

City Council
January 25, 2016
Monday



Worksession 4:00 P.M.
Committee of the Whole 5:00 P.M.
Regular Meeting 6:00 P.M.

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

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January/February

Monday 25th:	CITY COUNCIL Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.
Wednesday 27th:	PORT AND HARBOR ADVISORY COMMISSION Regular Meeting 5:00 p.m.
Thursday 28th:	CANNABIS ADVISORY COMMISSION Regular Meeting 5:30 p.m.
Tuesday 2nd:	LIBRARY ADVISORY BOARD Regular Meeting 5:30 p.m.
Wednesday 3rd:	PLANNING COMMISSION Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
Monday 8th:	CITY COUNCIL Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.

Regular Meeting Schedule

City Council 2nd and 4th Mondays 6:00 p.m.

Library Advisory Board 1st Tuesday with the exception of January, April, August and November 5:30 p.m.

Economic Development Advisory Commission 2nd Tuesday 6:00 p.m.

Parks and Recreation Advisory Commission 3rd Thursday with the exception of July, December and January 5:30 p.m.

Planning Commission 1st and 3rd Wednesday 6:30 p.m.

Port and Harbor Advisory Commission 4th Wednesday 5:00 p.m. (May-August 6:00 p.m.)

Cannabis Advisory Commission 4th Thursday 5:30 p.m.

Public Arts Committee Quarterly 2nd Thursday 5:00 p.m.

Permanent Fund Committee Quarterly 2nd Thursday 5:15 p.m.

MAYOR AND CITY COUNCILMEMBERS AND TERMS

BETH WYTHER, MAYOR – 16

BRYAN ZAK, COUNCILMEMBER – 16

DAVID LEWIS, COUNCILMEMBER – 17

GUS VAN DYKE, COUNCILMEMBER – 16

CATRIONA REYNOLDS, COUNCILMEMBER – 17

DONNA ADERHOLD, COUNCILMEMBER – 18

HEATH SMITH, COUNCILMEMBER – 18

City Manager, Katie Koester

City Attorney, Thomas F. Klinkner

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

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



WORKSESSION
4:00 P.M. MONDAY
JANUARY 25, 2016
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER GUS VAN DYKE
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

WORKSESSION AGENDA

- 1. CALL TO ORDER, 4:00 P.M.**
- 2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
- 3. STRATEGIC DOING – AMERICAN DISABILITIES ACT**

Memorandum 16-019 from City Manager as backup. Page 11
- 4. COMMENTS OF THE AUDIENCE**
- 5. ADJOURNMENT NO LATER THAN 4:50 P.M.**
Next Regular Meeting is Monday, February 8, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and a Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Prioritized List of Comprehensive Plan Implementation Table Goals/Strategies

1.25.16

Yellow highlights: Tasks Council has chosen for staff to focus on

Green highlights: Tasks that are underway that could be incorporated into strategic doing

Strike Through: Tasks that are considered as complete as currently possible

High Impact | Low Difficulty

19 – Education

- **50** – Continue to partner and work to support efforts of the Kenai Peninsula Borough School District.

19 – Economic Vitality – Natural Resources

- **42** – Support staging areas for large development projects.
- **42** – Support commercial fishing and fish processing.
- **41** – Partner with and support the efforts of other organizations, such as the Chamber of Commerce, to plan for economic development.

18 – Energy Plan

- **42** – Improve energy efficiency and conservation in City facilities.
- **38** – Create a solid waste and recycling plan for City facilities.
- **37** – Implement the Climate Action Plan.
- **37** – Create an Energy Plan
- **34** – Partner with public, private and non-profit organizations to implement a plan to reduce, reuse and recycle solid waste.

15 – Parking

- ~~**38** – Allow for shared parking and in-lieu fees for downtown businesses.~~
- ~~**29** – Construct strategically located parking lots in or near downtown.~~
- ~~**23** – Improve/increase on-street parking~~

13 – Trails/Non-motorized Transportation

- ~~**44** – Develop bike/pedestrian friendly roadway design standards~~
- **43** – Implement the policy recommendations of the Non-Motorized Transportation Plan, e.g. an acceptance policy for trail easements.
- **39** – Build the recommended trail connections in the Non-Motorized Transportation Plan.

13 – Senior Services

- **37** – Encourage or create incentives for private businesses to provide or improve accessibility for seniors.
- **37** – Improve accessibility for senior citizens. Require all public facilities be accessible for seniors and individuals with disabilities.

High Impact | High Difficulty

12 – Community Capacity

- **39** – Continue to work with citizen groups and nonprofit organizations which play a large role in providing desired services in Homer
- **37** – Continue to work with residents and business to better understand community

priorities, and to the extent possible, find resources to meet these needs.

- **35** – Increase the net revenues coming into the city, through managing costs and expanding the community's tax base.
- **28** – Support the efficient use of existing community facilities. Partner with organizations to keep city facilities operating beyond normal hours.

12 – Youth Services

- **31** – Provide a range of activities and programs to benefit youth.

11 – Port and Harbor

- **40** – Address general harbor maintenance and erosion control.
- **36** – Complete the Port and Harbor projects listed in Homer's current CIP.
- **34 – Expand the Deep Water Dock.**
- **30** – Create an East Boat Harbor.
- **30** – Improve restrooms along the spit trail.

11 – Fire and Emergency Services

- **38** – Increase marine fire/emergency response capabilities.
- **37** – Increase training opportunities.
- **36 – Update Hazard Plans.**
- **34 – Construct new building and training facility.**
- **34** – Increase volunteer core to 50 people.
- **24** – Hire Fire Marshal/Code Examiner.

11 – Police Department

- **35** – Implement a reasonable vehicle replacement plan.
- **35 – Construct a new building.**
- **31** – Address retention and recruitment issues, and retain a competitive compensation package.
- **27** – Hire dedicated Homer Spit Officer for summer months.

9 – Storm Water

- **36** – Develop storm water design criteria for large parcel development.
- **36** – Encourage the utilization of green infrastructure mapping as a means to identify and retain natural drainage channels and important wetlands, which serve drainage functions.
- **34** – Adopt area-wide storm water management standards.

9 – Parks, Recreation, & Culture

- **35** – Create a Parks and Recreation Master Plan.
- **35 – Update the Beach Policy.**

Low Impact | Low Difficulty

16 – Transportation – Misc.

- **34** – Update the 1986 Master Streets and Roads Plan and the 2005 Transportation Plan. Implement the Transportation Plan.
- **31** – Establish a Road Corridor Preservation Program and adopt appropriate ordinances (e.g. road standards, cost sharing mechanism).

15 – Improved Zoning

- **38** – Develop new zoning code to implement new categories.

- **37** – Work with the Comprehensive Plan Land Use Recommendation map on an areaby area basis to determine the feasibility and acceptability of rezoning.
- 14 – Economic Vitality – Tourism**
 - **32** – Provide adequate parking for Spit attractions and/or efficient shuttle service between downtown and Spit areas.
 - **29** – Prepare a Tourism Management Plan.
- 13 – Economic Vitality – Misc.**
 - **36** – Accommodate and promote arts and culture events.
 - **36** – Work with the University, KBC to develop education and vocation programs for Homer residents.
 - **33** – Research and implement strategies to provide for a range of housing options.
 - **31** – Improve technology infrastructure.
- 11 – Improved Standards and Regulations**
 - **35** – Adopt new development standards for development in environmentally sensitive areas. Includes road construction practices.
 - **34** – Create new development standards for higher density residential development.
 - **28** – Evaluate and consider shifting platting authority from Borough to City of Homer.
 - **28** – Adopt building codes.

Low Impact | High Difficulty

- 14 – Solid Waste**
 - **40** – Institute measures to improve recycling among City departments.
- 13 – Library**
 - **27** – Increase staff to respond to increased demand.
- 12 – Water and Sewer**
 - **36** – Construct water and sewer lines to developed properties as demand warrants.
 - **35** – Implement the Water Sewer Master Plan.
 - **32** – Repair and rehabilitate sewer mains to reduce infiltration.
 - **32** – Enact a sewer inflow reduction program.
 - **24** – Develop a new water source.
- 11 – Green Infrastructure**
 - **35** – Adopt guidelines for sustainable development such as energy efficiency, use of recycled materials, and low impact landscaping in city buildings.
 - **33** – Evaluate incentives to promote development that uses the green infrastructure ideas presented in Appendix D.
- 7 – Pattern of Development**
 - **36** – Work with Borough to prepare mutually acceptable development standards.
 - **32** – Establish more specific criteria, process, schedule and objectives for possible future annexations.
 - **31** – Amend city code to recognize the transfer of development rights to preserve environmentally sensitive or recreational areas.



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

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Homer, Alaska 99603

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(f) 907-235-3148

Memorandum 16-019

TO: Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: January 20, 2016
SUBJECT: Strategic Doing: ADA Accessibility

When Council first prioritized areas of emphasis for strategic doing, they picked low difficulty high impact priorities from the Comprehensive Plan. One of those was senior services and accessibility.

I have had the opportunity to work with Rick Malley and the Independent Living Center on ADA accessibility, and though I have a lot to learn I appreciate their partnership and guidance as the City learns more about the ADA and effectively accommodating all of our citizens. I would like to take the opportunity during this work session to explain the progress the City has made, what is left on the table, and where Council input is necessary.

What Has Been Done

- Purchased a 'Listen' – a device to assist hearing impaired Council/Commission/Committee members
- Purchased 3 digital voting machines that are accessible to the visually impaired
- Accessibility at Parks:

Parks Coordinator and Public Works Director have met with Rick Malley, ADA/IL specialist from the Independent Living Center to discuss improvements that are needed at Bishops Beach and Karen Hornaday Park.

The main improvement needed for Bishops Beach is a compacted gravel pathway from the restrooms to the picnic shelter and the entrance to the boardwalk. This can be done this spring. There needs to be compacted gravel at the picnic shelter as well. An accessible path to the beach was also discussed, and Rick suggested that this be added to a transition plan. Tactile signage for the restrooms has been ordered.

Karen Hornaday Park: An accessible pathway from the parking lot to the picnic shelter was discussed. Also an accessible trail around the perimeter of the playground is needed and we need to make sure there are enough accessible playground elements. An ADA parking space is to be designated at the entrance to the playground with tactile signage, and signage for the accessible campground sites.

WKFL Park's gazebo also needs to be made accessible with a ramp, and a pathway from the gazebo to the restrooms.

-The City has contracted with the Northwest ADA Center to provide 2 days of employee training on ADA. This includes training supervisors and employees who interact frequently with the public on how to be sensitive and accommodating to individuals with disabilities. Public Works employees will also be trained in standards for accessible design so City employees will be able to easily identify potential physical barriers and troubleshoot problem solving.

-Appointed an ADA coordinator to be a point of contact for the public on ADA issues. The coordinator needs to have great interpersonal, analytical and organizational skills. They are responsible for publishing notices and investigating complaints, among other things. Sounds like a Clerk! Thank you to Melissa Jacobsen for stepping up to the job.

-All new or remodeled construction meets ADA standards.

What is Next?

Self-Evaluation

All state and local governments are required to conduct a self-evaluation of their programs to identify barriers to people with disabilities. Many of the mandatory requirements apply to employment practices, of which the City is in compliance. However, the evaluation tool also includes best practices and will be a useful first step in working on a transition plan.

Transition Plan

The next step is for the City to draft a Transition Plan identifying ways in which the City can become more ADA friendly and accessible. Independent Living will be at Council to help explain what a transition plan entails. The City could write a transition plan in house, with input of the community, or pursue grant funding for a transition plan. To the extent possible, I think pursuing grant funding, if available, is much more realistic given the current staff workload. Either way, community input will to be key to the success of the plan.

ADA Committee

I would like Council's input on forming a committee made up of members of the public, ADA advocates, senior advocates, and the City that could provide oversight on a transition plan. In the future, it could help with implementation of the Transition Plan and provide a useful sounding board for viewing City projects and initiatives through an ADA lens. While a transition plan is being written the committee will play a key role in oversight and providing a venue for the public to be involved and may meet on a monthly basis. I appreciate the Council's awareness of how much staff time a committee takes and would recommend that meetings could be scaled up or down according to demand. Also, much like the Sustainable Animal Control Review Committee, this committee would not be staffed by a City Clerk and would be responsible for taking meeting notes, etc. However, the ADA coordinator would likely attend the meetings and be a liaison for the City. Additionally, as a City committee, the

City will have to follow proper advertising and notice. A seat for a Councilmember would provide a great nexus between the City and the committee; however I would ask for your input on a dedicated seat as Council is already fully taxed with meetings, committees and obligations.

Budget

Many of the things that the City can do require raising awareness and staff time, which does have a cost. However, Council may want to consider dedicated funds to seed improvements. Currently, the City has a line item in the personnel budget for ADA compliance (that was recently reduced, along with all other line items: \$1,000 for 2016). This is used to pay for accommodations employees may need and is paying for the ADA employee trainings. In the past, Council has purchased equipment for boards and commission members out of its budget. While these cases are infrequent enough, an ADA reserves may be worth considering in the next budget cycle as a place Council could dedicate funds, as available, to projects that forward the goals of the transition plan. This would also provide match to pursue grant opportunities surrounding improving ADA accessibility. Some of the improvements may be eligible for HART funds as sidewalks and trails are a large part of accessibility and can be kept in mind as Council discusses the future of HART.

Potential Council Action

- Ordinance amending City Code to establish ADA Coordinator role and responsibilities
- Resolution Establishing a Committee
- Consider Establishing an ADA Reserve Account or Line Item

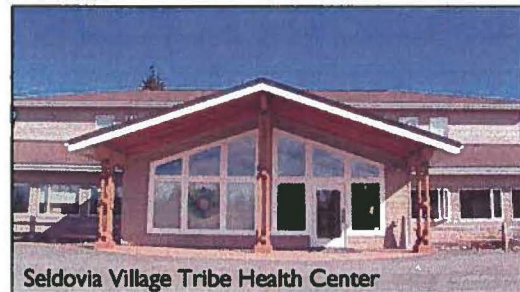
Enc:

Associated excerpt from Comprehensive Plan
City of Homer Staff ADA Training Program
City of Homer Personnel Regulations Addressing Equal Opportunity/Discrimination
Department of Justice ADA Guide for Small Towns

Objective D: HEALTH CARE – Support and encourage health care to provide exceptional cradle to grave services and keep pace with the changing needs of Homer’s community. See *Economic Vitality Chapter*.

Current Status

Homer offers a range of health care service options. Homer has a major hospital facility, South Peninsula Hospital, which is Borough-owned, operated by a nonprofit management board, and part of a borough service area. Homer also has a state funded Public Health Center. This nurse-run facility offers immunizations, health education programs, and prenatal programs. Seldovia Village Tribe also operates a health care facility. South Peninsula Behavioral Health Services, Inc. is Homer’s primary outpatient and emergency services provider of mental and behavioral health service and support.



Implementation Strategies

1. Support activities that increase the ability to respond to intensive behavioral health needs of the community, including residential needs for behavioral health consumers of all ages, by looking at the possibility of developing a residential behavioral health facility, particularly for children and youth, located in Homer.
2. Support the continuation of KBC’s course and degree programs in the allied health occupations, to provide a trained labor force for health care facilities. As Homer’s population ages, there will be increased demands on the health care system and a need for more trained health care professionals.
3. Continue to support the South Peninsula Hospital via the Kenai Peninsula Borough and the South Kenai Hospital Service Area.

Future Needs

1. Support increased local educational opportunities in health care fields, including KBC, that create opportunities for residents to fill these medical industry jobs. See *Economic Vitality Chapter*.

Objective E: SENIOR SERVICES – Keep Homer an attractive place to live for people at all stages of life by providing and supporting public services and facilities to serve the senior population.

Current Status

Many features make Homer attractive to this growing segment of the city’s population, including a relatively concentrated downtown with some walkable areas, senior center, library, university, hospital, doctors, and other health care providers. The community has an effective, active nonprofit agency which provides services to Homer’s seniors.

Implementation Strategies

1. Retain attractiveness as a community that appeals to all ages, from youth through retirement.
2. Effectively respond to the shifting age of the population and Homer's popularity as a retirement and visitor destination.
 - a. Require that all public facilities be accessible by senior citizens and individuals with disabilities.
 - b. Provide amenities and access for seniors in public facilities developed by the City.
 - c. Encourage and/or create incentives that encourage private businesses to make every effort to provide and/or improve accessibility for the senior population.
3. The city, through its land use decisions, will continue to improve the walkability of the downtown core to make the community more habitable and friendly for seniors and for those with disabilities. *See Land Use Chapter.*

Objective F: YOUTH SERVICES – Enhance year-round opportunities for youth to be stimulated and engaged in safe, fun, healthy activities.

Implementation Strategies

1. Promote a healthy lifestyle by increasing activities available for youth. Providing a range of activities and programs in Homer improves the physical, mental, and social health of the community.
2. Support the efforts of Homer organizations that offer a variety of programs for youth. The City supports community-based efforts to increase and maintain opportunities for all citizens to build their physical, emotional, and intellectual strengths.
3. Encourage efforts to remove barriers to youth participation. *See Parks, Recreation and Culture Chapter for specific recommendations.*

Objective G: EDUCATION – Provide high-quality education in Homer and enhance and sustain lifelong learning opportunities.

Current Status

The City of Homer partners with the Borough to use school facilities for the Community Schools programs in which school buildings are used to provide recreational, educational, social, and cultural activities to the entire community after school hours and in the summer. School enrollment for Homer and the entire borough has been declining in recent years, with attendant loss of programs.

Kachemak Bay Campus provides postsecondary education, continuing education, professional development, and vocational training to Homer residents. The Homer campus is poised for growth. The University received \$2.5 million in the 2007 State Capital Budget to acquire and remodel the Homer City Hall. The purchase of Homer's City Hall and the consolidation of KBC in a centralized location will allow KBC to strengthen programs and offerings. Specifically, the college would like to expand and bolster art education, marine biology, allied health opportunities, and to offer technical

CITY OF HOMER STAFF ADA TRAINING PROGRAM (2 days)

CONTACTS:

Katie Koester, City Manager 907-235-8121 Ext. 6 / kkoester@ci.homer.ak.us

Andrea Browning, Human Resources Director 907-435-3103 / abrowning@ci.homer.ak.us

ADDRESS:

City of Homer
491 E. Pioneer Avenue
Homer, AK 99603

DATES OF TRAINING: TBA within next 3-4 mos.

SESSION(S) TITLES/OVERVIEW:

DAY ONE

DISABILITY AND EMPLOYMENT (AM SESSION/TBA)

Audience: HR members, managers/supervisors with personnel management responsibilities

Session is designed to help increase attendee's knowledge and understanding of the basic principles and core concepts in the Americans with Disabilities Act (ADA), ADA Amendments Act of 2008 (ADAAA) and the Alaska Human Rights Law.

- Discuss the purpose of the ADA using a civil rights framework and identify the five titles of the ADA
- Define the general nondiscrimination requirements of the ADA focusing on Title I employment.
- Explain nondiscrimination requirements, reasonable accommodation, the interactive process
- Identify the defenses or limitations of nondiscrimination requirements.
- Provide tips, examples, and scenario's on applying performance & conduct standards to employees with disabilities
- Locate and use various resources for information on the ADA.

OVERVIEW OF THE 2010 STANDARDS FOR ACCESSIBLE DESIGN (PM SESSION/TBA)

Audience: Facility and operations directors and managers

Session is designed to help increase attendee's knowledge and understanding of the basic principles and core concepts in the Americans with Disabilities Act (ADA) with a specific focus on compliance with the architectural access requirements of a facility's accessible features. The presenter will review the history, format and layout of the 2010 ADA Standards for Accessible Design. Tips and tools will be provided and discussed during a group exercise to familiarize attendees with completing a facility ADA checklist evaluating the physical barriers to individuals with disabilities.

- Understanding and implementing the 2010 ADA design revisions regarding new construction and existing facilities.
- Review the major changes in the scoping and technical provisions in the updated standards beyond building construction.
- Review some differences between 1991 ADAAG and the 2010 ADA Standards for Accessible Design including information on how the 2010 Standards have been harmonized with model building codes (IBC and ANSI A117.1).
- Locate various resources and facility checklists for information on the ADA.
- Tips and hands-on exercise utilizing tools and an ADA checklist on how to conduct accessibility surveys of buildings and facilities to identify and remove architectural barriers

DAY TWO

ACCESSIBILITY WITHIN STATE AND LOCAL GOVERNMENT PROGRAMS, SERVICES AND ACTIVITIES: UNDERSTANDING ADA BEST PRACTICES AND INTERACTING WITH CITIZEN'S WITH DISABILITIES (SESSION REPEATED AM/PM TBA)

Audience: State and local government personnel

Session is designed to help increase attendee's basic knowledge and understanding of the basic principles and core concepts in the Americans with Disabilities Act (ADA) Title II and the Alaska Human Rights Law. Attendees will also receive basic etiquette for interacting with a citizen with a disability.

- Understand the basic program access requirements including specific topics as service animals and effective communication
- Identify how to accommodate the needs of the citizen with a disability while continuing to provide a high level of customer service.
- Gain an understanding of the needs and experiences of people with disabilities.
- Discuss basic etiquette for interacting with a citizen who has a disability.
- Locate and use various resources for information on the ADA.

TRAINING SERVICES FEE: \$2000.00

TRAVEL: Travel and lodging costs included in agreed fee.

City of Homer Personnel Regulations Addressing Equal Opportunity/ Discrimination

9.1 Equal Opportunity Policy. The City is an equal opportunity employer as required under section 1.38.020 of the City Code. Recruitment and selection of applicants, promotion and training of employees is based upon ability, knowledge, skills and merit as required by the job description. A person may not be favored or discriminated against with respect to City employment because of the person's race, color, creed, religion, gender, national origin, veteran or marital status, physical handicap or any other status protected by federal, state or local law.

9.3.5 Illegal Discrimination. An act or acts which are prohibited by federal, state or local anti-discrimination laws. Prohibited acts include those where individuals or groups are treated differently because of their race, religion, color, gender, national origin, age, handicap, marital status, changes in marital status, pregnancy, or parenthood or any other status protected by federal, state or local law.

9.7 Responsibilities.

9.7.1 All City employees at all levels shall report allegations and acts of discrimination. An employee who feels he or she is being harassed or discriminated against or is aware of activities in the workplace that may constitute harassment or discrimination shall report the perceived discrimination or harassment immediately to their supervisor, Department Director, Personnel Director, City Manager or any City Official (as defined by this chapter) that the employee feels comfortable reporting to.

9.7.2 All City Officials shall take immediate action when they become aware of a situation involving allegations and/or acts of discrimination.

9.7.3 The Personnel Director shall provide technical assistance and support to City Officials, employees, and complainants in their efforts to resolve complaints of discrimination, and cooperate with compliance agencies in processing and investigating formal complaints of discrimination.

9.7.4 The City Attorney shall provide legal advice and assistance as requested by the Personnel Director or as the City Attorney's Office deems necessary.

9.8 Procedure for Informal Complaints. City employees may make appointments with any City Official during the workweek to report harassment or discrimination in the workplace. If, for any reason, the City Official to whom the employee wishes to report the discrimination or harassment is unable to meet at the initial time requested, the City Official shall reschedule an alternate meeting time with the employee that is no more than five working days after the initial request.

9.8.1 Processing Informal Complaints of Discrimination.

9.8.1.1 When a City Official becomes aware of an allegation of discrimination, immediate action shall be taken to notify the Personnel Director, or in the event the Personnel Director is involved in the allegations in the complaint, the City Manager, to review and attempt to resolve the allegation. The reviewing City Official shall advise complainant and respondent in the writing of the results of the review.

9.8.1.2 A complaint must be filed within 180 days of the date the incident occurred to be considered for informal review.

9.8.1.3 Upon receipt of an informal complaint of discrimination from a complainant or at the request of a City Official, the Personnel Director or other appropriate City Official shall assist the parties in an attempt to resolve the issues raised by the complainant.

9.8.1.4 The Personnel Director shall make every effort to resolve an informal complaint within 30 calendar days from the date the complainant files the complaint. The Personnel Director or other appropriate City Official will inform the employee of their right to file a formal complaint with a compliance agency.

9.9 Procedure for Formal Complaints. City employees must make arrangements with their supervisors when they wish to schedule official duty time to consult with a compliance agency on matters relating to a formal complaint for harassment or discrimination. When an employee cannot be released at the requested time, an alternate time should be scheduled within five working days of the time originally requested.

9.9.1 The Personnel Office will be the central point for receiving complaints, interrogatories and requests for information or documents from compliance agencies. City departments will forward all information pertaining to a complaint to the Personnel Director who will coordinate and forward the materials prepared in response to the compliance agency request within the time frame required.

9.9.2 Any City employee named as a respondent in a complaint will be expected to assist the department in its effort to expeditiously review and, if possible, resolve the issues listed in the complaint. However, no employee shall be expected to waive any of their personal rights.

