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**CITY OF HOMER
HOMER, ALASKA**

Mayor

ORDINANCE 16-04(A-2)(S-3)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.18, CENTRAL BUSINESS DISTRICT; HOMER CITY CODE 21.24, GENERAL COMMERCIAL 1; HOMER CITY CODE 21.26, GENERAL COMMERCIAL 2; HOMER CITY CODE 21.27, EAST END MIXED USE; TO IDENTIFY THE ZONING DISTRICTS PERMITTING MARIJUANA FACILITIES; AND ADOPTING HOMER CITY CODE CHAPTER 21.62, MARIJUANA FACILITIES, REGARDING GENERAL LAND USE REQUIREMENTS FOR MARIJUANA CULTIVATION, MANUFACTURING, TESTING, AND RETAIL FACILITIES.

WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding the use of property within the City to cultivate or manufacture marijuana or to operate a retail store selling marijuana; and

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

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Section 21.18.020, Permitted uses and structures, is amended to read as follows:

Section 21.18.020 Permitted uses and structures.

The following uses are permitted outright in the Central Business 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. Retail business where the principal activity is the sale of merchandise and incidental services in an enclosed building;
- b. Personal service establishments;
- c. Professional offices and general business offices;

- 45 d. Restaurants, clubs and drinking establishments that provide food or drink
- 46 for consumption on the premises;
- 47 e. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 48 f. Hotels and motels;
- 49 g. Mortuaries;
- 50 h. Single-family, duplex, and multiple-family dwellings, including townhouses,
- 51 but not including mobile homes;
- 52 i. Floatplane tie-up facilities and air charter services;
- 53 j. Parks;
- 54 k. Retail and wholesale sales of building supplies and materials, only if
- 55 such use, including storage of materials, is wholly contained within one or
- 56 more enclosed buildings;
- 57 l. Customary accessory uses to any of the permitted uses listed in the CBD
- 58 district; provided, that a separate permit shall not be issued for the
- 59 construction of any detached accessory building prior to that of the main
- 60 building;
- 61 m. Mobile homes, provided they conform to the requirements set forth in
- 62 HCC 21.54.100;
- 63 n. Home occupations, provided they conform to the requirements of
- 64 HCC 21.51.010;
- 65 o. Ministorage;
- 66 p. Apartment units located in buildings primarily devoted to business or
- 67 commercial uses;
- 68 q. Religious, cultural, and fraternal assembly;
- 69 r. Entertainment establishments;
- 70 s. Public, private and commercial schools;
- 71 t. Museums and libraries;
- 72 u. Studios;
- 73 v. Plumbing, heating and appliance service shops, only if such use, including
- 74 the storage of materials, is wholly within an enclosed building;
- 75 w. Publishing, printing and bookbinding;
- 76 x. Recreational vehicle parks only if located south of the
- 77 Sterling Highway (Homer Bypass) from Lake Street west to the boundary of the
- 78 Central Business District abutting Webber Subdivision, and from
- 79 Heath Street to the west side of Lakeside Village Subdivision, provided they
- 80 shall conform to the standards in HCC 21.54.200 and following sections;
- 81 y. Taxi operation limited to a dispatch office and fleet parking of no more than
- 82 five vehicles; maintenance of taxis must be conducted within an
- 83 enclosed structure, and requires prior approval by the City Planner of a site,
- 84 access and parking plan;
- 85 z. Mobile food services;
- 86 aa. Itinerant merchants, provided all activities shall be limited
- 87 to uses permitted outright under this zoning district;

- 88 bb. Day care homes and facilities; provided, however, that outdoor play areas
- 89 must be fenced;
- 90 cc. Rooming house, bed and breakfast and hostel;
- 91 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 92 Main Street from Pioneer Avenue to the Sterling Highway, excluding lots with
- 93 frontage on Pioneer Avenue or the Sterling Highway, subject to the following
- 94 additional requirements: Vehicles awaiting repair or service, inoperable
- 95 vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be
- 96 parked indoors or inside a fenced enclosure so as to be concealed from view,
- 97 on all sides. The fence shall be a minimum height of eight feet and constructed
- 98 to prohibit visibility of anything inside of the enclosure. The portion of any
- 99 vehicle exceeding eight feet in height may be visible outside of the fence.
- 100 Vehicle parts (usable or unusable), vehicle service supplies, and any other
- 101 debris created in the repair or servicing of vehicles shall also be stored indoors
- 102 or inside the fenced enclosure out of view of the public;
- 103 ee. Farmers' market;
- 104 ff. Dormitory;
- 105 gg. Financial institutions;
- 106 hh. As an accessory use, one small wind energy system per lot having a rated
- 107 capacity not exceeding 10 kilowatts;
- 108 ii. One detached dwelling unit, excluding mobile homes, as an accessory
- 109 building to a principal single-family dwelling on a lot;
- 110 jj. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
- 111 testing facilities as defined by state law.

112
113 Section 2. Homer City Code Section 21.24.020, Permitted uses and structures, is
114 amended to read as follows:

115
116 Section 21.24.020 Permitted uses and structures.

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

- 120 a. Air charter operations and floatplane tie-up facilities;
- 121 b. General business offices and professional offices;
- 122 c. Dwelling units located in buildings primarily devoted to business uses;
- 123 d. Auto repair;
- 124 e. Auto and trailer sales or rental areas;
- 125 f. Auto fueling stations and drive-in car washes;
- 126 g. Building supply and equipment sales and rentals;
- 127 h. Restaurants, including drive-in restaurants, clubs and drinking
- 128 establishments;
- 129 i. Garden supplies and greenhouses;
- 130 j. Heavy equipment and truck sales, rentals, service and repair;

- 131 k. Hotels and motels;
- 132 l. Lumberyards;
- 133 m. Boat and marine equipment sales, rentals, service and repair;
- 134 n. Mortuaries;
- 135 o. Open air businesses;
- 136 p. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 137 q. Manufacturing of electronic equipment, electrical devices, pottery, ceramics,
- 138 musical instruments, toys, novelties, small molded products and furniture;
- 139 r. Publishing, printing and bookbinding;
- 140 s. Recreation vehicle sales, rental, service and repair;
- 141 t. Retail businesses;
- 142 u. Trade, skilled or industrial schools;
- 143 v. Wholesale businesses, including storage and distribution services incidental
- 144 to the products to be sold;
- 145 w. Welding and mechanical repair;
- 146 x. Parks and open space;
- 147 y. Appliance sales and service;
- 148 z. Warehousing, commercial storage and mini-storage;
- 149 aa. Banks, savings and loans, credit unions and other financial institutions;
- 150 bb. Customary accessory uses to any of the permitted uses listed in the GC1
- 151 district; provided, that no separate permit shall be issued for the construction
- 152 of any type of accessory building prior to that of the main building;
- 153 cc. Dry cleaning, laundry, and self-service laundries;
- 154 dd. Taxi operation;
- 155 ee. Mobile food services;
- 156 ff. Itinerant merchants, provided all activities shall be limited to uses permitted
- 157 outright under this zoning district;
- 158 gg. Recreational vehicle parks, provided they shall conform to the standards in
- 159 Article II of Chapter 21.54 HCC;
- 160 hh. Day care homes; provided, that a conditional use permit was obtained for
- 161 the dwelling, if required by HCC 21.24.030; all outdoor play areas must be
- 162 fenced;
- 163 ii. Rooming house and bed and breakfast;
- 164 jj. Dormitory;
- 165 kk. As an accessory use, one small wind energy system per lot;
- 166 ll. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
- 167 testing facilities as defined by state law.

168
169 Section 3. Homer City Code Section 21.26.020, Permitted uses and structures, is
170 amended to read as follows:

171
172 Section 21.26.020 Permitted uses and structures.

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

- 176 a. Production, processing, assembly and packaging of fish, shellfish and
177 seafood products;
- 178 b. Construction, assembly and storage of boats and boat equipment;
- 179 c. Manufacture and assembly of pottery and ceramics, musical instruments,
180 toys, novelties, small molded products, electronic instruments and equipment
181 and electrical devices;
- 182 d. Research and development laboratories;
- 183 e. Trade, skills or industrial schools;
- 184 f. Publishing, printing and bookbinding facilities;
- 185 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals,
186 service and repair, excluding storage of vehicles or equipment that is
187 inoperable or in need of repair;
- 188 h. Storage and distribution services and facilities, including truck terminals,
189 warehouses and storage buildings and yards, contractors' establishments,
190 lumberyards and sales, or similar uses;
- 191 i. Airports and air charter operations;
- 192 j. Underground bulk petroleum storage;
- 193 k. Cold storage facilities;
- 194 l. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 195 m. Mobile commercial structures;
- 196 n. Accessory uses to the uses permitted in the GC2 district that are clearly
197 subordinate to the main use of the lot or building, such as wharves, docks,
198 restaurant or cafeteria facilities for employees; or caretaker
199 or dormitory residence if situated on a portion of the principal lot; provided,
200 that separate permits shall not be issued for the construction of any type
201 of accessory building prior to that of the main building;
- 202 o. Taxi operation;
- 203 p. Mobile food services;
- 204 q. Itinerant merchants, provided all activities shall be limited to uses permitted
205 outright under this zoning district;
- 206 r. Recreational vehicle parks, provided they shall conform to the standards in
207 Chapter 21.54 HCC;
- 208 s. Hotels and motels;
- 209 t. Dormitory;
- 210 u. As an accessory use, one small wind energy system per lot;
- 211 v. Open air business;
- 212 w. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
213 testing facilities as defined by state law.

214
215 Section 4. Homer City Code Section 21.27.020, Permitted uses and structures, is

216 amended to read as follows:

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- Section 21.27.020 Permitted uses and structures.
- The following uses are permitted outright in the East End Mixed Use District, except when such use requires a conditional use permit by reason of size, traffic volumes, or other reasons set forth in this chapter:
- a. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair;
 - b. Drive-in car washes;
 - c. Building supply and equipment sales and rentals;
 - d. Garden supplies and greenhouses;
 - e. Boat and marine equipment sales, rentals, manufacturing, storage yard, service and repair;
 - f. Welding and mechanical repair;
 - g. Restaurants, including drive-in restaurants, clubs and drinking establishments;
 - h. Religious, cultural, and fraternal assembly;
 - i. Studios;
 - j. Personal services;
 - k. Agricultural activities, including general farming, truck farming, nurseries, tree farms and greenhouses;
 - l. Private stables;
 - m. Storage of heavy equipment, vehicles or boats;
 - n. Plumbing, heating and appliance service shops;
 - o. Home occupations on a lot whose principal permitted use is residential, provided they conform to the requirements of HCC 21.51.010;
 - p. Mortuaries and crematoriums;
 - q. Open air businesses;
 - r. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
 - s. Manufacturing, fabrication and assembly;
 - t. Retail businesses;
 - u. Trade, skilled or industrial schools;
 - v. Wholesale businesses, including storage and distribution services incidental to the products to be sold;
 - w. Parks and open space;
 - x. Warehousing, commercial storage and mini-storage;
 - y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b) and (c);
 - z. Dry cleaning, laundry, and self-service laundries;
 - aa. Mobile food services;
 - bb. As an accessory use, one small wind energy system per lot;
 - cc. Production, processing, assembly and packaging of fish, shellfish and seafood products;

- 259 dd. Research and development laboratories;
- 260 ee. Storage and distribution services and facilities, including truck terminals,
- 261 warehouses and storage buildings and yards, contractors' establishments,
- 262 lumberyards and sales, or similar uses;
- 263 ff. Cold storage facilities;
- 264 gg. Mobile commercial structures;
- 265 hh. Single-family and duplex dwellings, only as an accessory use incidental to a
- 266 permitted principal use; provided, that no permit shall be issued for the
- 267 construction of an accessory dwelling prior to the establishment of the
- 268 principal use;
- 269 ii. The repair, replacement, reconstruction or expansion of a single-family or
- 270 duplex dwelling, including a mobile home, that existed lawfully before its
- 271 inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding any
- 272 provision of Chapter 21.61 HCC to the contrary; provided, that a mobile home
- 273 may not be used to replace or expand such a dwelling;
- 274 jj. Customary accessory uses to any of the uses permitted in the EEMU district
- 275 that are clearly subordinate to the main use of the lot or building, including
- 276 without limitation wharves, docks, storage facilities, restaurant or cafeteria
- 277 facilities for employees; or caretaker or employee dormitory residence if
- 278 situated on a portion of the same lot as the principal use; provided, that no
- 279 permit shall be issued for the construction of any type of accessory building
- 280 prior to the establishment of the principal use;
- 281 kk. Taxi operation;
- 282 ll. Itinerant merchants, provided all activities shall be limited to uses permitted
- 283 outright under this zoning district;
- 284 mm. More than one building containing a permitted principal use on a lot;
- 285 nn. The outdoor harboring or keeping of dogs, small animals and fowl as an
- 286 accessory use to a residential use in a manner consistent with the
- 287 requirements of all other provisions of the Homer City Code and as long as
- 288 such animals are pets of the residents of the dwelling and their numbers are
- 289 such as not to unreasonably annoy or disturb occupants of neighboring
- 290 property;
- 291 oo. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
- 292 testing facilities as defined by state law.

294 Section 5. Homer City Code Chapter 21.62, Marijuana Cultivation, Manufacturing,

295 Retail, and Testing Facilities, is enacted to read as follows:

296

297 Chapter 21.62

298 Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities.

299

300 Sections:

301 21.62.010 Scope.

302 21.62.020 Intent.
303 21.62.030 Definitions.
304 21.62.040 Pre-application conference.
305 21.62.050 Costs.
306 21.62.060 Safety and Security Plan.
307 21.62.070 Buffers.
308 21.62.080 General restrictions on all marijuana facilities.

309
310 21.62.010 Scope.

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

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

319
320 21.62.020 Intent.

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

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

338
339 21.62.030 Definitions. [reserved]

340
341 21.62.040 Pre-application Conference.

342 When Title 21 requires a conditional use permit for a marijuana facility, the
343 applicant must meet with the City Planner to discuss the conditional use permit
344 process and any issues that may affect the proposed conditional use. This meeting is

345 to provide for an exchange of general and preliminary information only and no
346 statement made in such meeting by either the applicant or the City Planner shall be
347 regarded as binding or authoritative for the purposes of this title.
348

349 21.62.050 Costs.

350 The cost of all permits, studies and investigation required under this chapter
351 shall be borne by the applicant.
352

353 21.62.060 Safety and Security Plan.

