the Sterling Highway. Most turn into the overlook from the northern entrance; however, some may miss this turn and use the southern entrance. It is important to note that some visitors may arrive on the ferry and drive out of Homer from the south. Very few visitors arrive on the multi-use path by other means of transportation. It may be assumed that many visitors use the restrooms before reading any interpretation and if it is a very clear day, many visitors also enjoy the views before they read any interpretation. The trash cans are also heavily used at the site.

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### NUMBER AND SIZE/ORIENTATION OF PANELS

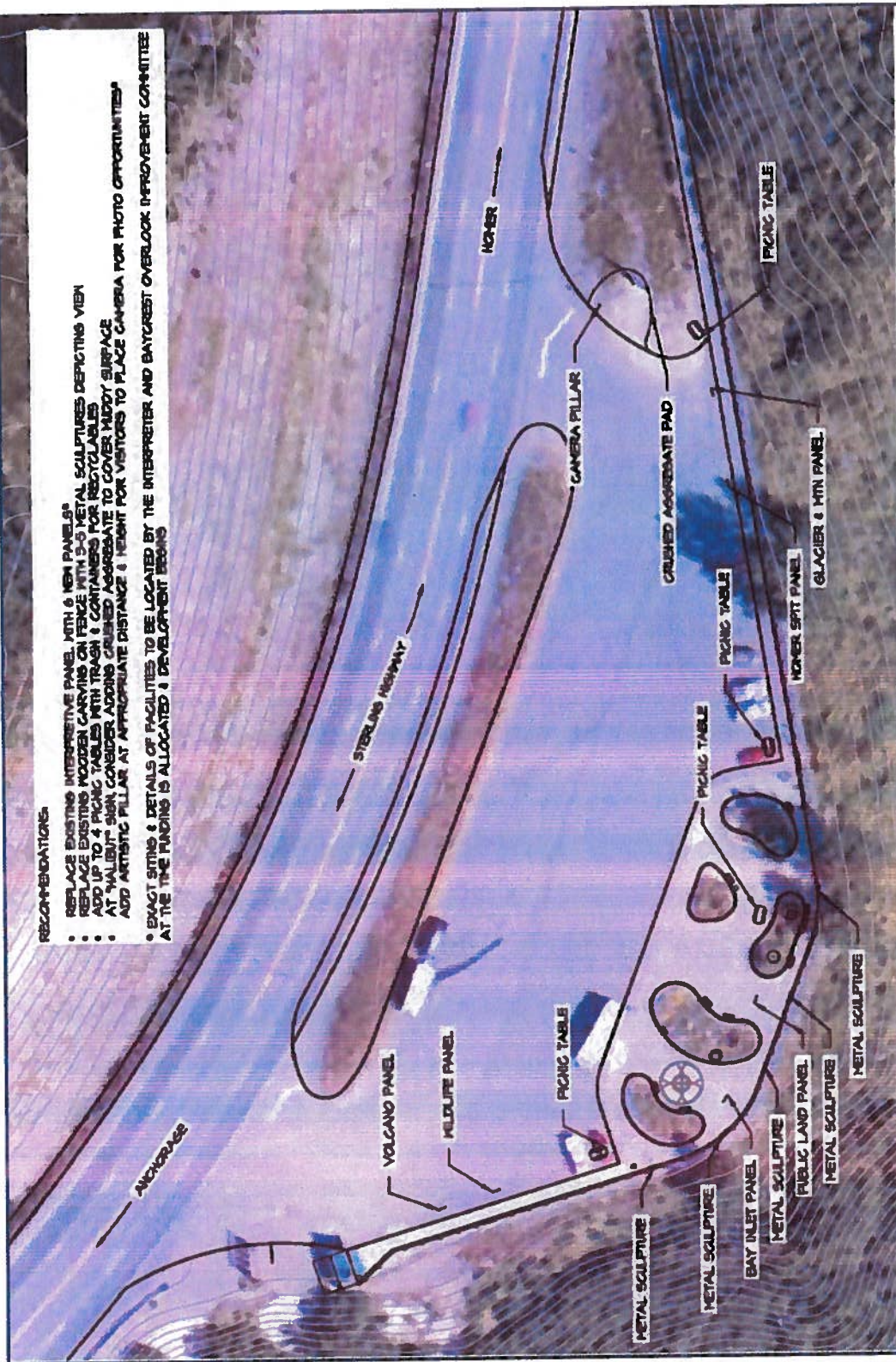
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Content and placement of new interpretation should be written and designed so that there is not a specific order in which the visitor must read them. There are numerous options for choosing the type of material used for each panel depending on the type of conditions at a site. In general, high-pressure laminate is used in Alaska for its resistance to extreme weather conditions, ultraviolet rays, and vandalism. A summary of common materials used for interpretive panels can be found in the Appendix C.



# RECOMMENDATIONS

- REPLACE EXISTING INTERPRETIVE PANEL WITH 8 NEW PANELS
- REPLACE EXISTING WOODEN GARDEN ON PIER WITH 13 METAL SCULPTURES DEPICTING VIEWS
- ADD UP TO 4 PICKING TABLES WITH TRASH CANS & SEATINGS FOR VISITORS
- AT "HARBOR" SIGN CONSIDER ADDING AN APPROPRIATE DISTANCE & HEIGHT FOR VISITORS TO PLACE CAMERA FOR PHOTO OPPORTUNITIES
- ADD ARTISTIC PILLAR AT APPROPRIATE DISTANCE & HEIGHT FOR VISITORS TO PLACE CAMERA FOR PHOTO OPPORTUNITIES
- EXACT SITING & DETAILS OF FACILITIES TO BE LOCATED BY THE INTERPRETER AND BAYCREST OVERLOOK IMPROVEMENT COMMITTEE
- AT THE TIME FUNDING IS ALLOCATED & DEVELOPMENT BEGINS



North  
N.T.S.

## PROPOSED FACILITY IMPROVEMENTS

NOTE: TO BE USED FOR GRAPHICAL REPRESENTATION PURPOSES ONLY  
NOT TO SCALE

## BAYCREST OVERLOOK HOMER, ALASKA

## DESIGN GUIDELINES

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This section provides design guidelines for new interpretation at the Baycrest Hill Overlook. Interpretive sites and materials should use a cohesive design to give the area a distinctive appearance. To best implement the following guidelines, the Baycrest Improvement Committee should work with professional interpreters.

A high quality, professional standard should be used for interpretive panels, parking facilities, structures, kiosks, and restrooms. New interpretive panels should use materials that are both low maintenance and vandal resistant. New facilities should be carefully designed so that they are ADA accessible and use universal design standards.

The following section outlines the basic elements of design for interpretive panels. They are intended to guide the committee as they update and develop new interpretation for the Baycrest Hill Overlook.

### PANEL DESIGN

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A typical interpretive panel at a wayside will be approximately 36.5 inches wide by 30.5 inches high with 200-250 words. Appendix B shows a standard "Type D" interpretive panel that has these dimensions and is low-profile in design, allowing for relatively unobstructed views. The interpretive panel about public lands and waters could still use the same panel mount as the other panels, but the panel itself could be up to 52 inches wide by 30.5 inches high with 300-350 words. The content of an interpretive panel, including theme and topic, should determine the types of graphics used. Graphics or a font style that works beautifully in one panel may not be appropriate for others; however, it is highly recommended that a cohesive and thematic design is used throughout all the panels at the same wayside.

This plan recommends that a serif font such as Goudy or Garamond be used for titles and headings. A sans-serif font such as Calibri or Segoe should be used for body text. Although these are general rules to follow when developing written interpretation, they are not mandates; the contracted interpretive specialist and the improvement committee will decide what is appropriate for each panel. Typographical techniques can occasionally allow the title and headings to work as graphic elements.

### DONOR AND AGENCY RECOGNITION

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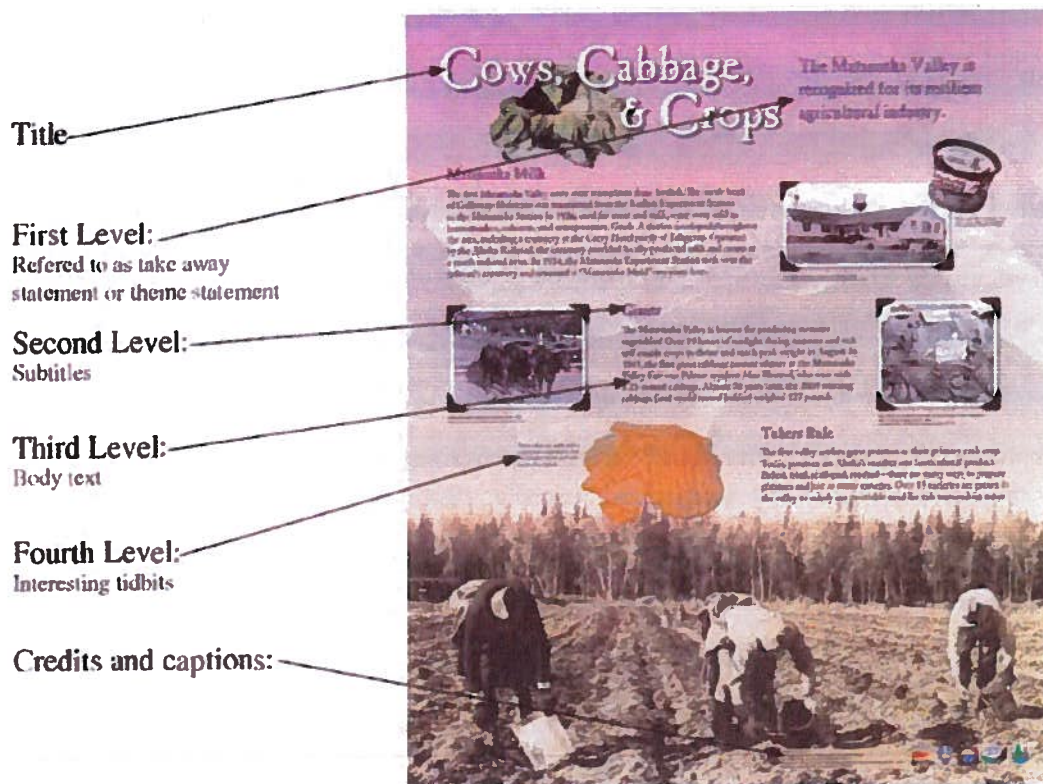
Small logos for funding sources should be included, but having too many logos can clutter a panel and potentially confuse visitors. One option for replacing multiple logo images is to create a funding line on the interpretive panel that is written out. Font size and style should be similar to photo captions. Another option is to develop a separate plaque that recognizes donors and agencies involved in the project.

## PANEL LAYOUT

Interpretive panels at the overlook should have a similar layout if possible, but the format may be slightly altered to better represent the panel theme or to accommodate any city, state, or federal agency-adopted standards that are not flexible.

The textual components of a typical panel are as follows:

- **TITLE:** The title tells visitors what the panel is about and should intrigue them continue reading.
- **THEME STATEMENT (1ST LEVEL):** The theme statement presents the overall theme of the panel and provokes the audience to read further. However, if this statement is the only thing the visitor reads, he or she should still grasp the main message of the panel.
- **HEADINGS (2ND LEVEL):** The headings introduce readers to the body text. Typically, the theme statement and headings should have the same font type and size.
- **BODY TEXT (3RD LEVEL):** The main body of the text supports the theme statement and should relate the resource being interpreted to the audience and reveal something meaningful about the resource.
- **ADDITIONAL INFORMATION (4TH LEVEL):** This part of the panel reveals interesting information not included in the body text; it can be a quote or poem, or it can be a statement that further describes a process, person, event, or photograph.
- **PHOTO CAPTIONS:** Captions should describe the photograph and give credit to the photographer.



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## COLOR PALETTE

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Interpretive displays at roadside pullouts should have a consistent color scheme. However, there needs to be some flexibility to ensure that the color palette of individual panels complements the chosen topic and theme as well as the graphics and surrounding landscape.

People tend to rely heavily on visual cues and, so, the visual elements of a display or panel or panel are of great importance in conveying a message and helping people connect to the site. Colors may influence how a visitor interprets the site's story and the type of connections he or she forms. Warm colors—red, yellow, and orange—can convey a sense of movement, energy, and excitement

or a sense of anger or violence. Cool colors can evoke a sense of calm or create emotional distance. Complementary colors such as green and red or purple and yellow create strong contrasts—a bold look. Analogous colors such as green, green-blue, and blue create a calm and relaxed look. Monochromatic color schemes composed of varying shades or tints of the same color create a sense of depth.<sup>4</sup>



EXAMPLE OF A PLACE-BASED COLOR SCHEME

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## EVALUATING INTERPRETATION

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Creating guidelines for evaluating the effectiveness of interpretive sites and materials is an essential part of the planning process. The purpose of evaluations is to help the improvement committee measure whether the plan's goals and objectives are being met. The intent of evaluations is to collect information to make improvements and decisions about future planning. It is important to remember that this plan should also be evaluated to ensure that it stays relevant to the needs of the site visitor.

There are many appropriate methods for evaluating interpretation at the Baycrest Hill Overlook. A combination of methods will produce the best results. Media, especially interpretive panels, should be evaluated at least every ten years for both content and graphics. Using peer reviews, oral interviews, exit questionnaires, observation, and suggestion boxes would all be effective methods for evaluating the Byway's sites and services.

- **PEER REVIEWS:** Professional interpreters developing media should allow for a peer review process that includes members of the Baycrest Improvement Committee. A group of people with varying interests will provide valuable input in the developing stages of interpretation and the product will greatly benefit from this process.
- **ORAL INTERVIEWS:** Visitors could be approached for a short interview about interpretation at the overlook. Interviews can provide the committee with a person's impressions and allows for follow-up questions to learn more about someone's opinions.

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<sup>4</sup> The content of this section has been heavily borrowed from Chapter 4 of *Interpretation by Design: Graphic Design Basics for Heritage Interpreters* by Paul Caputo, Shea Lewis, and Lisa Brochu.

- **QUESTIONNAIRES:** Visitors could be given a questionnaire with pointed questions to determine whether the interpretative media's objectives were met and the themes communicated. The questionnaire should also solicit ideas for improvement. Volunteers or committee members could hand questionnaires to visitors during peak hours at identified points of contact.
- **OBSERVATION:** Indirect observation—having someone observe how visitors react to interpretive exhibits—is a good method for evaluating the effectiveness of each display, including its ability to attract and hold a visitor's attention.
- **SUGGESTION BOX:** Suggestion boxes or guest books could be placed in areas of high visitation to provide travelers a place to share their thoughts, suggestions, and ideas. A system should be established whereby the comments are regularly retrieved. Paper and pencils would need to be supplied and restocked. If the committee decides that a suggestion box or guest book is not appropriate at the overlook, a digital "suggestion box" on the internet could also yield helpful post-trip insights.

*"Through interpretation, understanding; through understanding, appreciation; through appreciation, protection." (Quoted in Tilden's *Interpreting Our Heritage*)*

## APPENDIX A:

### Lower Cook Inlet/Kachemak Bay Area Public Lands and Waters

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AUGUSTINE VOLCANO, PHOTO COURTESY OF EMILY LOCHART

*The following is a comprehensive list of local, state, and national parks, monuments, wilderness areas, wild and scenic rivers, wildlife refuges and game sanctuaries, critical habitat areas, important bird areas, etc.*

- Kachemak Bay State Park and State Wilderness Park  
Including Overlook Park unit, directly below the west end of the scenic overlook
- Alaska Maritime National Wildlife Refuge – Gulf of Alaska Unit
  - In K-Bay: Gull Island, 60 Foot Rock, Yukon Island;
  - In Cook Inlet: Chisik and Duck Islands / Tuxedni Wilderness;
  - At Kennedy Entrance to Cook Inlet: the Barren Islands
- Kenai National Wildlife Refuge Wilderness  
S.E. K-Bay uplands / West Kenai Mountains and glaciers / S.W. Harding Ice Field
- Kachemak Bay Critical Habitat Area
- Fox River Flats Critical Habitat Area (not visible from scenic overlook)
- Homer Airport State Critical Habitat Area (not visible from scenic overlook)
- Kachemak Bay National Estuarine Research Reserve and Kasitsna Bay Lab (both NOAA/State partnerships)
- Mud Bay/Mariner Park Western Hemisphere Shorebird Reserve Network (WHSRN) site (not visible from scenic overlook)
- Lake Clark National Park and Preserve (including Lake Clark Wilderness Area, three Wild and Scenic Rivers [Tlikakila, Chilikadrotna and Mulchatna], and the Redoubt and Iliamna National Natural Landmarks and Kijik National Historical Landmark.)
- Augustine Island - within the Kamishak Special Use area (state) and surrounded by EFH for several marine fishery species (under federal Magnuson-Stevens Act). Active volcano, AVO/UNAVCO instrumentation site, UAF Geophysical Institute research site with two permanent camps.<sup>5</sup>
- McNeil River State Game Refuge and Sanctuary, also a National Natural Landmark under NPS
- Katmai National Park and Preserve (Cape Douglas within the boundary is visible from the scenic overlook)

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<sup>5</sup> Augustine Island: Kamishak Special Use Area – state designation, managed by Kenai Peninsula Borough. The designation recognizes the importance of the area for its remote character and fisheries resources, both habitat and harvest. Essential Fish Habitat (EFH) – federal designation under the Stevens-Magnuson Conservation and Management Act. This applies to the marine waters surrounding Augustine Island. Specifically identified are weathervane scallops, arrowtooth flounder, Pacific cod, Pollock and all five species of Pacific salmon, as well as “other marine species.” Augustine Island is under an Interagency Land Management Assignment to the University of Alaska, Fairbanks for research purposes. The 2001 Kenai Area Plan lists management purposes as scientific research and education.

- Including Katmai Wilderness Area
- Cook Inlet Beluga Whale Critical Habitat Area (particularly the west side of Cook Inlet nearshore habitat and all of K-Bay)
- Northern Sea Otter Critical Habitat area (southwest AK Distinct Population Segment [DPS] only) west side of Cook Inlet nearshore habitat from Shelikof Strait/Cape Douglas to Redoubt Point, including Mt. Augustine. (NOTE: K-Bay not included)
- Important Bird Areas (IBAs) for waterbird and seabird species and colonies:
  - The Barren Islands, Kachemak Bay, Kamishak Bay, lower Cook Inlet

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#### **OTHER PUBLIC LAND AND WATER DESIGNATIONS IN THE SURROUNDING AREA:**

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##### **Cook Inlet Region:**

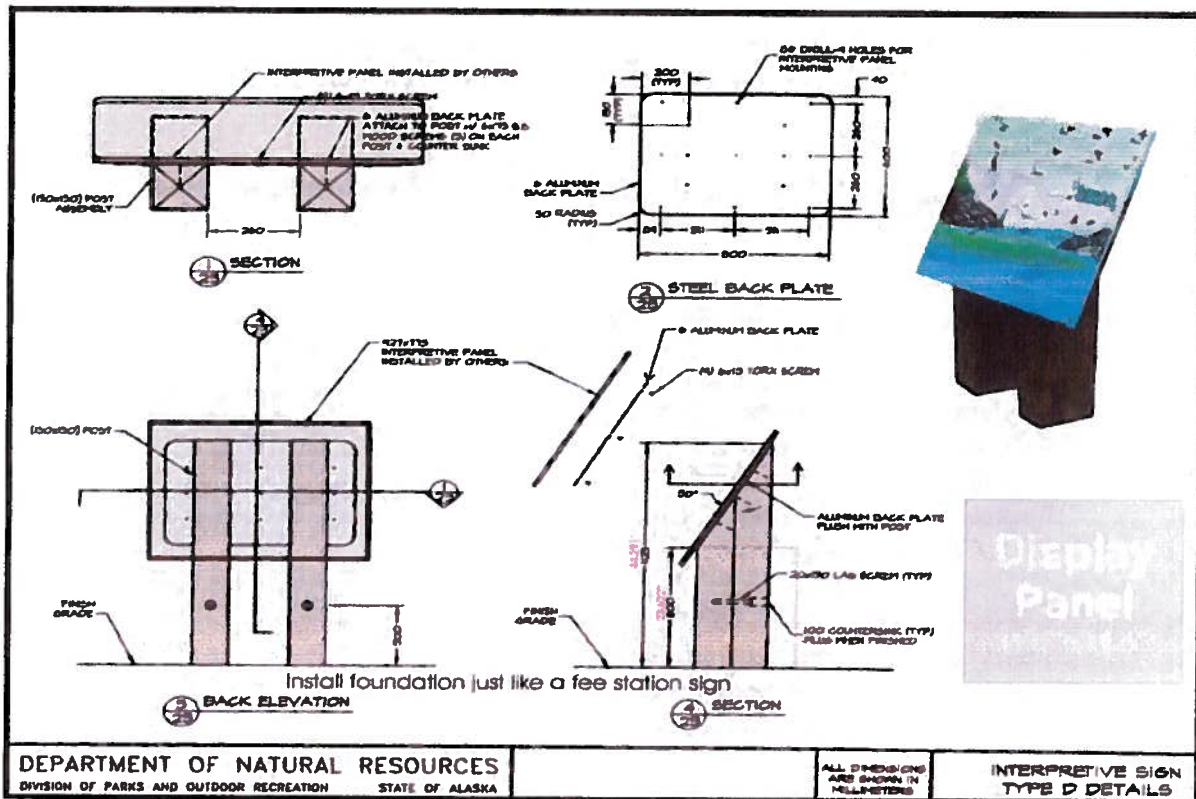
- 1) Lower Cook Inlet (but not visible from scenic overlook)
  - Anchor River/Fritz Creek Critical Habitat Area
  - Anchor River State Recreation Area
  - Stariski Creek State Recreation Site
  - Clam Gulch State Critical Habitat Area
  - Clam Gulch State Recreation Site
  - Deep Creek State Recreation Site
- 2) Central and upper Cook Inlet (not visible from scenic overlook)
  - Kalgin Island State Critical Habitat Area
  - Redoubt Bay Critical Habitat Area
  - Trading Bay State Game Refuge

##### **Upper central Gulf of Alaska Region:**

- 1) Kenai Fjords National Park (eastern half of the outer Kenai Peninsula coast and Kenai Mountains, not visible from scenic overlook or from Kachemak Bay)

## APPENDIX B:

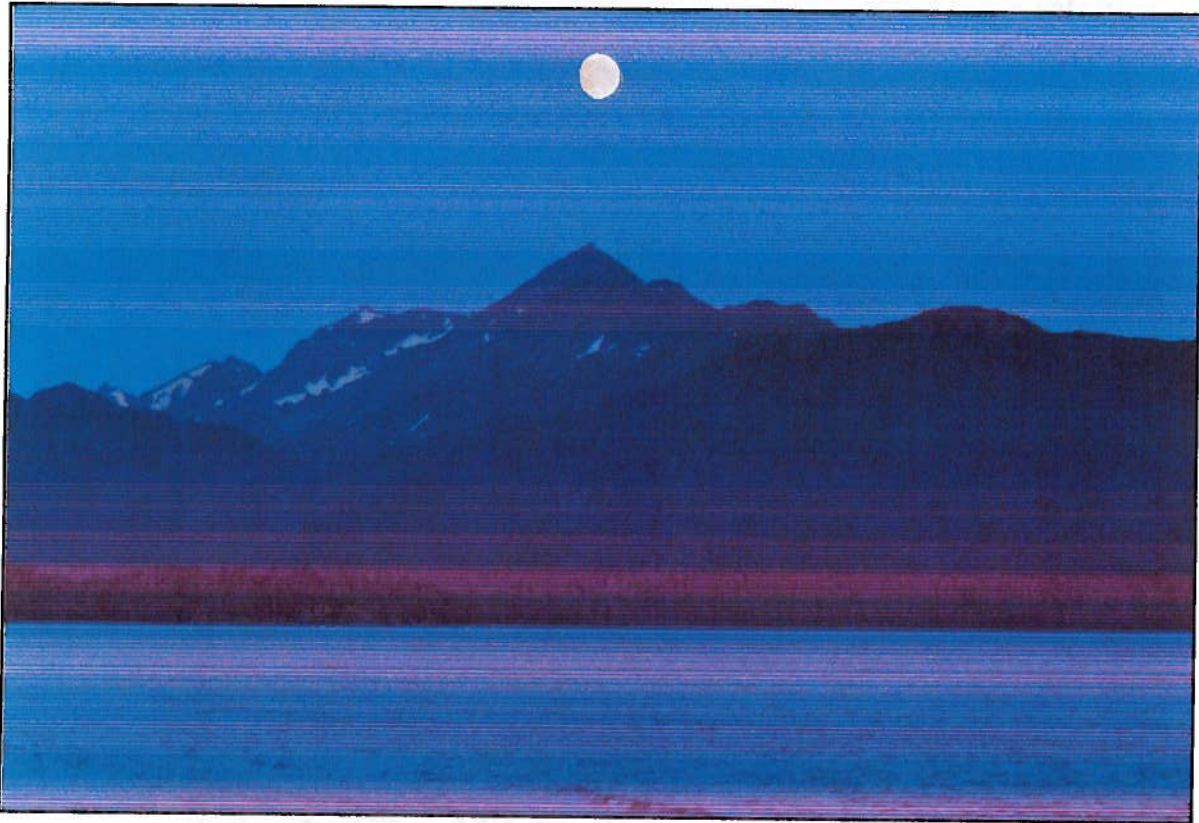
## STANDARD DESIGN FOR ALASKA DIVISION OF PARKS AND OUTDOOR RECREATION TYPE D INTERPRETIVE PANEL



## APPENDIX C:

### Interpretive Panel and Sign Materials

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KACHEMAK BAY AND THE KENAI MOUNTAINS, PHOTO COURTESY OF EMILY LOCHART

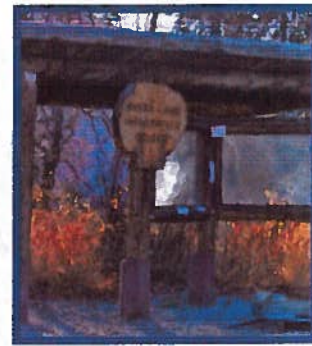
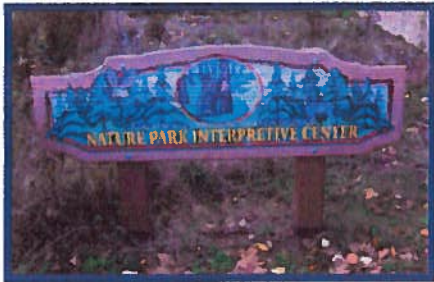
## 1. Sandblasted or Routed Wood

### Advantages

- Can often be produced in-house
- Can be quite attractive
- Can be easily cut to custom shapes
- Can be painted

### Disadvantages

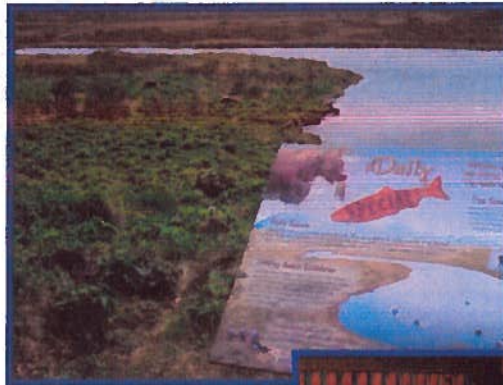
- Requires significant and ongoing maintenance
- Cost can be extremely variable
- Easily vandalized



## 2. High Pressure Laminate, Plastic Laminate, or Phenolic Resin Products

### Advantages

- Excellent quality image and colors
- Can be self supporting
- Made with some recycled material
- No de-lamination
- Durable
- Fairly inexpensive
- Can be easily cut to custom shapes
- Gunshot holes can often be repaired
- 10-year warranty
- Bear-resistant



### Disadvantages

- Not always environmentally friendly due to plastic production

### 3. Metal

#### Advantages

- Mid-range cost
- Easy to maintain

#### Disadvantages

- Easily scratched
- Can get very hot
- Can limit color choices



### 4. Fused Polycarbonate

#### Advantages

- Excellent quality image
- No de-lamination
- Made with some recycled material
- Can be used underwater
- Can be self supporting
- Can be backlit
- Image protected under sacrificial coat
- Low cost
- 10-year warranty

#### Disadvantages

- Easily damaged
- Can be rubbed out
- Can get very hot
- Limits color use



## 5. Fiberglass Embedded Inkjet

### Advantages

- No de-lamination
- Good quality image
- Hard surface
- Vandal resistant
- Relatively inexpensive

### Disadvantages

- Must be framed or supported
- Fades, yellows, and breaks down under strong sunshine
- Cracks in extreme temperatures
- Can be damaged by sharp objects
- Shatters when gunshot



## 6. Porcelain Enamel

### Advantages

- Superior image quality
- Vivid color
- Durable in extreme weather conditions
- Resistant to vandalism and scratches

### Disadvantages

- High cost
- Heavy blunt force may crack it
- Rusts if porcelain surface is damaged
- Must be framed or supported



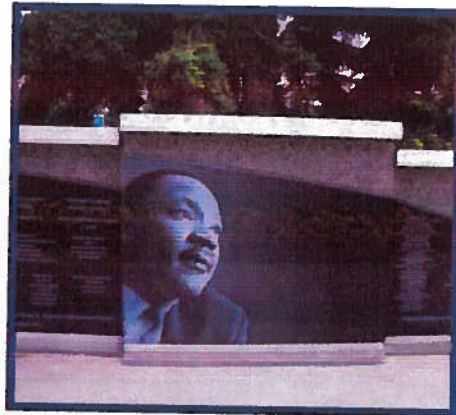
## 7. Engraved or Cast Metal

### Advantages

- Tactile
- Elegant
- Durable in sun, moisture, and temperature changes

### Disadvantages

- High cost
- Heavy blunt force may crack or break it



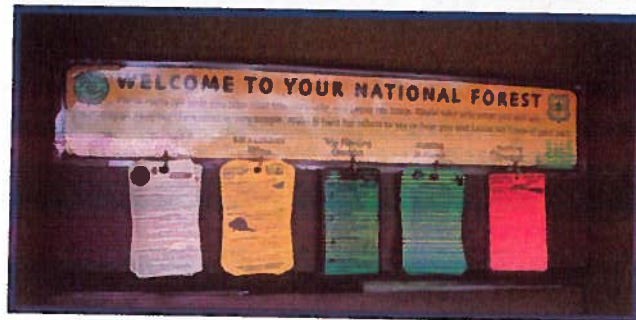
## 8. Laminated Print

### Advantages

- Low cost

### Disadvantages

- Not resistant to vandalism



## 9. Routed Plastic

### Advantages

- Low cost
- Low maintenance
- Tactile
- May use recycled material

### Disadvantages

- Limited color use
- Easily damaged with sharp objects



### *Baycrest Overlook Master Interpretive Plan*

- The Baycrest Overlook Improvement Committee would like the City of Homer's support in securing funding
- The overlook is one of the primary gateways into Homer and is often the first view of Homer and Kachemak Bay that visitors see
- As a primary gateway for residents, it provides the first feeling that one has arrived home
- The plan provides guidelines to enhance the overlook through interpretation and site amenities
- By seeking funding to fulfill the plan's recommendations it can ensure that the city appropriately welcomes, orients, and inspires visitors and residents who visit the site



**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**RESOLUTION 13-044**

A RESOLUTION OF THE HOMER CITY COUNCIL  
AUTHORIZING THE FORMATION OF THE WEBBER  
SUBDIVISION ROAD RECONSTRUCTION AND PAVING  
SPECIAL ASSESSMENT DISTRICT AND AUTHORIZING  
THE CITY MANAGER TO PROCEED WITH THE  
PREPARATION AND CONSTRUCTION OF THE PROJECT.

WHEREAS, A petition was initiated by property owners within the Webber Subdivision  
to form a Road Reconstruction and Paving Special Assessment District; and

WHEREAS, The Webber Subdivision Road Reconstruction and Paving Special  
Assessment District boundary includes property fronting, predominately, Waddell Street and  
Waddell Road, located within Webber, Webber No. 7, Bluff Park No. 4 Harmon Porter Addition,  
and Bluff Park Harmon Porter 1997 Addition Subdivisions; and

WHEREAS, The estimated cost of the road reconstruction and paving improvements is  
\$265,000, with property owners paying \$30 per front foot for reconstruction and \$17 per front foot for  
paving; and

WHEREAS, Resolution 13-023(S) was adopted on March 11, 2013 noting the  
sufficiency of the petition and setting a public hearing date; and

WHEREAS, A public hearing was held on Monday, May 13, 2013 and there were  
\_\_\_\_\_ people testifying on the matter; and

WHEREAS, The objection deadline for written objections was May 10, 2013 and \_\_\_\_\_  
written objections were received.

WHEREAS, Council finds that the petition is in proper form and bears sufficient  
signatures; and

WHEREAS, Council finds that the road improvement is necessary and of benefit to the  
properties within the Webber Subdivision.

NOW, THEREFORE, BE IT RESOLVED by the Homer City Council that the formation  
of the Webber Subdivision Road Reconstruction and Paving Special Assessment District is  
hereby authorized and that the City Manager is hereby authorized to proceed with the preparation  
and construction of the project.

PASSED AND ADOPTED by the Homer City Council this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

\_\_\_\_\_  
FRANCIE ROBERTS, MAYOR PRO TEMPORE

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Project No: 160-774: Property owner share of road reconstruction is \$28,800.00 and \$32,801.16 for paving, for a total of \$61,601.16 for property owner share. Total front footage is 1,929.48. All other costs of the project are paid by the Homer Accelerated Roads and Trails Program that is funded by sales tax dollars.

CITY OF HOMER  
PROPERTY OWNER'S**STATEMENT OF OBJECTION**

TO SPECIAL ASSESSMENT DISTRICT

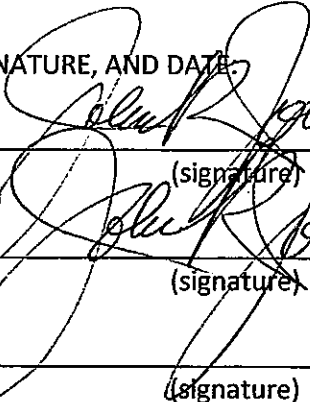
SPECIAL ASSESSMENT DISTRICT: **WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING**I/we affirm that I/we are the owner(s) of the following lots in the Special Assessment District  
(give legal description):① Lot 11-A Weber Sub #7  
175-183-11② Lot 15-A Weber Sub #7  
175-183-15

I/We object to the Webber Subdivision Road Reconstruction and Paving Special Assessment District.

Reasons/Comments:

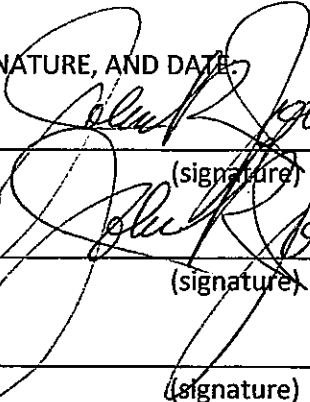
Being A sufficient ROAD  
AND low cost MAINTENANCE, this  
is too large A sum to put on  
these properties.

PROPERTY OWNER'S PRINTED NAME, SIGNATURE, AND DATE:

Homer Hotels LLC  March 3-22-13

(signature)

(date)

John R Johnson  3-22-13

(signature)

(date)

(signature)

(date)

NOTE: Please make sure that all the property owners of record print, sign, and date this document. IF  
YOU HAVE MORE THAN ONE LOT PLEASE NOTE THIS ON THIS FORM WHEN YOU RETURN IT.  
OBJECTIONS WILL APPLY ONLY TO THOSE LOTS NAMED ON THIS FORM. FAXED OR EMAILED  
OBJECTION FORMS WILL NOT BE ACCEPTED.

TO FILE AN OBJECTION COMPLETE THIS FORM AND RETURN IT TO THE OFFICE OF THE CITY CLERK BY  
THE DEADLINE, MAY 10, 2013, 5:00 P.M.

City of Homer  
Office of the City Clerk  
491 E. Pioneer Avenue  
HOMER, ALASKA 99603



# Office of the City Clerk

Jo Johnson, CMC, City Clerk  
Melissa Jacobsen, CMC, Deputy City Clerk II  
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue  
Homer, Alaska 99603  
(907) 235-3130  
(907) 235-8121  
ext: 2224, 2226, or 2227  
Fax: (907) 235-3143  
Email: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us)

March 14, 2013

***RE: ADJUSTMENT TO PRELIMINARY ASSESSMENT ROLL FOR WEBBER SUBDIVISION  
ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT***

Dear Property Owner(s):

After last night's neighborhood meeting on the Webber Subdivision road project we discovered a mistake on the Preliminary Assessment Roll.

Nine properties at the west end of Waddell Road already have road improvements. No upgrade of the gravel portion is needed; the road just lacks pavement.

The nine properties would not be assessed for road reconstruction costs (\$30 per front foot). These properties would only have paving costs at \$17 per front foot. This is a large adjustment for the nine properties within the district.

If you are not one of the nine properties your assessment amount remains the same.

Enclosed is the Amended Preliminary Assessment Roll adjusting the assessments for the nine properties. The map outlines the affected properties.

All other information you were mailed recently has not changed.

Please call me if you have any questions about the special assessment district in your neighborhood.

Sincerely,

CITY OF HOMER

A handwritten signature in black ink, appearing to read "Jo Johnson".

Jo Johnson, CMC, City Clerk

Enclosures: Amended Preliminary Assessment Roll  
Map

---

**"WHERE THE LAND ENDS AND THE SEA BEGINS"**

To access City Clerk's Home Page on the Internet: <http://clerk.ci.homer.ak.us>



# Office of the City Clerk

Jo Johnson, CMC, City Clerk  
Melissa Jacobsen, CMC, Deputy City Clerk II  
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue  
Homer, Alaska 99603  
(907) 235-3130  
(907) 235-8121  
ext: 2224, 2226, or 2227  
Fax: (907) 235-3143  
Email: clerk@ci.homer.ak.us

March 12, 2013

*RE: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING  
SPECIAL ASSESSMENT DISTRICT*

Dear Property Owner(s):

On March 11, 2013 the Homer City Council acknowledged via Resolution 13-023(S) the sufficiency of the petition for the Webber Subdivision Road Reconstruction and Paving Special Assessment District. The City Manager has prepared an improvement plan for the district that includes final boundaries for the district, the design of the proposed improvement, a cost estimate for the improvement, the percentage of the improvement cost to be assessed against properties in the district, a method for allocating the assessed cost of the improvement among the properties in the district, the time period over which assessments will be financed, and a preliminary assessment roll.

**A public hearing has been scheduled for Monday, May 13, 2013 during the regular City Council meeting that begins at 6:00 p.m.** The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. If you have a concern or objection about the district boundaries, assessment, or any other part of the improvement, the public hearing is the time to voice your concerns to the Council.

**Objections** to the formation of this district **must be entered in written form and filed at the Office of the City Clerk no later than Friday, May 10, 2013 at 5:00 p.m.** Non responses during the objection period shall be deemed to be non-objections. A Property Owner's Statement of Objection is enclosed for your convenience in expressing your objection. ***Please take note, if you have an objection, you must file this in written form with the City Clerk. Faxed or emailed objection forms will not be accepted.*** The Office of the City Clerk is located on the lower level of City Hall at 491 E. Pioneer Avenue, Homer, Alaska.

The Preliminary Assessment Roll includes your name, borough parcel number, current assessed property value from Borough records, and the estimated amount of each assessment.

The construction map for the proposed Webber Subdivision Road Reconstruction and Paving Special Assessment District is included with this mailing.

Please notify the City Clerk if you find any errors or discrepancies on the roll. You will also find the Public Hearing Notice that is scheduled for advertisement in the local newspapers as required by city code. Assessments are payable over a period of ten years, with an annual payment plan. The interest rate is estimated to be 1.5% at this time. Interest, if any, collected will remain with the program funds. Nothing will be assessed until the project is complete, and the City of Homer Public Works has accepted the project, and the property

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**"WHERE THE LAND ENDS AND THE SEA BEGINS"**

**To access City Clerk's Home Page on the Internet: <http://clerk.ci.homer.ak.us>**

owners have been given another opportunity to comment regarding any errors or inequalities resulting from the project.

Please take the time to review the enclosed materials carefully and come to the public hearing on May 13, 2013. At the meeting you may express your concerns and comments of the formation of this district to the Council. If your schedule does not permit your attendance, you may send written correspondence for Council to consider.

If you have any questions concerning the enclosed information or the contents of this letter, please call me at 235-3130.

Sincerely,

CITY OF HOMER



Jo Johnson, CMC, City Clerk

Enclosures: Notice of Public Hearing  
Notice of Right to Object  
Preliminary Assessment Roll  
Resolution 13-023(S)  
Webber Subdivision Road Reconstruction and Paving Improvement Plan  
Property Owner's Statement of Objection

**PLEASE NOTE: OBJECTIONS MUST BE IN WRITTEN FORM AND FILED AT THE OFFICE OF THE CITY CLERK BY MAY 10, 2013 at 5:00 P.M. FAXED OR EMAILED OBJECTION FORMS WILL NOT BE ACCEPTED.**

**CITY OF HOMER**

**NOTICE OF PUBLIC HEARING**

**WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING  
SPECIAL ASSESSMENT DISTRICT**

A public hearing is scheduled for Monday, May 13, 2013 during a Regular City Council meetings beginning at 6:00 p.m. The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

The Homer City Council has acknowledged, via Resolution 13-023(S), adopted March 11, 2013 the sufficiency of the petition for the Webber Subdivision Road Reconstruction and Paving Special Assessment District.

**OBJECTIONS**

Objections to the formation of this district must be in written form and filed at the Office of the City Clerk by 5:00 p.m. on May 10, 2013. Non responses during the objection period shall be deemed to be non-objections.

Dated this 12<sup>th</sup> day of March, 2013

*Jo Johnson*

Jo Johnson, CMC, City Clerk

Publish:       Homer News: April 18, 2013  
                  Homer Tribune: May 1, 2013



CITY OF HOMER  
HOMER, ALASKA

City Clerk

RESOLUTION 13-023(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, NOTING THE SUFFICIENCY OF THE PETITION FOR THE WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT AND SETTING THE PUBLIC HEARING DATE FOR MAY 13, 2013.

WHEREAS, A petition for road reconstruction and paving improvements for property owners within the Webber Subdivision was circulated from December 28, 2012 to February 26, 2013; and

WHEREAS, Pursuant to HCC 17.04.040(a)(2) the sufficiency of the petition requires signatures of not less than one half in value of the real property in the proposed improvement district; and

WHEREAS, Signatures from property owners in favor of the road reconstruction and paving improvements equal 61.4%; and

WHEREAS, A neighborhood meeting has been scheduled for March 13, 2013; and

WHEREAS, The notice of public hearing and statement of objection form will be sent to property owners by certified mail in accordance with HCC 17.04.050(a).


NOW, THEREFORE, BE IT RESOLVED that the Homer City Council notes the sufficiency of the petition for the Webber Subdivision Road Reconstruction and Paving Special Assessment District and sets a public hearing date of May 13, 2013.

PASSED AND ADOPTED by the City Council of Homer, Alaska this 11<sup>th</sup> day of March, 2013.

CITY OF HOMER

  
MARY E. WYTHE, MAYOR

ATTEST:

  
JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Staff time and certified mail fees.



# AMENDED PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: Webber Subdivision Road Reconstruction and Paving Special Assessment DATE: March 14, 2013

TOTAL ESTIMATED PROJECT: \$265,000.00

ABUTTING PROPERTY OWNERS ASSESSED \$30 PER FRONT FOOT FOR RECONSTRUCTION & \$17 PER FRONT FOOT FOR PAVING: \$90,685.56 \$61,601.16  
HOMER ACCELERATED ROADS AND TRAILS PROGRAM (HART) SHARE: \$174,314.44 \$203,398.84

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT
Kurt St. Jean 722 Waddell St. Homer, AK 99603	Lot 6A, Bluff Park Harmon Porter 1997 Addn. 175-100-64	\$227,900	77.1' (paving only)	<del>\$3,623.70</del> <u>\$1,310.70</u>
David K. & Jennifer A. Olsen PO Box 3944 Homer, AK 99603	Lot 7A, Bluff Park Harmon Porter 1997 Addn. 175-100-66	\$202,400	109.1' (paving only)	<del>\$5,127.70</del> <u>\$1,854.70</u>
John Phillip Rummery 579 Waddell St. Homer, AK 99603	Lot 2 Block 2, Webber Subdivision 175-182-02	\$149,100	60.0'	\$2,820.00
Thomas J. & Jacqueline W. McDonough 555 Waddell St. Homer, AK 99603	Lot 4 Block 2, Webber Subdivision 175-182-04	\$144,700	60.0'	\$2,820.00
Kary B. Greeley 3430 Main St. Ste B2 Homer, AK 99603	Lot 5 Block 2, Webber Subdivision 175-182-05	\$194,400	60.0'	\$2,820.00
Kyoko Hasco C/O PO Box 1972 Soldotna, AK 99669	Lot 6 Block 2, Webber Subdivision 175-182-06 Lot 7 Block 2, Webber Subdivision 175-182-07 Lot 8 Block 2, Webber Subdivision 175-182-08	\$40,200 \$40,200 \$141,200	60.0' 60.0' 60.0'	\$2,820.00 \$2,820.00 \$2,820.00

# AMENDED PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: Webber Subdivision Road Reconstruction and Paving Special Assessment      DATE: March 14, 2013

TOTAL ESTIMATED PROJECT: \$265,000.00

ABUTTING PROPERTY OWNERS ASSESSED \$30 PER FRONT FOOT FOR RECONSTRUCTION & \$17 PER FRONT FOOT FOR PAVING: ~~\$90,685.56~~ \$61,601.16  
HOMER ACCELERATED ROADS AND TRAILS PROGRAM (HART) SHARE: ~~\$174,314.44~~ \$203,398.84

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT
Rex D. Kaufman PO Box 15362 Fritz Creek, AK 99603	Lot 1, Bluff Park No. 4 Harmon Porter Addn. 175-100-54	\$231,000	166.2' (paving only)	<del>\$7,811.40</del> <u>\$2,825.40</u>
Wilfred V. Jr. & Jacqueline J. Dentz 656 Waddell Rd. Homer, AK 99603	Lot 2, Bluff Park No. 4 Harmon Porter Addn. 175-100-55	\$346,500	75.68' (paving only)	<del>\$3,556.96</del> <u>\$1,286.56</u>
Kevin L. Gottlieb 1842 Bootlegger Cove Dr. Anchorage, AK 99501	Lot 3, Bluff Park No. 4 Harmon Porter Addn. 175-100-56	\$387,900	75.0' (paving only)	<del>\$3,525.00</del> <u>\$1,275.00</u>
John & Barbara Valensi 418 Mt. Vernon Dr. Council Bluffs, IA 51503	Lot 4, Bluff Park No. 4 Harmon Porter Addn. 175-100-57	\$115,900	127.9' (paving only)	<del>\$6,011.30</del> <u>\$2,174.30</u>
Charles A. Gibson & Deborah A. Poore 710 Waddell St. Homer, AK 99603	Lot 5, Bluff Park No. 4 Harmon Porter Addn. 175-100-58	\$234,100	72.8' (paving only)	<del>\$3,421.60</del> <u>\$1,237.60</u>
Thomas D. Renfrew & Carol L. Porter- Renfrew 645 Waddell St. Homer, AK 99606	Lot 8, Bluff Park No. 4 Harmon Porter Addn. 175-100-61	\$286,200	155.8' (paving only)	<del>\$7,322.60</del> <u>\$2,648.60</u>
Matthew Early 609 Waddell St. Homer, AK 99603	Lot 9, Bluff Park No. 4 Harmon Porter Addn. 175-100-62	\$238,300	109.9' (paving only)	<del>\$5,165.30</del> <u>\$1,868.30</u>

**AMENDED PRELIMINARY ASSESSMENT ROLL**

**PROJECT NAME:** Webber Subdivision Road Reconstruction and Paving Special Assessment      **DATE:** March 14, 2013

**TOTAL ESTIMATED PROJECT: \$265,000.00**

**ABUTTING PROPERTY OWNERS ASSESSED \$30 PER FRONT FOOT FOR RECONSTRUCTION & \$17 PER FRONT FOOT FOR PAVING: ~~\$90,685.56~~ \$61,601.16**  
**HOMER ACCELERATED ROADS AND TRAILS PROGRAM (HART) SHARE: ~~\$174,314.44~~ \$203,398.84**

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT
Homer Hotels, LLC 575 Sterling Hwy Homer, AK 99603	Lot 11-A, Webber Subdivision No. 7 175-183-11	\$124,400	60.0'	\$2,820.00
Leonard H. Van Sandt 2020 Campbell Pl. Anchorage, AK 99507	Lot 13-A, Webber Subdivision No. 7 175-183-13	\$148,600	60.0'	\$2,820.00
Stephen R. & Kathleen A. Boyle 544 Waddell St. Homer, AK 99603	Lot 14-A, Webber Subdivision No. 7 175-183-14	\$133,800	60.0'	\$2,820.00
John R. & Judith E. Johnson 236 W. Rezanof Dr. Kodiak, AK 99615	Lot 15-A, Webber Subdivision No. 7 175-183-15	\$186,100	60.0'	\$2,820.00
Laura L. Todd PO Box 688 Homer, AK 99603	Lot 16-A, Webber Subdivision No. 7 175-183-16	\$97,400	60.0'	\$2,820.00
Michael C. & Rebecca B. Frye 580 Waddell St. Homer, AK 99603	Lot 17-A, Webber Subdivision 175-183-17	\$235,200	60.0'	\$2,820.00
Paul D. Gutzler 567 Waddell St. Homer, AK 99603	Lot 3 Block 2, Webber Subdivision 175-182-03	\$143,800	60.0'	\$2,820.00

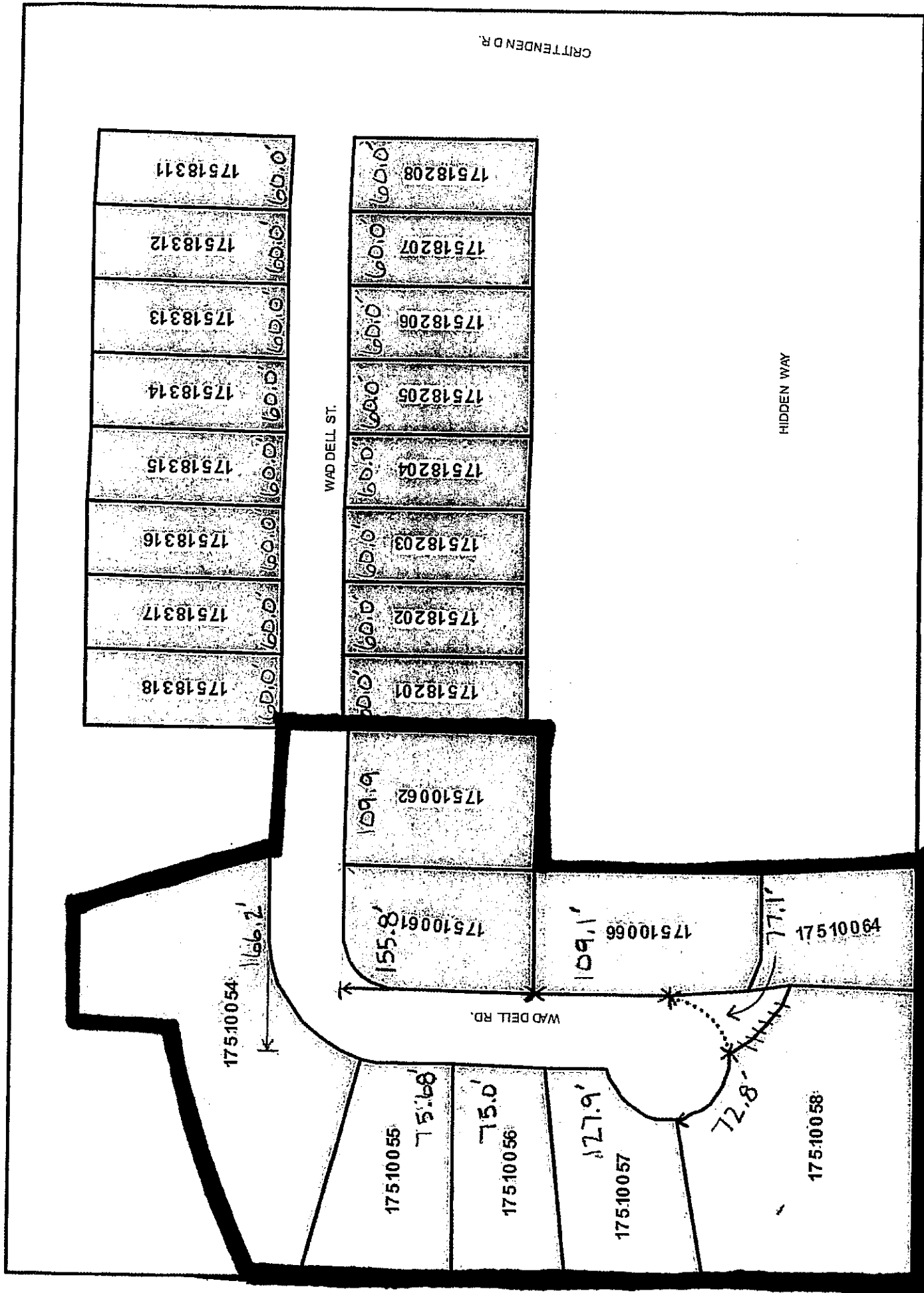
# AMENDED PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: Webber Subdivision Road Reconstruction and Paving Special Assessment DATE: March 14, 2013

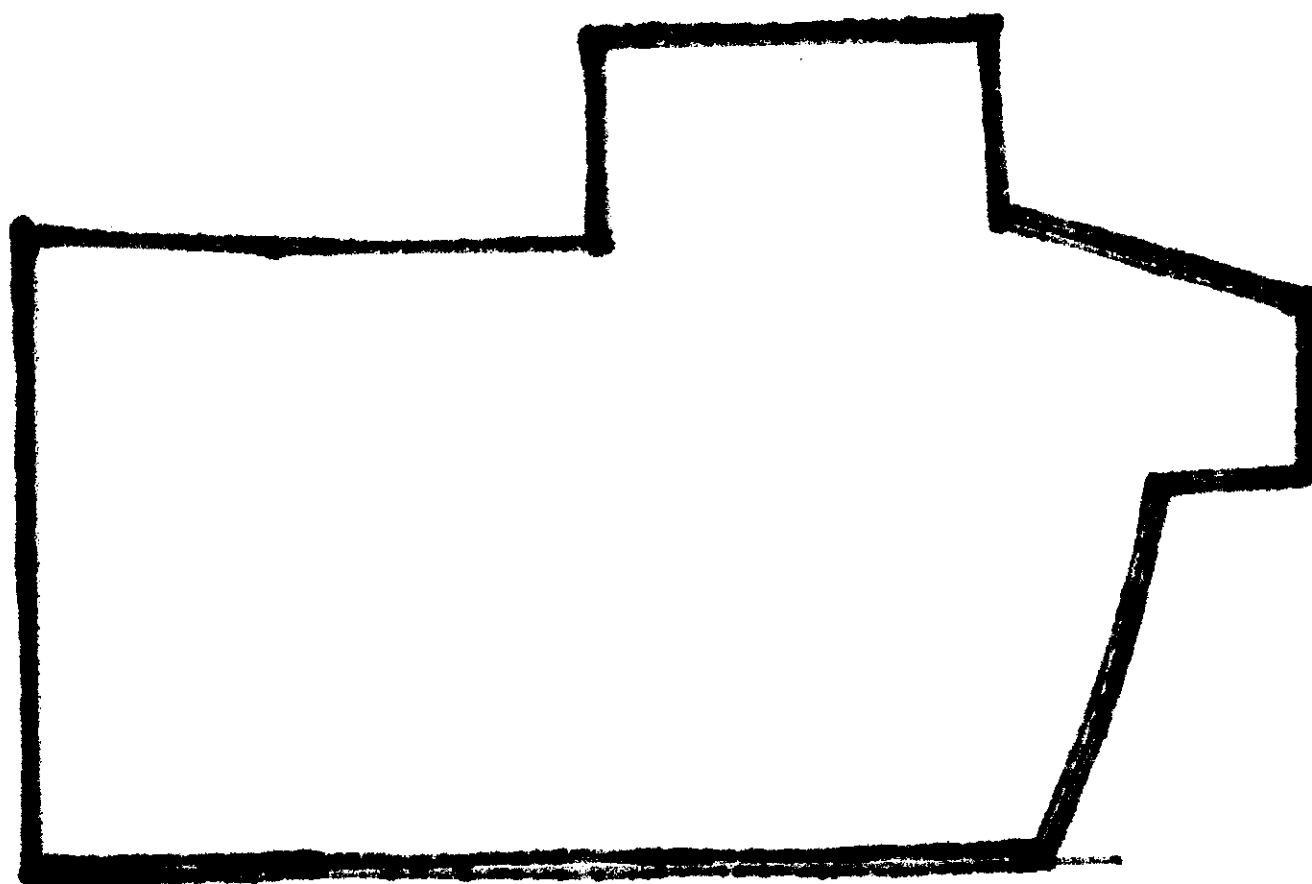
TOTAL ESTIMATED PROJECT: \$265,000.00

ABUTTING PROPERTY OWNERS ASSESSED \$30 PER FRONT FOOT FOR RECONSTRUCTION & \$17 PER FRONT FOOT FOR PAVING: \$90,685.56 \$61,601.16  
HOMER ACCELERATED ROADS AND TRAILS PROGRAM (HART) SHARE: \$174,314.44 \$203,398.84

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT
Charles & Barbara Deal PO Box 2584 Homer, AK 99603	Lot 18-A, Webber Subdivision No. 7 175-183-18	\$146,600	60.0'	\$2,820.00
Douglas L. Tuttle & Barbara D. Kaun PO Box 3542 Homer, AK 99603	Lot 12-A, Webber Subdivision No. 7 175-183-12	\$159,800	60.0'	\$2,820.00
Claudia L. Carlson PO Box 124 Homer, AK 99603	Lot 1 Block 2, Webber Subdivision 175-182-01	\$165,300	60.0'	\$2,820.00



**Waddell Rd. & Waddell St. L.I.D.**



CITY OF HOMER  
PROPERTY OWNER'S  
**STATEMENT OF OBJECTION**  
TO SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT: **WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING**

I/we affirm that I/we are the owner(s) of the following lots in the Special Assessment District  
(give legal description):

I/We object to the Webber Subdivision Road Reconstruction and Paving Special Assessment District.