9.9.3 The City Attorney's Office will retain a file of each formal complaint received in which a City department or employee is listed as respondent. Legal advice and assistance will be provided to the City Manager, Personnel Director or any department as requested, or as the City Attorney's Office deems necessary. In all cases where a

compliance agency takes a complaint to public hearing when the City is a respondent, the City Attorney's office will represent the City and the respondent department.

9.10 Retaliation. The City prohibits any form of retaliation against any employee for reporting or participating in a proceeding connected with a matter of public concern pursuant to Section 1.15 of the City Code. However, if the City determines that the complaint was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the complainant or the individual(s) who gave the false information. Any decision which constitutes an adverse action against an employee who has a current informal or formal complaint of discrimination pending must be approved by the City Attorney's office. All City Officials should avoid actions that might be construed as retaliatory against the complainant.

U.S. Department of Justice
Civil Rights Division
Disability Rights Section



Americans with Disabilities Act

ADA Guide for Small Towns



**A guide for small local governments
including towns, townships, and rural counties.**

Reproduction

Reproduction of this document is encouraged.

Additional copies of this publication may be obtained by calling the ADA Information Line at 800-514-0301 (voice) 800-514-0383 (tty) or by visiting the Department's ADA Home Page on the World Wide Web (<http://www.ada.gov/index.html>).

Disclaimer

The ADA authorizes the Department of Justice to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you

in understanding the ADA and the Department's regulation. However, this technical assistance does not constitute a legal interpretation of the statute.

first printing, March 2000

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Introduction

The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in employment, transportation, State and local government services, telecommunications, and in the goods and services provided by businesses.



[D](#)

Small towns offer a variety of essential programs and services that are fundamental to the public and to everyday American life. Although the range of services offered by small towns varies, it is essential that people with disabilities have the opportunity to participate in the programs and services that towns offer. Applying for a building permit or business license, playing ball in the local park, marching in the Memorial Day parade, attending an annual street festival or a town meeting, or calling 9-1-1 for emergency police, fire, or rescue all are typical town programs, activities or services covered by the Americans with Disabilities Act or ADA.

The ADA gives people with disabilities an equal opportunity to participate in the mainstream of public life offered to all Americans. This guide presents an informal overview of some basic ADA requirements and provides cost- effective tips on how small towns can comply with the ADA.

Part One: The ADA's Requirements for Small Towns

Title II of the ADA applies to State and local governments, including towns and townships, school districts, water districts, special purpose districts, and other small local governments and instrumentalities. It prohibits discrimination on the basis of disability in all services, programs, and activities provided by towns¹. Thus, people with disabilities must have an equal opportunity to participate in and benefit from a town's services, programs, and activities. To accomplish this, the ADA sets requirements for town facilities, new construction and alterations, communications with the public, and policies and procedures governing town programs, services, and activities.

Footnote

¹ The term "towns" is used in this publication to refer to all small local governments, towns, and townships. Please remember that title II applies to all State and local government entities, regardless of size, including State governments, local governments, special government entities such as transportation authorities, school districts, water districts, and other special purpose districts.



A ramp located next to the stairs to this town hall provides an accessible entrance.

1. Existing Facilities: Program Accessibility

When programs, services, or activities are located in facilities that existed prior to January 26, 1992, the effective date of title II of the ADA, towns must make sure that they are also available to persons with disabilities, unless to do so would fundamentally alter a program, service, or activity or result in undue financial or administrative burdens (see page 8). This requirement is called program accessibility. When a service, program, or activity is located in a building that is not accessible, a small town can achieve program accessibility in several ways. It can:

- relocate the program or activity to an accessible facility
- provide the activity, service, or benefit in another manner that meets ADA requirements, or
- make modifications to the building or facility itself to provide accessibility.

Thus, to achieve program accessibility, a small town need not make every existing facility accessible. It can relocate some programs to accessible facilities and modify other facilities, avoiding expensive physical modifications of all town facilities.



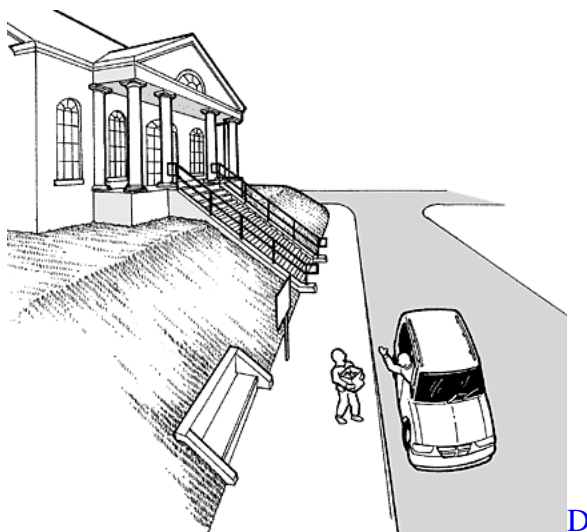
Physical modifications to provide program accessibility included parking spaces, the public toilet facility and an accessible route to the ocean overlook.

Example

A town holds its annual town meeting in an inaccessible location, the second floor of the two-story town hall that has no elevator. The town council considers installing an elevator in the building as well as replacing the existing town hall with a new, fully accessible building, but determines that the town's limited financial resources will not allow either of these approaches. Instead, the town officials decide to hold the town meetings, as well as other public meetings where large numbers of the public are expected to attend, in the accessible auditorium of its local high school. The town officials also decide to move smaller meetings, which are periodically held on the second floor of the town hall, to the school auditorium, when they receive a request within 24 hours of a meeting.

Example

The town library is a historic structure that is listed on the State historic register. The two entrances to the facility each have four steps and no accessible entrance is provided. The town consults with an architect to determine if an accessible entrance can be provided and is told that a ramp or lift cannot be added to either entrance without a significant change to the exterior of the building. After reviewing the ADA requirements, the town learns that qualified historic buildings and facilities are not required to take any action that would threaten or destroy the historic significance of a historic property. The State historic preservation office is consulted and it determines that the exterior cannot be modified. Because physical modifications to the entrances cannot be made, the town changes its policies and provides access to the library services in an "alternate manner" upon request. Library staff are trained to take requests over the telephone, to look up information for individuals with disabilities who cannot use the library, to provide information over the telephone, and to provide curbside service for books and library publications or to mail items to individuals upon request. Library staff may also meet with an individual in another accessible location when the telephone service is not effective. The library publicizes a telephone number for requesting these alternate services in its publications and announcements.



Library staff provide curbside services because the library facility cannot be made accessible.

Example

A town-operated two story historic house museum, which dates from 1885, provides exhibition and instructional programs for the public. The focus of the program is the exhibition of a typical 19th century Victorian house.

The self-evaluation determines that the house is not accessible. After considering the options for providing access to the programs and services, the town decides that it is not possible to move the museum programs to other accessible locations because the historic house itself is a critical part of the historic house program. The town develops plans to alter the facility to provide physical access to the first floor. These alterations are planned in compliance with the historic preservation requirements of the ADA Standards.

After reviewing the alterations with the State historic preservation office, the town determines that the second floor cannot be made accessible without threatening the unique features and historic significance of the house. Because the town must consider alternatives to structural changes in these instances, the town establishes a policy to locate all temporary programs on the first floor. In addition, the town documents the second floor spaces and content using video or other innovative solutions and provides an accessible viewing area on the first floor.

Example

The town's police station has one step at the public entrance and there is no accessible entrance available. After considering its options for providing program accessibility, the town decides to modify the facility to provide access rather than relocate the police programs or services. After review of the programs and services provided at the station, the town determines that the public entrance, lobby, and service counter need to be accessible to provide program accessibility. Therefore, alterations are limited to those items necessary to achieve program accessibility. In this case, it includes providing a van-accessible parking space in the parking lot, an accessible route from the parking space to the modified public entrance, and an accessible service counter inside the police station



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A town chose to alter its police station rather than move its

programs and services to another accessible location.

When a town becomes aware that a program is not accessible and plans to alter a facility to provide access, it may be necessary to temporarily relocate a program, service, or activity to a temporary accessible location or to temporarily offer the service in an alternate manner.

This temporary solution assures that the service, program, or activity is accessible during the time the alterations are planned and being implemented.

Example

The public toilet facilities at the town recreation area are not accessible. After consideration of whether to modify the facilities or to relocate the programs held at the recreation area, the town decides to alter the toilet facilities and the walkway leading to them. While the fundraising is done, alterations planned, and the work completed, the town provides temporary portable toilet facilities that are accessible.

When choosing a method of providing program access, a public entity must give priority to the one that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities. In addition, a town may offer additional activities or services so an individual with a disability can more fully participate in, or benefit from, a program, service, or activity. However, when such special activities or services are provided for people with disabilities, the town must permit a person with a disability to choose to participate in services, programs, or activities that are not different or separate.

Example

The local town pool provides a swimming program for people with disabilities that includes additional staff who provide individualized instruction. A person with a disability participates in the program. The person applies to attend group swimming lessons that are open to the public even though these lessons do not provide specialized instruction. The town must permit the individual with a disability to participate unless doing so would fundamentally alter the program

Because program accessibility may be provided in an accessible part of a facility when the remainder of the facility is not accessible, the public must be informed of the location of accessible features. Signs should direct the public to the location of accessible elements and spaces, including the location of accessible parking, the accessible entrance to a facility, and accessible toilet rooms. In addition, a town may issue a brochure or pamphlet with a map indicating the town's accessible features.

Example

A town hall has two sets of public toilet rooms. One set has been altered and is accessible, and the other set is not accessible. The town installs signage at the inaccessible toilet rooms directing people to the accessible toilet rooms.

[D](#)

Sign at an inaccessible entrance provides directions to the nearest accessible entrance

Towns making modifications to a building or facility to provide program accessibility must comply with the ADA Standards for Accessible Design (ADA Standards) or the Uniform Federal Accessibility Standards (UFAS).

Example

The town outdoor recreation area has a ball field, parking lot, and a building with public toilets. Town officials note that the parking lot does not have accessible parking spaces and the toilet facilities are not accessible. The town decides to provide accessible parking spaces in the part of the lot closest to the route to the ball field by restriping that section of the parking lot, installing signage designating the accessible parking spaces, and by making sure the accessible parking spaces are on an accessible route to the recreation area. The town also modifies the toilet facilities to make them accessible. All alterations are done in compliance with the ADA Standards and signs are provided to identify the accessible toilet facilities.

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Alterations done to provide program accessibility must comply with the ADA Standards.

2. New Construction and Alterations

New Construction

ADA requirements for new construction have been in effect since January 1992. New buildings and facilities must comply with the new construction provisions of the ADA Standards for Accessible Design (without the elevator exemption) or the Uniform Federal Accessibility Standards (UFAS). This requirement includes facilities that are open to the public and those that are for use by employees.

The ADA Standards for Accessible Design (ADA Standards) were first issued in 1991 and have been selected as the ADA design standard by many towns. Although towns now have the option to choose either the ADA Standards or the UFAS, it is likely that in the future the ADA Standards will become the only design standard under the ADA. Because ADA requirements for new construction and alterations do change from time to time, towns should become familiar with any new design and construction requirements before a project starts (see Resources for free information sources).



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Public toilets at a park were built to comply with the new construction requirements of the ADA Standards.

Alterations and Additions

When a building or facility is renovated or altered or added to for any purpose, the alterations or additions must comply with the ADA Standards. In general, the alteration provisions are the same as the new construction requirements except that deviations are permitted when it is not technically feasible to comply. Additions are considered an alteration but the addition must follow the new construction requirements. When existing structural and other conditions make it impossible to meet all the alteration requirements of the ADA Standards, then they should be followed to the greatest extent possible.

Basic Requirements for Alterations

- Any alteration that affects the usability of a building or facility must comply with the requirements of the ADA Standards unless technically infeasible to do so. Alterations can be as limited as the replacement of a fixture or element, such as a lavatory, toilet, or piece of door hardware.
- When an element is replaced, the new element must comply with the ADA Standards if the minimum requirements for accessibility under the ADA have not already been met.

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Alterations to existing town buildings follow the alteration requirements of the ADA Standards

- When a town alters an area of a facility that contains a primary function area, the town has an additional obligation. The town is also responsible for making the path of travel to the altered area (room or wing), as well as the toilet rooms, drinking fountains, and public telephones serving the altered area accessible. Primary function areas are those areas of a building that include the primary spaces for which the building was constructed (for example offices or meeting areas in a town hall, locker rooms in an athletic facility, or classrooms in a school or training center). The amount of money the town must spend to provide an accessible path of travel is limited to 20% of the overall cost of the alterations. If the path of travel alterations can be done for less than the 20% limit, then only that expenditure is required. If all the required accessible features are already provided then no additional expenditure is needed.
- When a qualified historic facility is altered, an exception to the alteration requirements of the ADA Standards may be used if the alteration threatens to destroy the historic significance of the building or facility. In these situations, special provisions in the Standards may be used for the element or space that would be threatened. In almost all situations, accessible design can be used without significantly impairing the historic features of the facility.
- The ADA Standards have specific requirements for additions. Additions, which include an expansion, extension or increase of the gross floor area of a building or facility, are considered an alteration to a facility but the area that is added must comply with the new construction requirements. Each addition that affects or could affect the usability of an area containing a primary function area must meet the path of travel requirements (see above).

3. Maintenance of Accessible Features

Towns must maintain in operable working condition those features that are necessary to provide access to services, programs, and activities -- including elevators and lifts, curb ramps at intersections, accessible parking spaces, ramps to building or facility entrances, door hardware, and accessible toilet facilities. Isolated or temporary interruptions in service or access are permitted for maintenance or repairs.

Example

When weather conditions such as snow and ice limit or prevent access to services, programs, and activities, a town that houses programs in an accessible facility will have to maintain access to ensure that those programs are accessible. Maintenance of accessible features would include the removal of snow from accessible parking spaces, parking space access aisles, the accessible route to the accessible entrance, and accessible entrances. Although temporary interruptions in services due to bad weather are expected, alternate services should be provided if snow and ice cannot be cleared in a timely manner.

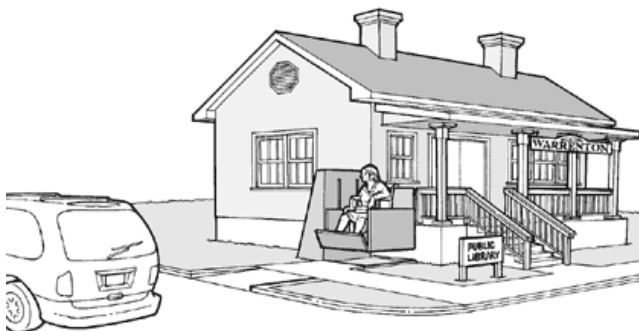


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Clearing snow from accessible parking spaces and the accessible route may be essential to provide access to programs, services or activities.

Example

A town building that was built before the ADA went into effect has a lift that provides access from inside the building to the library. The town must maintain the lift in working condition to assure that the public has access to the library programs. If the lift is out of order, repairs must be made in a timely fashion. Until the repairs are made, the town should provide alternate service for wheelchair users and others with disabilities who can no longer gain access to the library. These services may include retrieval of library materials by staff who will meet with an individual in an accessible location.



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A lift provides access to the programs and services held in this town

library. If the lift is out of service, alternate services are provided in an accessible location until the lift is repaired.

4. Effective Communication

Towns must take appropriate steps to ensure that communications with members of the public, job applicants, and participants with disabilities are as effective as communications with others unless it is an undue financial or administrative burden to do so or it would result in a fundamental alteration (see page 8) in the nature of its program or activity.

Achieving effective communication often requires that towns provide auxiliary aids and services. Examples of auxiliary aids and services include qualified sign language interpreters, assistive listening devices, open and closed captioning, notetakers, written materials, telephone handset devices, qualified readers, taped texts, audio recordings, Brailled materials, materials on computer disk, and large print materials.



A sign language interpreter is one type of auxiliary aid or service that may be requested.

Towns must provide appropriate auxiliary aids and services where they are necessary to achieve an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by or for the town. The town must give primary consideration to the type of auxiliary aid requested by a person with a disability. However, the town may provide a different type of aid if it can show that it is an effective means of communication.

Example

A town prepares to hold its annual town meeting in the high school gymnasium. A request is made through the meeting coordinator for real time captioning to be provided for a person who is deaf. Real time captioning displays the spoken content from a meeting or a speech on a large television screen as text. The town gives primary consideration to the request but after discussing alternatives for providing effective communication with the individual who made the request, the town learns that the individual is fluent in American Sign Language (ASL). The town offers to provide a qualified ASL sign language interpreter for the town meeting because it has determined from discussions with the individual that the interpreter can provide effective communication.

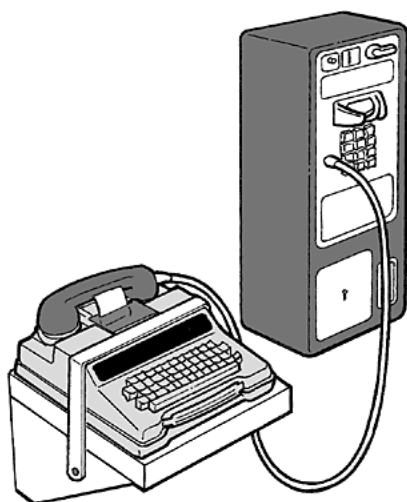
Determination of an undue financial burden or a fundamental alteration can only be made by the head of the

town government or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination of an undue burden must be based on all resources available for use in the program, service, or activity. When it is not possible to provide a particular type of auxiliary aid to achieve effective communication due to an undue burden or fundamental alteration, the town must take any other action that would not result in such burdens or fundamental alteration, but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

If a town communicates with applicants and beneficiaries by telephone, it should ensure that an effective telecommunication system such as communication using the relay system or a TTY (or TDD) be used to communicate with individuals who are deaf, hard-of-hearing or who have speech disabilities. A TTY has a keyboard and visual display for non-verbal communication with another TTY user or a relay system operator. The relay system is provided in each State and permits telephone communication between voice handsets and individuals using a TTY.

A town can choose to provide a TTY without significant expense. Some towns have decided to install a portable TTY next to a public pay telephone and to anchor the portable unit to a shelf. Electrical connections are enclosed to protect against accidental disconnection of power.

Requirements for effective communications also apply to "telephone emergency services" that provide a basic emergency service, such as police, fire, and ambulance, that are provided by public safety agencies, including 9-1-1 (or, in some cases, seven-digit) systems. Direct, equal access must be provided to all services included in the system, including services such as emergency poison control information. Where direct access is provided to callers, direct access by TTY users means the telephone emergency service cannot use a relay system or transfer all TTY calls to one operator while other callers have access to all available operators (for more information, see the Department's publication, Access for 9-1-1 and Telephone Emergency Services Under the Americans with Disabilities Act).



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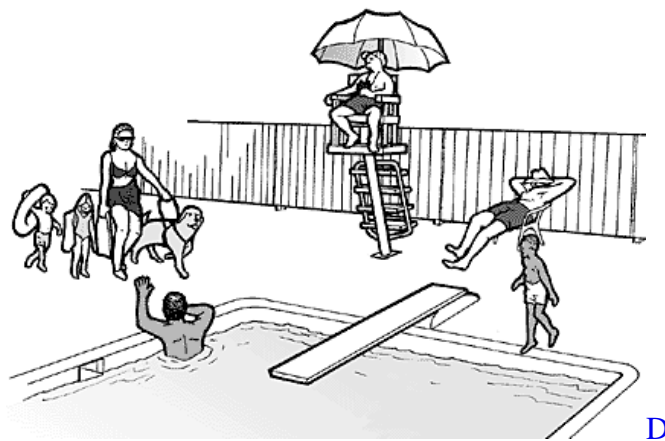
A portable TTY mounted on a shelf located next to a pay telephone can provide a low-cost TTY solution

5. Policies, Practices and Procedures

Towns must make reasonable modifications to policies, practices, and procedures to avoid discrimination against individuals with disabilities. While this requirement applies to all policies, practices, and procedures of the town, the town does not have to make modifications that would result in a fundamental alteration in the program, service, or activity or result in a direct threat to the health or safety of others. A direct threat is a significant risk that cannot be eliminated or reduced to an acceptable level by the town's modification of its policies, practices, or procedures, or by the provision of auxiliary aids or services. The public entity's determination that a person poses a direct threat to the health or safety of others may not be based on generalizations or stereotypes about the effects of a particular disability (see The ADA Title II Technical Assistance Manual).

The self-evaluation typically includes a review of policies, practices, and procedures (see page 10, Processes for Complying with the ADA). Periodic review after the self-evaluation may be done to maintain compliance with the ADA. A town can choose how it wants to conduct a review of policies and practices that govern the administration of the town's programs, activities, and services. Towns that have already done a self-evaluation do not have to do another one.

Review of policies, practices, and procedures also applies to telephone emergency services, such as 9-1-1, where policies must ensure direct access to individuals who use TTY's and computer modems.



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A mother with her service animal leads her children to the town pool. Policies and procedures that restrict or prohibit service animals may violate the ADA.

Example

A town pool requires that adults provide photo identification to verify residency before using the pool or participating in pool programs. During review of town policies, practices, and procedures, the town determines that the pool identification policy, which requires that a driver's license with a photo be presented to gain admission, may discriminate against people with disabilities who may not have a driver's license. The town changes its policy to permit other forms of identification to verify residency.

6. Processes for Complying with the ADA

Towns that have not already conducted a self-evaluation or updated a previous self evaluation conducted under Section 504 of the Rehabilitation Act must do so. The self- evaluation is a review of all town services,

programs, and activities to identify any physical barriers or policies, practices, or procedures that may limit or exclude participation by people with disabilities. The self-evaluation includes permanent, temporary, and periodic services, programs, and activities. Each town should look at what services, programs, or activities are offered and in what location.

Any policies, practices, or procedures that may limit or exclude individuals with disabilities must be reasonably modified, unless doing so would result in a fundamental alteration in the nature of the service, program, or activity. The self-evaluation should identify changes to policies to be implemented. It should also identify any discriminatory policies, practices, and procedures that cannot be reasonably changed without resulting in a fundamental alteration.

The self-evaluation also identifies problems with the accessibility of facilities and establishes recommendations for providing program accessibility (which may include relocation to an accessible facility). It may also suggest short-term and long-term strategies to provide access to people with disabilities.



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An emergency call box located in a rural area is mounted in an accessible location and can be used with or without speech to provide effective communication.

Towns that completed a self-evaluation to comply with section 504 of the Rehabilitation Act only have to bring the 504 self-evaluation up to date with ADA requirements by evaluating the services, programs, and activities that have changed. However, because considerable time has passed since most section 504 self-evaluations were done, it would be best to conduct a new self-evaluation.

Provide public notice about ADA requirements

A small town must provide notice to the public about its ADA obligations and about accessible facilities and services in the town. The notice must inform the public about the ADA's nondiscrimination requirements. It may also describe how the public or employees may contact specific town officials about problems with accessibility and the need for effective communication. The information must be accessible to the public, including people who have disabilities that affect communication, such as blindness, low vision, deafness, and hearing loss. Although no specific method is required to reach the public, notice can be provided in more than one format and by using more than one type of media, such as the town's website, print, radio, or television.

Other obligations for larger towns with 50 or more employees

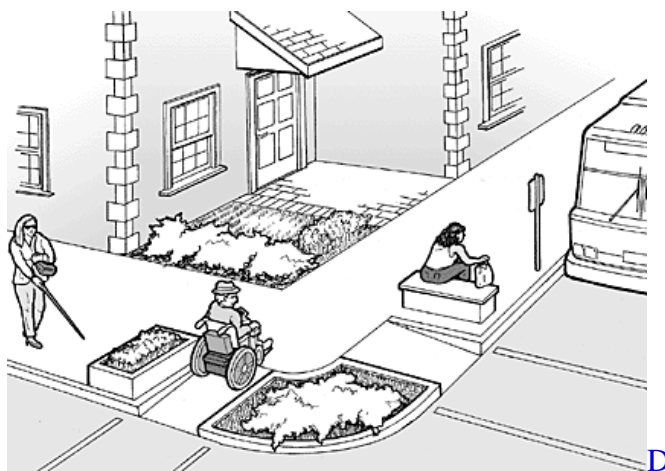
Although the ADA only requires State and local governments with 50 or more employees to take the following measures, towns with less than fifty employees may want to consider following the same or similar steps because the process may make it easier to comply with the ADA.

a. Designate an individual to coordinate ADA compliance

Responsibilities for the ADA coordinator may include conducting the self-evaluation and developing the transition plan (see below), handling requests for auxiliary aids and services, providing information about accessible programs and services, and serving as a local resource to the town or township. The ADA coordinator may also have responsibility for working with the mayor or town council to ensure that new facilities or alterations to town facilities meet ADA requirements. In some communities, this individual also receives complaints from the public and works to resolve them.

b. Develop a transition plan

If a town with 50 or more employees decides to make physical changes to achieve program access it must develop a written plan that identifies the modifications that will be made. The plan should include timelines for completing these modifications. Interested parties, including people with disabilities and organizations representing people with disabilities, must at a minimum have an opportunity to participate in the development of the plan by submitting comments. A copy of the plan and a copy of the self-evaluation must be available for public inspection for three years after completion.