354 A conditional use permit for a marijuana facility required by this title shall
355 include an analysis of the ways in which the intent and purpose of this chapter have
356 been met and the safety concerns identified in Sections 21.62.010 and 21.62.020 will
357 be addressed.
358

359 21.62.070 Buffers.

360 a. The Commission may require buffers, including berms, fences, trees, and
361 shrubs, to minimize impacts to adjacent property. A landscaped buffer or combination
362 of landscaping and berms of no less than ten feet in width will be required where the
363 property with a marijuana facility adjoins districts in which marijuana facilities are
364 prohibited or permitted only as a conditional use.

365 b. The following buffer zones shall be applied to all marijuana facilities in all
366 districts:

- | | | | |
|-----|----|-------------------|-----------|
| 367 | 1. | Schools | 1000 feet |
| 368 | 2. | Churches | 500 feet |
| 369 | 3. | Jail | 500 feet |
| 370 | 4. | Youth/rec. center | 500 feet |
| 371 | 5. | Library | 200 feet |

372
373 c. Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday
374 Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park must have
375 1000 feet or more buffers measured from the boundary of the park.

376 d. For purposes of this section, "schools" mean property primarily used as a
377 private or public elementary or secondary education facility or property primarily
378 used as a post-secondary education facility, including but not limited to private, faith-
379 based, and public colleges and universities.
380

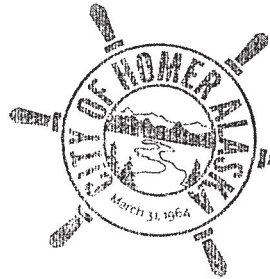
381 21.62.80 General restrictions applied to all marijuana facilities.

382 a. All marijuana facilities in all districts shall comply with Section 21.59.030 of
383 this title.

384 b. An application for a conditional use permit under this chapter shall not be
385 approved if the location of the facility violates the regulatory intent in Section
386 21.62.020.
387

388 Section 6. This ordinance is of a permanent and general character and shall be
389 included in the City code.

390
391 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 14th day of
392 March, 2016.



CITY OF HOMER

Mary E. Wythe
MARY E. WYTHE, MAYOR

399 ATTEST:

400
401 [Signature]
402
403 JO JOHNSON, MMC, CITY CLERK

405
406 AYES: 5
407 NOES: 0
408 ABSTAIN: 0
409 ABSENT: 1

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413 First Reading: 1/25/16
414 Public Reading: 2/08/16 & 2/22/16 Reconsidered 2/09/16 & 2/23/16
415 Second Reading: 3/14/16
416 Effective Date: 3/15/16

421 Reviewed and approved as to form:

422
423 Mary K. Koester
424 Mary K. Koester, City Manager

Thomas F. Klinkner
Thomas F. Klinkner, City Attorney

425
426 Date: 3.18.16

Date: 3-21-16

1 CITY OF HOMER
2 HOMER, ALASKA

3 Mayor

4 ORDINANCE 16-04(A)(S-2)(A)
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING **HOMER CITY CODE 21.12, RURAL RESIDENTIAL;**
8 HOMER CITY CODE 21.18, CENTRAL BUSINESS DISTRICT; HOMER
9 CITY CODE 21.24, GENERAL COMMERCIAL 1; HOMER CITY CODE
10 21.26, GENERAL COMMERCIAL 2; HOMER CITY CODE 21.27, EAST
11 END MIXED USE; HOMER CITY CODE 21.40 TO IDENTIFY THE
12 ZONING DISTRICTS PERMITTING MARIJUANA FACILITIES AND
13 ADOPTING CHAPTER 21.62 ENTITLED "MARIJUANA FACILITIES"
14 REGARDING GENERAL LAND USE REQUIREMENTS FOR
15 MARIJUANA CULTIVATION, MANUFACTURING, TESTING, AND
16 RETAIL FACILITIES **TO BE EFFECTIVE ONLY UPON**
17 **CERTIFICATION OF A MAJORITY VOTE REJECTING 16-07 THE**
18 **PROPOSITION TO PROHIBIT MARIJUANA ESTABLISHMENTS IN**
19 **THE CITY AT THE GENERAL ELECTION TO BE HELD IN THE CITY**
20 **ON OCTOBER 4, 2016. A SPECIAL ELECTION TO BE HELD IN**
21 **THE CITY ON APRIL 19, 2016.**
22

23 WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding
24 the use of property within the City to cultivate, manufacturer marijuana or to operate a retail
25 store selling marijuana; ~~and~~ **and the proposition to prohibit marijuana establishments in**
26 **the city at the special election to be held on April 19, 2016; and**
27

28 WHEREAS, The City is dedicated to drafting regulations that prevent the distribution of
29 marijuana to minors; prevents revenue from the sale of marijuana from going to criminal
30 enterprises, gangs, and cartels; prevents the diversion of marijuana from states where it is
31 legal under state law in some form to other states; prevents state-authorized marijuana
32 activity from being used as a cover or pretext for the trafficking of other illegal drugs or other
33 illegal activity; prevents violence and the use of firearms in the cultivation and distribution of
34 marijuana; prevents drugged driving and the exacerbation of other adverse public health
35 consequences associated with marijuana use; prevents the growing of marijuana on public
36 lands and the attendant public safety and environmental dangers posed by marijuana
37 production on public land; and prevents marijuana possession or use on federal property.
38

39 THE CITY OF HOMER ORDAINS:
40

41 Section 1. Homer City Code Chapter 21.12 is amended as follows
42

43 Section 21.12.020 Permitted uses and structures.
44

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

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

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

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

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

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

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

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

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

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

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

101
102 Section 2. Homer City Code Chapter 21.18 is amended as follows:

103 Section 21.18.020 Permitted uses and structures.

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

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

109 b. Personal service establishments;

110 c. Professional offices and general business offices;

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

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

115 f. Hotels and motels;

116 g. Mortuaries;

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

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

120 j. Parks;

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

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

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

Added language Deleted language stricken through.]

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

183
184 Section 3. Homer City Code Chapter 21.24 is amended as follows:

185 Section 21.24.020 Permitted uses and structures.

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

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

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

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

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

- 223 bb. Customary accessory uses to any of the permitted uses listed in the
224 GC1 district; provided, that no separate permit shall be issued for the
225 construction of any type of accessory building prior to that of the main
226 building;
227 cc. Dry cleaning, laundry, and self-service laundries;
228 dd. Taxi operation;
229 ee. Mobile food services;
230 ff. Itinerant merchants, provided all activities shall be limited
231 to uses permitted outright under this zoning district;
232 gg. Recreational vehicle parks, provided they shall conform to the
233 standards in Article II of Chapter 21.54 HCC;
234 hh. Day care homes; provided, that a conditional use permit was
235 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play
236 areas must be fenced;
237 ii. Rooming house and bed and breakfast;
238 jj. Dormitory;
239 kk. As an accessory use, one small wind energy system per lot.
240 **ll. Marijuana cultivation facilities, manufacturing facilities, retail**
241 **facilities, and testing facilities as defined by state law.**
242

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

244 Section 21.26.020 Permitted uses and structures.

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

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

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

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

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

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

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Section 21.27.020 Permitted uses and structures.

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

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

Added language Deleted language ~~stricken through.~~

- 334 bb. As an accessory use, one small wind energy system per lot;
335 cc. Production, processing, assembly and packaging of fish, shellfish
336 and seafood products;
337 dd. Research and development laboratories;
338 ee. Storage and distribution services and facilities, including truck
339 terminals, warehouses and storage buildings and yards, contractors'
340 establishments, lumberyards and sales, or similar uses;
341 ff. Cold storage facilities;
342 gg. Mobile commercial structures;
343 hh. Single-family and duplex dwellings, only as an accessory use
344 incidental to a permitted principal use; provided, that no permit shall
345 be issued for the construction of an accessory dwelling prior to the
346 establishment of the principal use;
347 ii. The repair, replacement, reconstruction or expansion of a single-
348 family or duplex dwelling, including a mobile home, that existed
349 lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts,
350 notwithstanding any provision of Chapter 21.61 HCC to the contrary;
351 provided, that a mobile home may not be used to replace or expand
352 such a dwelling;
353 jj. Customary accessory uses to any of the uses permitted in the EEMU
354 district that are clearly subordinate to the main use of the lot
355 or building, including without limitation wharves, docks, storage
356 facilities, restaurant or cafeteria facilities for employees; or caretaker or
357 employee dormitory residence if situated on a portion of the same lot
358 as the principal use; provided, that no permit shall be issued for the
359 construction of any type of accessory building prior to the
360 establishment of the principal use;
361 kk. Taxi operation;
362 ll. Itinerant merchants, provided all activities shall be limited to uses
363 permitted outright under this zoning district;
364 mm. More than one building containing a permitted principal use on
365 a lot;
366 nn. The outdoor harboring or keeping of dogs, small animals and fowl
367 as an accessory use to a residential use in a manner consistent with the
368 requirements of all other provisions of the Homer City Code and as long
369 as such animals are pets of the residents of the dwelling and their
370 numbers are such as not to unreasonably annoy or disturb occupants of
371 neighboring property.
372 **oo. Marijuana cultivation facilities, manufacturing facilities, retail**
373 **facilities, and testing facilities as defined by state law.**
374
375
376

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

377 Section 6. Chapter 21.62 is hereby enacted as follows:

378

379 **Chapter 21.62**

380

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

382

383 **Sections:**

384 **21.62.010 Scope.**

385 **21.62.020 Intent**

386 **21.62.030 Definitions**

387 **21.62.040 Pre-application conference.**

388 **21.62.050 Costs**

389 **21.62.060 Safety and Security Plan**

390 **21.62.070 Buffers.**

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

392

393 **21.62.010 Scope**

394

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

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

403

404 **21.62.020 Intent**

405

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

407

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

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

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

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

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

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

419 **7. The growing of marijuana on public lands and the attendant public safety**

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

420 and environmental dangers posted my marijuana production on public
421 land; and

422 **8. Marijuana possession or use on federal property.**

423
424 **21.62.030 Definitions [reserved]**

425
426 **21.62.040 Pre-application Conference.**

427
428 **21.57.050 Costs.**

429
430 The cost of all permits, studies and investigation required under this
431 chapter shall be borne by the applicant.

432
433 When Title 21 requires a conditional use permit for a marijuana facility, the
434 applicant must meet with the City Planner to discuss the conditional use
435 permit process and any issues that may affect the proposed conditional
436 use. This meeting is to provide for an exchange of general and preliminary
437 information only and no statement made in such meeting by either the
438 applicant or the City Planner shall be regarded as binding or authoritative
439 for the purposes of this title.

440
441 **21.62.060 Safety and Security Plan**

442
443 A conditional use permit for a marijuana facility required by this title shall
444 include an analysis of the ways in which the intent and purpose of this
445 chapter have been met and the safety concerns identified in Sections
446 21.62.010 and 21.62.020 will be addressed.

447
448 **21.62.070 Buffers**

449
450 a) The Commission may require buffers, including berms, fences, trees, and
451 shrubs, to minimize impacts to adjacent property. A landscaped buffer or
452 combination of landscaping and berms of no less than ten feet in width will
453 be required where the property with a marijuana facility adjoins districts
454 in which marijuana facilities are prohibited or permitted only as a
455 conditional use.

456
457 b) The following buffer zones shall be applied to all marijuana facilities in all
458 districts:

- 459
460 1. Schools 1000 feet
461 2. Churches 500 feet
462 3. Jail 500 feet

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

- 463 4. Youth/rec. center 500 feet
- 464 5. Library 200 feet

465
466 c) Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday
467 Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park
468 must have 1000 feet or more buffers measured from the boundary of the
469 park.

470
471 d) For purposes of this section, “schools” mean property primarily used as a
472 private or public elementary or secondary education facility or property
473 primarily used as a post-secondary education facility, including but not
474 limited to private, faith-based, and public colleges and universities.

475
476 **21.62.80 General restrictions applied to all marijuana facilities.**

477
478 a) All marijuana facilities in all districts shall comply with Section 21.59.030
479 of this title.

480
481 b) An application for a conditional use permit under this chapter shall not be
482 approved if the location of the facility violates the regulatory intent in
483 Section 21.62.020.

484
485 Section 7. This ordinance shall take effect upon certification of a majority vote
486 rejecting the proposition to prohibit marijuana establishments in the City at the regular
487 election to be held in the City on October 4, 2016 a special election to be held in the city
488 on April 19, 2016.

489
490 Section 8. This ordinance is of a permanent and general character and shall be
491 included in the City code.

492
493 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of
494 _____ 2016.

495
496 CITY OF HOMER

497
498
499 _____
500 MARY E. WYTHE, MAYOR

501 ATTEST:

502
503
504 _____
505 JO JOHNSON, MMC, CITY CLERK

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

506 AYES:
507 NOES:
508 ABSTAIN:
509 ABSENT:
510
511
512
513 First Reading:
514 Public Reading:
515 Second Reading:
516 Effective Date:
517
518
519
520 Reviewed and approved as to form:
521
522 _____
523 Mary K. Koester, City Manager
524
525 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

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



City of Homer

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Memorandum 16-016

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: JO JOHNSON, MMC, CITY CLERK
DATE: JANUARY 19, 2016
SUBJECT: RESULTS OF BALLOT MEASURE 2 TO LEGALIZE RECREATIONAL MARIJUANA FOR CITY OF HOMER VOTERS

Official election results from the General Election of November 4, 2014 of Ballot Measure 2 to legalize recreational marijuana for City of Homer voters are as follows:

BALLOT MEASURE 2	YES	NO	TOTAL VOTES
Homer No. 1	492	417	909
Homer No. 2	358	324	682
Totals	850	741	1,591

There were 4,499 registered voters in Homer No. 1 and 2 precincts with 1,591 people voting on Ballot Measure 2 for a 35% turnout.

53% of votes cast were YES for legalized recreational marijuana; 47% of votes cast were NO.

Informational only.



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Memorandum 16-032

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: JO JOHNSON, MMC, CITY CLERK
DATE: FEBRUARY 12, 2016
SUBJECT: HISTORY OF ORDINANCE 16-04(A)(S) – IDENTIFYING ZONING DISTRICTS
PERMITTING MARIJUANA FACILITIES

This summary is meant to provide the history of Ordinance 16-04(A)(S) to clarify the actions Council has taken, along with future actions the Council will consider.

January 25, 2016 – Ordinance 16-04 introduced and amended:

- ✓ Removed the Conditional Use Permit requirement from the Central Business District to allow marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by state law to be permitted outright.
- ✓ Designated that Marine Commercial be a no sale zone.

