



## City of Homer

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

Office of the City Clerk

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# Memorandum

## Agenda Changes/Supplemental Packet

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: MARCH 14, 2016

SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

### **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.

Pages 3/15

### RECOMMENDATION:

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A



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

3 Mayor

4 **ORDINANCE 16-04(A)(S-3)**  
5

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

21 WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding  
22 the use of property within the City to cultivate or manufacture marijuana or to operate a retail  
23 store selling marijuana, provided that the voters reject the proposition to prohibit marijuana  
24 establishments in the City at the special election to be held on April 19, 2016; and  
25

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

37 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
38

39 Section 1. Homer City Code Section 21.18.020, Permitted uses and structures, is  
40 amended to read as follows:  
41

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 and  
47 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 drink  
51 for consumption on the premises;
- 52 e. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 53 f. Hotels and motels;
- 54 g. Mortuaries;
- 55 h. Single-family, duplex, and multiple-family dwellings, including townhouses,  
56 but not including mobile homes;
- 57 i. Floatplane tie-up facilities and air charter services;
- 58 j. Parks;
- 59 k. Retail and wholesale sales of building supplies and materials, only if  
60 such use, including storage of materials, is wholly contained within one or  
61 more enclosed buildings;
- 62 l. Customary accessory uses to any of the permitted uses listed in the CBD  
63 district; provided, that a separate permit shall not be issued for the  
64 construction of any detached accessory building prior to that of the main  
65 building;
- 66 m. Mobile homes, provided they conform to the requirements set forth in  
67 HCC 21.54.100;
- 68 n. Home occupations, provided they conform to the requirements of  
69 HCC 21.51.010;
- 70 o. Ministorage;
- 71 p. Apartment units located in buildings primarily devoted to business or  
72 commercial uses;
- 73 q. Religious, cultural, and fraternal assembly;
- 74 r. Entertainment establishments;
- 75 s. Public, private and commercial schools;
- 76 t. Museums and libraries;
- 77 u. Studios;
- 78 v. Plumbing, heating and appliance service shops, only if such use, including  
79 the storage of materials, is wholly within an enclosed building;
- 80 w. Publishing, printing and bookbinding;
- 81 x. Recreational vehicle parks only if located south of the  
82 Sterling Highway (Homer Bypass) from Lake Street west to the boundary of the  
83 Central Business District abutting Webber Subdivision, and from  
84 Heath Street to the west side of Lakeside Village Subdivision, provided they  
85 shall conform to the standards in HCC 21.54.200 and following sections;

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

- 86 y. Taxi operation limited to a dispatch office and fleet parking of no more than  
87 five vehicles; maintenance of taxis must be conducted within an  
88 enclosed structure, and requires prior approval by the City Planner of a site,  
89 access and parking plan;  
90 z. Mobile food services;  
91 aa. Itinerant merchants, provided all activities shall be limited  
92 to uses permitted outright under this zoning district;  
93 bb. Day care homes and facilities; provided, however, that outdoor play areas  
94 must be fenced;  
95 cc. Rooming house, bed and breakfast and hostel;  
96 dd. Auto repair and auto and trailer sales or rental areas, but only on  
97 Main Street from Pioneer Avenue to the Sterling Highway, excluding lots with  
98 frontage on Pioneer Avenue or the Sterling Highway, subject to the following  
99 additional requirements: Vehicles awaiting repair or service, inoperable  
100 vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be  
101 parked indoors or inside a fenced enclosure so as to be concealed from view,  
102 on all sides. The fence shall be a minimum height of eight feet and constructed  
103 to prohibit visibility of anything inside of the enclosure. The portion of any  
104 vehicle exceeding eight feet in height may be visible outside of the fence.  
105 Vehicle parts (usable or unusable), vehicle service supplies, and any other  
106 debris created in the repair or servicing of vehicles shall also be stored indoors  
107 or inside the fenced enclosure out of view of the public;  
108 ee. Farmers' market;  
109 ff. Dormitory;  
110 gg. Financial institutions;  
111 hh. As an accessory use, one small wind energy system per lot having a rated  
112 capacity not exceeding 10 kilowatts;  
113 ii. One detached dwelling unit, excluding mobile homes, as an accessory  
114 building to a principal single-family dwelling on a lot.  
115 **jj. Marijuana cultivation facilities, manufacturing facilities, retail facilities,**  
116 **and testing facilities as defined by state law.**

117  
118 Section 2. Homer City Code Section 21.24.020, Permitted uses and structures, is  
119 amended to read as follows:

120  
121 Section 21.24.020 Permitted uses and structures.