Installation of curb ramps is one of the items included in the transition plan. This type of curb ramp is used when some type of barrier prevents pedestrians from entering the curb ramp from the side.

c. Develop a grievance procedure

Towns with fifty or more employees must have an ADA grievance procedure. A grievance procedure provides people who feel they have been discriminated against because of their disability, or others who feel they have been discriminated against because they have a friend or family member with a disability, with a formal process to make their complaint known to the town. This procedure encourages prompt and equitable resolution of the problem at the local

level without having to force individuals to file a Federal complaint or a lawsuit.

Part Two -- Typical Issues: Program Accessibility and Effective Communication

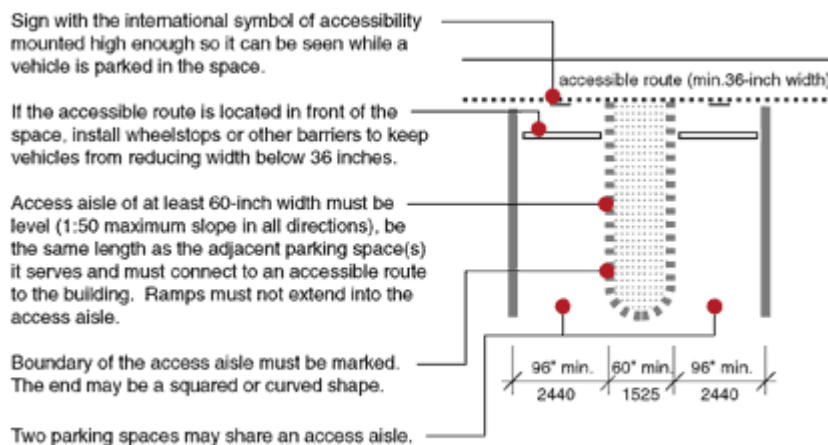
A. Accessible Parking

In new construction and in alterations, accessible parking must be provided whenever public parking is provided. Towns may wish to add accessible parking when public parking is not provided to provide access to facilities where programs, services, or activities are located. Accessible parking spaces have a number of features that make it possible for people with disabilities to get into or out of a vehicle.

Accessible Parking Spaces for Cars

Accessible parking spaces for cars have at least a 60 inch-wide access aisle located adjacent to the designated parking space. The access aisle is just wide enough to permit a person using a wheelchair to enter or exit the car. These parking spaces must be located on level ground and identified with a sign mounted in front of the parking space high enough so it is visible when a vehicle is parked.

Features of Accessible Parking Spaces for Cars



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Van-Accessible Parking Spaces

One of every eight accessible parking spaces, but always at least one, must be accessible for vans with a side-mounted lift. If only one accessible space is provided, it must be a van-accessible space.

Van-accessible parking spaces incorporate the same requirements as accessible parking spaces for cars and have three additional features for vans:

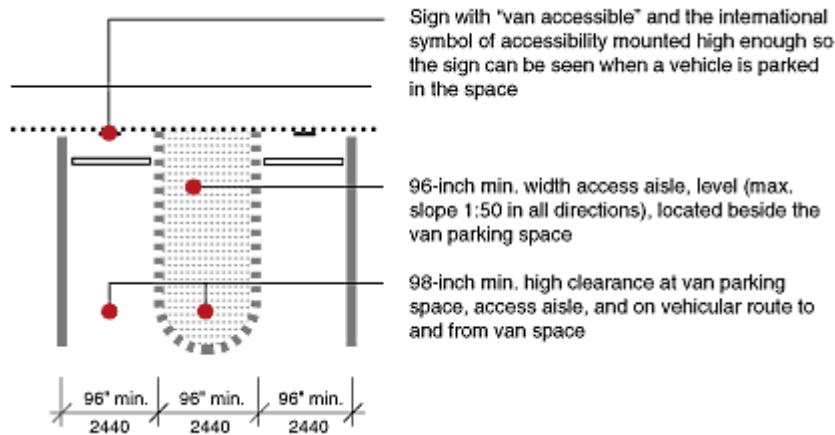
- a wider access aisle (96 inch-wide) to accommodate a wheelchair lift;
- vertical clearance to accommodate van height at the van parking space, the adjacent access aisle, and on the vehicular route to and from the van-accessible space,
- an additional sign that identifies the parking spaces as "van accessible."

When accessible parking spaces are added in an existing parking lot, towns must locate the accessible spaces on the most level ground close to the accessible entrance. An accessible route must always be provided from the accessible parking spaces to the accessible entrance.

The ADA Standards have technical requirements for parking lots and garages but no technical requirements for the design of on-street parking.

For more information about accessible parking, see the ADA Standards and other publications listed in [Part III: Resources](#) (page 20).

Three Additional Features for Van-Accessible Parking Spaces



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B. Accessible Route

When a walk, pathway, or pedestrian route is necessary to provide public access to a program, service, or activity, an accessible route must be provided. An accessible route is an unobstructed pedestrian path that connects accessible elements and spaces such as accessible parking spaces, accessible entrances, accessible meeting rooms, accessible toilet rooms, etc. It can be a walkway, hallway, part of a courtyard, or other pedestrian space. An accessible route must be at least 36 inches wide, have no abrupt vertical changes in level (such as a step), have a running slope no more than 1:12 in most cases, and meet other requirements for cross slope, surface conditions, vertical height, and passing spaces. The width of an accessible route can be as narrow as 32 inches wide, such as at a doorway or a narrow section of hallway, but only for a distance up to 24 inches long.



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An accessible route connects accessible parking (right) with the accessible entrance.

C. Accessible Entrance

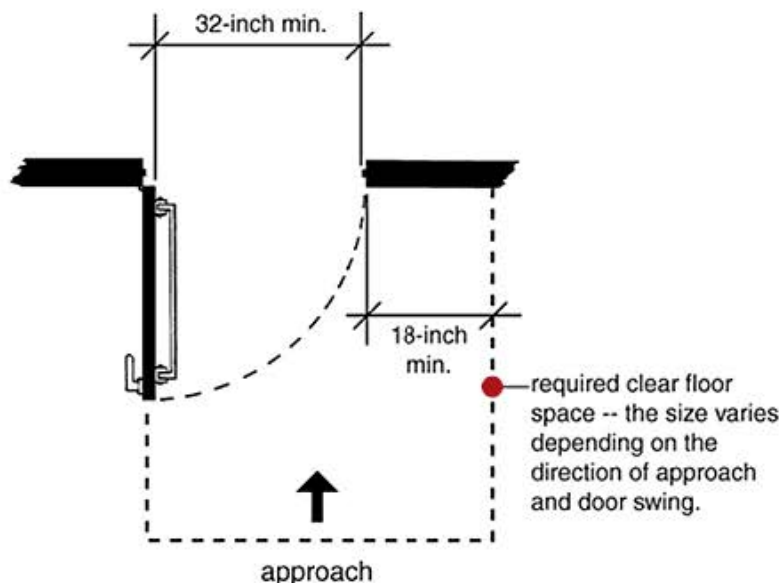
If entering a facility is necessary to participate in or benefit from a program, service, or activity, then that facility must have an accessible entrance and the accessible entrance must be on an accessible route. The accessible route must connect one or more (exterior) site entry points (such as parking, a public sidewalk, or a public transportation stop) with an accessible entrance. The accessible entrance must also connect to an interior accessible route leading to the space or spaces where the program is located.

An accessible entrance must have an accessible door or doorway. If a door is provided, there must be maneuvering space on the pull and push sides of the door to permit a person using a wheelchair to open the door and then move through the door opening. The clear width of the opening must be at least 32 inches wide and accessible door hardware (handle and latch) must be provided. If a door closer is provided, it must be adjusted so the door will not close too quickly.



A historic town building added a ramp, walkway, and modified an entrance to provide access

Although it is best to have the accessible entrance be the same one used by most of the public, existing conditions may prevent modification of the main entrance resulting in use of a secondary or side entrance as the accessible entrance. It may also be necessary to use a secondary entrance if only one part of the building is accessible. Where a secondary or side entrance provides access, signs should be provided at inaccessible entrances to direct the public to the nearest accessible entrance.



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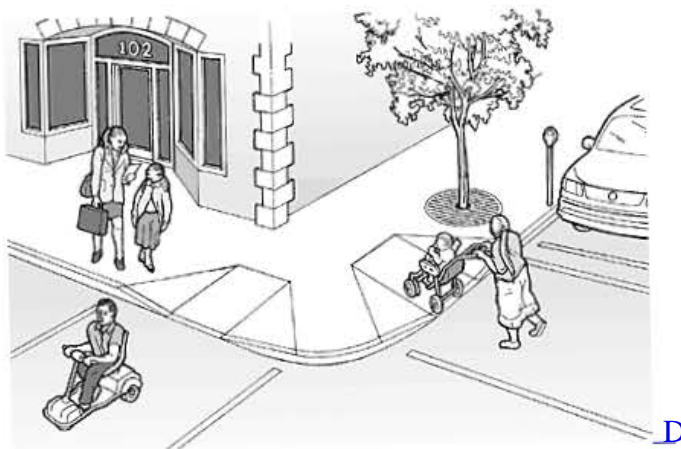
A plan view of an accessible door

D. Curb Ramps at Intersections

Pedestrian walkways or sidewalks that are the responsibility of the town often play a key role in providing access to government programs and services and to the goods and services offered to the public by private businesses. When walkways cross a curb at intersections, a ramp or sloped surface is needed. The title II regulations set requirements for curb ramps at intersections. Whenever a town constructs a new road and sidewalk or alters existing roads and sidewalks, it must install curb ramps. In addition, the ADA requires that towns evaluate its existing system of sidewalks and develop a schedule to provide curb ramps where pedestrian walkways cross curbs. Because a town will not be able to install curb ramps at all town streets right away, the town's plan for curb ramp installation should set priorities for which streets require curb ramps. Towns must give priority to walkways serving State and local government offices and facilities, bus stops and transportation services, private businesses offering goods and services to the public, and employees, followed by walkways serving residential areas.

Any curb ramps that are installed must comply with the ADA Standards. In areas with hilly terrain or other site constraints, towns should follow the ADA Standards to the greatest extent feasible.

To achieve or maintain program accessibility, a town should develop procedures to allow the public to request that curb ramps be installed at specific intersections frequented by people with disabilities, including residents, employees, or visitors.



Curb ramps are needed when walkways cross a curb at an intersection.

This type of curb ramp has flared sides and must be used when pedestrians may enter or exit the curb ramp from the side.

E. Alternate Services

A town can make its services, programs, or activities accessible by relocating them to an accessible site or offering them in an alternate way that is accessible. A town should consider the integration requirements of the ADA, which require that priority be given to measures that will provide the service, program, or activity in the most integrated setting appropriate. For small towns, alternate service may include meeting with an individual with a disability in his or her home to fill out specific forms if the town office is not accessible. It may also include curb service to pick up or deliver an item. However, in some cases alternate service is not appropriate. If a town meeting is scheduled to be held on the second floor of a building without an elevator and a person using a wheelchair wishes to attend the meeting, the meeting should be relocated to an accessible space, unless it would result in undue financial or administrative burdens. Making the person sit by themselves on the first floor and watch the meeting on a television monitor or having them watch the meeting at home is not a desirable alternative because it does not give the person with a disability an equal opportunity to interact with officials and other participants.

F. Library Services

Library services are an example of programs and services offered by many towns. If a library facility or building is not accessible, these services may be offered in a different accessible library facility, in another accessible facility nearby, or in an alternate manner. Some towns with only one library may prefer to modify the entrance to the library and other key elements to provide access. Others that may have a facility that is difficult to make accessible or lack the resources to make essential physical changes may choose to offer the programs and services in an alternate accessible location. What is important is that the same services be available to individuals with disabilities as are offered to others such as doing research, using the card catalog or cataloging device, reading or reviewing items usually held in reserve or special collections, and returning loaned items.



An individual uses a call button to request assistance from library staff of the bookmobile.

If a library provides program accessibility through alternate means it must have policies that permit staff to carry out this policy. The policies must include procedures that permit the public to make requests for the alternate location or services. In many cases, however, providing basic physical accessibility to the library facility is preferred in meeting the obligation to provide services in the most integrated setting appropriate.

G. Parks and Recreation Programs

A town's recreational programs or activities, such as those offered at the town baseball or football field or at the town pool, play an important part in the life of a community. These programs, services, and activities are among those that the town should review as part of the self-evaluation to determine if any physical or policy barriers exist that may keep people with disabilities from participating. If a town decides to modify facilities to provide program accessibility and has more than one facility available (such as when several ball fields are provided) only some of the facilities may need to be accessible. However, when only some of the ball fields are accessible, the scheduling policies for their use will need to accommodate requests for accessible fields, player areas, or spectator seating (if provided).

When the facilities are built or altered, they must comply with the ADA Standards, which have specific technical requirements for elements and spaces, such as accessible parking spaces, accessible routes, toilet facilities, public telephones, and spectator seating areas. For elements and spaces without specific technical standards, such as ball fields or playing areas, the town should use the Standards as a guide, providing a reasonable number, but at least one, that is accessible and providing an accessible route to the area of play and the spectator areas.



D

A town playground with an accessible route that provides access to a play area.

H. Accessible Print Material

Public documents such as town annual reports, promotional brochures, and other documents, such as tax bills, license applications and other printed information may need to be provided in an alternate accessible format to provide effective communication for individuals who are blind or visually impaired. Alternate formats may include materials in Braille, large print, files on computer disk that can be used in a personal computer, or an audiotape recording of the print document. Priority should be given to the type of format that has been requested unless the town determines that another format is effective or that providing the one requested would result in undue financial or administrative burdens or a fundamental alteration in the nature of the program. A town should publish a contact number for the public to request an accessible format or other auxiliary aid or service.

I. Police Services

Local police services are covered by the ADA, including investigations, interrogation, arrest, and transportation. Program accessibility requirements apply to the services and programs offered to the public, including those offered at a local police station. Effective communication requirements also apply to communication with the public, including individuals suspected of criminal activity.

If a town has a police station, jail, or holding facility, or other public police facility, the town should include services, programs, and activities that are offered in these facilities in its self-evaluation. To achieve program accessibility, it may be possible to share some accessible facilities with other nearby towns or government entities or to offer the service, program, or activity in another accessible location or manner. Vehicles used to transport suspects or prisoners should also be included in the self-evaluation. If a town does not have an accessible vehicle available for transporting suspects or prisoners, the town should identify a source for an accessible vehicle, such as an accessible school bus, taxi with a wheelchair lift, or an accessible vehicle from a nearby town.



D

J. Calling 9-1-1 and Other Emergency Services

Dialing 9-1-1 is the most familiar and effective way Americans have of finding help in an emergency. The ADA requires all telephone emergency services to provide direct, equal access to their services for people with disabilities who use a TTY.

Equal access means that TTY callers have an opportunity to obtain emergency services that is equal to that of callers who use voice handsets. The telephone emergency services provided for TTY callers must be handled in the same manner as those provided for individuals who make voice calls, in terms of response time, response quality, hours of operation, and all other features offered (e.g., automatic number identification, automatic location identification, automatic call distribution). There must be adequate numbers of TTY's or equipment to answer TTY calls. If a town or township relies on another government entity to provide its 9-1-1 and telephone emergency services, it should inquire about the accessibility of the services (for more information see Access for 9-1-1 and Telephone Emergency Services Under the Americans with Disabilities Act).

K. Temporary Events

The ADA applies to both temporary and permanent services, programs, or activities of a town. Facilities and structures that are built or altered for temporary use must comply with the ADA Standards (except for construction trailers). In addition, the policies and operations for the event must meet the nondiscrimination requirements of the ADA. When planning temporary events such as a town festival or concert, the town should review ADA title II requirements² and the ADA Standards. The Standards can provide guidance to help event planners place temporary accessible parking spaces in appropriate locations, provide an accessible route throughout the site, and provide other accessible features for food service, toilet facilities (including accessible portable toilets), assembly area seating, public telephones, etc., where such elements or facilities are provided for the public. It is very important to consider accessibility requirements when the event is in the planning stage so that accessible facilities can be identified and incorporated in a manner that does not require extensive construction or last-minute modifications.

Selected Accessible Features of Town Fair

- temporary curb ramp

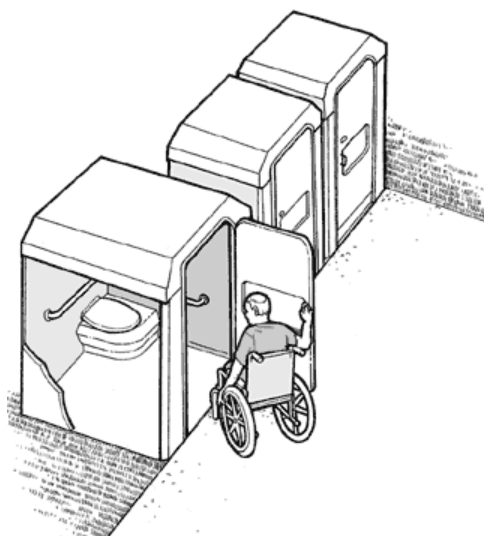
- added where needed to provide an accessible route
- booths and vendors located on an accessible route
 - sign language interpreters available for selected performances and programs
 - accessible parking, accessible transit drop offs and stops (if provided) and an accessible route from these areas to the fair is provided



[D](#)

A town fair that was planned to provide accessible programs, services and activities

Effective communication requirements also apply to temporary events. It may be necessary to provide qualified sign language interpreters or other auxiliary aids and services as requested, such as print material in a large-print format or on computer disk. A town may choose when to provide interpreters and publicize a schedule for interpreters and other auxiliary aids and services. It should also provide auxiliary aids or services in response to individual requests, unless to do so would result in undue financial and administrative burdens. Promotional material for a temporary event should explain how the public can request a particular auxiliary aid or service and be informed of when specific auxiliary aids and services may be available.



[D](#)

When portable toilets are provided, at least one at each location must be accessible

Footnote

2 Private vendors and contractors should follow the ADA title III regulations which cover goods and services provided by private companies. For more information, see the ADA Guide for Small Businesses.

Part Three: Resources

Department of Justice ADA Information

To help State and local governments, including small local governments, understand and comply with the law, the Department of Justice established a technical assistance program to answer questions about the ADA. The Department of Justice has a toll-free ADA Information Line that provides access to ADA specialists during business hours. The ADA Information Line also provides twenty-four hours a day access to a fax-on-demand system for technical assistance materials that permits a caller to have the document sent to them by fax. Orders for publications sent by mail may be made twenty-four hours a day on the Information Line's voice mail system.

ADA Information Line -- **800-514-0301 voice and 800-514-0383 TTY**

Another important source of ADA information is the Department's ADA Home Page on the World Wide Web. This extensive web site provides access to ADA regulations, all Department ADA technical assistance materials, including newly-released technical assistance material, proposed changes in the ADA regulations, and access to Freedom of Information Act materials including technical assistance letters. The web site also provides links to other Federal agencies with ADA responsibilities.

ADA Home Page -- www.ada.gov

The ADA and City Governments: Common Problems

A 9-page publication that compiles common problems with Title II compliance.

ADA Regulation for Title II, as printed in the Federal Register (7/26/91)

The Department of Justice's regulation implementing title II, subtitle A, of the ADA, which prohibits discrimination on the basis of disability in the services, programs, and activities provided by towns.

Title II Technical Assistance Manual (1993) and Supplements (Spanish edition available by mail)

A 30-page manual explaining what State and local governments must do to ensure that their services, programs, and activities are provided to the public in a non-discriminatory manner. Gives practical examples.

Department of Justice ADA Mediation Program

A 8-page publication describing the Department's ADA mediation program including locations

of ADA mediators, and examples of successful mediation efforts.

[ADA Regulation for Title III](#), including the **ADA Standards for Accessible Design**.

[ADA Information Services](#)

A 2-page list with the telephone numbers and Internet addresses of Federal agencies and other organizations that provide information and technical assistance to the public about the ADA.

[Enforcing the ADA: A Status Report from the Department of Justice](#)

A quarterly report providing timely information about ADA cases and settlements, building codes that meet ADA accessibility standards, and ADA technical assistance activities.

[Commonly Asked Questions About the ADA and Law Enforcement](#)

A 13-page publication explaining ADA requirements for ensuring that people with disabilities receive the same law enforcement services and protections.

[Access for 9-1-1 and Telephone Emergency Services](#)

A 10-page publication explaining the requirements for direct, equal access to 9-1-1 for persons who use teletypewriters (TTYs).

[ADA Guide for Small Businesses](#)

A 15-page booklet for businesses that provide goods and services to the public.

Other Federal Agencies and Federal Grantees Providing Information

Department of Transportation

Department of Transportation offers technical assistance on ADA provisions applying to public transportation.

ADA Assistance Line for information,
questions and complaints
888-446-4511 (voice) -- TTY: relay service
202-366-2285 (voice) -- 202-366-0153 (TTY)

Transportation - documents and questions
202-366-1656 (voice) -- TTY: use relay service

Transportation - legal questions
202-366-4011 (voice) -- TTY: use relay service

Internet address -- www.fta.dot.gov

Equal Employment Opportunity Commission

Equal Employment Opportunity Commission offers technical assistance on the ADA provisions applying to employment; also provides information on how to file ADA complaints.

Employment - questions
800-669-4000 (voice) -- 800-669-6820 (TTY)

Employment - documents
800-669-3362 (voice) -- 800-800-3302 (TTY)

Internet address -- www.eeoc.gov

Access Board

Access Board (or Architectural and Transportation Barriers Compliance Board) offers technical assistance on the ADA Accessibility Guidelines.

Documents and questions
800-872-2253 (voice) -- 800-993-2822 (TTY)

Electronic bulletin board -- 202-272-5448

Internet address -- www.access-board.gov

Department of Housing and Urban Development

Fair Housing Act: for questions or publications call Department of Housing and Urban Development.

Fair Housing accessibility questions
202-708-2333 (voice) -- 202-708-4112 (TTY)

Fair Housing publications
800-767-7468 (voice) -- TTY: use relay service

Internet address -- www.hud.gov

Disability and Business Technical Assistance Centers (DBTACs)

Department of Education funds ten regional centers to provide technical assistance on the ADA.

800-949-4232 (voice/TTY)

Internet address -- www.adata.org

Job Accommodation Network

The Job Accommodation Network (JAN) is a free telephone consulting service offering information and advice to employers and people with disabilities on reasonable accommodation in the workplace.

800-526-7234 (voice & TTY)

Internet address -- <http://janweb.icdi.wvu.edu/english>

[Adobe Acrobat Version \(pdf\) of this Document](#)

August 20, 2007

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



COMMITTEE OF THE WHOLE
5:00 P.M. MONDAY
JANUARY 25, 2016
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER GUS VAN DYKE
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

COMMITTEE OF THE WHOLE AGENDA

1. **CALL TO ORDER, 5:00 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)
3. **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. Page 179

Memorandum 16-016 from City Clerk as backup. Page 195
Memorandum 16-017 from City Planner as backup. Page 197
4. **CONSENT AGENDA**
5. **REGULAR MEETING AGENDA**
6. **COMMENTS OF THE AUDIENCE**
7. **ADJOURNMENT NO LATER THAN 5:50 P.M.**
Next Regular Meeting is Monday, February 8, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
AGENDA APPROVAL

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



REGULAR MEETING
6:00 P.M. MONDAY
JANUARY 25, 2016
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER GUS VAN DYKE
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

REGULAR MEETING AGENDA

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

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

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

2. AGENDA APPROVAL

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

3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

4. RECONSIDERATION

5. CONSENT AGENDA

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

- A. Homer City Council unapproved Regular meeting minutes of January 11, 2016. City Clerk. Recommend adoption.

Page 71

- B. **Memorandum 16-010**, from Mayor Wythe, Re: Appointment of Beth Carroll to the Cannabis Advisory Commission and Appointment of Councilmember Heath Smith as a Consulting Member of the Economic Development Advisory Commission.

Page 91

- C. **Memorandum 16-011**, from Deputy City Clerk, Re: Liquor License Renewals for Homer Brewing Company, Oaken Keg #1832, Save-U-More Liquor #6, Harbor Grill, and Cosmic Kitchen.

Page 97

- D. **Resolution 16-015**, A Resolution of the Homer City Council Establishing a Regular Meeting Schedule for 2016 Strategic Doing Work Sessions. Mayor/Council. Recommend adoption.