(Ordinance 16-04 becomes 16-04(A))

February 8, 2016 – Ordinance 16-04(A) public hearing and Substitute Ordinance 16-04(A)(S) adopted:

- ✓ Added limited marijuana cultivation facility in Rural Residential as defined in state law subject to the following provisions:
 1. The facility shall only be located on lots greater than 20,000 square feet.
 2. The facility shall comply with HCC 21.59, Off-site Impacts.
 3. The facility shall be setback 50 feet from the lot line.

(Ordinance 16-04(A) becomes 16-04(A)(S))

February 10, 2016 – Reconsideration of Ordinance 16-04(A)(S) issued timely by Councilmember Aderhold.

February 22, 2016 – Ordinance 16-04(A)(S) before Council for reconsideration. If reconsideration passes Ordinance 16-04(A)(S) will come back for further consideration and action under Public Hearings. If reconsideration fails, Ordinance 16-04(A)(S) stands as decided February 8th.

February 22, 2016 – Second Substitute Ordinance 16-04(A)(S-2) to be introduced by Mayor Wythe to add the following provision to marijuana zoning: **to be Effective Only Upon Certification of a Majority Vote Rejecting the Proposition to Prohibit Marijuana Establishments in the City at the Regular Election to be Held in the City on October 4, 2016.**

Public testimony is welcome for Ordinance 16-04(A)(S) and 16-04(A)(S-2) on February 22nd.

Informational only.



City of Homer

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Memorandum 16-017

TO: MAYOR WYTHE AND HOMER CITY COUNCIL
 THROUGH: KATIE KOESTER, CITY MANAGER
 FROM: RICK ABBOUD, CITY PLANNER
 DATE: JANUARY 14, 2016
 SUBJECT: DRAFT ORDINANCE PROPOSING TO ZONE MARIJUANA RELATED ACTIVITIES WITHIN THE CITY OF HOMER

The Planning Commission has been working on this item since August. It has been an agenda item at six meetings, two of which have been public hearings. This proposed ordinance deals specifically with zoning regulations for the four activities defined by the state: Cultivation; Limited (small - under 500 square feet) and Standard (large - more than 5000 square feet), Manufacturing, Retail, and Testing. The best way to express this is the table below and the map attached. At this point, there is no distinction for zoning purposes between limited and standard cultivation operations.

Our goal with this ordinance is to provide a place to start with the regulation of the industry and to have some options available prior to the date when the state is scheduled to accept applications, February 24th. This will allow the City Council to introduce and hold two public hearing prior to this date. The Planning Commission wants to allow the industry to start in a somewhat limited area until we gain more experience, with the thought it would be much easier to loosen rules in the future rather than try to ratchet it back later and leave nonconformities behind. If the Council recommends something that needs to be review by the Planning Commission, I recommend passing the parts of the ordinance that are acceptable to the Council, so that entrepreneurs have reasonable options to apply for a license February 24th. If no ordinance is adopted, commercial marijuana will be an unlisted use, meaning every application will be a conditional use with a fairly high threshold for approval. This is an unreasonable expectation.

It is important to consider the regulation that is proposed by the state when considering the regulations proposed by the city. We may not propose anything that is more liberal than what the state proposes. A brief summary of the state regulation is provided and attached is the regulation proposed at the time of this report.

A = Allowed (reviewed by the Planning Office). C = Conditional Use Permit needed (hearing before the Planning Commission required).

Table 1. Cannabis Activity by Zoning District

Activity	District					
	CBD	GC1	GC2	EEMU	MC	
Retail	C	A	A	A	C	
MFG	C	A	A	A		
Testing	A	A	A	A		
Cultivation						
small	C	A	A	A		
large	C	A	A	A		

The Planning Commission also proposes some buffer distances in addition to the state provisions. These buffers are based on the federal governments' double penalty zone as defined in US Code. This includes 1000 feet buffers from the two colleges, the Alaska Bible Institute and the Kenai Peninsula College. 1000 feet buffers from Karen Hornaday, Jack Gist, Bayview, and Ben Walters Parks are also recommended. Another recommendation is a 200 foot buffer from the library. The language used by the state and the federal government does not describe a library, but after a request from the Library Advisory Board, the commission did recommend a 200 foot buffer. This buffer with the buffer extended from the college and consideration of the uses and ownership of nearby properties realistically ensures that operations will not be proposed anywhere in close proximity to the library. The combination of the library and college buffers, and existing land uses and land ownership (post office, banks) realistically ensures that operations will not be proposed anywhere close to the library.

You will surely be made aware of a petition that proposes that limited cultivation be allowed outright in the Rural Residential District and that marijuana activities be allowed outright in the Central Business District. Both of these subjects have been discussed at length by the Planning Commission. The commission believes that the limited cultivation in the Rural Residential District is too commercial to meet the purpose of the district. A limited cultivation operation is required by the state to have exterior lighting to facilitate surveillance (including within 20 feet of each entrance), a security alarm on all windows and doors, and continuous video monitoring. Approval for a commercial business from the Fire Marshal is required. All persons dealing with the product must have a marijuana handler permit. There must be a plan for odor control to ensure that it is not detectable off the premises. This is just a sampling of the many requirements of the state licensing requirements found in the final regulations through 12-1-15. Another concern about limited cultivation in the Rural Residential District is density. Because of the city regulations for lot size, many lots that have access to water and sewer are small. In any event, the commission would not entertain commercial activities on lots less than 20,000 square feet (about half an acre). In addition, there was discussion about the minimum distance between a commercial grow operation, and the adjoining property. In the end, commercial cultivation was not recommended for the district.

The Commission also thought that cannabis activities in the Central Business District would be best with additional review of the Planning Commission and an opportunity for neighbors to be noticed and participate in the hearing.

State of Alaska

While the City is looking at regulating relatively small aspects of the industry, the meat of requirements are found in the proposed regulations of the state. These regulations are quite extensive. There are requirements (Article 7) that apply to all of the activities along with more specific requirements that address each of the 4 individual licensing areas individually. One really needs to understand the state regulations to get an accurate picture of what these businesses may look like when approved. There are 127 pages that compose articles 1-9 of the proposed state regulations. I have highlighted some of these below, and draw particular attention to those that are a relevant consideration for zoning.

Many aspects of marijuana businesses are regulated by the state including:

- All waste disposal
- Transportation of the product
- Signage and advertising
- Inventory tracking
- No odor may be detectable off site

- None of the product may be consumed in any licensed facility (with the exception of the newly proposed consumption component of the retail license-more rules to come)
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5 am and 8 am
- All business activities must be secured. This means that cameras and lighting needs to be adequate to identify those inside the facility and anyone within 20 feet of the outside entrances.
- Commercial grade locks will need to be installed.
- State application procedures require announcement in the newspaper for 3 consecutive weeks and announcements on the radio twice a week for 3 consecutive weeks, as well as on-site and nearby postings.

The state has proposed buffers such as:

- 500 feet from a school, a recreation or youth center, a building which religious services are regularly conducted, or a correctional facility.

Other aspects of the industry not addressed

During our conversation with the commission we received testimony and talked about other aspects of the industry not related to zoning such as; public consumption, driving under the influence, and a host of other concerns related to consumption. These items are for the police. Another item that came up frequently is the cannabis club or cafe. I put this in two categories.

I consider the cannabis club as a fraternal organization of sorts. This is not open to the general public in the sense that you have to be a member to enter, think ELKs. In this case, I would treat this use as the 'run-of-the-mill' fraternal assembly. The fraternal assembly may do anything that is not against the law. If they break the law, it would be the business of law enforcement to address.

I would describe a cannabis café as a place open to the general public where sales and consumption take place. The state is working on an allowance for a retail marijuana store to have a place for consumption. We do not have the specifics of this yet, but it is in the realm of a state licensed activity. I will not propose provision in city code for an activity that is not recognized by the state. If the state rules change in the future, the City can address it at that time.

Att.

1. Ordinance 16-04
2. Commercial Cannabis Cultivation Map 1/25/16
3. Commercial Cannabis Retail and Manufacturing Map, 1/25/16
4. State Regulations



City of Homer

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Memorandum 16-023

TO: MAYOR WYTHE AND HOMER CITY COUNCIL
THROUGH: KATIE KOESTER, CITY MANAGER
FROM: RICK ABBOUD, CITY PLANNER
DATE: FEBRUARY 1, 2016
SUBJECT: DRAFT ORDINANCE 16-04(A)(S) PROPOSING TO ZONE MARIJUANA
RELATED ACTIVITIES WITHIN THE CITY OF HOMER

Council Member Lewis proposes a substitute ordinance to Ordinance 16-04(A). This leaves the ordinance as amended intact. What it does is add Limited Cultivation (under 500 square feet of cultivation area) as a permitted use in the Rural Residential District when proposed within a few parameters (found on lines 112-117):

1. It shall be located on a lot greater than 20,000 square feet (a bit less than ½ an acre).
2. It shall comply with HCC 21.59, Off-site Impacts (This section of code is our nuisance standards that are applied to businesses in commercial districts from Residential Office to General Commercial 2. There are no nuisance standards in the Urban Residential and Rural Residential. It is and has been a subject of discussion. In general, we would not expect business located in these districts to present much of a nuisance).
3. It shall be located 50 feet from the lot line (some lots of irregular shapes, especially those closer to 20,000 square feet may be challenged to meet the standard).

Att.

1. Ordinance 16-04(A)(S)



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MEMORANDUM 16-036

DATE: February 16, 2016
TO: Katie Koester, City Manager
FROM: Mark Robl, Chief of Police
SUBJECT: Marijuana Legalization Impacts

Last week you requested that I research the possible impacts of the legalization of marijuana for the council's consideration. Based on meetings and various presentations I have attended I have some knowledge of the subject but I do not have any firm statistical data to present. I spoke with and emailed public safety agencies in Colorado and Washington, requesting arrest and contact data for marijuana related offenses both pre and post legalization. I have also tried to obtain data relating to the impact of legalization on juveniles. To date; I have not yet received any replies to my inquiries.

This is one subject where internet searches can be counted on to result in erroneous and corrupted results. There are dozens and dozens of internet sites proclaiming to be presenting the real facts and honest data relating to legalization. Close examination reveals the information to be at best a misinterpretation of crime statistics and in some cases simply concocted information. I attended a presentation by a captain from the Washington State Patrol last year. He warned our group about the vast amount of false data on the internet relating to marijuana. I think if we are going to base any decisions on realized statistics, the statistics need to come from a reliable source. Another important factor to consider is the relative newness of legalized marijuana to the scene. After just one year of legalization, can we blame legalization for any increase in crime rates? Normal crime statistic studies generally require five years of data before any causation factors are considered to be relevant.

Based on a presentation I attended at the crime conference last spring, Denver Police statistics show that the crime rate is up almost 7% post legalization. This is a summation across all crime types, about 35 in all. They showed drug violations to be up 20% and public use violations to be up 237%. Many statistical comparisons that would be very interesting to know do not exist because the categories were not tracked prior to legalization. Officials from Denver and Washington State both reported an increase in the amount of use by juveniles but no statistics were provided. Both also reported that the required security at licensed facilities seemed to be a deterrence to crime but they have experienced robberies and burglaries at all types of marijuana related businesses. Our local marijuana social club has been burglarized once, about two weeks ago.



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MEMORANDUM 16-037

DATE: February 1st 2016
TO: City Manager Koester
FROM: Mark Robl, Chief of Police, Bob Painter Fire Chief
SUBJECT: Second Hand Marijuana Smoke

Current proposals from the state will allow marijuana to be smoked in retail establishments. Marijuana Social Clubs are illegal under state law but how to conduct enforcement against them is not clearly defined. Clubs exist and are operating in Homer, Anchorage and Fairbanks. Nothing exists in state law to regulate the amount of smoke in these establishments, prescribe limits on smoke, or require ventilation.

We ask that the Council take into consideration the safety and potential exposure hazard of second hand smoke to City employees and volunteers when considering permitting the smoking of marijuana in retail establishments, marijuana social clubs or any public venue in the City of Homer. It is our responsibility to limit the exposure to second hand smoke of all types by our firefighters, police officers and EMS personnel whenever possible. Second hand marijuana smoke is arguably more dangerous than second hand cigarette smoke as it contains elements that may impair a person if subjected to excessive smoke for too long a period of time. The decision by the state to allow public smoking in retail stores and not to address it in social club situations without ventilation requirements or smoke concentration level restrictions produces potentially hazardous response situations and liability concerns for us. We would not want to send a police officer or firefighter into a dangerous scene after any exposure to second hand marijuana smoke, especially if they've been in a setting where the smoke level was very elevated. There is no known acceptable exposure level to second hand marijuana smoke for first responders. Any level of THC discovered in a police officer could result in their decertification by the Alaska Police Standards Council. The city passed an ordinance several years ago to ban cigarette smoking on any city owned property to protect city employees from second hand smoke.



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 16-040

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: FEBRUARY 25, 2016
SUBJECT: UPDATE ON COUNCIL ACTIONS RELATING TO COMMERCIAL MARIJUANA

February 22, 2016 – Ordinance 16-06 prohibiting commercial marijuana activity in the City failed.

February 22, 2016 – Ordinance 16-07(A) was introduced. This ordinance proposes the following proposition come before the voters at a Special Election to be held in the City on April 19, 2016:

PROPOSITION NO. 1

Shall the City of Homer adopt a local option to prohibit the sale and importation for sale of marijuana and any marijuana product; the operation of any marijuana establishment, including one or more of the following license types: a retail marijuana store; a cultivation facility; a marijuana product manufacturing facility; or a marijuana testing facility?

YES NO

A “YES” vote would prohibit the operation of any commercial marijuana establishments, including cultivation facilities, testing facilities, manufacturing facilities, and retail stores or facilities from operating within the boundaries of the City of Homer.

A “NO” vote would permit the City of Homer City Council to permit operations of commercial marijuana establishments, including cultivation facilities, manufacturing facilities, testing facilities, and/or retail stores or facilities within the boundaries of the City of Homer.

March 14, 2016 - A public hearing on this ordinance will be held at the City Council meeting. Public testimony is welcome at the public hearing. The public may also provide written comment to the City Clerk if they are unable to attend.