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

- 125 a. Air charter operations and floatplane tie-up facilities;  
126 b. General business offices and professional offices;  
127 c. Dwelling units located in buildings primarily devoted to business uses;  
128 d. Auto repair;

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

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

**Added** Deleted language stricken through.]

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

173  
174 Section 3. Homer City Code Section 21.26.020, Permitted uses and structures, is  
175 amended to read as follows:

176  
177 Section 21.26.020 Permitted uses and structures.

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

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

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

- 214 t. Dormitory;
- 215 u. As an accessory use, one small wind energy system per lot;
- 216 v. Open air business.
- 217 **w. Marijuana cultivation facilities, manufacturing facilities, retail facilities,**
- 218 **and testing facilities as defined by state law.**

219  
220 Section 4. Homer City Code Section 21.27.020, Permitted uses and structures, is  
221 amended to read as follows:

222  
223 Section 21.27.020 Permitted uses and structures.

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

- 227 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals,  
228 service and repair;
- 229 b. Drive-in car washes;
- 230 c. Building supply and equipment sales and rentals;
- 231 d. Garden supplies and greenhouses;
- 232 e. Boat and marine equipment sales, rentals, manufacturing, storage yard,  
233 service and repair;
- 234 f. Welding and mechanical repair;
- 235 g. Restaurants, including drive-in restaurants, clubs and drinking  
236 establishments;
- 237 h. Religious, cultural, and fraternal assembly;
- 238 i. Studios;
- 239 j. Personal services;
- 240 k. Agricultural activities, including general farming, truck farming, nurseries,  
241 tree farms and greenhouses;
- 242 l. Private stables;
- 243 m. Storage of heavy equipment, vehicles or boats;
- 244 n. Plumbing, heating and appliance service shops;
- 245 o. Home occupations on a lot whose principal permitted use is residential,  
246 provided they conform to the requirements of HCC 21.51.010;
- 247 p. Mortuaries and crematoriums;
- 248 q. Open air businesses;
- 249 r. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 250 s. Manufacturing, fabrication and assembly;
- 251 t. Retail businesses;
- 252 u. Trade, skilled or industrial schools;
- 253 v. Wholesale businesses, including storage and distribution services incidental  
254 to the products to be sold;
- 255 w. Parks and open space;
- 256 x. Warehousing, commercial storage and mini-storage;

**Deleted language stricken through.**



- 257 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b) and  
258 (c);  
259 z. Dry cleaning, laundry, and self-service laundries;  
260 aa. Mobile food services;  
261 bb. As an accessory use, one small wind energy system per lot;  
262 cc. Production, processing, assembly and packaging of fish, shellfish and  
263 seafood products;  
264 dd. Research and development laboratories;  
265 ee. Storage and distribution services and facilities, including truck terminals,  
266 warehouses and storage buildings and yards, contractors' establishments,  
267 lumberyards and sales, or similar uses;  
268 ff. Cold storage facilities;  
269 gg. Mobile commercial structures;  
270 hh. Single-family and duplex dwellings, only as an accessory use incidental to a  
271 permitted principal use; provided, that no permit shall be issued for the  
272 construction of an accessory dwelling prior to the establishment of the  
273 principal use;  
274 ii. The repair, replacement, reconstruction or expansion of a single-family or  
275 duplex dwelling, including a mobile home, that existed lawfully before its  
276 inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding any  
277 provision of Chapter 21.61 HCC to the contrary; provided, that a mobile home  
278 may not be used to replace or expand such a dwelling;  
279 jj. Customary accessory uses to any of the uses permitted in the EEMU district  
280 that are clearly subordinate to the main use of the lot or building, including  
281 without limitation wharves, docks, storage facilities, restaurant or cafeteria  
282 facilities for employees; or caretaker or employee dormitory residence if  
283 situated on a portion of the same lot as the principal use; provided, that no  
284 permit shall be issued for the construction of any type of accessory building  
285 prior to the establishment of the principal use;  
286 kk. Taxi operation;  
287 ll. Itinerant merchants, provided all activities shall be limited to uses permitted  
288 outright under this zoning district;  
289 mm. More than one building containing a permitted principal use on a lot;  
290 nn. The outdoor harboring or keeping of dogs, small animals and fowl as an  
291 accessory use to a residential use in a manner consistent with the  
292 requirements of all other provisions of the Homer City Code and as long as  
293 such animals are pets of the residents of the dwelling and their numbers are  
294 such as not to unreasonably annoy or disturb occupants of neighboring  
295 property.  
296 **oo. Marijuana cultivation facilities, manufacturing facilities, retail**  
297 **facilities, and testing facilities as defined by state law.**  
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Section 5. Homer City Code Chapter 21.62, Marijuana Cultivation, Manufacturing,  
**Deleted language stricken through.**