Page 119

6. VISITORS

7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. Borough Report

- B. Commissions/Board Reports:

1. Library Advisory Board

2. Homer Advisory Planning Commission

a. Minutes of January 6, 2016

Page 125

3. Economic Development Advisory Commission

4. Parks and Recreation Advisory Commission

5. Port and Harbor Advisory Commission

6. Cannabis Advisory Commission

- C. Letter from Mayor Wythe in Support of Kachemak Bay National Estuarine Research Reserve Transfer Proposal.

Page 131

8. PUBLIC HEARING(S)

- A. **Ordinance 15-43(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund. City Clerk/Permanent Fund Committee. Introduction November 23, 2015, Public Hearing and Second Reading December 7, 2015, Postponed to January 11, 2016, Substitute Introduced, Public Hearing January 25, 2016. Page 139

Memorandum 15-190 from Permanent Fund Committee as backup. Page 145

- B. **Ordinance 16-01(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010 Declaration Of Candidacy Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016. Page 147

Ordinance 16-01(A)(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010, Declaration of Candidacy, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Page 155

Memorandum 16-003 from City Clerk as backup. Page 161

- C. **Ordinance 16-02**, An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock. City Manager/Port and Harbor Director. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016. Page 163

Memorandum 16-007 from Port and Harbor Director as backup. Page 167

- 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.
Page 173
- E. **All Hazard Mitigation Plan 2015 Update** Page 555

9. 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.
Page 201

Memorandum 16-016 from City Clerk as backup. Page 217

Memorandum 16-017 from City Planner as backup. Page 219

- 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. Recommended dates: Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.
Page 501

Memorandum 16-018 from City Manager as backup. Page 507

10. CITY MANAGER’S REPORT

- A. City Manager’s Report Page 515
- B. Bid Report Page 529

11. CITY ATTORNEY REPORT

12. COMMITTEE REPORT

- A. Public Arts Committee
- B. Permanent Fund Committee
- C. Employee Committee Report
- D. Public Safety Building Review Committee
- E. Sustainable Animal Control Review Committee

13. PENDING BUSINESS

- A. **Memorandum 16-001(A)**, from Mayor Wythe, Re: Appointment of Councilmember Bryan Zak to the Kenai Peninsula Economic Development District. Page 537

14. NEW BUSINESS

- A. **Memorandum 16-013**, from City Clerk, Re: Travel Authorization for Councilmember Zak to Travel to Anchorage to Attend the Institute for Alaska Native Corporation Director Education and Institute for Tribal Council Training March 21 - 22, 2016.
Page 541
- B. **Memorandum 16-014**, from Councilmember Lewis, Re: Travel Reimbursement for Mayor Wythe to Travel to Juneau February 2 – 4, 2016 to Advocate for the City.
Page 547
- C. **Memorandum 16-015**, from Mayor Wythe, Re: Request for Executive Session Pursuant to AS 44.62.310 (A-C)(2), Matters, Subjects that Tend to Prejudice the Reputation and Character of Any Person, Provided the Person May Request a Public Discussion. (City Manager Koester Annual Performance Evaluation/Employment Contract).
Page 549

15. RESOLUTIONS

- A. **Resolution 16-012**, A Resolution of the City Council of Homer, Alaska, Adopting the City of Homer All Hazard Mitigation Plan 2015 Update and Revision and Authorizing the City Manager to Forward the Document to the Kenai Peninsula Borough, the Federal Emergency Management Agency, the Alaska Division of Homeland Security, and Other Organizations as Appropriate. Reynolds. Page 553

- B. **Resolution 16-013**, A Resolution of the Homer City Council Concerning the Harbor Enterprises, dba Petro 49, (Formerly Petro Marine Services) Lease for Lot 8-E-1 Homer Spit #6 and Directing that it be Canceled at the Term of the Lease December 1, 2018, and that the Property be Advertised for Lease in a Request for Proposals. City Manager. Recommend adoption. Page 621

Memorandum 16-012 from Port and Harbor Advisory Commission as backup.

Page 623

- C. **Resolution 16-014**, A Resolution of the Homer City Council Amending the Harbor Enterprises, dba Petro 49, (Formerly Petro Marine Services) Lease on the Coal Point Fuel Float and the Terminal Tank Farm on the Coal Point Lot (Sec 1 T7S, R13W, S.M.) and to Enter Into a New 20-Year Term Lease With the City, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption.

Page 627

Memorandum 16-012 from Port and Harbor Advisory Commission as backup.

Page 623

- D. **Resolution 16-016**, A Resolution of the City Council of Homer, Alaska, in Support of the Homer Public Safety Building as Presented by the Public Safety Building Review Committee. Mayor. Page 629

- E. **Resolution 16-017**, A Resolution of the City Council of Homer, Alaska, Expressing a Deep Sense of Urgency for the Alaska State Legislature to Take Immediate and Decisive Action During the 2016 Legislative Session to Enact a Complete Package of Initiatives to Provide for a Balanced, Sustainable, and Predicable State Budget for the Foreseeable Future. Mayor. Page 631

16. COMMENTS OF THE AUDIENCE

17. COMMENTS OF THE CITY ATTORNEY

18. COMMENTS OF THE CITY CLERK

19. COMMENTS OF THE CITY MANAGER

20. COMMENTS OF THE MAYOR

21. COMMENTS OF THE CITY COUNCIL

22. ADJOURNMENT

Next Regular Meeting is Monday, February 8, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PUBLIC COMMENTS
UPON MATTERS
ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

Session 16-01 a Regular Meeting of the Homer City Council was called to order on January 11, 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, SMITH, VAN DYKE, ZAK
	ABSENT:	REYNOLDS (excused)
	STAFF:	CITY MANAGER KOESTER CITY CLERK JOHNSON CITY ATTORNEY KLINKNER FINANCE DIRECTOR LI FIRE CHIEF PAINTER PORT AND HARBOR DIRECTOR HAWKINS

Councilmember Reynolds has requested excusal.

Mayor Wythe ruled Councilmember Reynolds' absence as excused and there was no objection from the Council.

Council met for a Worksession from 4:00 p.m. to 4:47 p.m. to hear Public Safety Building Options. From 5:02 p.m. to 5:48 p.m. the Council met as a Committee of the Whole to discuss Ordinance 06-01, Memorandums 16-001 and 16-008, 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: **CONSENT AGENDA - 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. **ANNOUNCEMENTS** - Report from Councilmember Zak, Re: Alaska Housing Summit, January 6, 2016. **CITY MANAGER'S REPORT** - Hickerson Memorial Cemetery - written public comments. **CITY ATTORNEY REPORT** - City Attorney Report – December 2015.

Announcements Item A. EMT Swearing In was removed from the agenda and Item B. Mayor's Recognition – Homer High Wrestling Team was moved to follow agenda approval.

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.

B. Mayor's Recognition – Homer High Wrestling Team

Mayor Wythe read the recognition and presented it to the Homer High Wrestling Team and Coaches Chris Perk and Bubba Wells.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Jill Gann, Homer resident, commented on the proposed Hickerson Memorial Cemetery expansion and the adverse effects it will have on adjacent property owners. The public had no notification or input on the project. She asked that the Planning Commission be brought up to speed on the project and the City and the Public Works Director address the critical oversight.

George Frazier, city resident, commented on Resolution 16-009 that will benefit the community to not have to pay the Borough too. In 2014 Colorado gained \$70M in tax benefits and \$125M in 2015 from the marijuana industry. They anticipate 20% to 40% next year.

RECONSIDERATION

CONSENT AGENDA

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

- A. Homer City Council unapproved Regular meeting minutes of December 7, 2015. City Clerk. Recommend adoption.
- B. **Memorandum 16-002**, from Deputy City Clerk, Re: Liquor License Renewals for BPO Elks Lodge #2127, Kharacters, AJ's Old Town Steakhouse & Tavern, Captain Patties Fish House, Café Cups, Finn's, Little Mermaid, The Alibi, Salty Dawg Saloon, Down East Saloon, Pho & Thai Restaurant, and Grog Shop East End.

- C. **Ordinance 16-01**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Recommended dates: Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Memorandum 16-003 from City Clerk as backup.

Moved to Ordinances, Item B. Smith.

- D. **Ordinance 16-02**, An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock. City Manager/Port and Harbor Director. Recommended dates: Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Memorandum 16-007 from Port and Harbor Director as backup.

- E. **Ordinance 16-03**, 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. Recommended dates: Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Moved to Ordinances, Item A. Lewis.

- F. **Resolution 16-001**, A Resolution of the Homer City Council Confirming the City Manager's Appointment of Jo Johnson as Acting City Manager and Mark Robl as Backup Acting City Manager for Calendar Year 2016. City Manager. Recommend adoption.
- G. **Resolution 16-002**, A Resolution of the Homer City Council Confirming the Appointments of Zhiyong Li as Treasurer and Jenna deLumeau as Deputy Treasurer for Calendar Year 2016. City Manager. Recommend adoption.

- H. **Resolution 16-003**, A Resolution of the City Council of Homer, Alaska, Acknowledging the December 2015 Surplus Equipment Bid Results. City Clerk. Recommend adoption.
- I. **Resolution 16-004**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Dispose of Used and Surplus Equipment Pursuant to HCC 18.30.010 and HCC 18.30.040(b). City Manager. Recommend adoption.

Memorandum 16-009 from City Manager as backup.

Moved to Resolutions, Item A. Smith.

- J. **Resolution 16-005**, A Resolution of the Homer City Council Excluding Kenai Peninsula Borough Parcel 17708014 Owned by Cook Inlet Region, Inc. from the Homer Natural Gas Special Assessment District. City Manager. Recommend adoption.

Moved to Resolutions, Item B. Smith.

- K. **Resolution 16-006**, A Resolution of the Homer City Council Adopting an Alternative Allocation Method for the FY16 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area. City Manager. Recommend adoption.
- L. **Resolution 16-007**, A Resolution of the City Council of Homer, Alaska, in Support of Full Funding for the State of Alaska Harbor Facility Grant Program in the FY 2017 State Capital Budget. City Manager/Port and Harbor Director. Recommend adoption.
- M. **Resolution 16-008**, A Resolution of the City Council of Homer, Alaska, Supporting the Establishment of a Syringe Exchange Program in Homer. Lewis. Recommend adoption.
- N. **Resolution 16-009**, A Resolution of the City Council of Homer, Alaska, Requesting That Any Additional Taxes Levied Against Commercial Marijuana Activities by the Kenai Peninsula Borough, on Businesses Located Within the Municipal Boundaries of Homer, Alaska, is Remitted to the City of Homer. Reynolds/Cannabis Advisory Commission. Recommend adoption.

- O. **Memorandum 16-004**, Travel Authorization for Mayor Wythe and Councilmembers Lewis and Reynolds to Travel to Juneau to Advocate for the City February 2 – 4, 2016. Recommend adoption.

Moved to New Business, Item B. Smith.

- P. **Memorandum 16-005**, Travel Authorization for Councilmember Zak to Travel to Anchorage to Attend the Alaska Housing Summit January 6, 2016.

- Q. **Memorandum 16-006**, from City Clerk, Re: Amendment of Resolution 15-105 for March 2016 Meeting Schedule of Council.

Item C, Ordinance 16-01 was moved to Ordinances, Item B. Smith.

Item E, Ordinance 16-03 was moved to Ordinances, Item A. Lewis.

Item I, Resolution 16-004 was moved to Resolutions, Item A. Smith.

Item J, Resolution 16-005 was moved to Resolutions, Item B. Smith.

Item O, Memorandum 16-004 was moved to New Business, Item B. Smith.

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

LEWIS/ADERHOLD - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

- A. Fire Chief Painter, All-Hazard Mitigation Plan Update

Fire Chief Painter provided an update on the All-Hazard Mitigation Plan that is a FEMA requirement in order to receive funding for projects. The plan review began six months ago and occurs every five years. A committee comprised of representatives from Enstar, HEA, SPH, City Councilmember Reynolds, Planning Technician Dotti Harness, and he reviewed the plan. The purpose of the document is to identify Homer's hazards in floods, wildfires, landslides, bad weather, earthquakes, tsunamis, volcanoes and coastal erosion. The plan

now includes hazards associated with natural gas. The plan has been posted on the City's website for two months to gain public input. To date there has been one comment of the possible inclusion of the cemetery. The committee has recommended that the cemetery not be included in this revision as more investigation is needed. The plan can be viewed at <http://www.cityofhomer-ak.gov/planning/all-hazard-mitigation-2016-plan-update> and the public comment period remains open for another week.

- B. Arni Thomson, Alaska Salmon Alliance, Economic Impact of the Seafood Industry in Southcentral Alaska

Ian Pitzman, Vice President of North Pacific Fisheries Association in Homer, introduced Arni Thomson.

Arni Thomson, Alaska Salmon Alliance Executive Director, provided an overview of "The Economic Impact of the Seafood Industry in Southcentral Alaska" as prepared by McDowell Group. The report may be found at: <http://www.aksalmonalliance.org/>

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. EMT Swearing In
- B. Mayor's Recognition – Homer High Wrestling Team
- C. Borough Report

Kenai Peninsula Borough Assembly Member Kelly Cooper reported the health care task force subcommittee meets on January 20th at 5:30 p.m. at South Peninsula Hospital. They are meeting with stakeholders in the medical community to get input to improve services while reducing costs. On February 3rd the health care task force meets. The meetings are open to the public, with meeting agendas and minutes posted on the borough website. They are having deliberate conversations, not rushing anything, with the goal to make it sustainable for all employees and to get great medical care at all the hospitals.

The Borough's marijuana task force meets January 20th. There is an ordinance designed to name the Kenai Peninsula Borough Planning Commission as the regulatory authority in the borough. There is an assembly member bringing forward an ordinance to create a moratorium on all cannabis operations on the borough, but there is not enough support for its passage.

The Assembly is working on the 2016 state capital budget priorities. They included wildfire mitigation, municipal revenue sharing, PERS and TERS funding, road maintenance funding,

and support for University of Alaska Kenai Peninsula College campuses, along with multiple capital improvement projects for schools on the southern peninsula. The majority of school projects are based in Homer and Anchor Point. The Lake Street rehab and Pioneer Avenue reconstruction projects continue to be capital project priorities.

The Kenai Peninsula Borough will not be sending a full delegation to Juneau this year due to budget constraints. Only the mayor and one or two assembly members will attend.

D. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
 - a. Minutes of December 2, 2015
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Matt Steffy, Parks and Recreation Advisory Commission Chair, reported a full commission with just the student position vacancy. The commission is enthusiastic and supportive of the boathouse project that is moving forward. It will be a great addition to green space and public meeting space on the Spit. The annual park walk-throughs were conducted. Some parks are in decent shape, but some need obvious repair. The commission is speaking with user groups and adopt-a-park groups to get projects done. The commission had a brief discussion of HART funds, of spending money for new trails versus maintenance of existing trails. The consensus of the commission is to make sure existing trails are safe, free from brush, and accessible. The new dog waste dispensers are available at Homer Hounds, the Homer veterinarian, Homer Animal Shelter, Homer Dog Trainers, and the Port and Harbor office. The use of bags is encouraged for hygiene in the parks, beaches, and area trails. A few commissioners are working on the HERC feasibility project. They are meeting with community members to ensure that as long as the HERC is open it should be used to full capacity. They are looking at creative ways of generating revenue for the facility. The next commission meeting is January 21st. Community recreation is booming, with Thursday and Saturday being the Telluride Film Festival.

Mayor Wythe stated uses of the HERC building, other than the gymnasium, up to 35 people at a time are not approved by the Fire Marshal. The City is not pursuing that, but having the City's commission working in direct opposition to the City Council's direction seems really counterproductive to her at this time.

Mr. Steffy said the commission is not seeking to exceed the restrictions on the HERC facility; they just want to utilize the facility to the full extent.

Accolades are still pouring in from the parks and recreation conference held last fall. The commission will be reviewing the financials from the conference at their January meeting.

- 5. Port and Harbor Advisory Commission
- 6. Cannabis Advisory Commission
- E. Thank you from Cook Inletkeeper
- F. Thank you from Nordic Ski Club
- G. Letters to Council, Re: Crosswalks and a Rec Center
- H. Report from Councilmember Zak, Re: Alaska Housing Summit, January 6, 2016

Councilmember Zak reported the Governor and Lt. Governor held the Alaska Housing Summit to discuss affordable housing that is lacking in remote areas and Anchorage. Attendees broke into different committees to discuss mortgage financing, tiny houses, land swaps, high rents, and energy efficiency. The group viewed the challenges faced by prisoners put on the street with nothing and no source of income. It is great to see the state leadership taking time for housing concerns.

PUBLIC HEARING(S)

ORDINANCE(S)

- A. Ordinance 16-03**, 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. Recommended dates: Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

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.

Mayor Wythe called for a motion for the adoption of Ordinance 16-03 for introduction by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

Mayor Wythe called for a motion to substitute Ordinance 16-03(S) for Ordinance 16-03.

LEWIS/ADERHOLD – SO MOVED.

There was no discussion.

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

Motion carried.

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

Motion carried.

- B. **Ordinance 16-01**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Recommended dates: Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Mayor Wythe called for a motion for the adoption of Ordinance 16-01 for introduction by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

SMITH/ZAK – MOVED TO AMEND TO DELETE ON LINES 27 THROUGH 29 “AT THE REGULAR COUNCIL MEETING AT WHICH THE PERSON’S ELECTION IS FINALLY CERTIFIED IMMEDIATELY FOLLOWING THAT CERTIFICATION” AND INSERT “AT THE FIRST REGULAR COUNCIL MEETING FOLLOWING THE ELECTION IMMEDIATELY AFTER THE FINAL CERTIFICATION OF THAT ELECTION.”

The election will be certified and the candidate(s) sworn in on the same day.

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

Motion carried.

SMITH/ZAK - MOVED TO AMEND LINE 153 TO DELETE "HIS" AND INSERT "THE CANDIDATE'S."

There was no discussion.

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

Motion carried.

City Clerk Johnson requested an amendment to the title to include HCC 4.10.010 Declaration of Candidacy be added to Line 8 following "terms of office."

ZAK/ADERHOLD – SO MOVED.

There was no discussion.

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

Motion carried.

An amendment to the final section will be made so that the Council may decide on potential situations that were not addressed. Attorney Klinkner will provide a substitute ordinance for the next meeting.

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

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

It has been 5 weeks since the last Council meeting - feels like almost an eternity! I hope everyone enjoyed the respite and the holidays. There promises to be plenty to keep us busy in 2016.

Storm Drain Failure on Bunnell Avenue

On Tuesday, a hole opened up in the Bunnell Street roadway, south of Main Street. The "sink hole" was caused by a deteriorated 36" storm drain which allowed soil to wash into the drain – undermining the pavement. Public Works responded; excavated to expose the drain, put a patch on the hole in the side of the storm drain, and backfilled the hole. Pavement will be replaced in the Spring. The storm drain was installed by the State in the early 80's. This storm

drain, as well as the storm drain in Heath Street (installed during the same time frame), will need some work. These two storm drains serve the Central Business District. Public Works will be working with ADOT to determine who is responsible for rehabilitation. Public Works will be asking the Council for authorization to proceed with the design of a fix for the portion that the City is responsible for at the second meeting in January using HART funds.

Council Open House at Library

A patron at the Homer Public Library suggested the Council do a once a month 'open house' with the public at the library. It could be a good way to increase dialogue with the public and reach out to the community in a new way.

The Friends of the Library are willing to advertise it through their usual channels (flyers, newsletter, community calendar, radio). If the program is successful and at a regular time, the community will come to expect the event and advertising won't be as much of an issue.

It is hard to predict what would be the best time for turn out, however the Library Director suggested lunch time. People are out and about then, and people who work could stop in on their lunch hour. One option would be the first Council Monday of the month – which would give people an alternative to an evening meeting to visit with you. A noon meeting could be held in the study room and we could serve tea/coffee. If one councilmember a month volunteers, each member will have to commit to two lunch meetings a year (or less).

If Council is interested, I suggest you pick a time and day and give it a try for one month each. Then we can revisit if it is successful. I can circulate a signup sheet via email. I propose starting next month, February 8 at noon.

Seafarer's Memorial Camping

The Seafarer's Memorial parking lot has been occupied this fall/winter by a dozen long term campers. Some of the trailers are in such a bad state of repair they had to be towed in. The site has been problematic; HPD has arrested several of the campers for various misdemeanors. HCC 19.08.030(d) allows people to camp in the Seafarer's Memorial parking lot when all City campgrounds are closed (April 1-October 30). The same section allows the City Manager to open a campground at any time. I have issued the attached notice to open the Pier One campground. On December 15th campers were served notice that they needed to move their camper to the Pier One Theatre lot or elsewhere. To date, none of them have moved. The next step is for HPD to enforce the issue with fines and impounds. During the process, as always, HPD will refer individuals in need of any available services.

Hickerson Cemetery

A couple of Borough residents have brought concerns with the impact to area groundwater and clearing of trees associated with the expansion of Hickerson Cemetery to the attention of city staff and Council. I have offered to hold a neighborhood meeting so residents have an opportunity to ask questions and air their concerns which I am hoping will be a good starting place to work with the neighborhood.

The Hickerson Cemetery expansion project has been in the works since 2010 when the land was purchased adjacent to the existing cemetery. The 2012 budget authorized design, and this year Council authorized a phased development of the first few hundred plots. Though if winter conditions allow, Public Works could do some site preparation of the land this winter. The project will not be bid until the next construction season.

Homer cemeteries average 12 burials a year, and according to the Homer Funeral Home, only about half of those choose to be embalmed (which involves chemicals that are of a concern to area residents). Using arsenic in the embalming process was discontinued in the early 1900s. The existing Hickerson Cemetery was developed in 1960. City of Homer Public Works checked with the State (DEC drinking water and solid waste management) to make sure all the proper rules are followed. There are no State regulations regarding the creation or expansion of cemeteries as it relates to zoning/groundwater concerns. The KPB has established no zoning in the area of the proposed cemetery and does not regulate the creation or expansion of cemeteries. According to the Public Works Director and City Engineer, the hydrology of the area is conducive for minimizing or eliminating the potential for metals (from deceased fillings, watches, etc.) or embalming fluid from entering groundwater and moving off site.

I know the Council has both an interest in being a good neighbor and providing area community members a place to bury their loved ones. If the community members feel strongly one way or another, I encourage them to let the City know. I will keep the Council abreast of how the project progresses.

KPEDD Industry Forum

Kenai Peninsula Economic Development District will be holding their annual Industry Outlook Forum this January 28-29 (draft agenda attached). This is open to the public, free, and a great opportunity to network with industry professionals and other business and public entities on the Peninsula and around the state. Register here: <https://www.eventbrite.com/e/industry-outlook-forum-2016-tickets-19973176308>

City Manager's Office Staffing

As you know, Assistant City Manager Patrick Lawrence left the City of Homer at the end of 2015. I have struggled with how to fill his position. There is plenty of justification for an Assistant City Manager position given the work load and supervisory responsibilities in the City Manager's office. Nevertheless, I also feel like it is difficult in these lean budget times to justify funding the position at the level that is needed to attract qualified candidates. I have decided to advertise the position as a Special Projects/Communications Coordinator. This person will be in charge of the CIP, website and social media, and staffing the Economic Development Advisory Commission, among other things. Given the projects the City has on its plate, the position will also have a renewed emphasis on grant writing. However, I will retain many of the afterhours and broader community relations functions as this will not be a salaried position. I am confident we will receive excellent candidates and the changes in the job description will benefit the City. However, I am concerned about capacity in the City

Manager's office with these changes and the administrative assistant position moving to a part time status. I will ask for help if I need it at midyear, but am looking forward to solidifying my team for 2016 and getting our feet under us. Please direct any interested candidates for the Special Projects/Communications position to the City website.

New Website

I have mentioned that the City is going to have a new website design in a couple of City Manager reports, however over the holidays we took the plunge and transitioned to a more mobile friendly template with greater capacity. Holly Brennan at the Library deserves special recognition for taking on the immense technical details of this project. The new site has inspired a renewed interest in the website from City departments, which is a good thing as we strive to be more communicative with the public. There are still a few bugs to work out linking the old site to the new design, so please let my office know if you see something that needs tweaking or does not work quite right as you navigate around.

City Manager Koester referenced the proposed open house for councilmembers at the Library once a month. It would provide an opportunity for the public to stop by and ask questions. She suggested the first or second Monday of the month at noon. It is a different time of day for those that can't get to meetings to ask the Council questions. The Friends of the Homer Library have offered to advertise and promote it. The Council decided two members would attend each open house.

A neighborhood meeting for Hickerson Memorial Cemetery concerned residents has been scheduled for February 10th at 5:30 p.m. Asked if the City could require vaults be used for burials, City Attorney Klinkner said the City could impose more strict requirements than the State of Alaska.