February 22, 2016 – Reconsideration of Ordinance 16-04(A)(S) passed

- ✓ The motion to substitute Ordinance 16-04(A)(S) for Ordinance 16-04(A) back to Council under public hearings.
- ✓ After hearing public testimony and discussion the motion to substitute failed.
- ✓ Ordinance 16-04(A) was back on the floor for consideration
- ✓ A motion was made to substitute Ordinance 16-04(A)(S-2) for Ordinance 16-04(A)

February 22, 2016 – Ordinance 16-04(A)(S-2) adopted as amended:

- ✓ Included all the language proposed in 16-04(A)(S)
- ✓ Amended to add Chapter 21.62 “Marijuana Facilities” regarding land use requirements for marijuana cultivation, manufacturing, testing, and retail facilities to be effective only upon certification of a majority vote rejecting the Proposition to prohibit marijuana establishments in the City at a Special Election to be held in the City on April 19, 2016.

(Ordinance 16-04(A) becomes 16-04(A)(S-2(A))

February 23, 2016 – Reconsideration of Ordinance 16-04(A)(S-2)(A) issued timely by Councilmember Reynolds.

A summary of the history of Ordinance 16-04 prior to February 22, 2016 can be found in Memorandum 16-032 dated February 12, 2016.

Informational only.



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(f) 907-235-3143

Memorandum 16-046

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: MARCH 3, 2016
SUBJECT: RECONSIDERATION OF ORDINANCE 16-04(A)(S-2)(A)

At the February 22nd City Council meeting Council took the following actions on Ordinance 16-04(A)(S) relating to the zoning for marijuana:

Under Reconsideration

- Voted yes to reconsider Ordinance 16-04(A)(S).

Under Public Hearing

- Voted no to substitute Ordinance 16-04(A)(S) for Ordinance 16-04(A)
- Moved to substitute Ordinance 16-04(A)(S-2) for Ordinance 16-04(A)
- Amended Ordinance 16-04(A)(S-2) to change the dates from the regular election in October to a special election in April

After that Council kept redirecting itself to Ordinance 16-04(A) and proceeded to propose amendments calling it A-2.

The motion to substitute 16-04(A)(S-2) was never amended to remove the allowance in rural residential or to go back to Ordinance 16-04(A) so when Council voted at the end of the public hearing, they voted on the Ordinance 16-04(A)(S-2) version as amended. If the goal of the council is to go back to the version of 16-04(A) then it is recommended that the following actions are taken:

Under Reconsideration

- Vote yes to reconsider Ordinance 16-04(A)(S-2)(A).

Under Pending Business

- Vote no to substitute Ordinance 16-04(A)(S-2)(A). That will put Ordinance 16-04(A) back on the floor.

A copy of Ordinance 16-04(A-2) is provided to show the amendments that were made at the February 22, 2016 meeting.

1
2 **CITY OF HOMER**
3 **HOMER, ALASKA**

4 Planning Commission

5 **ORDINANCE 16-04(A-2)**
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
8 AMENDING HOMER CITY CODE 21.18, CENTRAL BUSINESS
9 DISTRICT; HOMER CITY CODE 21.24, GENERAL COMMERCIAL 1;
10 HOMER CITY CODE 21.26, GENERAL COMMERCIAL 2; HOMER CITY
11 CODE 21.27, EAST END MIXED USE; HOMER CITY CODE 21.40 TO
12 IDENTIFY THE ZONING DISTRICTS PERMITTING MARIJUANA
13 FACILITIES AND ADOPTING CHAPTER 21.62 ENTITLED
14 "MARIJUANA FACILITIES" REGARDING GENERAL LAND USE
15 REQUIREMENTS FOR MARIJUANA CULTIVATION,
16 MANUFACTURING, TESTING, AND RETAIL FACILITIES **TO BE**
17 **EFFECTIVE ONLY UPON CERTIFICATION OF A MAJORITY VOTE**
18 **REJECTING THE PROPOSITION TO PROHIBIT MARIJUANA**
19 **ESTABLISHMENTS IN THE CITY AT A SPECIAL ELECTION TO BE**
20 **HELD IN THE CITY ON APRIL 19, 2016.**
21 .
22

23 WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding
24 the use of property within the City to cultivate, manufacturer marijuana or to operate a retail
25 store selling marijuana **and the proposition to prohibit marijuana establishments in the**
26 **city at the special election to be held on April 19, 2016;** and
27

28 WHEREAS, The City is dedicated to drafting regulations that prevent the distribution of
29 marijuana to minors; prevents revenue from the sale of marijuana from going to criminal
30 enterprises, gangs, and cartels; prevents the diversion of marijuana from states where it is
31 legal under state law in some form to other states; prevents state-authorized marijuana
32 activity from being used as a cover or pretext for the trafficking of other illegal drugs or other
33 illegal activity; prevents violence and the use of firearms in the cultivation and distribution of
34 marijuana; prevents drugged driving and the exacerbation of other adverse public health
35 consequences associated with marijuana use; prevents the growing of marijuana on public
36 lands and the attendant public safety and environmental dangers posed by marijuana
37 production on public land; and prevents marijuana possession or use on federal property.
38

39 THE CITY OF HOMER ORDAINS:

40
41 Section 1. Homer City Code Chapter 21.18 is amended as follows:

42 Section 21.18.020 Permitted uses and structures.
.....

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

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

- 46 a. Retail business where the principal activity is the sale of merchandise
47 and incidental services in an enclosed building;
- 48 b. Personal service establishments;
- 49 c. Professional offices and general business offices;
- 50 d. Restaurants, clubs and drinking establishments that provide food or
51 drink for consumption on the premises;
- 52 e. Parking lots and parking garages, in accordance with
53 Chapter 21.55 HCC;
- 54 f. Hotels and motels;
- 55 g. Mortuaries;
- 56 h. Single-family, duplex, and multiple-family dwellings,
57 including townhouses, but not including mobile homes;
- 58 i. Floatplane tie-up facilities and air charter services;
- 59 j. Parks;
- 60 k. Retail and wholesale sales of building supplies and materials, only if
61 such use, including storage of materials, is wholly contained within one
62 or more enclosed buildings;
- 63 l. Customary accessory uses to any of the permitted uses listed in the
64 CBD district; provided, that a separate permit shall not be issued for the
65 construction of any detached accessory building prior to that of
66 the main building;
- 67 m. Mobile homes, provided they conform to the requirements set forth
68 in HCC 21.54.100;
- 69 n. Home occupations, provided they conform to the requirements of
70 HCC 21.51.010;
- 71 o. Ministorage;
- 72 p. Apartment units located in buildings primarily devoted to business or
73 commercial uses;
- 74 q. Religious, cultural, and fraternal assembly;
- 75 r. Entertainment establishments;

Added language Deleted language ~~stricken through.~~

- 76 s. Public, private and commercial schools;
- 77 t. Museums and libraries;
- 78 u. Studios;
- 79 v. Plumbing, heating and appliance service shops, only if such use,
80 including the storage of materials, is wholly within an
81 enclosed building;
- 82 w. Publishing, printing and bookbinding;
- 83 x. Recreational vehicle parks only if located south of the
84 Sterling Highway (Homer Bypass) from Lake Street west to the
85 boundary of the Central Business District abutting Webber Subdivision,
86 and from Heath Street to the west side of Lakeside Village Subdivision,
87 provided they shall conform to the standards in HCC 21.54.200 and
88 following sections;
- 89 y. Taxi operation limited to a dispatch office and fleet parking of no
90 more than five vehicles; maintenance of taxis must be conducted within
91 an enclosed structure, and requires prior approval by the City Planner
92 of a site, access and parking plan;
- 93 z. Mobile food services;
- 94 aa. Itinerant merchants, provided all activities shall be limited
95 to uses permitted outright under this zoning district;
- 96 bb. Day care homes and facilities; provided, however, that outdoor play
97 areas must be fenced;
- 98 cc. Rooming house, bed and breakfast and hostel;
- 99 dd. Auto repair and auto and trailer sales or rental areas, but only on
100 Main Street from Pioneer Avenue to the Sterling Highway,
101 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,
102 subject to the following additional requirements: Vehicles awaiting
103 repair or service, inoperable vehicles, vehicles for parts, and vehicles
104 awaiting customer pickup shall be parked indoors or inside a fenced
105 enclosure so as to be concealed from view, on all sides. The fence shall
106 be a minimum height of eight feet and constructed to
107 prohibit visibility of anything inside of the enclosure. The portion of any
108 vehicle exceeding eight feet in height may be visible outside of the

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

- 109 fence. Vehicle parts (usable or unusable), vehicle service supplies, and
110 any other debris created in the repair or servicing of vehicles shall also
111 be stored indoors or inside the fenced enclosure out of view of the
112 public;
- 113 ee. Farmers' market;
 - 114 ff. Dormitory;
 - 115 gg. Financial institutions;
 - 116 hh. As an accessory use, one small wind energy system per lot having a
117 rated capacity not exceeding 10 kilowatts;
 - 118 ii. One detached dwelling unit, excluding mobile homes, as
119 an accessory building to a principal single-family dwelling on a lot.
 - 120 **jj. Marijuana cultivation facilities, manufacturing facilities, retail**
121 **facilities, and testing facilities as defined by state law.**

122
123 Section 2. Homer City Code Chapter 21.24 is amended as follows:

124 Section 21.24.020 Permitted uses and structures.

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

- 128 a. Air charter operations and floatplane tie-up facilities;
- 129 b. General business offices and professional offices;
- 130 c. Dwelling units located in buildings primarily devoted to
131 business uses;
- 132 d. Auto repair;
- 133 e. Auto and trailer sales or rental areas;
- 134 f. Auto fueling stations and drive-in car washes;
- 135 g. Building supply and equipment sales and rentals;
- 136 h. Restaurants, including drive-in restaurants, clubs and drinking
137 establishments;
- 138 i. Garden supplies and greenhouses;
- 139 j. Heavy equipment and truck sales, rentals, service and repair;
- 140 k. Hotels and motels;
- 141 l. Lumberyards;

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

- 142 m. Boat and marine equipment sales, rentals, service and repair;
- 143 n. Mortuaries;
- 144 o. Open air businesses;
- 145 p. Parking lots and parking garages, in accordance with
- 146 Chapter 21.55 HCC;
- 147 q. Manufacturing of electronic equipment, electrical devices, pottery,
- 148 ceramics, musical instruments, toys, novelties, small molded products
- 149 and furniture;
- 150 r. Publishing, printing and bookbinding;
- 151 s. Recreation vehicle sales, rental, service and repair;
- 152 t. Retail businesses;
- 153 u. Trade, skilled or industrial schools;
- 154 v. Wholesale businesses, including storage and distribution services
- 155 incidental to the products to be sold;
- 156 w. Welding and mechanical repair;
- 157 x. Parks and open space;
- 158 y. Appliance sales and service;
- 159 z. Warehousing, commercial storage and mini-storage;
- 160 aa. Banks, savings and loans, credit unions and other financial
- 161 institutions;
- 162 bb. Customary accessory uses to any of the permitted uses listed in the
- 163 GC1 district; provided, that no separate permit shall be issued for the
- 164 construction of any type of accessory building prior to that of the main
- 165 building;
- 166 cc. Dry cleaning, laundry, and self-service laundries;
- 167 dd. Taxi operation;
- 168 ee. Mobile food services;
- 169 ff. Itinerant merchants, provided all activities shall be limited
- 170 to uses permitted outright under this zoning district;
- 171 gg. Recreational vehicle parks, provided they shall conform to the
- 172 standards in Article II of Chapter 21.54 HCC;

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

- 173 hh. Day care homes; provided, that a conditional use permit was
174 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play
175 areas must be fenced;
- 176 ii. Rooming house and bed and breakfast;
- 177 jj. Dormitory;
- 178 kk. As an accessory use, one small wind energy system per lot.

179 **ll. Marijuana cultivation facilities, manufacturing facilities, retail**
180 **facilities, and testing facilities as defined by state law.**

181
182 Section 3. Homer City Code Chapter 21.26 is amended as follows:

183 Section 21.26.020 Permitted uses and structures.

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

- 187 a. Production, processing, assembly and packaging of fish, shellfish and
188 seafood products;
- 189 b. Construction, assembly and storage of boats and boat equipment;
- 190 c. Manufacture and assembly of pottery and ceramics, musical
191 instruments, toys, novelties, small molded products, electronic
192 instruments and equipment and electrical devices;
- 193 d. Research and development laboratories;
- 194 e. Trade, skills or industrial schools;
- 195 f. Publishing, printing and bookbinding facilities;
- 196 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
197 rentals, service and repair, excluding storage of vehicles or equipment
198 that is inoperable or in need of repair;
- 199 h. Storage and distribution services and facilities, including truck
200 terminals, warehouses and storage buildings and yards, contractors'
201 establishments, lumberyards and sales, or similar uses;
- 202 i. Airports and air charter operations;
- 203 j. Underground bulk petroleum storage;
- 204 k. Cold storage facilities;
- 205 l. Parking lots and parking garages, in accordance with
206 Chapter 21.55 HCC;

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

- 207 m. Mobile commercial structures;
- 208 n. Accessory uses to the uses permitted in the GC2 district that are
- 209 clearly subordinate to the main use of the lot or building, such as
- 210 wharves, docks, restaurant or cafeteria facilities for employees; or
- 211 caretaker or dormitory residence if situated on a portion of the
- 212 principal lot; provided, that separate permits shall not be issued for the
- 213 construction of any type of accessory building prior to that of the main
- 214 building;
- 215 o. Taxi operation;
- 216 p. Mobile food services;
- 217 q. Itinerant merchants, provided all activities shall be limited
- 218 to uses permitted outright under this zoning district;
- 219 r. Recreational vehicle parks, provided they shall conform to the
- 220 standards in Chapter 21.54 HCC;
- 221 s. Hotels and motels;
- 222 t. Dormitory;
- 223 u. As an accessory use, one small wind energy system per lot;
- 224 v. Open air business.
- 225 **w. Marijuana cultivation facilities, manufacturing facilities, retail**
- 226 **facilities, and testing facilities as defined by state law.**

227
228 Section 4. Homer City Code Chapter 21.27 is amended to read as follows:

229
230 Section 21.27.020 Permitted uses and structures.