Reasons/Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROPERTY OWNER'S PRINTED NAME, SIGNATURE, AND DATE:

_____	(signature)	(date)
_____	(signature)	(date)
_____	(signature)	(date)

**NOTE: Please make sure that all the property owners of record print, sign, and date this document. IF YOU HAVE MORE THAN ONE LOT PLEASE NOTE THIS ON THIS FORM WHEN YOU RETURN IT. OBJECTIONS WILL APPLY ONLY TO THOSE LOTS NAMED ON THIS FORM. FAXED OR EMAILED OBJECTION FORMS WILL NOT BE ACCEPTED.**

**TO FILE AN OBJECTION COMPLETE THIS FORM AND RETURN IT TO THE OFFICE OF THE CITY CLERK BY THE DEADLINE, MAY 10, 2013, 5:00 P.M.**

City of Homer  
Office of the City Clerk  
491 E. Pioneer Avenue  
HOMER, ALASKA 99603



CITY OF HOMER  
HOMER, ALASKA

City Clerk

RESOLUTION 13-023(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER,  
ALASKA, NOTING THE SUFFICIENCY OF THE PETITION  
FOR THE WEBBER SUBDIVISION ROAD  
RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT  
DISTRICT AND SETTING THE PUBLIC HEARING DATE  
FOR MAY 13, 2013.

WHEREAS, A petition for road reconstruction and paving improvements for property  
owners within the Webber Subdivision was circulated from December 28, 2012 to February 26,  
2013; and

WHEREAS, Pursuant to HCC 17.04.040(a)(2) the sufficiency of the petition requires  
signatures of not less than one half in value of the real property in the proposed improvement  
district; and

WHEREAS, Signatures from property owners in favor of the road reconstruction and  
paving improvements equal 61.4%; and

WHEREAS, A neighborhood meeting has been scheduled for March 13, 2013; and

WHEREAS, The notice of public hearing and statement of objection form will be sent to  
property owners by certified mail in accordance with HCC 17.04.050(a).

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council notes the  
sufficiency of the petition for the Webber Subdivision Road Reconstruction and Paving Special  
Assessment District and sets a public hearing date of May 13, 2013.

PASSED AND ADOPTED by the City Council of Homer, Alaska this 11<sup>th</sup> day of March,  
2013.

CITY OF HOMER

  
MARY E. WYTHE, MAYOR

ATTEST:

  
JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Staff time and certified mail fees.



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/Finance

4 **RESOLUTION 13-045**

5  
6 A RESOLUTION OF THE HOMER CITY COUNCIL  
7 ELECTING TO PARTICIPATE IN THE AMLJIA LOSS  
8 CONTROL INCENTIVE PROGRAM FOR THE CITY OF  
9 HOMER FOR THE 2012-2013 POLICY YEAR.

10  
11 WHEREAS, The City of Homer is a member of the Alaska Municipal League Joint  
12 Insurance Association (hereinafter "AMLJIA"); and

13  
14 WHEREAS, The AMLJIA provides comprehensive risk management assistance and  
15 provides workers' compensation, liability and property coverage for the City of Homer; and

16  
17 WHEREAS, The AMLJIA developed the Loss Control Incentive Program to help reduce  
18 member losses individually and pool wide; and

19  
20 WHEREAS, The AMLJIA provides all written program materials necessary, and offers  
21 assistance to participants; and

22  
23 WHEREAS, Pool members that participate in the Loss Control Incentive Program and  
24 complete the required activities, will have the opportunity to earn a discount on their  
25 contribution; and

26  
27 WHEREAS, It is the City of Homer's policy to provide a safe environment for its students,  
28 employees, citizens, and the visiting public; and

29  
30 WHEREAS, The Loss Control Incentive Program will enhance such an environment.

31  
32 NOW, THEREFORE, BE IT RESOLVED by the Homer City Council electing to  
33 participate in the AMLJIA Loss Control Incentive Program for the 2012-2013 policy year.

34  
35 PASSED AND ADOPTED by the City Council of Homer, Alaska, this 13<sup>th</sup> day of May,  
36 2013.

37  
38 CITY OF HOMER

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FRANCIE ROBERTS, MAYOR PRO TEMPORE  
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46

47 ATTEST:

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50  
51  
52 JO JOHNSON, CMC, CITY CLERK

53  
54 Fiscal Note: \$29,000 discounted in 2012.

**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**RESOLUTION 13-046**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AWARDED THE CONTRACT TO CONDUCT A STUDY ON THE PORT AND HARBOR RATE FEE STRUCTURE AND THE ECONOMIC IMPACT OF MOORING A MODU (MOBILE OFFSHORE DRILLING UNIT) AT THE PORT OF HOMER'S DEEP WATER DOCK TO THE FIRM OF NORTHERN ECONOMICS OF ANCHORAGE, ALASKA, IN THE AMOUNT OF \$19,878.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, In accordance with the Procurement Policy the Request for Proposals was advertised in the Homer Tribune on April 10 and 17, 2013, the Peninsula Clarion on April 14, 2013, posted on the Clerk's home page, and sent to an in-state plans room; and

WHEREAS, Bids were due on May 2, 2013 and one bid was received; and

WHEREAS, Bids were opened and the firm of Northern Economics was determined to be the low responsive bidder and found to be qualified to complete the work; and

WHEREAS, This award is not final until written notification is received by the firm from the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves the contract award for conducting a study on the Port and Harbor rate fee structure and the economic impact of mooring a MODU at the Port of Homer's Deep Water Dock to the firm of Northern Economics of Anchorage, Alaska in the amount of \$19,878.00 and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

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FRANCIE ROBERTS, MAYOR PRO TEMPORE

47 ATTEST:

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49

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51 

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JO JOHNSON, CMC, CITY CLERK

52

53 Fiscal Note: \$19,878.00 funded under account 400.600.



# City of Homer

## Port / Harbor

4350 Homer Spit Road  
Homer, Alaska 99603-8005

Telephone (907) 235-3160  
Fax (907) 235-3152  
E-mail [port@ci.homer.ak.us](mailto:port@ci.homer.ak.us)  
Web Site <http://port.ci.homer.ak.us>

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### MEMORANDUM 13-066

TO: HOMER CITY COUNCIL  
CC: WALT WREDE, CITY MANAGER  
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER *BTH*  
SUBJECT: RFP RESULTS FOR THE PORT AND HARBOR RATE STUDY & ANALYSIS OF THE ECONOMIC IMPACT OF THE EXTENDED STAY OF THE MODU RIG AT HOMER'S DEEP WATER DOCK  
DATE: MAY 7, 2013

#### Discussion

The Harbor Improvement Committee and the Port and Harbor Advisory Commission recognized the need for an in-depth rate study for all Port and Harbor user fees. This study will assist the Harbor Enterprise in better meeting its mission's goal of being self sustaining. It will also produce a white page report on the economic impacts of the extended port visit of Buccaneer Alaska's MODU jack-up drill rig Endeavor Spirit of Independence.

This request for proposal was advertised in the Homer Tribune the week of April 10<sup>th</sup> and 17<sup>th</sup>, the Peninsula Clarion the week of April 14<sup>th</sup>, and posted with the Anchorage Plans Room. A mandatory pre-closing meeting was held April 25, 2013 and the RFP closed May 2, 2013 at 4:30pm.

#### Proposal Results

There were five firms that requested RFP packets and were placed on the Plan-holder's list with the City Clerk's Office. Three of those firms attended the mandatory pre-closing meeting held at the City Council's Chambers; one proposal was submitted by the RFP deadline. A review team consisting of the Port and Harbor Administrative Supervisor, the interim Finance Director, and the Port Director/Harbormaster reviewed the one proposal and found it to be responsive in all ways.

#### Recommendation

The RFP review team recommends City Council award the Port and Harbor Rate Study and Economic Analysis for the Deep Water Dock to the firm of Northern Economics for the sum of **\$19,878.00**.

#### Fiscal Note

Port and Harbor budgeted \$20,000.00 for this project in the 2013 Port and Harbor reserves under account 456-380-5210.

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**REQUEST FOR PROPOSALS**

**By the City of Homer, Alaska**

**For a Port and Harbor Rate Study and Economic Analysis for the Deep Water Dock**

City of Homer's Port and Harbor is requesting proposals from qualified firms to enter into a contract to conduct a study on the Port and Harbor rate fee structure, and the economic impact of mooring a MODU (mobile offshore drilling unit) at the Port of Homer's Deep Water Dock. The City's goals for this study are (1) to determine a sustainable, equitable rate structure based on the existing facility infrastructure and services for its Port and Harbor; and (2) to complete an Economic Benefit Analysis on the recent Port and Harbor visit from Buccaneer Alaska's jack-up drill rig Endeavor Spirit of Independence.

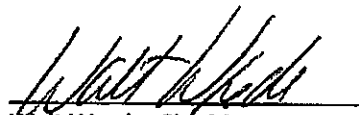
For Proposal Requirements contact the Office of the City Clerk, 491 E. Pioneer Avenue, Homer, AK 99603, (907) 235-3130. Interested firms that receive Proposal Requirements shall be put on the Plan Holder's List. Firms that are not on the list shall not be considered. Sealed Proposals will be received by the Office of the City Clerk, at 491 E. Pioneer Avenue, Homer, Alaska 99603 **no later than 4:30 pm, May 2, 2013.** Proposals received after the time fixed for receipt of the Proposal shall not be considered.

Please direct technical questions regarding this proposal in writing to Bryan Hawkins, City of Homer, Port Director/Harbormaster at bhawkins@ci.homer.ak.us or to 4350 Homer Spit Road, Homer, AK 99603. There will be a mandatory meeting/teleconference held prior to the closure of the RFP. This will give all proposers involved the opportunity for questions/answers with Bryan Hawkins to ensure all information is open and concise. **The Pre-Close RFP meeting/teleconference will be held at City Hall in the Cowles Chambers Thursday, April 25, 2013 at 1:00 p.m.** Proposers participating via phone will call in at that time at 907-235-8121 ext. 2299.

The City reserves the right to accept or reject any or all proposals, to waive irregularities or informalities in the proposals, and to award a contract to the respondent that best meets the selection criteria and the City's needs.

Dated the 8<sup>th</sup> day of April 2013.

City of Homer

  
Walt Wrede, City Manager

Account #: 400-600-5227

Published: Homer Tribune 4/10 + 4/17/13  
Peninsula Clarion 4/14/13

## **REQUEST FOR PROPOSAL REQUIREMENTS**

**By the City of Homer, Alaska**

### **For a Port and Harbor Rate Study and Economic Analysis for the Deep Water Dock**

City of Homer's Port and Harbor is requesting proposals from qualified firms to enter into a contract to conduct a study on the Port and Harbor rate fee structure, and the economic impact of mooring a MODU (mobile offshore drilling unit) at the Port of Homer's Deep Water Dock. The City's goals for this study are (1) to determine a sustainable, equitable rate structure based on the existing facility infrastructure and services for its Port and Harbor; and (2) to complete an Economic Benefit Analysis on the recent Port and Harbor visit from Buccaneer Alaska's jack-up drill rig Endeavor Spirit of Independence.

#### **SCOPE OF WORK:**

**Rate Study:** Proposer will collect information on the current rates (moorage, dockage, wharfage, landing fees, demurrage, and consumables such as ice and electricity) of the City of Homer's Port and Harbor including any additional information such as: port and harbor operation and maintenance costs, planned or anticipated major maintenance and repairs needed, shared costs, and harbor utilization. This includes developing a life-cycle costing model to determine the rates needed to support harbor-related expenses, allocation of shared costs, intergovernmental transfers, future demand, market position competitiveness, and other related information or data deemed relevant from the Proposer's experience to the project. This project will produce an annualized revenue requirement model to determine what, if any, rate adjustments are needed to achieve life-cycle replacement costs and maintenance for sustainable facility infrastructure.

**Economic Benefits Analysis:** Late in August 2012, Buccaneer Alaska's jack-up drill rig moved into Kachemak Bay and moored at the Port of Homer's Deep Water Dock. This arrival, although originally planned to be a short duration, became a seven month, winter-over stay. The City's goal for this study is to show the financial impacts (positive and or negative) on a local, regional, and state-wide level. This analysis shall address the full range of fiscal impacts including but not limited to fees, taxes, payroll, and third party contracts. Proposers shall provide a planned step-by-step approach to this analysis process. A quality examination of the costs/benefits of this recent Port visit will provide important information that will complement and supplement a Deep Water Dock expansion feasibility study contract that the City is planning to award in 2013.

The City of Homer will enter into a professional services contract with the successful firm; this will detail out the agreed costs, work schedule, scope of work, and will serve as the notice to proceed. All proposals shall include a meeting schedule where City Staff and Proposer shall meet in person, telephonically, or via webinar to discuss progress of the study and have a question and answer session. The successful proposer will work with City Staff to collect the data necessary for the completion of the contracted scope of work. A final report will then be prepared and presented to the City of Homer's City Council. Should any changes occur to the agreed contract, including changes in the team members involved, the firm will be required to submit a change request in writing to the City. Changes in the contract will not be approved until both parties have signed the contract change request.

#### **TERM OF CONTRACT:**

Successful proposer will be required to enter into a contract with the City of Homer to commence on the date both parties enter into agreement, and shall expire up to six (6) months thereafter.

#### **INSURANCE:**

Prior to commencement of work, the Proposer shall be required to provide proof of insurance and to keep it in full force and effect, at its own expense, the following minimum policy limits. Also, the City of Homer shall be named as additional insured during the project's duration.

1. Worker's Compensation in accordance with the laws of the State of Alaska, and Employer's Liability Insurance with minimum limits of \$1,000,000/\$1,000,000/\$1,000,000.

2. General Liability Insurance in an amount not less than \$1,000,000 per occurrence; \$1,000,000 personal and advertising injury; \$2,000,000 general aggregate; and \$2,000,000 products/completed operations aggregate for bodily injury or death and for property damage.
3. Professional Liability with minimum limits of \$1,000,000 aggregate and each claim.
4. Automobile Liability Insurance covering owned, non-owned, or hired vehicles used by the firm, with limits not less than \$1,000,000 combined single limit for bodily injury and property damage.

**RFP GENERAL REQUIREMENTS:**

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified below. Proposals that do not address the items listed in this request may be considered incomplete and may be deemed non-responsive by the City. Interested firms should submit the completed proposal using the following instructions:

One original and three copies of the completed proposal in an opaque envelope marked as follows:

Port and Harbor Rate Study and Economic Analysis of DWD

Homer, Alaska

PROPOSAL DATED: \_\_\_\_\_

Hard copy Proposal submittals shall be addressed to:

City of Homer, City Clerk

491 E. Pioneer Ave.

Homer, Alaska 99603

Proposals shall be received at the Office of the City Clerk **no later than 4:30 pm, Thursday, May 2, 2013.** Please direct technical questions regarding this proposal in writing to Bryan Hawkins, City of Homer, Port Director/Harbormaster at [bhawkins@ci.homer.ak.us](mailto:bhawkins@ci.homer.ak.us) or to 4350 Homer Spit Road, Homer, AK 99603. Direct proposal submission questions to Jo Johnson, City Clerk, at (907) 235-3130.

There will be a mandatory meeting/teleconference held prior to the closure of the RFP. This will give all proposers involved the opportunity for questions/answers with Bryan Hawkins to ensure all information is open and concise. **The Pre-Close RFP meeting/teleconference will be held at City Hall in the Cowles Chambers Thursday, April 25, 2013 at 1:00 p.m.** Proposers participating via phone will call in at that time at 907-235-8121 ext. 2299.

**PROPOSAL FORMAT AND CONTENT:**

**Letter of Transmittal (one page maximum):** The transmittal letter shall briefly state the firm's understanding of the City's request, make a positive commitment to provide the professional services specified, and give the name, title, address, and phone number of the person(s) authorized to make representations for the firm. The letter shall be signed by a corporate officer or other individual who has the authority to bind the firm.

**Proposal Narrative (five pages maximum):** The proposal narrative shall provide the following information:

1. **Proposed Contract:** Specify in detail the firm's ability to fulfill the Scope of Work for both the Port and Harbor rate study and the economic benefit analysis, Contract Term, and Insurance that has been outlined in this RFP, including any additional contractual requirements the firm chooses to propose. Each Bidder shall submit a standard, all-inclusive cost schedule that they propose to use in this contract including staff time per task, travel expenses, and incidentals.
2. **Proposed Project Manager and Team Members:** This section shall introduce the project manager (Single Point of Contact) and members of the firm that will be performing the work for this project.
3. **Team Experience:** This section will cover the project teams experience with similar projects. Full resumes are not needed, one or two paragraphs on each member of the team will be sufficient.
4. **Work Plan:** Proposer will outline a work plan detailing your firm's step-by-step procedures for accomplishing the scope of work and the Cities objectives for this project.

5. **References:** List the names, titles, and phone numbers of at least three clients who obtained similar services from your firm. Ideally, projects/contracts managed by the proposed project manager and completed by the proposed project team should be referenced.

**EVALUATION CRITERIA AND SELECTION PROCESS:**

The City of Homer reserves the right to reject any and all proposals submitted and shall not be liable for any costs incurred by any proposer in response to this solicitation or for any work done prior to the issuance of a notice to proceed or signed contract.

A selection committee will evaluate the proposals and make a recommendation to the City Manager. Evaluators may discuss factual knowledge of, and may investigate proposer's prior work experience and performance. This includes projects referenced in the proposal, available written evaluations, and contacted references that were listed or other persons knowledgeable of a proposer's past performance. Factors such as overall experience relative to the proposed contract, quality of work, cost control, and the ability to meet schedules may be addressed during the evaluation. Submittals will be evaluated and scored in accordance with the following criteria:

1. Proposed contract/cost	30 points
2. Proposed Project Manager & Team	20 points
3. Experience	20 points
4. Work Plan	15 points
5. References	<u>15 Points</u>
Maximum Score	100 points

This request for proposals is designed to be qualifications based, with cost playing a secondary role in the selection process. The City of Homer reserves the right to award a contract to the highest ranked firm based solely on the written proposal or request oral interviews with a "short list" of the highest ranked firms. The highest ranked proposer will be invited to enter into negotiations with the City of Homer for the purposes of contract award. If an agreement with any proposer cannot be reached, the next highest ranked proposer may be contacted for negotiations. The City of Homer reserves the right to terminate negotiations with any proposer should it be in the City of Homer's best interest.

**PROPOSED TERM CONTRACT AWARD SCHEDULE:**

RFP Advertisement	Week of April 10 & 17, 2013 in Homer Tribune Sunday, April 14, 2013 in Peninsula Clarion
Mandatory Pre-Closing Meeting/Teleconference	April 25, 2013
Proposals Due	May 2, 2013
Review of Proposals & Choosing of Firm	May 6, 2013
City Council Award	May 13, 2013
Initial Overview Meeting/Notice to Proceed	May 2013



## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Administration

491 East Pioneer Avenue  
Homer, Alaska 99603

(p) 907-235-8121 x2222

(f) 907-235-3148

### Memorandum 13-068

TO: Mayor Wythe and Homer City Council  
THROUGH: Walt Wrede, City Manager  
FROM: Katie Koester, Community and Economic Development Coordinator  
DATE: May 8, 2013  
SUBJECT: Capital Improvement Plan Development

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It is time to start the process of identifying and prioritizing projects for inclusion in the 2013-2018 Capital Improvement Plan. This process involves the public, the Council, the advisory commissions, and local non-profit organizations and agencies. Council approval of the CIP schedule is the first step in the process.

The CIP schedule has been pushed up one month this year from previous years so the City can forward the City of Homer FY2015 Legislative Request to the Governor's office in the fall coinciding with the development of the Governor's Budget.

RECOMMENDATION: Approve 2014-2019 Capital Improvement Planning Process and FY2015 Legislative Request Development Schedule.

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**CITY OF HOMER**  
**2014-2019 CAPITAL IMPROVEMENT PLANNING PROCESS**  
**FY 2014 LEGISLATIVE REQUEST DEVELOPMENT SCHEDULE**

ACTION	TIME FRAME
City Council approval of schedule	May 13, 2013
Solicit new/revised project information from City departments, local agencies and non-profits	May 14
Input for new draft requested by	June 14
Prepare and distribute draft CIP to City advisory groups for review and input	(Meeting dates): Planning Commission June 19, July 17
	Parks and Recreation Commission June 20, July 18
	Port and Harbor Commission June 26, July 24
	Library Advisory Board July 2
	Economic Development Commission June 11, July 9
	Transportation Advisory Committee No meeting in time frame.
Administrative review and compilation	July 25 - August 7
City Council worksession to review proposed projects	August 12
Public Hearing on CIP/Legislative request	August 26
Adoption of resolutions by City Council	September 9
Administration compilation of CIP	September 10 – September 30
Administration forwards requests for Governor's Budget (Local Election)	October 1
Distribution of CIP and State Legislative Request	October 2013 & January 2014
Compilation/distribution of Federal Request	February 2014

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**CITY OF HOMER  
HOMER, ALASKA**

**MAYOR'S PROCLAMATION**

**NATIONAL PUBLIC WORKS WEEK  
May 19 – 25, 2013**

WHEREAS, Public works infrastructure, facilities, and services are of vital importance to the health, safety, and well-being of the people of the United States; and

WHEREAS, Those facilities and services could not be provided without the dedicated efforts of public works staff, who represent State and local governments throughout the United States; and

WHEREAS, Those individuals design, build, operate, and maintain the transportation systems, water infrastructure, sewage and refuse disposal systems, public buildings, and other structures and facilities that are vital to the citizens and communities of the United States; and

WHEREAS, It is in the interest of the public for citizens and civic leaders to understand the role that public infrastructure plays in –

- (1) protecting the environment;
- (2) improving public health and safety;
- (3) contributing to economic vitality; and
- (4) enhancing the quality of life of every community of the United States.

WHEREAS, Every day public works professionals make important contributions to improve –

- (1) The public infrastructure of the United States; and
- (2) the communities that those professionals serve.

NOW, THEREFORE, I, Francie Roberts, Mayor Pro Tempore of the City of Homer, do hereby proclaim the week of May 19 - 25, 2013 as:

**NATIONAL PUBLIC WORKS WEEK**

and encourage all residents to recognize the substantial contributions that public works professionals make to the City and the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Homer, Alaska to be affixed this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

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FRANCIE ROBERTS, MAYOR PRO TEMPORE

ATTEST:

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JO JOHNSON, CMC, CITY CLERK

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**CITY OF HOMER  
HOMER, ALASKA**

**MAYOR'S PROCLAMATION**

**PEACE OFFICERS MEMORIAL DAY – MAY 15, 2013  
NATIONAL POLICE WEEK – MAY 12 - 18, 2013**

WHEREAS, The members of the Homer Police Department and the Alaska State Troopers stationed in the Homer area play an essential role in safeguarding the rights and freedoms of the Homer area residents, our citizens; and

WHEREAS, It is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their Police Officers and State Troopers; and

WHEREAS, It is also important that members of our Homer Police Department and Alaska State Troopers recognize their duty to serve the people by safeguarding life and property, by protecting against violence and disorder, by protecting the innocent against deception, and protecting the weak against oppression; and

WHEREAS, The men and women of the Homer Police Department and State Troopers unceasingly provide a vital public service and lay their lives on the line for the safety of the Homer area citizens; and

WHEREAS, The Congress and President of the United States have designated May 15 of each year as Peace Officers Memorial Day and the week in which May 15 falls is National Police Week.

NOW, THEREFORE, I, FRANCIE ROBERTS, Mayor Pro Tempore of the City of Homer, Alaska, on behalf of the Homer City Council and the Citizens and patriotic, civic and education organizations of our community, do hereby proclaim May 15, 2013 as:

**PEACE OFFICERS MEMORIAL DAY**

and call upon all citizens of Homer to observe the week of May 12 – 18, 2013 as National Police Officer Week in honor of those law enforcement officers, who through their courageous deeds have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the official seal of the City of Homer, Alaska, on this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

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FRANCIE ROBERTS,  
MAYOR PRO TEMPORE

ATTEST:

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JO JOHNSON, CMC, CITY CLERK

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**CITY OF HOMER  
HOMER, ALASKA**

**MAYOR'S PROCLAMATION**

**NATIONAL MISSING CHILDREN'S DAY  
May 25, 2013**

WHEREAS, According to the U.S. Department of Justice, an estimated 800,000 children are reported missing each year; and

WHEREAS, On average, approximately 2,000 children are reported missing to law enforcement agencies daily; and

WHEREAS, Approximately 58,200 of these children are victims of non-family abductions and more than 200,000 are the victims of family abductions; and

WHEREAS, The National Center for Missing & Exploited Children (NCMEC) exists as a resource to help prevent child abduction and sexual exploitation, help find missing children, and assist victims of child abduction and sexual exploitation, their families, and the professionals who serve them; and

WHEREAS, This special day is a time to remember those children who are missing and give hope to their families.

NOW, THEREFORE, I, Francie Roberts, Mayor Pro Tempore of the City of Homer, do hereby proclaim May 25<sup>th</sup> as:

**NATIONAL MISSING CHILDREN'S DAY**

and urge the participation of local government, law enforcement, and communities in the protection of children and educating children about child abduction and sexual exploitation, and how to respond and seek help from law enforcement, social services, and NCMEC.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Homer, Alaska, to be affixed this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

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FRANCIE ROBERTS, MAYOR PRO TEMPORE

ATTEST:

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JO JOHNSON, CMC, CITY CLERK

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## Kachemak Heritage Land Trust

315 Klondike Avenue • Homer, AK 99603 • ph: 907-235-5263 • fax: 907-235-1503 • [www.kachemaklandtrust.org](http://www.kachemaklandtrust.org)

APR 24 2013

April 16, 2013

Mayor Beth Wythe  
Homer City Council  
491 East Pioneer Avenue  
Homer, AK 99603

Dear Mayor Wythe & City Council Members,

Thank you for the City's recent generous grant award to Kachemak Heritage Land Trust for operating support through the City of Homer Grants Program administered by the Homer Foundation grant program. The City of Homer program to help fund local nonprofits means a great deal to our organization, as support from the city shows funders and donors that the city supports our land conservation program.

It is foresight from the City Council to provide funding for local nonprofits that help make our community a better place in which to work, live and to visit. We are very appreciative of your efforts in this arena.

Please let me know if you have any questions about our work.

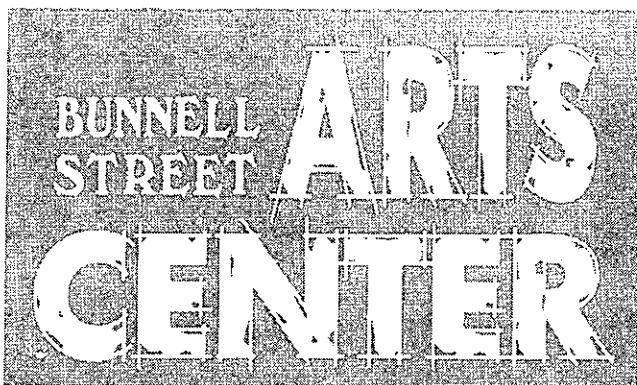
Sincerely,

Marie McCarty  
Executive Director

Thank you!

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106 west Bunnell, Suite A

Homer, AK 99603

[www.bunnellstreetgallery.org](http://www.bunnellstreetgallery.org)

Asia Freeman, Artistic/Executive Director

[asia@bunnellstreetgallery.org](mailto:asia@bunnellstreetgallery.org)

"nurturing and presenting innovative art of exceptional quality in all media for diverse audiences since 1994"

APR 25 2013

A small, handwritten signature in the right margin of the letter.

City of Homer  
491 E. Pioneer Ave  
Homer, AK 99603

April 26, 2013

Dear Mayor Wythe and City Council Members,

Thank you for your service and dedication to Homer's vibrant culture, economy and government. Democracy is animated when an informed public is engaged in the issues affecting people's daily lives. The arts contribute unique programs, settings, and creative approaches that reach new and diverse participants, stimulate public dialogue about civic issues, and inspire action to make change.

Bunnell Street Arts Center is dedicated to sparking Homer's creative ecosystem through the arts. The City of Homer Grants Program through the Homer Foundation is the lever we use to grow our base of support. A dynamic formula of complementary funding sources fuels this Art Center's stability. City support is the keystone, a critical feature of every grant we write, every sponsor we attract. Private funders, especially foundations look to the level of City Support this Arts Center receives when making funding determinations. We've leveraged City support for a 400% return for many years.

We thank the City of Homer and the Homer Foundation for their visionary partnership in fostering our cultural and economic ecosystem.

A handwritten signature of Asia Freeman in cursive script.

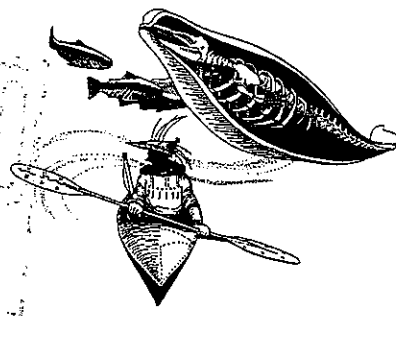
Asia Freeman  
Executive/Artistic Director



# Pratt Museum

Homer Society of Natural History, Inc.

APR 26 2013



April 23, 2013

Beth Wythe, Mayor  
Homer City Council Members  
City of Homer  
491 East Pioneer Avenue  
Homer, Alaska 99603

Dear Madam Mayor and City Council Members,

On behalf of the staff, Board of Directors, and volunteers of the Pratt Museum, thank you for the City of Homer's contribution to the Pratt Museum of \$16,625, the second quarter payment of the City's total pledge of \$66,500 for Fiscal Year 2013.

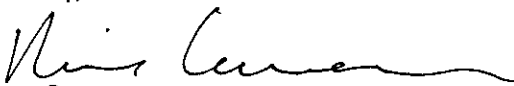
The museum's current special exhibit is *Encounters: Whales in Our Waters*, featuring the 38-foot gray whale articulated last summer by hundreds of volunteers under the expertise of local "bone man," Lee Post. This comprehensive exhibit also features the variety of encounters we have with the whales in our own waters – from the frequently seen humpback and killer whales – to the rare beaked whale, historic beluga, and more. The exhibit also presents whale identification, biology, traditional knowledge, and conservation issues surrounding cetaceans. If you haven't done so already, I hope you'll make time to see it. The exhibit runs through July 21 this year.

Support from the City of Homer is critical in helping the Museum serve the community of Homer as a repository of stories, artifacts, and art; a source of hands-on educational opportunities for more than 30,000 people ever year; and a center of wonder where individuals of all ages can learn more about their community, environment, and themselves. The City's contribution to the Pratt is part of the Museum's diverse financial plan that strives to build self-sufficiency and a sustainable future for the Museum.

The Pratt generates at least one million dollars of economic activity in the region each year. More importantly, the Museum is intrinsic to the quality of life in our community and helps put Homer on the map as a place where people love to live, work, and play.

Again, thank you very much for your investment in the Pratt. Please do not hesitate to contact me directly at 435-3333 or [director@prattmuseum.org](mailto:director@prattmuseum.org).

Sincerely,

  
Diane Converse  
Museum Director/CEO

*Thank you!*



3779 Bartlett Street, Homer, Alaska 99603

Email: [info@prattmuseum.org](mailto:info@prattmuseum.org)

Web: [www.prattmuseum.org](http://www.prattmuseum.org)

(907) 235-8635

Fax: 235-2764



Printed on Recycled Paper



**CITY OF HOMER  
PUBLIC HEARING NOTICE  
CITY COUNCIL MEETING**

**WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL  
ASSESSMENT DISTRICT**

**Ordinances 13-11(A), 13-12, 13-13, 13-14, 13-15, and 13-16**

A **public hearing** is scheduled for **Monday, May 13, 2013** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL  
ASSESSMENT DISTRICT**

**Ordinances 13-11(A), 13-12, 13-13, 13-14, 13-15, and 13-16 internet address:**  
**<http://www.cityofhomer-ak.gov/ordinances>**

**Ordinance 13-11(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code §21.03.040 to Add a Definition of Lodging; Amending Homer City Code §§21.28.020, 21.28.030, 21.28.040 and 21.28.070, Regarding the Marine Commercial Zoning District; Amending Homer City Code §§21.30.020, 21.30.030, 21.30.040 and 21.30.070, Regarding the Marine Industrial Zoning District; and Adopting Homer City Code §21.50.040, Site Development Standards - Level 3, to Implement the Homer Spit Comprehensive Plan. Planning.

**Ordinance 13-12**, An Ordinance of the City Council of the City of Homer, Alaska, Amending the Homer City Zoning Map to Rezone Portions of the Marine Industrial (MI) Zoning District to Conservation (CONS), Marine Commercial (MC) and Open Space Recreational (OSR), and Amending the Homer City Zoning Map to Rezone a Portion of the Open Space Recreational (OSR) Zoning District to Marine Industrial (MI), to Implement the 2010 Homer Spit Plan. Planning.

**Ordinance 13-13**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant from the Alaska State Library in the Amount of \$5,906.00 for the Purpose of Acquiring Two Early Literacy Stations and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director.

**Ordinance 13-14**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2013 Operating Budget by Appropriating \$54,416.00 from the Port and Harbor Reserve Fund for Repairs to Deep Water Dock, Pioneer Dock, Fish Dock, C Float, and the Outfall Line. City Manager/Port and Harbor Director.

**Ordinance 13-15**, An Ordinance of the City of Homer, Alaska, Authorizing Harbor Revenue Bonds of the City to be Issued in Series to Finance Harbor Improvements; Creating a Lien Upon Net Revenue of the Harbor for the Payment of the Bonds; and Establishing Covenants of the City Related to the Bonds. City Manager.

**Ordinance 13-16**, An Ordinance of the City of Homer, Alaska, Authorizing the Issuance and Sale of a Series of Harbor Revenue Bonds by the City in the Principal Amount Not to Exceed \$4,200,000 for the Purpose of Financing the Design, Construction, and Acquisition of Harbor and Related Capital Improvements; Establishing the Terms of the Bonds; and Authorizing the Sale of the Bonds. City Manager.



All interested persons are welcomed to attend and give testimony. Written testimony received by the Clerk's Office prior to the meeting will be provided to Council.

\*\* Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, the City of Homer Kiosks at City Clerk's Office, Captain's Coffee, Harbormaster's Office, and Redden Marine Supply of Homer and the City's homepage - <http://clerk.ci.homer.ak.us>. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us) or fax 235-3143.

Jo Johnson, CMC, City Clerk

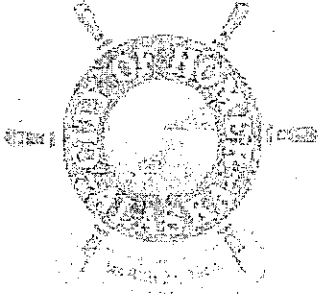
Publish: Homer News: May 9, 2013

## CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, CMC, Deputy City Clerk I for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for Webber Subdivision Road Reconstruction and Paving Special Assessment District; Ordinance 13-11(A), Amending HCC 21.03.040 to Add a Definition of Lodging; Amending HCC 21.28.020, 21.28.030, 21.28.040 and 21.28.070; Regarding the Marine Commercial Zoning District; Amending HCC 21.30.020, 21.30.030, 21.30.040 and 21.30.070, Regarding the Marine Industrial Zoning District; and Adopting HCC 21.50.040, Site Development Standards – Level 3, to Implement the Homer Spit Comprehensive Plan; Ordinance 13-12, Amending the Homer City Zoning Map to Rezone Portions of the Marine Industrial (MI) Zoning District to Conservation (CONS), Marine Commercial (MC) and Open Space Recreational (OSR) and Amending the Homer city Zoning Map to Rezone a Portion of the Open Space Recreational (OSR) Zoning District to Marine Industrial (MI), to Implement the 2010 Homer Spit Plan; Ordinance 13-13, Accepting and Appropriating an Online with Libraries (OWL) Grant from the Alaska State Library in the Amount of \$5,906.00 for the Purpose of Acquiring Two Early Literacy Stations; Ordinance 13-14, Amending the FY 2013 Operating Budget by Appropriating \$54,416.00 from the Port and Harbor Reserve Fund for Repairs to Deep Water Dock, Pioneer Dock, Fish Dock, C Float, and the Outfall Line; Ordinance 13-15, Authorizing Harbor Revenue Bonds of the City to be Issued in Series to Finance Harbor Improvements; Creating a Lien Upon Net Revenue of the Harbor for the Payment of the Bonds; and Establishing Covenants of the City Related to the Bonds; and Ordinance 13-16, Authorizing the Issuance and Sale of a Series of Harbor Revenue Bonds by the City in the Principal Amount Not to Exceed \$4,200,000 for the Purpose of Financing the Design, Construction, and Acquisition of Harbor and Related Capital Improvements; Establishing the Terms of the Bonds; and Authorizing the Sale of the Bonds at the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office and Redden Marine on May 3, 2013 and that the City Clerk posted same on City of Homer Homepage on Tuesday April 30, 2013.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 30<sup>th</sup>  
day of April, 2013.

Renee Krause  
Renee Krause, CMC, Deputy City Clerk I



**CITY OF HOMER**

**NOTICE OF PUBLIC HEARING**

**WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING  
SPECIAL ASSESSMENT DISTRICT**

A public hearing is scheduled for Monday, May 13, 2013 during a Regular City Council meetings beginning at 6:00 p.m. The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

The Homer City Council has acknowledged, via Resolution 13-023(S), adopted March 11, 2013 the sufficiency of the petition for the Webber Subdivision Road Reconstruction and Paving Special Assessment District.

**OBJECTIONS**

Objections to the formation of this district must be in written form and filed at the Office of the City Clerk by 5:00 p.m. on May 10, 2013. Non responses during the objection period shall be deemed to be non-objections.

Dated this 12<sup>th</sup> day of March, 2013

*Jo Johnson*

Jo Johnson, CMC, City Clerk

Publish: Homer News: May 2 & 9, 2013

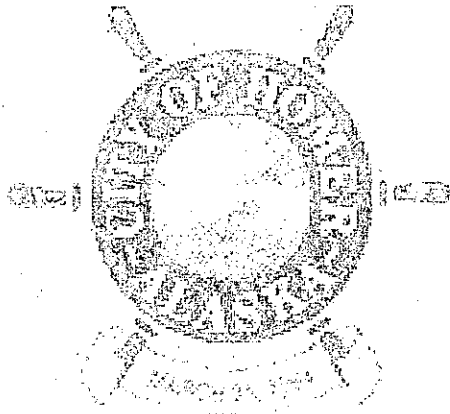


### CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, CMC, Deputy City Clerk I for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for Webber Subdivision Road Reconstruction and Paving Special Assessment District at the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office and Redden Marine on May 3, 2013 and that the City Clerk posted same on City of Homer Homepage on Tuesday April 30, 2013.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 30<sup>th</sup> day of April, 2013.

Renee Krause  
Renee Krause, CMC, Deputy City Clerk I



**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-11**

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code §21.03.040 to Add a Definition of Lodging; Amending Homer City Code §§21.28.020, 21.28.030, 21.28.040 and 21.28.070, Regarding the Marine Commercial Zoning District; Amending Homer City Code §§21.30.020, 21.30.030, 21.30.040 and 21.30.070, Regarding the Marine Industrial Zoning District; and Adopting Homer City Code §21.50.040, Site Development Standards - Level 3, to Implement the Homer Spit Comprehensive Plan.

Sponsor: Planning

1. City Council Regular Meeting April 22, 2013 Introduction
  - a. Memorandum 13-053 from City Planner as backup
2. City Council Regular Meeting May 13, 2013 Public Hearing and Second Reading
  - a. Ordinance 13-11(A) as amended by Council on April 22
  - b. Memorandum 13-053 from City Planner as backup
  - c. Memorandum 13-070 from City Planner as backup
  - d. Written public comments

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## Planning

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE §21.03.040 TO ADD A DEFINITION OF LODGING; AMENDING HOMER CITY CODE §§21.28.020, 21.28.030, 21.28.040 AND 21.28.070, REGARDING THE MARINE COMMERCIAL ZONING DISTRICT; AMENDING HOMER CITY CODE §§21.30.020, 21.30.030, 21.30.040 AND 21.30.070, REGARDING THE MARINE INDUSTRIAL ZONING DISTRICT; AND ADOPTING HOMER CITY CODE §21.50.040, SITE DEVELOPMENT STANDARDS - LEVEL 3, TO IMPLEMENT THE HOMER SPIT COMPREHENSIVE PLAN.

Section 1. HCC §21.03.040, Definitions, is amended by adding a definition of “lodging” to read as follows:

Section 2. HCC §21.28.020, Permitted uses and structures, is amended to read as follows:

a. Offices for tourism related charter and tour businesses, such as fishing, flightseeing, day excursions and boat charters and tours Boat charter offices;

b. Marine equipment **sales, rentals, service, repair and storage** and parts sales and services;

c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;

d. Business offices for water-dependent and water related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves, provided that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

f. Mobile food services;

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

h. Recreational vehicle parks, provided they shall conform to the standards in HCC Chapter 21.54;

- i. **Restaurants;**
- j. **Cold-storage facilities;**
- k. **Campgrounds;**
- l. **Manufacturing, processing, cooking, and packing of seafood products;**
- m. **Parks;**
- n. **Boat launching or moorage facilities, marinas;**
- o. **Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50% of the floor area of a building and for use by an occupant for more than 30 consecutive days;**
- p. **Lodging as an accessory use, limited to no more than 50% of the floor area of a building;**
- q. As an accessory use, one small wind energy system per lot.

Section 3. HCC §21.28.030, Conditional uses and structures, is amended to read as follows:

21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine Commercial District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

- a. ~~Drinking~~ Restaurants and drinking establishments;
- b. ~~Cold storage facilities;~~
- be. Public utility facilities and structures;
- d. ~~Dredge and fill when required for construction or maintenance of a structure devoted to one or more uses that are permitted or conditionally permitted in this district;~~
- e. ~~Wholesale outlets for marine products;~~
- f. ~~Pipelines and railroads;~~
- g. ~~Heliports;~~
- dh. ~~Hotels and motels;~~
- e. **Lodging;**
- fi. More than one building containing a permitted principal use on a lot;
- gj. Planned unit developments, limited to water-dependent and water-related uses, with no dwelling units except as permitted by HCC §21.28.020(o);
- hk. Indoor recreational facilities;
- il. Outdoor recreational facilities;
- j. **The location of a building within a setback area required by HCC §21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC §21.71.030, the building must meet the following standards:**

- 1. **Not have a greater negative affect on the value of the adjoining property than a building located outside the setback area; and**
- 2. **Have a design that is compatible with that of the structures on the adjoining property.**
- m. ~~Campgrounds;~~
- n. ~~Manufacturing, processing, cooking, and packing of seafood products.~~
- o. ~~Other similar uses, if approved after a public hearing by the Planning Commission, including but not limited to those uses authorized in the Marine Industrial district~~

~~under HCC §§ 21.30.020 and 21.30.030, provided the commission finds the use meets the following standards and requirements:~~

~~1. The proposed use is compatible with the purpose of the Marine Commercial District,~~

~~2. The proposed use is compatible with the land use development plan for the Homer Spit and the Comprehensive Plan,~~

~~3. Public facilities and services are adequate to serve the proposed use, and~~

~~4. If City-owned land, the Port and Harbor Commission, after a public hearing, has made a written recommendation to the Planning Commission concerning the proposed use, including specifically whether conditions (1) through (3) of this subsection are or may, with appropriate conditions, be met by the proposed use.~~

Section 4. HCC §21.28.040, Dimensional requirements, is amended to read as follows:

21.28.040 Dimensional requirements. The following dimensional requirements shall apply to all structures and uses in the marine commercial district:

a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December 12, 2006.

b. **Setbacks. No building may be located in a required setback area without an approved conditional use permit.**

**1.** Buildings shall be set back 20 feet from all dedicated rights-of-way and five feet from all other lot boundary lines. Alleys are not subject to a 20 foot setback requirement. **The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subparagraph (2) below.**

**2.** **Buildings shall be set back five feet from all other lot boundary lot lines.**

c. The maximum building height is 35 feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of **70** ~~30~~-percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

1. The **total** floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit, Planned Unit Development, or variance be granted that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (e)(1).

Section 5. HCC §21.28.070, Site development requirements, is amended to read as follows:

21.27.070 Site development requirements. All development on lands in this district shall conform to the level **three** ~~two~~-site development standards set forth in HCC **§21.50.040 and the following requirements:** ~~21.50.030.~~

137 a. Development shall not impair public use of adjacent publicly-owned  
138 tidelands.

139 b. Buildings and roadways shall be located to minimize alteration to the natural  
140 terrain.

141 c. Grading and filling shall not alter the storm berm except as necessary to  
142 correct unsafe conditions.

143 d. Point source discharges to a waterway shall conform to the applicable  
144 regulations of the Alaska Department of Environmental Conservation.

145  
146 Section 6. HCC §21.30.020 Permitted uses and structures, is amended to read as follows:

147  
148 21.30.020 Permitted uses and structures. The following uses are permitted outright in the  
149 Marine Industrial District, except when such use requires a conditional use permit by reason of  
150 size, traffic volumes, or other reasons set forth in this chapter:

- 151 a. Port and harbor facilities;  
152 b. Manufacturing, processing and packing of sea products;  
153 c. Cold-storage;  
154 d. Dry docks;  
155 e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;  
156 f. Marine equipment sales, rentals, service, repair and storage;  
157 g. Boat launching or moorage facilities, marinas, boat charter services;  
158 h. Warehouse and marshaling yards for storing goods awaiting transfer to marine  
159 vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based  
160 transportation;

161 ~~i. Other similar uses, if approved after a public hearing by the Commission,~~  
162 ~~including but not limited to those uses authorized in the Marine Commercial District under HCC~~  
163 ~~§§ 21.28.020 and 21.28.030, provided the Commission finds the use meets the following~~  
164 ~~standards and requirements:~~

165 ~~1. The proposed use is compatible with the purpose of Marine Industrial~~  
166 ~~District or provides a necessary service to water dependent industry;~~

167 ~~2. The proposed use is compatible with land use development plans for the~~  
168 ~~Homer Spit and the comprehensive plan;~~

169 ~~3. Public facilities and services are adequate to serve the proposed use, and~~

170 ~~4. The Port and Harbor Commission, after a public hearing, has made a~~  
171 ~~written recommendation to the Commission concerning the proposed use, including~~  
172 ~~specifically whether conditions (1) through (3) of this subsection are or may, with~~  
173 ~~appropriate conditions, be met by the proposed use;~~

174 ~~ij. Mobile food services;~~

175 ~~jk. Itinerant merchants, provided all activities shall be limited to uses permitted~~  
176 ~~outright under this zoning district;~~

177 ~~kl. Recreational vehicle parks, provided they shall conform to the standards in HCC~~  
178 ~~§ 21.54.~~

179 l. Caretaker, business owner or employee housing as an accessory use to a  
180 primary use, and limited to no more than 50% of the floor area of a building and for use by  
181 an occupant for more than 30 consecutive days;

**m. More than one building containing a permitted principal use on a lot;**

**n. Restaurant as an accessory use;**

**o. Parks;**

**pm.** As an accessory use, one small wind energy system per lot.

Section 7. HCC §21.30.030 Conditional uses and structures, is amended to read as follows:

21.30.030 Conditional uses and structures. The following uses may be permitted in the Marine Industrial District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

a. Planned unit development, limited to water-dependent or water-related uses and excluding all dwellings;

b. Boat sales, rentals, service, repair and storage, and boat manufacturing;

~~c. Restaurants and drinking establishments;~~

~~cd.~~ Extractive enterprises related to other uses permitted in the district;

~~de.~~ Campgrounds;

~~ef.~~ Bulk petroleum storage;

~~g. Caretaker's residence as an accessory to a permitted or conditionally permitted use;~~

~~fh.~~ Heliports;

~~i. Pipelines and railroads;~~

~~j. More than one building containing a permitted principal use on a lot.~~

~~k. Permitted uses that exceed 100 vehicles during peak hour or more than 500 vehicles per day based on the proposed land use and density, calculated utilizing the Trip Generation Manual, Institute of Traffic Engineers, most current edition;~~

~~gl.~~ Indoor recreational facilities;

~~hm.~~ Outdoor recreational facilities;

**i. Public utility facilities and structures.**

**j. The location of a building within a setback area required by HCC §21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC §21.71.030, the building must meet the following standards:**

**1. Not have a greater negative affect on the value of the adjoining property than a building located outside the setback area; and**

**2. Have a design that is compatible with that of the structures on the adjoining property.**

Section 8. HCC §21.30.040 Dimensional requirements, is amended to read as follows:

21.30.040 Dimensional requirements. **The following dimensional requirements shall apply to all structures and uses in the marine industrial district:**

a. Lot Size. The minimum lot size is 6,000 square feet.

b. Setbacks. **No building may be located in a required setback area without an approved conditional use permit.**

226 1. **Buildings** ~~All buildings~~ shall be set back 20 feet from all dedicated rights-  
227 of-way. Alleys are not subject to a 20 foot setback requirement. The setback requirements  
228 from any lot line abutting an alley will be determined by the dimensional requirements of  
229 subparagraph (2) below.

230 2. Buildings shall be set back five feet from all other lot boundary lot lines  
231 ~~unless adequate firewalls are provided and adequate access to the rear of the building is~~  
232 ~~otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by~~  
233 ~~the State Fire Marshal.~~

234 c. ~~Building Height.~~ 1. The maximum building height **is** ~~shall be~~ thirty-five feet.

235 d. No lot shall contain more than 8,000 square feet of building area (all buildings  
236 combined), nor shall any lot contain building area in excess of **70** ~~30~~ percent of the lot area  
237 without an approved conditional use permit.

238 e. Building Area and Dimensions - Retail and Wholesale.

239 1. The total ~~square feet~~ floor area of retail and wholesale business uses  
240 within a single building shall not exceed 25,000 square feet.

241 2. In no event may a conditional use permit or variance be granted that  
242 would allow a building to exceed the limits of subparagraph (d)(1) and no nonconforming  
243 use or structure may be expanded in any manner that would increase its nonconformance  
244 with the limits of subparagraph (d)(1).  
245

246 Section 9. HCC §21.30.070 Site development requirements, is amended to read as  
247 follows:  
248

249 21.30.070 Site development requirements. ~~a.~~ All site development shall conform to the  
250 level **three** ~~two~~ site development standards contained in HCC **§21.50.040 and the following**  
251 **requirements:** ~~21.50.030.~~

252 **a. Development shall not impair public use of adjacent publicly-owned**  
253 **tidelands.**

254 **b. Buildings and roadways shall be located to minimize alteration to the natural**  
255 **terrain.**

256 **c. Grading and filling shall not alter the storm berm except as necessary to**  
257 **correct unsafe conditions.**

258 **d.** Point source discharges to a waterway shall **conform to the applicable**  
259 **regulations of** ~~be in conformance with the Alaska Department of Environmental Conservation~~  
260 ~~regulations.~~

261  
262 Section 10. HCC §21.50.040 Site Development standards - Level 3, is adopted to read as  
263 follows:  
264

265 21.50.040 Site Development standards - Level 3. This section establishes level three site  
266 development standards. Level three standards apply when specified by the applicable zoning  
267 district regulations or by another provision of the code.

268 a. Site Development.

1. Development shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, or root damage to neighboring trees, or other adverse effects.

2. Upon completion of earthwork, all exposed slopes, and all cleared, filled, and disturbed soils shall be protected against subsequent erosion by methods, such as, but not limited to, landscaping, planting, and maintenance of vegetative cover.

b. Landscaping Requirements. Landscaping shall include the retention of native vegetation to the maximum extent possible and shall include, but is not limited to, the following:

1. A buffer of three feet minimum width along all lot lines where setbacks permit; except where a single use is contiguous across common lot lines, such as, but not limited to, shared driveways and parking areas. Whenever such contiguous uses cease the required buffers shall be installed.

2. In addition to the types of plantings listed in the definition of landscaping in HCC §21.03.040, landscaping may include planter boxes and hanging basket plantings. Amenities for public use such as bike racks, benches, trash receptacles and information kiosks, may be substituted for an equal area of required landscaping.

Section 11. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_ 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

314 First Reading:

315 Public Hearing:

316 Second Reading:

317 Effective Date:

318

319 Reviewed and approved as to form:

320

321

322

323 \_\_\_\_\_  
Walt Wrede, City Manager

324

325

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

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

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



# City of Homer

## Planning & Zoning

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### MEMORANDUM 13-053

TO: MAYOR WYTHER AND HOMER CITY COUNCIL  
THROUGH: WALT WREDE, CITY MANAGER  
FROM: RICK ABBOD, CITY PLANNER  
DATE: March 23, 2013  
SUBJECT: Ordinance 13-11, Amending the Text of the Marine Commercial and Industrial Districts Ordinance

After several public workshops, extensive review and public hearings, the Homer Advisory Planning Commission recommends amendments to the text of the Marine Commercial and Industrial Districts in accordance with the 2010 Homer Spit Comprehensive Plan

The process for the updates started in May, 2012 with a memo going out to the Parks and Recreation Committee along with the Port and Harbor and Economic Development Commissions informing them of our intent to review and update the spit zoning and our desire for their input. The code revision was reviewed at various stages during 12 regular Homer Advisory Planning Commission Meetings, 2 of the meetings included written invitations to the business and property owners of the spit. Additionally, I presented at 2 Port and Harbor Commission meetings. A final public hearing was held March 20<sup>th</sup>.