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

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**Chapter 21.62**  
**Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities**

**Sections:**

- 21.62.010 Scope.**
- 21.62.020 Intent**
- 21.62.030 Definitions**
- 21.62.040 Pre-application conference.**
- 21.62.050 Costs**
- 21.62.060 Safety and Security Plan**
- 21.62.070 Buffers.**
- 21.62.080 General restrictions on all marijuana facilities.**

**21.62.010 Scope**

- a. This chapter applies to the operation of all marijuana cultivation, manufacturing, retail , and testing facilities within the city boundaries.**
- b. This chapter in no way protects marijuana facilities from enforcement of federal law nor is it intended to sanction conduct or operations prohibited by law. All persons engaged in the marijuana industry within the city operate at their own risk and have no legal recourse against the City in the event that city laws are preempted, negated or otherwise found unenforceable based upon federal law prohibiting the sale, distribution, consumption or possession of marijuana.**

**21.62.020 Intent**

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

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

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

**21.62.030 Definitions [reserved]**

**21.62.040 Pre-application Conference.**

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

**21.62.050 Costs.**

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

**21.62.060 Safety and Security Plan**

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

**21.62.070 Buffers**

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

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

- |                  |                                 |                         |
|------------------|---------------------------------|-------------------------|
| <b><u>1.</u></b> | <b><u>Schools</u></b>           | <b><u>1000 feet</u></b> |
| <b><u>2.</u></b> | <b><u>Churches</u></b>          | <b><u>500 feet</u></b>  |
| <b><u>3.</u></b> | <b><u>Jail</u></b>              | <b><u>500 feet</u></b>  |
| <b><u>4.</u></b> | <b><u>Youth/rec. center</u></b> | <b><u>500 feet</u></b>  |
| <b><u>5.</u></b> | <b><u>Library</u></b>           | <b><u>200 feet</u></b>  |

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

**d. For purposes of this section, “schools” mean property primarily used as a private or public elementary or secondary education facility or property**

385 **primarily used as a post-secondary education facility, including but not limited to**  
386 **private, faith-based, and public colleges and universities.**

387  
388 **21.62.80 General restrictions applied to all marijuana facilities.**  
389 **a. All marijuana facilities in all districts shall comply with Section**  
390 **21.59.030 of this title.**  
391 **b. An application for a conditional use permit under this chapter shall not**  
392 **be approved if the location of the facility violates the regulatory intent in Section**  
393 **21.62.020.**

394  
395 Section 6. This ordinance shall take effect only upon certification of a majority vote  
396 rejecting the proposition to prohibit marijuana establishments in the City at the special  
397 election to be held in the city on April 19, 2016.

398  
399 Section 7. This ordinance is of a permanent and general character and shall be  
400 included in the City code.

401  
402 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this \_\_\_\_\_ day of  
403 \_\_\_\_\_ 2016.