231
232 The following uses are permitted outright in the East End Mixed Use
233 District, except when such use requires a conditional use permit by reason of
234 size, traffic volumes, or other reasons set forth in this chapter:

- 235 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
- 236 rentals, service and repair;
- 237 b. Drive-in car washes;
- 238 c. Building supply and equipment sales and rentals;
- 239 d. Garden supplies and greenhouses;
- 240 e. Boat and marine equipment sales, rentals, manufacturing,
- 241 storage yard, service and repair;
- 242 f. Welding and mechanical repair;
- 243 g. Restaurants, including drive-in restaurants, clubs and drinking

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

- 244 establishments;
- 245 h. Religious, cultural, and fraternal assembly;
- 246 i. Studios;
- 247 j. Personal services;
- 248 k. Agricultural activities, including general farming, truck farming,
- 249 nurseries, tree farms and greenhouses;
- 250 l. Private stables;
- 251 m. Storage of heavy equipment, vehicles or boats;
- 252 n. Plumbing, heating and appliance service shops;
- 253 o. Home occupations on a lot whose principal permitted use is
- 254 residential, provided they conform to the requirements of
- 255 HCC 21.51.010;
- 256 p. Mortuaries and crematoriums;
- 257 q. Open air businesses;
- 258 r. Parking lots and parking garages, in accordance with Chapter 21.55
- 259 HCC;
- 260 s. Manufacturing, fabrication and assembly;
- 261 t. Retail businesses;
- 262 u. Trade, skilled or industrial schools;
- 263 v. Wholesale businesses, including storage and distribution services
- 264 incidental to the products to be sold;
- 265 w. Parks and open space;
- 266 x. Warehousing, commercial storage and mini-storage;
- 267 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a),
- 268 (b) and (c);
- 269 z. Dry cleaning, laundry, and self-service laundries;
- 270 aa. Mobile food services;
- 271 bb. As an accessory use, one small wind energy system per lot;
- 272 cc. Production, processing, assembly and packaging of fish, shellfish
- 273 and seafood products;
- 274 dd. Research and development laboratories;
- 275 ee. Storage and distribution services and facilities, including truck
- 276 terminals, warehouses and storage buildings and yards, contractors'
- 277 establishments, lumberyards and sales, or similar uses;
- 278 ff. Cold storage facilities;
- 279 gg. Mobile commercial structures;
- 280 hh. Single-family and duplex dwellings, only as an accessory use
- 281 incidental to a permitted principal use; provided, that no permit shall
- 282 be issued for the construction of an accessory dwelling prior to the
- 283 establishment of the principal use;
- 284 ii. The repair, replacement, reconstruction or expansion of a single-
- 285 family or duplex dwelling, including a mobile home, that existed
- 286 lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts,

Added language Deleted language stricken through.

287 notwithstanding any provision of Chapter 21.61 HCC to the contrary;
288 provided, that a mobile home may not be used to replace or expand
289 such a dwelling;
290 jj. Customary accessory uses to any of the uses permitted in the EEMU
291 district that are clearly subordinate to the main use of the lot
292 or building, including without limitation wharves, docks, storage
293 facilities, restaurant or cafeteria facilities for employees; or caretaker or
294 employee dormitory residence if situated on a portion of the same lot
295 as the principal use; provided, that no permit shall be issued for the
296 construction of any type of accessory building prior to the
297 establishment of the principal use;
298 kk. Taxi operation;
299 ll. Itinerant merchants, provided all activities shall be limited to uses
300 permitted outright under this zoning district;
301 mm. More than one building containing a permitted principal use on
302 a lot;
303 nn. The outdoor harboring or keeping of dogs, small animals and fowl
304 as an accessory use to a residential use in a manner consistent with the
305 requirements of all other provisions of the Homer City Code and as long
306 as such animals are pets of the residents of the dwelling and their
307 numbers are such as not to unreasonably annoy or disturb occupants of
308 neighboring property.
309 **oo. Marijuana cultivation facilities, manufacturing facilities, retail**
310 **facilities, and testing facilities as defined by state law.**

311
312 Section 5. Chapter 21.62 is hereby enacted as follows:
313

314 **Chapter 21.62**

315
316 **Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities**

317
318 **Sections:**

319 **21.62.010 Scope.**

320 **21.62.020 Intent**

321 **21.62.030 Definitions**

322 **21.62.040 Pre-application conference.**

323 **21.62.050 Costs**

324 **21.62.060 Safety and Security Plan**

325 **21.62.070 Buffers.**

326 **21.62.080 General restrictions on all marijuana facilities.**

327
328 **21.62.010 Scope**

329
[Bold and underlined added. Deleted language stricken through.]

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

332
333 **b. This chapter in no way protects marijuana facilities from enforcement of**
334 **federal law nor is it intended to sanction conduct or operations prohibited by law.**
335 **All persons engaged in the marijuana industry within the city operate at their**
336 **own risk and have no legal recourse against the City in the event that city laws**
337 **are preempted, negated or otherwise found unenforceable based upon federal**
338 **law prohibiting the sale, distribution, consumption or possession of marijuana.**

339
340 **21.62.020 Intent**

341
342 **a. This chapter is intended to impose regulations that prevent:**

- 343
344 **1. The distribution of marijuana to minors;**
345 **2. Revenue from the sale of marijuana from going to criminal enterprises,**
346 **gangs, and cartels;**
347 **3. The diversion of marijuana from states where it is legal under state law in**
348 **some form to other states where it is unlawful;**
349 **4. State-authorized marijuana activity from being used as a cover or pretext**
350 **for the trafficking of other illegal drugs or other illegal activity;**
351 **5. Violence and the use of firearms in the cultivation and distribution of**
352 **marijuana;**
353 **6. Drugged driving and the exacerbation of other adverse public health**
354 **consequences associated with marijuana use;**
355 **7. The growing of marijuana on public lands and the attendant public safety**
356 **and environmental dangers posted my marijuana production on public**
357 **land; and**
358 **8. Marijuana possession or use on federal property.**

359
360 **21.62.030 Definitions [reserved]**

361
362 **21.62.040 Pre-application Conference.**

363
364 **21.57.050 Costs.**

365
366 **The cost of all permits, studies and investigation required under this**
367 **chapter shall be borne by the applicant.**

368
369 **When Title 21 requires a conditional use permit for a marijuana facility, the**
370 **applicant must meet with the City Planner to discuss the conditional use**
371 **permit process and any issues that may affect the proposed conditional**
372 **use. This meeting is to provide for an exchange of general and preliminary**

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

373 information only and no statement made in such meeting by either the
374 applicant or the City Planner shall be regarded as binding or authoritative
375 for the purposes of this title.

376
377 **21.62.060 Safety and Security Plan**

378
379 A conditional use permit for a marijuana facility required by this title shall
380 include an analysis of the ways in which the intent and purpose of this
381 chapter have been met and the safety concerns identified in Sections
382 21.62.010 and 21.62.020 will be addressed.

383
384 **21.62.070 Buffers**

385
386 a) The Commission may require buffers, including berms, fences, trees, and
387 shrubs, to minimize impacts to adjacent property. A landscaped buffer or
388 combination of landscaping and berms of no less than ten feet in width will
389 be required where the property with a marijuana facility adjoins districts
390 in which marijuana facilities are prohibited or permitted only as a
391 conditional use.

392
393 b) The following buffer zones shall be applied to all marijuana facilities in all
394 districts:

- 395
396 1. Schools 1000 feet
397 2. Churches 500 feet
398 3. Jail 500 feet
399 4. Youth/rec. center 500 feet
400 5. Library 200 feet

401
402 c) Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday
403 Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park
404 must have 1000 feet or more buffers measured from the boundary of the
405 park.

406
407 d) For purposes of this section, “schools” mean property primarily used as a
408 private or public elementary or secondary education facility or property
409 primarily used as a post-secondary education facility, including but not
410 limited to private, faith-based, and public colleges and universities.

411
412 **21.62.80 General restrictions applied to all marijuana facilities.**

413
414 a) All marijuana facilities in all districts shall comply with Section 21.59.030 of this
415 title.

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

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

~~Section 7. This ordinance shall take effect upon its adoption by the Homer City Council.~~ **This ordinance shall take effect only upon certification of a majority vote rejecting the proposition to prohibit marijuana establishments in the City at the Special Election to be held in the City on April 19, 2016.**

Section 8. 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 _____ day of _____ 2016.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

AYES:
NOES:
ABSTAIN:
ABSENT:

First Reading:
Public Reading:
Second Reading:
Effective Date:

Reviewed and approved as to form:

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

459 _____
460 Mary K. Koester, City Manager
461
462 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

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

Session 16-02 a Regular Meeting of the Homer City Council was called to order on January 25, 2016 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: ADERHOLD, LEWIS, REYNOLDS, SMITH, VAN
DYKE, ZAK

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
CITY ATTORNEY WELLS
CITY PLANNER ABOUD
POLICE CHIEF ROBL
PORT AND HARBOR DIRECTOR HAWKINS

Council met for a Worksession from 4:00 p.m. to 4:50 p.m. to discuss Strategic Doing – American Disabilities Act and Memorandum 16-019. From 5:00 p.m. to 5:56 p.m. Council met as a Committee of the Whole to discuss Ordinance 16-04, Memorandums 16-016 and 16-017, and Consent 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.)

There was no supplemental agenda.

Mayor Wythe called for a motion for the approval of the agenda.

LEWIS/REYNOLDS – SO MOVED.

Mayor Wythe called for a motion to move New Business Item C – Memorandum 16-015 City Manager’s Evaluation to be heard after Comments of the City Council.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

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

Motion carried.

- D. **Ordinance 16-03(S)**, An Ordinance of the City Council of Homer, Alaska Amending Ordinance 13-03(S)(2) to State the Actual Principal Amount of, and Change the Payment Dates for, the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond. City Manager. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

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 16-03(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

E. **All Hazard Mitigation Plan 2015 Update**

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

ORDINANCE(S)

- A. **Ordinance 16-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.28, Marine Commercial; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission. Recommended dates: Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.

Memorandum 16-016 from City Clerk as backup.

Memorandum 16-017 from City Planner as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 16-04 for introduction and first reading by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

REYNOLDS/LEWIS - MOVED TO AMEND TO STRIKE SECOND READING ON FEBRUARY 8TH AND HAVE A PUBLIC HEARING ON FEBRUARY 8TH AND A SECOND PUBLIC HEARING AND FINAL READING ON FEBRUARY 22ND.

Mayor Wythe and Council expressed the need for an additional public hearing for people that are concerned or interested in the ordinance. Council may have changes to the ordinance also.

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

Motion carried.

LEWIS/REYNOLDS – MOVED TO AMEND THE CENTRAL BUSINESS DISTRICT (CBD) WHICH IS CUP (CONDITIONAL USE PERMIT) ONLY TO HAVE IT TO WHERE IT IS PERMITTED OUTRIGHT.

The amendment would require complaints to be presented at the state level instead of litigation against the city.

Asked about the liability of the CUP process, City Attorney Wells advised the CUP process has criteria with substantially related terms and wiggle room that creates vulnerability for legal challenges. Communities are putting a moratorium on the CUP process while others are using CUPs. It comes with legal costs that cannot be predicted. We will have a better understanding once the industry gets going in communities that are using CUPs.

Councilmember Lewis reminded Council the City has had a lot of litigation on CUPs and zoning issues. He would just as soon pass that cost off to the State instead of us bearing that cost.

VOTE: (amendment) YES. LEWIS, SMITH, ADERHOLD, REYNOLDS, ZAK, VAN DYKE

Motion carried.

Councilmember Van Dyke commented on Marine Commercial. The Homer Spit draws people from all over the state with families. There is the Homer Ice Rink, Nick Dudiak Fishing Lagoon, and parks and campgrounds up and down the Spit. Each one has tons of families and children. He would like to see no cannabis activity on the Spit.

VAN DYKE/SMITH- MOVED THAT MARINE COMMERCIAL BE A NO SALE ZONE.

Councilmember Lewis questioned the depiction of the Spit as a great, wholesome place with Salty Dawg Saloon, other bars and liquor stores, and five or six guys sitting out at night after a day's charter pounding down beers. It's not a good analogy to restrict the cannabis business there. On his visit to Denver he did not see derelicts hanging outside. There are laws on advertising.

Councilmember Smith asked what the economic benefit is that we are projecting versus the social costs.

Councilmember Lewis answered the problems are already there; we aren't going to bring anything new. The product and alcohol are there and some will use both. Those that want to use one or the other will use one or the other. It will not create more smoking and driving. Those that are going to do it will regardless if it is legal or not.

Mayor Wythe commented the majority of properties on the Spit are City of Homer properties. In complying with the eight guiding principles to keep us out of the federal target zone, one of those is growing marijuana on public lands and the public safety and environmental dangers posed by marijuana production. Although there wouldn't be marijuana growing on the Spit, people could not lease city properties to sell marijuana. We can start smaller and if it makes sense we can grow.

VOTE: (amendment) YES. ADERHOLD, ZAK, SMITH, VAN DYKE

VOTE: NO. REYNOLDS, LEWIS

Motion carried.

ZAK/VAN DYKE - MOVED TO AMEND TO MAKE THE HOMER SPIT A BUFFER ZONE.

City Planner Abboud advised no buffer is needed if Marine Commercial is a no sale zone. Adding a buffer to the Spit could be decided by the Planning Commission at a later date.

VOTE: (amendment) YES. VAN DYKE, ZAK, SMITH

VOTE: NO. REYNOLDS, ADERHOLD, LEWIS

Mayor Wythe broke the tie with a NO vote.

Motion failed.

ADERHOLD/LEWIS - MOVED TO AMEND LINE 20 to CHANGE the WORD "MANUFACTURER" TO "MANUFACTURE."

There was no discussion.

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

Motion carried.

Councilmember Zak asked the advantages or disadvantages of making regulations now versus later.

City Attorney Wells advised there are pros and cons to making regulations now or later. Juneau used to have a moratorium on their CUP process, but has now passed an ordinance zoning and regulating it and implementing the CUP process. They are going forward and have something on the ground. The City of Ketchikan does not have regulations and just made a decision not to ban it. The Ketchikan Gateway Borough has provided limited zoning. Homer will be somewhere in the middle time wise. The timeline from the Marijuana Control Board is: February 21 the application process will be initiated. The State is anticipated to take 90 days to start processing applications. The focus will be on manufacturing and cultivation facility applications. The manufacturing, cultivation, and testing of product are necessary before you can retail it. In mid-May applications will be processed and it will be even longer before you see retail facilities going into operation. February 24, 2016 is not the date when applications will go in to be processed. It is advisable to be ahead of the May date. Homer has already designated the local authority so that is a voice with the Marijuana Control Board which is important for the industry.

Councilmember Zak asked if an applicant would have to designate the space where they would grow.

Mayor Wythe called for a recess at 7:11 p.m. and reconvened the meeting at 7:15 p.m.

City Attorney Wells answered an applicant is required to provide a description of the premises as well as the document showing their right to possession and the GPS coordinates. If they want to fill out an application on February 24th and have no restrictions, they have the ability to put an application on property that may be in a prohibited district. There are risks to a business entity deciding to do that. It doesn't change the City's timeline, except that it would have negative impacts on the industry. The City of Homer will be a part of the application process.