A few basic concepts were used to determine the changes in the text:

**Marine Commercial** – It was agreed that the mix of activities in the Commercial District is welcome and makes Homer unique. The District is treated as a mixed use commercial district where industrial and commercial activities would be welcome together. Overnight accommodations as part of a business were examined and it was agreed that they could have a place as an accessory use. They would have to be limited to less than 50% of the floor area and would have to be certified by the Fire Marshal to be permitted through the Planning Office. Other lodging, hotel and motel can be authorized through the Planning Commission with a Conditional Use Permit (CUP). A CUP can also be used to apply to place some development in the setback.

**Marine Industrial** – It was decided that some land has to be reserved for industrial purposes specifically, with a strict limit on other activities, as we have come to find that once an industrial area is allowed to go ‘commercial’ it is unlikely that industrial uses will come back. Any type of housing or commercial activity has to be accessory to the primary industrial use found on a lot.

Both districts now require a level 3 development standard which has been specifically tailored to the conditions found on the spit and provides reasonable alternatives for landscape and buffers. Additionally, the “other similar uses” options for both districts have been removed. It was felt that this standard muddied the water, potentially allowing most anything to encroach into the districts and created a different standard for development in regards to city owned property.

Attachments:

Draft Ordinance 11-XX

Staff Reports

Minutes

Public Comments

Public Notice

Memos

Draft Ordinances



# City of Homer

## Planning & Zoning

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### MEMORANDUM 13-070

TO: MAYOR WYTHE AND HOMER CITY COUNCIL  
THROUGH: WALT WREDE, CITY MANAGER  
FROM: RICK ABBODD, CITY PLANNER  
DATE: April 30, 2013  
SUBJECT: Ordinance 13-11(A), Amending the text of the Marine Commercial and Industrial Districts and Ordinance to add "heliport" as a conditional use.

The subject of heliports on the spit was a discussion of the Planning Commission. Safety and opportunity were discussed and it was deemed that the activity of picking up and dropping off of passengers is best suited for the nearby Homer Airport. One of the primary concerns about heliports on the spit was the noise and the effects that it would have to visitors, business, and the camper's enjoyment. Finally, a concern was voiced how a heliport operation might affect the various birds found nearby.

Several items should be examined when reviewing proposed activities in any zoning district including:

- Purpose of the district

21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

21.30.010 Purpose. The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism; giving priority to those water-dependent uses over other industrial, commercial and recreational uses. (Ord. 08-29, 2008).

Some questions that the Planning Commission considers when recommending a change in use for a district include:

- Is the activity compatible with current uses in the proposed district and those nearby?
- Is it reasonable to have an expansion of the activities in the district?
- Is the activity better suited in another district?
- Is consistent with the comprehensive plan and will further specific goals and objectives of the plan?
- Will be reasonable to implement and enforce?
- Will promote the present and future public health, safety and welfare?

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## City of Homer Planning & Zoning

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### STAFF REPORT PL 13-30

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 20, 2013  
**SUBJECT:** Draft Ordinance amending the Marine Commercial and Marine Industrial Zoning Districts

**Requested Action:** Conduct a public hearing on the proposed amendments. Make any changes, and forward a recommendation to the City Council.

### GENERAL INFORMATION

This ordinance makes major changes to the Marine Industrial (MI) and Marine Commercial (MC) zoning districts. It also adds a definition of "Lodging" to the definitions section, and creates site development standards specific to the MC and MI districts.

The City Attorney was preparing a few amendments. These will be presented as a laydown at the meeting. The Commission can adopt those amendments by motion. The amendments pertain to lines 82-85, and 109-112, the building setback requirements. The new language will provide review criteria for the Commission when an applicant seeks a CUP to build within a setback area. The current language discusses building setback language in terms of alleys and access to the rear of the building, when in fact state fire marshal regulations can be met any number of ways. Staff does not recommend the code be stricter than State Fire Marshal regulations. The two should work together.

### STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per 21.95.040 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council.

### ATTACHMENTS

1. Planning Department Review per 21.95.040
2. Draft ordinance

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## City of Homer Planning & Zoning

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### MEMORANDUM

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 20, 2013  
**SUBJECT:** Draft Ordinance amending the Marine Commercial and Marine Industrial Zoning Districts

**This memo contains the planning staff review of the zoning code amendment as required by HCC 21.95.040.**

#### Planning Staff review of the code amendment per 21.95.040

The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

**a.** Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

Homer Spit Comprehensive Plan Goal 1.1 states, "Maintain the variety of land uses that establish the unique "spit" character and mix of land uses." Objectives include: Revise zoning to protect character and enhance commercial, industrial and public facility development, address marine commercial and marine industrial zoning. Strategies to achieve these include: identify appropriate residential uses on the Spit, cluster similar land uses, encourage amenities such as bike racks, planters, are, etc, and consider zero lot line construction. The amendments to the zoning districts

Goal 3.1 states "Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit." One objective is "determine economic development opportunities for "value added" growth such as processing, small scale retail, and restaurant serving local products." Strategies include encouraging development related to the fishing, fish processing and boating industries. The revised Marine districts loosen the zoning rules to allow more flexible land uses appropriate to each district, and reduce the number of activities that require a conditional use permit. For example, restaurants will be allowed as permitted uses in both districts, rather than a conditional use.

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**Staff response:** The amendments are consistent with the Spit Comprehensive Plan and will further specific goals and objectives of the plan.

**b.** Will be reasonable to implement and enforce.

**Staff response:** The revised zoning districts reflect the mixture of land uses that are already present. The changes to the zoning code will be reasonable to implement and enforce.

**c.** Will promote the present and future public health, safety and welfare.

One of the major code amendments is the allowance of room rentals on the Spit. Under current code, this activity is not allowed outright. The proposed amendments clarify under what circumstances a room may be rented. These regulations are modeled after the State Fire Marshal Requirements for public safety. Clear regulations will allow business owner to decide

**Staff response:** The amendment promotes present and future public health, safety and welfare by rationalizing land use regulations to match existing state safety requirements, and the conditions found on the Spit. This land use pattern as is commonly found on the Spit but does not commonly fit within current the zoning code.

**d.** Is consistent with the intent and wording of the other provisions of this title.

**Staff response:** This amendment is consistent with the intent, wording and purpose of HCC Title 21. The city attorney has reviewed and amended the ordinance for consistency.



CITY OF HOMER  
HOMER, ALASKA

Planning

ORDINANCE 13-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE §21.03.040 TO ADD A DEFINITION OF LODGING; AMENDING HOMER CITY CODE §§21.28.020, 21.28.030, 21.28.040 AND 21.28.070, REGARDING THE MARINE COMMERCIAL ZONING DISTRICT; AMENDING HOMER CITY CODE §§21.30.020, 21.30.030, 21.30.040 AND 21.30.070, REGARDING THE MARINE INDUSTRIAL ZONING DISTRICT; AND ADOPTING HOMER CITY CODE §21.50.040, SITE DEVELOPMENT STANDARDS - LEVEL 3, TO IMPLEMENT THE HOMER SPIT COMPREHENSIVE PLAN.

THE CITY OF HOMER ORDAINS:

Section 1. HCC §21.03.040, Definitions, is amended by adding a definition of “lodging” to read as follows:

“Lodging” means any building or portion of a building that does not contain a dwelling unit and that contains no more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests.

Section 2. HCC §21.28.020, Permitted uses and structures, is amended to read as follows:

21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine Commercial 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. Offices for tourism related charter and tour businesses, such as fishing, flightseeing, day excursions and boat charters and tours ~~Boat charter offices;~~
- b. Marine equipment sales, rentals, service, repair and storage ~~and parts sales and services;~~
- c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;
- d. Business offices for water-dependent and water related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;
- e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves, provided that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;
- f. Mobile food services;
- g. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;

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

h. Recreational vehicle parks, provided they shall conform to the standards in HCC Chapter 21.54;

i. Restaurants;

j. Cold-storage facilities;

k. Campgrounds;

l. Manufacturing, processing, cooking, and packing of seafood products;

m. Parks;

n. Boat launching or moorage facilities, marinas;

o. Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50% of the floor area of a building and for use by an occupant for more than 30 consecutive days;

p. Lodging as an accessory use, limited to no more than 50% of the floor area of a building;

q. As an accessory use, one small wind energy system per lot.

Section 3. HCC §21.28.030, Conditional uses and structures, is amended to read as follows:

21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine Commercial District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

a. Drinking Restaurants and drinking establishments;

b. ~~Cold-storage facilities;~~

be. Public utility facilities and structures;

d. ~~Dredge and fill when required for construction or maintenance of a structure devoted to one or more uses that are permitted or conditionally permitted in this district;~~

e. ~~Wholesale outlets for marine products;~~

f. ~~Pipelines and railroads;~~

g. ~~Heliports;~~

ch. Hotels and motels;

d. Lodging;

ei. More than one building containing a permitted principal use on a lot;

fj. Planned unit developments, limited to water-dependent and water-related uses,

with no dwelling units except as permitted by HCC §21.28.020(o);

gk. Indoor recreational facilities;

hl. Outdoor recreational facilities;

i. The location of a building within a setback area required by HCC

§21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC

§21.71.030, the building must meet the following standards:

1. Not have a greater negative affect on the value of the adjoining property than a building located outside the setback area; and

2. Have a design that is compatible with that of the structures on the adjoining property.

m. ~~Campgrounds;~~

n. ~~Manufacturing, processing, cooking, and packing of seafood products.~~

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

91           ~~e. Other similar uses, if approved after a public hearing by the Planning~~  
92 ~~Commission, including but not limited to those uses authorized in the Marine Industrial district~~  
93 ~~under HCC §§ 21.30.020 and 21.30.030, provided the commission finds the use meets the~~  
94 ~~following standards and requirements:~~

95           ~~1. The proposed use is compatible with the purpose of the Marine~~  
96 ~~Commercial District,~~

97           ~~2. The proposed use is compatible with the land use development plan for the~~  
98 ~~Homer Spit and the Comprehensive Plan,~~

99           ~~3. Public facilities and services are adequate to serve the proposed use, and~~

100           ~~4. If City owned land, the Port and Harbor Commission, after a public~~  
101 ~~hearing, has made a written recommendation to the Planning Commission concerning the~~  
102 ~~proposed use, including specifically whether conditions (1) through (3) of this subsection~~  
103 ~~are or may, with appropriate conditions, be met by the proposed use.~~

104  
105       Section 4. HCC §21.28.040, Dimensional requirements, is amended to read as follows:

106  
107       21.28.040 Dimensional requirements. The following dimensional requirements shall  
108 apply to all structures and uses in the marine commercial district:

109       a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before  
110 December 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before  
111 December 12, 2006.

112       b. **Setbacks. No building may be located in a required setback area without an**  
113 **approved conditional use permit.**

114           1. Buildings shall be set back 20 feet from all dedicated rights-of-way and  
115 ~~five feet from all other lot boundary lines.~~ Alleys are not subject to a 20 foot setback  
116 requirement. **The setback requirements from any lot line abutting an alley will be**  
117 **determined by the dimensional requirements of subparagraph (2) below.**

118           2. **Buildings shall be set back five feet from all other lot boundary lot**  
119 **lines.**

120       c. The maximum building height is 35 feet.

121       d. No lot shall contain more than 8,000 square feet of building area (all buildings  
122 combined), nor shall any lot contain building area in excess of ~~70~~ **30**-percent of the lot area  
123 without an approved conditional use permit.

124       e. Building Area and Dimensions - Retail and Wholesale.

125           1. The **total** floor area of retail and wholesale business uses within a single  
126 building shall not exceed 25,000 square feet.

127           2. In no event may a conditional use permit, Planned Unit Development, or  
128 variance be granted that would allow a building to exceed the limits of subparagraph  
129 (e)(1) and no nonconforming use or structure may be expanded in any manner that would  
130 increase its nonconformance with the limits of subparagraph (e)(1).

131  
132       Section 5. HCC §21.28.070, Site development requirements, is amended to read as  
133 follows:  
134

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

21.27.070 Site development requirements. All development on lands in this district shall conform to the level ~~three~~ two-site development standards set forth in HCC §21.50.040 and the following requirements: 21.50.030.

a. Development shall not impair public use of adjacent publicly-owned tidelands.

b. Buildings and roadways shall be located to minimize alteration to the natural terrain.

c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.

d. Point source discharges to a waterway shall conform to the applicable regulations of the Alaska Department of Environmental Conservation.

Section 6. HCC §21.30.020 Permitted uses and structures, is amended to read as follows:

21.30.020 Permitted uses and structures. The following uses are permitted outright in the Marine Industrial 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. Port and harbor facilities;
- b. Manufacturing, processing and packing of sea products;
- c. Cold-storage;
- d. Dry docks;
- e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;
- f. Marine equipment sales, rentals, service, repair and storage;
- g. Boat launching or moorage facilities, marinas, boat charter services;
- h. Warehouse and marshaling yards for storing goods awaiting transfer to marine vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based transportation;

i. ~~Other similar uses, if approved after a public hearing by the Commission, including but not limited to those uses authorized in the Marine Commercial District under HCC §§ 21.28.020 and 21.28.030, provided the Commission finds the use meets the following standards and requirements:~~

1. ~~The proposed use is compatible with the purpose of Marine Industrial District or provides a necessary service to water dependent industry;~~

2. ~~The proposed use is compatible with land use development plans for the Homer Spit and the comprehensive plan;~~

3. ~~Public facilities and services are adequate to serve the proposed use; and~~

4. ~~The Port and Harbor Commission, after a public hearing, has made a written recommendation to the Commission concerning the proposed use, including specifically whether conditions (1) through (3) of this subsection are or may, with appropriate conditions, be met by the proposed use;~~

ij. Mobile food services;

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

kl. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.

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

180 l. Caretaker, business owner or employee housing as an accessory use to a  
181 primary use, and limited to no more than 50% of the floor area of a building and for use by  
182 an occupant for more than 30 consecutive days;

183 m. More than one building containing a permitted principal use on a lot;

184 n. Restaurant as an accessory use;

185 o. Parks;

186 ~~p.m.~~ As an accessory use, one small wind energy system per lot.

187  
188 Section 7. HCC §21.30.030 Conditional uses and structures, is amended to read as  
189 follows:

190  
191 21.30.030 Conditional uses and structures. The following uses may be permitted in the  
192 Marine Industrial District when authorized by conditional use permit issued in accordance with  
193 HCC Chapter 21.71:

194 a. Planned unit development, limited to water-dependent or water-related uses and  
195 excluding all dwellings;

196 b. Boat sales, rentals, service, repair and storage, and boat manufacturing;

197 ~~c. Restaurants and drinking establishments;~~

198 ~~cd.~~ Extractive enterprises related to other uses permitted in the district;

199 ~~de.~~ Campgrounds;

200 ~~ef.~~ Bulk petroleum storage;

201 ~~g. Caretaker's residence as an accessory to a permitted or conditionally permitted~~  
202 ~~use;~~

203 ~~h. Heliports;~~

204 ~~i. Pipelines and railroads;~~

205 ~~j. More than one building containing a permitted principal use on a lot.~~

206 ~~k. Permitted uses that exceed 100 vehicles during peak hour or more than 500~~  
207 ~~vehicles per day based on the proposed land use and density, calculated utilizing the Trip~~  
208 ~~Generation Manual, Institute of Traffic Engineers, most current edition;~~

209 ~~fl.~~ Indoor recreational facilities;

210 ~~gm.~~ Outdoor recreational facilities;

211 h. Public utility facilities and structures.

212 i. The location of a building within a setback area required by HCC  
213 §21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC  
214 §21.71.030, the building must meet the following standards:

215 1. Not have a greater negative affect on the value of the adjoining  
216 property than a building located outside the setback area; and

217 2. Have a design that is compatible with that of the structures on the  
218 adjoining property.

219  
220 Section 8. HCC §21.30.040 Dimensional requirements, is amended to read as follows:

221  
222 21.30.040 Dimensional requirements. The following dimensional requirements shall  
223 apply to all structures and uses in the marine industrial district:

224 a. Lot Size. The minimum lot size is 6,000 square feet.

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

b. Setbacks. **No building may be located in a required setback area without an approved conditional use permit.**

1. **Buildings** All buildings shall be set back 20 feet from all dedicated rights-of-way. Alleys are not subject to a 20 foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subparagraph (2) below.

2. Buildings shall be set back five feet from all other lot boundary lot lines ~~unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.~~

c. **Building Height.** 1. The maximum building height ~~is~~ shall be thirty-five feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of **70** ~~30~~ percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

1. The total ~~square feet~~ floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit or variance be granted that would allow a building to exceed the limits of subparagraph (d)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (d)(1).

**Section 9.** HCC §21.30.070 Site development requirements, is amended to read as follows:

**21.30.070 Site development requirements.** a. All site development shall conform to the level ~~three~~ ~~two~~ site development standards contained in HCC **§21.50.040 and the following requirements: 21.50.030.**

**a. Development shall not impair public use of adjacent publicly-owned tidelands.**

**b. Buildings and roadways shall be located to minimize alteration to the natural terrain.**

**c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.**

**db.** Point source discharges to a waterway shall **conform to the applicable regulations of** ~~be in conformance with the Alaska Department of Environmental Conservation regulations.~~

**Section 10.** HCC §21.50.040 Site Development standards - Level 3, is adopted to read as follows:

**21.50.040 Site Development standards - Level 3.** This section establishes level three site development standards. Level three standards apply when specified by the applicable zoning district regulations or by another provision of the code.

a. Site Development.

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

1. Development shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, or root damage to neighboring trees, or other adverse effects.

2. Upon completion of earthwork, all exposed slopes, and all cleared, filled, and disturbed soils shall be protected against subsequent erosion by methods, such as, but not limited to, landscaping, planting, and maintenance of vegetative cover.

b. Landscaping Requirements. Landscaping shall include the retention of native vegetation to the maximum extent possible and shall include, but is not limited to, the following:

1. A buffer of three feet minimum width along all lot lines where setbacks permit; except where a single use is contiguous across common lot lines, such as, but not limited to, shared driveways and parking areas. Whenever such contiguous uses cease the required buffers shall be installed.

2. In addition to the types of plantings listed in the definition of landscaping in HCC §21.03.040, landscaping may include planter boxes and hanging basket plantings. Amenities for public use such as bike racks, benches, trash receptacles and information kiosks, may be substituted for an equal area of required landscaping.

Section 11. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_ 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

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

315 Reviewed and approved as to form:

316

317

318

319 \_\_\_\_\_  
Walt E. Wrede, City Manager

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

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

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

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

Session 13-04, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Erickson at 6:30 p.m. on March 20, 2013 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**PRESENT:** COMMISSIONERS BOS, HIGHLAND, SLONE, SONNEBORN, STEAD, VENUTI

**STAFF:** CITY PLANNER ABBOD  
PLANNING TECHNICIAN ENGBRETSSEN  
DEPUTY CITY CLERK JACOBSEN

### **Approval of Agenda**

The agenda was approved as presented by consensus of the Commission.

### **Public Comment**

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

None

### **Reconsideration**

### **Adoption of Consent Agenda**

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

#### **A. Approval of Minutes of March 6, 2013 meeting**

The consent agenda was approved by consensus of the Commission.

### **Presentations**

### **Reports**

#### **A. Staff Report PL 13-32, City Planner's Report**

City Planner Abboud reviewed his staff report.

### **Public Hearings**

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

#### **A. Staff Report PL 13-30, Draft Ordinance Amending the Marine Commercial and Marine Industrial Zoning District**

Planning Technician Engebretsen reviewed the staff report.

In response to questions about the conditional uses that are struck out, Mrs. Engebretsen explained that in the city code they have a section about unlisted uses. If a person wants to do something that isn't a

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
MARCH 20, 2013

listed use they can get a conditional use permit for an unlisted use, and the process is spelled out under the unlisted use section of code. Getting rid of the other similar uses matches our other commercial districts, and eliminates the separate class of landowner that was created by having a set of rules for city owned property. All landowners should be equal and if the City wants a separate rule, it should be in administrative guidelines, not the zoning code.

Chair Venuti opened the public hearing.

Dan Young, property owner on the spit, commented in support of the changes tonight. He looked over the changes and they affect him positively. They tried to make these changes six years ago but they failed. He is glad to see this happening.

Thad Busheu, property owner on the spit, commented in support of the changes, they will benefit him as well.

There were no further public comments and the public hearing was closed.

BOS/SONNEBORN MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING THE MARINE COMMERCIAL AND MARINE INDUSTRIAL ZONING DISTRICT AND RECOMMEND ADOPTION BY THE CITY COUNCIL.

There was brief discussion for clarification that the information referenced in the laydown memo is already included in the draft ordinance provided by the City Attorney.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 13-31, Draft Ordinance Amending the Zoning Map on the Homer Spit

Planning Technician Engebretsen reviewed the staff report.

In response to questions, City Planner Abboud explained that the need for more marine commercial property is warranted due to several applications for conditional use for marine commercial activity in the marine industrial area.

Chair Venuti opened the public hearing. There were no public comments and the hearing was closed.

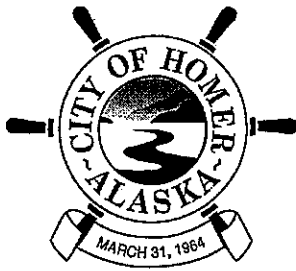
BOS/HIGHLAND MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING THE HOMER ZONING MAP TO REZONE THE HOMER SPIT AND RECOMMEND ADOPTION BY THE CITY COUNCIL.

It was noted that the map has been put together very well and is a welcomed change.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

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## City of Homer Planning & Zoning

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*Web Site* [www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

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### MEMORANDUM

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 20, 2013  
**SUBJECT:** SR 13-30

#### **Requested Action: None**

Staff Report 13-30 states that the attorney was going to prepare an amendment for the Planning Commission, as a lay down at the meeting. However, the attorney was able to get a revised ordinance together in time for the packet. Therefore, the amended version is what's in your packet, and it has the corrections staff was looking for. No special action is needed by the Commission!

To date, Planning has received a few phone calls from land and business owners. No formal comments or concerns; they have simply asked how the changes would affect their particular business.





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**TO:** Economic Development Advisory Planning Commission  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 12, 2013  
**SUBJECT:** Zoning code and zoning map changes on the Homer Spit

**Requested Action:** None. The Commission is welcome to make comments on the proposed changes. I will be attending the meeting on the 12<sup>th</sup> to answer any questions and relay any comments to the Planning Commission.

### Introduction

For the past nine months or so, the Homer Advisory Planning Commission has been working on revising the land use regulations on the Spit. There are two types of changes; the text of the zoning districts, i.e. what land uses are or are not allowed, and the zoning map. There is a public hearing scheduled for March 20<sup>th</sup> on these proposed changes at the Planning Commission meeting..

These changes are to implement the Spit Plan, and hopefully will result in more clear, logical zoning regulations. For example, several areas will be rezoned from Marine Industrial to Marine Commercial. This will allow for a broader range of businesses. Fisheries activates are still allowed, but so are kayak rentals and all the other business that have been there for so long. Conversely, the Marine Industrial District will be focused on industrial and fishing related activity. For example, Fish Dock Road lots will remain Marine Industrial; they are important to Homer's economic success as a fishing port and are very close to harbor infrastructure.

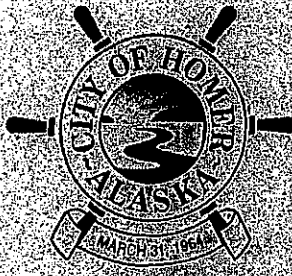
Another major change is the allowance of overnight room rentals. Under current zoning regulations, most of the rooms for rent above shops are a zoning violation. The 2010 Spit Comprehensive Plan recognized the need to address this conflict between zoning, and a common business practice. Last fall, the Planning Commission invited Spit business owners to a work session, to talk about how people are really using their property, and what zoning and safety regulations might look like. The end recommendation from the Planning Commission and staff is to change the city zoning regulations to follow the regulations already in place by the State Fire Marshal. The proposed changes should help to solve the long term zoning conflicts.

Copies of the draft ordinances are attached. I will be at your meeting if you have any questions/concerns/comments.

There are two meetings coming up about Spit issues. See attached flier.

## **Attachments**

1. Meeting flier for March 20<sup>th</sup> and 28<sup>th</sup>
2. Draft Ordinance amending the Marine Commercial and Marine Industrial Zoning Districts
3. Draft Ordinance amending the zoning map on the Spit



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### Please Join Us!

There are changes planned for the Spit! This letter is to notify you of two meetings. Both meetings will be held at Homer City Hall, in the Council Chambers.

1. **Wednesday March 20<sup>th</sup>, 6:30 PM:** Public hearing to take testimony on proposed zoning code and zoning map changes on the Spit. The Homer Advisory Planning Commission will hold a public hearing on three proposals: Changes to the zoning map, and changing the land use regulations for the Marine Industrial and Marine Commercial Zoning Districts. Planning staff would be happy to discuss your property and how the changes would affect you. For more information, please contact Rick Abboud or Julie Engebretsen at 235-3106 or email [planning@ci-homer.ak.us](mailto:planning@ci-homer.ak.us).
2. **Wednesday March 28<sup>th</sup> at 4:00 pm:** Neighborhood meeting to take comments on the proposed Spit Trail construction. The Spit Trail will be completed during summer 2013 and 2014, and two new restrooms will be built this year. There are several other harbor construction projects planned for the upcoming construction season. This is your chance to learn about them and make comments. A Port and Harbor Advisory Commission meeting follows immediately after at 5:00 pm if you'd like to make formal comments. For more information, please contact Dan Nelson or Carey Meyer at 235-3170, or email [publicworks@ci-homer.ak.us](mailto:publicworks@ci-homer.ak.us).

**Website:** <http://www.cityofhomer.ak.gov/planning> Click on Spit Changes 2013.

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ECONOMIC DEVELOPMENT ADVISORY COMMISSION  
REGULAR MEETING  
MARCH 12, 2013

- It could be more successful to email individuals and ask if they would help with our project and fill out the survey.
- Artists make up a large group of business owners, and including that category will pick up a lot of people.
- Another goal is to help find ways to serve this population's needs.
- There are two tiers of businesses, those just starting out and people who have been in business for years.
- One way to define it could be those whose products are going out over the web versus only being sold locally.
- Ask about challenges business owners have, list some options like access to capital and specialized education, and leave a space to fill in.
- Ask about general qualities are important to a business owner. Mobile businesses can go anywhere so what is important, band width or glaciers?
- Needs will vary between businesses that offer tangible items and businesses that offer a service.
- A definition of the focus group could be those whose primary service is going out through the internet.

Mrs. Koester said she would work through the information they discussed and bring back a new draft at the next meeting.

#### **NEW BUSINESS**

**A. Memorandum from Planning Technician Engebretsen Re: Zoning Code and Zoning Map changes on the Homer Spit**

Planning Technician Engebretsen provided an overview of the proposed changes to the zoning on the Homer Spit that the Planning Commission has been working on. The goal of the amendments is to better separate what is industrial and what is commercial. Marine industrial uses will stay clustered in proximity to the ice plant. Going up the spit from the ice plant there will be a better mixture of commercial uses. It also includes changes to allow overnight accommodations in accordance with certain health and safety requirements specific to whether it is for an owner, employee, or overnight rental to the public.

There was brief discussion about the draft, and no recommendations were proposed.

**B. Memorandum from Planning Technician Engebretsen Re: Spit Trail Construction**

Planning Technician Engebretsen reviewed the plans for the spit trail improvements.

The Commission commented favorable about the overall concept and no recommendations were proposed.

**C. Land Allocation Plan**

**a. Memorandum from Planning Technician Engebretsen**

The commission reviewed the land allocation plan and agreed by consensus that the area known as End of the Road Park be designated as park.

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### STAFF REPORT PL 13-06

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** January 16, 2013  
**SUBJECT:** Marine Industrial/Marine Commercial Rezoning

**Requested Action:** Discuss the possible zoning map changes, and draft district performance standards.

#### Introduction

This staff report will address two topics: possible areas for rezoning, and changes to performance standards in the text of the Marine Commercial and Marine Industrial Districts.

The goal of all these changes to the district text and zoning map, is for the zoning regulations to align with the Comprehensive Plan, current uses, and desired long term land use.

#### Analysis

##### Rezoning

The rezones shown in the attached maps, and described below, are based on the Spit Comprehensive Plan, and the draft Marine Industrial and Marine Commercial zoning ordinances. These changes are a draft only; the Commission can consider other zoning options. When the Commission reaches consensus, staff will follow the public notice process outlined in city code.

This staff report follows the spit from base to tip, discussion the draft rezoning.

#### MAP 1

1. Mud Bay area. There are three pieces of City owned property that staff recommends a change from Marine Industrial to Conservation Zoning. There is little if any land that is developable; its all tidal and seaward of the Spit Trail.
2. On the Cook Inlet side of the Spit, rezone three city parcels and one parcel owned by The Nature Conservancy from Marine Industrial to Open Space Recreation.

#### MAP 2

3. Rezone four private lots on the Cook Inlet side of the Spit from Marine Industrial, to Marine Commercial.
4. Rezone the city campground office lot from Marine Industrial to Open Space Recreation.
5. Rezone two lots on Freight Dock road to MC.

6. Rezone nine lots along the harbor, from the Harbormaster's Office to Fish Dock Road, from Marine Industrial to Marine Commercial.

#### **Split Lot Rezoning**

There are two lots on the Spit that have split lot zoning. This occurs when the zoning boundary does not follow property lines. Under Home City Code, zoning boundaries generally should follow lot lines, and the centerline of the right of way. Historically its not clear why they are split, or if was simply the result of the cartography at the time. Using the original zoning information and current property lines results in lots with split zoning. Staff recommends the following:

7. Rezone a portion of the Spit Campground, next to Seafarer's Memorial, from Open Space Recreation to Marine Industrial.
8. Rezone the edge of Lands' End Hotel/Resort from Marine Industrial to Marine Commercial.

#### **District text changes**

At the last work session, staff recommended some changes to the landscaping and storm water regulations on the Spit. Attached is a draft of the site development requirements that would be required in Marine Industrial and Marine Commercial. Currently they are both subject to level two standards, found in 21.50.030. Based on the Commission's discussion, staff took the existing zoning regulations, and cut them down to what might make more sense for the Spit. There are no city storm water requirements and the landscaping requirements are more flexible.

#### **Staff Recommendation**

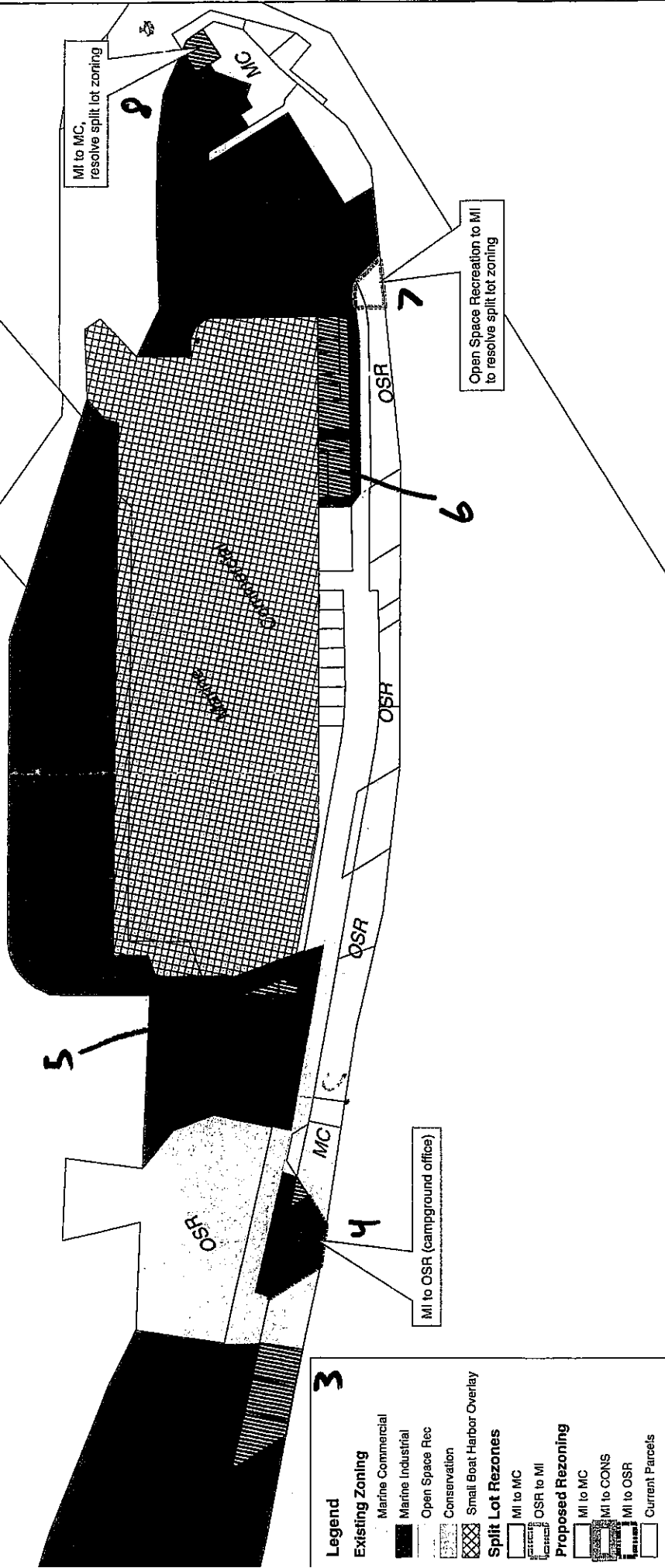
##### **Planning Commission**

1. Discuss the rezoning areas and provide comments to staff
2. Discuss the proposed level three site development standards and provide comments

#### **Attachments**

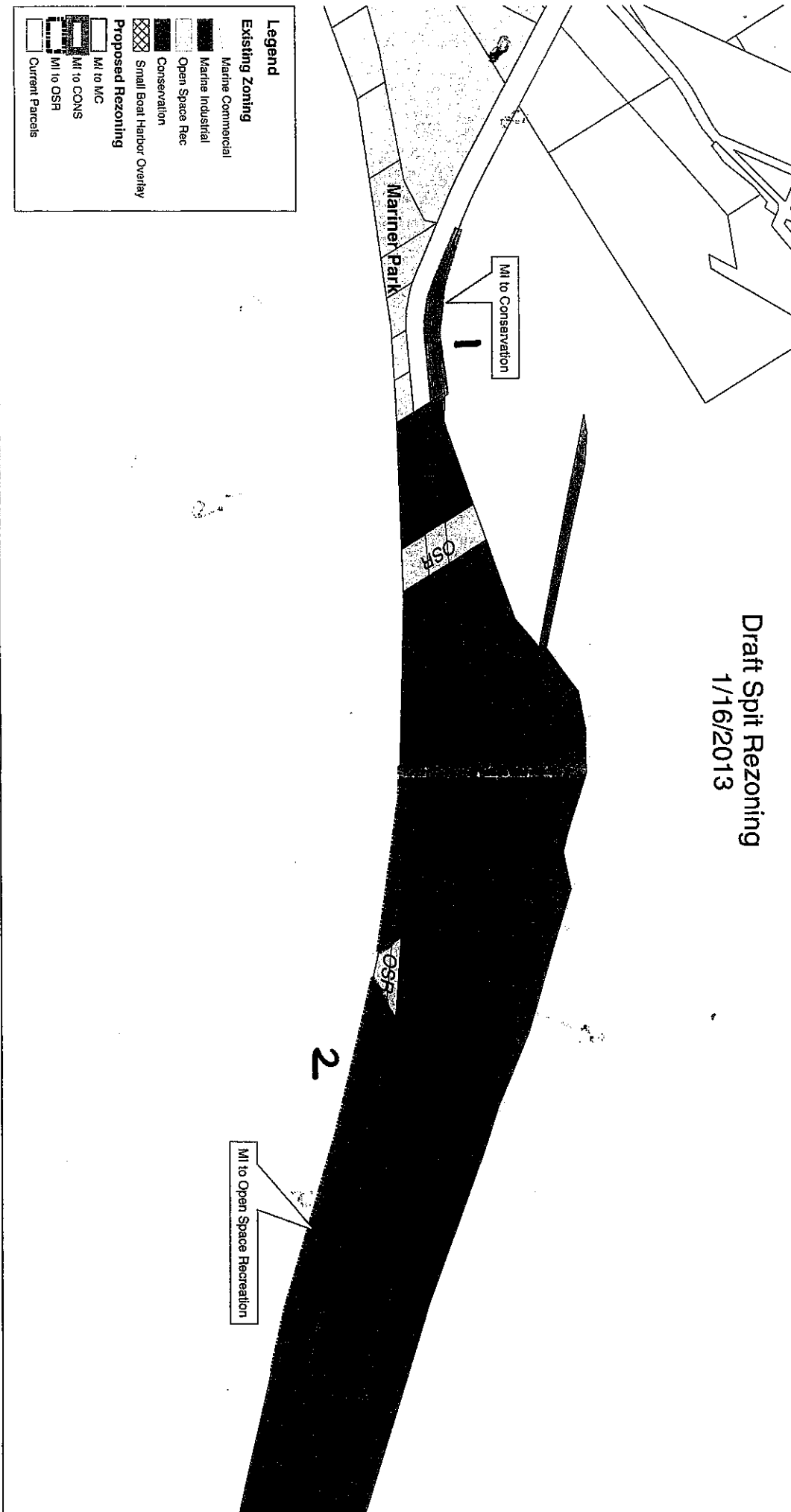
1. Proposed rezone map dated 1/16/2013
2. Proposed level three site development standards dated 1/16/2013

# Draft Spit Rezoning 1/16/2013



Map 2

# Draft Spit Rezoning 1/16/2013



Map 1

1 1/16/2013 DRAFT

2  
3 21.50.040 Site Development Standards - Level 3

4 This section establishes level three site development standards. Level three standards apply when  
5 specified by the applicable zoning district regulations or by another provision of the code.

6 a. Site Development.

7 1. Development shall not adversely impact other properties by causing damaging alteration of  
8 surface water drainage, surface water ponding, slope failure, erosion, siltation, or root damage to  
9 neighboring trees, or other adverse effects.

10 2. Upon completion of earthwork, all exposed slopes, and all cleared, filled, and disturbed soils  
11 shall be protected against subsequent erosion by methods, such as, but not limited to,  
12 landscaping, planting, and maintenance of vegetative cover.

13 3. All development shall provide a drainage system that is designed to deposit all runoff into  
14 either an engineered drainage system or into a natural drainage.

15 b. Landscaping Requirements. All development shall conform to the following landscaping  
16 requirements:

17 1. Landscaping shall include the retention of native vegetation to the maximum extent possible  
18 and shall include, but is not limited to, the following:

19 a. Buffers:

20 i. A buffer of three feet minimum width along all lot lines where setbacks permit; except where a  
21 single use is contiguous across common lot lines, such as, but not limited to, shared driveways  
22 and parking areas. Whenever such contiguous uses cease the required buffers shall be installed.

23 ii. In addition to the types of plantings listed in the definition of landscaping in HCC 21.03.040,  
24 landscaping may include planter boxes and hanging basket plantings. Landscaping may include  
25 substitution of durable outdoor art, or amenities for public use such as bike racks, benches, trash  
26 receptacles and information kiosks, for part of the required landscaping in an amount of equal  
27 area required for landscaping.

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JANUARY 16, 2013

The Commission acknowledged the conflict of the cistern and what warrants public water. Homer does have a unique situation all over. They asked questions of staff and Mr. Nelson about the potential of an exception to the rule and allow the smaller lot size because the residence is serviced by a cistern and not a well. They struggled with how to stay within the code specifications and how to consider cisterns in relation to type of water supply. Some commissioners expressed that that delivering city water to a cistern should be considered a public water supply, and others suggested that once city water goes into a truck for a business to deliver for a fee, it's no longer a public water supply. It was also questioned whether another configuration of the lot lines is feasible to meet the requirement in code. It was further suggested that there may be more information of how to address the public water issue through court records if there was more time to research it.

SLONE MOVED TO POSTPONE TO THE NEXT MEETING.

The motion failed for lack of a second.

The Commission continued to reiterate the best way to work with the property owner and stay within the parameters lined out in code. City Planner Abboud reminded them that this will go to the Borough for final review and determination.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 13-03, PARADISE SOUTH SUBDIVISION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS AND FINDINGS.

There was no additional discussion.

VOTE: YES: BOS, SONNEBORN, VENUTI  
NO: STEAD, HIGHLAND, SLONE

Motion failed for lack of a majority.

City Planner Abboud said that the staff report and minutes from tonight's meeting will be provided to the Borough for their information when they consider the plat.

Chair Erickson returned to the table.

The Commission expressed they would like to address this issue with how to consider cisterns for future actions that come before the Commission.

**PENDING BUSINESS**

A. Staff Report PL 13-06, Marine Commercial and Marine Industrial Zoning

Chair Erickson commented that the Commission reviewed the information and provided comments to staff at the worksession and revisit it in March.

B. Staff Report PL 13-02, Lighting

The Commission watched a short video via youtube.com at their worksession. It was noted that the lighting information in the code applies to Commercial buildings and suggestion was raised that

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## City of Homer Planning & Zoning

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### MEMORANDUM 13-

TO: Port and Harbor Commission  
FROM: Rick Abboud, City Planner  
DATE: January 16, 2013  
SUBJ: Marine Commercial and Industrial Zoning

The Planning Commission has been working on revisions to the text of the Marine Commercial and Marine Industrial zoning Districts. Your input is important to the Planning Commission and I will include any other developments in your next packet. Thanks for your time!

#### Attachments:

1. Staff Report 13-06, from 1/16/13 HAPC meeting
2. Draft Marine Commercial Ordinance
3. Draft Marine Industrial Ordinance

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PORT AND HARBOR ADVISORY COMMISSION  
REGULAR MEETING  
JANUARY 23, 2013

Harbormaster Hawkins explained that the 5000 square foot size was established by the folks who drew up the plans, they came and spent some time at the current office and then drafted the concept. It accommodates what they have now and provides some room to grow in the future. Harbor staff did not provide feedback specific to this concept drawing.

It was reiterated that they are only making a recommendation regarding the concept of the harbormaster's office and preferred location, not about funding at this time.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Memorandum to Port and Harbor Commission from City Planner Abboud Re: Marine Commercial and Industrial Zoning

City Planner Abboud addressed the Commission regarding his staff report.

Question was raised about whether changing the zoning would cause lessees to move or go out of business when their leases are up. City Planner Abboud responded that it will have to be addressed through nonconformity until they expand or replace the structures. Theoretically it could be rented out again if it's the same activity in the same space.

City Planner Abboud reviewed the draft zoning map for the spit compared to the current zoning. It was noted that if the zoning is industrial in the area where there may be mooring and barges, a little bit of commercial area would be fine to accommodate an industrial supply store for example.

There were comments in relation to challenges of over slope development and challenges of parking and access. If over slope becomes an option perhaps a lot can be included to address access and parking.

They also addressed drainage. It was suggested that site development standards could be removed. It creates a lot of extra costs for someone developing something, as there aren't a lot of drainage issues other than the low spots that are full of water now. City Planner Abboud explained that if there is a large development out there, it shouldn't flood or pollute the neighbor's lot or surrounding lands. If there is a giant parking lot, it need to be established what happens to the run off, it can't go untreated or into the harbor. It isn't happening now, but as an example for the new restroom and facility for the cruise ships there will be a lot of pavement associated with it. It will create a sheeting of water that if left untreated would go into the harbor or bay, or onto someone's lot. Hopefully there will be uncomplicated options like swales and grass to filter the run off. There was discussion about drainage issues and way to address them.

In regard to the effect of changing zoning to the kayak launch City Planner Abboud said it is a water dependent activity, and they will ensure that the industrial zoning includes parks.

**INFORMATIONAL ITEMS**

- A. Monthly Statistical & Performance Report December 2012
- B. Weekly Crane and Ice Report

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## City of Homer Planning & Zoning

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### STAFF REPORT PL 12-67

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** December 5, 2012  
**SUBJECT:** Marine Industrial and Marine Commercial Zoning

#### **Requested Action:**

Continue discussion on Marine Industrial and Marine Commercial districts at the work session. During the regular meeting, forward the draft ordinances to the Port and Harbor Commission for discussion at their December 19th meeting.

#### **Introduction:**

One topic the Commission has not specifically discussed is performance standards. Generally speaking, these are the landscaping requirements, and triggers for storm water plans. The current standards in both marine districts are the same as all the other business districts in Homer. The problem with this is the Spit, a gravel glacial moraine, is nothing like Ocean Drive or East End Road commercial areas. The concerns are different, and the landscaping options are different. Staff has some ideas for Marine Commercial, and would like to have a discussion at the work session on these ideas.

#### **MC Landscaping options**

The Spit is a high human use area, and a forbidding, windy environment to traditional landscaping such as lawns or hanging baskets. Current landscaping requirements state there shall be 3 feet of landscaping along all lot lines (and quite a bit more for larger parking lots). Several conditional use permits have been approved that substituted planters or other features for the landscaping requirements. The Spit Comprehensive plan states "Encourage all developments to provide amenities such as bike racks, benches, picnic tables, trashcans, and landscape features such as planters and are." (p. 34) *Staff recommends* putting these alternative landscape options in code. If the Commission likes this concept, perhaps a developer could install some of those items in place of having three feet of landscaping along lot lines.

#### **Marine Industrial storm water thoughts**

Staff is researching ideas on appropriate snow and storm water management. The difficulty is that public streets cover a much larger percentage of the land on the Spit, than one might find in the East End Mixed Use. Lot by lot storm water design becomes difficult on cramped lots. This creates a lot of expense for very small water quality gains (if any). The City might be more successful in addressing environmental concerns by better management of the large public parking areas. This may not be an issue for the zoning code (but very much open to discussion!)

**Ordinance changes since the last versions**

- Parks as a permitted use in both districts,
- Boat storage added in Marine Commercial as a permitted use.

**Next steps**

Early 2013: Consider comments from the Port and harbor Commission and talk about zoning map changes. Hold a public hearing on the zoning district and map changes (Feb/March). Done!

**Staff Recommendation**

Planning Commission continue discussion on Marine Industrial and Marine Commercial districts at the work session. During the regular meeting, forward the draft ordinances to the Port and Harbor Commission for discussion at their December 19th meeting.

**Attachments**

1. Marine Industrial Draft Ordinance 11/29/12 version
2. Marine Commercial Draft Ordinance 11/29/12 version

# Chapter 21.30 MI Marine Industrial District

11.29.2012

## Sections:

21.30.010 Purpose.

21.30.020 Permitted uses and structures.

21.30.030 Conditional uses and structures.

21.30.040 Dimensional requirements.

21.30.050 Site and access plan.

21.30.060 Traffic requirements.

21.30.070 Site development requirements.

21.30.080 Nuisance standards.

21.30.090 Lighting standards.

21.30.010 Purpose. The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism; giving priority to those water-dependent uses over other industrial, commercial and recreational uses. (Ord. 08-29, 2008).

21.30.020 Permitted uses and structures. The following uses are permitted outright in the Marine Industrial 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. Port and harbor facilities;

b. Manufacturing, processing and packing of sea products;

c. Cold-storage;

d. Dry docks;

e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;

f. Marine equipment sales, rentals, service, repair and storage.

g. Boat launching or moorage facilities, marinas, boat charter services;

h. Warehouse and marshaling yards for storing goods awaiting transfer to marine vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based transportation;

~~i. Other similar uses, if approved after a public hearing by the Commission, including but not limited to those uses authorized in the Marine Commercial District under HCC §§ 21.28.020 and 21.28.030, provided the Commission finds the use meets the following standards and requirements:~~

~~1. The proposed use is compatible with the purpose of Marine Industrial District or provides a necessary service to water dependent industry;~~

~~2. The proposed use is compatible with land use development plans for the Homer Spit and the~~

39 comprehensive plan;  
40 3. ~~Public facilities and services are adequate to serve the proposed use, and~~  
41 ~~4. The Port and Harbor Commission, after a public hearing, has made a written recommendation~~  
42 ~~to the Commission concerning the proposed use, including specifically whether conditions (1)~~  
43 ~~through (3) of this subsection are or may, with appropriate conditions, be met by the proposed~~  
44 ~~use;~~

45 j. Mobile food services;

46 k. Itinerant merchants, provided all activities shall be limited to uses permitted outright under  
47 this zoning district;

48 l. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.

49 **o. Caretaker, business owner or employee as an accessory use to a primary use. The**  
50 **accommodations must be 50% or less of the building area, and intended use by the**  
51 **occupant for more than 30 consecutive days.**

52 **p. More than one building containing a permitted principal use on a lot.**

53 **q. Restaurant as an accessory use.**

54 **r. Parks**

55 21.30.030 Conditional uses and structures. The following uses may be permitted in the Marine  
56 Industrial District when authorized by conditional use permit issued in accordance with HCC  
57 Chapter 21.71:

58 a. Planned unit development, limited to water-dependent or water-related uses and excluding all  
59 dwellings;

60 b. Boat sales, rentals, service, repair and storage, and boat manufacturing;

61 ~~e. Restaurants and drinking establishments;~~

62 d. Extractive enterprises related to other uses permitted in the district;

63 e. Campgrounds;

64 f. Bulk petroleum storage;

65 ~~g. Caretaker's residence as an accessory to a permitted or conditionally permitted use; permit~~  
66 outright

67 ~~h. Heliports;~~

68 i. Pipelines and railroads;

69 ~~j. More than one building containing a permitted principal use on a lot.~~

70 k. Permitted uses that exceed 100 vehicles during peak hour or more than 500 vehicles per day  
71 based on the proposed land use and density, calculated utilizing the Trip Generation Manual,  
72 Institute of Traffic Engineers, most current edition;

73 l. Indoor recreational facilities;

74 m. Outdoor recreational facilities.

75

76 21.30.040 Dimensional requirements. a. Lot Size. The minimum lot size is 6,000 square feet.

b. Setbacks.

1. *All buildings shall be set back 20 feet from all dedicated rights-of-way.* Alleys are not subject to a 20 foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subparagraph (2) below.

2. Buildings shall be set back five feet from all other lot boundary lot lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.

c. Building Height.

1. The maximum building height shall be thirty-five feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of ~~30~~ 70 percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

1. The total square feet floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit or variance be granted that would allow a building to exceed the limits of subparagraph (d)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (d)(1). (Ord. 08-29, 2008; Ord. 08-27(S)§1, part, 2008).

21.30.050 Site and access plan. a. A zoning permit for a building or structure within the Marine Industrial District shall not be issued by the City without a level two site plan approved under HCC Chapter 21.73.

b. No zoning permit may be granted without a level two right-of-way access plan approved under HCC Chapter 21.73. (Ord. 08-29, 2008).

21.30.060 Traffic Requirements. A conditional use permit is required for every use that is estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

21.30.070 Site Development Requirements. a. All site development shall conform to the level two site development standards contained in HCC § 21.50.030.

b. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

21.30.080 Nuisance Standards. The nuisance standards of HCC § 21.59.010 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).

21.30.090. Lighting Standards. The level one lighting standards of HCC § 21.59.030 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).



# November 29, 2012 Draft

## Chapter 21.28 MC Marine Commercial District

### Sections:

21.28.010 Purpose.

21.28.020 Permitted uses and structures.

21.28.030 Conditional uses and structures.

21.28.040 Dimensional requirements.

21.28.050 Site and access plan.

21.28.060 Traffic requirements.

21.28.070 Site development requirements.

21.28.080 Nuisance standards.

21.28.090 Lighting standards.

21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine Commercial 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. Boat charter offices;~~ Tourism related charter offices such as fishing, flightseeing, day excursions and boat charters

~~b. Marine equipment sales, rentals, service, repair and storage and parts sales and services;~~

~~c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;~~

~~d. Business offices for water-dependent and water related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;~~

~~e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves, provided that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;~~

~~f. Mobile food services;~~

~~g. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;~~

~~h. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.~~

~~i. As an accessory use, one small wind energy system per lot. (Ord. 09-34(A) §18 (part), 2009; Ord. 08-29, 2008).~~

j. Restaurants

k. Cold-storage facilities

43 l. Campgrounds

44 m. Manufacturing, processing, cooking, and packing of seafood products

45 o. Caretaker, business owner or employee as an accessory use to a primary use. The  
46 accommodations must be 50% or less of the building area, and intended use by the occupant for  
47 more than 30 consecutive days.

48 p. Lodging as an accessory use, occupying no more than 50% of the floor area of the building.

49 q. Parks

50  
51 21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine  
52 Commercial District when authorized by conditional use permit issued in accordance with HCC  
53 Chapter 21.71:

54 a. Restaurants and drinking establishments; ( reminder: restaurants allowed outright, drinking  
55 establishments are conditional)

56 b. Cold storage facilities;(Allow outright)

57 eb. Public utility facilities and structures;

58 d. Dredge and fill when required for construction or maintenance of a structure devoted to one or  
59 more uses that are permitted or conditionally permitted in this district;

60 ec. Wholesale outlets for marine products;

61 fd. Pipelines and railroads;

62 gc. Heliports;

63 hf. Hotels and motels;

64 g. Lodging

65 i. More than one building containing a permitted principal use on a lot.

66 j. Planned unit developments, limited to water-dependent and water-related uses; No dwelling  
67 units other than caretakers

68 k. Indoor recreational facilities;

69 l. Outdoor recreational facilities;

70 m. Campgrounds;(Allow outright)

71 n. Manufacturing, processing, cooking, and packing of seafood products.(Allow outright)

72 o. Other similar uses, if approved after a public hearing by the Planning Commission, including  
73 but not limited to those uses authorized in the Marine Industrial district under HCC §§ 21.30.020  
74 and 21.30.030, provided the commission finds the use meets the following standards and  
75 requirements:

76 1. The proposed use is compatible with the purpose of the Marine Commercial District;

77 2. The proposed use is compatible with the land use development plan for the Homer Spit and  
78 the Comprehensive Plan;

79 3. Public facilities and services are adequate to serve the proposed use, and,

80 4. If City owned land, the Port and Harbor Commission, after a public hearing, has made a

81 written recommendation to the Planning Commission concerning the proposed use, including  
82 specifically whether conditions (1) through (3) of this subsection are or may, with appropriate

83 conditions, be met by the proposed use. (Ord. 08-29, 2008).

21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all structures and uses in the marine commercial district:

a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December 12, 2006.

b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other lot boundary lines. Alleys are not subject to a 20 foot setback requirement.

c. The maximum building height is 35 feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

Building Area and Dimensions - Retail and Wholesale.

1. The floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit, Planned Unit Development, or variance be granted that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (e)(1). (Ord. 08-29, 2008).

21.28.050 Site and Access Plan. a. A zoning permit for any use or structure within the Marine Commercial District shall not be issued by the City without a level one site plan approved by the City under HCC Chapter 21.73.

b. A zoning permit for any use or structure shall not be issued without a level one right-of-way access plan approved by the City under HCC Chapter 21.73. (Ord. 08-29, 2008).

21.28.060 Traffic Requirements. A conditional use permit is required for all uses that are estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

21.28.070 Site Development Requirements. All development shall conform to the Site Development Requirements contained in HCC § 21.50.030 and the following:

a. Development shall not impair or unnecessarily impede use by the public of adjacent publicly-owned tidelands.

b. The location of buildings and roads shall be planned to minimize alteration to the natural terrain.

c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.

d. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

21.28.080 Nuisance Standards. All development and structures shall conform to the Nuisance Standards contained in HCC § 21.24.080. (Ord. 08-29, 2008).

127 21.28.090 Lighting Standards. All uses and development shall conform to the Lighting Standards  
128 contained in HCC § 21.59.030. (Ord. 08-29, 2008).

129

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Chair Erickson returned to the table and resumed the Chair.

#### **PENDING BUSINESS**

A. Staff Report PL 12-67, Marine Commercial and Marine Industrial Zoning

Chair Erickson commented that the Commission had discussion at their work session and provided feedback to staff. They will discuss it further at a future work session.

#### **NEW BUSINESS**

None

#### **INFORMATIONAL MATERIALS**

- A. City Manager's Report from November 26<sup>th</sup> City Council Meeting
- B. Certificate of Appointment for Larry Slone

There were no comments.

#### **COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

#### **COMMENTS OF STAFF**

Staff wished the Commission happy holidays. Planning Technician Engebretsen noted that she has copies of the sign code for their code books.