404  
405 CITY OF HOMER

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

410 ATTEST:

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

415  
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417 AYES:

418 NOES:

419 ABSTAIN:

420 ABSENT:

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424 First Reading:

425 Public Reading:

426 Second Reading:

427 Effective Date:

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

428 Reviewed and approved as to form:

429

430 \_\_\_\_\_

431 Mary K. Koester, City Manager

432

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

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

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



CITY OF HOMER  
HOMER, ALASKA

Mayor

ORDINANCE 16-04(A)(S-2)(A3)

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 HOMER CITY CODE 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.~~ THE PROPOSITION TO PROHIBIT MARIJUANA ESTABLISHMENTS IN THE CITY AT THE SPECIAL ELECTION TO BE HELD IN THE CITY ON APRIL 19, 2016.

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

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

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

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

Section 21.1218.020, Permitted uses and structures.

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

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

- a. Single-family dwelling;
- b. Duplex dwelling;
- c. ~~Multiple-family dwelling, only if the structure conforms,~~ is amended to HCC 21.14.040(a)(2); read as follows:
- d. Public parks and playgrounds;
- e. Rooming house, bed and breakfast and hostel;
- f. ~~Home occupations, provided they conform to the requirements of HCC 21.51.010;~~
- g. ~~Agricultural activities, including general farming, truck farming, livestock farming, nurseries, and greenhouses; provided, that:~~
  - 1. ~~Other than normal household pets, no poultry or livestock may be housed and no fenced runs may be located within 100 feet of any residence other than the dwelling on the same lot;~~
  - 2. ~~No retail or wholesale business sales office is maintained on the premises;~~
- h. Private stables;
- i. ~~Private floatplane tie-down as an accessory use incidental to residential use;~~
- j. ~~Storage of personal commercial fishing gear in a safe and orderly manner and separated by at least five feet from any property line as an accessory use incidental to residential use;~~
- k. ~~As an accessory use incidental to residential use, the private outdoor storage of noncommercial equipment, including noncommercial trucks, boats, and not more than one recreational vehicle in a safe and orderly manner and separated by at least five feet from any property line, provided no stored equipment, boat or vehicle exceeds 36 feet in length;~~
- l. ~~Other customary accessory uses incidental to any of the permitted uses listed in the RR district; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the main building;~~
- m. ~~Temporary (seasonal) roadside stands for the sale of produce grown on the premises;~~
- n. ~~Mobile homes, subject to the requirements of HCC 21.54.100;~~
- o. ~~Day care homes; provided, however, that outdoor play areas must be fenced;~~
- p. ~~Recreational vehicles, subject to the requirements of HCC 21.54.320;~~
- q. ~~Open space, but not including outdoor recreational facilities described in HCC 21.12.030;~~
- r. ~~As an accessory use, one small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;~~

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



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

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

~~u. Limited marijuana cultivation facility 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.~~

~~Section 2. Homer City Code Chapter 21.18 is amended 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;

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

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

f. Hotels and motels;

g. Mortuaries;

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

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

j. Parks;

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

l. Customary accessory uses to any of the permitted uses listed in the CBD district; provided, that a separate permit shall not be issued for the construction of any detached accessory building prior to that of the main building;

m. Mobile homes, provided they conform to the requirements set forth in HCC 21.54.100;

n. Home occupations, provided they conform to the requirements of HCC 21.51.010;

o. Ministorage;