LEWIS/REYNOLDS - MOVED TO ALLOW LIMITED CULTIVATION FACILITIES IN RURAL RESIDENTIAL IN LOTS OF 20,000 FEET OR LARGER.

City Planner Abboud advised the amendment is going against the Planning Commission's recommendation due to the commercial nature of that activity. The commission discussed it at length and thought that commercial activity was not in line with the purpose of the district. Buffers will still remain in place. Animals, general farming, high tunnels, and other activities are permitted in rural residential.

Councilmember Aderhold noted we should say square feet. She expressed concern into moving into something too quickly before reviewing all the materials Council has received.

VOTE: (amendment) NO. VAN DYKE, LEWIS, REYNOLDS, ZAK, ADERHOLD, SMITH

Motion failed.

LEWIS/ZAK - MOVED TO AMEND TO ALLOW LIMITED CULTIVATION OPERATIONS AS DEFINED UNDER ALASKA STATE LAW THAT WOULD BE ALLOWED IN RURAL RESIDENTIAL LOTS OF 20,000 SQUARE FEET OR LARGER.

The Cannabis Advisory Commission decided a half acre would allow for everything without intruding on neighbors. There are setback requirements for cultivation and lighting and operations cannot be visible from the road.

City Attorney Wells confirmed there are controls on its appearance. She is not sure if they encompass setbacks.

City Planner Abboud commented there are concerns for open grows where the product can't be seen. If you have an enclosed grow in an auxiliary structure your house can still be 5 ft. from the property line and your operation can be within that. There are no additional buffers besides 20 ft. sight in front of the doors, be lit, and have a camera on it.

Councilmember Smith expressed opposition on the amendment that is a substantial change. It is in conflict with what we have received from the Planning Commission.

Councilmember Aderhold is not opposed to allowing grow operations in rural residential. She wants to make sure the language is right and is not arbitrary. She asked if someone can work on an amendment and bring a substitute ordinance at the next meeting.

VOTE: (amendment) YES. REYNOLDS, LEWIS
VOTE: NO. ZAK, VAN DYKE, SMITH, ADERHOLD

Motion failed.

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

Motion carried.

- B. **Ordinance 16-05**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the

Session 16-03 a Regular Meeting of the Homer City Council was called to order on February 8, 2016 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: ADERHOLD, LEWIS, REYNOLDS, SMITH, VAN
DYKE, ZAK

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
CITY ATTORNEY WELLS
CITY PLANNER ABBOUD
LIBRARY DIRECTOR DIXON

Council met for a Worksession from 4:00 p.m. to 4:55 p.m. to discuss Homer Accelerated Water and Sewer Program (HAWSP) and Homer Accelerated Roads and Trails Program (HART), Memorandum 16-030 from City Manager, Memorandum 16-022 from Deputy City Clerk, Memorandum 15-099 from Economic Development Advisory Commission, and Memorandums 15-193 and 16-027 from Public Works Director as backup. Council met as a Committee of the Whole from 5:00 p.m. to 5:49 p.m. to discuss **Ordinance 16-04(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.28, Marine Commercial; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission; **Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending **Homer City Code 21.12, Rural Residential**; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Lewis; Memorandum 16-016 from City Clerk and Memorandums 16-017 and 16-023 from City Planner as backup.

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.)

create 16 lots between Little Fireweed Lane and Spruce Lane. The commission reviewed the Land Allocation Plan and forwarded recommendations to Council.

- a. Minutes of January 20, 2016
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Parks and Recreation Advisory Commissioner Dave Brann reported the commission will revisit the beach policy in another year to see how it is working. They are working with Angie at Public Works on the number and placement of trash receptacles on the Spit and in town. Council provided \$5,000 to replace the picnic shelter on the Spit. To date \$20,100 has been raised towards the \$30,000 goal. He is now focused on meeting with retired timber framers and city engineers to make plans. Mr. Brann referenced a MatSu newspaper article about the amount of dollars that states and the nation receive from parks and trails.

5. Port and Harbor Advisory Commission
 - a. Memorandum 16-025 from Deputy City Clerk, Re: Port and Harbor Advisory Commission Recommendations for Camping on the Spit.
6. Cannabis Advisory Commission

Cannabis Advisory Commissioner Lindianne Sarno reported the commission spent the first few months reading, analyzing, and commenting on state regulations. She commended City Planner Rick Abboud and Attorney Holly Wells for the plans, drawings, and information presented to the commission. Now that the state regulations are finalized it is in the Council's hands for decisions. Regardless of how the Council votes, educators and the cannabis community has spoken in favor of public health education.

PUBLIC HEARING(S)

- A. **Ordinance 16-04(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27,

East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission. Introduction January 25, 2016, Public Hearings February 8 and 22, 2016, and Second Reading February 22, 2016.

Ordinance 16-04(A)(S), An Ordinance of the City Council of Homer, Alaska, Amending **Homer City Code 21.12, Rural Residential**; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Lewis.

Memorandum 16-016 from City Clerk as backup.

Memorandums 16-017 and 16-023 from City Planner as backup.

Mayor Wythe opened the public hearing.

Roberta Highland, city resident, opposes Ordinance 16-04(A)(S), adding commercial operations to rural residential. She is concerned with lighting, security, armed guards, and robberies and no limitation on the number of licenses issued.

Jeremiah Emmerson, Alaska Small Cultivators Association, supports Ordinance 16-04(A)(S). A lot of commercial operations go on in rural residential now. There are security companies and cash excise taxes can be mailed to Juneau. People have a right to protest a license.

Beth Carroll, Homer resident, supports Ordinance 16-04(A)(S). Businesses already exist in rural residential. If neighbors have a problem they can address it with the license application.

Robert Archibald, city resident, opposes cultivation in rural residential. A commercial operation should go in commercial zoning since rural residential is quiet without a lot of light.

Carrie Harris, city resident, supports Ordinance 16-04(A)(S). There are already greenhouses, high tunnels, and bed and breakfasts in rural residential. People voted for this and she expects Council to represent their voice.

Tim Clark, city resident, supports Ordinance 16-04(A)(S). Legitimate operations will be tested and regulated and people can own small businesses.

Ryan Walker, Homer resident, supports Ordinance 16-04(A)(S). The State went through an extensive plan so limited cultivation facilities will be super safe and plants will be checked. People wouldn't even notice a 20x25 sq. ft. area.

Scott Adams, city resident, opposes Substitute Ordinance 16-04(A)(S). He would hate to see high tunnels popping up everywhere.

David Harris, city resident, supports Ordinance 16-04(A)(S) since people are growing in these areas.

Frank Hodnik, city resident, supports Ordinance 16-04(A)(S). Permitted growing areas are swamp land and privately owned; they are not suitable for growing.

August Weber, Homer resident, supports Ordinance 16-04(A)(S) and the ability to grow in rural residential. The black market can make a green market and the City can make revenue.

Amy Christiansen, Homer resident, supports Ordinance 16-04(A)(S). In her travels to Washington and Oregon she saw no loiters or no drug seeking weirdos. It was safe and employees knew their product.

Mike McGuire, business owner, supports Ordinance 16-04(A)(S). We have voted so it needs to be legal and taxed. Either we or the black market will benefit. The whole state is ready to follow Homer.

Sunrise Soberg, city resident, supports Ordinance 16-04(A)(S). Restrictions should not be made on marijuana when they are not made on alcohol.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion to substitute Ordinance 16-04(A)(S) for Ordinance 16-04(A).

LEWIS/REYNOLDS - SO MOVED.

Substitute Ordinance 16-04(A)(S) adds limited marijuana cultivation facility to rural residential district for lots greater than 20,000 square feet. Lighting, locks, air scrubbers, and cameras on the facility are required. Operations will be contained to within the building.

Questions regarding HCC 21.62 provisions were directed at the attorney. Attorney Wells deferred to City Planner Abboud.

City Planner Abboud explained rural residential is different than the business districts. Business districts already have nuisance standards; rural residential does not. The setback of 50 ft. is to keep rural residential rural. You don't want to impose on other people's land. In

other areas the requirement of a 50 ft. setback would be impeding businesses. HCC 21.59 is standard in all zoning, except rural residential.

VOTE: YES. LEWIS, ADERHOLD, REYNOLDS, VAN DYKE

VOTE: NO. SMITH, ZAK

Motion carried.

Another Public Hearing and Second Reading will be held on February 22nd.

Mayor Wythe called for a recess at 8:32 p.m. and reconvened the meeting at 8:37 p.m.

B. **Ordinance 16-05**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Reynolds. Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.

Ordinance 16-05(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Reynolds/Aderhold.

Memorandum 16-018 from City Manager as backup.

Memorandum 16-031 from City Attorney as backup.

Mayor Wythe opened the public hearing.

Roberta Highland, city resident, supports the ordinance. It is a compromise. Motorized vehicles and pedestrians are not a good combination.

Ted Schmidt, Homer resident, opposes Ordinance 16-05(S). An easement might have enhanced beach use for all users. Most people with vehicles are respectful.

Jessica Shepherd, Homer resident, supports the ordinance. As the population grows it is logical to drive west of Bishop's Beach to the coal seams. Access at Mud Bay has no clear merits.

are very few vehicles driving on Mariner Park. Coal is plentiful in the Mariner Park beach area. Providing access for those that truly need it is a concern.

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

Motion carried.

ORDINANCE(S)

- A. **Ordinance 16-06**, An Ordinance of the City Council of Homer, Alaska, Enacting Homer City Code Chapter 6.18, Marijuana Establishments, Prohibiting the Operation of Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores in the City. Smith/Van Dyke. Recommended dates: Introduction February 8, 2016, Public Hearing and Second Reading February 22, 2016.

Mayor Wythe called for a motion for the adoption of Ordinance 16-06 for introduction and first reading by reading of title only.

VAN DYKE/SMITH – SO MOVED.

Councilmember Smith believes it is important to have the discussion. He has seen the element that comes with marijuana and doesn't share the view of many. A petition to prohibit marijuana has garnered over 110 signatures. He is representing the people that voted no on Ballot Measure 2. He has nothing to say against the medicinal value of marijuana and is not trying to limit the ability of anyone to purchase, grow, use, or transport marijuana. He questioned what the cost would be to the community. He wants to slow down and have the discussion; it merits the time.

Councilmember Lewis commented the prohibition will be government outreach since it affects a 10-mile wide circle around the City. That includes the area past McNeil to the Anchor Point Bridge, most of the North Fork, China Poot, and Halibut Cove. Legalization will not open this up to kids; it is up to the parents to keep it out of the reach of kids. Every edible is 5 mg. You can decide your level of intoxication. Hard drugs leave the system early, but pot doesn't. People don't OD on pot and child and spousal abuse happens with alcohol.

Councilmember Reynolds believes there is value to discussing what people thought they were voting for. She is curious to hear from people in the middle.

Councilmember Zak appreciates Councilmember Smith bringing the ordinance forward. We don't know the impact and being careful may be the right thing.

Mayor Wythe added information on the airplane pilots' scientific study that showed a greater landing variation when pilots smoked a joint. Continual smoking means a person never gets outside the impairment cycle as pot stores in fat cells.

VOTE: YES. ADERHOLD, ZAK, SMITH, VAN DYKE

VOTE: NO. REYNOLDS, LEWIS

Motion carried.

Mayor Wythe called for a recess at 10:22 p.m. and reconvened the meeting at 10:30 p.m.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Memorandum 16-029 from Deputy City Clerk, Re: City Records Inventory.

City Manager's Office Staffing

I am happy to welcome Jennifer Carroll to the City Manager's Office as the new Special Projects/Communications Coordinator. Jenny brings a lot of experience working with the community as a grant writer, non-profit executive director and facilitator. I am looking forward to having the help in the office; we have a lot going on!

Website email subscriptions

When the City transferred from the old website to the new one, things went fairly smoothly except for a few broken links. However, one thing that did get dropped was the subscribers who had signed up to receive email notifications when various things were posted to the website (press releases, job offerings, bid openings, etc.) As soon as we became aware of this, we sent an email to all subscribers asking that they re-subscribe to the service. Sign up for email notifications on the City site under How Do I? Alerts & Notifications.

Dog Statue Donation for the Animal Shelter

Last fall, local area resident Alan Kelly passed away. Alan loved dogs and frequently walked them on Bishop's Beach. His brother, Steve Kelly, is a bronze sculpture artist. He has made a bronze sculpture of a dog as a memorial to Alan. Steve has been communicating with the Homer Animal Friends and would like to donate the statute to the Friends in his brother's memory. The Friends would like to place the statue in the memorial garden which is to the left of the driveway in the rocky area in front of the shelter. Alan's friend Ken Lewandowski has offered to pour a small concrete pad for the statue to sit on.

Session 16-04 a Regular Meeting of the Homer City Council was called to order on February 22, 2016 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: ADERHOLD, LEWIS, REYNOLDS, SMITH, VAN DYKE, ZAK

STAFF: CITY MANAGER KOESTER
ACTING CITY CLERK JACOBSEN
CITY ATTORNEY DAVIES
POLICE CHIEF ROBL
PUBLIC WORKS DIRECTOR MEYER
CITY PLANNER ABBOUD
PERSONNEL DIRECTOR BROWNING

Council met for a Worksession from 4:00 p.m. to 4:55 p.m. to discuss Homer Accelerated Water and Sewer Program (HAWSP) and Homer Accelerated Roads and Trails Program (HART), Memorandum 16-030 from City Manager, Memorandum 16-022 from Deputy City Clerk, Memorandum 15-099 from Economic Development Advisory Commission, and Memorandums 15-193 and 16-027 from Public Works Director as backup. Council met as a Committee of the Whole from 5:00 p.m. to 5:49 p.m. to discuss **Ordinance 16-07**, An Ordinance of the Homer City Council Submitting to the Qualified Voters of the City the Question Whether Marijuana Establishments Shall be Prohibited in the City at the Regular Election to be Held in the City on October 4, 2016 and Prohibiting Marijuana Establishments in the City Until Certification of the Result of the Election on that Question. Mayor. **Ordinance 16-06**, An Ordinance of the City Council of Homer, Alaska, Enacting Homer City Code Chapter 6.18, Marijuana Establishments, Prohibiting the Operation of Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores in the City. Smith/Van Dyke. **Ordinance 16-04(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.28, Marine Commercial; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission; **Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending **Homer City Code 21.12, Rural Residential**; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Lewis; Memorandum 16-016 from City Clerk and Memorandums 16-017 and 16-023 from City Planner as backup, and **Ordinance 16-04(A)(S-2)**, **Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending **Homer City Code 21.12, Rural Residential**; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities **To Be Effective Only Upon Certification Of A Majority**

Vote Rejecting The Proposition To Prohibit Marijuana Establishments In The City At The General Election To Be Held In The City On October 4, 2016. Mayor.