#### **COMMENTS OF THE COMMISSION**

Commissioner Venuti commented that he loves being in charge. He said it was an interesting meeting and he likes the way this group works. He wished everyone a very Merry Christmas.

Commissioner Stead welcomed Mr. Slone and wished everyone Merry Christmas.

Commissioner Highland welcomed Mr. Slone and said Merry Christmas, Happy New Year, and see you next year.

Commissioner Slone thanked everyone who welcomed him.





## City of Homer Planning & Zoning

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### STAFF REPORT PL 12-59

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** November 7, 2012  
**SUBJECT:** Draft Ordinance 12-xx Amending HCC 21.30 Marine Industrial Zoning District

#### Review

So far, we have created a draft ordinance for the Marine Commercial District that will go to the City Attorney for review. Now, I would like to review and amend the Marine Industrial District. We will be letting the Marine Commercial Ordinance sit until we have a look at the big picture on the spit and decide if it is appropriate when everything is considered (Marine Industrial Zoning and possible map amendments).

#### Introduction

There are several things to consider when proposing a code amendment (change in text of code) or a map amendment (change in the boundaries of a district). Not so long ago we codified standards which we review. So to start our conversation I believe it would be best to review our codified standards of review then our Comprehensive Plan guidance on the subject.

21.95.040 Planning Department review of code amendment. The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

- a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.
- b. Will be reasonable to implement and enforce.
- c. Will promote the present and future public health, safety and welfare.
- d. Is consistent with the intent and wording of the other provisions of this title.

21.95.050 Planning Department review of zoning map amendment. The Planning Department shall evaluate each amendment to the official zoning map that is initiated in accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

- a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.
- b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.
- c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of

the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

First things first, compliance with the comprehensive plan:

## **Homer Spit Comprehensive Plan**

### **1.A Industrial Development**

The Spit has great potential for future industrial development related to the fishing, marine, and shipping industries. Key issues include the need to:

- Better utilize the limited land available for industrial and economic development.
- Reserve sufficient land by the Deep Water Dock for future industrial development.
- Encourage development related to the fishing, fish processing, and boating industries.

Future industrial development should be clustered in specific locations as highlighted in the Future Land Use Concept Maps (pages 44-45). However, industrial activities can have deleterious impacts to scenic resources that are valued by the public. Selective screening of industrial land use should be considered where industrial activity takes place adjacent to other existing development and transportation routes. However, care must be exercised to ensure that screening does not then restrict views to scenic resources or limit the public's ability to view areas and enjoy activities that add to the interest of the Spit, such as storage of crab pots.

The existing fish dock, ice plant, and processing plants are key economic generators on the Spit but they are potentially threatened by incompatible land uses. Furthermore, the mix of land uses in the area and the undefined circulation sometimes creates hazards to pedestrians and others that pass through. The public needs to be aware there are hazards in the area; signage can be used to discourage foot traffic. This area requires attention to provide for separation of uses and reservation of land for future industrial development.

The area east of the harbor basin by the Deep Water Dock is a bright spot in industrial activity on the Spit and receives high use. However, competing uses and traffic patterns may encroach into the activity in this area and create safety hazards in the future.

Finally, creep of commercial land uses into an industrial area should be avoided because it reduces future options for marine industrial uses and harbor facilities. Marine industrial and transportation are strategically important long term-uses, and commercial activity should be located so that future opportunities are preserved. A related issue that is sometimes difficult to address is the issue of how to regulate commercial versus industrial development. More definition is needed with respect to commercial use to address the character of commercial development as it has occurred on the Spit.

### **Goals for Economic Development:**

3.1 Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit. A land use plan and map have been prepared to present recommendations (Maps 4-6, pages 44-46) supporting the goals outlined in this chapter. The plan does not make sweeping changes to the existing development pattern or use of the Spit. It does address future use of underutilized property, designates specific areas for economic development, and provides for reorganization of land use to create a community park and gathering place.

### **Implementation Items**

- Address screening of dumpsters/noxious facilities.
- Address standards for screening of industrial development with view protection.
- Explore industrial subdivision standards.
  
- Submit draft ordinance to Planning Commission and City Council.
- Consider zero lot line construction and the amount of right-of-way realistically needed to support specific uses at build-out.

### **Revision Considerations**

General theory of amending this zoning district – cluster industrial activities together. While Marine Commercial can be more inclusive of commercial and industrial activities, the Marine Industrial District should be more exclusively reserved for industrial activity.

#### **21.30.020 Permitted**

(f) Marine equipment sales, rentals, service, repair and storage.

- I checked for consistency with the MC district and it is comparable to “Marine equipment parts sales and service”. In consideration of the theory above, I believe that we should consider replacing MI language into MC.

(i) Other similar uses ....

-I find this inappropriate for the same reasons as stated for removal in MC.

(o) Caretaker...

-recommend same language as found in MC

#### **21.30.030 Conditional Uses**

(e) Restaurants and drinking establishments

-consider for removal and possible addition of restaurants only as an accessory use

(g) Caretaker's....

-moved to permitted and mirror language found in MC

**(h) Heliports**

-do not believe this is practical, but might be worth discussion

**(j) More than one building containing a principle permitted use**

-consider moving to permitted and rely on other triggers for conditional use permits on the spit

**(l,m) Indoor and outdoor recreational**

-in consideration of the sentiment for these activities should we expand to performing arts/theater or something similar?

**21.30.040 Dimensional requirements**

**(d) 70% of lot coverage for conditional use permit**

-most all examples from districts such as these set the CUP threshold at 70-80 percent

**Next Steps**

Gain consensus on revision to code and bring back for further review in light of input suggestions.

**Attachments**

1. Marine Industrial Draft Ordinance - 11.1.2012 draft
2. Marine Commercial Sept 12 Draft Ordinance

**Also please bring/reference your Zoning map, and Homer Spit Comprehensive plan. If you don't have these documents please contact me!**

# **Chapter 21.30 MI Marine Industrial District**

## **11.1.2012**

### **Sections:**

- 21.30.010 Purpose.**
- 21.30.020 Permitted uses and structures.**
- 21.30.030 Conditional uses and structures.**
- 21.30.040 Dimensional requirements.**
- 21.30.050 Site and access plan.**
- 21.30.060 Traffic requirements.**
- 21.30.070 Site development requirements.**
- 21.30.080 Nuisance standards.**
- 21.30.090 Lighting standards.**

**21.30.010 Purpose.** The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism; giving priority to those water-dependent uses over other industrial, commercial and recreational uses. (Ord. 08-29, 2008).

**21.30.020 Permitted uses and structures.** The following uses are permitted outright in the Marine Industrial 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. Port and harbor facilities;
- b. Manufacturing, processing and packing of sea products;
- c. Cold-storage;
- d. Dry docks;
- e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;
- f. Marine equipment sales, rentals, service, repair and storage.
- g. Boat launching or moorage facilities, marinas, boat charter services;
- h. Warehouse and marshaling yards for storing goods awaiting transfer to marine vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based transportation;
- ~~i. Other similar uses, if approved after a public hearing by the Commission, including but not limited to those uses authorized in the Marine Commercial District under HCC §§ 21.28.020 and 21.28.030, provided the Commission finds the use meets the following standards and requirements:~~

~~1. The proposed use is compatible with the purpose of Marine Industrial District or provides a necessary service to water-dependent industry;~~

~~2. The proposed use is compatible with land use development plans for the Homer Spit and the~~

39 comprehensive plan;  
40 ~~3. Public facilities and services are adequate to serve the proposed use, and~~  
41 ~~4. The Port and Harbor Commission, after a public hearing, has made a written recommendation~~  
42 ~~to the Commission concerning the proposed use, including specifically whether conditions (1)~~  
43 ~~through (3) of this subsection are or may, with appropriate conditions, be met by the proposed~~  
44 ~~use;~~  
45 j. Mobile food services;  
46 k. Itinerant merchants, provided all activities shall be limited to uses permitted outright under  
47 this zoning district;  
48 l. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.  
49 **o. Caretaker, business owner or employee as an accessory use to a primary use. The**  
50 **accommodations must be 50% or less of the building area, and intended use by the**  
51 **occupant for more than 30 consecutive days.**

52

53

54

55 21.30.030 Conditional uses and structures. The following uses may be permitted in the Marine  
56 Industrial District when authorized by conditional use permit issued in accordance with HCC  
57 Chapter 21.71:

58 a. Planned unit development, limited to water-dependent or water-related uses and excluding all  
59 dwellings;  
60 b. Boat sales, rentals, service, repair and storage, and boat manufacturing;  
61 ~~c. Restaurants and drinking establishments; accessory use??~~  
62 d. Extractive enterprises related to other uses permitted in the district;  
63 e. Campgrounds;  
64 f. Bulk petroleum storage;  
65 ~~g. Caretaker's residence as an accessory to a permitted or conditionally permitted use; permit~~  
66 ~~outright~~  
67 ~~h. Heliports;~~  
68 i. Pipelines and railroads;  
69 j. More than one building containing a permitted principal use on a lot. **permit outright**  
70 k. Permitted uses that exceed 100 vehicles during peak hour or more than 500 vehicles per day  
71 based on the proposed land use and density, calculated utilizing the Trip Generation Manual,  
72 Institute of Traffic Engineers, most current edition;  
73 l. Indoor recreational facilities;  
74 m. Outdoor recreational facilities. **indoor/outdoor performing arts/theater facilities?**

75

76 21.30.040 Dimensional requirements. a. Lot Size. The minimum lot size is 6,000 square feet.

77 b. Setbacks.

78 1. *All buildings shall be set back 20 feet from all dedicated rights-of-way.* Alleys are not subject  
79 to a 20 foot setback requirement. The setback requirements from any lot line abutting an alley

will be determined by the dimensional requirements of subparagraph (2) below.

2. Buildings shall be set back five feet from all other lot boundary lot lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.

c. Building Height.

1. The maximum building height shall be thirty-five feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of ~~30~~ 70 percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

1. The total square feet floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit or variance be granted that would allow a building to exceed the limits of subparagraph (d)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (d)(1). (Ord. 08-29, 2008; Ord. 08-27(S)§1, part, 2008).

21.30.050 Site and access plan. a. A zoning permit for a building or structure within the Marine Industrial District shall not be issued by the City without a level two site plan approved under HCC Chapter 21.73.

b. No zoning permit may be granted without a level two right-of-way access plan approved under HCC Chapter 21.73. (Ord. 08-29, 2008).

21.30.060 Traffic Requirements. A conditional use permit is required for every use that is estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

21.30.070 Site Development Requirements. a. All site development shall conform to the level two site development standards contained in HCC § 21.50.030.

b. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

21.30.080 Nuisance Standards. The nuisance standards of HCC § 21.59.010 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).

21.30.090. Lighting Standards. The level one lighting standards of HCC § 21.59.030 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).

C

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
NOVEMBER 7, 2012

Postponed under agenda approval.

B. Staff Report PL 12-61 Baycrest Subdivision 2012 Preliminary Plat

City Planner Abboud reviewed the staff report.

There was no applicant presentation and no public comments.

VENUTI/SONNEBORN MOVED TO ADOPT STAFF REPORT PL 12-61 BAYCREST SUBDIVISION 2012 PRELIMINARY PLAT WITH STAFF COMMENTS AND RECOMMENDATIONS 1 AND 2.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

**PENDING BUSINESS**

**NEW BUSINESS**

A. Staff Report PL 12-59 Marine Industrial Zoning

Chair Erickson explained that the Commission discussed Marine Industrial Zoning during the worksession and provided information to staff to bring back at another worksession.

B. Staff Report PL 12-62 HAPC 2013 Meeting Schedule

The Commission discussed the meeting schedule and considered the possibility of eliminating the January 2, 2013 regular meeting.

HIGHLAND/VENUTI MOVED TO ADOPT THE 2013 MEETING SCHEDULE AS OUTLINED IN THE DRAFT RESOLUTION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**INFORMATIONAL MATERIALS**

- A. City Manager's Report
- B. Thank you letter for removing dilapidated buildings on East End Road 10/5/12
- C. Thank you letter for installing erosion and sediment control measures on Hillside Place
- D. Staff Report PL 12-63 Lighting Standards





## City of Homer Planning & Zoning

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**TO:** Port and Harbor Advisory Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** September 20, 2012  
**SUBJECT:** Marine Commercial Zoning District

### **Requested Action**

The Commission and staff requests any comments from the Port and Harbor Advisory Commission on allowing "Lodging" on the Spit in the Marine Commercial District.

### **Introduction**

The Homer Advisory Planning Commission has been reviewing the Marine Commercial Zoning District, as part of the implementation of the Homer Spit Comprehensive Plan. Over the past few months, the Commission has been focused on how to regulate the nightly rentals, generally above shops. These are currently not allowed by the zoning code in the district. A representative from the State Fire Marshal Office made a presentation to the Commission over the summer on how the fire marshal regulates these types of buildings. The Commission and staff learned that who stays there, and how long, affects how strict the rules are. An owner occupied room has very few rules; a nightly rental for the general public has a lot more safety rules. Living somewhere 30 days means someone is more familiar with the building and surroundings and could more easily get out of the building in case of emergency. Shorter term stays means the occupant is less familiar and at more risk in case of emergency.

In August, letters were mailed to Spit property owners inviting them to share their ideas with the Commission. Two meetings were held, and attended by business owners and interested citizens. With comments provided by citizens, the Commission has reached consensus that overnight rentals should be allowed, and employee/business owners/caretakers quarters should also be allowed. Attached is the most recent staff report and version of the draft ordinance. The Commission will probably review the ordinance a few more times, and then move it to public hearing.

### **New Code Language**

#### New Definition:

"Lodging" means a building, portion of a building, or group of buildings, containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals. Lodging is not a hotel, motel, bed and breakfast, rooming house or hostel.

#### Three concepts in the 9/12 draft ordinance:

1. Caretaker/employee/employer quarters for occupancy more than 30 days, limited to 50% or less of the floor area (permitted use). This allows for some housing, but limits the size of the unit to something smaller than the main commercial use of the building.
2. Lodging as an accessory use, limited to 50% or less of floor area, (permitted use)

3. Lodging as a primary use (Conditional Use). This allows an empty or boarded up building to be used solely for lodging. This is something that citizens and the Commission do not want to see often, but lodging is preferable to a boarded up building.

**Requested Action**

The Commission and staff requests any comments from the Port and Harbor Advisory Commission on allowing "Lodging" on the Spit in the Marine Commercial District.

**Attachments**

Staff Report PL 12-51

September 12, 2012 Draft Ordinance



## City of Homer Planning & Zoning

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### STAFF REPORT PL 12-51

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** September 19, 2012  
**SUBJECT:** Marine Commercial Zoning District

#### **Requested Action:**

**This staff report will wrap up conversation on overnight accommodations, and begin discussion on the next topic: dimensional requirements.**

#### **Introduction**

The Commission has been discussing possible code solutions for the overnight accommodations found on the Spit. At the last two work sessions, the Commission listened to comments from Spit business owners, and interested citizens. The comments were in favor of allowing 50% of a building to be used for overnight accommodations. There was some concern about allowing all of a boardwalk building to become lodging; it might detract from the mix of land uses that makes the Spit so interesting. On the other hand, if the choices are boarded up vacant buildings, or overnight rentals, rentals might be preferable to empty storefronts.

#### **Proposed Lodging Solution**

Lines 45-48, and line 63, are possible code changes. Staff also suggested using the term "lodging" rather than "accessory lodging," to follow the grammar generally found in our code. We will be working with the City Attorney at some point on the exact legalese.

#### **New Definition:**

"Lodging" means a building, portion of a building, or group of buildings, containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals. Lodging is not a hotel, motel, bed and breakfast, rooming house or hostel.

#### **Three concepts in the 9/12 draft ordinance:**

1. Caretaker/employee/employer quarters for occupancy more than 30 days, limited to 50% or less of the floor area (permitted use)
2. Lodging as an accessory use, limited to 50% or less of floor area, (permitted use)
3. Lodging as a primary use (Conditional Use)

**Enforcement:** If someone converts an upstairs space into lodging, under city and state law, a fire marshal review is required. The zoning code requires a zoning permit for this change of use. The rules are the same city wide.

**Staff Recommendation:** Discuss the draft code language and make any amendments. If there is consensus with the proposed language, staff will move on to the next section of code.

### **Next Portion of code to work on: Dimensional Requirements.**

#### **Introduction**

Dimensional requirements spell out minimum lot size, the building envelope (setbacks, height, etc), and structure size limits. For example, Home City Code generally states in the business districts that building area over 8,000 square feet, or covering more than 30% of a lot, requires a conditional use permit. Conceptually, this higher level of review via a CUP is required because the bulk/scale/density of the development could impact neighboring properties. The Zoning Code and each Zoning District has a purpose statement. Everything the Commission enacts or approves should follow the concepts set out in these purpose statements.

**HCC 21.01.030 Purpose.** The Homer Zoning Code is adopted as one means of implementing of the general goals and policies of the Homer Comprehensive Plan. Its purpose is to enhance the public health, safety and welfare through land use regulations to:

- a. Designate, regulate and restrict the location and use of buildings, structures and land;
- b. Regulate the height, number of stories, and size of buildings and other characteristics of structures;
- c. Regulate and determine the size of yards and other open spaces;
- d. Regulate and limit the density of population;
- e. Conserve and stabilize the value of property;
- f. Provide adequate open spaces for light and air; and to prevent and fight fires;
- g. Prevent undue concentration of population;
- h. Lessen congestion on streets and highways;
- i. Preserve and enhance the aesthetic environment of the community;
- j. Promote health, safety and general welfare.

#### **Purpose of the Marine Commercial District**

**HCC 21.28.010 Purpose.** The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

When a developer applies for a conditional use permit, these are the ideas that the proposal is compared to. The Commission's findings relate to the overall purpose of the zoning code, and to the purpose statement of the zoning district. It is helpful to keep the purpose statements in mind as we discuss the dimensional requirements in the Marine Commercial district. The Spit is a unique place for many reasons; its zoning may be different than the rest of the city.

### **Setback Requirements in Marine Commercial**

There have been several conditional use permits in the last few years where the setback rules have been relaxed through the planned unit development (PUD) process. Generally speaking, buildings continue to meet the setback requirements, but walkways, boardwalks stairs and ramps have been allowed to be within the setback requirement.

Rather than requiring the use of the PUD process, staff recommends that certain structures, like stairs and boardwalks, be allowed in a setback with a conditional use permit. PUD's are somewhat complicated and require more work of the applicant, staff, and of the Commission. They are not a good way to regulate the setback exceptions we have been seeing. If the City is going to allow setback exceptions along rights of way, code should clearly state the process for that.

### **Analysis**

Staff recommends amending the setback requirements, to allow structures within that area. The Central Business District allows building within the setback from a right of way, with a conditional use permit. Staff recommends the same language for the Marine Commercial District.

### **Current Setback Code Excerpt with proposed amendment:**

21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all structures and uses in the marine commercial district:

b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other lot boundary lines. Alleys are not subject to a 20 foot setback requirement. **If approved by a conditional use permit, the setback from a dedicated right-of-way, may be reduced.**

### **Conclusion**

The proposed amendment would allow an applicant to apply for a conditional use permit to have a structure in a setback from a right of way. This would be a more clear public process than using a PUD mechanism.

### **Staff Recommendation**

Planning Commission

1. Reach consensus lines 45-48, and 63 of the draft ordinance (lodging)
2. Begin discussion on setback exceptions. Staff can research questions and ideas for the October meetings.

### **Attachments**

September 12, 2012 Draft Ordinance



# September 12, 2012 Draft

## Chapter 21.28 MC Marine Commercial District

### Sections:

21.28.010 Purpose.

21.28.020 Permitted uses and structures.

21.28.030 Conditional uses and structures.

21.28.040 Dimensional requirements.

21.28.050 Site and access plan.

21.28.060 Traffic requirements.

21.28.070 Site development requirements.

21.28.080 Nuisance standards.

21.28.090 Lighting standards.

21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine Commercial 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. Boat charter offices;~~ Tourism related charter offices such as fishing, flightseeing, day excursions and boat charters

b. Marine equipment and parts sales and services;

~~c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;~~

d. Business offices for water-dependent and water related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves, provided that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

f. Mobile food services;

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

h. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.

i. As an accessory use, one small wind energy system per lot. (Ord. 09-34(A) §18 (part), 2009; Ord. 08-29, 2008).

j. Restaurants

k. Cold-storage facilities

43 l. Campgrounds

44 m. Manufacturing, processing, cooking, and packing of seafood products

45 o. Caretaker, business owner or employee as an accessory use to a primary use. The  
46 accommodations must be 50% or less of the building area, and intended use by the occupant for  
47 more than 30 consecutive days.

48 p. Lodging as an accessory use, occupying no more than 50% of the floor area of the building.  
49

50 21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine  
51 Commercial District when authorized by conditional use permit issued in accordance with HCC  
52 Chapter 21.71:

53 a. Restaurants and drinking establishments; ( reminder: restaurants allowed outright, drinking  
54 establishments are conditional)

55 b. Cold storage facilities;(Allow outright)

56 eb. Public utility facilities and structures;

57 d. Dredge and fill when required for construction or maintenance of a structure devoted to one or  
58 more uses that are permitted or conditionally permitted in this district;

59 ec. Wholesale outlets for marine products;

60 fd. Pipelines and railroads;

61 ge. Heliports;

62 hf. Hotels and motels;

63 g. Lodging

64 i. More than one building containing a permitted principal use on a lot.

65 j. Planned unit developments, limited to water-dependent and water-related uses; No dwelling  
66 units other than caretakers

67 k. Indoor recreational facilities;

68 l. Outdoor recreational facilities;

69 m. Campgrounds;(Allow outright)

70 n. Manufacturing, processing, cooking, and packing of seafood products.(Allow outright)

71 o. Other similar uses, if approved after a public hearing by the Planning Commission, including  
72 but not limited to those uses authorized in the Marine Industrial district under HCC §§ 21.30.020  
73 and 21.30.030, provided the commission finds the use meets the following standards and  
74 requirements:

75 1. The proposed use is compatible with the purpose of the Marine Commercial District,  
76 2. The proposed use is compatible with the land use development plan for the Homer Spit and  
77 the Comprehensive Plan,

78 3. Public facilities and services are adequate to serve the proposed use, and,

79 4. If City-owned land, the Port and Harbor Commission, after a public hearing, has made a  
80 written recommendation to the Planning Commission concerning the proposed use, including  
81 specifically whether conditions (1) through (3) of this subsection are or may, with appropriate  
82 conditions, be met by the proposed use. (Ord. 08-29, 2008).

21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all structures and uses in the marine commercial district:

a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December 12, 2006.

b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other lot boundary lines. Alleys are not subject to a 20 foot setback requirement.

c. The maximum building height is 35 feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

Building Area and Dimensions - Retail and Wholesale.

1. The floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit, Planned Unit Development, or variance be granted that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (e)(1). (Ord. 08-29, 2008).

21.28.050 Site and Access Plan. a. A zoning permit for any use or structure within the Marine Commercial District shall not be issued by the City without a level one site plan approved by the City under HCC Chapter 21.73.

b. A zoning permit for any use or structure shall not be issued without a level one right-of-way access plan approved by the City under HCC Chapter 21.73. (Ord. 08-29, 2008).

21.28.060 Traffic Requirements. A conditional use permit is required for all uses that are estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

21.28.070 Site Development Requirements. All development shall conform to the Site Development Requirements contained in HCC § 21.50.030 and the following:

a. Development shall not impair or unnecessarily impede use by the public of adjacent publicly-owned tidelands.

b. The location of buildings and roads shall be planned to minimize alteration to the natural terrain.

c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.

d. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

21.28.080 Nuisance Standards. All development and structures shall conform to the Nuisance Standards contained in HCC § 21.24.080. (Ord. 08-29, 2008).

126 21.28.090 Lighting Standards. All uses and development shall conform to the Lighting Standards  
127 contained in HCC § 21.59.030. (Ord. 08-29, 2008).

128

been shown to slow down traffic in cities that have had a surge of infilling and population where there wasn't more planned pathways. It has become a concern with all the activity from the Islands and Ocean Visitor Center and Two Sister's. Ms. Allen provided photos for the Commission to look at and commented about the street paintings that have provided a great visual introduction for Old Town, and for those concerned about where this project is going. When working on the street paintings people were slowing down and asking questions, and it was a real positive experience for this introductory project. They are hoping to have more painting, but the next "to do" on the list is gaining recreational easements from 9 property owners between Bunnell and Two Sisters, which is where they want to put the "green pathway" or at least plant some edible trees and bushes. That is what they are calling the People's Garden and it becomes a corridor for pedestrians and makes Old Town attractive. Ms. Allen said she has talked to 8 of the 9 property owners and while they have their individual concerns, they are waiting with open minds to hear more. To get the recreation easements, property owners need to see what they are signing up for. Dutch Boy Landscaping has volunteered to put together a concept map after walking the area with them, and she can take it to land owners to get feed back. If they don't get all 9 easements, they will work with what they do get. Ms. Freeman noted that this area has the same predicament as the spit and they may need to work with the City to establish a pedestrian zone in this area as well. Once a pedestrian zone is established they envision landscaping would envelop it, and with private grants add benches, planters, and some lighting to frame it.

In response to questions Ms. Allen and Ms. Freeman commented they worked with Public Works, DOT, and the City Manager's office to do the paintings on the street. They recognize that there will be seasonal upkeep on the paintings and plan to follow through as needed.

## REPORTS

### A. Staff Report PL 12-52, City Planner's Report

City Planner Abboud reviewed the staff report.

## PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

None

## PLAT CONSIDERATION

None

## PENDING BUSINESS

### A. Staff Report PL 12-43, Staff Report 12-43, Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

Chair Erickson reviewed the discussion points from the worksession as follows:

- Using term "lodging" and accepting the new definition and the 3 concepts of the 9/12 draft ordinance for occupancy.

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HOMER ADVISORY PLANNING COMMISSION  
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- Considered on page 21, approving by CUP the setback from dedicated right-of-way may be reduced and allowing staff to have the flexibility to deal with the CUP's.

City Planner Abboud said the Port and Harbor Commission will be seeing this at their next meeting and he will bring any feedback they might have regarding information in the draft ordinance.

B. Staff Report PL 12-49, Pier 1 Land Use

Chair Erickson expressed appreciation for Lance Peterson's feedback at the worksession regarding criteria for non profit consideration. She thinks it would be good to adopt some kind of criteria for dealing with non profits.

Commissioner Venuti expressed agreement with marking the access road better to the area. He added that there shouldn't be any permanent improvements regarding the kayak launch. Kayaks can be launched anywhere in that area and as opportunities come forward the launch location may need to be relocated.

Commissioner Stead commented regarding non profits, and when reviewing leasing criteria, it is important to be cognizant that non profits can make money and can provide for leases for their facilities. It happens all the time. An example of something that could occur out there and pay its way is a school. The North House Folk School in Grand Marais, MN is a school on public leased property and provides for a lot of different entities to have access to the harbor. It is a non profit that makes money and brings a lot of people to Grand Marais. There are other possibilities than just what we are talking about and he encouraged them to think even broader. He reiterated that non profits need to pay their way.

Discussion ensued regarding the lease policies, current uses on the lot, and concerns in effective dealings with non profits.

**NEW BUSINESS**

None

**INFORMATIONAL MATERIALS**

A. City Manager's Report dated September 10, 2012

**COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

None

**COMMENTS OF STAFF**

Deputy City Clerk Jacobsen commented that invitations have been sent out for the Volunteer Appreciation party on October 5.

**COMMENTS OF THE COMMISSION**

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## City of Homer Planning & Zoning

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### STAFF REPORT PL 12-43

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** August 15, 2012, Sep 5, 2012  
**SUBJECT:** Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

#### Introduction

Staff has mailed a flier to Spit businesses, leaseholders and property owners (attached). At the August 15<sup>th</sup> and September 5<sup>th</sup> work sessions, citizens are invited to talk with the Commission about the proposed "accessory lodging" definition and regulations.

#### Discussion

Currently, a provision exists to allow a motel (defined as 6 or more guest rooms) to gain approval with a CUP on the Spit. Several lodging operations have been operating with less than 6 rooms. Since code contains no definition for this activity, it is implied that it is not allowed. Throughout the Spit comprehensive plan public process, the subject received mixed comments with most not wishing for their elimination. The Planning Office needs guidance on how such an activity might be regulated or if it should be prohibited. To allow this activity we need a definition and a few regulations and would like to hear from spit businesses and interested citizens on the draft proposal below.

#### Proposed regulation for accessory lodging

*As a conditional use:*

"Accessory Lodging" means a building or a portion of a building containing no more than five guest rooms provided for compensation on a less than monthly basis. No more than 50% of the building may be used for accommodations.

- A conditional use allows the Commission to individually review proposals on a per-lot basis and consider each site independently and formulate appropriate conditions for such use.
- All uses are subject to any applicable local, state or federal regulation, which includes Fire Marshall Review.

Additionally it is proposed that caretakers, business owners and employees would also be allowed to live in rooms above shops, through a conditional use permit.

**Staff Recommendation:** Planning Commission take public comments about the proposed regulations.

#### Attachments

1. Revised memo to Port and Harbor Commission RE: Fire Marshal regulations
2. July 10 draft ordinance
3. Meeting invitation

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### You're invited!

- Who:** Spit business and property owners, interested citizens
- What:** Meeting to discuss regulations for accessory lodging units on the Spit
- When:** August 15<sup>th</sup> and September 5<sup>th</sup>, 2012, 5:30-6:20 pm
- Where:** Homer City Hall Council Chambers, 491 E Pioneer Ave
- Why:** The Planning Commission is revising the Marine Commercial zoning code. The Commission invites you to provide input on these longstanding rental units that are generally not legal within the zoning code. There is a new draft definition and proposed regulation for these units ("Accessory Lodging") but its very early in the public process. Tell us what you think!

#### What is the proposed regulation?

Through a conditional use permit, lodging for business/building owners, employees, caretakers and nightly customers would be allowed. Only 50% of the building could be used for these purposes; the rest must be used for commercial activity. These rules would apply to buildings with 5 or fewer guest rooms. 6 or more rental rooms is a hotel and has a separate (more strict) set of rules.

#### Why has this come up?

The 2011 Spit Comprehensive Plan suggests a review of the zoning code. Our 20 year old zoning code has some catching up to do! The Commission is reviewing the whole Marine Commercial zoning code, but right now is focusing on this issue of rental units. The Commission values your input in the early stages of this process!

#### What's next?

The Commission will listen to your comments and keep them in mind when reviewing the proposed regulation. Eventually, these and any other changes will go to public hearing, both at the Commission and City Council levels.

#### How can I stay involved?

Subscribe to updates on our website! Visit [www.cityofhomer-ak.gov/planning](http://www.cityofhomer-ak.gov/planning), and subscribe to planning department web updates. You can fax comments to 907-235-3119, or email to [Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us).

#### Who can I talk to for more information?

Contact Rick Abboud, City Planner or Julie Engebretsen, Planning Technician at 235-3106.



Where the Land Ends and the Sea Begins

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HOMER ADVISORY PLANNING COMMISSION  
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SEPTEMBER 5, 2012

Chair Erickson opened the public hearing. There were no public comments and the hearing was closed.

In response to questions, Ms. Converse said the foot traffic has increased with the new trail and she got an email from someone who walked it with a stroller and was very happy with the trail. They are removing the easement at the request of the surveyor. They didn't request removing the one to the south because they may want to use it in the future to connect to Pioneer. There was some discussion of the layout of the trail in relation to the easement, but with out the surveyor in attendance Ms. Converse was unable to respond to the questions raised.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT PL 12-48, VACATION OF A PUBLIC TRAIL EASEMENT WITH STAFF RECOMMENDATIONS AND FINDINGS.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**PLAT CONSIDERATION**

A. Staff Report PL 12-47, Pratt Subdivision Preliminary Plat

City Planner Abboud reviewed the staff report.

Ms. Converse commented that they are combining the pieces to deal with their building project. She has talked with Julie regarding the process to do a zoning change. She doesn't anticipate any issues with the utility easement.

There were no public comments.

HIGHLAND/SONNEBORN MOVED TO ADOPT STAFF REPORT PL 12-47 PRATT SUBDIVISION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS AND FINDINGS.

Comment was made that this is a good idea.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**PENDING BUSINESS**

A. Staff Report PL 12-43, Staff Report 12-43, Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

City Planner Abboud reviewed the information for the overnight accommodations as he understood it from the testimony. Staff will bring back some dimensional requirements information and continue working forward. They aren't in a big rush right now.

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HOMER ADVISORY PLANNING COMMISSION  
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SEPTEMBER 5, 2012

Commissioner Venuti asked how staff will handle the people who have been doing it for years. City Planner Abboud said they are working through the process and gotten the word out there. Just because it has been happening for a long time doesn't make it legal nor does it compel them to enforce every rule. He thinks they have covered 80% or more of the people who are doing it, they have been here at the meetings, they will receive notices of what is happening, and he hopes to provide solutions. Most of the people agreed they want to be in compliance with the Fire Marshall and are aware of insurance concerns.

Chair Erickson commented that between the signs and bags, business owners out there are feeling a little beat up. She would like see them not look back but move forward and look at not starting off with a penalty but encourage them to come along for the next ones after the end of the summer, and anyone from here forward will have to have the proper permitting. We need to be careful with our businesses and do a little bit of good will in the midst of fixing this hole in our code.

Commissioner Dolma disagrees and doesn't believe there is a hole in the code, it wasn't an acceptable use and has been illegal all this time.. He doesn't think following code is onerous on a business. He thinks the Commission is pro business and that is what they are addressing this. It is more pro business to address it in the code rather than a bunch of CUP's. He agrees with the 50% cap but to be the most business friendly, there wouldn't be a cap at all. He agrees that housing could be allowed outright.

Commissioner Highland agreed with the 50% cap as well because the business goes with the accessory lodging.

City Planner Abboud suggested that next they look at the purpose statement of the district to talk about widening views of what we want out there.

#### **NEW BUSINESS**

- A. Staff Report PL 12-49, Pier 1 Land Use

City Planner Abboud reviewed the aerial photo and a concept of the barge haul out facility.

The Commission commented in favor of the concept of the barge haul out. They recognized that it is a facility that could economically benefit the City both for the harbor and for workers needing lodging, food, and other amenities. It appears to be a workable project in that the barge haul out will be operational in the off season, shutting down in the spring as the tourist traffic increases.

#### **INFORMATIONAL MATERIALS**

- A. City Manager's Report dated August 13 and August 27, 2012
- B. Memorandum dated August 15, 2012 from Julie Engebretsen, Planning Technician, regarding Homer Spit Trail and Cruise Ship Improvements
- C. Letter dated August 30, 2012 to Eldeen Jackson from Dotti Harness-Foster, Planning Technician, regarding AA Mattox Sub 1958 Addn No 2, Lot 23
- D. KPB Staff Report dated 8/27/12: WR Bell Subdivision

#### **COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

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9/5 WS sign in sheet MC

SEAN MARTIN

NORCO@alaska.net

Terry Unger

Melvin Corda

Bunggo Bremner

Sörensen Peters

Wendi Whitby

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**HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
AUGUST 15, 2012**

public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

- A. Staff Report PL 12-42, CUP 12-03, A Request for a Conditional Use Permit (CUP) for 4470 Fish Dock Road, Lot 88-3 Homer Spit Subdivision No. 2/Dockside Fisheries

City Planner Abboud explained that there was some missing information regarding this and said it will be re-advertised for next meeting.

**PLAT CONSIDERATION**

**PENDING BUSINESS**

- A. Staff Report PL 12-43, Staff Report 12-43, Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

The Commission discussed the public feedback that they received during the worksession. They expressed their frustration with the animosity that was expressed by the business owners regarding lodging. The folks who commented didn't seem to have a full understanding of what the Commission is considering, and the Commission and staff need to work to find a way to get a better message out. The public doesn't understand that one of the Commission's responsibilities is to look at health and safety for the good of the public that uses the facilities in question. Business owners on the spit want rules for themselves and to let it run itself out there, but there are a lot of other businesses in the City and throughout the state that can't and won't do that, nor are they allowed to. The goal of the amendment for lodging is not a dramatic change; it is an opportunity to classify the lodging use so it can be effectively addressed by staff. They had general discussion on Fire Marshall review, health and safety, and if there are ways to help the public better understand what the Commission is trying to accomplish through this amendment.

**NEW BUSINESS**

None

**INFORMATIONAL MATERIALS**

None

**COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

**COMMENTS OF STAFF**

No

**COMMENTS OF THE COMMISSION**

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8/15/2012 HAPC Work Session Sign in Sheet

Name, contact info (email, or preferred contact method)

BILL BEAR LUCKY PIERRE CHARTERS  
LUCKYPIERRE@BEARSOFHOMER.COM

Pat Melone patmelone@alaska.net

K Bay Air - Dee Hughes kbayair@gmail.com

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907 223-4113 AKC 99507

Deanna + Greg Hebard gauddhebard@frontier.com - mail spiff  
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Kathy Rider centralcharters@gmail.com  
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Debbie Wise mariner@xyz.net  
Fish Connection

GARY HTON sea lion@xyz.net  
SEA LION GALLERY

POB 2095 Homer myalaska@xyz.net  
Mike Yourkowski

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## Shelly Rosencrans

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**From:** Jim Beckham [JimB@harborent.com]  
**Sent:** Monday, August 13, 2012 3:57 PM  
**To:** Department Planning  
**Subject:** homer spit zoning

i rcvd the notice of public mtg to discuss the changes to the spit zoning code. thank you for sending that along.

my concern has always been as the development on the spit continues and the pressure increases to allow more and more (incompatible) uses of property on the spit, our business will be adversely affected. harbor enterprises inc dba petro marine services and its predecessors have been operating a bulk fuel facility on the spit since the middle of the last century in order to bring fuel to homer and the surrounding community. we operate fuel barges and large, above ground storage tanks. it is a necessary and industrial use, probably one of the very first developments on the spit. there are restaurants, hotels, harbors, condos, campgrounds etc and now proposed "accessory lodging". none of these activities are compatible with the normal course of business conducted at a bulk fuel facility, yet they are practically on our doorstep. we dont mind the orderly development of municipal and private property, as long as permitted uses do not now or in the future restrict our ability to conduct our business and activities associated with our business. thought should be given to limiting encroachment on light and medium industrial activities and providing buffer zones where possible, even planning for future restrictions of presently allowable uses in order to protect each property owner's use.

we favor orderly and planned development, yet do not want that allowed development to impact our business should they object in the future to tanks, trucks, late night activity, occasional vapor odors and various other things associated with a tank farm.

sincerely,  
jim

james b. beckham  
vice president, operations  
harbor enterprises inc. dba  
petro marine services/alaska oil sales  
po box 389  
234 4th avenue  
seward, ak 99664

907 224 6222  
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### STAFF REPORT PL 12-40

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** August 1, 2012  
**SUBJECT:** Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

The purpose of this staff report is to share some concepts and definitions.

**Requested Action:** Please discuss the definition and concepts at the end of the staff report.

#### Introduction

This staff report addresses two aspects of 'overnight accommodations' on the Spit, specifically the second story rooms above shops.

1. What should we call these overnight accommodations?
2. How to limit the number of rooms and avoid negatively affecting the current mix of businesses?

#### Definitions

We discussed how to come up with a definition of these overnight accommodations on the Spit. A room or two above a shop is not technically a hotel, its not a boarding house, or a BnB. How do other communities define this type of accommodation? What are some options?

Note that other city's definitions include the type of resident, and the length of stay as part of the description of the activity. Homer definitions usually don't specify how long guests stay, or the type of guest. That's fine, until we start to describe occupancy in life safety terms (fire marshal). Staff would prefer not to change our existing definitions – we may run in to unintended consequences if we make changes to code that is used city wide.

Also keep in mind that each town has its own set of problems they are trying to address. You can imagine if we lived on the Jersey Shore, we might have more of a problem with party houses and renters in residential neighborhoods, trash, too many parked cars, etc. We're not trying to regulate these issues. But, its common practice to very specifically define and regulate what kind of guest we are talking about on the Spit.

#### **Hotel**

##### *Soldotna*

"Hotel" or "Motel" means a building containing 6 or more guestrooms designed for occupancy as a temporary place of abode for individuals who are lodged with or without meals.

### *Kenai*

...containing more than 5 guest rooms and used for the purpose of offering public lodging on a day to day basis with or without food.

### *Homer*

"Hotel" or "motel" means any building or group of buildings containing six or more guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. "Hotel" or "motel" also means any building or group of buildings containing five or less guest rooms that are used, rented or hired out to be occupied for sleeping purposes by more than fifteen guests. The terms "hotel" and "motel" exclude bed and breakfast, rooming house, dormitory, shelter for the homeless, and hostel.

Staff comment: So a hotel is more than 5 guest rooms, and in Homer, a congregation of more than 15 guests, regardless of room arrangement. Also, these other communities have an adopted building code. It is quite likely the 15 guest limit in Homer's code matches the state fire marshal regulation. Its an indirect way to make sure people are in compliance...and to help a home owner decide how many rooms and guests they can have before they run into a higher level of regulation.

## **Bed and Breakfast**

### *Kenai*

"Bed and Breakfast" means a residential, owner occupied dwelling in which rooms are rented to paying guests on an overnight basis with no more than one (1) meal served daily.

### *Homer*

"Bed and breakfast" means a dwelling in which an individual or family resides and rents bedrooms in the dwelling to overnight guests, if the bed and breakfast use is accessory to the principal use of the dwelling as the primary residence of the operator. If the dwelling has six or more bedrooms available for rental to overnight guests it is a hotel and not a bed and breakfast.

## **Lodge**

### *Kenai*

"Lodge" means a building or group of buildings containing five or fewer guest rooms used for the purpose of offering public lodging on a day to day basis with or without meals.

### *Soldotna*

"Recreation Lodge" means a building or establishment containing not more than 5 guestrooms where short-term (not to exceed one month) sleeping accommodations and/or meals are provided for compensation, including individual rental cabins.

NOTE – these are not B&B's. There is no mention of a dwelling unit, or an onsite owner occupant.

Homer – no definition. Its either a hotel, or associated with a dwelling and is therefore a roominghouse or bed and breakfast. We have no definition of room rentals not greater than 6, and not associated with a dwelling.

## **Boardinghouse**

### *Kenai*

"Boarding house" means a building other than a hotel where lodging, with or without meals, is provided for compensation for three or more persons, on other than day- to day basis and which is not open to transient guests.

Example: College type apartment with lots of people renting a room.

#### *Homer*

"Rooming house" means a dwelling containing not more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. A rooming house shall not accommodate in excess of 15 guests. A rooming house 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. "Rooming house" does not include bed and breakfast.

Staff note: the Homer Roominghouse definition is broader than a boarding house. We don't care how long people stay, or if they pay or not.

#### **Possible Homer definition: Please Discuss!**

"Lodge" means a building or a portion of a building containing no more than five guest rooms provided for compensation on a less than monthly basis.

Components in this definition: 1. Less than monthly occupancy. 2. For compensation. 3. Limited number of guestrooms - 5. ...by definition 6 is a hotel....

#### **How to limit the number of rooms**

The simplest way to limit the number of rooms, is limit how much of the building can be used for accommodations. Staff recommends that no more than 50% of the building may be used for accommodations. By regulating a percentage of floor area, it doesn't really matter how big or small the building is, which floor the rooms are on, or how many rooms there are. By physical design, the building will always have 50% or more business activity, and rooms would always be secondary. A lodge, and all residential activity – (caretaker, employee, owner), would be a conditional use, and be limited to 50% of the building area.

#### **Staff Recommendation: Planning Commission discuss**

1. Defining overnight accommodations, with less than 6 units
2. Limiting the use to 50% of the building.

**Staff comment:** Staff would like to have a working definition and basic regulation concept to take to the Port and Harbor Commission, and to contact Spit lease holders and businesses.





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### STAFF REPORT PL 12-33

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** July 18, 2012  
**SUBJECT:** Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

#### Review

At the last meeting, the Commission reviewed the permitted and conditional uses. Staff has updated the draft ordinance with your comments. Diana Parks, Plan Review Bureau Supervisor from the State Fire Marshal Office made a presentation and discussed occupancy types.

#### Excerpt from memo to the Port and Harbor Advisory Commission on Diana Parks' presentation:

Fire marshal review is required when a building is remodeled, the use changes, or a zoning permit is required. Ms. Parks relayed the state's willingness to work with property owners to find solutions for buildings that are already constructed. Existing buildings with minor changes can expect common sense regulation; an existing building will not be required to come up to code. If a building is undergoing a major remodel or expansion, the owner can expect they will need to bring their building up to code.

**Occupancy:** the type of use or inhabitant of a structure.

We discussed three types of occupants for rooms above shops. These 'occupancies' are based on how long someone stays in the room (days, a month, all season).

An R1 is an occupant who stays less than 30 days. It could be a tourist renting a room for the night, a weekly rental, or a guy who comes in from a fishing boat and spends the night once in a while. New R1 accommodations must be sprinkled, and have the most rules.

An "R2" is an occupant who rents or lives in the apartment for 30 days or longer. It could be a renter, an employee, etc. There are more rules for an R2 apartment – hand rails, egress, etc.

An "R3" is a personal residence. It's the home, even if its seasonal, of a person that owns the building, or the business below it. The shop keeper who lives upstairs in the summer is an "R3." There is very little regulation from the fire marshal for an R3. As long as there is fire separation, (say extra sheet rock between the shop and the residence), that's about all the Fire Marshal would regulate.

What does all this mean for zoning? It would be nice for the new zoning regulations to match how the state regulates occupancy. City regulations don't need to duplicate state law, but they should align somewhat. We don't want to encourage activities in zoning that can't pass state fire marshal review, and vice versa.

### **Next Steps**

There are two items this staff report will discuss. First, some proposed language for over 30 days occupancy in apartments above shops on the Spit (R2, R3). Second, a request for some discussion on nightly rentals (R1) and what the Commission would like to do.

### **R2, R3 Occupancy**

The Commission decided caretakers or owners are acceptable residents on the Spit. Staff asks the Commission to include employees on that list. This would allow seasonal staff to stay on the Spit, not just the owner. (waitress, deckhand, sales clerk, boat driver, etc).

Standard language in other parts of HCC, like the CBD allow as a permitted use: "Apartment units located in buildings primarily devoted to business or commercial uses." Staff suggests using similar language, but limiting resident occupants to the owner, caretaker or employee. If the Commission has consensus on this staff can draft some language.

### **R1 Occupancy**

Staff requests the Commission discuss overnight accommodations. In the near future, staff would like to have a loose working definition of what to call the overnight rentals above Spit businesses, and some idea of how the Commission would like to regulate them. Staff can then communicate with the Port and Harbor Commission. When things are a little further along with the rest of the ordinance, we can hold some public meetings for community input.

We worked really hard during the Spit comprehensive plan process to get some sort of consensus on these units. There doesn't seem to be one! People recognize the units are out there, not allowed under current code, don't want more of them, but don't want to force the existing units to stop operation. Rather than asking again how people think we should solve the problem, staff would like to have a proposed regulation for people to consider.

The attached Zoning News publication talks about short term vacation rentals. It focuses mainly on the conflict between year round homes and neighboring short term rentals. While the article is not particularly relevant to the Spit because most of the Spit is commercial and we are discussing commercial room rentals, the article does touch on some issues and present terminology. Under Homer City Code, hotels are defined as having six or more guest units. Any other lodging is considered a rooming house, dormitory, bed and breakfast, or some other category that is geared toward residential use. We don't really have a definition of overnight rentals above a businesses, that has less than six guest rooms. It may be helpful to create a term, using the 'transient' and a definition. Otherwise, its likely these upstairs units will be called hotels because that is what they are most similar too. It just causes a little confusion – when people hear the term hotel, they think Lands End or the Bidarka, not a small room above a shop.

Staff would like the Commission to discuss the idea of nightly rentals, under six rooms. Above some shops on the Spit are one or two rooms that are rented out by the night. There are also fishing charters that offer accommodations to their guests. Generally these buildings have 1-5 guest rooms. Six or more rooms is a hotel and is allowed by conditional use.

**Options:**

- Calling these units hotels and regulating them under current code as conditional uses.
- Requiring the accommodations to be on the second floor, (or other architectural related requirements)
- Requiring they be an accessory use (i.e., must have a business down stairs)
- Having a maximum number of units per building or per lot or percentage of floor area.

**Staff Recommendation**

Planning Commission discuss

1. Allowing employees to live above shops
2. Overnight accommodations, with less than 6 units

Next topic to be worked on: setbacks and dimensional requirements.

**Attachments**

1. Draft Ordinance- July 10 draft
2. Zoning News, March 2002 Short Term Vacation Rentals: Residential or Commercial Use?

C

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# July 10, 2012 Draft

## Chapter 21.28 MC Marine Commercial District

### Sections:

21.28.010 Purpose.

21.28.020 Permitted uses and structures.

21.28.030 Conditional uses and structures.

21.28.040 Dimensional requirements.

21.28.050 Site and access plan.

21.28.060 Traffic requirements.

21.28.070 Site development requirements.

21.28.080 Nuisance standards.

21.28.090 Lighting standards.

21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine Commercial 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. Boat charter offices;~~ Tourism related charter offices such as fishing, flightseeing, day excursions and boat charters

b. Marine equipment and parts sales and services;

~~c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;~~

d. Business offices for water-dependent and water related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves, provided that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

f. Mobile food services;

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

h. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.

i. As an accessory use, one small wind energy system per lot. (Ord. 09-34(A) §18 (part), 2009; Ord. 08-29, 2008).

j. Restaurants

k. Cold-storage facilities

43 | 1. Campgrounds

44 | m. Manufacturing, processing, cooking, and packing of seafood products

45 |  
46 | 21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine  
47 | Commercial District when authorized by conditional use permit issued in accordance with HCC  
48 | Chapter 21.71:

49 | ~~a. Restaurants and drinking establishments; ( reminder: restaurants allowed outright, drinking~~  
50 | ~~establishments are conditional)~~

51 | ~~b. Cold storage facilities;(Allow outright)~~

52 | c. Public utility facilities and structures;

53 | ~~d. Dredge and fill when required for construction or maintenance of a structure devoted to one or~~  
54 | ~~more uses that are permitted or conditionally permitted in this district;~~

55 | ~~e. Wholesale outlets for marine products;~~

56 | ~~f. Pipelines and railroads;~~

57 | ~~g. Heliports;~~

58 | h. Hotels and motels;

59 | i. More than one building containing a permitted principal use on a lot. Allow outright

60 | j. Planned unit developments, limited to water-dependent and water-related uses; No dwelling  
61 | units other than caretakers

62 | k. Indoor recreational facilities;

63 | l. Outdoor recreational facilities;

64 | ~~m. Campgrounds;(Allow outright)~~

65 | ~~n. Manufacturing, processing, cooking, and packing of seafood products.(Allow outright)~~

66 | o. Other similar uses, if approved after a public hearing by the Planning Commission, including  
67 | but not limited to those uses authorized in the Marine Industrial district under HCC §§ 21.30.020  
68 | and 21.30.030, provided the commission finds the use meets the following standards and  
69 | requirements:

70 | 1. The proposed use is compatible with the purpose of the Marine Commercial District,

71 | 2. The proposed use is compatible with the land use development plan for the Homer Spit and  
72 | the Comprehensive Plan,

73 | 3. Public facilities and services are adequate to serve the proposed use, and,

74 | ~~4. If City owned land, the Port and Harbor Commission, after a public hearing, has made a~~  
75 | ~~written recommendation to the Planning Commission concerning the proposed use, including~~  
76 | ~~specifically whether conditions (1) through (3) of this subsection are or may, with appropriate~~  
77 | ~~conditions, be met by the proposed use. (Ord. 08-29, 2008).~~

78 | p. Caretaker, business owner or employee housing as an accessory use to a primary use.

79 |  
80 | 21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all  
81 | structures and uses in the marine commercial district:

82 | a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December  
83 | 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December  
84 | 12, 2006.

85 | b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other  
86 | lot boundary lines. Alleys are not subject to a 20 foot setback requirement.

c. The maximum building height is 35 feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

**Building Area and Dimensions - Retail and Wholesale.**

1. The floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit, Planned Unit Development, or variance be granted that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (e)(1). (Ord. 08-29, 2008).

**21.28.050 Site and Access Plan.** a. A zoning permit for any use or structure within the Marine Commercial District shall not be issued by the City without a level one site plan approved by the City under HCC Chapter 21.73.

b. A zoning permit for any use or structure shall not be issued without a level one right-of-way access plan approved by the City under HCC Chapter 21.73. (Ord. 08-29, 2008).

**21.28.060 Traffic Requirements.** A conditional use permit is required for all uses that are estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

**21.28.070 Site Development Requirements.** All development shall conform to the Site Development Requirements contained in HCC § 21.50.030 and the following:

a. Development shall not impair or unnecessarily impede use by the public of adjacent publicly-owned tidelands.

b. The location of buildings and roads shall be planned to minimize alteration to the natural terrain.

c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.

d. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

**21.28.080 Nuisance Standards.** All development and structures shall conform to the Nuisance Standards contained in HCC § 21.24.080. (Ord. 08-29, 2008).

**21.28.090 Lighting Standards.** All uses and development shall conform to the Lighting Standards contained in HCC § 21.59.030. (Ord. 08-29, 2008).



## Short-Term Vacation Rentals: Residential or Commercial Use?

By Nare Hutchinson

*What happens when people live and vacation in the same town, where vacation homes and permanent homes are often side by side? A survey of almost 40 tourist-oriented communities was taken for this issue of Zoning News.*

Americans love to vacation as much as they love their vacation destinations, and demographers have noticed. New migration patterns into some of the fastest growing communities in the country—resort towns—suggest that many people are relocating to the places that were once just summer or weekend getaways. According to Peter Wolf, author of *Hot Towns*, "A new species of American is on the move: not, as in the past, the needy, but the comfortable, well-educated, and well-trained; not the job seekers and risk takers, but those with leisure, choices, and the wherewithal to seek out the best." By Wolf's estimates, this migration includes anywhere from 700,000 to 1.6 million people per year. The strong 1990s economy brought a wave of second-home purchases as investments and family retreats. Resort areas—coastal, mountain, and lakeside—have what these trendsetters want: natural beauty, fresh air, and recreation. Communities with such amenities are prime candidates for conflicts in land-use planning.

What happens when people live and vacation in the same town, where vacation homes and permanent homes are often side by side? Regulations that govern short-term rentals in residential districts are getting more attention as planners and residents notice that these vacation homes can have a much greater impact on the community than those that house year-round residents. Angry neighbors say short-term rentals look like single-family homes but function more like commercial uses. The crux of the matter for planners is finding a balance between the interests of year-round, seasonal, and vacationing people while considering the effects on property rights, economic vitality, and the sanctity of residential neighborhoods.

The dynamics vary from one town to the next, but the issue seems to grow more contentious as more vacationers and year-round residents live next to one another. A survey of almost 40 tourist-oriented communities was taken for this issue of *Zoning News* in order to shed light on this increasingly vexing land-use phenomenon.

### Relevance and Research Background

In 2001, APA's Planning Advisory Service recorded an increase in the number of inquiries about planning for and regulating short-term rental properties in residential areas—particularly single-family districts. The survey revealed that a significant percentage experienced an increase in conflicts between these and adjacent land uses. While some have recently drafted ordinances to address the short-term rental problem, others are still in the process of doing so or have expressed the need for change, and because resort communities have different attitudes toward tourism, each approaches the issue in a different way.

### Impacts

The impact of a short-term vacationer compared with year-round residents can be significant. Seasonal populations live and work in the community, and thus become somewhat integrated. Naturally, they increase demands on infrastructure and services. Impacts associated with short-term vacationers, however, are more nuisance related, often generating noise and light pollution. Generally, the shorter the stay, the less inclined one might be to respect neighbor diplomacy. Late-night music and merrymaking, floodlights, garbage taken out to the street on off days, dogs at large, illegal parking, and negligent property maintenance are

garden-variety complaints often cited by annoyed neighbors. Neighbors, planners, and property owners point to the correlation between such problems and length of stay for the rental property. In other words: the shorter the stay, the higher the impact. The stereotypical "weekend warrior"—trying to pack the most fun into the least amount of time—will invariably generate more trips to the store or beach, keep later hours, and create a greater disruption with light and noise. Still, for some communities, the concern is not so much the negative impacts as the lack of community involvement typical of transients.