City Manager Koester said the current break-ins and robberies are very unusual for Homer. In the 30 years that Police Chief Robl has been with the City, there have only been a handful of armed robberies. In the last few months there have been many. The Police Chief's advice to people who may be in a robbery situation is to be a good witness instead of a hero.

B. Bid Report

CITY ATTORNEY REPORT

A. City Attorney Report – December 2015

COMMITTEE REPORT

A. Public Arts Committee

- B. Permanent Fund Committee
- C. Employee Committee Report
- D. Public Safety Building Review Committee

Mayor Wythe reported the Council was presented with three alternatives for the public safety building at the Worksession today. At the next meeting there may be something brought forward to the Council.

- E. Sustainable Animal Control Review Committee

PENDING BUSINESS

- A. **Ordinance 15-43**, An Ordinance of the City Council of Homer, Alaska, Repealing Homer City Code Chapter 3.12, Permanent Fund, Placing the Funds in a Self-Managed Brokerage and Disbanding the Permanent Fund Committee. City Clerk/Permanent Fund Committee. Introduction November 23, 2015, Public Hearing and Second Reading December 7, 2015, Postponed to January 11, 2016.

Ordinance 15-43(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund. City Clerk/Permanent Fund Committee. Recommend: Public Hearing January 25, 2016.

Memorandum 15-190 from Permanent Fund Committee as backup.

Motion on the floor from December 7th: MOTION FOR THE ADOPTION OF ORDINANCE 15-43 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

Mayor Wythe called for a motion to substitute Ordinance 15-43(S) for Ordinance 15-43.

LEWIS/ZAK - SO MOVED.

Councilmember Aderhold requested clarification of Ordinance 15-43(S).

Mayor Wythe advised Council the original ordinance came forward disbanding the permanent fund, but the intent is to cancel the contract with the investment company. The permanent fund will still remain intact because the funds can be managed in-house. The permanent fund will remain separate from the general fund.

City Attorney Klinkner explained Line 91 deletes the professional investment manager to be hired to manage the permanent fund.

Finance Director Li clarified we will not internally actively manage the fund. He and Katie met with the City's investment manager who manages the general fund. He suggested the permanent fund can passively follow the S&P 500 to save management fees and still follow Council's original intention of the 60% equity/40% fixed investment and use of funds. Right now the permanent fund is underperforming and the broker says the investment policy ties their hands, but the Permanent Fund Committee concluded our money is not enough to draw that much attention to actively manage it. He and Katie have talked to two investment managers and their advice is to park the money and follow the index fund. Currently we are paying close to \$15,000 per year for a money manager.

City Attorney Klinkner referenced Line 44 subsection (b) that outlines the existing process for managing the permanent fund. Staff will invest funds in a manner that will follow the objectives of the permanent fund. Council should adopt a resolution for the investment policy that includes the policies outlined in HCC 3.10.130(b) 1-3 and include that the Finance Department will oversee the investment.

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

Motion carried.

- B. **Resolution 15-109**, A Resolution of the Homer City Council to Support the Repair and Reopening of Rocky River State of Alaska Road Easement to the Gulf of Alaska. Mayor. Recommend adoption. Postponed to January 11, 2016.

Motion on the floor from December 7th: MOTION FOR THE ADOPTION OF RESOLUTION 15-109 BY READING OF TITLE ONLY.

Council received additional information from the Seldovia Chamber of Commerce and City of Seldovia and maps.

Councilmember Aderhold expressed opposition as she is unsure of the new economic opportunities it will provide. Although it says the area is federal land she is not sure the road accesses federal lands.

Councilmember Lewis believes it is federal land close to the Chugach National Forest.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. **Memorandum 16-001**, from Mayor Wythe, Re: Appointment of a Person to be Named to the Kenai Peninsula Economic Development District.

ZAK/LEWIS - MOVED TO AMEND MEMORANDUM 16-001 FOR THE PERSON TO BE APPOINTED BY THE MAYOR AND APPROVED BY THE COUNCIL AND POSTPONE TO JANUARY 25TH.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Memorandum 16-004**, Travel Authorization for Mayor Wythe and Councilmembers Lewis and Reynolds to Travel to Juneau to Advocate for the City February 2 – 4, 2016. Recommend adoption.

Mayor Wythe called for a motion for the adoption of the recommendations of Memorandum 16-004.

LEWIS/ZAK – SO MOVED.

Councilmember Smith expressed opposition as the lobbyist, Anderson Group, was hired to represent the City in Juneau. He would have been happy to send our people at a lesser cost than what the Anderson Group charges. The legislative priorities for AML are on the same issues we are worried about. That includes the proposed statewide sales tax that will affect every municipality. There is no credibility that we will miss out on the conversation if we are not there. Telephone contact and Skype are effective means of communication and are very cost effective. We should impress upon the Anderson Group to do what they are paid to do. We need to be more proactive in making appointments with legislators. When we travel we should look at what our objectives are, the realistic view of achieving those objectives, and decide if it is the best representation of tax dollars.

Councilmember Van Dyke agreed that we need to conserve as much as we can. The Borough will not be sending a full delegation due to budget constraints.

Councilmember Lewis defended that face to face time with other representatives shows that your community really cares. In the past we have sent the mayor and city manager twice in a legislative session; the second trip is only if needed. If it prevents something from happening that will affect us, it will be worth it.

ZAK/VAN DYKE - MOVED TO AMEND MEMORANDUM 16-004 BY REMOVING COUNCILMEMBERS LEWIS AND REYNOLDS.

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

VOTE: NO. LEWIS, ADERHOLD

Motion failed.

VOTE: (main motion) YES. ADERHOLD, LEWIS, ZAK

VOTE: NO. SMITH, VAN DYKE

Motion failed.

RESOLUTIONS

- A. **Resolution 16-004**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Dispose of Used and Surplus Equipment Pursuant to HCC 18.30.010 and HCC 18.30.040(b). City Manager. Recommend adoption.

Memorandum 16-009 from City Manager as backup.

Mayor Wythe called for a motion for the adoption of Resolution 16-004 by reading of title only.

LEWIS/ZAK – SO MOVED.

The resolution was inadvertently pulled from the consent agenda.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 16-005**, A Resolution of the Homer City Council Excluding Kenai Peninsula Borough Parcel 17708014 Owned by Cook Inlet Region, Inc. from the Homer Natural Gas Special Assessment District. City Manager. Recommend adoption.

Mayor Wythe called for a motion for the adoption of Resolution 16-005 by reading of title only.

LEWIS/ZAK - SO MOVED.

Councilmember Smith questioned the exclusion since CIRI didn't contest the assessment in a timely or proper manner.

City Manager Koester said the claim is legitimate since the lot was purchased through the Alaska Native Claims Settlement Act. It is clear in state statutes and CIRI did pay the assessment on the other lots owned.

Councilmember Smith suggested a deferral of assessment rather than exclusion from the district since the property will be developed and sold and will garner benefits.

City Attorney Klinkner advised if the parcel is excluded from the district in order to get natural gas they will need to pay a prorated share to Enstar who pays the City of Homer up to ten years after the improvement was installed.

Councilmembers Aderhold and Lewis expressed approval of the exclusion since federal land cannot be taxed until it is developed. Utility assessments are a tax.

Councilmember Smith requested a legal opinion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Attorney Klinkner will provide a legal opinion.

COMMENTS OF THE AUDIENCE

There were no comments of the audience.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner referenced his December report and that he would be happy to answer any questions from Council.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Koester commented she enjoyed the long break, but it is good to meet again and touch base. She thanked Mayor and Council for a good meeting.

COMMENTS OF THE MAYOR

Mayor Wythe announced she will pay for her own trip to Juneau. The value of our face in Juneau is still very valid. She appreciates everybody coming in and the time and energy they put into the meeting.

COMMENTS OF THE CITY COUNCIL

Councilmember Lewis had no comment.

Councilmember Smith congratulated Chris Perk and the excellent job he has done with the wrestlers. Chris and he had the same coach through high school. In 1983 one wrestler was sent to State and they won the team championship. He thanked the commissions and committees for their hard work; he appreciates the time they put in.

Councilmember Aderhold congratulated the wrestling team. There were no girls on the teams when she was in high school so she was thrilled to sit behind so many young women who are champion wrestlers. Lobbyist Linda Anderson suggested we set up a legislative sub-committee and she would like to volunteer for that committee. With things moving forward with the public safety building we need to be thinking about the HERC and what we are doing to continue providing a rec center of some sort.

Councilmember Van Dyke commented there were excellent reports and information received from Chief Painter, the seafood industry, parks and rec, and wrestling.

Councilmember Zak thanked the seafood folks who appeared in force to share their report. The report shows the impact of oil and gas for the state. The days of \$100 for a barrel of oil are gone. If there are changes for the fishermen they will let us know how much it impacts them. The icy and dark conditions have increased the number of thefts and robberies. He cautioned people to be careful out there. He sent condolences to Assembly Member Cooper whose daughter was injured pretty badly in a car accident on the highway.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 7:58 p.m. The next Regular Meeting is Monday, January 25, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

JO JOHNSON, MMC, CITY CLERK

Approved: _____



City of Homer

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Memorandum 16-010

TO: HOMER CITY COUNCIL

FROM: MARY E. WYTHE, MAYOR

DATE: JANUARY 18, 2016

SUBJECT: APPOINTMENT OF BETH CARROLL TO THE CANNABIS ADVISORY COMMISSION
AND APPOINTMENT OF COUNCILMEMBER HEATH SMITH AS A CONSULTING
MEMBER OF THE ECONOMIC DEVELOPMENT ADVISORY COMMISSION.

Beth Carroll is appointed to the Cannabis Advisory Commission to replace outgoing member Shane Monroe. Ms. Carroll's appointment expires May 1, 2017.

Councilmember Heath Smith is appointed to the Economic Development Advisory Commission as a consulting member. His term of office expires October 2018.

RECOMMENDATION:

Confirm the appointments of Beth Carroll to the Cannabis Advisory Commission and Councilmember Heath Smith to the Economic Development Advisory Commission as a consulting member.

Fiscal Note: N/A



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

MAR 26 2015 AM 10:35 *RK*
CITY CLERK'S OFFICE
CITY OF HOMER
491 E. Pioneer Avenue
Homer, AK 99603
PH. 907-235-3130
FAX 907-235-3143

Received by the Clerk's Office

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

Name: BETH CARROLL Date: 3/26/15
Physical Address: 55369 EAST END RD.
Mailing Address: PO BOX 15131 FRITZ CREEK 99603
Phone Number: 235-0182 Cell #: 299-4929 Work #: _____
Email Address: jehismycopilot@yahoo.com

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

Please indicate the commission(s), committee(s), board or other that you are interested in serving on by marking with and X or a v

	ADVISORY PLANNING COMMISSION	1 ST & 3 RD WEDNESDAY OF THE MONTH AT 6:30 PM WORKSESSION PRIOR TO EACH MEETING AT 5:30 PM
	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2 ND TUESDAY OF THE MONTH AT 6:00 P.M.
	PARKS & RECREATION ADVISORY COMMISSION	3 RD THURSDAY OF THE MONTH AT 5:30 P.M.
	PORT & HARBOR ADVISORY COMMISSION	4 TH WEDNESDAY OF THE MONTH OCT-APRIL AT 5:00 P.M. MAY - SEPTEMBER 6:00 PM
	PERMANENT FUND COMMITTEE	2 ND THURSDAY OF THE MONTH AT 5:15 P.M. FEBRUARY, MAY, AUGUST & NOVEMBER
	PUBLIC ARTS COMMITTEE	2 ND THURSDAY OF THE MONTH AT 5:00 P.M. FEBRUARY, MAY, AUGUST & NOVEMBER
	LIBRARY ADVISORY BOARD	1 ST TUESDAY OF THE MONTH AT 5:00 P.M.
	CITY COUNCIL	2 ND AND 4 TH MONDAY OF THE MONTH SPECIAL MEETINGS & WORKSESSIONS AT 4:00 P.M. COMMITTEE OF THE WHOLE AT 5:00 P.M. REGULAR MEETING AT 6:00 P.M.
X	OTHER - PLEASE DESIGNATE	CANNABIS ADVISORY BOARD

I have been a resident of the city for ___ yrs ___ mos. I have been a resident of the area for 20 yrs ___ mos.

I am presently employed at FRITZ CREEK GENERAL STORE

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

25+ YEARS IN CANNABIS ADVOCACY BOTH FOR
MEDICINAL + RECREATIONAL USES. EXPERIENCE IN
CANNABIS CULTIVATION BOTH LARGE AND SMALL,
SOME IN MEDICINAL OUTSIDE OF ALASKA.

Have you ever served on a similar commission, board, committee or task force? If so please list when, where and how long:

2010-13 KBBI BOARD OF DIRECTORS 3yr. TERM

Why are you interested in serving on the indicated commission, committee, board or task force?

TO ASSIST HOMER IN UNDERSTANDING + PARTICIPATION IN
THE UNFOLDING CANNABIS LEGISLATION + REGULATIONS TO FOLLOW.

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

- CRCL - COALITION FOR RESPONSIBLE CANNABIS LEGISLATION
- AGR - ALASKA GREEN RESOURCES - EDUCATION FOR ENTREPRENEURS
- KACHEMISK CANNABIS CONSULTANCY

Please answer the following if you are applying for the Advisory Planning Commission:

Have you ever developed real property, other than your personal residence, if so briefly describe? NO

Please answer the following if you are applying for the Port & Harbor Advisory Commission:

Do you use the Homer Port and/or Harbor on a regular basis? What is your primary use?

____ Commercial

____ Recreational

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

I HAVE DEVOTED MANY YEARS TO CANNABIS LEGALIZATION,
AND AM PRESENTLY VERY INVOLVED WITH UNDERSTANDING
+ NAVIGATING ALASKA'S NEW LEGISLATION.

When you have completed this application please review all the information and return to the City Clerk's Office. You may also email this document to clerk@cityofhomer-ak.gov or fax to 907-235-3143. Thank you for applying!

I WAS ALSO MANAGER OF RING OF FIRE MEZGERY
IN HOMER, PROVIDING INSIGHT INTO THE STATE
+ FEDERAL REGULATIONS REGARDING ALCOHOL PRODUCTION
+ RETAIL FACILITIES



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

JAN 15 2016 PM 09:13
CITY CLERK'S OFFICE
CITY OF HOMER
491 E. Pioneer Avenue
Homer, AK 99603
PH. 907-235-3130
FAX 907-235-3143

Received by the Clerk's Office

The information below provides some basic background for the Mayor and Council

This information is public and will be included in the Council Information packet

Name: HEATH SMITH Date: 1-16-15

Physical Address: 2120 E END RD

Mailing Address: 2120 E END RD

Phone Number: 907 244 8226 Cell #: 244-8226 Work #: _____

Email Address: hpt15@yahoo.com HeathSmith@ci.homer.ak.us

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

Please indicate the commission(s), committee(s), board or other that you are interested in serving on by marking with and X or a V

<input type="checkbox"/>	ADVISORY PLANNING COMMISSION	1 ST & 3 RD WEDNESDAY OF THE MONTH AT 6:30 PM WORKSESSION PRIOR TO EACH MEETING AT 5:30 PM
<input checked="" type="checkbox"/>	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2 ND TUESDAY OF THE MONTH AT 6:00 P.M.
<input type="checkbox"/>	PARKS & RECREATION ADVISORY COMMISSION	3 RD THURSDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PORT & HARBOR ADVISORY COMMISSION	4 TH WEDNESDAY OF THE MONTH OCT-APRIL AT 5:00 P.M. MAY - SEPTEMBER 6:00 PM
<input type="checkbox"/>	PERMANENT FUND COMMITTEE	2 ND THURSDAY OF THE MONTH AT 5:15 P.M. FEBRUARY, MAY, AUGUST & NOVEMBER
<input type="checkbox"/>	PUBLIC ARTS COMMITTEE	2 ND THURSDAY OF THE MONTH AT 5:00 P.M. FEBRUARY, MAY, AUGUST & NOVEMBER
<input type="checkbox"/>	LIBRARY ADVISORY BOARD	1 ST TUESDAY OF THE MONTH AT 5:00 P.M.
<input type="checkbox"/>	CITY COUNCIL	2 ND AND 4 TH MONDAY OF THE MONTH SPECIAL MEETINGS & WORKSESSIONS AT 4:00 P.M. COMMITTEE OF THE WHOLE AT 5:00 P.M. REGULAR MEETING AT 6:00 P.M.
<input type="checkbox"/>	OTHER - PLEASE DESIGNATE	

* Since 1974

I have been a resident of the city for ___ yrs ___ mos. I have been a resident of the area for ___ yrs ___ mos.

I am presently employed at UPS

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

Have you ever served on a similar commission, board, committee or task force? If so please list when, where and how long:

No

Why are you interested in serving on the indicated commission, committee, board or task force?

It's time for our Economic Engines to fire on
All cylinders.

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

No

Please answer the following if you are applying for the Advisory Planning Commission:

Have you ever developed real property, other than your personal residence, if so briefly describe? _____

Please answer the following if you are applying for the Port & Harbor Advisory Commission:

Do you use the Homer Port and/or Harbor on a regular basis? What is your primary use?

Commercial

Recreational

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

When you have completed this application please review all the information and return to the City Clerk's Office . You may also email this document to clerk@cityofhomer-ak.gov or fax to 907-235-3143. Thank you for applying!



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 16-011

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

DATE: JANUARY 19, 2016

SUBJECT: LIQUOR LICENSE RENEWALS FOR HOMER BREWING COMPANY, OAKEN KEG #1832,
SAVE-U-MORE LIQUOR #6, HARBOR GRILL, COSMIC KITCHEN

We have been notified by the ABC Board of an application for liquor license renewals in the City of Homer for the following:

Lic. #	Doing Business As	License Type	Licensee	Premises Address
4136	Homer Brewing Company	Brewery	Homer Brewing Company, Inc.	1411 Lakeshore Dr.
4162	Oaken Keg #1832	Package Store	Safeway, Inc.	90 Sterling Hwy
4221	Save-U-More Liquor #6	Package Store	Castle Liquor, Inc.	3611 Greatland
3174	Harbor Grill	Beverage Dispensary-Seasonal	Don Jose's, LLC	4262 Homer Spit Road
4359	Cosmic Kitchen	Restaurant/Eating Place	Cosmic Kitchen, Inc.	510 E. Pioneer Ave.

RECOMMENDATION: Voice non objection and approval for the liquor license renewals.

Fiscal Note: Revenues.



City of Homer


www.cityofhomer-ak.gov

Police Department

4060 Heath Street
Homer, Alaska 99603

police@cityofhomer-ak.gov
(p) 907-235-3150
(f) 907-235-3151/ 907-226-3009

Memorandum

TO: MELISSA JACOBSEN, DEPUTY CITY CLERK
FROM: MARK ROBL, POLICE CHIEF 
DATE: JANUARY 14, 2016
SUBJECT: LIQUOR LICENSE RENEWALS FOR HOMER BREWING COMPANY, OAKEN KEG #1832,
SAVE-U-MORE LIQUOR #6, HARBOR GRILL, COSMIC KITCHEN

We have no objections to the applications for liquor license renewals in the City of Homer for the following:

Lic. #	Doing Business As	License Type	Licensee	Premises Address
4136	Homer Brewing Company	Brewery	Homer Brewing Company, Inc.	1411 Lakeshore Dr.
4162	Oaken Keg #1832	Package Store	Safeway, Inc.	90 Sterling Hwy
4221	Save-U-More Liquor #6	Package Store	Castle Liquor, Inc.	3611 Greatland
3174	Harbor Grill	Beverage Dispensary-Seasonal	Don Jose's, LLC	4262 Homer Spit Road
4359	Cosmic Kitchen	Restaurant/Eating Place	Cosmic Kitchen, Inc.	510 E. Pioneer Ave.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

Sarah Daulton Oates
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
Phone: 907.269.0350
alcohol.licensing@alaska.gov

January 6, 2016

City of Homer
Attn: City Clerk
VIA Email: clerk@cityofhomer-ak.gov
Cc: joanne@borough.kenai.ak.us
jblankenship@borough.kenai.ak.us
kring@borough.kenai.ak.us

Re: Notice of 2016/2017 Liquor License Renewal Applications

Dear Clerk,

We have received a renewal application for each of the following licenses within your jurisdiction:

Lic. #	Doing Business As	License Type	Licensee	Premises Address
4136	Homer Brewing Company	Brewery	Homer Brewing Company, Inc.	1411 Lake Shore Drive
4162	Oaken Keg #1832	Package Store	Safeway, Inc.	90 Sterling Hwy.
4221	Save-U-More Liquor #6	Package Store	Castle Liquor, Inc.	3611 Greatland

A local governing body as defined under AS 04.21.080(b)(18) may protest the approval of an application(s) pursuant to AS 04.11.480 by providing the board **and** the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is arbitrary, capricious, and unreasonable. Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.330-44.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved.

Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages. If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the proposed premises and no variance of the regulation or ordinance has been approved, please notify our office and provide a certified copy of the regulation or ordinance if you have not previously done so.

Protest under AS 04.11.480 and the prohibition of sale or consumption of alcoholic beverages as required by zoning regulation or ordinance under AS 04.11.420(a) are two separate and distinct subjects. Please bear that in mind when responding to this notice.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application(s) referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information regarding local governing body protests, please refer to 3 AAC 304.145.

If you have any questions or concerns or require additional information, please feel free to contact our licensing unit at alcohol.licensing@alaska.gov.

Sincerely,



Sarah Daulton Oates

Records & Licensing Supervisor
sarah.oates@alaska.gov

13387

Alcoholic Beverage Control Board
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

Renewal Liquor License 2016/2017

Phone: (907) 269-0350
Email: alcohol.licensing@alaska.gov
<http://commerce.alaska.gov/web/abc/Home.aspx>

License is: ☒ Full Year OR ☐ Seasonal If seasonal, list dates of operation: _____

SECTION A - LICENSE INFORMATION

License Number: 4136	License Type: Brewery	Statute Reference: Sec. 04.11.130
Local Governing Body: Homer Kenai Peninsula Borough	Community Council (if applicable):	
Name of Licensee: Homer Brewing Company, Inc.	Doing Business As (DBA): Homer Brewing Company	
Mailing Address: Same	Street Address or Location of Premises: 1411 Lake Shore Drive	
Phone: 907-235-3626	Fax: 907-235-2113	Email: homerbrew96@gmail.com

SECTION B – OWNERSHIP INFORMATION – CORPORATION (if owner is a sole proprietor, skip to SECTION C)

Corporations, LLCs, LLPs and LPs must be registered with the Alaska Division of Corporations.

Name of Entity (Corporation/LLC/LLP/LP):

Homer Brewing Company, Inc.

Is the Entity in "Good Standing" with the Alaska Division of Corporations? ☒ Yes ☐ No

If no, attach written explanation. Your entity **must** be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with 10% or more of stock)

Name	Title	%	Mailing Address	Telephone Number
Stephan McCaskland	Pres	50	1411 Lake Shore Dr, Homer 99603	907-235-3626
Karen Berger	Sec/Treas	50	" "	" "

NOTE: If you need additional space, please attach a separate sheet.

DEC 16 '15 PM 12:51

SECTION C – OWNERSHIP INFORMATION – SOLE PROPRIETORSHIP (INDIVIDUAL OWNER & SPOUSE)

Individual Licensees/Affiliates (The ABC Board defines an "affiliate" as the spouse or significant other of a licensee. Each affiliate must be listed.)

Name:	Applicant <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/>
Address:	Affiliate <input type="checkbox"/>	Address:	Affiliate <input type="checkbox"/>
Phone:	Date of Birth:	Phone:	Date of Birth:
Name:	Applicant <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/>
Address:	Affiliate <input type="checkbox"/>	Address:	Affiliate <input type="checkbox"/>
Phone:	Date of Birth:	Phone:	Date of Birth:

SECTION D – SUPPLEMENTAL QUESTIONS

Was your business open at least 30 days for 8 hours each day in 2014?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Was your business open at least 30 days for 8 hours each day in 2015?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has any person named in this application been convicted of a felony or Title 4 violation? If yes, attach a written explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the licensed premises changed from the last diagram submitted? If yes, attach a new diagram with designated premises areas outlined in red.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

DECLARATION

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
- I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business.
- I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.
- As a licensee (sole proprietor or partner), I certify that I have received Alaska alcohol server training and my certification is currently valid.
- As a corporate/LLC licensee, I certify that all agents and employees who serve, sell, or are otherwise responsible for the service, sale, or storage of alcoholic beverages have received Alaska alcohol server training and their certification is currently valid. I further certify that certain shareholders, officers, directors, or members of the entity who are not directly or indirectly responsible for the service, sale, or storage of alcoholic beverages are not Alaska alcohol server training certified and will not be required to be certified.
- As a licensee, I certify that all of my agents and employees tasked with patron identification verification have received alcohol server training and their certification is currently valid.