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

- 139 | p. Apartment units located in buildings primarily devoted to business or  
140 | commercial uses;
- 141 | q. Religious, cultural, and fraternal assembly;
- 142 | r. Entertainment establishments;
- 143 | s. Public, private and commercial schools;
- 144 | t. Museums and libraries;
- 145 | u. Studios;
- 146 | v. Plumbing, heating and appliance service shops, only if such use, including  
147 | the storage of materials, is wholly within an enclosed building;
- 148 | w. Publishing, printing and bookbinding;
- 149 | x. Recreational vehicle parks only if located south of the  
150 | Sterling Highway (Homer Bypass) from Lake Street west to the boundary of  
151 | the Central Business District abutting Webber Subdivision, and from  
152 | Heath Street to the west side of Lakeside Village Subdivision, provided they  
153 | shall conform to the standards in HCC 21.54.200 and following sections;
- 154 | y. Taxi operation limited to a dispatch office and fleet parking of no more  
155 | than five vehicles; maintenance of taxis must be conducted within an  
156 | enclosed structure, and requires prior approval by the City Planner of a site,  
157 | access and parking plan;
- 158 | z. Mobile food services;
- 159 | aa. Itinerant merchants, provided all activities shall be limited  
160 | to uses permitted outright under this zoning district;
- 161 | bb. Day care homes and facilities; provided, however, that outdoor play areas  
162 | must be fenced;
- 163 | cc. Rooming house, bed and breakfast and hostel;
- 164 | dd. Auto repair and auto and trailer sales or rental areas, but only on  
165 | Main Street from Pioneer Avenue to the Sterling Highway, excluding lots with  
166 | frontage on Pioneer Avenue or the Sterling Highway, subject to the following  
167 | additional requirements: Vehicles awaiting repair or service, inoperable  
168 | vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be  
169 | parked indoors or inside a fenced enclosure so as to be concealed from view,  
170 | on all sides. The fence shall be a minimum height of eight feet and  
171 | constructed to prohibit visibility of anything inside of the enclosure. The  
172 | portion of any vehicle exceeding eight feet in height may be visible outside of  
173 | the fence. Vehicle parts (usable or unusable), vehicle service supplies, and  
174 | any other debris created in the repair or servicing of vehicles shall also be  
175 | stored indoors or inside the fenced enclosure out of view of the public;
- 176 | ee. Farmers' market;
- 177 | ff. Dormitory;
- 178 | gg. Financial institutions;
- 179 | hh. As an accessory use, one small wind energy system per lot having a rated  
180 | capacity not exceeding 10 kilowatts;
- 181 | ii. One detached dwelling unit, excluding mobile homes, as an accessory  
182 | building to a principal single-family dwelling on a lot.
- 183 | **jj. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and**  
184 | **testing facilities as defined by state law.**

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

185  
186 Section 32. Homer City Code Chapter ~~Section~~ 21.24.020, Permitted uses and  
187 structures, is amended to read as follows:

188  
189 Section 21.24.020 Permitted uses and structures.

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

- 193 a. Air charter operations and floatplane tie-up facilities;  
194 b. General business offices and professional offices;  
195 c. Dwelling units located in buildings primarily devoted to business uses;  
196 d. Auto repair;  
197 e. Auto and trailer sales or rental areas;  
198 f. Auto fueling stations and drive-in car washes;  
199 g. Building supply and equipment sales and rentals;  
200 h. Restaurants, including drive-in restaurants, clubs and drinking  
201 establishments;  
202 i. Garden supplies and greenhouses;  
203 j. Heavy equipment and truck sales, rentals, service and repair;  
204 k. Hotels and motels;  
205 l. Lumberyards;  
206 m. Boat and marine equipment sales, rentals, service and repair;  
207 n. Mortuaries;  
208 o. Open air businesses;  
209 p. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;  
210 q. Manufacturing of electronic equipment, electrical devices, pottery,  
211 ceramics, musical instruments, toys, novelties, small molded products and  
212 furniture;  
213 r. Publishing, printing and bookbinding;  
214 s. Recreation vehicle sales, rental, service and repair;  
215 t. Retail businesses;  
216 u. Trade, skilled or industrial schools;  
217 v. Wholesale businesses, including storage and distribution services  
218 incidental to the products to be sold;  
219 w. Welding and mechanical repair;  
220 x. Parks and open space;  
221 y. Appliance sales and service;  
222 z. Warehousing, commercial storage and mini-storage;  
223 aa. Banks, savings and loans, credit unions and other financial institutions;  
224 bb. Customary accessory uses to any of the permitted uses listed in the GC1  
225 district; provided, that no separate permit shall be issued for the  
226 construction of any type of accessory building prior to that of the main  
227 building;  
228 cc. Dry cleaning, laundry, and self-service laundries;  
229 dd. Taxi operation;  
230 ee. Mobile food services;