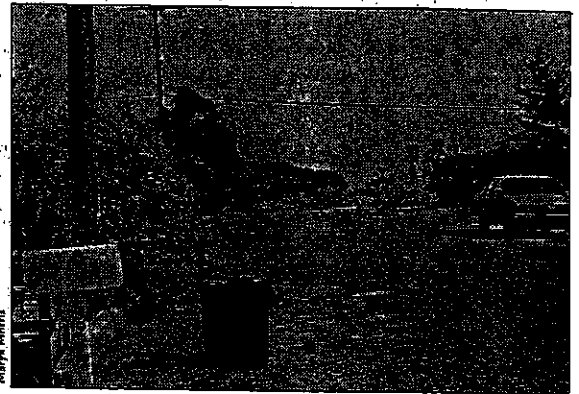
### Affordable Housing

A more insidious problem with short-term rentals is their impact on housing costs. When property owners decide to increase their "rent stream" with short-term rental agreements rather than renting by the season or year, they essentially "squeeze" the

### Politics

Planners admit to a dilemma: Many property owners rely on the rent streams and spending dollars generated by vacationers, but locals want to preserve their neighborhood's residential character. Furthermore, business owners would prefer to see an expansion of the local vacation lodging market. When property owners are unwilling to forfeit certain rights, leaving them at odds with neighbors who want the relative quietude expected in a single-family neighborhood, what should be done?

Indeed, people "vote with their feet" when choosing vacation destinations or a permanent home, so politicians try to appease the greatest number of constituents. Invariably, residents will threaten to abandon a once-beloved community or resort locale if renting a house on the beach or settling into a neighborhood means an endless stream of nuisances from disruptive vacationers.



(Above, left) Short-term rentals in Ship Bottom, New Jersey. Paved yards and excessive numbers of vehicles at short-term rental houses are a common complaint of neighbors. Believe it or not, these are the fronts of the houses. (Above, right) Most short-term renters are unaware of garbage collection schedules. (Left) Boat and recreation vehicle parking is an unpleasant sight for neighbors in this Monroe County, Florida, neighborhood.

supply of housing, pushing up the demand and, subsequently, the cost. Ty Simrosky, planning director for Key West, Florida, says, "It's another means of financing the acquisition of local housing by non-local people and it fuels speculation in a rising housing market." Simrosky explains that by allowing short-term rentals, investors can cover the carrying costs of a house for a year or two while the property appreciates in value and then sell it for a healthy profit. Simrosky also says that while long-term homebuyers are strongly opposed to short-term rentals in a prospective neighborhood, investment buyers are less inclined to care if a neighboring property is a short-term rental. This can create a snowball effect that eventually replaces year-round neighborhood residents with vacationers.

Communities most affected by a housing shortage are those with businesses that rely on lower-paying service and tourism jobs. High housing costs have pushed many workers out of the community, even beyond commuting distance. Simrosky also speculates that there are workers being bused in from the Florida mainland to sleep in bunk-house conditions just to work for three- or four-day periods in Key West.

Residents of Monroe County, Florida, put the issue on a ballot, narrowly deciding—51 to 49 percent—against allowing short-term rentals in improved subdivisions (single-family districts). Subdivisions retained the right to vote on the issue separately.

### Health, Safety, and General Welfare

Historically, property owners in resort communities could rent a home, regardless of the duration of the stay, by claiming that the house was not used "primarily for commercial purposes." What this really meant was that the structure could not be used for such purposes for more than 50 percent of the year. However, planners claim that approach is difficult to monitor and easy to abuse. Most feel zoning codes and a licensing system offer a better solution despite the time and expense required for administering and enforcing new regulations.

Most of the surveyed communities deal with short-term rentals through the zoning code. Imperial Beach, California, justifies its interim short-term rental ordinance with a purpose and intent that states "there is a current and immediate threat to the public health, safety, or welfare of its citizens by owners or their agents renting or selling units for periods of thirty

Community	Regulate Short-Term Rentals	Specific Ordinance Provisions <sup>1</sup>	Term Used <sup>1</sup>	Permitted		License Required	Year Adopted	Legal Challenges
				Number of Consecutive Days <sup>2</sup>	Number of Times Per Year			
Aspen, CO	No							
*****, NC	Yes	No						
Boone, NC	No							
Burlington, VT	No							
Cape Cod, MA	No							
Carmel-by-the-Sea, CA	Yes	Yes	Transient, Commercial Use	30		Prohibited	1975	
Cocoa Beach, FL	Yes	Yes	Transient Lodging	30	3	Yes	2000	
Colchester, VT	No							
Eagle County, CO	Yes					per/PUD <sup>4</sup>		
Imperial Beach, CA	Yes	Yes	Short-term Rental	30		Prohibited	Yes	2001
Islamorada, FL	Yes	Yes	Vacation Rental	28		Yes	Yes	Yes
Key West, FL	Yes	Yes	Transient Lodging	30				1998
Kiawah Island, SC	Drafting		Short-term Rental	30		Yes	Yes	In draft
Maggie Valley, NC	No							
Manchester, VT	No							
Marathon, FL	Yes	Yes	Vacation Rental	30		Yes	Yes	2000
Melbourne Beach, CA	Yes	No	Resort Dwelling	30			Yes	
Mendocino County, CA	Yes	No	Transient Habitation	30			Yes	1987
Monroe County, FL	Yes	Yes		30		Yes	Yes	
Monterey, CA	Yes	No	Short-term Residential Rental	30		Prohibited		Yes/Upheld
Muskegon, MI	Yes	No		7		Yes	No	
Myrtle Beach, SC	Yes	Yes	Transient Accommodation	30		Yes	Yes	
Nantucket, MA	No						Yes	
Ocean City, MD	No							
Pasco County, FL	Yes	Yes	Short-term Rental	30	3	Yes	Yes	1999
Saco, ME	Yes	Yes	Seasonal Rental	4 months		Prohibited	Yes	
			Daily Rental	1				
San Juan County, WA	Yes	Yes	Transient Accommodation/Residence/Guesthouse	30				1998
Sanibel, FL	Yes	Yes	Resort Housing	30		Yes	Yes	2001
Santa Cruz, CA	No/Transient Occupancy Tax		Short-term Rental					1984
Saugatuck, MI	No							
South Haven, MI	Yes	Yes	Short-term Dwelling Unit	2		Yes	No	
Stowe, VT	No							
Sturgeon Bay, WI	No/Transient Occupancy Tax							
Sullivan's Island, SC	Yes	Yes	Vacation Rental	28		Yes <sup>5</sup>	Yes	
Telluride, CO	Yes		Short-term Dwelling Unit	30	X <sup>6</sup>			1992
Traverse City, MI	No							
Vail, CO	No							
Yachats, OR	Yes	Yes	Transient Rental	30		Allowed in all Zones	Yes	1992

Phone by Mary Morris research by Nara Hutchinson

This matrix is not exhaustive. Every reasonable attempt was made to achieve accuracy and thoroughness, but variations in ordinance language, format, and local practice made a "complete" matrix impossible. Thus, it is meant only as a quick reference guide for readers of this article. The short-term rental survey evolved as it was being conducted, so not all questions were asked uniformly or of every survey participant.

1. This indicates any section of the code that is dedicated to short-term rentals, such as interim ordinances or amendments.
2. Language varies from code to code in terms of how they specify a time period. Where a month or four weeks was used as the length of the term, 30 days is the default response.
3. Community preferred not be mentioned by name.
4. Decision made by subdivision bylaws.
5. STRs not permitted by right in any of the zones.
6. In most restrictive districts, they are permitted to rent three times or fewer per year for a total of 30 days or less.

consecutive calendar days or less . . . and that such rentals in the residential zones of the city...may create adverse impacts."

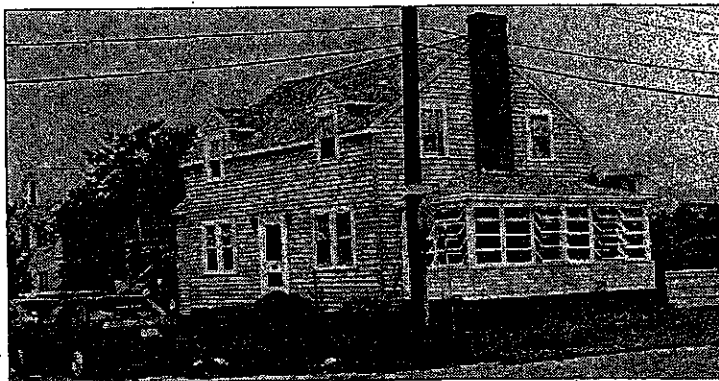
Commonly cited reasons for drafting an ordinance or provision for short-term rentals include protecting residential character, maintaining housing affordability, managing infrastructure and service requirements, and complying with hurricane evacuation capacity. Zoning ordinances, business permits, and transient occupancy taxes are ways of managing this quasi-commercial use.

Definitions are often at the root of governing short-term rentals. Unfortunately, many zoning codes have a discrepancy between defined terms and the provisions that use them. Terms are sometimes defined at the beginning of the ordinance but then never used in the provisions. Conversely, provisions may contain undefined terms, rendering the code too ambiguous. For example, some towns prohibit "transient rentals" in certain districts without

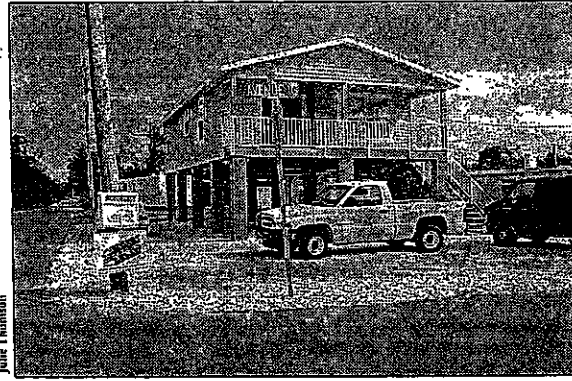
about what actually is a short-term rental. Length of stay (where not determined by a definition of transient) is an important factor in defining short-term rentals.

There is a wide range of occupancy tenure in a short-term rental ordinance. Communities specify the maximum length of stay in days, weeks, or months. Some simply distinguish the use by type of occupant, usually transient or tourist, in which case the terms should be clarified in the definitions section.

Measures of occupants' permanency can include everything from specifying the length of stay to whether the residence is the legal address of its occupants. At this fundamental level, communities can best begin to guide local land-use practices. Here, parameters are set largely according to the nature of a community's tourist population, the importance of tourism on the local economy, and community goals.



Maya Morris



Julie Thomson

*(Above, left) Short-term rental property prominently displayed on a corner lot in Lewes, Delaware. The impact: Vehicles of vacationers spilling over from the driveway onto the street. The problem: This type of impact occurring for weeks or months on end. (Above, right) Apparently, more pavement, less yard means more parking and less yard maintenance for this short-term rental property in Monroe County, Florida. (Right) Driveway signs for a Kiawah Island, South Carolina, short-term rental welcome the next round of families sharing a house.*



Bill Miller

defining the term "transient." Distinctions can be easily made between the various types of lodging and rental property, and only those uses that are specifically listed as permitted or conditional should locate to designated districts. However, where single-family residences are a permitted use, and the length of tenure is unspecified, nothing in the ordinance can stop property owners from renting the house on a short-term basis.

## Definitive Criteria

For communities grappling with such disputes, clear definitions are essential. Other terms for short-term rentals include transient commercial use, vacation rental home, vacation property, transient lodging, resort dwelling, and resort housing. Because transient also is used in the definition of other terms, it too should be defined in context to alleviate confusion and ambiguity. These terms are defined using various criteria, such as structure type, length of stay, measures of occupants' permanency, number of occupants, and the type of occupants (family members or unrelated people).

The type of structure (single or multifamily) often is not specified in the ordinance, allowing room for interpretation

Regulating the number of occupants also can mitigate the impacts of rental properties. Some communities specify total number of occupants by persons per bedroom, family members, or non-related persons, notwithstanding local fire codes. Islamorada, Florida, limits occupancy to two people per bedroom plus two additional persons. Other communities simply limit occupancy to a single family, as defined in their ordinance (see "Definitions and Distinctions" for examples and commentary on relevant terms).

Defining family also can complicate the matter. Restricting the use of single-family homes to families can be a difficult way to regulate short-term rentals, mainly because the term family is open to a wide range of literal and legal interpretations. Even so, "traditional" families are not devoid of impact risks, including noisy infants or rowdy teenagers. The ever-changing family paradigm does not make it the best measure by which to regulate short-term rentals.

## Once Defined, Where Are Short-term Rentals Allowed?

Tolerance levels about the impacts of short-term rentals will vary among communities. Communities with an intense interest in

## DEFINITIONS AND DISTINCTIONS

### **■ BED AND BREAKFAST**

**Commentary:** Bed and breakfasts are similar in appearance and location to many short-term rentals in residential areas. However, the primary distinction is the mitigating presence of the owner/operator.

**Definitions:** Generally small, owner-operated businesses providing the primary financial support of the owner. Usually the owner lives on premises. The building's primary usage is for business. Inns advertise, appropriate taxes, and post signs. Breakfast is the only meal served and only to overnight guests. The inn may host events such as weddings, small business meetings, etc. Room numbers range from four to 20 with a small, but increasing number up to 30. Reservations may be made directly with the property. (*Professional Association of Innkeepers International*)

Bed and breakfast means the use of an owner-occupied or manager-occupied residential structure providing no more than four rooms for temporary lodging for transient guests on a paying basis. A "Bed and Breakfast Inn" may include meal service for guests. (*Blue Springs, Mo.*)

### **■ BOARDING HOUSE**

**Commentary:** A boarding/rooming/lodging house differs from the short-term rental house because it has multiple rooms or units for rent and occupants share common kitchen or dining facilities. Occupants of a boarding house also tend to be less transient (the definition of which depends on community standards).

**Definitions:** A single-family dwelling where more than two, but fewer than six rooms are provided for lodging for definite periods of times. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests. (*Champaign, Ill., which uses the term "boarding/rooming house"*)

An establishment with lodging for five or more persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu. (*Venice, Fla.*)

### **■ FAMILY**

**Commentary:** Restricting the use of single-family homes to families can be a problematic way to regulate short-term rentals, mainly because the term family is open to a wide range of literal and legal interpretations. Even so, a "traditional" family is not without impacts, such as vocal infants or rowdy teenagers.

The definition of family or single-family house is not the most widely used or recommended tool for short-term rental regulation.

**Definitions:** One or more persons occupying a single dwelling unit, as a single housekeeping unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over six persons, including any roomers, boarders and/or domestic servants. A home for independent living with support personnel that provides room and board, personal care and habilitation services in a family environment as a single-housekeeping unit for not more than six resident elderly or disabled persons (mentally and/or physically impaired) with at least one, but not more than two resident staff persons shall be considered a family. (*Tulsa, Okla.*)

One or more persons, related by blood, marriage, or adoption, occupying a living unit as an individual housekeeping organization. A family may include two, but not more than two, persons not related by blood, marriage, or adoption. (*Iowa City, Iowa*)

One or two persons or parents, with their direct lineal descendants and adopted or legally cared for children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of four or fewer persons living in such housekeeping unit shall be considered a separate family for the purpose of this code. (*St. Paul, Minn.*)

Two or more persons related to each other by blood, marriage, or legal adoption living together as a single housekeeping unit; or a group of not more than three persons who need not be related by blood, marriage, or legal adoption, living together as a single housekeeping unit and occupying a single dwelling unit. (*Lake County, Ill.*)

One or more persons occupying a premise(s) and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, or hotel as herein defined. (*Scottsdale, Ariz.*)

### **■ GUEST HOUSE OR GUEST COTTAGE**

**Commentary:** Guest cottages can present a loophole for short-term rentals in single-family residential districts unless certain specifications are made—namely that usage is only allowed for non-paying guests.

**Definition:** Guest house (accessory dwelling unit) means a detached or attached accessory structure secondary to the principal single-family residential unit designed and most commonly used for irregular residential occupancy by family members, guests, and persons providing health care or property maintenance for the owner. (*San Juan County, Wash.*)

### **■ HOTEL OR MOTEL**

**Commentary:** Hotels/Motels typically have separate entrances and an on-site management office.

**Definitions:** A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined. (*Boone County, Mo.*)

A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door. (*Cecil County, Md.*)

### **■ TRANSIENT**

**Commentary:** "Transient" can be used to describe a person or a land use. Ambiguous or subjective words—"short," "long," "seasonal," "temporary"—should be either avoided altogether or clarified with precise units of time—number of hours, days, weeks, or months. When a community defines a transient as a person living in a dwelling unit for "a short time only," the term "short" could be interpreted in a variety of ways. To alleviate further confusion, the nature of a person's stay may be clarified, as is done in the definition below from Sturgeon Bay, Wisconsin.

**Definitions:** A person who travels from place to place away from his or her permanent address for vacation, pleasure, recreation, culture, or business. (*Sturgeon Bay, Wis.*)

Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a visitor accommodation facility shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement, in writing, between the operator and the occupant providing for a longer period of occupancy. (*Monterey, Calif.*)

promoting tourism may be more permissive, allowing them in restricted districts, while others will diligently protect residential districts. In the most restrictive communities, short-term rentals may be prohibited outright in residential districts. Monroe County, Florida, prohibits them unless a majority of homeowners vote them into a subdivision. Communities may permit short-term rentals as a conditional use or allow them only when rented fewer than four times each year.

### Conditional Uses and Licensing

Whether short-term rentals are allowed by right or as a conditional use, additional requirements to benefit both the occupants and neighbors are recommended. For example, operating a short-term rental may require physical inspection to determine the safety of the structure from hazards such as fire and over occupancy. Other requirements might include posting a "notice to occupant" reminding visitors of mandatory evacuation in case of a hurricane (in prone areas) or a "code of conduct" for the neighborhood, which might list regulations for occupancy, parking, boat dockage, fines, or helpful information such as garbage and recycling pick-up. Both should be printed in a large font and prominently displayed.

### Regulating by Ratio

Mendocino County, California, settled on an acceptable ratio of short-term rental properties to year-round residents: Locals deemed 13 year-round resident houses to one short-term rental house tolerable. The community requires operating permits for short-term rental properties. An additional vacation rental permit is issued for every 13 new residential units. The number of permits is finite but siting is still flexible. To maintain an orderly and fair distribution of permits, the county does not allow them to be sold or transferred. The county considers short-term rentals a commercial use, allowing additional short-term rentals as part of a 50/50 mix of commercial and long-term residential dwelling units in mixed-use districts.

### Legal Challenges

Legal challenges will invariably arise in neighborhoods where homeowners enjoying the comforts of a quiet back yard are suddenly interrupted by noise or light from an adjacent short-term rental property. Places with restrictions on short-term rentals such as Key West and Imperial Beach have faced legal challenges, which may include vesting, consistency with the comprehensive plan, definition of family, and allowable time for amortization. However, anecdotal evidence suggests that the longer an ordinance has been in place, the more accepted it is. Most of the planners interviewed for this article were confident in the defensibility of their short-term rental ordinances.

### Mitigation and Amortization

Some of the mitigation tools used to offset the impacts of short-term rentals include having a 24-hour contact person or management service, vehicle registration, and short-term rental medallions—a sign or badge on the front of the home identifying the residence as a vacation property, the name of the management company, and a contact person. The use of medallions is widely criticized because critics say they invite thieves and vandals. Such mitigation measures are typically paid for and provided by the property owner as a condition of receiving an operating permit. Other measures, such as increasing code enforcement staff—as is done in Key West—or bolstering visitor awareness through signage to politely inform them of the neighborhood's quiet residential character may be paid for with tax revenue generated from short-term rental properties.

To avoid a takings challenge, communities that have recently enacted more restrictive codes also have included an amortization schedule that phases out short-term rental properties. Islamorada allows two years for amortization and Imperial Beach is proposing five-year amortization. Sullivan's Island, South Carolina, requires proof of use as a short-term rental during the previous 12-month period to reduce the number of rental properties. Those that lapse are not eligible for future licensing.

### Enforcement

Detection of problem rentals can occur either from complaining neighbors or a dedicated municipal enforcement staff. Penalty fines range from \$100 a day in Saco, Maine, to \$500 for each day of violation in Kiawah Island, South Carolina. Other penalties include denied permit renewals, permit revocation, or misdemeanor citations. Fines are a comparatively small expense for property owners whose short-term rentals generate healthy returns, so some owners virtually ignore the restrictions, says Monroe County planner Marlene Conway. Saco requires property owners to renew permits annually. A history of complaints is kept on file and those with more than two recorded complaints will not be issued a permit for the coming year.

Administering a short-term rental ordinance burdens both the budget and staff. Issuing permits and code enforcement takes time and money. Permit or licensing fees and taxes on short-term lodging can offset these expenses. Fees vary from a fixed amount to a sliding scale based on the percent of income generated per calendar year—both of which usually amount to \$100 to \$200. In states that grant local governments the authority to tax this type of land use, the taxes for the lodging fee can range from four percent on the low end to seven percent in Deschutes County, Oregon. Santa Cruz, California, taxes 10 percent.

### Conclusion

Technology, telecommuting, and lifestyle priorities will continue to fuel the infiltration of newcomers into resort communities with long-established residents. For these and other reasons, the populations of traditional get-away destinations will surge and change, bringing with them increased pressure to adapt to new people and new land-use challenges. Deciding whether short-term rentals are commercial or residential land uses is an important first step in addressing the issue. Perhaps the zoning code is the best defense in preserving the tranquility that made such places attractive in the first place.

Selected ordinances from the short-term rentals survey are available to *Zoning News* subscribers. Please contact Michael Davidson, Co-editor, *Zoning News*, American Planning Association, 122 South Michigan Avenue, Suite 1600, Chicago, IL 60603, or e-mail [mdavidson@planning.org](mailto:mdavidson@planning.org).

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*Zoning News* is a monthly newsletter published by the American Planning Association. Subscriptions are available for \$60 (U.S.) and \$82 (foreign). W. Paul Farmer, AICP, Executive Director; William R. Klein, AICP, Director of Research.

*Zoning News* is produced at APA. Jim Schwab, AICP, and Michael Davidson. Editors: Barry Bain, AICP, Heather Campbell, Fay Dolnick, Nate Hutcherson, Sanjay Jeer, AICP, Megan Lewis, AICP, Marya Morris, AICP. Reporters: Sherrie Matthews. Assistant Editor: Lisa Barton. Design and Production.

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JULY 18, 2012

None

**PLAT CONSIDERATION**

None

**PENDING BUSINESS**

A. Staff Report PL 12-32, Flag Lots

Planning Technician Engebretsen reviewed the staff report and asked how the Commission would like to proceed.

Commissioner Venuti commented that the Fire Chief expressed that there isn't anything pressing at this time.

BOS/HIGHLAND MOVED TO POSTPONE ACTION ON FLAG LOTS UNTIL AFTER THE BOROUGH COMPLETES THE REWRITE OF THEIR SUBDIVISION CODE.

Commissioner Bos expressed his agreement that it would be better to wait for the Borough to complete theirs so the Commission can be better educated and have the same rules to enforce as the Borough. The Borough has final approval over subdivision's right now.

HIGHLAND/VENUTI MOVED TO AMEND TO SAY THE COMMISSION WILL REVISIT THIS IN A YEAR.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

VOTE: (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 12-33 Amending HCC 21.28 Marine Commercial Zoning District

Planning Technician Engebretsen reviewed the staff report. She noted that in relation to the Fire Marshall review R1 is occupancy less than 30 days and must have sprinklers; R2 is someone who spends 30 days or more like a tenant or employee; R3 is a personal residence and requires no Fire Marshall review of the dwelling unit.

The Commission discussed including employees, as well as employer or caretaker as allowable to reside in an upstairs unit. Mrs. Engebretsen explained how it will simplify the process for the applicant who is getting a CUP for the dwelling unit upstairs. Staff isn't recommending it is a place that can be rented out on a monthly basis. There was no objection expressed by the Commission.

The Commission also addressed nightly rentals. They discussed

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- How to define the nightly rental over a business on a boardwalk.
- Increased risk in a fire event due to proximity of the buildings.
- Requiring overnight accommodations on the boardwalks are tied to the business downstairs.
- Regulating it based on Fire Marshall occupancy type would be a cleaner way to proceed.
- It shouldn't be regulated to the point that it drives businesses away.
- A lot of people struggle with this because they came here because they don't want any rules, and that isn't fair.

The Commission agreed to have a worksession to further discussion. They requested copies of Kenai and Soldotna's regulation to see another perspective on how this type of lodging could be handled.

**NEW BUSINESS**

A. Staff Report PL 12-34 Elections

The Commission agreed to postpone voting for Vice Chair to their August meeting when they hold their regular elections, in accordance with their bylaws.

B. Staff Report PL 12-35, Capital Improvement Plan

City Planner Abboud reviewed the staff report.

The Commission discussed some of the projects and each person's top five were as follows:

Erickson- Main Street and Sterling Highway Improvements , Fishing Lagoon Improvements, Marine Ways Haul out, Alternative Water Source, and Maritime Academy

Venuti- Main Street and Sterling Highway Improvements, Sterling Highway Realignment, Port and Harbor Building, Deep Water Dock Expansion, Sewer Treatment Facility

Stead- Alternative Water Source, Water Storage/Distribution Improvements, Engine 4 and Tanker 2 Refurbishment, Fire System Booster, Public Safety Building

Dolma- Alternative Water Source, Marine Ways Haul out, Water Storage/Distribution Improvements, Main Street and Sterling Highway Improvements, Sterling Highway Realignment

Highland- Main Street and Sterling Highway Improvements, Barge Mooring Facility, Port and Harbor Building, HERC Building Upgrades, Harbor Entrance Erosion

City Planner Abboud said he would tally their recommendations and bring a memo back at the August 1<sup>st</sup> meeting for approval.

**INFORMATIONAL MATERIALS**

A. City Manager's Report dated June 25, 2012

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## City of Homer Planning & Zoning

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### MEMORANDUM (Revised)

**TO:** Port and Harbor Advisory Commission, Harbormaster Hawkins  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**DATE:** June 27, 2012  
**SUBJECT:** Update on the Spit Comprehensive Plan implementation

Diana Parks, supervisor of the Plan Review Bureau of the State Fire Marshal office visited Homer last week. She spent time with Planning and Zoning staff out on the Spit, and spoke to the Planning Commission during their work session. Some Port and Harbor Commissioners were also in attendance.

The Planning Commission and Department are working on implementing the Spit Comprehensive Plan, and are drafting a new zoning ordinance for the Marine Commercial District. Ms. Parks visit helped staff and the Commission understand some of the basic life safety issues on the Spit, as it relates to apartments above retail shops. Planning staff would like to share some of what they learned during her visit.

Fire marshal review is required when a building is remodeled, the use changes, or a zoning permit is required. Ms. Parks relayed the state's willingness to work with property owners to find solutions for buildings that are already constructed. Existing buildings with minor changes can expect common sense regulation; an existing building will not be required to come up to code.

If a building is undergoing a major remodel or expansion, the owner can expect they will need to bring their building up to code.

Ms. Parks discussed two main concepts: Occupancy, and Separation of structures.

**Occupancy:** the type of use or inhabitant of a structure.

We discussed three types of occupants for rooms above shops. These 'occupancies' are based on how long someone stays in the room (days, a month, all season).

An "R3" is a personal residence. It's the home, even if its seasonal, of a person that owns the building, or the business below it. The shop keeper who lives upstairs in the summer is an "R3." There is very little regulation from the fire marshal for an R1. As long as there is fire separation, (say



Where the Land Ends and the Sea Begins

extra sheet rock between the shop and the residence), that's about all the Fire Marshal would regulate.

An "R2" is an occupant who rents or lives in the apartment for 30 days or longer. It could be a renter, an employee, etc. There are more rules for an R2 apartment – hand rails, egress, etc.

An R1 is an occupant who stays less than 30 days. It could be a tourist renting a room for the night, a weekly rental, or a guy who comes in from a fishing boat and spends the night once in a while. New R1 accommodations must be sprinkled, and have the most rules.

What does all this mean for zoning? It would be nice for the new zoning regulations to match how the state regulates occupancy.

### **Separation: Distance between buildings**

There are several variables that determine how far apart buildings must be. One option that is common on the Spit, is for a large boardwalk and all the little cabins to be treated as one structure by the fire marshal. As long as all the buildings and the boardwalk together are less than 9,000 square feet, this approach works pretty well. A larger 'building' must be sprinkled. Separation gets a little more complicated when two large boardwalks are side by side. If they are not far enough apart, they are considered one really big structure, and again must be sprinkled. This is relevant because as infill development happens on the Spit, the separation distances need to be considered. If zoning changes are considered for building setbacks from property lines, the separation between them must still meet fire marshal regulations.

Planning staff will continue to work on these concepts as the Marine Commercial District is reviewed. City regulations don't need to duplicate state law, but they should align somewhat. We don't want to encourage activities in zoning that can't pass state fire marshal review, and vice versa.



Where the Land Ends and the Sea Begins



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### STAFF REPORT PL 12-30

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** June 20<sup>th</sup>, 2012  
**SUBJECT:** Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

#### Introduction

The Homer Spit Comprehensive Plan is the blueprint for future development on the Spit. Zoning is an important component in shaping future land uses. Map 5, Future Land Use Concept, shows areas reserved for marine industrial development, and those for commercial activities. Generally speaking, along Homer Spit Road, land along the harbor is commercial, and land beyond Fish Dock Road is industrial. A future zoning map amendment ordinance could change the current zoning boundaries, to those shown in the comprehensive plan.

#### Analysis

This staff report and draft ordinance are only addressing the text of the zoning district, not future boundaries. The big picture question is what land uses do the citizens want along the harbor, and in marine commercial areas? This question is answered in the comprehensive plan. Citizens generally liked the mix of land uses, and were concerned about residential uses. The current zoning code does not really allow for the mix of uses as they exist on the Spit. It's the job of staff and the Commission to transform the overall goals of the plan into specific zoning regulations.

#### Land use and community design goals: (*Spit Plan page 22*)

- 1.1 Maintain the variety of land uses that establish the unique "Spit" character and mix of land uses.
- 1.2 Improve permanence and character of new commercial development.
- 1.3 Provide public facilities that attract residents and visitors to the Spit for recreational purposes.
- 1.4 All development should recognize, value, and complement the unique natural resources on the Homer Spit.
- 1.5 Respond to seasonal land use demand fluctuations.
- 1.6 Protect public access to and enjoyment of the Spit's unique natural resources.

#### Permitted and Conditional Uses

In the draft ordinance, staff has recommended some changes to permitted and conditional uses. It may help the Commission to envision a fictitious scenario. Pretend there is a new boardwalk proposed next to the harbor. What kinds of new businesses could go there? What fits the character of the Spit? Meet community goals? For example, does a t-shirt shop or coffee hut fit with the vision of the Spit in the

Comprehensive Plan? What about a bank? Tanning salon? If they do, then these uses could be permitted uses.

Going a step further, what land uses might be OK, but should have a higher level of review – IE a conditional use permit? A conditional use is one that may be allowed, but due to its size, bulk, scale, density or other features causes the land use to have more impact on adjacent land owners. For example, perhaps the new boardwalk triggers a conditional use permit. Not necessarily because of the mix of uses, restaurant vs. t shirt shop, but because it will create 9,000 square feet of new retail/mix use space. The size of the development will draw many tourists and impact the neighborhood. Traffic flow and pedestrian connections will be important considerations, no matter who the tenants are.

Please review the suggested changes for permitted and conditional uses. Below is a short list of items staff recommends be conditional uses. As staff and Commission learn more from the Fire Marshal about fire separation distances (i.e., setbacks) and occupancy types, this list can be further refined.

*Staff recommended CUP triggers:*

- Overnight accommodations in any number, not just hotel/motel
  - There Spit Plan p. 25 discusses community concerns with lodging, nightly rentals, and residential uses. These are land uses that concern the community and merit closer scrutiny.
- Caretaker residence or employee housing
  - (see above) The community expressed concern over residential uses on the Spit.
- Setback exceptions...(allowing boardwalk into the setback)
  - If boardwalks, stairs and decks are going to be allowed in a setback, this should be part of the code.
- Lot coverage over 70% (not 30%)
  - Commercial lots on the Spit are generally pretty small and development is dense. 30% coverage all by itself should not trigger a CUP. If the development meets all other requirements and no activities require a CUP, it is very onerous to go to the Commission just for 30% lot coverage.
- Other triggers??

**Staff Recommendation**

Planning Commission review the permitted and conditional uses and provide comments. Once there is consensus, staff will move on to the next section of code – dimensional requirements.

**Attachments**

1. Draft Ordinance- May 9<sup>th</sup> draft

HOMER ADVISORY PLANNING COMMISSION  
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~~MAY 16, 2012~~ 6/20/12

Planning Technician Engebretsen reviewed the staff report. She reviewed the minimum lot size requirements for on site water and sewer. The original lot being subdivided is less than 40,000 square feet. So far when dealing with lots that are smaller like this one as long as the lot is getting bigger and not smaller it has been acceptable.

Jerry Johnson, project surveyor, said he was available to answer questions. He commented that the Borough and City requirement that minimum lot size is 40,000 square feet for on site well and septic, but the state DEC will allow it at 20,000 square feet.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 12-26, WR BELL SUBDIVISION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: YES: HIGHLAND, SONNEBORN, MINSCH, VENUTI, ERICKSON, DOLMA, BOS

No discussion.

C. Staff Report PL 12-28, Cooper Subdivision Haaland Addition Preliminary Plat

Planning Technician Engebretsen reviewed the staff report.

Roger Imhoff, project surveyor, said he was available for questions and had no comments for the Commission.

HIGHLAND/BOS MOVED TO ADOPT STAFF REPORT PL 12-28, COOPER SUBDIVISION HAALAND ADDITION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

#### PENDING BUSINESS

A. Staff Report PL 12-29, Flag Lots

Planning Technician Engebretsen said staff talked with the State Fire Marshall about flag lots and fire department access. When a commercial project undergoes plan review, the access for a fire truck is considered, but not during the subdivision process. Fire Chief Painter is scheduled to attend the July worksession to talk about Homer's fire equipment and what kinds of access issues are specific to our community. She encouraged the Commissioners to send her any questions they may have so Chief Painter can be prepared to address them at the worksession.

B. Staff Report PL 12-30 Amending HCC 21.28 Marine Commercial Zoning District

Planning Technician Engebretsen reviewed the staff report.

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
~~MAY 16, 2012~~ 6/20/12

The Commission reviewed the permitted and conditional uses outlined in the marine commercial district draft. There was no objection to the amendments proposed by staff under the permitted uses and structures section.

When discussing conditional uses, one opinion expressed was that drinking establishments shouldn't be allowed outright.

They discussed removing wholesale outlets for marine products, and staff explained the limiting factors of leaving it as a conditional use, and that sale of marine products would be allowed as retail under permitted uses. Allowing more than one building containing a permitted principal use on a lot allowed out right as there are other things that will regulate it, such as impervious coverage and setbacks. Point was raised that in today's economy business owners need some flexibility in what they do in their business, it was requested that staff look at options for businesses being allowed to do different types of job within their property or business.

In relation to types of residence allowed in the district it was suggested that owner or caretaker residence seems to be an appropriate allowed use. It was noted in discussion that there can be limitations to size to help maintain some of the view shed. There are also height limitations in place through code. It was noted that the Fire Marshall spoke about the different qualification given to owner occupied and not owner occupied, probably because an owner is going to be a little more accountable and familiar with their space in the event of a fire.

#### **NEW BUSINESS**

No new business was scheduled.

#### **INFORMATIONAL MATERIALS**

- A. City Manager's Report dated June 11, 2012
- B. Zoning Practice, 2012

There was no discussion regarding informational materials.

#### **COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

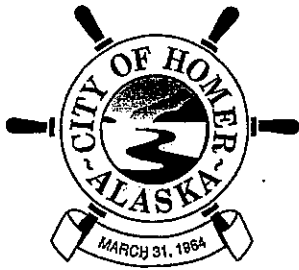
#### **COMMENTS OF STAFF**

Staff thanked Chair Minsch for her service on the Commission.

#### **COMMENTS OF THE COMMISSION**

Commissioner Venuti thanked Chair Minsch. He commented that he would like to revisit the issue of allowing Paul Banks to have a changeable copy sign. He thinks they were remiss on that, raising the point that they failed to consider a Commissioner had a conflict as they live within 300 feet of the property. It bothers him that the Commission is considered sign Nazis and didn't pay attention to everyone's input on the sign ordinance and as a consequence we

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### STAFF REPORT PL 12-24

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** May 16, 2012  
**SUBJECT:** Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

#### **Introduction**

Homer has two business oriented zoning districts on the Spit: Marine Commercial, and Marine Industrial. In the 2011 Homer Spit Comprehensive Plan, revising the zoning is part of several implementation tasks. Please review the maps and implementation table at the back of the Spit Plan.

Conceptually, along Homer Spit Road, all the boardwalks, from the Fishing Hole south to Fish Dock Road, will become Marine Commercial. South of Fish Dock, Road to Land's End, properties will remain mainly industrial. The goal of the Comprehensive Plan is to strengthen the zoning districts (otherwise why not have one district where anything goes?).

#### **Permitted and Conditional Uses**

In the draft ordinance, staff has recommended some changes to permitted and conditional uses. These changes can be reviewed at the regular meeting. It may be helpful to consider under what circumstances should a Conditional Use Permit be required? Under current code, many common land uses require a CUP, but without any particular reason...why does campground warrant a CUP but not an RV park?!

#### ***Staff recommended CUP triggers:***

- More than 8,000 sq ft of building area
- Overnight accommodations in any number
- Setback exceptions...(allowing boardwalk into the setback)
- Caretaker residence or employee housing
- Planned Unit Developments
- Recreational facilities – indoor/outdoor, not parks...
- Other triggers??
- Lot coverage over 70% (not 30%)

#### **Dimensional Requirements**

**Setbacks.** In the past few years, the planned unit development code has been used when a reduction in setback requirements is requested. For example, stairs or decking may be desirable within the 20 foot

right of way setback. Rather than use the PUD code for allowing flexibility in the setback requirements, this could be allowed in code via as CUP, as it is in the Central Business District. CBD code language: "If approved by a conditional use permit, the setback from a dedicated right-of-way, may be reduced."

**Landscaping.** Spit landscaping requirements could be something other than 3 feet along lot lines. The Commission has been approving CUPs where applicants propose planters, hanging pots, fences or other visual improvements that don't necessarily meet the code definition of landscaping, broad as it is. 21.46 Small Boat Harbor Overlay District (written for future over slope platforms) has code which could be tailored to the MC district:

21.46.080 Landscaping. a. Five percent of the area of an overslope platform must be landscaped. b. In addition to the types of plantings listed in the definition of landscaping in HCC 21.03.040, landscaping on an overslope platform may include planter boxes and hanging basket plantings. c. The commission may permit the substitution of durable outdoor art, or amenities for public use such as bike racks, benches, trash receptacles and information kiosks, for part of the required landscaping on an overslope platform.

Another similar landscaping approach can be found on the Town Center code, 21.20.070 (e)2(b) b. Gardens. To be included in the calculation of required landscaping, a garden shall be not less than 10 feet in length or width as measured at its shortest dimension. In addition to landscaping, a garden may include amenities, such as pedestrian seating areas, art, sand boxes, flower and ornamental gardens, paths, bike racks, outdoor restaurant seating, and other similar structures incidental to use of the building. No more than 50 percent of a garden may have an impervious cover, e.g., pavement, brickwork, and decking. Any decks or patios included in the calculation of a garden shall be at or near ground level. Use of grass, wood chips, or natural surfaces is preferred over areas paved with asphalt or concrete. A landscaped storm water detention area may be included in a garden or buffer.

If the Commission likes a more flexible approach to landscaping, rather than a prescriptive 3 feet along long lines, staff can draft some suggestions.

#### **STAFF COMMENTS/RECOMMENDATIONS:**

Planning staff requests the Commission to provide direction on:

1. Permitted and conditional uses as presented
2. Setbacks: Allow reduced setbacks as described above?
3. Landscaping – have staff come up with some flexible options?

#### **Attachments**

Draft Ordinance- May 9<sup>th</sup> draft

# May 9, 2012 Draft

## Chapter 21.28 MC Marine Commercial District

### Sections:

21.28.010 Purpose.

21.28.020 Permitted uses and structures.

21.28.030 Conditional uses and structures.

21.28.040 Dimensional requirements.

21.28.050 Site and access plan.

21.28.060 Traffic requirements.

21.28.070 Site development requirements.

21.28.080 Nuisance standards.

21.28.090 Lighting standards.

21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine Commercial 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. Boat charter offices;~~ Tourism related charter offices such as fishing, flightseeing, day excursions and boat charters

b. Marine equipment and parts sales and services;

~~c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;~~

d. Business offices for water-dependent and water related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves, provided that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

f. Mobile food services;

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

h. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.

i. As an accessory use, one small wind energy system per lot. (Ord. 09-34(A) §18 (part), 2009; Ord. 08-29, 2008).

21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine Commercial District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

- a. Restaurants and drinking establishments; Allow outright  
b. Cold-storage facilities; Allow outright  
c. Public utility facilities and structures;  
d. ~~Dredge and fill when required for construction or maintenance of a structure devoted to one or more uses that are permitted or conditionally permitted in this district; (How is this used? Never had a cup for this)~~  
e. ~~Wholesale outlets for marine products;~~  
f. ~~Pipelines and railroads;~~  
g. ~~Heliports;~~  
h. Hotels and motels;  
i. More than one building containing a permitted principal use on a lot. Allow outright  
j. Planned unit developments, limited to water-dependent and water-related uses; No dwelling units other than caretakers  
k. Indoor recreational facilities;  
l. Outdoor recreational facilities;  
m. Campgrounds; Allow outright  
n. Manufacturing, processing, cooking, and packing of seafood products. Allow outright  
o. Other similar uses, if approved after a public hearing by the Planning Commission, including but not limited to those uses authorized in the Marine Industrial district under HCC §§ 21.30.020 and 21.30.030, provided the commission finds the use meets the following standards and requirements:  
1. The proposed use is compatible with the purpose of the Marine Commercial District,  
2. The proposed use is compatible with the land use development plan for the Homer Spit and the Comprehensive Plan,  
3. Public facilities and services are adequate to serve the proposed use, and  
4. ~~If City owned land, the Port and Harbor Commission, after a public hearing, has made a written recommendation to the Planning Commission concerning the proposed use, including specifically whether conditions (1) through (3) of this subsection are or may, with appropriate conditions, be met by the proposed use. (Ord. 08-29, 2008). It is not appropriate to require a different level of review of property due to land ownership, in the zoning code. The city can review proposals of its own land via the lease committee. The zoning code should apply equally to everyone and not create a separate class of land owner with different rules.~~

21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all structures and uses in the marine commercial district:

- a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December 12, 2006.  
b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other lot boundary lines. Alleys are not subject to a 20 foot setback requirement.  
c. The maximum building height is 35 feet.  
d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

Building Area and Dimensions - Retail and Wholesale.

1. The floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit, Planned Unit Development, or variance be granted that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (e)(1). (Ord. 08-29, 2008).

21.28.050 Site and Access Plan. a. A zoning permit for any use or structure within the Marine Commercial District shall not be issued by the City without a level one site plan approved by the City under HCC Chapter 21.73.

b. A zoning permit for any use or structure shall not be issued without a level one right-of-way access plan approved by the City under HCC Chapter 21.73. (Ord. 08-29, 2008).

21.28.060 Traffic Requirements. A conditional use permit is required for all uses that are estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

21.28.070 Site Development Requirements. All development shall conform to the Site Development Requirements contained in HCC § 21.50.030 and the following:

a. Development shall not impair or unnecessarily impede use by the public of adjacent publicly-owned tidelands.

b. The location of buildings and roads shall be planned to minimize alteration to the natural terrain.

c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.

d. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

21.28.080 Nuisance Standards. All development and structures shall conform to the Nuisance Standards contained in HCC § 21.24.080. (Ord. 08-29, 2008).

21.28.090 Lighting Standards. All uses and development shall conform to the Lighting Standards contained in HCC § 21.59.030. (Ord. 08-29, 2008).

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
MAY 16, 2012

**NEW BUSINESS**

- A. Staff Report PL 12-24 Amending HCC 21.28 Marine Commercial Zoning District

City Planner Abboud reviewed the staff report. In response to questioning he briefly explained what a PUD is and the concept of zero lot lines on the spit. His plan is to put something together guided by the principles in the spit comp plan and when the Planning Commission is in agreement it can be presented to the Port and Harbor Commission for their comments.

**INFORMATIONAL MATERIALS**

- A. City Manager's Report dated May 14, 2012  
B. Letter to property owners in or near a flood plain

**COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no comments.

**COMMENTS OF STAFF**

There were no staff comments.

**COMMENTS OF THE COMMISSION**

Commissioner Venuti asked if Dr. Marley was sent a letter from planning. City Planner Abboud said no.

Commissioner Sonneborn said it was a complicated but good meeting and wished everyone a happy spring.

Commissioner Highland commented that it was difficult but that is how it goes and it's good to be reminded that this is city wide, even though we liked their concept.

Commissioners Dolma, Bos, and Erickson had no comments.

Chair Minsch commended the commissioners on their work, the questions they are asking, and the knowledge they are gaining.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 8:48 p.m. The next regular meeting is scheduled for June 20, 2012 at 6:30 p.m. in the City Hall Cowles Council Chambers.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_





## City of Homer Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

Telephone (907) 235-3106  
Fax (907) 235-3118  
E-mail [Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)  
Web Site [www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

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### MEMORANDUM

May 10, 2012

**TO:** Economic Development, Port and Harbor and Parks and Recreation Advisory Commissions  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Homer Advisory Planning Commission  
**SUBJECT:** Implementing the Comprehensive Plan

Recently the City of Homer adopted a Comprehensive Plan. The Planning Department facilitated the creation of the plan, which all of you were encouraged to contribute to its formation. Once approved by the City Council and accepted by the Kenai Peninsula Borough, it is expected that we as a city and you as representatives of various commissions and committees should have a hand in seeing that the various goals and objectives are evaluated and acted upon.

It is not expected that every implementation item might come to fruition in the plan timeframe, but we hope that most will. Perhaps some of the suggestions are just not ready for implementation yet and some might be examined and changes suggested for the next review and amendment in the next 5 years. As a commission or committee, you should be familiar with the various sections that you helped to write and should plan actions to see that help fulfill your goals. The Planning Commission has been doing just that. Just recently, we have created a mixed-use district to encourage a wide range of commercial activities along East End Road and we amended code to allow for additional residential infill by allowing some second residences to be permitted outright. The Planning Commission is now starting to review plan suggestions for the Spit and would like to encourage your participation.

We are developing a schedule for review, below is a rough timeline of upcoming tasks. City staff will provide updates to each Commission periodically on the progress and seeks to provide opportunity for input.

Short term: 1 Year

Midterm: 2 Years

Long term – over the next 5 years

**Short term:**

- Rezone the area between the harbormaster's office and ice dock road to Marine Commercial.
- Revise the Marine Commercial zoning district code (permitted and conditional uses).
- Revise Marine Industrial zoning district code. (Midterm?)

*Ongoing City /Staff tasks:* ROW MOU with the state, implement parking plan for fee and short term parking during the summer, Spit trail extension, other harbor improvements such as restrooms, cruise ship related improvements, trail along the edge of the harbor, etc.

**Midterm:**

- Examine the zoning on both sides of Homer Spit Road between Bob's Trophy Charters, and the Heritage RV Park, and rezone to Marine Commercial based on needs and comp plan recommendations.
- Rezone the city owned lots at the base of the Spit on the Mud Bay side from MI to OSR
- Review Spit zoning districts for screening requirements, landscaping and storm water concerns
- Based on the success or failure of increased parking regulations, review and revise spit parking standards (ongoing)

**Long Term:**

- Site Planning for Pier 1 lot

**B. Staff Report – Julie Engebretsen, Planning Technician/GIS**

Ms. Engebretsen summarized her report for the record and responded to a few questions from the Commissioners regarding items not on the agenda. Ms. Engebretsen noted that she is hoping to provide the requested information for this meeting at the June meeting after the playground is built.

She commented on the work starting on the Spit Comprehensive Plan by the Planning Commission.

**C. Parks Maintenance – Angie Otteson**

Ms. Otteson provided a brief update on the repainting of Ben Walters Park restroom, they have started mowing, beautification letters went out, the green house is full and planting is scheduled for June 2, 2012. Summer camping has started and she should have a full crew in a week. She has provided information on signage but wanted to comment that there is limited signage in most parks and that is something that could be discussed and included in this budget talk for 2013.

Ms. Otteson responded to some questions and comments on Adopt a Park program offers and agreed to speak to the Rotary members thanking them for their efforts in the Adopt a Park Program. The Information Kiosk will be installed as soon as possible near the restroom and Memorial Garden.

She noted that Public Works is aware that the structure on the Spit used for a Picnic shelter is in need of repair. The commission expressed concern and liability to the City if it fell while in use. She did note that there is no universal standard on signage for parks however there is the standard of welcome to the park and directing the visitors to various areas within the park. She did note that Karen Hornaday would be a great place to start; another consideration was Jack Gist Park had no signage. She responded that pedestrian traffic has priority but vehicular traffic is not prohibited on Bishop's Beach to the east.

**D. Kachemak Drive Path Committee Report – Bumpo Bremicker**

Chair Bremicker commented that the revised resolution on the Path went back before Council and the Council rejected that one and amended the original resolution striking references to construction. Chair Bremicker noted that the Council still has concerns regarding costs, maintenance and right of way issues plus recommendation from the Transportation Advisory Committee. He has some concerns and really needs to have staff help the committee on this issue.

A brief discussion on some of the additional requirements requested from Council ensued.

**F. Advisory Planning Commission – Memorandum dated May 10, 2012 Re: Implementing the Comprehensive Plan**

Ms. Engebretsen stated this was advisory from the Planning Commission to all the city commissions who would be interested and if there are issues on the Spit regarding recreation and parks then it will be sent to this commission.

**PUBLIC HEARINGS**

**A. Jack Gist Park – Land Use Agreement and Permit**

Chair Bremicker opened the Public Hearing. He asked for information from staff regarding the document before them.

Mike Illg, Recreation Specialist introduced the item and why it was brought forward to the Commission.





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### STAFF REPORT PL 12-17

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** May 2, 2012  
**SUBJECT:** Staff Report 12-17, Spit Comprehensive Plan Implementation

Staff has prepared an outline for implementing the Spit Comprehensive Plan. There are short term, midterm, and long term tasks. Staff would like the Commission's comments on the outline. Staff will then share the outline with other Commissions such as the Economic Development, Port and Harbor, and Parks and Recreation. We'd like to make it easier for other entities in the city to be informed!

Short term: 1 Year

Midterm: 2 Years

Long term – over the next 5 years

#### Short term:

- Rezone the area between the harbormaster's office and ice dock road to Marine Commercial.
- Revise the Marine Commercial zoning district code (permitted and conditional uses).
- Revise Marine Industrial zoning district code. (Midterm?)

*Ongoing City /Staff tasks:* ROW MOU with the state, implement parking plan for fee and short term parking during the summer, Spit trail extension, other harbor improvements such as restrooms, cruise ship related improvements, trail along the edge of the harbor, etc.

#### Midterm:

- Examine the zoning on both sides of Homer Spit Road between Bob's Trophy Charters, and the Heritage RV Park, and rezone to Marine Commercial based on needs and comp plan recommendations.
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#### Long Term:

- Site Planning for Pier 1 lot



HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
MAY 2, 2012

**NEW BUSINESS**

- A. Staff Report PL 12-15, Reappointment of Roberta Highland to the Transportation Advisory Committee

ERICKSON/VENUTI SO MOVED TO RECOMMEND REAPPOINTMENT OF COMMISSIONER HIGHLAND TO THE TRANSPORTATION ADVISORY COMMISSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- B. Staff Report PL 12-19, Flag Lot Regulations

Chair Minsch stated the Commission discussed flag lot regulations at the worksession and gave feedback to staff for consideration at a later date.

- C. Staff Report PL 12-17, Spit Comprehensive Plan Implementation

City Planner Abboud reviewed the staff report.

Discussion ensued regarding parking, trails, cruise ship improvements, bathroom locations, the Pier One Theater, and the campground areas. Point was raised that it would be beneficial for the Commissioners to stay current with Port and Harbor Advisory Commission minutes to learn about issues they are discussing.

**INFORMATIONAL MATERIALS**

- A. City Manager's Report dated April 23, 2012  
B. Corps of Engineers Permit dated April 6, 2012 regarding the Ocean Drive Loop Seawall Maintenance

The Commissioners and staff discussed the letter provided from the resident on Golden Plover regarding slope issues with the development in the area, Dr. Marley's park proposal, and the gas line update.

**COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

Larry Slone, city resident, commented that based on Dr. Marley's demeanor he came with an expectation that the Commission was going to render some sort of comment as a body, rather than listen passively. He agrees that, out of courtesy, a letter to Dr. Marley would be appropriate. Personally he is against the project; the property isn't adequate for what is being proposed. He said he was set back a bit to hear that Planning Commissioners weren't reading other commission's meeting minutes. He thinks it would be a necessity of the job to keep abreast of what is going on with the other commissions.



Mayor & C/C  
5/6/13  
J

**Jo Johnson**

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**From:** Richard A. Harness <seasideadventure@earthlink.net>  
**Sent:** Sunday, May 05, 2013 6:20 PM  
**To:** Department Clerk  
**Subject:** Spit Heliport

Dear City Council,

With large numbers of residents and guests coming to Kachemak Bay to enjoy its natural beauty and diversity of wildlife, helicopter takeoff for flightseeing purposes from the Homer Spit would be a nuisance because of the noise pollution they create. It is also unsafe because the Spit is a prime habitat for large numbers of resident and migrating birds. There is no reason for this pressure on the Spit, when there is the nearby option of taking off from the airport. Too many people and critters would be negatively affected by this minor convenience for a few.

Where do such ideas come from? Why is there ongoing effort to destroy what almost everyone who lives here came for?

Please do not allow Heliports on the Homer Spit.

Rick and Dorle Harness

**A Seaside Adventure Eco Tours**

Rick and Dorla Harness

[seasideadventure@earthlink.net](mailto:seasideadventure@earthlink.net)

[www.seasideadventure.com](http://www.seasideadventure.com)

Po.Box 3066 Homer, AK 99603

907.235.6672 or 907.399.1030

**What our guests say about us:**

[http://www.tripadvisor.com/Attraction\\_Review-g31009-d2302917-Reviews-A\\_Seaside\\_Adventure\\_Ecotours-Homer\\_Alaska.html](http://www.tripadvisor.com/Attraction_Review-g31009-d2302917-Reviews-A_Seaside_Adventure_Ecotours-Homer_Alaska.html)

Mayor C/C  
5/06/13 J

**Jo Johnson**

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**From:** Duane Howe <duhowe@alaska.net>  
**Sent:** Monday, May 06, 2013 8:36 AM  
**To:** Department Clerk  
**Subject:** Helicopters

Ordinance 13-11(A)

I think helicopter use on the spit is a bad idea. The spit plan is designed for quiet recreation, camping and wildlife observation for large numbers of people. A helicopter would be noisy and dirty as well as dangerous for both the people and the wildlife, primarily the many species of birds that use the area. There can be up to several thousand gulls at any time and shorebirds and eagles in the spring and summer. I do not know why anyone would want to fly in a helicopter to view the spit area. You can see it all on foot, but if the idea is to fly to the glacier you should leave from the airport, not the spit. Flights over Gull Island would be tempting to see birds but could not be allowed for obvious reasons. The airport could accommodate helicopters, but not the spit. This ordinance should be reconsidered.