License Fee	\$ 1000.00
Filing Fee	\$ 200.00
TOTAL	\$ 1200.00
Late Fee of \$500.00 – if received or postmarked after 12/31/2015	\$
Fingerprint Fee – \$49.75 per person (only for new owners/members)	\$
GRAND TOTAL	\$ 1200.00

Licensee Signature <i>Karen Berger</i>	Printed Name & Title: Karen Berger Sec/treas.
Notary Signature <i>[Signature]</i>	Subscribed and sworn to before me this 18 day of Dec
Notary Public in and for the State of: Alaska	My commission expires: 8/10/18



DEC 16

DEC 21 15 AM 10:30

13494

Alcoholic Beverage Control Board
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

Renewal Liquor License 2016/2017

Phone: (907) 269-0350
Email: alcohol.licensing@alaska.gov
<http://commerce.alaska.gov/web/abc/Home.aspx>

License is: ☒ Full Year OR ☐ Seasonal If seasonal, list dates of operation: _____

SECTION A - LICENSE INFORMATION		
License Number: 4162	License Type: Package Store	Statute Reference: Sec. 04.11.150
Local Governing Body: Homer Kenai Peninsula Borough	Community Council (if applicable):	
Name of Licensee: Safeway, Inc.	Doing Business As (DBA): Oaken Keg #1832	
Mailing Address: P.O. BOX 29096 MS 6531 Phoenix, AZ 85038-9096	Street Address or Location of Premises: 90 Sterling Highway	
Phone: 623-864-3573	Fax: 623-864-1399	Email: Tariq.Jackson@safeway.com

SECTION B – OWNERSHIP INFORMATION – CORPORATION (if owner is a sole proprietor, skip to SECTION C)				
<i>Corporations, LLCs, LLPs and LPs must be registered with the Alaska Division of Corporations.</i>				
Name of Entity (Corporation/LLC/LLP/LP): Safeway, Inc.				
Is the Entity in "Good Standing" with the Alaska Division of Corporations? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, attach written explanation. Your entity must be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.				
Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with 10% or more of stock)				
Name	Title	%	Mailing Address	Telephone Number
See Attached				
NOTE: If you need additional space, please attach a separate sheet.				

DEC 18 '15 PM 12:11

SECTION C – OWNERSHIP INFORMATION – SOLE PROPRIETORSHIP (INDIVIDUAL OWNER & SPOUSE)

Individual Licensees/Affiliates (The ABC Board defines an "affiliate" as the spouse or significant other of a licensee. Each affiliate must be listed.)

Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>
Address:	Date of Birth:	Address:	Date of Birth:
Phone:		Phone:	
Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>
Address:	Date of Birth:	Address:	Date of Birth:
Phone:		Phone:	

SECTION D – SUPPLEMENTAL QUESTIONS

Was your business open at least 30 days for 8 hours each day in 2014?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Was your business open at least 30 days for 8 hours each day in 2015?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has any person named in this application been convicted of a felony or Title 4 violation? If yes, attach a written explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the licensed premises changed from the last diagram submitted? If yes, attach a new diagram with designated premises areas outlined in red.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Do you intend to sell alcoholic beverages in response to a written order?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

DECLARATION

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
- I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business.
- I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.
- As a licensee (sole proprietor or partner), I certify that I have received Alaska alcohol server training and my certification is currently valid.
- As a corporate/LLC licensee, I certify that all agents and employees who serve, sell, or are otherwise responsible for the service, sale, or storage of alcoholic beverages have received Alaska alcohol server training and their certification is currently valid. I further certify that certain shareholders, officers, directors, or members of the entity who are not directly or indirectly responsible for the service, sale, or storage of alcoholic beverages are not Alaska alcohol server training certified and will not be required to be certified.
- As a licensee, I certify that all of my agents and employees tasked with patron identification verification have received alcohol server training and their certification is currently valid.

License Fee	\$ 1500.00
Filing Fee	\$ 200.00
TOTAL	\$ 1700.00
Late Fee of \$500.00 – If received or postmarked after 12/31/2015	\$
Fingerprint Fee – \$49.75 per person (only for new owners/members)	\$
GRAND TOTAL	\$ 1700

Licensee Signature <i>Robert H. Gordon</i>	Printed Name & Title: <i>Robert H. Gordon, EVP Legal</i>
Notary Signature	Subscribed and sworn to before me this _____ day of _____, _____.
Notary Public in and for the State of:	My commission expires:

see attached

"A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document."

State of California

County of Alameda

Subscribed and sworn to (or affirmed) before me on this 23rd day of December, 2015, by **Robert A. Gordon**, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature  (Seal)



DEC 28 '15 AM 11:01

ENTITY INFORMATION - CARR GOTTSTEIN FOODS CO. & Safeway, Inc.

NAME	TITLE	HOME ADDRESS	SHARE %	WORK PHONE
ROBERT L. EDWARDS	PRESIDENT & CEO	5918 STONERIDGE MALL RD PLEASANTON, CA 94588	0%	925.467.3700
BRADLEY S. FOX	VP & TREASURER	5918 STONERIDGE MALL RD PLEASANTON, CA 94588	0%	925.467.3700
SSI-AK HOLDINGS, INC		5918 STONERIDGE MALL RD PLEASANTON, CA 94588	100%	925.467.3700
Robert A. Gordon			0%	

Alcoholic Beverage Control Board
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

**Renewal Liquor License
2016/2017**

13446
Phone: (907) 269-0350
Email: alcohol.licensing@alaska.gov
<http://commerce.alaska.gov/web/abc/Home.aspx>

License is: ☒ **Full Year** OR ☐ **Seasonal** If seasonal, list dates of operation: _____

SECTION A - LICENSE INFORMATION

License Number: 4221	License Type: Package Store	Statute Reference: Sec. 04.11.150
Local Governing Body: Homer Kenai Peninsula Borough		Community Council (if applicable):
Name of Licensee: Castle Liquor Inc		Doing Business As (DBA): Save-U-More Liquor #6
Mailing Address: PO Box 58547 Seattle, WA 98138		Street Address or Location of Premises: 3611 Greatland
Phone: 206 721 3358	Fax: 206 721 0198	Email: lnorex@comcast.net

SECTION B - OWNERSHIP INFORMATION - CORPORATION (if owner is a sole proprietor, skip to SECTION C)

Corporations, LLCs, LLPs and LPs must be registered with the Alaska Division of Corporations.

Name of Entity (Corporation/LLC/LLP/LP):

Castle Liquor Inc

Is the Entity in "Good Standing" with the Alaska Division of Corporations? ☒ Yes ☐ No

If no, attach written explanation. Your entity **must** be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with 10% or more of stock)

Name	Title	%	Mailing Address	Telephone Number
Valentin Caspaar	Pres	100	PO Box 58547 Seattle, WA 98138	206 721 3358
Gerlinda Konrad	VP, Sec, Treas	0	6122 Yukon Ave Tacoma, WA	206 721 3358

NOTE: If you need additional space, please attach a separate sheet.

DEC 22 15 PM 1:40

SECTION C – OWNERSHIP INFORMATION – SOLE PROPRIETORSHIP (INDIVIDUAL OWNER & SPOUSE)

Individual Licensees/Affiliates (The ABC Board defines an "affiliate" as the spouse or significant other of a licensee. Each affiliate must be listed.)

Name:	Applicant <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/>
Address:	Affiliate <input type="checkbox"/>	Address:	Affiliate <input type="checkbox"/>
Phone:	Date of Birth:	Phone:	Date of Birth:
Name:	Applicant <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/>
Address:	Affiliate <input type="checkbox"/>	Address:	Affiliate <input type="checkbox"/>
Phone:	Date of Birth:	Phone:	Date of Birth:

SECTION D – SUPPLEMENTAL QUESTIONS

Was your business open at least 30 days for 8 hours each day in 2014?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Was your business open at least 30 days for 8 hours each day in 2015?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has any person named in this application been convicted of a felony or Title 4 violation? If yes, attach a written explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the licensed premises changed from the last diagram submitted? If yes, attach a new diagram with designated premises areas outlined in red.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Do you intend to sell alcoholic beverages in response to a written order?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

DECLARATION

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
- I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business.
- I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.
- As a licensee (sole proprietor or partner), I certify that I have received Alaska alcohol server training and my certification is currently valid.
- As a corporate/LLC licensee, I certify that all agents and employees who serve, sell, or are otherwise responsible for the service, sale, or storage of alcoholic beverages have received Alaska alcohol server training and their certification is currently valid. I further certify that certain shareholders, officers, directors, or members of the entity who are not directly or indirectly responsible for the service, sale, or storage of alcoholic beverages are not Alaska alcohol server training certified and will not be required to be certified.
- As a licensee, I certify that all of my agents and employees tasked with patron identification verification have received alcohol server training and their certification is currently valid.

License Fee	\$ 1500.00
Filing Fee	\$ 200.00
TOTAL	\$ 1700.00
Late Fee of \$500.00 – if received or postmarked after 12/31/2015	\$
Fingerprint Fee – \$49.75 per person (only for new owners/members)	\$
GRAND TOTAL	\$ 1700

Licensee Signature	Printed Name & Title:	
Notary Signature	Subscribed and sworn to before me this	
Notary Public in and for the State of:	My commission expires:	

Valentine Caspar
 3RD day of November 2015
 WASHINGTON
 6-30-2016

DEC 22 '15 PM 1:40



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

Sarah Daulton Oates
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
Phone: 907.269.0350
alcohol.licensing@alaska.gov

January 7, 2016

City of Homer
Attn: City Clerk
VIA Email: clerk@cityofhomer-ak.gov
Cc: joanne@borough.kenai.ak.us
jblankenship@borough.kenai.ak.us
kring@borough.kenai.ak.us

Re: Notice of 2016/2017 Liquor License Renewal Applications

Dear Clerk,

We have received a renewal application for each of the following licenses within your jurisdiction:

Lic. #	Doing Business As	License Type	Licensee	Premises Address
4359	Cosmic Kitchen	Restaurant/Eating Place	Cosmic Kitchen, Inc.	510 E Pioneer Avenue

A local governing body as defined under AS 04.21.080(b)(18) may protest the approval of an application(s) pursuant to AS 04.11.480 by providing the board **and** the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is arbitrary, capricious, and unreasonable. Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.330-44.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved. Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages. If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the

proposed premises and no variance of the regulation or ordinance has been approved, please notify our office and provide a certified copy of the regulation or ordinance if you have not previously done so.

Protest under AS 04.11.480 and the prohibition of sale or consumption of alcoholic beverages as required by zoning regulation or ordinance under AS 04.11.420(a) are two separate and distinct subjects. Please bear that in mind when responding to this notice.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application(s) referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information regarding local governing body protests, please refer to 3 AAC 304.145.

If you have any questions or concerns or require additional information, please feel free to contact our licensing unit at alcohol.licensing@alaska.gov.

Sincerely,



Sarah Daulton Oates

Records & Licensing Supervisor

sarah.oates@alaska.gov

Alcoholic Beverage Control Board
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

Renewal Liquor License 2016/2017

Phone: (907) 269-0350
Email: alcohol.licensing@alaska.gov
<http://commerce.alaska.gov/web/abc/Home.aspx>

License is: ☒ Full Year OR ☐ Seasonal If seasonal, list dates of operation: _____

SECTION A - LICENSE INFORMATION

License Number:	License Type:	Statute Reference:
4359	Restaurant/Eating Place	Sec. 04.11.100
Local Governing Body: Homer Kenai Peninsula Borough	Community Council (if applicable):	
Name of Licensee:	Doing Business As (DBA):	
Cosmic Kitchen Inc	Cosmic Kitchen	
Mailing Address: 510 E. PIONEER AVE HOMER AK 99603	Street Address or Location of Premises: 510 E Pioneer Avenue	
Phone: 907 235 6355	Fax: 907 235 2761	Email: eate@cosmickitchenalaska.com

SECTION B - OWNERSHIP INFORMATION - CORPORATION (if owner is a sole proprietor, skip to SECTION C)

Corporations, LLCs, LLPs and LPs must be registered with the Alaska Division of Corporations.

Name of Entity (Corporation/LLC/LLP/LP):

Cosmic Kitchen Inc

Is the Entity in "Good Standing" with the Alaska Division of Corporations? ☒ Yes ☐ No

If no, attach written explanation. Your entity **must** be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with 10% or more of stock)

Name	Title	%	Mailing Address	Telephone Number
SEAN J. HOGAN	PRES	50	510 E. PIONEER AVE. HOMER	907 235 6355
MICHELLE E. WILSON	VP/SEC/TREAS	50	510 E. PIONEER AVE HOMER	907 235 6355

NOTE: If you need additional space, please attach a separate sheet.

DEC 14 '15 PM 12:52

SECTION C – OWNERSHIP INFORMATION – SOLE PROPRIETORSHIP (INDIVIDUAL OWNER & SPOUSE)

Individual Licensees/Affiliates (The ABC Board defines an "affiliate" as the spouse or significant other of a licensee. Each affiliate must be listed.)

Name:	Applicant <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/>
Address:	Affiliate <input type="checkbox"/>	Address:	Affiliate <input type="checkbox"/>
Phone:	Date of Birth:	Phone:	Date of Birth:
Name:	Applicant <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/>
Address:	Affiliate <input type="checkbox"/>	Address:	Affiliate <input type="checkbox"/>
Phone:	Date of Birth:	Phone:	Date of Birth:

SECTION D – SUPPLEMENTAL QUESTIONS

Was your business open at least 30 days for 8 hours each day in 2014?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Was your business open at least 30 days for 8 hours each day in 2015?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has any person named in this application been convicted of a felony or Title 4 violation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, attach a written explanation.	
Has the licensed premises changed from the last diagram submitted?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, attach a new diagram with designated premises areas outlined in red.	
Were your gross receipts from the sale of food at least 50% of your total gross receipts for 2014 and 2015?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

DECLARATION

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
- I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business.
- I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.
- As a licensee (sole proprietor or partner), I certify that I have received Alaska alcohol server training and my certification is currently valid.
- As a corporate/LLC licensee, I certify that all agents and employees who serve, sell, or are otherwise responsible for the service, sale, or storage of alcoholic beverages have received Alaska alcohol server training and their certification is currently valid. I further certify that certain shareholders, officers, directors, or members of the entity who are not directly or indirectly responsible for the service, sale, or storage of alcoholic beverages are not Alaska alcohol server training certified and will not be required to be certified.
- As a licensee, I certify that all of my agents and employees tasked with patron identification verification have received alcohol server training and their certification is currently valid.

License Fee	\$ 600.00
Filing Fee	\$ 200.00
TOTAL	\$ 800.00
Late Fee of \$500.00 – if received or postmarked after 12/31/2015	\$
Fingerprint Fee – \$49.75 per person (only for new owners/members)	\$
GRAND TOTAL	\$ 800.00

Licensee Signature <i>Michelle E. Wilson</i>	Printed Name & Title: MICHELLE E. WILSON sec/treas.
Notary Signature <i>Melvin Jacobson</i>	Subscribed and sworn to before me this 9th day of December, 2015.
Notary Public in and for the State of: Alaska	My commission expires: 9/8/16



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

Sarah Daulton Oates
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
Phone: 907.269.0350
alcohol.licensing@alaska.gov

January 12, 2016

City of Homer
Attn: City Clerk
VIA Email: clerk@cityofhomer-ak.gov
Cc: joanne@borough.kenai.ak.us
jblankenship@borough.kenai.ak.us
kring@borough.kenai.ak.us

Re: Notice of 2016/2017 Liquor License Renewal Applications

Dear Clerk,

We have received a renewal application for each of the following licenses within your jurisdiction:

Lic. #	Doing Business As	License Type	Licensee	Premises Address
3174	Harbor Grill	Beverage Dispensary- Seasonal	Don Jose's, LLC	4262 Homer Spit Road

A local governing body as defined under AS 04.21.080(b)(18) may protest the approval of an application(s) pursuant to AS 04.11.480 by providing the board **and** the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is arbitrary, capricious, and unreasonable. Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.330-44.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved. Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages. If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the

proposed premises and no variance of the regulation or ordinance has been approved, please notify our office and provide a certified copy of the regulation or ordinance if you have not previously done so.

Protest under AS 04.11.480 and the prohibition of sale or consumption of alcoholic beverages as required by zoning regulation or ordinance under AS 04.11.420(a) are two separate and distinct subjects. Please bear that in mind when responding to this notice.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application(s) referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information regarding local governing body protests, please refer to 3 AAC 304.145.

If you have any questions or concerns or require additional information, please feel free to contact our licensing unit at alcohol.licensing@alaska.gov.

Sincerely,



Sarah Daulton Oates

Records & Licensing Supervisor

sarah.oates@alaska.gov

13692 13693

Alcoholic Beverage Control Board
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

Renewal Liquor License 2016/2017

Phone: (907) 269-0350
Email: alcohol.licensing@alaska.gov
<http://commerce.alaska.gov/web/abc/Home.aspx>

License is:

☐ Full Year

OR

☒ Seasonal

If seasonal, list dates of operation: April - September

SECTION A - LICENSE INFORMATION		
License Number: 3174	License Type: Beverage Dispensary-Seasonal	Statute Reference: Sec. 04.11.090
Local Governing Body: Homer Kenai Peninsula Borough	Community Council (if applicable):	
Name of Licensee: Don Jose's, LLC	Doing Business As (DBA): Harbor Grill	
Mailing Address: <u>127 W Pioneer Ave</u> <u>Homer AK 99603</u>	Street Address or Location of Premises: 4262 Homer Spit Road	
Phone: <u>907-279-5111</u>	Fax: <u>907-235-7964</u>	Email: <u>sluebert@alaskadonjoses.com</u>

SECTION B - OWNERSHIP INFORMATION - CORPORATION (if owner is a sole proprietor, skip to SECTION C)

Corporations, LLCs, LLPs and LPs must be registered with the Alaska Division of Corporations.

Name of Entity (Corporation/LLC/LLP/LP):

Don Jose's, LLC

Is the Entity in "Good Standing" with the Alaska Division of Corporations? ☒ Yes ☐ No

If no, attach written explanation. Your entity must be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with 10% or more of stock)

Name	Title	%	Mailing Address	Telephone Number
Jose M Ramos	Member	51	127 W Pioneer Ave Homer AK 99603	907-279-7966
Maria C Ramos	Member	49	127 W Pioneer Ave Homer AK 99603	907-235-7963

NOTE: If you need additional space, please attach a separate sheet.

JAN 5 '16 11:24

SECTION C – OWNERSHIP INFORMATION – SOLE PROPRIETORSHIP (INDIVIDUAL OWNER & SPOUSE)

Individual Licensees/Affiliates (The ABC Board defines an "affiliate" as the spouse or significant other of a licensee. Each affiliate must be listed.)

Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>
Address:	Date of Birth:	Address:	Date of Birth:
Phone:		Phone:	
Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>	Name:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>
Address:	Date of Birth:	Address:	Date of Birth:
Phone:		Phone:	

SECTION D – SUPPLEMENTAL QUESTIONS

Was your business open at least 30 days for 8 hours each day in 2014?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Was your business open at least 30 days for 8 hours each day in 2015?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has any person named in this application been convicted of a felony or Title 4 violation? If yes, attach a written explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the licensed premises changed from the last diagram submitted? If yes, attach a new diagram with designated premises areas outlined in red.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

DECLARATION

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
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- As a licensee, I certify that all of my agents and employees tasked with patron identification verification have received alcohol server training and their certification is currently valid.

License Fee	\$ 1250.00
Filing Fee	\$ 200.00
TOTAL	\$ 1450.00
Late Fee of \$500.00 – if received or postmarked after 12/31/2015	\$
Fingerprint Fee – \$49.75 per person (only for new owners/members)	\$
GRAND TOTAL	\$ 1450.00

Licensee Signature	Printed Name & Title:
Notary Signature	Subscribed and sworn to before me this
Notary Public In and for the State of:	31 day of December 2015
	My commission expires: 2-14-17

**CITY OF HOMER
HOMER, ALASKA**

Mayor/Council

RESOLUTION 16-015

A RESOLUTION OF THE HOMER CITY COUNCIL ESTABLISHING A
REGULAR MEETING SCHEDULE FOR 2016 STRATEGIC DOING
WORK SESSIONS.

WHEREAS, Strategic Doing is a mechanism for plan implementation that enables
networks of people to collaborate on complex projects and to remain focused and on track
through regular guided conversations and updates; and

WHEREAS, The Homer City Council adopted Strategic Doing as a model for plan
implementation in November 2014 via Resolution 14-119; and

WHEREAS, The Homer City Council will meet in a work session at the second meeting
of the month for the months of January, March, May, July, and November 2016 to discuss
plan implementation under the Strategic Doing model.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 25th day of January,
2016.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

VISITORS

ANNOUNCEMENTS
PRESENTATIONS
BOROUGH REPORT
COMMISSION REPORTS

Session 16-01, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on January 6, 2016 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, BRADLEY, ERICKSON, HIGHLAND, STEAD STROOZAS, VENUTI

STAFF: CITY PLANNER ABBODD
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

Chair Stead called for a motion to approve the agenda.

HIGHLAND/BOS SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Public Comment

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

Chad Jones, borough resident next to the Hickerson Cemetery expansion area expressed concern about expansion of cemetery near his home. He is concerned about contaminants to the soil and water in the area as he explained in his email to the Commission. He is also concerned that this doesn't involve the Planning Commission since it is outside the city and also with the lack of community involvement and any studies. He noted his research and percentages of people who want to be buried at around 19% and many people know they don't want to be buried. He suggested a task force be developed and a study to advise the city how best to proceed. He believes there is a better way to do this to better represent the people in the community.

Jill Gann, borough resident next to the Hickerson Cemetery expansion area said she recently became aware of the plan for the expansion. She expressed her concern for lack of public outreach for a project that could impact adjacent property values, privacy, and potentially the health and wellness of the community. Some things she and her neighbors are concerned about are borough requirements, contaminants, easements, right of way, buffers, water contamination, and access. Her request is the City of Homer call a public meeting with surrounding property owners sooner than later since ground breaking could start as soon as this winter. We would like to work with the City to resolve our issues and concerns and gain a better understanding of the project and plan, and address the needs and concerns of all the parties.

Reconsideration

Adoption of Consent Agenda

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
JANUARY 6, 2016

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

- A. Approval of Minutes of December 2, 2015 Regular Meeting Minutes
- B. Bayview Subdivison 2013 Replat time extension request
- C. Tulin Terrace Subdivison, East Tulin Addition time extension request
- D. Lillian Walli Estatates Plat Note Removal
- E. Decision and Findings for CUP 15-06 at 4242 Calhoun St.
- F. Decision and Findings for CUP 15-07 at 1242 Ocean Dr.

Chair Stead called for a motion to approve the consent agenda.

HIGHLAND/BRADLEY SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

- A. Staff Report PL 16-01, City Planner's Report

City Planner Abboud reviewed his staff report.

Commissioner Highland asked for an agenda items about cemetery. City Planner Abboud said he will bring an update to the next meeting.

Public Hearings

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

- A. Staff Report PL 16-02 Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Chair Stead opened the public hearing.

Lindianne Sarno, city resident, thanked the commissioners for their work. She encouraged they continue to look at ways to keep this moving forward, emphasizing flexibility. We don't have all the answers yet but we are educating each other and moving forward. It's important to inform, assure,

and educate potential investors about what we are envisioning. Also how to support the limited grows which will be the foundation of the whole thing.

Carrie Harris, city resident, commented the current zoning is very restricted for limited grow operations. It doesn't represent what a majority of the people in the City of Homer voted for. Limited growing isn't big money, but the money that comes from it stays in the town. She encouraged the Commission to lessen the restriction and make it profitable for people to grow and to the city for their share of licensing fees. She appreciates the Commissions work, but the current map is completely against the spirit of what all Alaskans voted on, especially in Homer.

Jeremiah Emerson, city resident, is excited about this opportunity. He thought there wouldn't be a CUP for the central business district and doesn't think it's good for the industry. In looking at the number of bars in the CBD he questions why cannabis isn't regulated like alcohol. It should have zoning equivalent to bars. Limited grows were intended for a person to bring their home grow into the legal market where they can test their product. In looking at child safety and strengthening community, keeping black market products on the street removes the opportunity to test for mold and contaminants are in the product. Allowing limited grows results in a safer product.

Tim Clark, city resident, appreciates the Commissions work and agrees that the map is pretty restrictive. It might not be enough room for everyone who wants to be involved and open these types of facilities. He also questions restriction in the central business district with all the bars there. Maybe they could consider CUP's in the not allowed areas. There are a lot of people who want to convert over and grow legally. The state laws are there to protect the people around them.

Mike Glasgow, city resident, encouraged the Commission to keep working on this. There could be a lot of revenue from this and he wants them to keep going forward.

Derrick Hartman, city resident, expressed his concern on the restriction in rural residential and how it will bolster the black market. It's already here, we might as well do what we can to bring these people out at light. It's what we voted on.