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

- 231 ff. Itinerant merchants, provided all activities shall be limited  
232 to uses permitted outright under this zoning district;  
233 gg. Recreational vehicle parks, provided they shall conform to the standards  
234 in Article II of Chapter 21.54 HCC;  
235 hh. Day care homes; provided, that a conditional use permit was obtained for  
236 the dwelling, if required by HCC 21.24.030; all outdoor play areas must be  
237 fenced;  
238 ii. Rooming house and bed and breakfast;  
239 jj. Dormitory;  
240 kk. As an accessory use, one small wind energy system per lot.  
241 **ll. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and**  
242 **testing facilities as defined by state law.**  
243

244 Section 43. Homer City Code Chapter~~Section~~ 21.26.020, Permitted uses and  
245 structures, is amended to read as follows:  
246

247 Section 21.26.020 Permitted uses and structures.

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

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

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

- 277 o. Taxi operation;
- 278 p. Mobile food services;
- 279 q. Itinerant merchants, provided all activities shall be limited
- 280 to uses permitted outright under this zoning district;
- 281 r. Recreational vehicle parks, provided they shall conform to the standards in
- 282 Chapter 21.54 HCC;
- 283 s. Hotels and motels;
- 284 t. Dormitory;
- 285 u. As an accessory use, one small wind energy system per lot;
- 286 v. Open air business.
- 287 w. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
- 288 testing facilities as defined by state law.
- 289

290  
291  
292 Section 54. Homer City Code Chapter 21.27 Section 21.27.020, Permitted uses and  
293 structures, is amended to read as follows:

294  
295 ———Section 21.27.020 Permitted uses and structures.

296  
297 The following uses are permitted outright in the East End Mixed Use District,  
298 except when such use requires a conditional use permit by reason of size, traffic  
299 volumes, or other reasons set forth in this chapter:

- 300 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
- 301 rentals, service and repair;
- 302 b. Drive-in car washes;
- 303 c. Building supply and equipment sales and rentals;
- 304 d. Garden supplies and greenhouses;
- 305 e. Boat and marine equipment sales, rentals, manufacturing, storage yard,
- 306 service and repair;
- 307 f. Welding and mechanical repair;
- 308 g. Restaurants, including drive-in restaurants, clubs and drinking
- 309 establishments;
- 310 h. Religious, cultural, and fraternal assembly;
- 311 i. Studios;
- 312 j. Personal services;
- 313 k. Agricultural activities, including general farming, truck farming, nurseries,
- 314 tree farms and greenhouses;
- 315 l. Private stables;
- 316 m. Storage of heavy equipment, vehicles or boats;
- 317 n. Plumbing, heating and appliance service shops;
- 318 o. Home occupations on a lot whose principal permitted use is residential,
- 319 provided they conform to the requirements of HCC 21.51.010;
- 320 p. Mortuaries and crematoriums;
- 321 q. Open air businesses;
- 322 r. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;

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

- 323 s. Manufacturing, fabrication and assembly;  
324 t. Retail businesses;  
325 u. Trade, skilled or industrial schools;  
326 v. Wholesale businesses, including storage and distribution services  
327 incidental to the products to be sold;  
328 w. Parks and open space;  
329 x. Warehousing, commercial storage and mini-storage;  
330 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b)  
331 and (c);  
332 z. Dry cleaning, laundry, and self-service laundries;  
333 aa. Mobile food services;  
334 bb. As an accessory use, one small wind energy system per lot;  
335 cc. Production, processing, assembly and packaging of fish, shellfish and  
336 seafood products;  
337 dd. Research and development laboratories;  
338 ee. Storage and distribution services and facilities, including truck terminals,  
339 warehouses and storage buildings and yards, contractors' establishments,  
340 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 incidental to  
344 a permitted principal use; provided, that no permit shall be issued for the  
345 construction of an accessory dwelling prior to the establishment of the  
346 principal use;  
347 ii. The repair, replacement, reconstruction or expansion of a single-family or  
348 duplex dwelling, including a mobile home, that existed lawfully before its  
349 inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding any  
350 provision of Chapter 21.61 HCC to the contrary; provided, that a mobile  
351 home may not be used to replace or expand such a dwelling;  
352 jj. Customary accessory uses to any of the uses permitted in the EEMU  
353 district that are clearly subordinate to the main use of the lot or building,  
354 including without limitation wharves, docks, storage facilities, restaurant or  
355 cafeteria facilities for employees; or caretaker or employee dormitory  
356 residence if situated on a portion of the same lot as the principal use;  
357 provided, that no permit shall be issued for the construction of any type of  
358 accessory building prior to the establishment of the principal use;  
359 kk. Taxi operation;  
360 ll. Itinerant merchants, provided all activities shall be limited to uses  
361 permitted outright under this zoning district;  
362 mm. More than one building containing a permitted principal use on a lot;  
363 nn. The outdoor harboring or keeping of dogs, small animals and fowl as an  
364 accessory use to a residential use in a manner consistent with the  
365 requirements of all other provisions of the Homer City Code and as long as  
366 such animals are pets of the residents of the dwelling and their numbers are  
367 such as not to unreasonably annoy or disturb occupants of neighboring  
368 property.