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.)

Written Public Comments On Ordinance 16-05(S)(A) Beach Regulations, Ordinance 16-06 Prohibiting Commercial Marijuana, Ordinance 16-04(A)(S) Zoning For Commercial Marijuana, Resolution 16-013 And 16-014 Homer Enterprise Spit Leases, And 16-016 Public Safety Building, Memorandum 16-039 From The Police Chief As Backup To Resolution 16-016 On The Public Safety Building; Under City Manager's Report Aml Legislative Meeting Report From Councilmember Zak And A Lobbyist Report And Under Resolutions, Substitute Resolution 16-021(S) And Memorandum 16-038 From Public Works Director As Backup.

The amended agenda was approved by consensus of the Council.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Bumppo Bremicker, city resident, commented against banning driving on city beaches and that we just need to support and enforce the reasonable laws we already have.

Michael Crawford, city resident, commented in opposition to Ordinance 16-07 and in support of allowing commercial activity so people who want to do it can get started. He also supports allowing retail on the spit.

Robert Townsend commented in support of keeping the beaches open for vehicles to allow people who heat with coal the ability to go out and collect the coal they need. He supports keeping the area open in front of Mariner Park to the left and right from October to March.

Jill Gann, non-resident, commented regarding Hickerson Cemetery. She expressed her appreciation for the neighborhood meeting and the neighbors requests that were brought up included a treed buffer, not removing any trees on the west portion and plant additional ones, improve the image of the existing cemetery, downsize the footprint of the proposed expansion by 50%, inquire about moving the American Legion's pavilion and use that land for additional plots, change code to require vaults and use something besides chain link for the fencing.

Kevin Hogan, city resident, commented in support of renewing both leases in Resolution 16-013 and 16-014. Petro Marine has been a good neighbor and provides a lot of jobs for the community.

Roberta Highland, city resident, commented that she supports the beach ordinance that passed last time which limits motorized use in a lot of areas. Regarding not allowing cannabis in rural residential encourages a slower process and will allow us to see what it's going to look like in our community.

Jeremiah Emerson, non-resident, apologized for his inflammatory comments of Facebook and recognizes the need to work together on this. He does not support Ordinance 16-07 putting this back

Kevin Walker, non-resident, commented he does not support Ordinance 16-07 putting the question back to the voters and supports allowing commercial marijuana sales in the city. The city needs the revenue.

Ryan Walker, non-resident, opposes restricting vehicle access on the beach. He also opposes Ordinance 16-07 putting the question back to the voters and supports allowing commercial marijuana sales in the city.

Tim Clark, city resident, opposes restricting beach access; they need to be open year round for people to collect coal. He also opposes Ordinance 16-07 putting the question back to the voters and supports allowing commercial marijuana sales in the city.

Larry Garvey, city resident, opposes restricting beach access and asked they consider keeping it open so people can collect coal to heat their homes.

Mayor Wythe called for a recess at 7:15 p.m. and the meeting reconvened at 7:25 p.m.

RECONSIDERATION

A. **Reconsideration issued by Councilmember Lewis:**

Ordinance 16-05(S)(A), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Reynolds/Aderhold.

Memorandum 16-018 from City Manager as backup.

Memorandum 16-031 from City Attorney as backup.

Mayor Wythe called for a motion for the reconsideration of Ordinance 16-05(S)(A) by reading of title only.

LEWIS/REYNOLDS SO MOVED.

Councilmember Lewis commented we won't make everyone happy but opening the area near Mariner Park from October to March is a fair trade.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. **Reconsideration issued by Councilmember Aderhold:**

Ordinance 16-04(A)(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities"

Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Reynolds/Aderhold.

Memorandums 16-016 and 16-032 from City Clerk as backup.
Memorandums 16-017 and 16-023 from City Planner as backup.

Mayor Wythe called for a motion for the reconsideration of Ordinance 16-04(A)(S) by reading of title only.

ADERHOLD/REYNOLDS SO MOVED.

Councilmember Aderhold commented she looked back through the Planning Commission's evaluation of rural residential and reasoning for leaving out the district. One reason being the strict requirements associated with a limited cultivation facility would be much more of a commercial operation than anything that occurs in rural residential.

VOTE: YES: SMITH, ADERHOLD, ZAK, VAN DYKE
NO: LEWIS, REYNOLDS

Motion carried.

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 February 8, 2016. City Clerk. Recommend adoption.
- B. **Memorandum 16-033**, from Mayor Wythe, Re: Appointment of Cassandra Peterson to the Economic Development Advisory Commission and Jacque Peterson to the Library Advisory Board. Recommend adoption.
- C. **Resolution 16-022**, A Resolution of the Homer City Council Noting the Insufficiency of the Petition for Road Reconstruction and Paving for Shelford Street. City Clerk. Recommend adoption.
- D. **Resolution 16-023**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Donation from the Homer Animal Friends of a Bronze Dog by Alaskan Artist Steve Kelly to be Placed at the Memorial Garden at the Animal Shelter. City Clerk. Recommend adoption.
Memorandum 16-034 from Police Chief as backup.
- E. **Resolution 16-020**, A Resolution of the Homer City Council Awarding the Contract for the Chip Pad Fence Demolition Project to the Firm of Alaska Marine Excavation, LLC of Anchor Point, Alaska, in the Amount of \$14,700 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption.

implementation tables that may not be realistic and the commission will review the content, discuss why things haven't moved forward, and what it might take to become realistic.

3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Parks and Recreation Advisory Commissioner Robert Archibald reported that the Early Childhood Coalition spoke to the Commission about needed improvements at Bayview Park, particularly the picket fence. The Coalition is fundraising to collect money to fix the fence and may be looking to the City for some funding for that. The Friends of Woodard Creek and Karen Hornaday Park are going to finance a survey of the east property line of Hornaday Park to find out where the line is and look at putting a trail there. The Commission is going to amend the bylaws so the Chair can vet agenda items to help make it easier on staff. They are also going to review the Strategic Plan to bring it more in line with the Homer Recreational and Cultural Needs Assessment. Lastly \$20,000 has been raised so far for the water trail pavilion.

5. Port and Harbor Advisory Commission
6. Cannabis Advisory Commission

PUBLIC HEARING(S)

- A. **Ordinance 16-06**, An Ordinance of the City Council of Homer, Alaska, Enacting Homer City Code Chapter 6.18, Marijuana Establishments, Prohibiting the Operation of Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores in the City. Smith/Van Dyke. Introduction February 8, 2016, Public Hearing and Second Reading February 22, 2016.

Mayor Wythe opened the public hearing.

Stuart Schmutzler, non-resident, commented in opposition of Ordinance 16-06. He shared the history of how cannabis became illegal many years ago explaining up until the 20th century the federal government supported it and in the late 30's 1930's two major manufactures were key in creating this great fear of the product due to their fear of competition. He added that allowing commercial sales will allow for additional revenue and won't increase availability to the youth, it already is there.

Christin Fankhouser, city resident, commented in support of Ordinance 16-06. She shared statistics of harmful impacts of marijuana and that legalization may encourage more youth to experiment with it. In her profession as a Salvation Army officer, which includes work as a pastor and social worker, she sees the effects on a daily basis.

Walter Swearingen commented in opposition to Ordinance 16-06. He commented that by legalizing marijuana we can control it, educate, and improve in keeping away the criminal element. He finds it disturbing how it seems they are ignoring the people who use it medically. This has already been voted on and passed.

Roberta Highland, city resident, commented about things she has learned related to marijuana. She said the state said the city can limit the number licenses as a city, but the attorney says it could open us up to a suit, which she doesn't understand. There are a lot of questions and that probably means we should slow down a little. She thinks it's worth discussion that it's still illegal federally. There has been nasty social media going around and some people aren't here tonight because they are afraid. She doesn't support an all-out ban but does want a limit on numbers and supports a slower approach.

David Harris, city resident, cited HCC 1.18.010(a) and that by voting the councilmembers in, voters are putting their trust in them to represent. If council can't follow this section in code and a vote where 53% of Homer approves something then you don't need to be in office.

Susan Killfoile, non-resident, commented she provided a list of documentaries and wondered if anyone had watched. She commented that for every study there is a counter study. She appreciates what they are doing but encouraged keeping an open mind and look at some of the documentaries because the information is crucial.

Jerimiah Emmerson, non-resident, commented about the importance of public education and is willing to do a presentation to the Council on commercial cannabis. He explained timelines, tracking, and cash handling, adding that retail stores wouldn't open until September or October.

Mayor Wythe asked Mr. Emmerson to contact the Clerk's office about being scheduled as a visitor on a Council agenda.

Kimberly Ketter, city resident, commented she studies the social work field, substance abuse and the mental health association. Years ago weed was only seen as an issue because it's a gateway drug and where she came from in Pennsylvania when pot was hard to get a hold of, kids started on heroin. She noted the bust that just happened and as big as it was, no one knew about it, that's how mellow it could be. She also commented the elderly is a vulnerable population and she doesn't know why that would be suggested.

Rebecca Jones, non-resident, commented in opposition to Ordinance 16-06. Personally she doesn't use marijuana but believes in the democratic process. People are already using it and have access to it. She commented about her experience having lived on the Mexican border and seen first-hand the effects of smuggling. She asked Council to allow it at the local level citing economic benefit and help our vulnerable neighbors to the south.

Mako Haggerty, non-resident, thanked Mr. Schmutzler the background information he shared. He opposes Ordinance 16-06. Legal marijuana has increased revenues in Colorado with little or no adverse effects to the social health of that state. He suggests councilmembers make themselves aware of the numbers. The City will be the biggest loser if this passes.

Ryan Walker, non-resident, commented in opposition to Ordinance 16-06. The rights for people who use a plant are no different than, women's rights, freeing blacks from slavery, or gay rights. People's ideas have been wrong before. We are users of a plant and have rights as a culture; we aren't going away and aren't going to back down. He asked that they please respect the vote.

Ruth Swearingen commented in opposition of Ordinance 16-06. She used to work with the Salvation Army and has helped with a lot of people and did a lot of volunteer work. She commented on her faith and family, reiterating the benefits of marijuana for her husband's health issues.

Joni Wise, city resident, commented we aren't debating medical marijuana, it is legal. We are debating dispensaries in city limits. To say allowing them will help control it, has forgotten how that has worked with alcohol. She commented about the rude behavior directed at council, the law is the council that has been elected to make these decisions, and that those who disagree can run for office. Council is trying to make the best decision for the city as a whole.

Logan Jensen, city resident, commented in opposition to Ordinance 16-06 and shared his experience in San Francisco as a medical cannabis patient. He's disappointed that despite legal medical marijuana there isn't any place to buy it legally. He's also disappointed that the Council isn't confident enough in the vote of the people to pass an ordinance or get educated on this issue that is important to the community.

Dan Miotke, city resident, commented that none of us think marijuana is new to town and know that it readily available if you want it, and now it's okay to grow it yourself and use it. His concern is whether we want to open it free reins at this point. He encouraged slowing down and putting it to a vote.

Carrie Harris, city resident, commented in opposition of Ordinance 16-06. She isn't worried about the results of the vote. She heard a lot about tourism at the last meeting and said do not discount our local tourist from the area and around the state who spend money here. So don't discount what they have to say.

Michael McGuire, non-resident, commented in opposition to Ordinance 16-06. He encourage that there is urgency upon us to treat each other better. We need to learn from this and get better educated on all areas including personal use, medical use, and commercial benefits.

Terry Reed, city resident, does not support Ordinance 16-06. We have already voted on this and she want to see green cross dispensaries with people who are knowledgeable about their products and what will be most helpful for a person's needs.

Megan Anderson, non-resident, noted community groups she's involved with and that she is commenting on her own beliefs. She opposes Ordinance 16-06. The black market industry has been flourishing and will continue regardless. We're at a crossroads where we can continue to spend resources we don't have or embrace the voter's wishes and generate tax revenue we desperately need. She encouraged keeping an open mind and giving it a chance.

Mike Fairman, city resident, commented in opposition to Ordinance 16-06 and proposes getting educated on the topic.

Mike Kennedy, city resident, commented that he doesn't think the hostility over all this is directed personally, but at the frustration at the process. He doesn't support Ordinance 16-06. He encouraged people to understand this is an herb, not a drug. It's used medically and recreationally. He asked people to use liberal thinking and interpretation for the City to put forward commercialization of marijuana and don't overlook the potential of it.

Tim Clark, city resident, commented he does not support Ordinance 16-06. Banning it throws away opportunities for jobs, opportunities to better themselves, and opportunities to regulate and know where it's at. This has been all over social media and local media so people are aware and his personal perspective is a lot more people are for it.

August Weber commented against Ordinance 16-06. People are already doing it and banning won't stop it. Allowing commercial marijuana could do a lot for the community.

Mark Landwer, non-resident, commented in opposition to Ordinance 16-06. He thinks the Council is giving up their responsibility to proactively handle this and rejecting the public's desire to handle this in an open way. He talked about an opportunity he had with a building that he let go of.

Christie Hill, non-resident, commented in opposition to Ordinance 16-06. She commented about the benefits of being able to tax it and current cuts that are being made at the high school. It would be great to say no to this ordinance so we can get the tax dollars here.

Scott Owens commented in opposition to Ordinance 16-06. He spoke about the local cannabis club and that it has 150 members. He commented about the revenue the city could see if they legalize commercial activities and also about how marijuana has benefitted him as one who suffers from PTSD and how it can help others.

Frank Hodnik, city resident, commented in opposition to Ordinance 16-06. He commented that there are a lot of the professionals in town who support commercial marijuana but won't testify because we've been dealing with 70 years of prohibition. He spoke briefly about how marijuana can help people and benefits he has seen particularly working with veterans.

There were no further comments and the public hearing was closed.

Mayor Wythe called for a motion for the adoption of Ordinance 16-06 by reading of title only for second and final reading.

VAN DYKE SO MOVED.

Motion failed for lack of a second.

B. **Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Lewis. Introduction January 25, 2016, Public Hearings February 8 and 22, 2016, and Second Reading February 22, 2016.