There were no further comments and the hearing was closed.

VENUTI/BOS MOVED TO ADD A 1000 FOOT BUFFER FROM THE COLLEGES AND PLAYGROUNDS AND TO ALLOW MANUFACTURING AS A PERMITTED ACTIVITY IN GC1 AND GC2, AND EAST END MIXED USE DISTRICTS.

There was discussion regarding Jack Gist Park being included as a playground area. It was noted it doesn't meet the apparatus limit as a playground and is in a residential district.

Commissioner Erickson noted the ball fields are also used by the high school.

ERICKSON/VENUTI MOVED TO ADD JACK GIST PARK TO THE AMENDMENT.

There was procedural discussion in that Jack Gist is called out on line 510 of the draft ordinance. It was also noted that Ben Walter's Park is not included.

ERICKSON/BOS MOVED TO AMEND THE AMENDMENT TO ALSO INCLUDE BEN WALTERS PARK.

There was brief discussion.

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

Motion carried.

There was no further discussion on the primary amendment.

VOTE (Primary amendment as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Commissioner Highland commented about manufacturing. It can be dangerous if done improperly so what is in place to ensure safety? City Planner Abboud commented that there are regulations through permitting. A manufacturing facility will have to have a plan to submit to the state for the operation and it should be as safe as any other manufacturing facility.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud commented that the buffers adopted have excluded the residential area and central business district. He would rather not have CUP's on any of the uses and either allow it outright or not at all. He encouraged having that discussion. Comment was raised about retail by CUP on the spit. City Planner Abboud doesn't know if it is a viable tourist season business with the cost and permitting requirements.

There was discussion reiterating the Commissions comments at previous meetings that this is a new opportunity and they felt this was a good place to start. If they want to relax some of the zoning once things get underway they can. But it is challenging to make zoning stricter once it has started. They also touched on enforcement, which will likely be done by police and the state through licensing.

VENUTI/HIGHLAND MOVED TO APPROVE THE ORDINANCE WITH THE CHANGES THAT WERE MADE THIS EVENING.

Comment was made to confirm retail will require a CUP in CBD and on the spit.

City Planner Abboud added if they want to allow manufacturing in CBD they will need to make that amendment. He also confirmed testing is allowed outright and cultivation small and large are conditional use.

STROOZAS/VENUTI MOVED TO AMEND TO ALLOW MANUFACTURING AS A CUP IN CBD.

There was comment they had looked at manufacturing as having some potential for danger. It was noted there is a system of checks and balances with a CUP requirement.

VOTE (Amendment): YES: BOS, STEAD, VENUTI, STROOZAS, BRADLEY
NO: HIGHLAND, ERICKSON

Motion carried.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Plat Consideration

Pending Business

A. Staff Report PL 16-03 Towers

City Planner Abboud reviewed the staff report.

The Commission discussed:

- Equipment failures and inspections
- Insurance
- The 1.1 times the total height buffer
- Concern about codifying ANSI 222 G

ERICKSON/VENUTI MOVED TO ACCEPT THE CHANGES AND MOVE THE ORDINANCE FORWARD TO PUBLIC HEARING.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud commented the public hearing will be scheduled in February.

New Business

Informational Materials

- A. City Manager's Report December 7, 2015
B. Letter from Chad Jones Re: Hickerson Memorial Cemetery Expansion Concerns

Comments of the Audience

None

Comments of Staff

None

Comments of the Commission

Commissioner Highland and Bradley had no comment.

Commissioner Erickson said they accomplished some major things and she's pleased with what they got done.

Commissioner Bos agrees that it's good to get the marijuana and tower ordinances moving forward. He is excited about the Comp Plan.

Commissioner Venuti is relieved these are done and they are moving on to something else. It was an interesting meeting and he was surprised they didn't have a larger audience.

Commissioner Stroozas was also surprised at the low audience turnout and it's good they got this accomplished.

Chair Stead wished everyone a happy and prosperous New Year.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 8:20 p.m. The next regular meeting is scheduled for January 20, 2016 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

January 15, 2016

Dear Reviewers of the NERRS Science Collaborative Science Transfer proposal,

The City of Homer supports the enclosed proposal by Kachemak Bay National Estuarine Research Reserve (KBNERR) to transfer climate science and adaptation strategies to management practices. Because high latitude regions of the planet are particularly vulnerable to the impacts of climate change, Alaska has been described as “ground zero” for global warming. In the last 10 years climate change has impacted people, infrastructure and ecosystems in the state. The City of Homer is affected by unavoidable climate change impacts, which include ocean acidification pressure on fisheries and mariculture, coastal erosion and bluff collapse, decreases in summer rainfall, and drying wetlands, and increased forest fires. Unless successful programs for adapting to global climate change are implemented, the impacts to economic health and natural environments will increase in severity.

In response to a national climate change conference held in Alaska in 2007, a City of Homer Task Force was developed through Resolution 06-141(A). This task force developed a Climate Action Plan entitled “*Reducing the Threat of Global Climate Change through Government and Community Efforts*” that focused on new ways of thinking and acting as we confront climate uncertainty, energy uncertainty, and economic pressures in the coming years. By reducing the use of non-renewable fuels by the City and its infrastructure we (and hence taxpayers) saved in electricity and fuel costs. The City of Homer Climate Action Plan recommends that mitigation and adaptation measures should be updated as new information becomes available. As the plan is now approaching its 10 year anniversary it is time to make those updates and incorporate best available science into a current adaptation plan. However, the City is currently under economic pressures that do not allow for developing a new task force to make the necessary updates to the Climate Action Plan.

The goals of the enclosed proposal are to collaboratively develop climate adaptation strategies and tangible recommendations for management plans. KBNERR is supporting the community by providing long term monitoring and climate science, and bringing in adaptation resources to work collaboratively in the spirit of the City’s first Climate Action Plan. The City of Homer fully supports the efforts of KBNERR to work with local stakeholders, resource managers and decision makers to collaboratively develop community resilience.

Sincerely,

Mary E. Wythe, Mayor

PUBLIC HEARING(S)

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

**Ordinances 15-43(S), 16-01(A), 16-02, and 16-03(S)
All Hazard Mitigation Plan Update**

A **public hearing** is scheduled for **Monday, January 25, 2016** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Ordinances 15-43(S), 16-01(A), 16-02, and 16-03(S) internet address:
<http://www.cityofhomer-ak.gov/ordinances>

Ordinance 15-43(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund. City Clerk/Permanent Fund Committee.

Ordinance 16-01(A), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, HOMER CITY CODE 4.10.010 DECLARATION OF CANDIDACY Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor.

Ordinance 16-02, An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock. City Manager/Port and Harbor Director.

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.

All Hazard Mitigation Plan Update

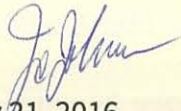


All interested persons are welcome to attend and give testimony. Written testimony received by the Clerk's Office prior to the meeting will be provided to Council.

** Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, and the City's homepage - <http://clerk.ci.homer.ak.us>. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us or fax 235-3143.

Jo Johnson, MMC, City Clerk

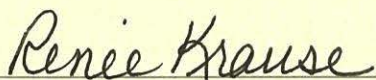
Publish: Homer News: January 21, 2016



CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for **Ordinance 15-43(S)**, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund; **Ordinance 16-01(A)**, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, HOMER CITY CODE 4.10.010 DECLARATION OF CANDIDACY Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election –Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members; **Ordinance 16-02**, Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 from the Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fishdock; **Ordinance 16-03(S)**, 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 and **All Hazard Mitigation Plan Update** was distributed to the City of Homer kiosks located at City Clerk's Office, and the Homer Public Library on Thursday, January 14, 2016 and posted the same on City of Homer Website on Wednesday, January 13, 2016.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 14th day of January, 2016.



Renee Krause, CMC, Deputy City Clerk



ORDINANCE REFERENCE SHEET
2015 ORDINANCE
ORDINANCE 15-43

An Ordinance of the City Council of Homer, Alaska, Repealing Homer City Code Chapter 3.12, Permanent Fund, Placing the Funds in a Self-Managed Brokerage and Disbanding the Permanent Fund Committee.

Sponsor: City Clerk/Permanent Fund Committee

1. Council Regular Meeting November 23, 2015 Introduction
 - a. Memorandum 15-190 from Permanent Fund Committee as backup
2. Council Regular Meeting December 7, 2015 Public Hearing and Second Reading
 - a. Memorandum 15-190 from Permanent Fund Committee as backup
3. Council Regular Meeting January 11, 2016 Second Reading (postponed from December 7)
 - a. Substitute Ordinance 15-43(S)
 - b. Memorandum 15-190 from Permanent Fund Committee as backup
4. Council Regular Meeting January 25, 2016 Public Hearing and Second Reading
 - a. Memorandum 15-190 from Permanent Fund Committee as backup

City Clerk/

Permanent Fund Committee

Permanent Fund Committee

ORDINANCE 15-43(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 3.10.130, GOVERNANCE OF HOMER PERMANENT FUND ASSETS, REGARDING THE MANAGEMENT OF INVESTMENTS OF THE HOMER PERMANENT FUND.

WHEREAS, The Homer Permanent Fund was established by Ordinance 05-14(S) for the purpose of receiving monies from the distribution of the Exxon Valdez Oil Spill settlement and other windfall funds, and serving as an endowment whose income would be used to support City government, and whose principal could be loaned to support City capital projects; and

WHEREAS, The amount that the City received from the distribution of the Exxon Valdez Oil Spill settlement and other windfall funds was substantially less than anticipated at the time the Homer Permanent Fund was established; and

WHEREAS, In the current investment environment, an excessive amount of the Homer Permanent Fund income is consumed by the cost of the fund's administration; and

WHEREAS, The Homer Permanent Fund could be managed with less service fees and match the S&P 500 market returns by placing the Fund in a self-managed brokerage fund; and

WHEREAS, It is appropriate to transfer management of the Permanent Fund to the Finance Department and to disband the Permanent Fund Committee.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 3.10.130, Governance of Homer permanent fund assets, is amended to read as follows:

3.10.130 Governance of Homer permanent fund assets.

a. In investing and managing the monies of the permanent fund established pursuant to Chapter 3.12 HCC, the persons having responsibility for making decisions shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation, but in regard to the long-term

investment of funds considering the probable safety of capital as well as probable income, in accordance with the stated objectives of the permanent fund.

b. In order to ensure sound investment strategy, the City Council will take action in the following manner:

1. The City Council shall establish written investment policies by ~~formal~~ resolution which shall be adhered to without exception;

2. The City Council shall review the investment policies of the permanent fund at least once each year during the first quarter and shall, by ~~formal~~-resolution, re-adopt or modify said policies;

3. The City Council shall establish, by ~~formal~~-resolution, a plan for the allocation of investment assets each year that provides for the following:

a. That earnings available for annual appropriation and distribution shall be confined to the interest, dividends or coupon discounts derived from the investments of the fund. Realized or unrealized gains to the portfolio value are not considered earnings.

b. The portfolio of the growth sub-fund will be invested primarily in equities, and is exempt from HCC 3.10.040.

c. The portfolio of the income sub-fund will be invested primarily in bonds and the other fixed rate securities authorized by HCC 3.10.040.

d. The income sub-fund may be used as a revolving loan fund for various City capital projects as provided in Chapter 3.12 HCC.

e. That states ~~Sets forth~~ portfolio duration, and ~~which establishes~~ performance benchmarks, and ~~which estimates~~ the estimated percentage or amount of that year's ~~annual~~ earnings that would be necessary to retain to inflation-proof the fund principal;

~~4. The City Council shall establish a Permanent Fund Investment Committee consisting of the Finance Director, the City Clerk, two members of the City Council, and two members of the community at large. The term of each appointment shall be two years, with initial terms of the City Council members and members at large staggered so that half of the terms will expire each year. The Committee shall be appointed by the Mayor and confirmed by the City Council. The appointment of any City official will automatically terminate on the date when the person no longer holds such City office. Any City Council member or member at large may be removed from the Committee at any time by the City Council;~~

~~5. The Committee shall meet at least quarterly to provide direction as required for maintenance of the fund. The Committee shall provide regular reports of its activity to the City Council;~~

46. The City administration shall maintain on file within the offices of the Finance Department monthly reports which indicate transactions affecting the investment account, to include, at a minimum, transfers of cash into and out of the account, and interest or dividends received by the account;

57. The City administration shall order an objective performance evaluation of the investment program every year;

68. The City administration shall retain one or more bank custodians to hold all investment cash and fixed income securities of the permanent fund and require that the custodians shall render monthly reports to the administration regarding assets held at both book and market values, and individual transactions which have taken place, that the banks shall have adequate fidelity insurance, and that written contracts be entered into between the City and the custodian banks;

~~9. The City, with the approval of the City Council, shall retain one or more professional investment managers to design portfolios and invest funds in accordance with the written investment policies adopted by the City Council. The investment managers shall be registered financial advisers with both the United States Securities and Exchange Commission and the State of Alaska, unless otherwise exempt from registration, and the investment managers shall agree to serve as a fiduciary to the City. Each investment manager shall carry professional liability insurance in an amount satisfactory to the City, and the terms of the investment relationship shall be memorialized in a written contract entered into between the City and the respective investment advisers.~~

Section 2. The City Council hereby disbands the Permanent Fund Committee that was created by Ordinance 05-14(S).

Section 3. Section 1 of this Ordinance is of a permanent and general character and shall be included in the City Code. Section 2 of this Ordinance is temporary in nature and shall not be codified.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this ____ day of _____ 2016.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

124 AYES:
125 NOES:
126 ABSTAIN:
127 ABSENT:
128
129
130 First Reading:
131 Public Reading:
132 Second Reading:
133 Effective Date:
134
135
136 Reviewed and approved as to form:
137
138
139 _____
140 Mary K. Koester, City Manager
141
142 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

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(f) 907-235-3143

Memorandum 15-190

TO: MAYOR WYTHER AND HOMER CITY COUNCIL

FROM: PERMANENT FUND COMMITTEE

THRU: JO JOHNSON, MMC, CITY CLERK

DATE: NOVEMBER 17, 2015

SUBJECT: PLACING THE PERMANENT FUND IN A SELF-MANAGED BROKERAGE AND
DISBANDING THE PERMANENT FUND COMMITTEE.

The Permanent Fund was established in 2006 with the intent of the City receiving a \$10M *Exxon Valdez* settlement. Other “wind-fall” monies that the City might receive were to be deposited in the Permanent Fund. The Fund was to be invested in such a manner as to provide annual appropriation to non-profit organizations from the interest, dividends, or coupon discounts derived from the investments of the fund.

Contrary to expectations, the City instead received a \$1.1M *Exxon Valdez* settlement in 2010. A Request for Proposals was issued to solicit a qualified firm to invest the Permanent Fund in accordance with the investment procedures defined by ordinance. U.S. Bank was selected to actively manage the investment portfolio and has done so since 2010.

Returns on the Permanent Fund have been minimal due to a slow-down in the U.S. economy, an incredibly strong dollar, and a fall in energy prices with little inflation. This has affected corporate earnings, subduing markets in most of North America. Overseas there is an acceleration of growth in Japan and throughout Europe. They are buying their own safe investments making everyone else buy riskier investments. This results in inflated markets and recovering economies since corporate earnings are improving. The biggest concern for long term global growth is a lack of inflation; there is 2% inflation throughout the world.

An overview of the City’s Permanent Fund:

Fixed Income is 92% of the account; 8% is cash. Period ending March 31, 2015 the fund was up .64%. One year at 1.42% gross; three years at 1.67% gross. The fund is currently invested with principal protection first and foremost. There are no risks taken and not a lot being returned.

Growth Income is 88% of the account; 4% is cash; 4% is real estate; 4% is commodities. Period ending March 31, 2015 the total portfolio net of fees is 10.75%; for the last three years the average is 9.60% per year. For the last three years total equity is at 12.10%; domestic equity is 15.49%. The S&P 500 was up 16.11%.

For the period ending March 31, 2015 returns on the Permanent Fund were below the S&P 500.

The Permanent Fund Committee discussed the possibility of issuing another RFP for investment services, but realized bank fees are standard for the services offered. Bank fees in comparison to returns are high and the investment policies are so stringent that no broker could make money on the small quantity of money we have to invest.

The Permanent Fund Committee recommends rescinding the investment language and bringing the money home to manage. The Permanent Fund would be retained by the City and the Finance Department would arrange for management of the money as other like funds are managed. Bank fees would be significantly reduced. Additionally, the committee recommends that the Permanent Fund Committee be disbanded.

Recommendation: Introduce Ordinance 15-43 to repeal HCC 3.12, Permanent Fund, and place the funds in a self-managed brokerage and disband the Permanent Fund Committee.

ORDINANCE REFERENCE SHEET
2016 ORDINANCE
ORDINANCE 16-01

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, And Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members.

Sponsor: Mayor

1. Council Regular Meeting January 11, 2016 Introduction
 - a. Memorandum 16-003 from City Clerk as backup
2. Council Regular Meeting January 25, 2016 Public Hearing and Second Reading
 - a. Ordinance 16-01(A)(S) (provided by City Attorney)
 - b. Ordinance 16-01(A) (as amended by Council January 11)
 - c. Memorandum 16-003 from City Clerk as backup

CITY OF HOMER
HOMER, ALASKA

Mayor

ORDINANCE 16-01(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 2.08.030, COMPOSITION OF GOVERNING BODY – TERMS OF OFFICE, **HOMER CITY CODE 4.10.010, DECLARATION OF CANDIDACY**, HOMER CITY CODE 4.35.010, REVIEW OF ELECTION DOCUMENTS BY CANVASS BOARD, AND HOMER CITY CODE 4.40.010, RUNOFF ELECTION – REQUIRED; AND ENACTING HOMER CITY CODE 4.35.020, VOTES REQUIRED TO BE ELECTED, HOMER CITY CODE 4.35.030, TIE VOTE, AND HOMER CITY CODE 4.35.040, CERTIFICATION OF ELECTION; REGARDING THE PROCEDURE FOR ELECTING THE MAYOR AND COUNCIL MEMBERS.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 2.08.030, Composition of governing body – Terms of office, is amended to read as follows:

2.08.030 Composition of governing body – Terms of office.

a. The governing body of the City of Homer shall consist of six Council members, two of whom are elected **at large** each year **for three-year terms** and **until a successor qualifies** ~~shall serve for a term of three years.~~

b. The Mayor shall be elected for a two-year term **and until a successor qualifies.**

c. ~~A person~~ **Persons** so elected to office under this chapter shall take office **at the first regular council meeting at which the person's following the election, is finally certified, immediately following that after the final certification of that election.** ~~on the first Monday following certification of the election in which that person was elected. There will be a special meeting, held at the regular time, for the purpose of administering the oath of office to the elected candidates.~~

Section 2. Homer City Code 4.10.010, Declaration of candidacy, is amended to read as follows:

4.10.010 Declaration of candidacy.

a. Time. **A person declares candidacy for an elective city office by** ~~The period for filing a~~ **declarations of candidacy with the City Clerk on or after** ~~shall be August 1st and not later than 4:30 p.m. on~~ **through August 15th; provided that if** ~~Should August 15th is fall on a~~ **Saturday or Sunday, a declaration of candidacy may be filed no later than 4:30 p.m. on**

~~the following Monday then candidates shall have until Monday following to file their declarations as provided in the rules of counting time (see HCC 4.01.020, Definitions).~~

b. Filing. A declaration of candidacy may be filed with the City Clerk by electronic transmission; provided that the original signed and notarized declaration is delivered to the City Clerk no later than the close of the filing period. If the City Clerk has not received the original signed and notarized declaration before the close of the filing period, the candidate's name shall not appear on the ballot.

c. Notice. At least one week preceding the candidate filing period, the City Clerk shall publish a notice announcing that candidacy declarations are available, naming offices and the terms that are open on the next regular election day. The notice shall include:

1. Candidate qualifications.
2. Time for filing declarations.
3. Where to file declarations.

d. Declaration. The City Clerk shall provide a form for declaration purposes which will include candidate's name, residence address, mailing address and telephone number; a statement of City residence, voter qualifications and the name of the office and the date of the election to which he declares himself a candidate; the term of office; and a statement of acceptance of the office if elected and an acknowledgment of compliance with the State of Alaska Campaign Disclosure Law. The declaration will be signed and dated by the candidate and sealed by a notary. The candidate's name shall be printed as specified on the declaration for candidacy (see ballot form in HCC 4.15.010 for prohibitions).

Section 3. Homer City Code 4.35.010, Review of election documents by Canvass Board, is amended to read as follows:

4.35.010 Review of election documents by Canvass Board.

a. The Clerk shall, subject to confirmation of the City Council, appoint a Canvass Board of as many members as required to accomplish the canvass in reasonable time. All members of the election Canvass Board, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the Clerk. The Canvass Board will review the preliminary certificates of election and all official documents of the precinct election boards and the counting center boards.

b. Not later than the Monday following each election, the Canvass Board shall meet in public session and canvass all election returns. The Canvass Board may be recessed from day to day, but not more than three such recesses. In full view of those present, the election Canvass Board shall judge the applicability of absentee and questioned ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. The canvass of ballots counted by the counting center shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the counting center logs and certificates of results. All obvious errors found by the election canvass in the transfer of totals from the precinct tally sheets to the precinct certificate of results shall be corrected by the Canvass Board. A mistake which has been made in precinct returns from the tallies to

85 the certificate of results empowers the Canvass Board to recommend a recount of the results
86 of the precinct or precincts for that portion of the returns in question.

87 c. To be counted in the election, an absentee ballot by mail must be postmarked by
88 midnight of election day and received by the Clerk before the canvass. Envelopes of absentee
89 ballots by mail received after that time shall not be opened, but shall be marked "invalid"
90 with the date and hour of receipt noted thereon, and shall be retained with other ballots of
91 the election. An absentee ballot that is returned by electronic transmission must be received
92 by the Clerk not later than 8:00 p.m. on election day in order to be counted. When the Clerk
93 receives a completed absentee ballot by electronic transmission, the Clerk will remove the
94 ballot portion of the transmission from the portion that identifies the voter; place the ballot
95 portion in a secrecy sleeve and seal the secrecy sleeve; place the sealed secrecy sleeve in an
96 envelope of the type used for absentee ballots returned by mail and seal that envelope;
97 attach the voter identification portion to the outer envelope; and forward the sealed outer
98 envelope to the Canvass Board.

99 d. Questioned and absentee ballots shall be counted as follows: No questioned or
100 absentee ballot by mail shall be counted if the voter has failed to properly execute the
101 certificate, if the witness or the officer or other person authorized by law to administer the
102 oath fails to affix his signature, or if the voter fails to enclose his marked ballot inside the
103 small envelope or secrecy sleeve provided. No absentee ballot by electronic transmission
104 shall be counted if the voter has failed to properly execute the certificate, or if the witness or
105 the officer or other person authorized by law to administer the oath fails to affix his signature.
106 The Clerk or a member of the election Canvass Board may challenge the name of an absentee
107 voter if he has good reason to suspect that the voter is not qualified to vote, is disqualified, or
108 has already voted at the same election. The person making the questioned ballot shall specify
109 the basis of the challenge for the record. The Canvass Board, by majority vote, may refuse to
110 accept the challenge and count the ballot of a person properly challenged. If the ballot is
111 refused, the Clerk shall notify the challenged voter by letter within four weeks of the canvass.
112 All rejected ballots shall be enclosed in a separate envelope and shall be labeled "rejected
113 ballots" retained with other materials of the election. If the ballot is not rejected, the large
114 envelope shall be opened, the small inner envelope or secrecy sleeve shall be placed in a
115 container and mixed with other blank absentee ballot envelopes, or in the case of counting
116 questioned ballots, with other blank questioned-ballot envelopes, the mixed small blank
117 envelopes or secrecy sleeves shall be drawn from the container, opened, and the ballots
118 counted according to the rules of determining properly marked ballots.