Duane Howe  
Homer

Mayor c/c  
5/03/13  
de

**Jo Johnson**

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**From:** Nina Faust <fausbail@horizonsatellite.com>  
**Sent:** Friday, May 03, 2013 7:54 AM  
**To:** Department Clerk  
**Subject:** Helicopter Flightseeing on the Homer Spit--Amended Ordinance 13-11(A)

P.O. Box 2994  
Homer, AK 99603

May 3, 2013

Homer City Council  
Homer AK 99603

Dear Council Members:

We are opposed to amending Ordinance 13-11(A) to allow helipads on the Spit for helicopter flightseeing. There may be some valid reasons for a carefully regulated and carefully sited helipad for marine industrial purposes that would be placed in the Marine Industrial Zone, but helipads elsewhere on the Spit for commercial purposes, such as flightseeing, should be prohibited.

The Spit is a heavily used area. Areas outside of the Marine Industrial zones are used for recreation, commercial shops, parking for harbor access, sport fishing, birdwatching, biking, sightseeing, and more. Flightseeing in these areas would add a level of noise that would be completely unacceptable. But most importantly, landing helicopters amid all this activity is not only disturbing, noisy, and polluting, it poses an unacceptable safety risk.

The Spit is not meant to be a flight zone for frequent aircraft landings. There are nearby Conservation Areas set aside for bird habitat. Between the flights of Bald Eagles, shorebirds, geese, cranes, and numerous nearby seaducks, kittiwakes, and ubiquitous gulls, adding helicopters to the mix is asking for a disaster. The airport is very nearby, so flightseeing operations are more sensibly sited there, where helicopters are already based.

Let's not mix this incompatible use right into the heart of one of the most heavily used recreational areas in Homer when a sensible and safer alternative is right at the Homer Airport. Please do not allow this Ordinance to pass as amended. Remove helipads for flightseeing and other unnecessary commercial uses on the Spit or even elsewhere around Homer. Keep them confined to the airport.

Sincerely,

Nina Faust and Edgar Bailey



Major C/C  
5/02/13  
h

**Jo Johnson**

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**From:** Clint Hlebechuk <hallobay@acsalaska.net>  
**Sent:** Thursday, May 02, 2013 12:11 PM  
**To:** Department Clerk  
**Subject:** ACTION ALERT Regarding Amended Ordinance 13-11(A) to allow helicopter flightseeing tours to take off from the Homer spit.

I do not believe it is a wise idea to allow helicopters on the Homer Spit. It appears someone wants to low-ball the FBO's (fixed base operations) at the Homer Airport which may somewhat serve to discourage visitors from the airport area and future improvements to the Homer Airport.

In the event the City Council would approve helicopters to operate on the Spit, they will need to address the other user groups who would immediately and in all fairness come-a-calling with their requests the likes of being a variety of aircraft landing and operating off the Spit beaches which would be followed by requests from the Jet-Ski people, then the ATV motorized user groups would want a piece of the action as well, followed by personal motorized users. When the "Pandora's Box" is opened we could just as well cancel the Kachemak Bay Shorebird Festival as the birds would certainly avoid their historic migratory resting area for the noise and activity created by the user groups comprised of helicopters, Jet-Skis, ATV's, motorcycles, super cub and ultra-lite aircraft to name a few. If all of this were to happen the Spit, which is all ready an environment that attracts college age kids, vagrants and juvenile youth to hang out will become more so.

In the event all of these user groups would be allowed access the Spit would be sure to require the majority of police services paid for by Homer resident property owners for the 4 summer months while Homer property owners either do with less police service during that time or pay increased property taxes for more police services to deal with the additional Spit problems sure to come if the Pandora's Box is opened.

People, you need to realize and understand what it is that has successfully been attracting people to visit and settle in Homer all of these past years. Sometimes change is not always a better choice and sometimes it brings more problems.

Clint Hlebechuk

**ACTION ALERT.....ACTION  
ALERT.....ACTION ALERT**

**Regarding Amended Ordinance 13-11(A) to  
allow helicopter flightseeing tours to take off  
from the Homer spit.**

### **Helicopter Flightseeing on the Spit?**

A helicopter flightseeing company has requested a change that would allow them to take off from the Homer Spit. Read *Homer*

News article: <http://homernews.com/homer-news/2013-04-24/council-moves-forward-on-spit-rezoning>

Council member Beau Burgess amended Ordinance 13-11(A) to re-allow Heliports as a conditional use. The discussion on this issue is a little more complex than just helicopter flightseeing, as the Marine Industrial users do foresee a possible need to have a carefully situated heliport to perhaps transport materials from the Spit via helicopter. But flightseeing is not a Marine Industrial use, so these ventures would be situated in the commercial zone, perhaps near the cruise ships or other nearby areas.

The following reasons to oppose helicopter flightseeing from the Spit are, in part for public safety reasons, the close proximity of the Homer airport, and the unwanted addition of this source of noise and air pollution. There are also safety concerns with so many birds flying around the Spit. Helicopter flightseeing is not very compatible with the purposes of some of the other zones that have been designated on the Spit, particularly the Conservation Zones.

Attached is the Amended Ordinance 13-11(A) which adds heliports on line number 72.

**Please send your comments to the Homer City Clerk (clerk@cityofhomer.ak.gov) by May 8 so that your thoughts will be in the Council's packets for the Public Hearing at the next City Council meeting on May 13th.**

Helicopter flightseeing has the potential to adversely affect the whole Spit experience. So don't let this slip by.

--  
Kachemak Bay Conservation Society  
Homer, Alaska  
[kbayconservation@gmail.com](mailto:kbayconservation@gmail.com)

Mayor's C/C  
5/02/13  
J

**Jo Johnson**

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**From:** Milli <millimom@xyz.net>  
**Sent:** Thursday, May 02, 2013 1:51 PM  
**To:** Department Clerk  
**Subject:** FW: ACTION ALERT Regarding Amended Ordinance 13-11(A) to allow helicopter flightseeing tours to take off from the Homer spit.

Dear Mayor Wythe and members of the Homer City Council,

Clint forwarded his comments, and I totally concur with him. Can't say it better than he did. Please, please carefully consider this request, and please vote no.

thank you,

Milli Martin  
PO Box 2652  
Homer, AK 99603  
907-235-6652

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**From:** Clint Hlebechuk [<mailto:hallobay@acsalaska.net>]  
**Sent:** Thursday, May 02, 2013 12:11 PM  
**To:** [clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)  
**Subject:** ACTION ALERT Regarding Amended Ordinance 13-11(A) to allow helicopter flightseeing tours to take off from the Homer spit.

I do not believe it is a wise idea to allow helicopters on the Homer Spit. It appears someone wants to low-ball the FBO's (fixed base operations) at the Homer Airport which may somewhat serve to discourage visitors from the airport area and future improvements to the Homer Airport.

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People, you need to realize and understand what it is that has successfully been attracting people to visit and settle in Homer all of these past years. Sometimes change is not always a better choice and sometimes it brings more problems.

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Attached is the Amended Ordinance 13-11(A) which adds heliports on line number 72.

Please send your comments to the Homer City Clerk ([clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)) by May 8 so that your thoughts will be in the Council's packets for the Public Hearing at the next City Council meeting on May 13th.

*Mayor & C/C*  
*5/1/13*  
*J*

**Jo Johnson**

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**From:** Bob Shavelson <bobshavelson@gmail.com>  
**Sent:** Wednesday, May 01, 2013 10:28 PM  
**To:** Department Clerk  
**Subject:** Homer Spit Re-Zoning

Dear Ms. Johnson -

Please share these comments with Council.

I am writing to oppose heliports as a conditional use on the Spit. Helicopters are incredible machines, unique in many ways - and one of the ways they stand out is their movement and noise.

Allowing heliports on the Homer Spit as a conditional use would completely change the complexion and experience on the Spit. And, importantly, a sensible alternative lies nearby - the airport; bear viewing and sight seeing businesses have run successful operations for many years from the airport.

There are a variety of diverse uses on the Spit, and for the most part, they are compatible. Helicopter traffic on the Spit would disrupt that balance, and adversely affect virtually every other use.

Thank you,

Bob Shavelson  
Homer Resident

*Mayra C/C*  
*5/06/13*  
*J*

**Jo Johnson**

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**From:** Dave Rush <dave.rush@yahoo.com>  
**Sent:** Monday, May 06, 2013 2:58 PM  
**To:** Department Clerk  
**Subject:** Helicopter operation on the Spit.

I wish to express my opinion regarding the allowance of helicopters' operating on the spit. DO NOT ALLOW IT!

I operate at the Homer Airport, pay taxes and fees' to the airport and have a flight seeing business operated out of Homer. It would not be fair to allow anyone to operate with an unfair advantage over the well established businesses which have operated at the airport for years. If this helicopter company wants to come into Homer and begin a flight seeing business, let them find a place at the airport like the rest of us. Then they can pay the same fees, leases, and state and federal taxes like the rest of us.

You may call me if you have any questions.  
Sincerely,

Dave Rush  
Owner: Homer Air Inc.  
907-235-8591

## Jo Johnson

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**From:** Beauregard Burgess <tassadar4t@gmail.com>  
**Sent:** Tuesday, May 07, 2013 1:22 PM  
**To:** dave.rush@yahoo.com; hallobay@acsalaska.net; millimom@xyz.net; fausbail@horizonsatellite.com; bob@inletkeeper.org; Ken Bergman; tonyburgess@mac.com.  
**Cc:** 'Michael Armstrong'; Jo Johnson; Homer Tribune; aaron@kbbi.org  
**Subject:** Heliports on the Spit & Ordinance 13-11(A)

I am writing you all today to thank you for sharing your concerns and providing input regarding Ordinance 13-11(A), an amended ordinance that would drastically revamp the zoning restrictions and allowed activities on the spit.

I understand that many of you oppose allowing helicopter operations on the spit, but the way in which some of you have misinformed yourselves and others about this ordinance is a bit disturbing to me. The original draft ordinance 13-11 was introduced by staff to update the zoning code to be more in line with what the comprehensive plan suggests, and would severely limit many, currently allowed activities on the spit. Heliports are one of those activities! That's right, for over a decade, Heliports have been an allowed activity in both commercial and industrial zones on the spit. So when someone says that I or the council are in favor of amending the code to now allow heliports on the spit, he or she is being disingenuous and misleading. They have been allowed for a long time. Perhaps the news media is partially at fault for not making this clear, but some of you might have done a bit more homework before saying that the council or myself wanted to amend the code to allow this activity, when in fact what was voted on Monday night would actually limit this activity, compared to what is currently allowed.

I personally do not like the idea of heliports on the spit at all, but I believe very strongly that the city should not outright ban an activity for any reason unless there are clear reasons and a strong public mandate (which there may be in this case). Government needs to limit its regulation of an activity unless there is a reason for intervention, and that reason is clear and equitable. At the last council meeting there was a man saying this very thing – nobody was there to refute him or offer contending reasons. I saw no reason why we should change the zoning to ban this activity outright, so I proposed a compromise that would make operating a heliport on the spit a CUP permissible activity. This is actually a NEW restriction on this kind of activity compared to the current code. A person wanting to open a heliport on the spit (as the amended ordinance now reads), would have to go thru the entire CUP process and have public hearings in front on the planning commission among many other things. This seems fair to me, as I'm sure if someone wanted to operate a heliport on the spit in an unsafe or unwise location, the public testimony and review by the planning commission would reveal this, and the permit would not be issued.

I have taken all of your input regarding the issue under advisement and I may very well choose to vote against this amended ordinance at the next council meeting, as there are valid reasons why heliports should not be allowed at all outside of the airport; certainly the case for allowing heliports in marine commercial zones is a weak one. But there are valid logistical and economic reasons why operating a heliport in a marine industrial zone may be essential or very cost effective. Again, I feel strongly that government needs to be very meticulous and cautious about completely banning or severely limiting any personal or economic freedom without a good clear reason.

For those of you approaching this issue from a conservation standpoint, you may stand to lose more than you may gain by demonizing or railing against a councilmember who has been a strong advocate for many of your causes. I encourage you to see the other side of the argument here. Small businesses and individuals should be encouraged in our community as much as possible to thrive economically, as long as that does not limit the freedoms and well-being of others. Many of you who own fixed-wing operations have presented solid economic reasons why all aviators should be made to play by the same rules at the airport. I think these points are probably the best arguments against allowing heliports on the spit. I need to really weigh the pros and cons here and would appreciate those of you who have interests in fixed-wing operations making your case in more detail. What are the pros and cons to you and others of allowing helicopter operations such a potential advantage?

What I want to make very clear is:

1. It is simply untrue that I want to allow an activity or lift restrictions on a previously disallowed activity. To say this is to intentionally mislead and misinform. I would respectfully encourage those of you who have said this to make an effort to correct yourselves and others.
2. I do not feel strongly one way or the other about heliports, but DO feel strongly that activities should NOT be banned outright without careful consideration and public input.
3. I would like to foster a political environment and discourse that is centrist, considerate and fair and takes issues one at a time. Misinformation and personal defamation only leads to a political landscape dominated by forces that tend to take very extreme, ideological positions on issues, not those willing to really listen or consider.
4. If you feel strongly about this, please come testify at the public meeting, and argue your case clearly and factually.

In the current city council and mayor, I actually believe we have a very strong and intelligent group of people who all genuinely want to see Homer thrive and succeed in the long term. Everyone is willing to listen and to make a sincere effort to make informed and thoughtful decisions. The more good facts and good respectful discourse that is brought to us, the better able we will be to function effectively.

Sincerely,  
Beau Burgess

Councilmember  
City of Homer

**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-12**

An Ordinance of the City Council of the City of Homer, Alaska, Amending the Homer City Zoning Map to Rezone Portions of the Marine Industrial (MI) Zoning District to Conservation (CONS), Marine Commercial (MC) and Open Space Recreational (OSR), and Amending the Homer City Zoning Map to Rezone a Portion of the Open Space Recreational (OSR) Zoning District to Marine Industrial (MI), to Implement the 2010 Homer Spit Plan.

Sponsor: Planning

1. City Council Regular Meeting April 22, 2013 Introduction
  - a. Memorandum 13-054 from City Planner as backup
2. City Council Regular Meeting May 13, 2013
  - a. Memorandum 13-054 from City Planner as backup



**CITY OF HOMER  
HOMER, ALASKA**

Planning

**ORDINANCE 13-12**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, AMENDING THE HOMER CITY ZONING MAP TO REZONE PORTIONS OF THE MARINE INDUSTRIAL (MI) ZONING DISTRICT TO CONSERVATION (CONS), MARINE COMMERCIAL (MC) AND OPEN SPACE RECREATIONAL (OSR), AND AMENDING THE HOMER CITY ZONING MAP TO REZONE A PORTION OF THE OPEN SPACE RECREATIONAL (OSR) ZONING DISTRICT TO MARINE INDUSTRIAL (MI), TO IMPLEMENT THE 2010 HOMER SPIT PLAN.

WHEREAS, The Homer City Council adopted Ordinance 11-17 on May 24, 2011, adopting the 2010 Homer Spit Plan as part of the Homer Comprehensive Plan and recommending adoption by the Kenai Peninsula Borough Assembly; and

WHEREAS, The Kenai Peninsula Borough Assembly adopted Ordinance 2011-38 on November 1, 2011, adopting the 2010 Homer Spit Plan as part of the Homer Comprehensive Plan; and

WHEREAS, The Homer Advisory Planning Commission held a public hearing on the rezonings described herein on March 20, 2013 as required by Homer City Code 21.95.060; and

WHEREAS, AS 29.40.040 requires that the City's zoning regulations be consistent with the comprehensive plan and further specific goals and objectives of the plan, and the Homer Advisory Planning Commission has found that the zoning map amendments in this ordinance are necessary to conform the zoning of the Homer Spit area to the 2010 Homer Spit Plan; and

WHEREAS, The Homer Advisory Planning Commission also has found that the proposed rezonings (i) will be reasonable to implement and enforce; (ii) will promote the present and future public health, safety and welfare; and (iii) are consistent with the intent and wording of the other provisions of HCC Title 21.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit A from the Marine Industrial (MI) zoning district to the Conservation (CONS) zoning district as shown on the attached Exhibit F.

Section 2. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit B from the Marine Industrial (MI) zoning district to the Marine Commercial (MC) zoning district as shown on the attached Exhibit F.

Section 3. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit C from the Marine Industrial (MI) zoning district to the Open Space Recreational (OSR) zoning district as shown on the attached Exhibit F.

Section 4. The Homer Zoning Map is amended to transfer the parcel listed on the attached Exhibit D from the Marine Industrial (MI) and Marine Commercial (MC) zoning districts, to the Marine Commercial (MC) zoning district as shown on the attached Exhibit F.

Section 5. The Homer Zoning Map is amended to transfer the parcel listed on the attached Exhibit E from the Open Space Recreational (OSR) and Marine Industrial (MI) zoning districts, to the Open Space Recreational (OSR) zoning district as shown on the attached Exhibit F.

Section 6. The City Planner is authorized to note on the Homer Zoning Map the amendments enacted by this ordinance as required by Homer City Code 21.10.030(b).

Section 7. This is a non-Code ordinance of a permanent nature and shall be noted in the ordinance history of Homer City Code 21.10.030.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_ 2013.

CITY OF HOMER

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

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

90 Reviewed and approved as to form:

91

92

93

94 \_\_\_\_\_  
Walt E. Wrede, City Manager

95

96

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

98

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

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

**Exhibit A**

Rezone from Marine Industrial (MI) to Conservation (CONS):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18101010	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 7 LYING NORTH OF HOMER SPIT RD
18101014	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 5 LYING NORTH OF HOMER SPIT RD
18101011	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 6 LYING NORTH OF HOMER SPIT RD

**Exhibit B**

Rezone from Marine Industrial (MI) to Marine Commercial (MC):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103023	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 2
18103119	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0940043 THE FISHIN HOLE SUB NO 2 TRACT 1-C
18103024	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 3
18103311	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 28
18103443	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-3
18103103	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 4
18103022	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 1
18103310	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 29
18103432	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT AMENDED LOT 32
18103441	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED PARKING AND ACCESS AREA
18103309	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 30
18103118	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0940043 THE FISHIN HOLE SUB NO 2 TRACT 1-B
18103442	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-2
18103444	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-4
18103431	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMD LOT 88-1

**Exhibit C**

Rezone from Marine Industrial (MI) to Open Space Recreational (OSR):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103007	T 6S R 13W SEC 35 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 3 LYING SOUTHWEST OF THE HOMER SPIT RD
18102010	T 6S R 13W SEC 27 SEWARD MERIDIAN HM PORTION OF GOVT LOT 5 LYING SOUTH OF HOMER SPIT HWY
18103102	T 6S R 13W SEC 35 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 14 LYING SOUTHWEST OF THE HOMER SPIT RD
18103006	T 6S R 13W SEC 35 SEWARD MERIDIAN HM PORTION GOVT LOT 2
18103002	T 6S R 13W SEC 34 SEWARD MERIDIAN HM PORTION GOVT LOT 1
18103004	T 6S R 13W SEC 35 SEWARD MERIDIAN HM PORTION GOVT LOT 1

**Exhibit D**

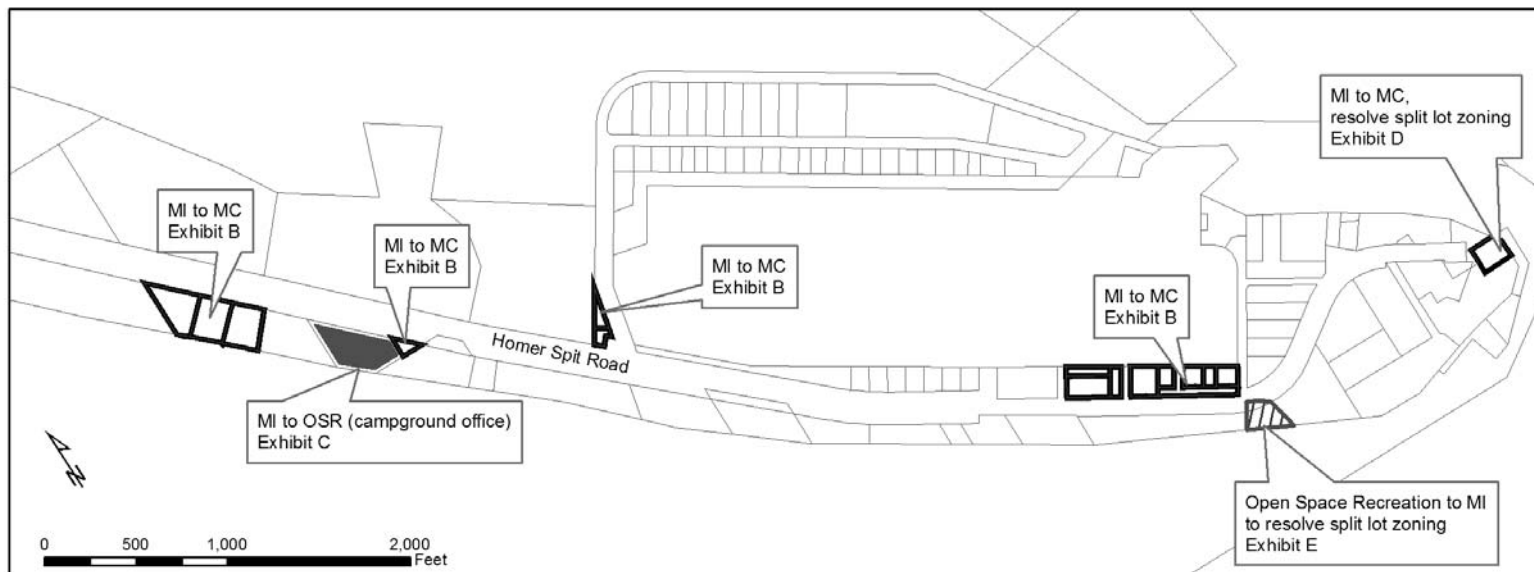
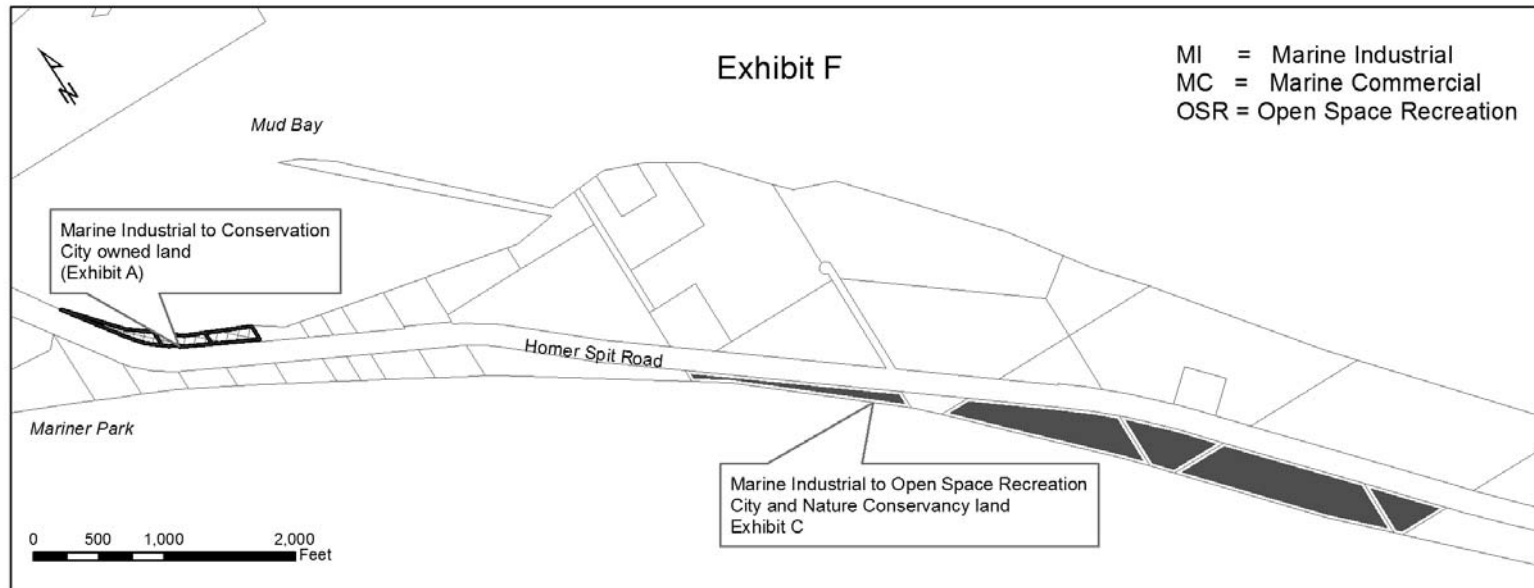
Rezone from Marine Industrial (MI) and Marine Commercial (MC) to Marine Commercial (MC):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103450	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0990018 LANDS END SUB NO 2 AMENDED LOT 24-C-1

**Exhibit E**

Rezone from Open Space Recreational (OSR) and Marine Industrial (MI) to Marine Industrial (MI):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103402	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 50



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# City of Homer

## Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

*Telephone* (907) 235-3106  
*Fax* (907) 235-3118  
*E-mail* [Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)  
*Web Site* [www.ci.homer.ak.us](http://www.ci.homer.ak.us)

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### MEMORANDUM 13-054

TO: MAYOR WYTHER AND HOMER CITY COUNCIL  
THROUGH: WALT WREDE, CITY MANAGER  
FROM: RICK ABBODD, CITY PLANNER  
DATE: March 23, 2013  
SUBJECT: Ordinance 13-12, Amending the Spit Zoning Map

After extensive review, the Homer Advisory Planning Commission recommends amendments to the Spit Zoning Map in accordance with the 2010 Homer Spit Comprehensive Plan.

The Spit zoning map was the subject of several Planning Commission meetings and was reviewed by the Port and Harbor Commission as well as the Economic Development Commission. Prior to producing the proposed amendments, the subject was intertwined with conversations regarding the proposed text amendment to the Marine Commercial and Industrial Districts.

The proposed amendments generally represent changed conditions reflected on the Spit. It provides a bit more Marine Commercial designations where that activity has been endorsed through permits and the Spit Comprehensive Plan. Lands that are tidal influenced or undevelopable are being designated as Conservation or Open Space Recreational. An excellent rundown of the changes is found with the memo supporting staff report 13-31.

Attachments:  
Draft Ordinance 11-XX  
Map  
Staff Reports  
Minutes  
Public Notice  
Public Comments  
Memos





## City of Homer Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

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*Web Site* [www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

### STAFF REPORT PL 13-31

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 20, 2013  
**SUBJECT:** Draft Ordinance amending the Zoning Map on the Homer Spit

**Requested Action:** Conduct a public hearing and forward a recommendation to the City Council on amending the Zoning Map on the Homer Spit.

### GENERAL INFORMATION

This ordinance proposes to change the zoning designations of 26 properties on the Spit. The changes are in accordance to the 2010 Homer Spit Comprehensive Plan and advance the goals of that plan. The attached draft ordinance lists all the changes. There is also an attached memo with the Planning Department review of each change. Under HCC 21.95.050, the Planning Department reviews the changes and makes a recommendation to the Planning Commission. The Commission holds a public hearing, makes any amendments, and forwards the ordinance to the City Council for action.

Notice of the public hearing advertised in accordance to City Code. In addition, all property owners and interested parties on the Spit, according to the Kenai Peninsula Tax Assessor, were notified by mail of the meeting and proposed changes. A further email was scheduled to be Thursday March 14<sup>th</sup> to general business owners, including those who were invited to the work session in August 2012 the Commission conducted, when Spit shop owners were invited to discuss overnight accommodation regulations.

### STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per 21.95.050 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council.

### ATTACHMENTS

1. Memorandum with Planning and Zoning Department Review per 21.95.030.
2. Draft ordinance
3. Public Notice

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## City of Homer Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

Telephone (907) 235-3106  
Fax (907) 235-3118  
E-mail [Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)  
Web Site [www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

### MEMORANDUM

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 20, 2013  
**SUBJECT:** Planning staff review of Draft Ordinance amending the Homer Zoning Map on the Spit

### GENERAL INFORMATION

This memo is the Planning Department review of the proposed zoning map changes. Each zoning change will be presented in order of the ordinance, with findings for each section. This ordinance is also accompanied by another ordinance, which amends the marine Commercial and Marine Industrial zoning codes. These two ordinances will be considered separately, but together they implement the goals of the 2010 Homer Spit Comprehensive Plan.

#### **Exhibit A Marine Industrial to Conservation** (Mud Bay, base of Spit)

These three parcels are Marine Industrial, and are proposed for Conservation Zoning. All are city owned. There is little if any developable area on these lots. They are seaward of the Homer Spit Trail, into Mud Bay. Goal 1.6 of the Homer Spit Comprehensive Plan encourages the conservation of the Mud Bay area.

### Review

21.95.050 Planning Department review of zoning map amendment. The Planning Department shall evaluate each amendment to the official zoning map that is initiated in accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

**Finding:** The proposed rezoning is consistent with the 2010 Homer Spit Comprehensive Plan and furthers the goals and objectives of the plan.

b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

**Finding:** The change applies a zoning district better suited to the area. The current right of way width, and the tidal nature of the property in a mudflat make it unsuitable for Marine Industrial development.

c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

**Finding:** It is in the best interest of the public to zone these properties Conservation. They have little value as Marine Industrial lands for development purposes, but high habitat and scenic value for the public as a conservation area.

### **Exhibit B MI to MC**

There are fifteen lots in two basic areas included in this exhibit.

The first area includes properties west of the fishing hole, and two lots on Freight Dock Road. The lands have a mixture of commercial uses such as RV parks/camping, fishing charters and a restaurant, as well as a few vacant lots. All of the lots have a limited area for development, either due to lot size, or because they are mostly beach.

The second area is from the harbor masters office, south to Fish Dock Road, on the east side of Homer Spit Road along the harbor. The parcels have a mixture of Marine Commercial types of businesses, with a few Marine Industrial activities such as commercial fish buying. They are small lots and have more use to the community as commercial rather than industrial lots. One of the goals in the Spit plan is to better differentiate between marine commercial lands, with a broad range of possible business activities, and marine industrial, to cluster industrial activities without the gradual creep of commercial activities into those areas.

### **Review**

a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

**Finding:** The proposed rezoning is consistent with the 2010 Homer Spit Comprehensive Plan and furthers the goals and objectives of the plan.

b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

**Finding:** Conditions have changed on the Spit, and more Marine Commercial property is warranted.

c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of

the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

**Finding:** It is in the best interest of the public to rezone these lands from industrial to commercial land. The current development on the properties is of a marine commercial nature. These areas are identified as Marine Commercial in the land use plan and it is desirable to see further commercial development.

### **Exhibit C: Marine Industrial to OSR**

There are six properties proposed to change from Marine Industrial to Open Space Recreation zoning. Five are owned by the City of Homer, and one is owned by the Nature Conservancy. All are located on the west, or Cook Inlet side of Kachemak Bay, and are mostly beach. There is very little developable land outside of the state Right of Way. It's a highly active beach with a lot of current and sediment movement, and within a FEMA VE zone. They are not generally usable lots for Marine industrial activities. One lot includes a city campground and the campground office. The Spit Comprehensive plan, Goals 1.3 and 1.4 encourage open space recreation uses on the west side of the Spit.

#### **Review**

a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

**Finding:** The proposed rezoning is consistent with the 2010 Homer Spit Comprehensive Plan and furthers the goals and objectives of the plan.

b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

**Finding:** The zoning change will apply a better district to the properties. They are better suited to open space recreation uses than Marine Industrial development.

c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

**Finding:** It is in the best interest of the public that these properties be zoned for open space recreation. Through the Comprehensive Plan, the public has expressed the desire for these lands to remain undeveloped, to retain the view shed and public beach access across these areas.

### **Exhibits D and E: Split lot zoning**

There are two parcels on the Spit have a zoning boundary that runs through them. Generally, a zoning boundary follows lot lines per HCC 21.04.050, 21.04.060. The two properties appear to have had lot line changes in 1989, and the zoning was not adjusted at that time. These are relatively minor changes and would not merit a rezone on their own. But since there are several changes zoning occurring at the

same time, these are minor changes that should be included in the action. Neither zoning change affects the current land use or development of the site.

1. At the Land's End Hotel, the restaurant area and part of the parking lot have Marine Industrial Zoning, rather than Marine Commercial like the rest of the site. The zoning change would be for the whole property to be Marine Commercial.
2. A portion of the Homer Spit Campground, which is a Marine Industrial site, is zoned Open Space Recreation. This OSR section would be changed to MI, like the rest of the site.

#### **Review**

- a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

**Finding:** The proposed changes are consistent with the 2010 Homer Spit Comprehensive Plan.

- b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

**Finding:** Conditions have changed since the adoption of the zoning. The property boundaries have changed, resulting in split lot zoning. The existing land use activities will not be impacted by these changes and would be better suited by having one zoning designation.

- c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

**Finding:** It is in the best interest of the public and the existing development to not have two different zoning designations on these parcels.

#### **STAFF COMMENTS/RECOMMENDATIONS:**

Planning staff has reviewed the ordinance per 21.95.050 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council.

**CITY OF HOMER  
HOMER, ALASKA**

Planning

**ORDINANCE 13-**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, AMENDING THE HOMER CITY ZONING MAP TO REZONE PORTIONS OF THE MARINE INDUSTRIAL (MI) ZONING DISTRICT TO CONSERVATION (CONS), MARINE COMMERCIAL (MC) AND OPEN SPACE RECREATIONAL (OSR), AND AMENDING THE HOMER CITY ZONING MAP TO REZONE A PORTION OF THE OPEN SPACE RECREATIONAL (OSR) ZONING DISTRICT TO MARINE INDUSTRIAL (MI), TO IMPLEMENT THE 2010 HOMER SPIT PLAN.

WHEREAS, the Homer City Council adopted Ordinance 11-17 on May 24, 2011, adopting the 2010 Homer Spit Plan as part of the Homer Comprehensive Plan and recommending adoption by the Kenai Peninsula Borough Assembly; and

WHEREAS, the Kenai Peninsula Borough Assembly adopted Ordinance 2011-38 on November 1, 2011, adopting the 2010 Homer Spit Plan as part of the Homer Comprehensive Plan; and

WHEREAS, The Homer Advisory Planning Commission held a public hearing on the rezonings described herein on \_\_\_\_\_, 2013 as required by Homer City Code 21.95.060, and

WHEREAS, AS 29.40.040 requires that the City's zoning regulations be consistent with the comprehensive plan and further specific goals and objectives of the plan, and the Homer Advisory Planning Commission has found that the zoning map amendments in this ordinance are necessary to conform the zoning of the Homer Spit area to the 2010 Homer Spit Plan; and

WHEREAS, The Homer Advisory Planning Commission also has found that the proposed rezonings (i) will be reasonable to implement and enforce; (ii) will promote the present and future public health, safety and welfare; and (iii) are consistent with the intent and wording of the other provisions of HCC Title 21.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit A from the Marine Industrial (MI) zoning district to the Conservation (CONS) zoning district as shown on the attached Exhibit F.

Section 2. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit B from the Marine Industrial (MI) zoning district to the Marine Commercial (MC) zoning district as shown on the attached Exhibit F.



91 Reviewed and approved as to form:

92

93

94

95 Walt E. Wrede, City Manager

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

97

Thomas F. Klinkner, City Attorney

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

**Exhibit A**

**Rezone from Marine Industrial (MI) to Conservation (CONS):**

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18101010	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 7 LYING NORTH OF HOMER SPIT RD
18101014	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 5 LYING NORTH OF HOMER SPIT RD
18101011	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 6 LYING NORTH OF HOMER SPIT RD

**Exhibit B**

Rezone from Marine Industrial (MI) to Marine Commercial (MC):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103023	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 2
18103119	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0940043 THE FISHIN HOLE SUB NO 2 TRACT 1-C
18103024	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 3
18103311	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 28
18103443	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-3
18103103	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 4
18103022	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 1
18103310	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 29
18103432	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT AMENDED LOT 32
18103441	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED PARKING AND ACCESS AREA
18103309	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 30
18103118	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0940043 THE FISHIN HOLE SUB NO 2 TRACT 1-B
18103442	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-2
18103444	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-4
18103431	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMD LOT 88-1

### Exhibit C

Rezone from Marine Industrial (MI) to Open Space Recreational (OSR):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103007	T 6S R 13W SEC 35 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 3 LYING SOUTHWEST OF THE HOMER SPIT RD
18102010	T 6S R 13W SEC 27 SEWARD MERIDIAN HM PORTION OF GOVT LOT 5 LYING SOUTH OF HOMER SPIT HWY
18103102	T 6S R 13W SEC 35 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 14 LYING SOUTHWEST OF THE HOMER SPIT RD
18103006	T 6S R 13W SEC 35 SEWARD MERIDIAN HM PORTION GOVT LOT 2
18103002	T 6S R 13W SEC 34 SEWARD MERIDIAN HM PORTION GOVT LOT 1
18103004	T 6S R 13W SEC 35 SEWARD MERIDIAN HM PORTION GOVT LOT 1

**Exhibit D**

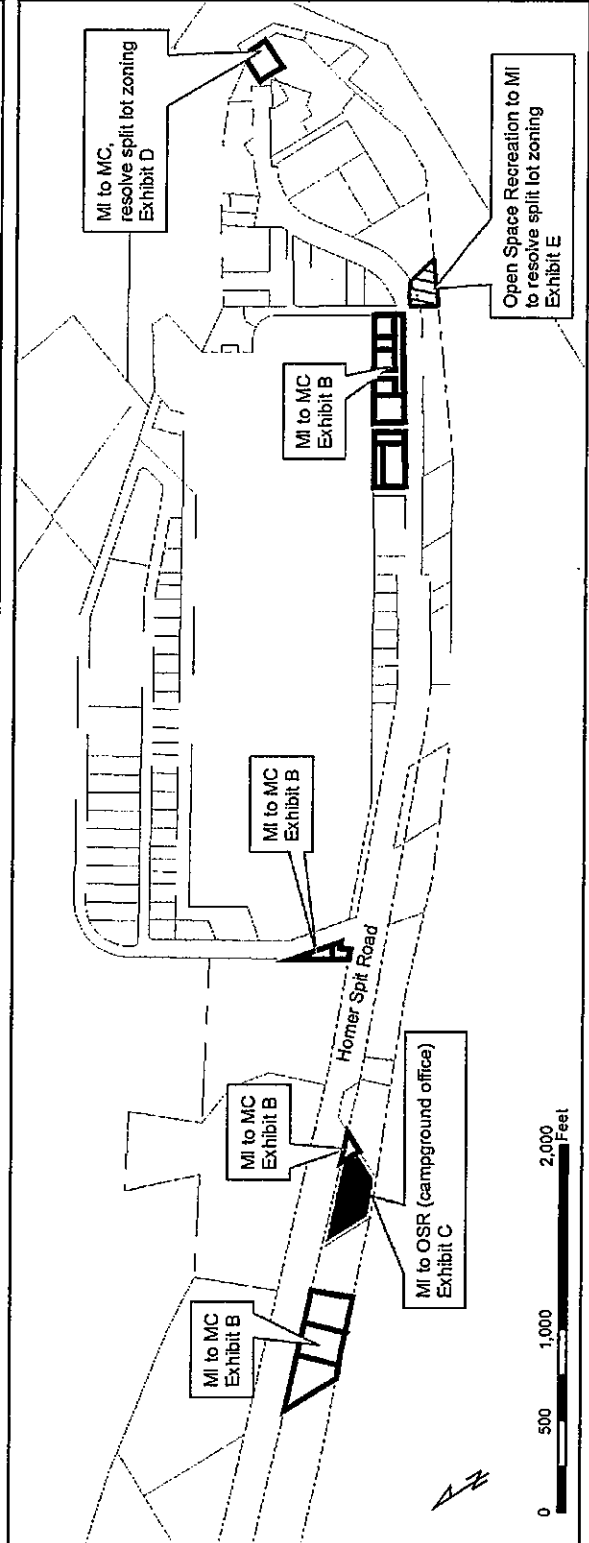
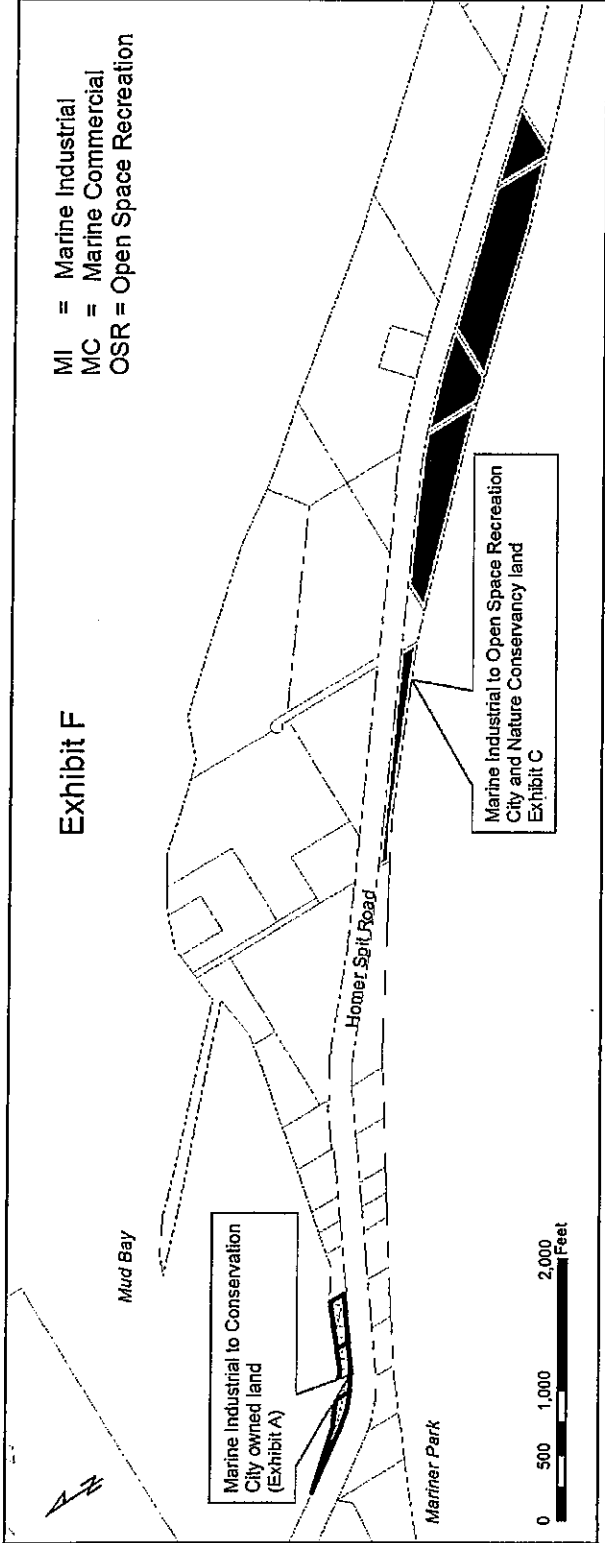
Rezone from Marine Industrial (MI) and Marine Commercial (MC) to Marine Commercial (MC):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103450	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0990018 LANDS END SUB NO 2 AMENDED LOT 24-C-1

**Exhibit E**

Rezone from Open Space Recreational (OSR) and Marine Industrial (MI) to Marine Industrial (MI):

<u>Tax Parcel No.</u>	<u>Legal Description</u>
18103402	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 50





## **PUBLIC NOTICE**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, March 20, 2013 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matters:

An amendment to the official Homer City Zoning Map to rezone portions of the Marine Industrial, Marine Commercial, Open Space Recreational, and Conservation Districts as required by HCC 21.95.060.

Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

For additional information including the complete proposals available for review, please contact Julie Engebretsen or Rick Abboud at the City Planning and Zoning Office, 235-3106.

**NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY.**

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
MARCH 20, 2013

listed use they can get a conditional use permit for an unlisted use, and the process is spelled out under the unlisted use section of code. Getting rid of the other similar uses matches our other commercial districts, and eliminates the separate class of landowner that was created by having a set of rules for city owned property. All landowners should be equal and if the City wants a separate rule, it should be in administrative guidelines, not the zoning code.

Chair Venuti opened the public hearing.

Dan Young, property owner on the spit, commented in support of the changes tonight. He looked over the changes and they affect him positively. They tried to make these changes six years ago but they failed. He is glad to see this happening.

Thad Busheu, property owner on the spit, commented in support of the changes, they will benefit him as well.

There were no further public comments and the public hearing was closed.

**BOS/SONNEBORN MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING THE MARINE COMMERCIAL AND MARINE INDUSTRIAL ZONING DISTRICT AND RECOMMEND ADOPTION BY THE CITY COUNCIL.**

There was brief discussion for clarification that the information referenced in the laydown memo is already included in the draft ordinance provided by the City Attorney.

**VOTE: NON OBJECTION: UNANIMOUS CONSENT**

Motion carried.

**B. Staff Report PL 13-31, Draft Ordinance Amending the Zoning Map on the Homer Spit**

Planning Technician Engebretsen reviewed the staff report.

In response to questions, City Planner Abboud explained that the need for more marine commercial property is warranted due to several applications for conditional use for marine commercial activity in the marine industrial area.

Chair Venuti opened the public hearing. There were no public comments and the hearing was closed.

**BOS/HIGHLAND MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING THE HOMER ZONING MAP TO REZONE THE HOMER SPIT AND RECOMMEND ADOPTION BY THE CITY COUNCIL.**

It was noted that the map has been put together very well and is a welcomed change.

**VOTE: NON OBJECTION: UNANIMOUS CONSENT.**

Motion carried.





## City of Homer Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

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**TO:** Economic Development Advisory Planning Commission  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** March 12, 2013  
**SUBJECT:** Zoning code and zoning map changes on the Homer Spit

**Requested Action:** None. The Commission is welcome to make comments on the proposed changes. I will be attending the meeting on the 12<sup>th</sup> to answer any questions and relay any comments to the Planning Commission.

### Introduction

For the past nine months or so, the Homer Advisory Planning Commission has been working on revising the land use regulations on the Spit. There are two types of changes; the text of the zoning districts, i.e. what land uses are or are not allowed, and the zoning map. There is a public hearing scheduled for March 20<sup>th</sup> on these proposed changes at the Planning Commission meeting..

These changes are to implement the Spit Plan, and hopefully will result in more clear, logical zoning regulations. For example, several areas will be rezoned from Marine Industrial to Marine Commercial. This will allow for a broader range of businesses. Fisheries activates are still allowed, but so are kayak rentals and all the other business that have been there for so long. Conversely, the Marine Industrial District will be focused on industrial and fishing related activity. For example, Fish Dock Road lots will remain Marine Industrial; they are important to Homer's economic success as a fishing port and are very close to harbor infrastructure.

Another major change is the allowance of overnight room rentals. Under current zoning regulations, most of the rooms for rent above shops are a zoning violation. The 2010 Spit Comprehensive Plan recognized the need to address this conflict between zoning, and a common business practice. Last fall, the Planning Commission invited Spit business owners to a work session, to talk about how people are really using their property, and what zoning and safety regulations might look like. The end recommendation from the Planning Commission and staff is to change the city zoning regulations to follow the regulations already in place by the State Fire Marshal. The proposed changes should help to solve the long term zoning conflicts.

Copies of the draft ordinances are attached. I will be at your meeting if you have any questions/concerns/comments.

There are two meetings coming up about Spit issues. See attached flier.

## **Attachments**

1. Meeting flier for March 20<sup>th</sup> and 28<sup>th</sup>
2. Draft Ordinance amending the Marine Commercial and Marine Industrial Zoning Districts
3. Draft Ordinance amending the zoning map on the Spit



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## **Please Join Us!**

There are changes planned for the Spit! This letter is to notify you of two meetings.  
Both meetings will be held at Homer City Hall, in the Council Chambers.

- 1. Wednesday March 20<sup>th</sup>, 6:30 PM:** Public hearing to take testimony on proposed zoning code and zoning map changes on the Spit. The Homer Advisory Planning Commission will hold a public hearing on three proposals: Changes to the zoning map, and changing the land use regulations for the Marine Industrial and Marine Commercial Zoning Districts. Planning staff would be happy to discuss your property and how the changes would affect you. For more information please contact Rick Abboud or Julie Engebretsen at 235-3106, or email [planning@ci.homer.ak.us](mailto:planning@ci.homer.ak.us).
- 2. Wednesday March 28<sup>th</sup> at 4:00 pm:** Neighborhood meeting to take comments on the proposed **Spit Trail construction**. The Spit Trail will be completed during summer 2013 and 2014, and two new restrooms will be built this year. There are several other harbor construction projects planned for the upcoming construction season. This is your chance to learn about them and make comments. A Port and Harbor Advisory Commission meeting follows immediately after at 5:00 pm if you'd like to make formal comments. For more information please contact Dan Nelson or Carey Meyer at 235-3170, or email [publicworks@ci.homer.ak.us](mailto:publicworks@ci.homer.ak.us)

**Website:** <http://www.cityofhomer-ak.gov/planning> Click on Spit Changes 2013.

## **PUBLIC NOTICE**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, March 20, 2013 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matters:

An amendment to the official Homer City Zoning Map to rezone portions of the Marine Industrial, Marine Commercial, Open Space Recreational, and Conservation Districts as required by HCC 21.95.060. *See next page for legal description of properties affected and corresponding zoning change. A map of the Homer Spit depicting the changes is also included.*

An amendment to Homer City Code §21.03.040 to add a definition of lodging; amending Homer City Code §§21.28.020, 21.28.030, 21.28.040 and 21.28.070, regarding the Marine Commercial Zoning District; amending Homer City Code §§21.30.020, 21.30.030, 21.30.040 and 21.30.070, regarding the Marine Industrial Zoning District; and adopting Homer City Code §21.50.040, Site Development Standards - Level 3, to implement the Homer Spit Comprehensive Plan.

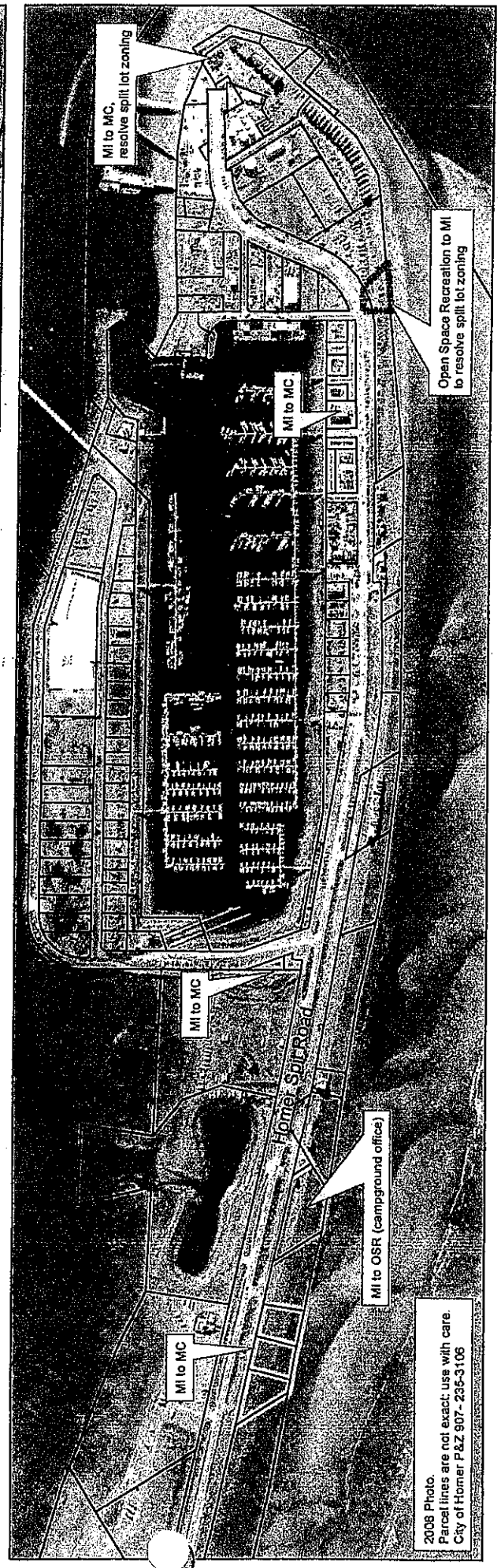
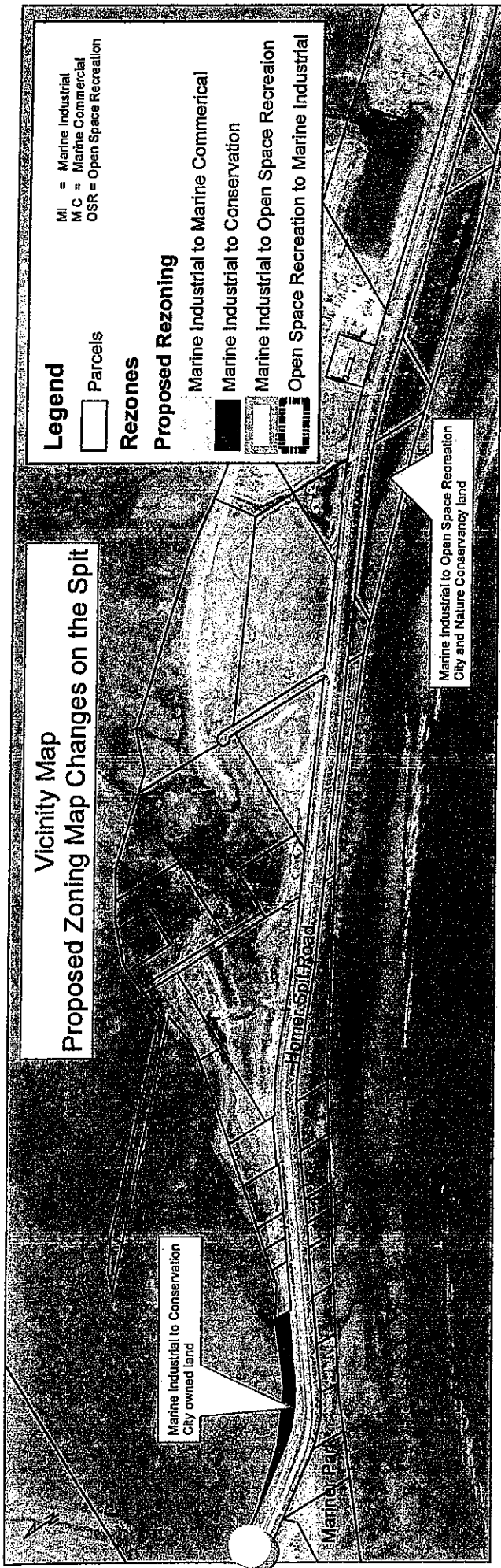
Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

For additional information including the complete proposals available for review, please contact Julie Engebretsen or Rick Abboud at the City Planning and Zoning Office, 235-3106.