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



369 oo. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and  
370 testing facilities as defined by state law.

371  
372  
373  
374 ~~Section 6.~~ 5. Homer City Code Chapter 21.62, Marijuana Cultivation,  
375 Manufacturing, Retail, and Testing Facilities, is hereby enacted to read as follows:

376  
377 Chapter 21.62

378  
379 Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities

380  
381 Sections:

382 21.62.010 Scope.

383 21.62.020 Intent

384 21.62.030 Definitions

385 21.62.040 Pre-application conference.

386 21.62.050 Costs

387 21.62.060 Safety and Security Plan

388 21.62.070 Buffers.

389 21.62.080 General restrictions on all marijuana facilities.

390  
391 21.62.010 Scope

392  
393 a. This chapter applies to the operation of all marijuana cultivation,  
394 manufacturing, retail , and testing facilities within the city boundaries.

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

401  
402 21.62.020 Intent

403  
404 a. This chapter is intended to impose regulations that prevent:

- 405  
406 1. The distribution of marijuana to minors;  
407 2. Revenue from the sale of marijuana from going to criminal  
408 enterprises, gangs, and cartels;  
409 3. The diversion of marijuana from states where it is legal under  
410 state law in some form to other states where it is unlawful;  
411 4. State-authorized marijuana activity from being used as a cover  
412 or pretext for the trafficking of other illegal drugs or other illegal  
413 activity;  
414 5. Violence and the use of firearms in the cultivation and

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

- 415 distribution of marijuana;  
416 6. Drugged driving and the exacerbation of other adverse public  
417 health consequences associated with marijuana use;  
418 7. The growing of marijuana on public lands and the attendant  
419 public safety and environmental dangers posted my marijuana  
420 production on public land; and  
421 8. Marijuana possession or use on federal property.  
422

423 21.62.030 Definitions [reserved]

424  
425 21.62.040 Pre-application Conference.

426  
427 21.57.050 Costs.

428  
429 ~~The cost of all permits, studies and investigation required under this chapter~~  
430 ~~shall be borne by the applicant.~~

431  
432 When Title 21 requires a conditional use permit for a marijuana facility, the  
433 applicant must meet with the City Planner to discuss the conditional use permit  
434 process and any issues that may affect the proposed conditional use. This meeting is  
435 to provide for an exchange of general and preliminary information only and no  
436 statement made in such meeting by either the applicant or the City Planner shall be  
437 regarded as binding or authoritative for the purposes of this title.

438  
439 21.62.050 Costs.

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

442  
443 21.62.060 Safety and Security Plan

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

449  
450 21.62.070 Buffers

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

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



- 461 1. Schools 1000 feet
- 462 2. Churches 500 feet
- 463 3. Jail 500 feet
- 464 4. Youth/rec. center 500 feet
- 465 5. Library 200 feet

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

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

475  
476 21.62.80 General restrictions applied to all marijuana facilities.

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

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

484  
485 Section 76. This ordinance shall take effect only 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 on  
488 April 19, 2016.

489  
490 Section 87. 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

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

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

524

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

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