Ordinance 16-04(A)(S-2), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning

Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled “Marijuana Facilities” Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities **to be Effective Only Upon Certification of a Majority Vote Rejecting the Proposition to Prohibit Marijuana Establishments in the City at the Regular Election to be Held in the City on October 4, 2016.** Mayor.

Memorandums 16-016 and 16-032 from City Clerk as backup.

Memorandums 16-017 and 16-023 from City Planner as backup.

Memorandum 16-036 from Police Chief as backup.

Memorandum 16-037 from Police Chief and Fire Chief as backup.

Mayor Wythe called for a recess at 8:55 p.m. The meeting reconvened at 9:00 p.m.

Mayor Wythe opened the public hearing.

Roberta Highland, city resident, commented as a reminder that the vote allowed cities to opt out and quite a few cities have done that. The City council is doing their job and encouraged people to be respectful about that. She commented in support of holding off on rural residential just to get a feel for this in the beginning. This is new territory.

Mike Kennedy, city resident, commented this amendment is kind of a back door approach to making an election. He doesn't support a special election and it's a no brainer that it will pass. He thinks the council should take the responsibility and not pass it on to us. He recalled elections for the city center that got voted down and a special election about smoking and Homer voted smoking in, they voted for choice, also the food tax is another good example.

David Harris, city resident, commented Ordinance 16-04 needs to pass but the amendment needs to go down tonight, it needs to end. The majority voted on it and you all are here to represent the majority of the voters.

Carrie Harris, city resident, said yes to 16-04 as it is. That's the compromise. No to 16-04 (A)(S-2) the ordinance to bring it to a vote. If you bring it to a vote, you will pay in a lot more ways than just with the cannabis public initiative she will put forth tomorrow morning.

Robert Archibald, city resident, commented that the vote for this did not count the major majority of the population of Homer so it's not a mandate. He appreciates Council being a little cautious on this and entertaining another vote. From all the discussion that has been going on, he thinks the discussion that has gone on; there is a better educated public. If the majority votes for commercial marijuana, so be it. That's the will of the people.

Jeremiah Emerson, non-resident, commented in support of Ordinance 16-04(A). He doesn't like the S-2 version. He suggested the City begin looking forward to how they will deal with the excise tax. Right now he believes the state is going to take it and decide how to allocate it and the City could make a resolution or letter to the Department of Revenue asking for a certain percentage. That is where most of the financial benefit will come to the city. He said he is available and will do his part to answer questions and help educate the public.

There were no further comments and the public hearing was closed.

With approval of the reconsideration, the following motion is on the floor:

LEWIS/REYNOLDS SO MOVED TO SUBSTITUTE ORDINANCE 16-04(A)(S) FOR ORDINANCE 16-04(A).

There was discussion clarifying that if they vote down 16-04(A)(S) that 16-04(A) is back on the floor and then a motion can be made to substitute 16-04(A)(S-2).

VOTE: YES: LEWIS, REYNOLDS

NO: ADERHOLD, ZAK, SMITH, VAN DYKE

Motion failed.

SMITH/VAN DYKE MOVED TO SUSPEND THE RULES AND DISCUSS ORDINANCE 16-07.

There was no discussion.

VOTE: YES: REYNOLDS, ADERHOLD, VAN DYKE, ZAK, SMITH

NO: LEWIS

Motion carried.

After the introduction of Ordinance 16-07 as amended, discussion resumed on Ordinance 16-04(A)

Mayor Wythe called for a motion for the substitution of Ordinance 16-04 (A)(S-2).

ZAK/VAN DYKE SO MOVED.

Councilmember Aderhold commented that S-2 includes the rural residential zoning, which they want to remove. She asked if they need to vote down what they just did.

Mayor Wythe said they want to get rid of rural residential, so it would be A-2 so we keep the language about the vote certification.

City Manager Koester explained that to be consistent with the action that has been taken two categories of amendment need to happen. One would be to change the date from a regular election in October to a special election in April. The second would be to take it back to version A which didn't allow limited cultivation in rural residential. She said Attorney Davies is working on an amendment to the substitute to do that.

Mayor Wythe called for a motion on page 163 line 20 to delete the October 4th and insert April 19th, and again on page 175, line 502 delete regular election to be held in the City on October 4th and insert Special Election to be held in the City on April 19th.

ZAK/VAN DYKE SO MOVED.

There was brief discussion this makes it consistent with ordinance 16-07(A).

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe commented that Attorney Davies is still working on an amendment and asked for a motion to suspend the rules to hear the City Manager's report while she completes the amendment.

LEWIS/ADERHOLD MOVED TO START ON THE CITY MANAGER'S REPORT.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

After completion of the City Manager's Report discussion resumed on Ordinance 16-04(A)(S-2).

City Manager Koester asked for confirmation that the Council is working on version 16-04(A)(S-2).

Acting City Clerk Jacobsen confirmed that is correct.

Based on comments some members the discussion was directed to version 16-04(A).

City Manager Koester asked for clarification on amendments made thus far.

Acting City Clerk Jacobsen replied that the motion was to substitute 16-04(A)(S-2) and it was amended to change the date from October to April for the election, so the next change would be to address rural residential zoning. Mayor Wythe interjected to bring it back to 16A.

Attorney Davies said she went back to the A version which doesn't contain the rural residential language and added the enactment language to the title and last section. She asked to confirm that is what Council is at. Mayor Wythe said she thinks that's where Council thinks they are as well.

REYNOLDS/LEWIS MOVED TO ADD TO THE TITLE ON STARTING ON LINE 16 TO BE EFFECTIVE ONLY UPON CERTIFICATION OF A MAJORITY VOTE REJECTING 16-07. ON LINE 20 WHICH ENDS OPERATE A RETAIL STORE SELLING MARIJUANA AND, ADD THE WORDS THE PROPOSITION TO PROHIBIT MARIJUANA ESTABLISHMENTS IN THE CITY AT THE SPECIAL ELECTION TO BE HELD ON APRIL 19, 2016. LASTLY, LINE 415 SECTION 7 READ THIS ORDINANCE SHALL TAKE EFFECT ONLY UPON CERTIFICATION OF A MAJORITY VOTE REJECTING THE PROPOSITION TO PROHIBIT MARIJUANA ESTABLISHMENTS IN THE CITY AT THE SPECIAL ELECTION TO BE HELD IN THE CITY ON APRIL 19, 2016.

Mayor Wythe asked if there if there was any objection to the adoption of 16-04(A-2)

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

Session 16-06 a Regular Meeting of the Homer City Council was called to order on March 14, 2016 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: ADERHOLD, LEWIS, REYNOLDS, SMITH (telephonic – partial meeting), VAN DYKE, ZAK

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER
CITY PLANNER ABOUD
FINANCE DIRECTOR LI
POLICE CHIEF ROBL

Councilmember Smith has requested telephonic participation.

Mayor Wythe called for a motion to allow Councilmember Smith to participate by telephone.

VAN DYKE/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Council met for a Worksession from 4:00 p.m. to 4:20 p.m. to hear from Kevin Smith, Alaska Municipal League/Joint Insurance Agency. From 4:20 p.m. to 4:52 p.m. Council held a Special Meeting and approved Memorandum 16-044 to meet in Executive Session to discuss AML-JIA Insurance Claims Experience. From 5:03 p.m. to 5:21 p.m. Council met as a Committee of the Whole to discuss Ordinance 16-04(A)(S-2)(A) and Consent 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: **RECONSIDERATION/PENDING BUSINESS - Ordinance 16-04(A)(S-3)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; to Identify

the Zoning Districts Permitting Marijuana Facilities; and Adopting Homer City Code Chapter 21.62, Marijuana Facilities, Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities; to be Effective Only Upon Certification of a Majority Vote Rejecting the Proposition to Prohibit Marijuana Establishments in the City at the Special Election to be Held in the City on April 19, 2016. Mayor.

Mayor Wythe called for a motion for the approval of the agenda as amended.

LEWIS/ZAK - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Roberta Highland, city resident, commented on Ordinance 16-04(A)(S-2)(A). She agrees with no marijuana activities in rural residential. We need to see how it goes first because there are a lot of questions and not enough information.

RECONSIDERATION

- A. **Ordinance 16-04(A)(S-2)(A)**, An Ordinance of the City Council of Homer, Alaska, Amending **Homer City Code 21.12, Rural Residential**; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities **to be Effective Only Upon Certification of a Majority Vote Rejecting 16-07 the Proposition to Prohibit Marijuana Establishments in the City at the General Election to be Held in the City on October 4, 2016. a Special Election to be Held in the City on April 19, 2016.** Mayor.

Memorandums 16-016 and 16-032 from City Clerk as backup.

Memorandums 16-017 and 16-023 from City Planner as backup.

Memorandum 16-036 from Police Chief as backup.

Memorandum 16-037 from Police Chief and Fire Chief as backup.

Memorandums 16-040 and 16-046 from Deputy City Clerk as backup.

Mayor Wythe called for a motion for the reconsideration of Ordinance 16-04(A)(S-2)(A).

LEWIS/ZAK - SO MOVED.

There was confusion at the last meeting when making amendments, therefore the Council must redo the ordinance.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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 February 22, 2016. City Clerk. Recommend adoption.
- B. **Memorandum 16-041**, from Mayor Wythe, Re: Reappointment of Marcia Kuszmaul to the Library Advisory Board and Appointments of Patrick Brown, Rick Malley, Linda Munns, Tess Dally, and Councilmember Donna Aderhold to the Americans With Disabilities Act Compliance Committee.
- C. **Ordinance 16-08**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 19.08.030, Parking or Camping Prohibited-Enforcement, Regarding Winter Camping. Aderhold. Recommended dates: Introduction March 14, 2016, Public Hearing and Second Reading March 29, 2016.

Memorandum 16-050 from City Manager as backup.

- D. **Ordinance 16-09**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget by Appropriating Funds in the Amount of \$39,300 From Port and Harbor Reserves for the Construction of the Sport Fishing Trailer Parking Lot Drainage Improvement and Authorizing the City Manager to Execute All Appropriate Documents Necessary to Complete the Work. City Manager/Port and Harbor Director. Recommended dates: Introduction March 14, 2016, Public Hearing and Second Reading March 29, 2016.

COMMITTEE REPORT

- A. Public Arts Committee
- B. Employee Committee Report
- C. Public Safety Building Review Committee

Public Safety Building Review Committee Chair Ken Castner reported Council will see a resolution at the March 29th council meeting to move forward with scoping and entering into a construction budget for the fire station. The existing GC/CM contract team will get into the design expediently. On the police department the committee is rethinking how space needs may be handled, and achieve a building for \$11M to \$12M. If 6,500 sq. ft. of the east end of the HERC building can be utilized for non-essential space, it will save money. We could capture useable space at \$150 per sq. ft. versus \$600 per sq. ft. We need to spend a little money on doing a feasibility assessment on reusing the HERC building. Spending \$15,000 on the feasibility assessment has the possibility of keeping the project whole to accomplish a 30-year design. The police lived in a 800 sq. ft. building many years ago and are now outgrowing the current building. A new building will be good for a long time. It is the committee's hope it will be a project the community will get behind. We need to have a great place for these people to work.

PENDING BUSINESS

- A. ***If Reconsidered - Ordinance 16-04(A)(S-2)(A)***, An Ordinance of the City Council of Homer, Alaska, Amending **Homer City Code 21.12, Rural Residential**; Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities **to be Effective Only Upon Certification of a Majority Vote Rejecting 16-07 the Proposition to Prohibit Marijuana Establishments in the City at the General Election to be Held in the City on October 4, 2016. a Special Election to be Held in the City on April 19, 2016.** Mayor.

Memorandums 16-016 and 16-032 from City Clerk as backup.
Memorandums 16-017 and 16-023 from City Planner as backup.
Memorandum 16-036 from Police Chief as backup.

Memorandum 16-037 from Police Chief and Fire Chief as backup.
Memorandums 16-040 and 16-046 from Deputy City Clerk as backup.

Mayor Wythe called for a motion to substitute Ordinance 16-04(A)(S-2)(A) for Ordinance 16-04(A).

ZAK/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: NO. ADERHOLD, REYNOLDS, LEWIS, ZAK, VAN DYKE

Motion failed.

New Substitute:

Ordinance 16-04(A)(S-3), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; to Identify the Zoning Districts Permitting Marijuana Facilities; and Adopting Homer City Code Chapter 21.62, Marijuana Facilities, Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities; to be Effective Only Upon Certification of a Majority Vote Rejecting the Proposition to Prohibit Marijuana Establishments in the City at the Special Election to be Held in the City on April 19, 2016. Mayor.

Mayor Wythe called for a motion to substitute Ordinance 16-04(A)(S-3) for Ordinance 16-04(A).

REYNOLDS/ZAK - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ADERHOLD/LEWIS - MOVED TO AMEND TO REMOVE THE SPECIAL ELECTION LANGUAGE PER ATTORNEY'S RECOMMENDATION: TITLE LINE 15, STRIKE EVERYTHING AFTER WORDS "RETAIL FACILITIES." FIRST WHEREAS LINE 23, STRIKE EVERYTHING AFTER "STORE SELLING MARIJUANA." ON SECOND TO LAST PAGE LINE 395, STRIKE ALL OF SECTION 6 AND ON LINE 399 RENUMBER SECTION 7 AS 6.

There was no discussion.

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

Motion carried.

Mayor Wythe called for a motion for the adoption of Ordinance 16-04(A)(S-3) as amended for second and final reading by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

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

Motion carried.

NEW BUSINESS

RESOLUTIONS

- A. **Resolution 16-024**, A Resolution of the City Council of Homer, Alaska, Calling for a Special Election to be Held in the City on April 19, 2016, for the Purpose of Submitting to the Qualified Voters of the City a Proposition asking the Question Whether Marijuana Establishments Shall be Prohibited in the City. Mayor.

Mayor Wythe called for a motion for the adoption of Resolution 16-024 by reading of title only.

ZAK/VAN DYKE – SO MOVED.

There was no discussion.

VOTE: NO. REYNOLDS, ADERHOLD, VAN DYKE, ZAK, LEWIS

Motion carried.

- B. **Resolution 16-029**, A Resolution of the City Council of Homer, Alaska, Amending the Beach Policy for Operating, Stopping or Parking of Motor Vehicles in Beach Areas Prohibited to Add an Exception to the Southern End of the Vacated Easement Formally Known as Shirlene Circle and the Area West of Bishop's Beach Park Access Between the South End of Mariner Park Beach to the East End of the Seawall From October 31 Through March 1 Solely for the Purpose of Gathering Sand and Coal. Reynolds. Recommend adoption.