# Legal Descriptions and Proposed Zoning Changes

Street Address	Legal Description	Proposed Zoning Change
	T 6S R 13W SEC 35 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 3 LYING SOUTHWEST OF THE HOMER SPIT RD	Marine Industrial to Open Space Recreation
3347 HOMER SPIT RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 2	Marine Industrial to Marine Commercial
	T 6S R 13W SEC 27 SEWARD MERIDIAN HM PORTION OF GOVT LOT 5 LYING SOUTH OF HOMER SPIT HWY	Marine Industrial to Open Space Recreation
HOMER SPIT RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 14 LYING SOUTHWEST OF THE HOMER SPIT RD	Marine Industrial to Open Space Recreation
	T 6S R 13W SEC 35 SEWARD MERIDIAN HM PORTION GOVT LOT 2	Marine Industrial to Open Space Recreation
1920 HOMER SPIT RD	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 7 LYING NORTH OF HOMER SPIT RD	Marine Industrial to Conservation
1114 FREIGHT DOCK RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0940043 THE FISHIN HOLE SUB NO 2 TRACT 1-C	Marine Industrial to Marine Commercial
3351 HOMER SPIT RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 3	Marine Industrial to Marine Commercial
4350 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 28	Marine Industrial to Marine Commercial
4470 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-3	Marine Industrial to Marine Commercial
	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 5 LYING NORTH OF HOMER SPIT RD	Marine Industrial to Conservation
3789 HOMER SPIT RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 4	Marine Industrial to Marine Commercial
3343 HOMER SPIT RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0900048 HOMER SPIT THREE SUB LOT 1	Marine Industrial to Marine Commercial
4348 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 29	Marine Industrial to Marine Commercial
	T 6S R 13W SEC 28 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 6 LYING NORTH OF HOMER SPIT RD	Marine Industrial to Conservation
4535 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 50	Split lot, Open Space Recreation to Marine Industrial
4400 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT AMENDED LOT 32	Marine Industrial to Marine Commercial
	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED PARKING AND ACCESS AREA	Marine Industrial to Marine Commercial
4390 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT SUB AMENDED LOT 30	Marine Industrial to Marine Commercial
3978 HOMER SPIT RD	T 6S R 13W SEC 35 SEWARD MERIDIAN HM 0940043 THE FISHIN HOLE SUB NO 2 TRACT 1-B	Marine Industrial to Marine Commercial
4460 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-2	Marine Industrial to Marine Commercial
4786 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0990018 LANDS END SUB NO 2 AMENDED LOT 24-C-1	Split lot, Marine Industrial to Marine Commercial
4474 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMENDED LOT 88-4	Marine Industrial to Marine Commercial
4406 HOMER SPIT RD	T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0920050 HOMER SPIT SUB NO TWO AMD LOT 88-1	Marine Industrial to Marine Commercial
	T 6S R 13W SEC 34 SEWARD MERIDIAN HM PORTION GOVT LOT 1	Marine Industrial to Open Space Recreation
	T 6S R 13W SEC 35 SEWARD MERIDIAN HM PORTION GOVT LOT 1	Marine Industrial to Open Space Recreation



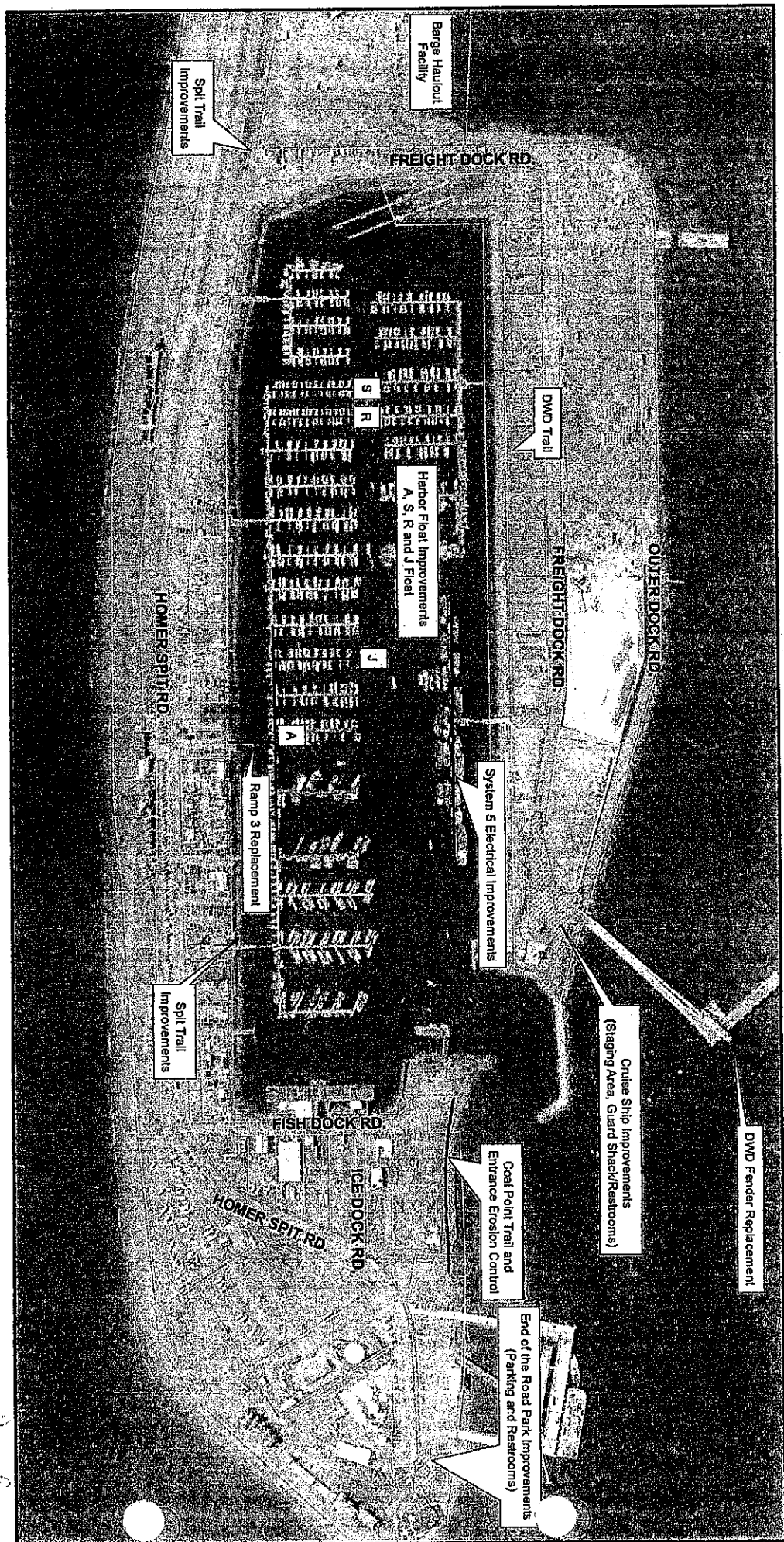


# City of Homer Spit Improvements 2013

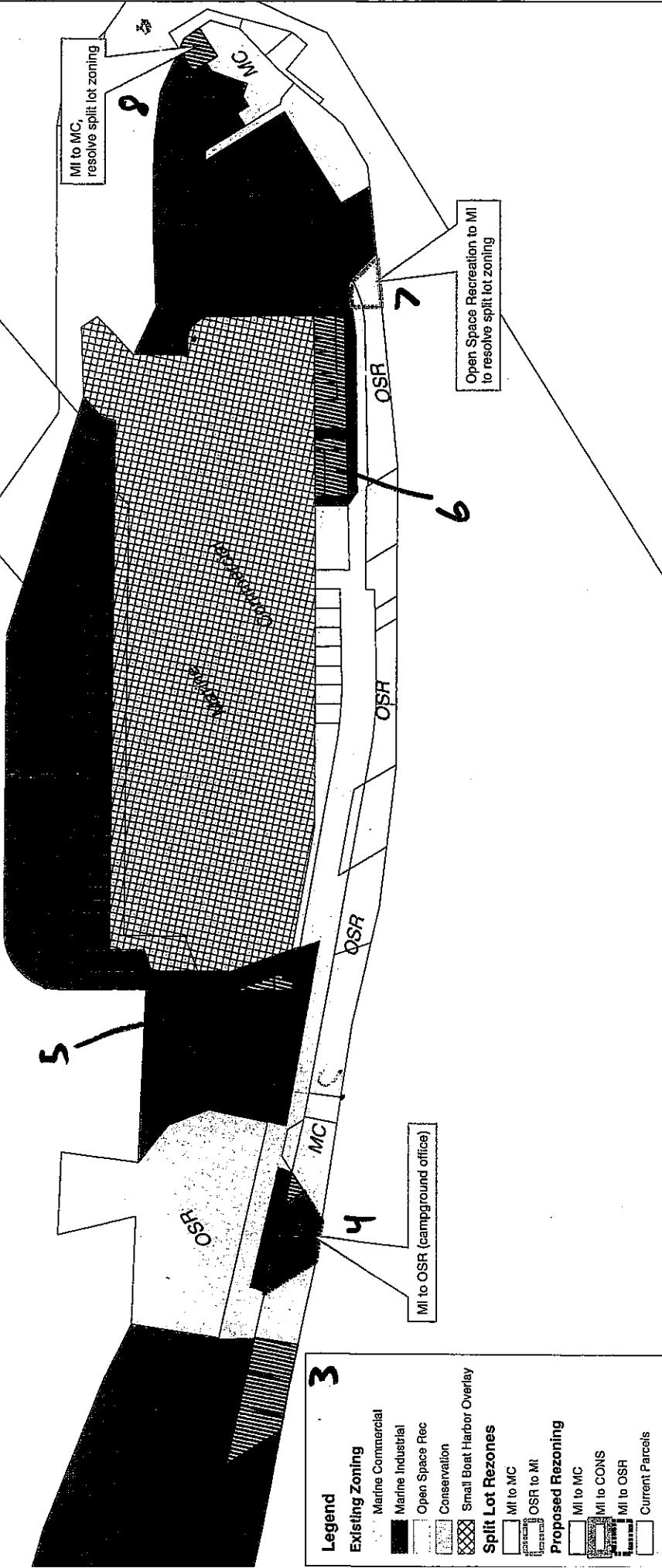
**Legend**

PROPOSED TRAIL

PROPERTY LINE

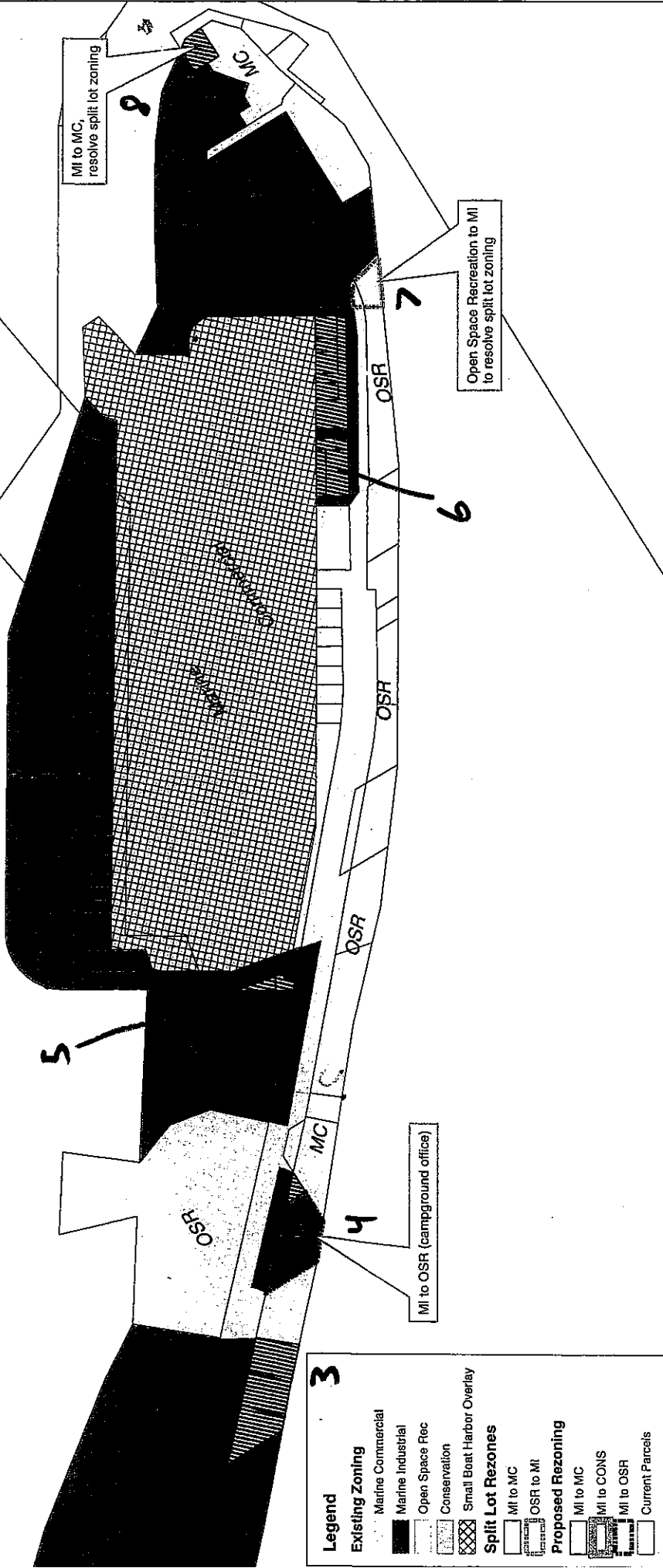


# Draft Spit Rezoning 1/16/2013



Map 2

# Draft Spit Rezoning 1/16/2013



Map 2

ECONOMIC DEVELOPMENT ADVISORY COMMISSION  
REGULAR MEETING  
MARCH 12, 2013

- It could be more successful to email individuals and ask if they would help with our project and fill out the survey.
- Artists make up a large group of business owners, and including that category will pick up a lot of people.
- Another goal is to help find ways to serve this population's needs.
- There are two tiers of businesses, those just starting out and people who have been in business for years.
- One way to define it could be those whose products are going out over the web versus only being sold locally.
- Ask about challenges business owners have, list some options like access to capital and specialized education, and leave a space to fill in.
- Ask about general qualities are important to a business owner. Mobile businesses can go anywhere so what is important, band width or glaciers?
- Needs will vary between businesses that offer tangible items and businesses that offer a service.
- A definition of the focus group could be those whose primary service is going out through the internet.

Mrs. Koester said she would work through the information they discussed and bring back a new draft at the next meeting.

#### **NEW BUSINESS**

A. Memorandum from Planning Technician Engebretsen Re: Zoning Code and Zoning Map changes on the Homer Spit

Planning Technician Engebretsen provided an overview of the proposed changes to the zoning on the Homer Spit that the Planning Commission has been working on. The goal of the amendments is to better separate what is industrial and what is commercial. Marine industrial uses will stay clustered in proximity to the ice plant. Going up the spit from the ice plant there will be a better mixture of commercial uses. It also includes changes to allow overnight accommodations in accordance with certain health and safety requirements specific to whether it is for an owner, employee, or overnight rental to the public.

There was brief discussion about the draft, and no recommendations were proposed.

B. Memorandum from Planning Technician Engebretsen Re: Spit Trail Construction

Planning Technician Engebretsen reviewed the plans for the spit trail improvements.

The Commission commented favorable about the overall concept and no recommendations were proposed.

C. Land Allocation Plan

a. Memorandum from Planning Technician Engebretsen

The commission reviewed the land allocation plan and agreed by consensus that the area known as End of the Road Park be designated as park.





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### STAFF REPORT PL 13-06

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** January 16, 2013  
**SUBJECT:** Marine Industrial/Marine Commercial Rezoning

**Requested Action:** Discuss the possible zoning map changes, and draft district performance standards.

#### Introduction

This staff report will address two topics: possible areas for rezoning, and changes to performance standards in the text of the Marine Commercial and Marine Industrial Districts.

The goal of all these changes to the district text and zoning map, is for the zoning regulations to align with the Comprehensive Plan, current uses, and desired long term land use.

#### Analysis

##### Rezoning

The rezones shown in the attached maps, and described below, are based on the Spit Comprehensive Plan, and the draft Marine Industrial and Marine Commercial zoning ordinances. These changes are a draft only; the Commission can consider other zoning options. When the Commission reaches consensus, staff will follow the public notice process outlined in city code.

This staff report follows the spit from base to tip, discussion the draft rezoning.

#### MAP 1

1. Mud Bay area. There are three pieces of City owned property that staff recommends a change from Marine Industrial to Conservation Zoning. There is little if any land that is developable; its all tidal and seaward of the Spit Trail.
2. On the Cook Inlet side of the Spit, rezone three city parcels and one parcel owned by The Nature Conservancy from Marine Industrial to Open Space Recreation.

#### MAP 2

3. Rezone four private lots on the Cook Inlet side of the Spit from Marine Industrial, to Marine Commercial.
4. Rezone the city campground office lot from Marine Industrial to Open Space Recreation.
5. Rezone two lots on Freight Dock road to MC.

6. Rezone nine lots along the harbor, from the Harbormaster's Office to Fish Dock Road, from Marine Industrial to Marine Commercial.

#### **Split Lot Rezoning**

There are two lots on the Spit that have split lot zoning. This occurs when the zoning boundary does not follow property lines. Under Home City Code, zoning boundaries generally should follow lot lines, and the centerline of the right of way. Historically its not clear why they are split, or if was simply the result of the cartography at the time. Using the original zoning information and current property lines results in lots with split zoning. Staff recommends the following:

7. Rezone a portion of the Spit Campground, next to Seafarer's Memorial, from Open Space Recreation to Marine Industrial.
8. Rezone the edge of Lands' End Hotel/Resort from Marine Industrial to Marine Commercial.

#### **District text changes**

At the last work session, staff recommended some changes to the landscaping and storm water regulations on the Spit. Attached is a draft of the site development requirements that would be required in Marine Industrial and Marine Commercial. Currently they are both subject to level two standards, found in 21.50.030. Based on the Commission's discussion, staff took the existing zoning regulations, and cut them down to what might make more sense for the Spit. There are no city storm water requirements and the landscaping requirements are more flexible.

#### **Staff Recommendation**

##### **Planning Commission**

1. Discuss the rezoning areas and provide comments to staff
2. Discuss the proposed level three site development standards and provide comments

#### **Attachments**

1. Proposed rezone map dated 1/16/2013
2. Proposed level three site development standards dated 1/16/2013

1 1/16/2013 DRAFT

2  
3 21.50.040 Site Development Standards - Level 3

4 This section establishes level three site development standards. Level three standards apply when  
5 specified by the applicable zoning district regulations or by another provision of the code.

6 a. Site Development.

7 1. Development shall not adversely impact other properties by causing damaging alteration of  
8 surface water drainage, surface water ponding, slope failure, erosion, siltation, or root damage to  
9 neighboring trees, or other adverse effects.

10 2. Upon completion of earthwork, all exposed slopes, and all cleared, filled, and disturbed soils  
11 shall be protected against subsequent erosion by methods, such as, but not limited to,  
12 landscaping, planting, and maintenance of vegetative cover.

13 3. All development shall provide a drainage system that is designed to deposit all runoff into  
14 either an engineered drainage system or into a natural drainage.

15 b. Landscaping Requirements. All development shall conform to the following landscaping  
16 requirements:

17 1. Landscaping shall include the retention of native vegetation to the maximum extent possible  
18 and shall include, but is not limited to, the following:

19 a. Buffers:

20 i. A buffer of three feet minimum width along all lot lines where setbacks permit; except where a  
21 single use is contiguous across common lot lines, such as, but not limited to, shared driveways  
22 and parking areas. Whenever such contiguous uses cease the required buffers shall be installed.

23 ii. In addition to the types of plantings listed in the definition of landscaping in HCC 21.03.040,  
24 landscaping may include planter boxes and hanging basket plantings. Landscaping may include  
25 substitution of durable outdoor art, or amenities for public use such as bike racks, benches, trash  
26 receptacles and information kiosks, for part of the required landscaping in an amount of equal  
27 area required for landscaping.

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HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JANUARY 16, 2013

The Commission acknowledged the conflict of the cistern and what warrants public water. Homer does have a unique situation all over. They asked questions of staff and Mr. Nelson about the potential of an exception to the rule and allow the smaller lot size because the residence is serviced by a cistern and not a well. They struggled with how to stay within the code specifications and how to consider cisterns in relation to type of water supply. Some commissioners expressed that that delivering city water to a cistern should be considered a public water supply, and others suggested that once city water goes into a truck for a business to deliver for a fee, it's no longer a public water supply. It was also questioned whether another configuration of the lot lines is feasible to meet the requirement in code. It was further suggested that there may be more information of how to address the public water issue through court records if there was more time to research it.

SLONE MOVED TO POSTPONE TO THE NEXT MEETING.

The motion failed for lack of a second.

The Commission continued to reiterate the best way to work with the property owner and stay within the parameters lined out in code. City Planner Abboud reminded them that this will go to the Borough for final review and determination.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 13-03, PARADISE SOUTH SUBDIVISION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS AND FINDINGS.

There was no additional discussion.

VOTE: YES: BOS, SONNEBORN, VENUTI  
NO: STEAD, HIGHLAND, SLONE

Motion failed for lack of a majority.

City Planner Abboud said that the staff report and minutes from tonight's meeting will be provided to the Borough for their information when they consider the plat.

Chair Erickson returned to the table.

The Commission expressed they would like to address this issue with how to consider cisterns for future actions that come before the Commission.

**PENDING BUSINESS**

A. Staff Report PL 13-06, Marine Commercial and Marine Industrial Zoning

Chair Erickson commented that the Commission reviewed the information and provided comments to staff at the worksession and revisit it in March.

B. Staff Report PL 13-02, Lighting

The Commission watched a short video via youtube.com at their worksession. It was noted that the lighting information in the code applies to Commercial buildings and suggestion was raised that

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### MEMORANDUM 13-

TO: Port and Harbor Commission  
FROM: Rick Abboud, City Planner  
DATE: January 16, 2013  
SUBJ: Marine Commercial and Industrial Zoning

The Planning Commission has been working on revisions to the text of the Marine Commercial and Marine Industrial zoning Districts. Your input is important to the Planning Commission and I will include any other developments in your next packet. Thanks for your time!

#### Attachments:

1. Staff Report 13-06, from 1/16/13 HAPC meeting
2. Draft Marine Commercial Ordinance
3. Draft Marine Industrial Ordinance



PORT AND HARBOR ADVISORY COMMISSION  
REGULAR MEETING  
JANUARY 23, 2013

Harbormaster Hawkins explained that the 5000 square foot size was established by the folks who drew up the plans, they came and spent some time at the current office and then drafted the concept. It accommodates what they have now and provides some room to grow in the future. Harbor staff did not provide feedback specific to this concept drawing.

It was reiterated that they are only making a recommendation regarding the concept of the harbormaster's office and preferred location, not about funding at this time.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Memorandum to Port and Harbor Commission from City Planner Abboud Re: Marine Commercial and Industrial Zoning

City Planner Abboud addressed the Commission regarding his staff report.

Question was raised about whether changing the zoning would cause lessees to move or go out of business when their leases are up. City Planner Abboud responded that it will have to be addressed through nonconformity until they expand or replace the structures. Theoretically it could be rented out again if it's the same activity in the same space.

City Planner Abboud reviewed the draft zoning map for the spit compared to the current zoning. It was noted that if the zoning is industrial in the area where there may be mooring and barges, a little bit of commercial area would be fine to accommodate an industrial supply store for example.

There were comments in relation to challenges of over slope development and challenges of parking and access. If over slope becomes an option perhaps a lot can be included to address access and parking.

They also addressed drainage. It was suggested that site development standards could be removed. It creates a lot of extra costs for someone developing something, as there aren't a lot of drainage issues other than the low spots that are full of water now. City Planner Abboud explained that if there is a large development out there, it shouldn't flood or pollute the neighbor's lot or surrounding lands. If there is a giant parking lot, it need to be established what happens to the run off, it can't go untreated or into the harbor. It isn't happening now, but as an example for the new restroom and facility for the cruise ships there will be a lot of pavement associated with it. It will create a sheeting of water that if left untreated would go into the harbor or bay, or onto someone's lot. Hopefully there will be uncomplicated options like swales and grass to filter the run off. There was discussion about drainage issues and way to address them.

In regard to the effect of changing zoning to the kayak launch City Planner Abboud said it is a water dependent activity, and they will ensure that the industrial zoning includes parks.

**INFORMATIONAL ITEMS**

- A. Monthly Statistical & Performance Report December 2012
- B. Weekly Crane and Ice Report





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### MEMORANDUM

May 10, 2012

**TO:** Economic Development, Port and Harbor and Parks and Recreation Advisory Commissions  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Homer Advisory Planning Commission  
**SUBJECT:** Implementing the Comprehensive Plan

Recently the City of Homer adopted a Comprehensive Plan. The Planning Department facilitated the creation of the plan, which all of you were encouraged to contribute to its formation. Once approved by the City Council and accepted by the Kenai Peninsula Borough, it is expected that we as a city and you as representatives of various commissions and committees should have a hand in seeing that the various goals and objectives are evaluated and acted upon.

It is not expected that every implementation item might come to fruition in the plan timeframe, but we hope that most will. Perhaps some of the suggestions are just not ready for implementation yet and some might be examined and changes suggested for the next review and amendment in the next 5 years. As a commission or committee, you should be familiar with the various sections that you helped to write and should plan actions to see that help fulfill your goals. The Planning Commission has been doing just that. Just recently, we have created a mixed-use district to encourage a wide range of commercial activities along East End Road and we amended code to allow for additional residential infill by allowing some second residences to be permitted outright. The Planning Commission is now starting to review plan suggestions for the Spit and would like to encourage your participation.

We are developing a schedule for review, below is a rough timeline of upcoming tasks. City staff will provide updates to each Commission periodically on the progress and seeks to provide opportunity for input.

Short term: 1 Year

Midterm: 2 Years

Long term – over the next 5 years

#### Short term:

- Rezone the area between the harbormaster's office and ice dock road to Marine Commercial.
- Revise the Marine Commercial zoning district code (permitted and conditional uses).
- Revise Marine Industrial zoning district code. (Midterm?)

*Ongoing City /Staff tasks:* ROW MOU with the state, implement parking plan for fee and short term parking during the summer, Spit trail extension, other harbor improvements such as restrooms, cruise ship related improvements, trail along the edge of the harbor, etc.

**Midterm:**

- Examine the zoning on both sides of Homer Spit Road between Bob's Trophy Charters, and the Heritage RV Park, and rezone to Marine Commercial based on needs and comp plan recommendations.
- Rezone the city owned lots at the base of the Spit on the Mud Bay side from MI to OSR
- Review Spit zoning districts for screening requirements, landscaping and storm water concerns
- Based on the success or failure of increased parking regulations, review and revise spit parking standards (ongoing)

**Long Term:**

- Site Planning for Pier 1 lot

B. Staff Report – Julie Engebretsen, Planning Technician/GIS

Ms. Engebretsen summarized her report for the record and responded to a few questions from the Commissioners regarding items not on the agenda. Ms. Engebretsen noted that she is hoping to provide the requested information for this meeting at the June meeting after the playground is built.

She commented on the work starting on the Spit Comprehensive Plan by the Planning Commission.

C. Parks Maintenance – Angie Otteson

Ms. Otteson provided a brief update on the repainting of Ben Walters Park restroom, they have started mowing, beautification letters went out, the green house is full and planting is scheduled for June 2, 2012. Summer camping has started and she should have a full crew in a week. She has provided information on signage but wanted to comment that there is limited signage in most parks and that is something that could be discussed and included in this budget talk for 2013.

Ms. Otteson responded to some questions and comments on Adopt a Park program offers and agreed to speak to the Rotary members thanking them for their efforts in the Adopt a Park Program. The Information Kiosk will be installed as soon as possible near the restroom and Memorial Garden.

She noted that Public Works is aware that the structure on the Spit used for a Picnic shelter is in need of repair. The commission expressed concern and liability to the City if it fell while in use. She did note that there is no universal standard on signage for parks however there is the standard of welcome to the park and directing the visitors to various areas within the park. She did note that Karen Hornaday would be a great place to start; another consideration was Jack Gist Park had no signage. She responded that pedestrian traffic has priority but vehicular traffic is not prohibited on Bishop's Beach to the east.

D. Kachemak Drive Path Committee Report – Bumpo Bremicker

Chair Bremicker commented that the revised resolution on the Path went back before Council and the Council rejected that one and amended the original resolution striking references to construction. Chair Bremicker noted that the Council still has concerns regarding costs, maintenance and right of way issues plus recommendation from the Transportation Advisory Committee. He has some concerns and really needs to have staff help the committee on this issue.

A brief discussion on some of the additional requirements requested from Council ensued.

F. Advisory Planning Commission – Memorandum dated May 10, 2012 Re: Implementing the Comprehensive Plan

Ms. Engebretsen stated this was advisory from the Planning Commission to all the city commissions who would be interested and if there are issues on the Spit regarding recreation and parks then it will be sent to this commission.

**PUBLIC HEARINGS**

A. Jack Gist Park – Land Use Agreement and Permit

Chair Bremicker opened the Public Hearing. He asked for information from staff regarding the document before them.

Mike Illg, Recreation Specialist introduced the item and why it was brought forward to the Commission.





## City of Homer Planning & Zoning

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

Telephone (907) 235-3106  
Fax (907) 235-3118  
E-mail [Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)  
Web Site [www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

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### STAFF REPORT PL 12-17

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** May 2, 2012  
**SUBJECT:** Staff Report 12-17, Spit Comprehensive Plan Implementation

Staff has prepared an outline for implementing the Spit Comprehensive Plan. There are short term, midterm, and long term tasks. Staff would like the Commission's comments on the outline. Staff will then share the outline with other Commissions such as the Economic Development, Port and Harbor, and Parks and Recreation. We'd like to make it easier for other entities in the city to be informed!

Short term: 1 Year

Midterm: 2 Years

Long term – over the next 5 years

#### Short term:

- Rezone the area between the harbormaster's office and ice dock road to Marine Commercial.
- Revise the Marine Commercial zoning district code (permitted and conditional uses).
- Revise Marine Industrial zoning district code. (Midterm?)

*Ongoing City /Staff tasks:* ROW MOU with the state, implement parking plan for fee and short term parking during the summer, Spit trail extension, other harbor improvements such as restrooms, cruise ship related improvements, trail along the edge of the harbor, etc.

#### Midterm:

- Examine the zoning on both sides of Homer Spit Road between Bob's Trophy Charters, and the Heritage RV Park, and rezone to Marine Commercial based on needs and comp plan recommendations.
- Rezone the city owned lots at the base of the Spit on the Mud Bay side from MI to OSR
- Review Spit zoning districts for screening requirements, landscaping and storm water concerns
- Based on the success or failure of increased parking regulations, review and revise spit parking standards (ongoing)

#### Long Term:

- Site Planning for Pier 1 lot



## NEW BUSINESS

- A. Staff Report PL 12-15, Reappointment of Roberta Highland to the Transportation Advisory Committee

ERICKSON/VENUTI SO MOVED TO RECOMMEND REAPPOINTMENT OF COMMISSIONER HIGHLAND TO THE TRANSPORTATION ADVISORY COMMISSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- B. Staff Report PL 12-19, Flag Lot Regulations

Chair Minsch stated the Commission discussed flag lot regulations at the worksession and gave feedback to staff for consideration at a later date.

- C. Staff Report PL 12-17, Spit Comprehensive Plan Implementation

City Planner Abboud reviewed the staff report.

Discussion ensued regarding parking, trails, cruise ship improvements, bathroom locations, the Pier One Theater, and the campground areas. Point was raised that it would be beneficial for the Commissioners to stay current with Port and Harbor Advisory Commission minutes to learn about issues they are discussing.

## INFORMATIONAL MATERIALS

- A. City Manager's Report dated April 23, 2012  
B. Corps of Engineers Permit dated April 6, 2012 regarding the Ocean Drive Loop Seawall Maintenance

The Commissioners and staff discussed the letter provided from the resident on Golden Plover regarding slope issues with the development in the area, Dr. Marley's park proposal, and the gas line update.

## COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

Larry Slone, city resident, commented that based on Dr. Marley's demeanor he came with an expectation that the Commission was going to render some sort of comment as a body, rather than listen passively. He agrees that, out of courtesy, a letter to Dr. Marley would be appropriate. Personally he is against the project; the property isn't adequate for what is being proposed. He said he was set back a bit to hear that Planning Commissioners weren't reading other commission's meeting minutes. He thinks it would be a necessity of the job to keep abreast of what is going on with the other commissions.



**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-13**

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant from the Alaska State Library in the Amount of \$5,906.00 for the Purpose of Acquiring Two Early Literacy Stations and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Library Director

1. City Council Regular Meeting April 22, 2013 Introduction
  - a. OWL Grant Application
2. City Council Regular Meeting May 13, 2013 Public Hearing and Second Reading
  - a. OWL Grant Application



**CITY OF HOMER  
HOMER, ALASKA**

City Manager/Library Director

**ORDINANCE 13-13**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,  
ALASKA, ACCEPTING AND APPROPRIATING AN ONLINE  
WITH LIBRARIES (OWL) GRANT FROM THE ALASKA  
STATE LIBRARY IN THE AMOUNT OF \$5,906.00 FOR THE  
PURPOSE OF ACQUIRING TWO EARLY LITERACY  
STATIONS AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The Homer Public Library has received an OWL grant to fund two early literacy stations; and

WHEREAS, The grant is in the amount of \$5,906.00 and will be used for software and equipment for the early literacy stations.

NOW, THEREFORE, the City of Homer Ordains:

Section 1. That the City Council hereby accepts and appropriates an Online With Libraries (OWL) grant for two early literacy stations as follows and hereby authorizes the City Manager or his designee to execute the appropriate documents:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
157-799	OWL Grant	\$5,906.00
Expenditure:		
157-799	Early Literacy Stations	\$5,906.00

Section 2. This ordinance is a budget amendment only, is not of a permanent nature and is a non code ordinance.

PASSED AND ENACTED by the Homer City Council this \_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

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Introduction:  
Public Hearing:  
Second Reading:  
Effective Date:

Ayes:  
Noes:  
Abstain:  
Absent:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt E. Wrede City Manager

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

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

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

Fiscal Note: Fiscal information included in body of Ordinance.

**Alaska OWL (Online With Libraries) Project**  
**EARLY LITERACY HARDWARE AND SOFTWARE GRANT**  
**APPLICATION**  
**PAGE 1**

**DUE: April 6, 2013**

1. Library Name: Homer Public Library
2. Address: 500 Hazel Avenue  
City: Homer, AK Zip: 99603
3. Contact Person: Ann Dixon 4 Phone No: 907-435-3151
5. Fax No: 907-235-3136 6 E-mail: adixon@ci.homer.ak.us
7. Warrant Mailing Address: 491 E. Pioneer Ave., Homer, AK 99603
8. List the hardware and/or software you plan to purchase with the Early Literacy Hardware and Software Grant

<b>Hardware/Software Description:</b>	<b>Estimated Cost</b>
2 AWE Early Literacy Station (including software and 3 year standard warranty) – No internet capability - Group quote @ \$2,835 ea.	\$5670.00
2 Audio Y Splitter (for simultaneous use by parent & child) @ \$3.00	\$6.00
4 AWE Headphones w/ volume control @\$20.00 ea.	\$80.00
<b>SUBTOTAL</b>	<b>\$5756.00</b>
Shipping (est.)	\$150.00
<b>TOTAL:</b>	<b>\$5906.00</b>

9. Briefly describe how this hardware and/or software will enhance public access computing in your library.  
Many parents and children "hang out" in our children's room because it is a pleasant and comfortable place for them to be. We have been looking for resources to engage young children, both on their own and with adults, in age-appropriate learning activities. We currently have three computers in the children's area: one OPAC and two with Internet access. The Internet access computers tend to be monopolized by older children and adults. Also, we find that although many young children are interested in computers and want to use them, our regular computers are not designed for their developmental level. Early literacy stations dedicated to our youngest patrons would provide age-appropriate learning experiences currently lacking in our library. We anticipate that these stations will be heavily used before and after our weekly Story Time and Lapsit programs, as well.

**HARDWARE AND SOFTWARE ENHANCEMENT GRANT  
GRANT AGREEMENT  
PAGE 2**

Whereas, the State of Alaska has received funds from the US Department of Commerce for Alaska OWL grants; and Whereas, the application of the Grantee for an Early Literacy Hardware and Software grant has been approved. NOW THEREFORE, for and in consideration of the mutual covenants herein contained the parties hereto agree as follows:

A. The Alaska State Library agrees to:

1. Furnish funds in the amount of \$5906.00

B. The Grantee Library, (insert Library Name) Homer Public Library

agrees to:

1. Abide by the conditions set forth in the application and approved by the Alaska State Library.
2. Place orders by April 30, 2013
3. Provide a report of average daily usage by September 1, 2013
4. Maintain accurate records for auditing purposes.
5. Credit the Alaska OWL Project and the Rasmuson Foundation in all publicity and advertising concerning the impact of this grant project.
6. Attach Alaska OWL labels to all hardware components and cords and credit the Alaska State Library and the U.S. Department of Commerce as appropriate.

The source of funding for this agreement is as follows:

**FY2013 U.S. Department of Commerce BTOP Grant**

**\$5.3 million**

By accepting this award or agreement, the grantee may become subject to the audit requirements of State of Alaska Administrative code 2 AAC 45.010. As a result, the grantee may be required to provide for an audit and to permit independent auditors to have access to their records and financial statements. The grantee should consult with an independent auditor for assistance in determining audit requirements for each fiscal year.

The undersigned understands and agrees to the conditions of this agreement.

**Note: Grant agreement MUST have both signatures**

For the Library:

Ann Dixon

Print or Type Name



Signature

Library Director

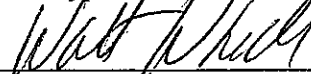
Title

4/5/2013  
Date

For the Legal Entity:

Walt Wrede

Print or Type Name



Signature

City Manager

Title

4/7/13  
Date

*Questions? Contact Sue Sherif, 800-776-6566*

*Return form to: Alaska OWL Project ATTN. Hunter Dean, Alaska State Library,  
344 West Third Avenue, Suite 125, Anchorage, AK 99501*

**PLEASE PHOTOCOPY BOTH PAGES OF THIS FORM FOR YOUR RECORDS!**

# MEMORANDUM

## Alaska Department of Education & Early Development

**To:** Directors of Public Library

**Date:** March 13, 2013

**From:** Sue Sherif  
Alaska State Library  
Library Development, Head  
Alaska OWL (Online With Libraries) Project  
Director

**Subject:** Early Literacy Hardware and  
Software Enhancement Grant  
Announcement and Instructions

The Alaska State Library is offering the Early Literacy Hardware and Software grant program. The grant is designed to increase the availability and quality of public computing services in public libraries and to promote digital literacy for 4-8 year olds. This grant is made possible through the U.S. Department of Commerce Broadband Technology Opportunity Program Alaska OWL Project grant.

This grant is a one-time only, non-competitive grant available to interested public library outlets in good standing with the State Library's Public Library Assistance program. This Early Literacy grant may be used to purchase the requested AWE station hardware and software as long as the purchased equipment is dedicated to public use. Shipping costs are estimates and are the basis for the shipping costs in the award.

### **Instructions for filling out the grant application:**

#### **I. Grant Eligibility**

Libraries eligible are ones that are active members of the Alaska OWL Network, that offer specialized youth services program year-round, and have requested AWE early childhood station hardware and software.

#### **II. Allowable grant purchases and purchasing instructions**

This grant follows the advice of the Department of Education and Early Development procurement officer and is specifically designed to provide the hardware and software described above.

**The grant will not provide a browser nor will it apply to warranty extensions or upgrades.** These may be purchased separately from the vendor. The only warranty included is the 3-year standard warrantee that is included in the early literacy station purchase price. It does not include an optional printer or any headphones besides the ones specified in the application.

If you have questions about the grant or the stations to be purchased, please call Sue Sherif at 800-776-6566 or 269-6569 in Anchorage. We very much regret the State Library will not be able to provide any technical advice or assistance in support of the machines.

All hardware and software purchases with these grant funds must be made by April 30, 2013 and payment must be completed by June 15, 2013. **Please retain all proof of purchase documents such as receipts because you will be asked to provide a copy upon submission of the grant final report on June 30, 2013.**

### III. Timeline for Staying Connected Enhancement Grants

**Your application must be postmarked by April 6, 2013.** Both signatures are required and a brief answer to Item 9 must be provided. Fax or scan your application and then send the original signature pages to us by mail to follow.

After the State Library has received your application, we will only contact you if we have any questions or concerns about your application. Please expect to receive your grant check in April, 2013.

All applications should be sent attached to email or by mail to:

Alaska OWL Early Literacy Stations ATTN: Hunter Dean  
Alaska State Library  
344 West Third Avenue, Suite 125  
Anchorage, AK 99501  
Email: [eed.owl@alaska.gov](mailto:eed.owl@alaska.gov) or [hunter.dean@alaska.gov](mailto:hunter.dean@alaska.gov)  
Phone: (907)269-4606

The State Library is very pleased that the Alaska OWL Project can respond to library requests for early literacy learning stations as a part of its goal of enhancing digital literacy throughout Alaska.



**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-14**

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2013 Operating Budget by Appropriating \$54,416.00 from the Port and Harbor Reserve Fund for Repairs to Deep Water Dock, Pioneer Dock, Fish Dock, C Float, and the Outfall Line.

Sponsor: City Manager/Port and Harbor Director

1. City Council Regular Meeting April 22, 2013 Introduction
  - a. Memorandum 13-056 from Port and Harbor Director as backup
2. City Council Regular Meeting May 13, 2013 Public Hearing and Second Reading
  - a. Memorandum 13-056 from Port and Harbor Director as backup



City Manager/  
Port and Harbor Director

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2013 OPERATING BUDGET BY APPROPRIATING \$54,416.00 FROM THE PORT AND HARBOR RESERVE FUND FOR REPAIRS TO DEEP WATER DOCK, PIONEER DOCK, FISH DOCK, C FLOAT, AND THE OUTFALL LINE.

WHEREAS, The repairs are needed this construction season for the high-use equipment to remain available for public use; and

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Expenditure:

Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall not be codified.

CITY OF HOMER

---

MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt E. Wrede, City Manager

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

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

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



# City of Homer

## Port / Harbor

4350 Homer Spit Road  
Homer, Alaska 99603-8005

Telephone (907) 235-3160  
Fax (907) 235-3152  
E-mail [port@ci.homer.ak.us](mailto:port@ci.homer.ak.us)  
Web Site <http://port.ci.homer.ak.us>

### MEMORANDUM 13-056

TO: HOMER CITY COUNCIL & CITY MANAGER WALT WREDE  
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER  
DATE: APRIL 16, 2013  
SUBJECT: PORT & HARBOR REPAIR PROJECT FUNDING

Following is a list of projects that have come up since our annual budget was approved. These are all classified as Essential Repair Projects and require immediate funding for completion as all are high-use equipment that must be repaired this construction season in order for them to remain available for public use.

<b>Deep Water Dock Dolphin Repair</b> The walking surface/decks on top of the dolphins have rotted away and must be replaced. Cost includes parts and equipment only; in-house labor will be supplied.	\$3,300.00
<b>Deep Water Dock Conduit Replacement</b> Conduit is aged out and causing a safety hazard. Cost includes parts and contracted labor.	\$12,000.00
<b>C Float Replacement</b> A key structural component of C Float at the corner of the transient float is failing and must be replaced this summer as its condition won't allow it to survive another winter. Cost includes parts and contracted labor.	\$13,000.00
<b>Deep Water Dock Inside Berth Fender Repair</b> An overhaul maintenance procedure. Cost covers the contracted crane needed to move the 40,000 lb. fender units on and off the dock; in-house labor will be supplied for the repair.	\$4,000.00
<b>Pioneer Dock UMHW Rebuild</b> This replaces the plastic face on one of the Pioneer Dock Fenders. Costs are parts only; in-house labor will be supplied. The expenditure can be viewed as a pass through cost to AMHS since they will be repaying the City for damage caused by the ferry.	\$6,366.00
<b>Outfall Line Extension</b> Due to sedimentation at the outfall line's terminus, it has been determined that an extension is needed in order to keep the line operating. Cost covers contracted labor; parts will be supplied by City.	\$9,750.00
<b>Fish Dock Plow Truck Lift-gate</b> Lift-gates save backs! Port and Harbor employees are often tasked with moving heavy items, sometimes on their own, and lift-gates make that possible. Cost covers equipment only; in-house labor will be supplied.	\$6,000.00
<b>Total:</b>	<b>\$54,416.00</b>

#### Recommendation

Approve the allocation of \$54,416.00 total from the Port and Harbor Reserves for the above projects. Respectively, each expense will be paid for directly from reserves and documented appropriately for financial purposes.

#### Fiscal Note:

Port and Harbor Reserves Account #456-380



**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-15**

An Ordinance of the City of Homer, Alaska, Authorizing Harbor Revenue Bonds of the City to be Issued in Series to Finance Harbor Improvements; Creating a Lien Upon Net Revenue of the Harbor for the Payment of the Bonds; and Establishing Covenants of the City Related to the Bonds.

Sponsor: City Manager

1. City Council Regular Meeting April 22, 2013 Introduction
2. City Council Regular Meeting May 13, 2013 Public Hearing and Second Reading



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager

4 **ORDINANCE 13-15**

5  
6 AN ORDINANCE OF THE CITY OF HOMER, ALASKA, AUTHORIZING  
7 HARBOR REVENUE BONDS OF THE CITY TO BE ISSUED IN SERIES TO  
8 FINANCE HARBOR IMPROVEMENTS; CREATING A LIEN UPON NET  
9 REVENUE OF THE HARBOR FOR THE PAYMENT OF THE BONDS; AND  
10 ESTABLISHING COVENANTS OF THE CITY RELATED TO THE BONDS.

11  
12 WHEREAS, the City of Homer, a first class city organized under the Constitution and  
13 laws of the State of Alaska (the "City") owns and operates a harbor (as further defined in Section  
14 1, the "Harbor") as a revenue-producing enterprise; and

15  
16 WHEREAS, AS 29.47.250 provides that an election is not required to authorize the City  
17 to issue revenue bonds; and

18  
19 WHEREAS, it is necessary and in the best interest of the City and its residents that the  
20 City now provide for the issuance of one or more series of revenue bonds to finance  
21 improvements to the Harbor and for any other purpose of the Harbor now or hereafter permitted  
22 by law.

23  
24 THE CITY OF HOMER HEREBY ORDAINS:

25  
26 Section 1. Definitions. The following terms shall have the following meanings in this  
27 Master Ordinance:

28  
29 "Aggregate Annual Debt Service" means Annual Debt Service for all Outstanding Bonds.

30  
31 "Annual Debt Service" means the total amount of Debt Service for any Bond or series of  
32 Bonds in any Fiscal Year or Base Period.

33  
34 "Base Period" means any consecutive 12-month period selected by the City out of the 30-  
35 month period next preceding the date of issuance of an additional series of Bonds.

36  
37 "Bond Bank" means the Alaska Municipal Bond Bank, a public corporation of the State  
38 of Alaska.

39  
40 "Bond Register" means the registration books maintained by the Registrar as Bond  
41 registrar, which include the names and addresses of the owners or nominees of the owners of the  
42 Bonds.

43  
44 "Bonds" means the bonds, notes or other evidences of indebtedness issued from time to  
45 time in series under authority of Section 4.  
46

47 "City" means the City of Homer, Alaska, a first class city organized and existing under  
48 the Constitution and laws of the State of Alaska.  
49

50 "City Representative" means the City Manager or the City Finance Director, or such  
51 other person as may be designated from time to time by resolution of the Council.  
52

53 "Consultant" means an independent professional engineer or engineering firm  
54 experienced in harbor matters appointed by the City to perform the duties of Consultant under  
55 this Master Ordinance. For the purposes of delivering any certificate required by Section 5 and  
56 making the calculation required by Section 5(b)(2), the term Consultant also shall include any  
57 independent public accounting firm appointed by the City to make such calculation or to provide  
58 such certificate.  
59

60 "Costs of Construction" means all costs paid or incurred by the City in connection with  
61 the acquisition and construction of capital additions, improvements and betterments to and  
62 extensions of the Facilities, and the placing of the same in operation, including without limitation  
63 paying all or a portion of the interest on the series of Bonds or any portion thereof issued to  
64 finance the costs of such improvements during the period of construction of such improvements  
65 and for a period of time thereafter; paying amounts required to meet any reserve requirement for  
66 the fund or account established or maintained for such series of Bonds; paying or reimbursing  
67 the City or any fund thereof or any other person for expenses incident and properly allocable to  
68 the acquisition and construction of said improvements and the placing of the same in operation;  
69 and all other items of expense incident and properly allocable to the acquisition and construction  
70 of said additions and improvements, the financing of the same and the placing of the same in  
71 operation.  
72

73 "Council" means the general legislative authority of the City, as the same may be  
74 constituted from time to time.  
75

76 "Coverage Requirement" means Net Revenue equal to or greater than 120% of Aggregate  
77 Annual Debt Service.  
78

79 "Debt Service" means, for any period, with respect to any Bonds, an amount equal to (1)  
80 the principal amount of such Bonds due or subject to mandatory redemption during such period  
81 and for which no sinking fund installments have been established, (2) the amount of any payment  
82 required to be made during such period into any sinking fund established for the payment of any  
83 such Bonds, plus (3) all interest payable during such period on any such Bonds Outstanding and  
84 with respect to Bonds with mandatory sinking fund requirements, calculated on the assumption  
85 that mandatory sinking fund installments will be applied to the redemption or retirement of such  
86 Bonds on the date specified in the Series Ordinance authorizing such Bonds.  
87

88 "Facilities" means all equipment and all property, real and personal, or any interest  
89 therein, whether improved or unimproved, now or hereafter (for as long as any Bonds shall be  
90 Outstanding) owned, operated, used, leased or managed by the Harbor and which contribute in  
91 some measure to its Gross Revenue.  
92

"Fiscal Year" means the fiscal year of the City, which currently is the 12-month period commencing on January 1 and ending the following December 31.

"Gross Revenue" means all income, receipts and revenue derived by or for the account of the Harbor from time to time from any source from the ownership, leasing or operation of the Facilities whatsoever, and all earnings on any fund or account that is pledged to secure the Bonds. However, the following shall be excluded from Gross Revenue: (i) the proceeds of any borrowing by the City and the earnings thereon (other than earnings on proceeds deposited in reserve funds); (ii) proceeds of insurance or condemnation proceeds other than business interruption insurance; (iii) proceeds of state or federal grants; and (iv) income from investments irrevocably pledged to the payment of Bonds issued or to be defeased under any refunding bond plan of the Harbor.

"Harbor" means all publicly owned docks, floats, berths, tidal grids and other mooring facilities operated by the City, including without limitation the Deep Water Dock, Pioneer (Ferry) Dock, Fish Dock within the Small Boat Harbor, and associated equipment, offices, warehouses, storage space, roads, paved areas, water banks, beaches and shorelines under the management and control of the City, as the same may be added to, improved and extended for as long as any of the Bonds are Outstanding.

"Harbor Revenue Fund" means the Port of Homer Enterprise Fund of the City.

"Master Ordinance" means this Ordinance 13-15.

"Maximum Annual Debt Service" means, with respect to any Outstanding series of Bonds, the highest remaining Annual Debt Service for such series of Bonds.

"Net Revenue" means Gross Revenue less any part thereof that must be used to pay Operating Expenses.

"Operating Expenses" means the current expenses incurred for operation, maintenance or repair of the Facilities of a non-capital nature, and shall include without limitation labor and supply expenses that are properly chargeable to current operations, utility expenses, customer accounts expenses, administrative and general expenses, insurance premiums, lease rentals, legal and engineering expenses, payments to pension, retirement, group life insurance, health and hospitalization funds or other employee benefit funds that are properly chargeable to current operations, interest on customers' deposits, payroll tax expenses, and any other expenses required to be paid under the provisions of this Master Ordinance or by law or permitted by standard practices for public enterprises similar to the properties and business of the Harbor and applicable in the circumstances. Operating Expenses shall not include payments of taxes or assessments (or payments in lieu of taxes or assessments) to the City, payments with respect to judgments, any allowances for depreciation or amortization, or any principal, redemption price or purchase price of, or interest on, any obligations of the City incurred in connection with the Facilities and payable from Gross Revenue.

"Outstanding" means, as of any date, any Bonds theretofore issued except such Bonds deemed to be no longer Outstanding as provided in the Series Ordinance authorizing the issuance thereof.

"Parity Bonds" means any Bonds issued in the future under a Series Ordinance which provides that such Bonds shall be on a parity of lien with other series of Bonds issued pursuant to this Master Ordinance, as provided in Section 3.

"Rate Covenant" means the covenant of the City set forth in Section 6(a).

"Registered Owner" means the person named as the registered owner of a Bond in the Bond Register.

"Registrar" means the City Finance Director, or any person that the Council may appoint from time to time by resolution or by a Series Ordinance, to act as registrar for one or more series of Bonds.

"Reserve Requirement" means, for any series of Bonds, an amount equal to the least of (i) Maximum Annual Debt Service with respect to the Outstanding Bonds of such series; (ii) 125% of average Annual Debt Service with respect to the Outstanding Bonds of such series; (iii) 10% of the initial principal amount of the Bonds of such series; and (iv) any lesser amount that may be required from time to time under the Code for the exclusion of interest on the Bonds from gross income for federal income tax purposes.

"Series Ordinance" means an ordinance authorizing the issuance of a series of Bonds, as such ordinance may thereafter be amended or supplemented. Each Series Ordinance shall be supplemental to this Master Ordinance.

"2013 Bonds" means the City of Homer, Alaska, Harbor Revenue Bonds, 2013 authorized by Ordinance 13-16.

Section 2. Priority of Use of Gross Revenue. The Gross Revenue shall be deposited in the Harbor Revenue Fund as collected. The City also may deposit in the Harbor Revenue Fund any other monies that are legally available for that purpose. The Harbor Revenue Fund shall be held separate and apart from all other funds and accounts of the City, and the Gross Revenue deposited therein shall be used only for the following purposes and in the following order of priority:

First, to pay Operating Expenses not paid from other sources;

Second, to make all payments, including sinking fund payments, required to be made into the special fund or account provided for the payment of the Bonds of each series to pay the principal of and interest and premium, if any, on any Bonds;

Third, to make all payments required to be made into any reserve account(s) to secure the payment of any Bonds;

184        Fourth, to make all payments required to be made into any other revenue bond  
185 redemption fund and debt service account or reserve account created therein to pay and secure  
186 the payment of the principal of and interest on any revenue bonds or other revenue obligations of  
187 the City having a lien upon Net Revenue and the money in the Harbor Revenue Fund junior and  
188 inferior to the lien thereon for the payment of the principal of and interest on any Bonds; and  
189

190        Fifth, to retire by redemption or purchase in the open market any outstanding harbor  
191 revenue bonds or other harbor revenue obligations of the City as authorized in the various  
192 ordinances of the City authorizing their issuance, or to make necessary additions, betterments,  
193 improvements and repairs to or extensions and replacements of the Facilities, or any other lawful  
194 City purposes, except to the extent of any deficiencies in payments for Second, Third or Fourth  
195 purposes.  
196

197        Section 3. Authorization of Bonds. The City hereby is authorized to issue revenue bonds  
198 of the City, to be known as the "City of Homer, Alaska, Harbor Revenue Bonds," from time to  
199 time in series, and without limitation as to aggregate principal amount. Each series of Bonds  
200 may be issued in such amount and upon such terms and conditions as the Council may from time  
201 to time deem to be necessary or advisable, for any purposes of the Harbor now or hereafter  
202 permitted by law, but only upon compliance with the applicable conditions for their issuance in  
203 Section 5.  
204

205        All Bonds shall be Parity Bonds having an equal lien and charge upon Net Revenue upon  
206 the fulfillment of the conditions for their issuance under this Master Ordinance. From and after  
207 the time of issuance and delivery of the Bonds of each series, and so long thereafter as any of the  
208 same remain Outstanding, the City hereby irrevocably obligates and binds itself to set aside and  
209 pay out of Net Revenue into the special funds created for the payment of the Bonds of such  
210 series, on or before the due date, the amount necessary to pay principal or interest coming due on  
211 the Bonds of such series. Said amounts so pledged to be paid into such special funds are hereby  
212 declared to be a prior lien and charge upon Gross Revenue superior to all other charges of any  
213 kind or nature whatsoever except for Operating Expenses and except for charges equal in rank  
214 that may be made thereon to pay and secure the payment of the principal of and interest on Parity  
215 Bonds issued under this Master Ordinance.  
216

217        The Bonds shall not in any manner or to any extent constitute general obligations of the  
218 City or of the State of Alaska, or of any political subdivision of the State of Alaska.  
219

220        Section 4. Series Ordinance. Each series of Bonds shall be authorized by a Series  
221 Ordinance, which shall, among other provisions, specify or provide for:  
222

223        (a) the authorized principal amount, designation and series of such Bonds;  
224

225        (b) the general purpose or purposes for which such series of Bonds is being issued, and  
226 the deposit, disbursement and application of the proceeds of the sale of the Bonds of such series;  
227

228        (c) the date or dates, and the maturity dates or dates, of the Bonds of such series, and the  
229 principal amount maturing on each maturity date;

(d) the interest rate or rates on the Bonds of such series and the interest payment date or dates therefor;

(e) the circumstances, if any, under which the Bonds of such series will be deemed to be no longer Outstanding;

(f) the denominations of, and the manner of dating, numbering, and, if necessary, authenticating, the Bonds of such series;

(g) the paying agent or paying agents, if any, for the Bonds of such series and the duties and obligations thereof;

(h) the place or places of payment of the principal, redemption price, if any, or purchase price, if any, of and interest on, the Bonds of such series;

(i) the Registrar or Registrars, if any, for the Bonds of such series and the duties and obligations thereof;

(j) the form or forms of the Bonds of such series and the methods, if necessary, for the registration, transfer and exchange of the Bonds of such series;

(k) the terms and conditions, if any, for the redemption of the Bonds of such series prior to maturity, including the redemption date or dates, the redemption price or prices and other applicable redemption terms;

(l) the manner of sale of the Bonds of such series;

(m) if so determined by the City, the authorization of and any terms and conditions with respect to credit support for the Bonds of such series and the pledge or provision of moneys, assets or security other than Net Revenue to or for the payment of the Bonds of such series or any portion thereof;

(n) a special fund or account to provide for the payment of the Bonds of such series, a special reserve fund or account for the purpose of securing the payment of the principal of and interest on the Bonds of such series, and, if so determined by the City, any other specific funds or accounts for the Bonds of such series and the application of moneys or securities therein; and

(o) any other provisions which the City deems necessary or desirable in connection with the Bonds of such series.

Concurrently with the adoption of this Master Ordinance, the City will adopt Ordinance 13-16, authorizing the issuance of not to exceed \$4,200,000 in aggregate principal amount of 2013 Bonds.

Section 5. Limitations on Issuance of Bonds. Except for the 2013 Bonds, the City shall not issue any series of Bonds or incur any additional indebtedness with a parity lien or charge on

Net Revenue with Bonds at the time Outstanding unless it meets the applicable conditions for the issuance of such series in this section.

(a) Project Completion. The City may issue Bonds if the City shall not have been in default of its covenant under Section 6(a) for the immediately preceding Fiscal Year, and the Bonds are being issued to pay Costs of Construction of Facilities for which Bonds have been issued previously and the principal amount of such Bonds being issued for completion purposes does not exceed an amount equal to an aggregate of 15% of the principal amount of Bonds theretofore issued for such Facilities and reasonably allocable to the Facilities to be completed as shown in a written certificate of a City Representative, and there is delivered a Consultant's certificate stating that the nature and purpose of such Facilities has not materially changed.

(b) Any Purposes of the Harbor. The City may issue Bonds if the City shall not have been in default of its covenant under Section 6(a) for the immediately preceding Fiscal Year, and the Bonds are being issued for any purposes permitted under Section 3, upon delivery of a certificate prepared as described in paragraph (1) or (2) of this subsection.

(1) Certificate of the City without a Consultant. The City may deliver a certificate without a Consultant if Net Revenue for the Base Period (confirmed by an independent audit) is not less than the amount of Net Revenue that would be required to fulfill the Coverage Requirement commencing with the first full Fiscal Year following the date on which any portion of interest on the series of Bonds then being issued will be paid from a source other than the proceeds of such series of Bonds.

(2) Certificate of a Consultant. Unless the City may deliver a certificate without a Consultant as provided in paragraph (1) of this subsection, the City shall deliver a certificate of a Consultant demonstrating fulfillment of the Coverage Requirement, commencing with the first full Fiscal Year following the date on which any portion of interest on the series of Bonds then being issued no longer will be paid from the proceeds of such series of Bonds. In making the computations for the purpose of certifying compliance with the Coverage Requirement of this section, the Consultant shall determine Net Revenue by adding the following:

(i) The historic net revenue of the Harbor for the Base Period.

(ii) The net revenue derived from those customers of the Harbor that have become customers during the Base Period or thereafter and prior to the date of such certificate, adjusted to reflect a full year's Net Revenue from each such customer to the extent such net revenue was not included under subparagraph (i) of this paragraph (2).

(iii) The estimated annual net revenue to be derived from any customer under any executed contract for Harbor service, which net revenue was not included in any of the other sources of net revenue described in this paragraph (2).

(iv) The estimated annual net revenue to be derived from the operation of any additions or improvements to or extensions of the Facilities under construction but not completed at the time of such certificate and not being paid for out of the proceeds of sale of

such Bonds being issued, and which net revenue is not otherwise included in any of the sources of net revenue described in this paragraph (2)

(v) The estimated annual net revenue to be derived from the operation of any additions and improvements to or extensions of the Facilities being paid for out of the proceeds of sale of such Bonds being issued.

If the Harbor will not derive any revenue as a result of the construction of additions, improvements or extensions being or to be made to the Facilities within the provisions of subparagraphs (iv) or (v) of this paragraph (2), the estimated annual Operating Expenses of such additions, improvements and extensions shall be deducted from estimated annual net revenue.

The words "historic net revenue" or "net revenue" as used in this paragraph (2) shall mean the Gross Revenue or any part or parts thereof less the normal expenses of maintenance and operation of the Facilities or any part or parts thereof, but before depreciation. Such "historic net revenue" or "net revenue" shall be adjusted to reflect the Harbor rates and charges effective on the date of such certificate if there has been any change in such rates and charges during or after the Base Period.

(c) Refunding for Debt Service Savings. The City may issue Bonds for the purpose of refunding Outstanding Bonds where the Annual Debt Service in each Fiscal Year on all Bonds to be Outstanding after the issuance of the refunding Bonds will not be greater than the Annual Debt Service in the same Fiscal Year if such refunding did not occur.

(d) Compliance with Reserve Requirement. On the date of issuance of any series of Bonds, there shall be on deposit in the reserve fund or account for the Bonds of each series an amount that is not less than the Reserve Requirement for such series.

Section 6. Specific Covenants. The City hereby covenants with the Registered Owners of all Outstanding Bonds for as long as any Bonds remain Outstanding:

(a) Rate Covenant. At all times the City will establish, maintain and collect rentals, tariffs, rates, fees, and charges in the operation of all of the business of the Harbor that will produce Net Revenue in each Fiscal Year at least equal to the greater of:

(1) 120% of the amount required in such Fiscal Year to be paid as Debt Service on Outstanding Bonds, or

(2) the amount required to be deposited during such Fiscal Year from Net Revenue (i) into bond funds and reserve funds established for Outstanding Bonds, but excluding from each of the foregoing payments made from refunding debt or capitalized Debt Service; plus (ii) the amount required to be deposited into any other revenue bond redemption fund and debt service account or reserve account created to pay and secure the payment of the principal of and interest on any revenue bonds or other revenue obligations of the City having a lien upon Net Revenue and the money in the Harbor Revenue Fund junior and inferior to the lien thereon for the payment of the principal of and interest on any Bonds.

The City shall cause the rate coverage calculation described in this Section 6(a) to be made no later than 90 days following the end of each Fiscal Year in which Bonds are Outstanding.

If the Net Revenue in any Fiscal Year is less than required to fulfill the Rate Covenant, then the City will retain a Consultant to make recommendations as to operations and the revision of schedules of rentals, tariffs, rates, fees and charges, and on the basis of such recommendations and other available information the City will establish such rentals, tariffs, rates, fees and charges for Harbor services and operations as are necessary to meet the Rate Covenant. If the City has taken the steps set forth in this paragraph and the Net Revenue in the Fiscal Year in which adjustments are made nevertheless is not sufficient to meet the Rate Covenant, there shall be no default under the Rate Covenant unless the City fails to meet the Rate Covenant in the Fiscal Year immediately succeeding the Fiscal Year in which the adjustments are made.

(b) Maintenance and Repairs. The City will at all times maintain, preserve and keep the Harbor's properties and every part and parcel thereof in good repair, working order and condition; will from time to time make or cause to be made all necessary and proper repairs, renewals and replacements thereto so that the business carried on in connection therewith may be properly and advantageously conducted, and will at all times operate the Harbor in an efficient manner and at a reasonable cost.

(c) Insurance. The City will at all times carry fire and other casualty insurance on the plant and equipment of the Harbor to the full insurable value thereof, and will also carry adequate public liability insurance and such other forms of insurance as under good business practices are ordinarily carried on such plant and equipment. Such insurance also may be maintained by the City through a program of self-insurance.

(d) Extensions or Betterments. The City will not expend any of the money in the Harbor Revenue Fund for any extensions or betterments which are not economically sound and which will not contribute to the operation of the Harbor in an efficient and economical manner, unless such extensions are required by law or any regulatory body having jurisdiction.

(e) Accounting. The City will keep and maintain proper books and accounts with respect to the operation of the Harbor in such manner as prescribed by any authorities having jurisdiction over the Harbor and will cause its books of account to be audited annually by competent certified public accountants, copies of which audits shall, upon request, be furnished to Registered Owners of the Bonds. Said audits shall show whether or not the City has in all respects performed and complied with the covenants set forth in this Master Resolution.

(f) Bonding of Employees. All employees and agents of the City collecting or handling money of the City in connection with the management and operation of the Harbor shall be bonded in an amount commensurate with the funds they handle and in an amount sufficient to protect the City from loss.

(g) Disposal of Harbor. The City will not sell, or otherwise dispose of, substantially all of the Facilities or other properties of the Harbor, unless contemporaneously with such sale or

disposal there shall be paid into a special fund a sum sufficient (together with investment income thereon) to defease all Bonds then Outstanding to the date or dates on which they first may be redeemed.

The City may sell or dispose of any portion of the Facilities or other properties of the Harbor to related or unrelated entities, provided that if such properties constitute five percent or greater of the "book value" of the Harbor's properties or generate five percent or greater of the Net Revenue of the Harbor at the time of such sale or disposition, the Harbor has on hand a report from a Consultant verifying compliance with the Coverage Requirement for the next three full Fiscal Years.

The City also may sell, dispose of or convey any assets which are no longer deemed to be used or useful to the operations of the Harbor.

#### Section 7. Amendatory and Supplemental Ordinances.

(a) The Council from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Master Ordinance, for any one or more of the following purposes:

(1) To provide for the issuance of a series of Bonds pursuant to Section 4, and to prescribe the terms and conditions pursuant to which such Bonds may be issued, paid or redeemed.

(2) To add covenants and agreements of the City for the purpose of further securing the payment of the Bonds; provided that such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the City contained in this Master Ordinance.

(3) To prescribe further limitations and restrictions upon the issuance of Bonds and the incurring of indebtedness by the City payable from Net Revenue which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect.

(4) To surrender any right, power or privilege reserved to or conferred upon the City by the terms of this Master Ordinance.

(5) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Master Ordinance or in regard to matters or questions arising under this Master Ordinance as the Council may deem necessary or desirable and not inconsistent with this Master Ordinance and which shall not adversely affect the interests of the Registered Owners of the Bonds.

Any such supplemental ordinance may be adopted without the consent of the Registered Owner of any of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

(b) With the consent of the Registered Owners of not less than 60 percent in aggregate principal amount of the Bonds at the time Outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Master Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) extend the fixed maturity of any of the Bonds, or reduce the rate of interest thereon, or reduce the amount or change the date of any sinking fund installment, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Registered Owner of each Bond so affected; or

(2) reduce the aforesaid percentage of Registered Owners of Bonds required to approve any such supplemental ordinance without the consent of the Registered Owners of all of the Bonds then outstanding.

It shall not be necessary for the consent of the Registered Owners of the Bonds under this subsection to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent approves the substance thereof.

(c) Upon the adoption of any supplemental ordinance under this section, this Master Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Master Ordinance of the City and all Registered Owners of Outstanding Bonds shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the supplemental ordinance shall be deemed to be part of the terms and conditions of this Master Ordinance for any and all purposes.

(d) Bonds of any series delivered after the effective date of any amendment adopted under this section to this Master Ordinance or the Series Ordinance with respect to that series may bear a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new Bonds modified so as to conform, in the opinion of the City, to the terms of any such supplemental ordinance may be prepared by the City and delivered without cost to the Registered Owners of the affected Bonds then outstanding, upon surrender for cancellation of such Bonds in equal aggregate principal amounts.

Section 8. Notice to Registered Owners. Except as this Master Ordinance specifically provides otherwise, any notice under this Master Ordinance to Registered Owners of any Bonds may be given by first class mail, postage prepaid, to such Registered Owners at their respective addresses appearing upon the Bond Register maintained by or on behalf of the City.

Section 9. Execution of Instruments by Registered Owners. Any instrument in writing that this Master Ordinance requires or permits to be executed by Registered Owners of Bonds may be in any number of concurrent instruments of similar tenor and may be executed by such Registered Owners in person or by an agent duly appointed by an instrument in writing. The fact and date of the execution by any person of any such instrument may be proved sufficiently for

any purpose of this Master Ordinance by either (a) an acknowledgment executed by a notary public or other officer empowered to take acknowledgments of deeds to be recorded in the particular jurisdiction, (b) an affidavit of a witness to such execution sworn to before such a notary public or other officer, or (c) a signature guarantee. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such acknowledgment or affidavit shall also constitute sufficient proof of the authority of such person. The foregoing shall not be construed as limiting the City to such proof, it being intended that the City may accept any other evidence of the matters herein stated which to it may seem sufficient.

Section 10. Ordinances a Contract with Registered Owners. In consideration of the purchase and acceptance of the Bonds by those who shall own the same from time to time, the provisions of this Master Ordinance and of any Series Ordinance shall constitute a contract with the Registered Owners of each Bond, and the obligations of the City under this Master Ordinance and under any Series Ordinance shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Bonds.

Section 11. Events of Default. To protect and safeguard the covenants and obligations undertaken by the City securing the Bonds, the City hereby covenants and agrees with the Registered Owners from time to time of the Bonds that the following shall constitute "Events of Default":

(a) If default is made in the due and punctual payment of the principal of or premium, if any, on any of the Bonds when the same become due and payable, either at maturity or by proceedings for redemption or otherwise;

(b) If default is made in the due and punctual payment of any installment of interest on any Bond;

(c) If the City defaults in the observance and performance of any other of the covenants, conditions and agreements on the part of the City contained in this Master Ordinance and such default or defaults continues for a period of 90 days after the City receives from a representative of (a) Registered Owners of not less than 66% in principal amount of the Bonds then Outstanding or (b) the Bond Bank, if the Bond Bank is then the Registered Owner of any of the Bonds, a written notice specifying and demanding the cure of such default;

(d) If the City (except as herein permitted) sells, transfers, assigns or conveys any properties constituting the Facilities or interests therein, or makes any agreement for such sale or transfer;

(e) If an order, judgment or decree is entered by any court of competent jurisdiction: (a) appointing a receiver, trustee or liquidator for the City or the whole or any substantial part of the Facilities; (b) approving a petition filed against the City seeking the bankruptcy, arrangement or reorganization of the City under any applicable law of the United States or the State of Alaska; or (c) assuming custody or control of the City or of the whole or any substantial part of

the Facilities under the provisions of any other law for the relief or aid of debtors and such order, judgment or decree is not vacated or set aside or stayed (or, in case custody or control is assumed by said order, such custody or control is not otherwise terminated) within 90 days from the date of the entry of such order, judgment or decree; or

(f) If the City: (i) admits in writing its inability to pay its debts generally as they become due; (ii) files a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a receiver of the whole or any substantial part of the Facilities or (v) consents to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the City or of the whole or any substantial part of the Facilities.

#### Section 12. Remedies Available for an Event of Default.

(a) *Waivers of Default.* No delay or omission of the Registered Owners of the Bonds to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this Section to the Registered Owners of Bonds may be exercised from time to time and as often as may be deemed expedient by such Registered Owners.

The Registered Owners of not less than 66% in principal amount of the Bonds at the time outstanding (the "Majority Bondowners"), or their attorneys-in-fact duly authorized, may on behalf of the owners of all of the Bonds waive any past default under this ordinance and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

(b) *Suits at Law or in Equity.* The Majority Bondowners may, upon the happening of an Event of Default, and during the continuance thereof, take such steps and institute such suits, actions or other proceedings all as may be deemed appropriate for the protection and enforcement of the rights of Registered Owners of the Bonds to collect any amounts due and owing the City, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this Master Ordinance, or in any of the Bonds.

Any action, suit or other proceedings instituted by the Majority Bondowners hereunder shall be brought in the name and on behalf of all Registered Owners of the Bonds, and all such rights of action upon or under any of the Bonds or the provisions of this Master Ordinance may be enforced by the Majority Bondowners without the possession of any of said Bonds and without the production of the same at any trial or proceedings relative thereto except where otherwise required by law, and the respective Registered Owners of said Bonds, by taking and holding the same, shall be conclusively deemed irrevocably to appoint the Majority Bondowners the true and lawful trustee of the respective Registered Owners of the Parity Bonds, with authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust

any sums becoming distributable on account of the Bonds; to execute any paper or documents for the receipt of such money, and to do all acts with respect thereto that the Registered Owner of a Bond might have done in person. Nothing herein contained shall be deemed to authorize or empower the Majority Bondowners to consent to accept or adopt, on behalf of any Registered Owner of any Bond, any plan of reorganization or adjustment affecting the Bonds or any right of any Registered Owner thereof, or to authorize or empower the Majority Bondowners to vote the claims of the Registered Owners thereof in any receivership, insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the City shall be a party.

Nothing contained in this Master Ordinance shall, in any event or under any circumstance, be deemed to authorize the acceleration of maturity of principal on Bonds Outstanding, and the remedy of acceleration is expressly denied to the Registered Owners of Bonds Outstanding under any circumstances including without limitation upon the occurrence and continuance of an Event of Default.

(c) *Books of City Open to Inspection.* The City covenants that if an Event of Default occurs and is not remedied, the books of record and account of the City will at all reasonable times be subject to the inspection and use of the Registered Owners of any Bonds.

The City covenants that if an Event of Default happens and is not remedied, the City will continue to account, as trustee of an express trust, for all Gross Revenues and other money, securities and funds pledged under this Master Ordinance.

Section 13. Severability. If any one or more of the covenants or agreements provided in this Master Ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Master Ordinance and shall in no way affect the validity of the other provisions of this Master Ordinance or of the Bonds.

Section 14. Non-Code Ordinance. This ordinance is not permanent in nature and shall not be codified.

Section 15. Effective Date. This ordinance shall take effect upon passage and approval.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

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MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt Wrede, City Manager

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

\_\_\_\_\_  
City Attorney

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

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**ORDINANCE REFERENCE SHEET**  
**2013 ORDINANCE**  
**ORDINANCE 13-16**

An Ordinance of the City of Homer, Alaska, Authorizing the Issuance and Sale of a Series of Harbor Revenue Bonds by the City in the Principal Amount Not to Exceed \$4,200,000 for the Purpose of Financing the Design, Construction, and Acquisition of Harbor and Related Capital Improvements; Establishing the Terms of the Bonds; and Authorizing the Sale of the Bonds.

Sponsor: City Manager

1. City Council Regular Meeting April 22, 2013 Introduction
2. City Council Regular Meeting May 13, 2013 Public Hearing and Second Reading



## City Manager

"Code" means the Internal Revenue Code of 1986, as amended from time to time, together with all regulations applicable thereto.

"Government Obligations" means obligations that are either (i) direct obligations of the United States of America or (ii) obligations of an agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Loan Agreement" means the Loan Agreement between the City and the Bond Bank concerning the 2013 Bonds.

"2013 Bond Fund" means the Harbor Revenue Bond Fund, 2013, established by Section 13 of this Series Ordinance.

"2013 Bonds" means the City of Homer, Alaska, Harbor Revenue Bonds, 2013 authorized by this Series Ordinance.

"2013 Debt Service Account" means the account of that name created in the 2013 Bond Fund by Section 13(a) of this Series Ordinance.

"2013 Reserve Account" means the account of that name created in the 2013 Bond Fund by Section 13(b) of this Series Ordinance.

Section 2. Authorization of 2013 Bonds and Purpose of Issuance. For the purpose of providing part of the funds required to pay the Costs of Construction of the Project, to reimburse any fund of the City which may have advanced funds for the Project, to make any required deposit into the 2013 Reserve Account, and to pay all costs incidental thereto and to the issuance of the 2013 Bonds, the City hereby authorizes and determines to issue and sell as a series of Bonds under the Master Ordinance the 2013 Bonds in the aggregate principal amount of not to exceed \$4,200,000 .

Section 3. Obligation of 2013 Bonds. The 2013 Bonds shall be an obligation only of the 2013 Bond Fund and shall be payable and secured as provided herein and in the Master Ordinance. Neither the faith and credit nor the taxing power of the City is pledged for the payment of the 2013 Bonds.

Section 4. Description of 2013 Bonds. The 2013 Bonds shall be designated "City of Homer, Alaska, Harbor Revenue Bonds, 2013." The 2013 Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, shall be numbered separately in the manner and with such additional designation as the Registrar deems necessary for purposes of identification, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to the rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

The 2013 Bonds shall mature in one or more years commencing in or after 2014 and ending no later than 2034. The 2013 Bonds shall bear interest from their date, payable commencing on a date on or after July 1, 2013, and semi-annually thereafter in each year. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months.

93 Subject to Section 2 and the remainder of this section, the aggregate principal amount, the  
94 principal amount of each maturity, the interest rates, the dated date, the principal and interest  
95 payment dates and the record dates for principal and interest payments on the Bonds shall be  
96 determined at the time of execution of the Loan Agreement under Section 17.

97  
98 Section 5. Optional Redemption. The 2013 Bonds, if any, subject to optional redemption  
99 by the City, the time or times when such Bonds are subject to optional redemption, the terms  
100 upon which such Bonds may be redeemed, and the redemption price or redemption prices for  
101 such 2013 Bonds, shall be determined at the time of execution of the Loan Agreement under  
102 Section 17.

103  
104 Section 6. Selection of 2013 Bonds for Redemption; Notice of Redemption.

105  
106 (a) Selection of 2013 Bonds for Redemption. When the Bond Bank is the Registered  
107 Owner of the 2013 Bonds, the selection of 2013 Bonds to be redeemed shall be made as provided  
108 in the Loan Agreement. When the Bond Bank is not the Registered Owner of the 2013 Bonds,  
109 the selection of 2013 Bonds to be redeemed shall be made as provided in this subsection (a). If  
110 the City redeems at any one time fewer than all of the 2013 Bonds having the same maturity  
111 date, the particular 2013 Bonds or portions of 2013 Bonds of such maturity to be redeemed shall  
112 be selected by lot (or in such other manner determined by the Registrar) in increments of \$5,000.  
113 In the case of a 2013 Bond of a denomination greater than \$5,000, the City shall treat such 2013  
114 Bond as representing such number of separate 2013 Bonds each of the denomination of \$5,000  
115 as is obtained by dividing the actual principal amount of such 2013 Bond by \$5,000. In the event  
116 that only a portion of the principal amount of a 2013 Bond is redeemed, upon surrender of such  
117 2013 Bond at the office of the Registrar there shall be issued to the Registered Owner, without  
118 charge therefor, for the then unredeemed balance of the principal sum thereof, at the option of  
119 the Registered Owner, a 2013 Bond or Bonds of like maturity and interest rate in any of the  
120 denominations authorized herein.

121  
122 (b) Notice of Redemption. When the Bond Bank is the Registered Owner of the 2013  
123 Bonds, notice of any intended redemption of 2013 Bonds shall be given as provided in the Loan  
124 Agreement. When the Bond Bank is not the Registered Owner of the 2013 Bonds, notice of any  
125 intended redemption of 2013 Bonds shall be made as provided in this subsection (b). Notice of  
126 redemption shall be mailed not less than 30 nor more than 45 days prior to the date fixed for  
127 redemption by first class mail to the Registered Owners of the 2013 Bonds to be redeemed at  
128 their addresses as they appear on the Bond Register on the day the notice is mailed. Notice of  
129 redemption shall be deemed to have been given when the notice is mailed as herein provided,  
130 whether or not it is actually received by the Registered Owners. All notices of redemption shall  
131 be dated and shall state: (1) the redemption date; (2) the redemption price; (3) if fewer than all  
132 outstanding 2013 Bonds are to be redeemed, the identification (and, in the case of partial  
133 redemption, the respective principal amounts) of the 2013 Bonds to be redeemed; (4) that on the  
134 redemption date the redemption price will become due and payable upon each such 2013 Bond  
135 or portion thereof called for redemption, and that interest thereon shall cease to accrue from and  
136 after said date; and (5) the place where such 2013 Bonds are to be surrendered for payment of the  
137 redemption price, which place of payment shall be the office of the Registrar.

Official notice of redemption having been given as aforesaid, 2013 Bonds or portions of 2013 Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date, such 2013 Bonds or portions of 2013 Bonds shall cease to bear interest. Upon surrender of such 2013 Bonds for redemption in accordance with said notice, such 2013 Bonds shall be paid at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender of any 2013 Bond for partial redemption, there shall be prepared for the Registered Owner a new 2013 Bond or Bonds of the same maturity in the amount of the unpaid principal. All 2013 Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

Each check or other transfer of funds issued to pay the redemption price of 2013 Bonds shall bear the CUSIP number, if any, identifying, by maturity, the 2013 Bonds being redeemed with the proceeds of such check or other transfer.

Section 7. Form of Bond. Each 2013 Bond shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Series Ordinance or the Master Ordinance:

UNITED STATES OF AMERICA  
STATE OF ALASKA  
CITY OF HOMER

NO. \_\_\_\_\_ \$ \_\_\_\_\_

HARBOR REVENUE BOND, 2013

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Homer, a municipal corporation of the State of Alaska (the "City"), acknowledges itself indebted and for value received promises to pay (but only out of the sources mentioned herein) to the Registered Owner identified above, or its registered assigns, the principal amount shown above in the following installments on \_\_\_\_\_ 1 of each of the following years, and to pay interest on such installments from the date hereof, payable on \_\_\_\_\_ 1, 2013 and semiannually thereafter on the 1<sup>st</sup> days of \_\_\_\_\_ and \_\_\_\_\_ of each year, at the rates per annum as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
-------------	-------------------------	----------------------	-------------	-------------------------	----------------------

When this 2013 Bond is owned by the Alaska Municipal Bond Bank (the "Bond Bank"), payment of principal and interest shall be made as provided in the Loan Agreement dated as of \_\_\_\_\_ 1, 2013, between the Bond Bank and the City (the "Loan Agreement"). When this

2013 Bond is not owned by the Bond Bank, installments of principal and interest on this 2013 Bond shall be paid by check or draft mailed by first class mail to the Registered Owner as of the close of business on the \_\_\_\_\_ day of the month \_\_\_\_\_ each installment payment date; provided that the final installment of principal and interest on this 2013 Bond shall be payable upon presentation and surrender of this 2013 Bond by the Registered Owner at the office of the Registrar. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months. Both principal of and interest on this 2013 Bond are payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts.

Installments of principal of this 2013 Bond due on and after \_\_\_\_\_, 20\_\_, shall be subject to prepayment on and after \_\_\_\_\_, 20\_\_, at the option of the City (subject to any applicable provisions of the Loan Agreement), in such principal amounts and from such maturities as the City may determine, and by lot within a maturity, at a redemption price equal to the principal amount to be prepaid, plus accrued interest to the date of prepayment.

This 2013 Bond is a special obligation of the City and is one of a duly authorized issue of Bonds of the City designated "City of Homer, Alaska, Harbor Revenue Bonds" (the "Bonds"), issued and to be issued in various series under Ordinance 13-15 (the "Master Ordinance"), adopted May 13, 2013, and a Series Ordinance authorizing each such series. As provided in the Master Ordinance, the Bonds may be issued from time to time pursuant to Series Ordinances in one or more series, in various principal amounts, may mature at different times, may bear interest at different rates and, subject to the provisions thereof, may otherwise vary. The aggregate principal amount of Bonds which may be issued under the Master Ordinance is not limited, and all Bonds issued and to be issued under said Master Ordinance are and will be equally and ratably secured by the pledges and covenants made therein, except as otherwise expressly provided or permitted in the Master Ordinance.

This 2013 Bond is one of a series of Bonds issued in the aggregate principal amount of \$4,200,000 under the Master Ordinance and Ordinance 13-16 (the "Series Ordinance"), adopted May 13, 2013, for the purpose of providing funds to design, construct and acquire harbor and related capital improvements for the City of Homer Harbor.

This 2013 Bond shall be an obligation only of the 2013 Bond Fund and shall be payable and secured as provided in the Master Ordinance and the Series Ordinance. Neither the faith and credit nor the taxing power of the City is pledged for the payment of the 2013 Bonds. The City has pledged to pay into the 2013 Bond Fund from Net Revenue or money in the Harbor Revenue Fund, on or prior to the respective dates on which the same become due, such amounts as are required to pay the interest and principal to become due on this 2013 Bond. Said amounts so pledged are hereby declared to be a lien and charge upon Gross Revenue superior to all other charges of any kind or nature whatsoever, except for Operating Expenses and except that the amounts so pledged are of equal lien to any lien and charge thereon which may hereafter be made to pay and secure the payment of the principal of and interest on any Parity Bonds.

IT IS HEREBY CERTIFIED and declared that this 2013 Bond is issued pursuant to and in strict compliance with the constitution or statutes of the State of Alaska, and that all acts,

conditions and things required to happen, to be done, and to be performed precedent to and on the issuance of this 2013 Bond have happened, been done and been performed.

IN WITNESS WHEREOF, THE CITY OF HOMER, ALASKA, has caused this 2013 Bond to be signed in its name and on its behalf by the manual or facsimile signature of its Mayor and its corporate seal (or a facsimile thereof) to be impressed or otherwise reproduced hereon and attested by the manual or facsimile signature of its Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_ 2013.

CITY OF HOMER

\_\_\_\_\_  
Mayor

A T T E S T:

\_\_\_\_\_  
Clerk

[SEAL]

Section 8. Execution. The 2013 Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, and its corporate seal (or a facsimile thereof) shall be impressed or otherwise reproduced thereon and attested by the manual or facsimile signature of the City Clerk. The execution of a 2013 Bond on behalf of the City by persons who at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the 2013 Bond or shall not have held office on the date of the 2013 Bond.

Section 9. Payment of Principal and Interest. The 2013 Bonds shall be payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. When the Bond Bank is the Registered Owner of the 2013 Bonds, payment of principal and interest on the 2013 Bonds shall be made as provided in the Loan Agreement. When the Bond Bank is not the Registered Owner of the 2013 Bonds, installments of principal and interest on the 2013 Bonds shall be paid by check mailed by first class mail to the Registered Owner as of the record date for the installment payment at the address appearing on the Bond Register; provided that the final installment of principal and interest on a 2013 Bond shall be payable upon presentation and surrender of the 2013 Bond by the Registered Owner at the office of the Registrar.

Section 10. Registration. The 2013 Bonds shall be issued only in registered form as to both principal and interest. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the City. The City and the Registrar may treat the person in whose name any 2013 Bond shall be registered as the absolute owner of such 2013 Bond for all purposes,

whether or not the 2013 Bond shall be overdue, and all payments of principal of and interest on a 2013 Bond made to the Registered Owner thereof or upon its order shall be valid and effectual to satisfy and discharge the liability upon such 2013 Bond to the extent of the sum or sums so paid, and neither the City nor the Registrar shall be affected by any notice to the contrary.

Section 11. Transfer and Exchange. 2013 Bonds shall be transferred only upon the books for the registration and transfer of 2013 Bonds kept at the office of the Registrar. Upon surrender for transfer or exchange of any 2013 Bond at such office, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, the City shall execute and deliver an equal aggregate principal amount of 2013 Bonds of the same maturity of any authorized denominations, subject to such reasonable regulations as the City may prescribe and upon payment sufficient to reimburse it for any tax, fee or other governmental charge required to be paid in connection with such transfer or exchange. All 2013 Bonds surrendered for transfer or exchange shall be canceled by the Registrar.

Section 12. 2013 Bonds Mutilated, Destroyed, Stolen or Lost. Upon surrender to the Registrar of a mutilated 2013 Bond, the City shall execute and deliver a new 2013 Bond of like maturity and principal amount. Upon filing with the Registrar of evidence satisfactory to the City that a 2013 Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the City with indemnity satisfactory to it, the City shall execute and deliver a new 2013 Bond of like maturity and principal amount. The person requesting the execution and delivery of a new 2013 Bond under this section shall comply with such other reasonable regulations as the City may prescribe and pay such expenses as the City may incur in connection therewith.

Section 13. 2013 Bond Fund. A special fund of the City designated the "Harbor Revenue Bond Fund, 2013" is hereby created for the purpose of paying and securing the payment of the 2013 Bonds. The 2013 Bond Fund shall be held separate and apart from all other funds and accounts of the City and shall be a trust fund for the owners, from time to time, of the 2013 Bonds.

(a) 2013 Debt Service Account. A 2013 Debt Service Account is hereby created in the 2013 Bond Fund for the purpose of paying the principal of and interest on the 2013 Bonds. The City hereby irrevocably obligates and binds itself for as long as the 2013 Bonds remain Outstanding to set aside and pay into the 2013 Debt Service Account from Net Revenue or money in the Harbor Revenue Fund, on or prior to the respective dates on which the same become due (i) such amounts as are required to pay the interest scheduled to become due on the Outstanding 2013 Bonds, and (ii) such amounts as are required to pay maturing principal of the Outstanding 2013 Bonds.

(b) 2013 Reserve Account. A 2013 Reserve Account is hereby created in the 2013 Bond Fund for the purpose of securing the payment of the principal of and interest on the 2013 Bonds. On the date of issuance of the 2013 Bonds, the City shall deposit a sum in the 2013 Reserve Account that is equal to the Reserve Requirement for the 2013 Bonds. If a deficiency occurs in the 2013 Debt Service Account, an amount sufficient to make up the deficiency shall be

withdrawn from the 2013 Reserve Account and transferred to the 2013 Debt Service Account. The City shall make up any deficiency in the 2013 Reserve Account resulting from such a withdrawal within one year out of Net Revenue or out of any other moneys legally available for such purpose, after providing for the payments required to be made into the 2013 Debt Service Account within such year.

Any amount in the 2013 Reserve Account in excess of the Reserve Requirement for the 2013 Bonds may be transferred to the 2013 Debt Service Account and used to pay the principal of and interest on the 2013 Bonds as the same becomes due and payable. Whenever there is a sufficient amount in the 2013 Bond Fund, including the 2013 Reserve Account and the 2013 Debt Service Account, to pay the principal of and interest on all Outstanding 2013 Bonds, the amount in the 2013 Reserve Account may be used to pay such principal and interest.

(c) Pledge and Lien. Said amounts so pledged to be paid into the 2013 Debt Service Account and the 2013 Reserve Account are hereby declared to be a lien and charge upon Gross Revenue superior to all other charges of any kind or nature whatsoever, except for Operating Expenses and except that the amounts so pledged are of equal lien to any lien and charge thereon which may hereafter be made to pay and secure the payment of the principal of and interest on any Parity Bonds.

Section 14. Disposition of the Sale Proceeds of the 2013 Bonds. The sale proceeds of the 2013 Bonds shall be applied to pay accrued interest on the 2013 Bonds, Costs of Construction of the Project, issuance costs of the 2013 Bonds and any amount required to cause the amount on deposit in the 2013 Reserve Account to be equal to the Reserve Requirement for the 2013 Bonds, and shall be deposited in the appropriate funds or accounts of the City for such purposes.

Section 15. Tax Covenants. The City covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the 2013 Bonds from gross income for federal income tax purposes. The City covenants that it will make no use of the proceeds of the 2013 Bonds which will cause the 2013 Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The City covenants that it will not take or permit any action that would cause the 2013 Bonds to be "private activity bonds" as defined in Section 141 of the Code.

Section 16. Defeasance. In the event money and/or non-callable Government Obligations maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all of the 2013 Bonds in accordance with their terms are set aside in a special trust account to effect such redemption or retirement and such moneys and the principal of and interest on such Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made to pay or secure the payment of the principal of and interest on such 2013 Bonds and such 2013 Bonds shall be deemed not to be Outstanding.

365       Section 17. Sale of 2013 Bonds. The 2013 Bonds shall be sold at negotiated sale to the  
366 Bond Bank as provided in the Loan Agreement. Subject to the limitations provided in Sections 2  
367 and 4, each of the City Manager and the City Finance Director is hereby authorized to determine  
368 the aggregate principal amount, the principal amount of each maturity, the interest rates, the  
369 dated date, the principal and interest payment dates, the record dates for principal and interest  
370 payments, and the redemption terms, if any, for the 2013 Bonds, and other details of the 2013  
371 Bonds; provided that the true interest cost of the 2013 Bonds, expressed as an annual rate, does  
372 not exceed 3.75 percent. In determining the maturity amounts, interest rates, yields, and  
373 redemption terms, if any, for the 2013 Bonds, the City Manager or City Finance Director shall  
374 take into account those factors which, in his judgment, will result in the lowest true interest cost  
375 on the 2013 Bonds to their maturity, including without limitation current financial market  
376 conditions and current interest rates for obligations comparable in tenor and quality to the 2013  
377 Bonds. Based upon the foregoing determinations, the City Manager and the City Finance  
378 Director each is authorized to execute the Loan Agreement, in substantially the form presented at  
379 this meeting.

380  
381       Section 18. Ongoing Disclosure. The City acknowledges that, under Rule 15c2-12 of the  
382 Securities and Exchange Commission (the "Rule"), the City may now or in the future be an  
383 "obligated person" with respect to the Bond Bank Bonds. In accordance with the Rule and as the  
384 Bond Bank may require, the City shall undertake to provide certain annual financial information  
385 and operating as shall be set forth in the Loan Agreement.

386  
387       Section 19. Authority of Officers. The City Manager, the acting City Manager, the  
388 Finance Director, the acting Finance Director, the Clerk and the acting Clerk are, and each of  
389 them hereby is, authorized and directed to do and perform all things and determine all matters  
390 not determined by this Series Ordinance, to the end that the City may carry out its obligations  
391 under the 2013 Bonds and this Series Ordinance.

392  
393       Section 20. Miscellaneous.

394  
395       (a) All payments made by the City of, or on account of, the principal of or interest on the  
396 2013 Bonds shall be made on the several 2013 Bonds ratably and in proportion to the amount  
397 due thereon, respectively, for principal or interest as the case may be.

398  
399       (b) No recourse shall be had for the payment of the principal of or the interest on the  
400 2013 Bonds or for any claim based thereon or on the Master Ordinance or this Series Ordinance  
401 against any member of the Council or officer of the City or any person executing the 2013  
402 Bonds. The 2013 Bonds are not and shall not be in any way a debt or liability of the State of  
403 Alaska or of any political subdivision thereof, except the City, and do not and shall not create or  
404 constitute an indebtedness or obligation, either legal, moral or otherwise, of said state or of any  
405 political subdivision thereof, except the City.

406  
407       Section 21. Severability. If any one or more of the provisions of this Series Ordinance  
408 shall be declared by any court of competent jurisdiction to be contrary to law, then such  
409 provision shall be null and void and shall be deemed separable from the remaining provisions of

this Series Ordinance and shall in no way affect the validity of the other provisions of this Series Ordinance or of the 2013 Bonds.

Section 22. Non-Code Ordinance. This ordinance is not permanent in nature and shall not be codified.

Section 23. Effective Date. This ordinance shall take effect upon passage and approval.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

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

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt Wrede, City Manager

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

\_\_\_\_\_  
City Attorney

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

## **MANAGERS REPORT**

**May 13, 2013**

**TO:** MAYOR WYTHE / HOMER CITY COUNCIL

**FROM:** WALT WREDE

### **UPDATES / FOLLOW-UP**

1. Trip Report: On Thursday and Friday, May 2 and 3, I was up in Anchorage working on several City projects and priorities. On Thursday, the Board of Directors for the Alaska Municipal Bond Bank had its meeting. I am happy to report that the Board approved the City's bond sale application for the harbor projects. The actual sale and closing takes place in June. So we are right on schedule. The Board appeared impressed with the City's fiscal planning and management in preparation for the bond sale. On Friday I had several meetings at the DOT/PF regional office. I met with the Regional Director to discuss the conditional of Lake Street and Pioneer Avenue and their status as STIP projects. The primary focus of the meeting was to be sure the Lake Street rehabilitation project does not slide any further. Later, I got together with the regional planners to talk about implementation of the recently approved TORA on the Deep Water Dock. There are several programmatic steps we must take to get that project rolling.
2. Budget Amendment Ordinance / Gas Conversions for City Buildings: At the next meeting, expect to see a budget amendment ordinance that appropriates funds to pay for service lines, meters, conversion costs estimates, conversion costs, and possible assessments for a variety of City owned buildings.
3. Lillian Walli Estates Assessment District: As you know, the City staff is working on this project with the property owners to see if an assessment district that works can be developed. A City sponsored meeting with the property owners has been scheduled. One thing that needs to be discussed is whether the City will subsidize the SAD or provide matching funds, like it does in other water, sewer, and road, LIDs. The Administration has always assumed that the property owners would pay 100% of the costs, since those costs are normally the responsibility of the developer and in this case, the developer did not perform under the subdivision agreement. However, we are aware that some Council members might be interested in talking about City support since this subdivision agreement is well over 20 years old and the City has an interest in seeing this project move forward. Another component to this discussion is the fact that a mistake was made when the petition letters went out. The letters stated that the City would provide a match and this may have affected the vote. If the Council decides it is not appropriate to provide a match, this petition process would likely need to start over. Finally, at the last meeting I told you that the SAD had very strong support from the property owners. After further review, it turns out that support was at about 59%.
4. Pedestrian Safety: The Council recently received a letter from a concerned citizen who often walks or bikes around town and to and from work. The City can't do

much about sand and gravel sweeping on state roads and state maintained bike lanes. However, PW has been working hard to sweep City streets, sidewalks and bike paths and I think they have been doing an excellent job. We have received lots of thank you notes this year, especially about Pioneer Avenue and the Spit Trail. I believe we can do more on public education, painting cross-walks, and enforcing the law regarding pedestrians. We will ramp up that effort where we can.

5. Disk Golf: I am aware that Council members are receiving complaints from property owners who live next to the disc golf course at Jack Gist Park. We have contacted the Jack Gist Park Association and the Disc Golf Association and asked them to remind folks about park hours and proper etiquette. The message is that users will have to police themselves and make sure that the privacy and property of local residents is respected.
6. HERC Building: At the Council's recent workshop on the future of the HERC Building, the possibility of putting something on the October ballot was mentioned several times. Advisory votes and votes on dedicated taxes were both briefly discussed. Jo Johnson pointed out to me that any such ballot proposition would need to be approved by the Department of Justice and in order to provide adequate time for a DOJ's review, we would have to have something ready by the end of May. This means that we would have to have the exact ballot proposition language ready by the next meeting. That does not seem like nearly enough time to me. I think it would also be premature. There are still too many unknowns regarding this building, including whether the effort to create a recreation service area will move forward.
7. TORA Amendments: At the last meeting the Council approved a TORA agreement with DOT/PF regarding the Deep Water Dock Feasibility Study. Last week I visited DOT/PF to talk about the steps that we would need to take to implement the TORA and get the project moving. As we were discussing this, we came across several relatively minor amendments that needed to be made. For example, we agreed that the City did not have to provide its 10% match until the notice to proceed was issued, rather than within 30 days of the signing of the TORA. I don't think these two or three changes are enough to bring the entire document back to Council again for approval, but I am willing to do so if needed and I wanted you to be aware of this development.
8. Construction Projects: I wanted to take this opportunity again to be sure the public understands that Homer will be one large construction zone this summer. If you ever dreamed about spending the summer on a sailboat, this might be the year to do it! While all of this activity is seen by most people as a positive, it will definitely cause some inconvenience. By now, I think most folks know that all of the downtown core will be in the gas line distribution construction zone. This means detours and possible road closures. In addition to that, DOT/PF will be repaving the Sterling Highway from Anchor Point to Pioneer Ave. this year. The City of Homer also has a number of paving projects that will occur. Some of that is repaving existing roads and some is paving roads in newly approved road SADs. This is going to require patience and good humor from all of us.

9. Harbor Construction: Much attention has been placed upon upcoming capital projects in Homer, especially the gas line. However, I think the community should be aware that approximately \$25 Million is about to be invested in the port and harbor in the next two years. This includes completion of the Spit Trail, Cruise Ship Passenger Improvements (restrooms, trails, staging area, etc) , Load and Launch Ramp Upgrades, Improvements at the Deep Water Dock, replacement of Ramp 3, replacement of a number of older floats in the harbor, water and electric for the System 5 float, and a new harbormaster's office, to name a few. These investments will create jobs, help us maintain and improve valuable infrastructure, and provide better services to the City's customers.

### **ATTACHMENTS**

1. Report from HR Director
2. Public Service Recognition Week
3. May Employee Anniversaries





## *City of Homer*

### **Memorandum**

To: Mayor Wythe and Homer City Council

From: Walt Wrede, City Manager

Date: May 9, 2013

Re: May Employee Anniversaries

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I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

Joanne Perret,	Finance	24	Years
John Wythe,	Public Works	22	Years
Lori Sorrows,	Finance	14	Years
Brian McCarthy,	Port & Harbor	14	Years
Dan Olsen,	Public Works	12	Years
Julie Engebretsen,	Planning	11	Years
Ed Stading,	Police	8	Years
Julie Swisher,	Finance	5	Years
Dave Welty,	Public Works	5	Years
Rick Abboud,	Planning	5	Years
Jacob Tesch,	Public Works	2	Years
David Bernard,	Library	2	Years
Jayne Probst,	Police	1	Year

In addition to the May employee anniversaries, I would like to wish Lieutenant Randy Rosencrans best wishes with his future endeavors. Randy has worked for the Homer Police Department over 24 years and will be retiring at the end of May. The City appreciates his dedication and commitment to this wonderful community and he will be greatly missed!

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## **CITY OF HOMER CITY HALL**

491 East Pioneer Avenue  
Homer, Alaska 99603-7645

Telephone (907) 235-8121  
Fax (907) 235-3148  
Web Site <http://www.cityofhomer-ak.gov>

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### **MEMORANDUM**

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**TO:** MAYOR WYTHE, CITY COUNCIL, AND CITY OF HOMER EMPLOYEES  
**FROM:** Walt Wrede, City Manager  
**DATE:** MAY 6, 2013  
**RE:** Public Service Recognition Week

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This week is designated by Congress as Public Service Recognition Week and I find myself grateful for the opportunity to thank you for all you do on behalf of our city. Each and every day, I have the pleasure of witnessing firsthand your remarkable contributions and achievements. Even during difficult times, you continue working to find innovative solutions to complex issues. Your hard work does not go unnoticed, and I want you to know that I am proud to serve with you.

Sincerely,

Walt Wrede, City Manager

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**CITY OF HOMER  
CITY HALL  
PERSONNEL OFFICE**

491 East Pioneer Avenue  
Homer, Alaska 99603

Telephone (907) 235-8121 ext 2225  
Fax (907) 235-3148  
E-mail [personnel@cityofhomer-ak.gov](mailto:personnel@cityofhomer-ak.gov)

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**MEMORANDUM 13-067**

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**TO:** MAYOR WYTHE AND CITY COUNCIL  
**THRU:** Walt Wrede, City Manager  
**FROM:** Andrea Petersen, Personnel Director  
**DATE:** May 8, 2013  
**RE:** Report from the Personnel Office

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**Recruitment:** *Overall turnover has decreased*

Overall turnover for 2012 decreased from 2011. There were 14 regular positions opened in 2012 compared to 25 regular positions available in 2011. Recruitment for Public Safety Dispatchers continues to be a challenge. City Manager Wrede, Chief Robl and I decided to expand the advertising of the positions to include the Anchorage Daily Newspaper (ADN) and Career Builder on the ADN website. The total number of applications for the Public Safety Dispatcher position has increased by 57%. The biggest challenge with filling these positions is finding qualified applicants with a clean background history. Recruitment for a Finance Director has ended and an offer of employment has been accepted pending the results of the candidate's credit history and background check. Recruitment for the Finance Director position was challenging due to the required knowledge, skills, abilities and experience candidates needed to possess.

**Compensation:** *Longevity increases while wages are stagnant*

Several employees and department directors are no longer eligible for wage increases due to maxing out on the current salary schedule. Although the last external parity study revealed the City's wages to be somewhat competitive, this is no longer the case due to other municipalities and boroughs giving a cost of living adjustment for its employees. It might behoove the City to review its current compensation philosophy and benefits package in order to remain competitive with other public entities.

**Health Insurance:** *Continuing to be self-insured*

Jeff Paxton and his team from Mercer initiated the 2013 renewal process for third-party administrators of health insurance in August. Requests for renewal proposals from incumbent vendors and proposals from new vendors were evaluated for competitiveness. During this self-insured renewal process, it was decided to seek a fully insured proposal from Premiera. The Premiera proposal showed costs for the plan to be about a \$500,000 increase over the self-insured plan cost estimates. The estimated total cost for Premiera was approximately \$3 million and the actual health plan that Premiera proposed for employees

was significantly higher than what is offered now with regards to deductibles, co-pays and out-of-pocket maximums.

*Vendor negotiation & renewal results follow.*

**Claim Administration:** *Meritain continues to be Third Party Administer (TPA) for claims processing* Meritain, the current claims administrator, originally proposed renewal rates at the current 2012 level of \$30.73 per employee per month. However, Meritain, during the negotiation process revised their renewal offer twice, finalizing the renewal for a three year term at \$22.64 per employee per month. This revised offer was approximately \$10,000 less than the 2012 rates. EBMS was the most competitive contender of three other third party administrators (TPA) with a \$21.50 per employee per month rate. Although EBMS showed a slightly lower rate, over the course of a three year term it is expected that EBMS & Meritain costs would be very close to neutral. Continuing with Meritain creates stability for both employees & City administration. Additionally, Meritain's customer service level & responsiveness has dramatically improved and developed into a very good and collaborative working relationship. It could not be guaranteed that EBMS would provide the same level of service as Meritain currently provides.

**Stop Loss Renewal:** *Symetra continues to provide Stop Loss coverage*

Coverage purchased by employers in order to limit their exposure under self-insurance medical plans. This coverage is available in two types:

1. *Specific Stop Loss* —Coverage is initiated when a claim reaches the threshold selected by the employer. After the threshold is reached, the stop-loss policy would pay claims per employee for the self-insurance medical plan. The *Specific Stop Loss* deductible for the City is \$90,000/individual.
2. *Aggregate Stop Loss* —Coverage is initiated when the employer's self-insurance total group health claims reach a stipulated threshold selected by the employer. The *Aggregate Stop Loss* deductible for the City is \$50,000.

An RFP was developed and sent to four competing Stop Loss carriers. Including the current Stop Loss provider, Symetra, five providers were presented an opportunity to work with the City. Of the five providers, three chose to decline to quote based on the current price position with Symetra. The three declining to quote were unable to be competitive. The evaluation process showed Symetra continued to present the most favorable pricing.

Chartis, the nearest competitor, proposed annual premium at \$481,387 per year compared to Symetra at \$457,375 per year. Current premium is \$393,218. However, plan options to increase the specific individual coverage deductible were provided. Increasing the specific deductible to \$90,000 from the current \$75,000 reduced the annual premium to \$386,965 representing a premium savings of \$70,410 compared to the renewal and a savings of \$6,253 from the current premium level. City Manager Wrede, former Finance Director, Regina Mauras, and I evaluated the numbers and felt increasing the Specific Stop Loss deductible was financially the best option.

**Just for the Health of It Wellness Program:** *Employees' physical activity increases*

The Employee Wellness Program kicked off November 1, 2012. Although there is not 100% employee participation yet, most participants have positive feedback regarding the program. I have noticed several employees have even lost weight and/or began to realize how inactive they actually are! The Wellness Committee is in the beginning stages of reviewing the success of the program and hope to make some adjustments per the feedback received from participants. Also, please let me know if you are interested in participating in the program. I would be happy to give you a detailed tutorial of the program.



## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum

TO: MAYOR AND CITY COUNCIL  
FROM: MELISSA JACOBSEN, DEPUTY CITY CLERK  
DATE: MAY 8, 2013  
SUBJECT: BID REPORT

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**Request for Proposals Incorporating Art into the Beluga Slough Trail** Proposals to incorporate art in conjunction with planned interpretive signing at four locations along the recently completed Beluga Slough Trail (below the Islands and Ocean Visitor Center) will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until Thursday, June 6, 2013 until 4:00 p.m. Artists are encouraged to submit one or more concepts or proposals.

**Invitation to Bid on Crittenden Drive/Waddell Street Road Improvements** Sealed bids for the construction of the Crittenden Drive/Waddell Street Road Improvements project will be received at the office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until 2:00 PM, Thursday, June 6, 2013, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. Bidders are required to be on the plan holder's list to be considered responsive. To be on the Bidder's List (and to obtain bid documents) contact: City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603, (907) 235-3130.

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**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**RESOLUTION 13-047**

A RESOLUTION OF THE HOMER CITY COUNCIL  
AWARDING THE CONTRACT FOR HOMER RESTROOM  
FACILITIES IMPROVEMENTS 2013 TO THE FIRM OF  
\_\_\_\_\_ OF \_\_\_\_\_, \_\_\_\_\_ IN  
THE AMOUNT OF \$\_\_\_\_\_ AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE APPROPRIATE  
DOCUMENTS.

WHEREAS, In accordance with the Procurement Policy the Invitation to Bid was  
advertised in the Homer Tribune on April 4 and 11, 2013, the Peninsula Clarion on April 7,  
2013, posted on the Clerk's home page, and sent to two in-state plans room; and

WHEREAS, Bids were due on May 9, 2013 and \_\_\_\_\_ bids were received; and

WHEREAS, Bids were opened and the firm of \_\_\_\_\_ was determined to be the  
low responsive bidder and found to be qualified to complete the work; and

WHEREAS, This award is not final until written notification is received by the firm from  
the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska,  
approves the contract award for the Homer Restroom Facilities Improvements 2013 to the firm  
of \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_, in the amount of  
\$\_\_\_\_\_ and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 13<sup>th</sup> day of May, 2013.

CITY OF HOMER

\_\_\_\_\_  
FRANCIE ROBERTS, MAYOR PRO TEMPORE

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Funded under accounts 151-777 and 415-931.

**INVITATION TO BID**  
**By the City of Homer, Alaska, for the**  
**Homer Restroom Facilities Improvements**

Sealed bids for the construction of the **Homer Restroom Facilities Improvements** project will be received at the office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until 2:00 PM, Thursday, **May 9, 2013**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. Bidders are required to be on the plan holder's list to be considered responsive. To be on the Bidder's List (and to obtain bid documents) contact: City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603, (907) 235-3130.

The project is funded with State of Alaska Cruise Ship Head Tax monies. The City's local bidders 5% preference requirements do not apply; state prevailing wage rates will apply. The work includes, but is not limited to, the following:

Construct four (4) restrooms, including civil, architectural, structural, mechanical, and electrical improvements; two downtown and two on the Spit. One restroom on the Spit will include an attached guard shack and shelter.

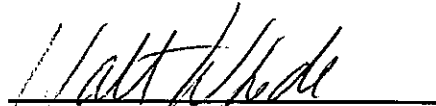
Please direct all technical questions regarding this project to: Dan Nelsen, City of Homer, Public Works Department, 3575 Heath Street, Homer, Alaska, 99603, (907) 435-3141

A pre-bid conference will be held on Thursday, **April 18, 2013** at 2:00 PM at the City Council Chambers, City Hall, 491 Pioneer Ave., Homer, AK to answer any questions bidders may have.

Plans and specifications may be downloaded at no charge or hard copies can be obtained at the office of the City Clerk upon payment of \$220 per set (\$250 for overnight delivery). City of Homer Standard Construction Specifications 2011 Edition (containing general contract provisions) may be downloaded from the City's web site. All fees are non-refundable. The City of Homer reserves the right to accept or reject any or all bids, to waive irregularities or informalities in the bids, and to award the contract to the lowest responsive bidder.

DATED this 1st day of April, 2013.

**CITY OF HOMER**

  
Walt Wrede, City Manager

Homer News – April 4, April 11, 2013  
Peninsula Clarion – April 7, 2013

Fiscal Note: 151-777 and 415-931