119 ~~e. If a tie vote exists and only one of the candidates so tied may hold office under the~~
120 ~~laws establishing the office voted for, the tie shall be broken by a single coin toss conducted~~
121 ~~by the City Council at a regular or special meeting. The first candidate to have filed a~~
122 ~~candidacy declaration shall call the coin during the toss. A tied candidate may designate a~~
123 ~~representative to participate in the coin toss in his absence. The designation shall be made in~~
124 ~~such a manner that the Clerk is assured of its authenticity.~~

125 ~~f. The candidate receiving the required 40 percent and the plurality of the total votes~~
126 ~~cast for his respective office or in the case of a tie winning the coin toss provided at~~

~~subsection (c) of this section shall be determined to have been elected to that office. The Council shall certify the results of the election at the next regular or special City Council meeting following completion of the canvass by the Canvass Board.~~

Section 4. Homer City Code 4.35.020, Votes required to be elected, is enacted to read as follows:

4.35.020 Votes required to be elected. The number of candidates for an office equal to the number of vacancies to be filled who receive the highest number of votes for the office shall be elected, provided that

a. To be elected to the office of mayor a candidate must receive more than the plurality of the votes cast for mayor determined by subsection c of this section, and

b. To be elected to the council, a candidate must receive more than the plurality determined by subsection c of this section of the total votes cast for all candidates for council divided by the number of seats to be filled.

c. The plurality of the vote that is required for a candidate to be elected shall be based on the number of qualified candidates who filed declarations of candidacy that remain in effect on the date of the election as follows:

<u>Number of candidates</u>	<u>Percentage of vote</u>
Less than five	40%
Five or more	35%

Section 5. Homer City Code 4.35.030, Tie vote, is enacted to read as follows:

4.35.030 Tie vote. If two candidates tie in receiving the highest number of votes for an office to which only one candidate may be elected, the person to be elected shall be determined by a single coin toss conducted by the City Council at a regular or special meeting. The first candidate to have filed a candidacy declaration shall call the coin during the toss. A tied candidate may designate a representative to participate in the coin toss in ~~his~~ **the candidate's** absence. The designation shall be made in such a manner that the Clerk is assured of its authenticity.

Section 6. Homer City Code 4.35.040, Certification of election, is enacted to read as follows:

4.35.040 Certification of election. The Council shall certify the results of the election at the next regular Council meeting following completion of the canvass by the Canvass Board.

Section 7. Homer City Code 4.40.010, Runoff election – Required, is amended to read as follows:

4.40.010 Runoff election – Required.

a. A runoff election shall be held to fill an office that is not filled under HCC 4.35.020 or HCC 4.35.030 at the initial election for the office. ~~If no City Council candidate receives in excess of 40 percent of the votes cast for a respective seat, a runoff election shall be held. When more than one Council seat for the same term is to be filled, total votes cast for a respective seat shall be determined by dividing the total number of votes cast for all candidates by the number of seats to be filled.~~

b. **The two candidates for the office that received the highest number of votes without being elected at the initial election shall be the candidates for an office that is to be filled by a runoff election.** ~~In the event a runoff is required, the number of candidates receiving the highest votes to provide two candidates for each vacancy shall be included in the list of candidates for the runoff election.~~

c. **If a runoff election for council is required, any candidate who was elected to the council at the regular election shall:**

1. Retain the same seat if reelected; or

2. Succeed a council member whose term is expiring and who was not a candidate for reelection. ~~If no candidate for the office of Mayor receives 40 percent of the votes cast for that office, a runoff election between the two candidates receiving the highest number of votes will be held.~~

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:

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

Reviewed and approved as to form:

Mary K. Koester, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

CITY OF HOMER
HOMER, ALASKA

Mayor

ORDINANCE 16-01(A)(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 2.08.030, COMPOSITION OF GOVERNING BODY – TERMS OF OFFICE, HOMER CITY CODE 4.10.010, DECLARATION OF CANDIDACY, HOMER CITY CODE 4.35.010, REVIEW OF ELECTION DOCUMENTS BY CANVASS BOARD, AND HOMER CITY CODE 4.40.010, RUNOFF ELECTION – REQUIRED; AND ENACTING HOMER CITY CODE 4.35.020, VOTES REQUIRED TO BE ELECTED, HOMER CITY CODE 4.35.030, TIE VOTE, AND HOMER CITY CODE 4.35.040, CERTIFICATION OF ELECTION; REGARDING THE PROCEDURE FOR ELECTING THE MAYOR AND COUNCIL MEMBERS.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 2.08.030, Composition of governing body – Terms of office, is amended to read as follows:

2.08.030 Composition of governing body – Terms of office.

a. The governing body of the City of Homer shall consist of six Council members, two of whom are elected **at large** each year **for three-year terms** and **until a successor qualifies** ~~shall serve for a term of three years.~~

b. The Mayor shall be elected for a two-year term **and until a successor qualifies.**

c. ~~A person~~ **A person** Persons so elected to office under this chapter shall take office **at the first regular council meeting following the election, immediately after the final certification of that election, except that when HCC 4.40.010(c)(3) applies, the person shall take office at the first regular council meeting following the runoff election, immediately after the certification of that election.** ~~on the first Monday following certification of the election in which that person was elected. There will be a special meeting, held at the regular time, for the purpose of administering the oath of office to the elected candidates.~~

Section 2. Homer City Code 4.10.010, Declaration of candidacy, is amended to read as follows:

4.10.010 Declaration of candidacy.

a. Time. **A person declares candidacy for an elective city office by** ~~The period for filing a~~ declarations of candidacy **with the City Clerk on or after** ~~shall be August 1st and not later than 4:30 p.m. on~~ through August 15th; **provided that if** ~~Should August 15th is fall on a~~

43 Saturday or Sunday, **a declaration of candidacy may be filed no later than 4:30 p.m. on**
44 **the following Monday** ~~then candidates shall have until Monday following to file their~~
45 ~~declarations as provided in the rules of counting time (see HCC 4.01.020, Definitions).~~

46 b. **Filing. A declaration of candidacy may be filed with the City Clerk by electronic**
47 **transmission; provided that the original signed and notarized declaration is delivered to**
48 **the City Clerk no later than the close of the filing period. If the City Clerk has not**
49 **received the original signed and notarized declaration before the close of the filing**
50 **period, the candidate's name shall not appear on the ballot.**

51 c. Notice. At least one week preceding the candidate filing period, the City Clerk shall
52 publish a notice announcing that candidacy declarations are available, naming offices and
53 the terms that are open on the next regular election day. The notice shall include:

- 54 1. Candidate qualifications.
- 55 2. Time for filing declarations.
- 56 3. Where to file declarations.

57 d. Declaration. The City Clerk shall provide a form for declaration purposes which will
58 include candidate's name, residence address, mailing address and telephone number; a
59 statement of City residence, voter qualifications and the name of the office and the date of
60 the election to which he declares himself a candidate; the term of office; and a statement of
61 acceptance of the office if elected and an acknowledgment of compliance with the State of
62 Alaska Campaign Disclosure Law. The declaration will be signed and dated by the candidate
63 and sealed by a notary. The candidate's name shall be printed as specified on the declaration
64 for candidacy (see ballot form in HCC 4.15.010 for prohibitions).

65
66 Section 3. Homer City Code 4.35.010, Review of election documents by Canvass
67 Board, is amended to read as follows:

68
69 4.35.010 Review of election documents by Canvass Board.

70 a. The Clerk shall, subject to confirmation of the City Council, appoint a Canvass Board
71 of as many members as required to accomplish the canvass in reasonable time. All members
72 of the election Canvass Board, before entering upon their duties, must subscribe to the oath
73 required of all public officers by the Constitution of the State of Alaska in the manner
74 prescribed by the Clerk. The Canvass Board will review the preliminary certificates of election
75 and all official documents of the precinct election boards and the counting center boards.

76 b. Not later than the Monday following each election, the Canvass Board shall meet in
77 public session and canvass all election returns. The Canvass Board may be recessed from day
78 to day, but not more than three such recesses. In full view of those present, the election
79 Canvass Board shall judge the applicability of absentee and questioned ballots, shall open
80 and tally those accepted, and shall compile the total votes cast in the election. The canvass of
81 ballots counted by the counting center shall be accomplished by reviewing the tallies of the
82 recorded vote to check for mathematical error by comparing totals with the counting center
83 logs and certificates of results. All obvious errors found by the election canvass in the transfer
84 of totals from the precinct tally sheets to the precinct certificate of results shall be corrected

by the Canvass Board. A mistake which has been made in precinct returns from the tallies to the certificate of results empowers the Canvass Board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question.

c. To be counted in the election, an absentee ballot by mail must be postmarked by midnight of election day and received by the Clerk before the canvass. Envelopes of absentee ballots by mail received after that time shall not be opened, but shall be marked "invalid" with the date and hour of receipt noted thereon, and shall be retained with other ballots of the election. An absentee ballot that is returned by electronic transmission must be received by the Clerk not later than 8:00 p.m. on election day in order to be counted. When the Clerk receives a completed absentee ballot by electronic transmission, the Clerk will remove the ballot portion of the transmission from the portion that identifies the voter; place the ballot portion in a secrecy sleeve and seal the secrecy sleeve; place the sealed secrecy sleeve in an envelope of the type used for absentee ballots returned by mail and seal that envelope; attach the voter identification portion to the outer envelope; and forward the sealed outer envelope to the Canvass Board.

d. Questioned and absentee ballots shall be counted as follows: No questioned or absentee ballot by mail shall be counted if the voter has failed to properly execute the certificate, if the witness or the officer or other person authorized by law to administer the oath fails to affix his signature, or if the voter fails to enclose his marked ballot inside the small envelope or secrecy sleeve provided. No absentee ballot by electronic transmission shall be counted if the voter has failed to properly execute the certificate, or if the witness or the officer or other person authorized by law to administer the oath fails to affix his signature. The Clerk or a member of the election Canvass Board may challenge the name of an absentee voter if he has good reason to suspect that the voter is not qualified to vote, is disqualified, or has already voted at the same election. The person making the questioned ballot shall specify the basis of the challenge for the record. The Canvass Board, by majority vote, may refuse to accept the challenge and count the ballot of a person properly challenged. If the ballot is refused, the Clerk shall notify the challenged voter by letter within four weeks of the canvass. All rejected ballots shall be enclosed in a separate envelope and shall be labeled "rejected ballots" retained with other materials of the election. If the ballot is not rejected, the large envelope shall be opened, the small inner envelope or secrecy sleeve shall be placed in a container and mixed with other blank absentee ballot envelopes, or in the case of counting questioned ballots, with other blank questioned-ballot envelopes, the mixed small blank envelopes or secrecy sleeves shall be drawn from the container, opened, and the ballots counted according to the rules of determining properly marked ballots.

~~e. If a tie vote exists and only one of the candidates so tied may hold office under the laws establishing the office voted for, the tie shall be broken by a single coin toss conducted by the City Council at a regular or special meeting. The first candidate to have filed a candidacy declaration shall call the coin during the toss. A tied candidate may designate a representative to participate in the coin toss in his absence. The designation shall be made in such a manner that the Clerk is assured of its authenticity.~~

f. The candidate receiving the required 40 percent and the plurality of the total votes

~~cast for his respective office or in the case of a tie winning the coin toss provided at subsection (e) of this section shall be determined to have been elected to that office. The Council shall certify the results of the election at the next regular or special City Council meeting following completion of the canvass by the Canvass Board.~~

Section 4. Homer City Code 4.35.020, Votes required to be elected, is enacted to read as follows:

4.35.020 Votes required to be elected. The number of candidates for an office equal to the number of vacancies to be filled who receive the highest number of votes for the office shall be elected, provided that

a. To be elected to the office of mayor a candidate must receive more than the plurality of the votes cast for mayor determined by subsection c of this section, and

b. To be elected to the council, a candidate must receive more than the plurality determined by subsection c of this section of the total votes cast for all candidates for council divided by the number of seats to be filled.

c. The plurality of the vote that is required for a candidate to be elected shall be based on the number of qualified candidates who filed declarations of candidacy that remain in effect on the date of the election as follows:

<u>Number of candidates</u>	<u>Percentage of vote</u>
Less than five	40%
Five or more	35%

Section 5. Homer City Code 4.35.030, Tie vote, is enacted to read as follows:

4.35.030 Tie vote. If two candidates tie in receiving the highest number of votes for an office to which only one candidate may be elected, the person to be elected shall be determined by a single coin toss conducted by the City Council at a regular or special meeting. The first candidate to have filed a candidacy declaration shall call the coin during the toss. A tied candidate may designate a representative to participate in the coin toss in ~~his~~ **the candidate's** absence. The designation shall be made in such a manner that the Clerk is assured of its authenticity.

Section 6. Homer City Code 4.35.040, Certification of election, is enacted to read as follows:

4.35.040 Certification of election. The Council shall certify the results of the election at the next regular Council meeting following completion of the canvass by the Canvass Board.

Section 7. Homer City Code 4.40.010, Runoff election – Required, is amended to read as follows:

169 4.40.010 Runoff election – Required.

170 a. A runoff election shall be held to fill an office that is not filled under HCC 4.35.020 or
171 HCC 4.35.030 at the initial election for the office. ~~If no City Council candidate receives in~~
172 ~~excess of 40 percent of the votes cast for a respective seat, a runoff election shall be held.~~
173 ~~When more than one Council seat for the same term is to be filled, total votes cast for a~~
174 ~~respective seat shall be determined by dividing the total number of votes cast for all~~
175 ~~candidates by the number of seats to be filled.~~

176 b. **The two candidates for the office that received the highest number of votes**
177 **without being elected at the initial election shall be the candidates for an office that is to**
178 **be filled by a runoff election.** ~~In the event a runoff is required, the number of candidates~~
179 ~~receiving the highest votes to provide two candidates for each vacancy shall be included in~~
180 ~~the list of candidates for the runoff election.~~

181 c. **If a runoff election for council is required, any candidate who was elected to the**
182 **council at the regular election shall:**

183 **1. Retain the same seat if reelected;**

184 **2. If there is one council member whose term is expiring and who was not a**
185 **candidate for reelection, succeed that council member; or**

186 **3. If neither 1 nor 2 applies, take office after certification of the runoff**
187 **election** ~~If no candidate for the office of Mayor receives 40 percent of the votes cast for~~
188 ~~that office, a runoff election between the two candidates receiving the highest number~~
189 ~~of votes will be held.~~

190
191 Section 8. This Ordinance is of a permanent and general character and shall be
192 included in the City Code.

193
194 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of
195 _____ 2016.

196
197 CITY OF HOMER

198
199
200 _____
201 MARY E. WYTHE, MAYOR

202
203 ATTEST:

204
205
206 _____
207 JO JOHNSON, MMC, CITY CLERK

211 AYES:
212 NOES:
213 ABSTAIN:
214 ABSENT:
215
216
217 First Reading:
218 Public Reading:
219 Second Reading:
220 Effective Date:
221
222
223 Reviewed and approved as to form:
224
225
226 _____
227 Mary K. Koester, City Manager
228
229 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



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 16-003

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, CITY CLERK

DATE: JANUARY 4, 2016

SUBJECT: ORDINANCE 16-01 AMENDMENTS TO ELECTION PROCEDURES.

The purpose of Ordinance 16-01 is to clarify election procedures so that the process runs smoothly and is cost effective. The following amendments are made:

2.08.030(a)(b) – A council member or the mayor will remain in office until a successor qualifies. This will leave the Council and Mayor seated until a successor is sworn into office.

2.08.030(c) – Removes the need for a special meeting (and a third meeting in October) for incoming council members and mayor to be sworn in. Mayor and Councilmembers will be sworn in at the first meeting in October following certification of election. The agenda will be amended to move this business to the front of the regular meeting.

4.10.010(a) – Defines the deadline for declaring candidacy if August 15th should fall on a weekend and moves the filing deadline to 4:30 p.m.

4.10.010(b) – Allows a candidate to file declaration of candidacy by electronic transmission, but still requires the original signed and notarized declaration to be filed with the City Clerk before the filing period closes.

4.35.020 – Replaces verbiage in HCC 4.35.010(e) and (f). This defines the percentage of votes required to be elected, and includes percentages of vote required depending on the number of candidates.

4.35.030 – Replaces verbiage in HCC 4.35.010(f) relating to the procedure for a tie vote.

4.35.040 – Replaces verbiage in HCC 4.35.010(f) that the election results will be certified at the next regular council meeting.

4.40.010 – Defines procedure for conducting a runoff election to remove the ambiguity of which candidates participate in a runoff and which council member retains their seat until the runoff is held.

RECOMMENDATION: Introduce Ordinance 16-01 and adopt the amendments to election procedures.

Fiscal Note: N/A

ORDINANCE REFERENCE SHEET
2016 ORDINANCE
ORDINANCE 16-02

An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock.

Sponsor: City Manager/Port and Harbor Director

1. Council Regular Meeting January 11, 2016 Introduction
 - a. Memorandum 16-007 from Port and Harbor Director as backup
 - b. Project Cost Analysis
 - c. BrightLight Systems Specifications

1. Council Regular Meeting January 25, 2016 Public Hearing and Second Reading
 - a. Memorandum 16-007 from Port and Harbor Director as backup
 - b. Project Cost Analysis
 - c. BrightLight Systems Specifications

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Port and Harbor Director

ORDINANCE 16-02

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING THE FY 2016 OPERATING BUDGET BY
APPROPRIATING FUNDS IN THE AMOUNT OF \$20,000 FROM
PORT AND HARBOR RESERVES TO PURCHASE EIGHT LIGHT
EMITTING PLASMA (LEP) LAMPS FOR THE FISH DOCK.

WHEREAS, In an effort to lower energy consumption and reduce operational costs at
the harbor, alternative lighting methods for the high mast lights at the Fish Dock were
explored; and

WHEREAS, Harbor personnel tested lighting options over the course of several months
and concluded the light emitting plasma (LEP) lamps are better suited for the taller poles on
the Fish Dock; and

WHEREAS, The LEP lamps reduce energy costs in half and their distinctive white light
offers the ability to cut through fog and snow; additionally, they produce more useable light
on the ground allowing a reduction in the number of fixtures on Fish Dock from 10 to 8 with a
cost savings realized within a few years.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY 2016 Operating Budget by
appropriating \$20,000.00 from Port and Harbor Reserves for the purchase of eight LEP lamps
for the Fish Dock.

Expenditure:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
456-380	Eight LEP Lamps for the Fish Dock	\$20,000.00

Section 2. This is a budget amendment ordinance only, is not permanent in nature,
and shall not be codified.

ENACTED BY THE CITY COUNCIL 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:

Mary K. Koester, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road
Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Memorandum 16-007

TO: MAYOR BETH WYTHE & HOMER CITY COUNCIL
CC: KATIE KOESTER, CITY MANAGER
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER
DATE: DECEMBER 29, 2015
SUBJECT: BUDGET APPROPRIATION FOR FISH DOCK LIGHTING UPGRADE

In 2011, the City of Homer conducted a system-wide energy audit. This led to many upgrade tasks being completed, which in turn led to lowering our overall energy consumption and reducing our operational costs. The high mast lights at the harbor were much discussed during those studies and several recommendations for replacement were researched. At the time it was decided that the technology had not been developed to the point where we felt comfortable spending the dollars needed to make this improvement.

Staff has continued to study high mast security lighting options for our facility, and for the past year we focused our efforts on the fish dock's 75' poles. Basically, we have four light options for these poles; metal halide (our current bulb), high pressure sodium (the orange colored light), LED (light emitting diodes), and LEP (light emitting plasma). Because both the LED and LEP lamps use half as much energy as either the high pressure sodium or the metal halide, we chose to test both lamp types on the dock. After several months of trials, it is our conclusion that the LEPs are better suited for the taller poles like what is on the fish dock. We have had one in place as a test model for over a year without any issues. The new light stands out from the rest because of its distinctive white light coloration. In fact, we are now so confident that these lights put more useable light on the ground that we plan to reduce the overall number of fixtures on the dock from 10 to 8. One of the claims that the LEP lamps offer is their ability to cut through fog and snow, and we can now confirm this claim from our practical product testing.

Staff is also very interested in finding an energy saving option for our 150' high mast light poles. We would like to send out requests for quotes to suppliers to see what options may be out there since we last looked into this subject four years ago. We estimate that our system-wide energy costs for facility lighting is approximately \$80,000 annually. If we could achieve the same level of savings facility-wide as what we'll be seeing at the fish dock, while maintaining the same standards of lighting, then we need to once again, thoroughly investigate our options.

Included is an analysis of the fish dock lighting upgrade, which compares our current 1000 watt fixtures to the new 500 watt Bright Light LEP lamps, and shows a project cost payback of just over two years.

The port commission reviewed this proposal for the fish dock lighting upgrade at their December meeting and asked staff to bring it to the council for funding.

Recommendation: Direct staff to move ahead with purchasing 8 Bright Light Systems light fixtures and installing them on the fish dock facility as soon as possible.

Fiscal Note: Project funding to come from Port and Harbor Reserves Account No. 456-380.

Project: APL, Homer Fish Dock

FIXTURES

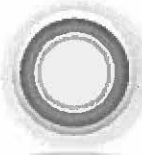
Fish Dock

Cost Item	Units	EXISTING	UPGRADE	Fish dock conversion Commentary
		1000 w HID Fish dock	Bright Light Sys BLP1000	
Fixtures Needed	Fixture Quantity	10	8	
Cost per Fixture Delivered	\$ per fixture		\$ 2,500.00	Complete Fixture on Site
Total Cost for Fixtures			\$ 20,000.00	
Facility Installation Cost			\$ -	By Owner
TOTAL Conversion Cost		Total \$	\$ 20,000.00	

Fixture Power Usage	Watts/fixture/hour	1280	540	
Fixture on Hours	hours/day	12	12	Average hours per day
Day per Year of Fixture use	days/year	365	365	Days operation per year
Hours ON	hours/year	4,380	4,380	
KWH/per Fixture/Yr	kWH/year	5,606	2,365	
KWH/per Facility/Yr	kWH/year	56,064	18,922	
KWH Unit Cost	\$/kWH	\$ 0.2400	\$ 0.2400	
Annual Cost of Energy	\$/year	\$ 13,455	\$ 4,541	
<i>Annual Savings</i>			\$ 8,914	Energy Cost Savings, per Year
			66%	% Reduction in Operating Cost

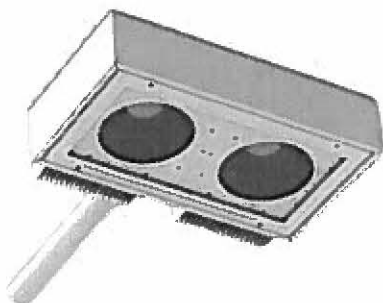
Repair Interval, HID Lamps	hours	15,000	50,000	L70
Repair cost, Lbr & Material: HID	Annual \$	\$ 776	\$ -	Ballast and Lamp
Repair cost, Material: LEP			\$ 600	2 ea LEP Emitter (50,000 HR)
Replacement cost @ 20 years	\$/fixture			
Repair Labor	\$/fixture		\$ 300	By Owner
Annual Repair Cost	\$/year	\$ 776	\$ 630.72	
			\$ 145	Annual Savings on Repair Costs

Annual Operating Cost	\$/year	\$ 14,231	\$ 5,172
Operating Cost Savings	\$/year		\$ 9,059
Replacement Payback	years		2.21



BRIGHTLIGHT
SYSTEMS

BLP1000 High Mast



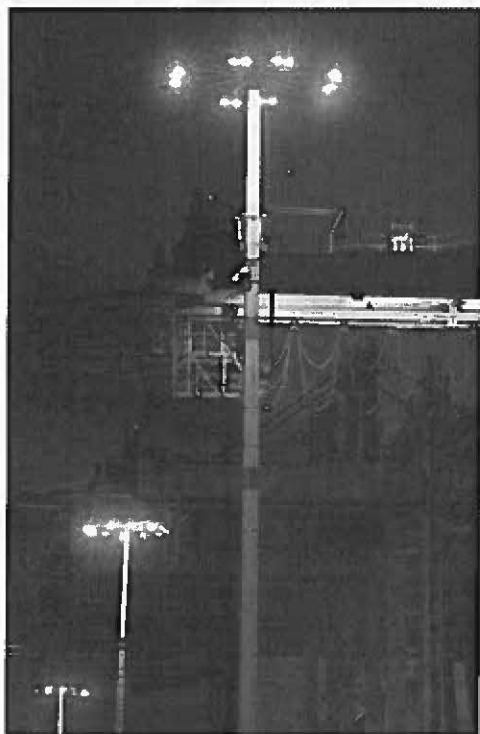
Efficiency. Intelligence. Durability.

Bright Light Systems BLP1000 is the only energy efficient high mast luminaire that utilizes Light Emitting Plasma™ (LEP) to deliver a brilliant white light comparable to daylight with an efficacy that surpasses fluorescent, HID or induction luminaires. Consuming only 540 watts, the BLP1000 distributes light nearly three times more efficiently than a 1000W High Pressure Sodium resulting in increased visibility, safety and security. Intelligently manage lighting performance through integrated wireless controls to further reduce energy costs and increase overall product lifetime. This durable, weatherproof luminaire is ideal for outdoor high mast applications such as ports, parking areas, rail and container yards, airports and highways.

Features

- Reduce Energy Costs by 75%
- Easy Lamp Replacement
- Full Cutoff - Dark Sky Compliant
- Dimmable from 100% to 20%
- Vibration Resistant
- Rated Lifetime of 50,000 Hours
- UL 1598 Listed For Wet Location
- Full Illumination in 60 Seconds
- Wireless Dimming Controls
- 5-Year Limited Warranty

Application



Specifications

Illumination Source	2 High Powered LEPs (Light Emitting Plasma)
Power Consumption	540 Watts
Source Lumens	46,000
Fixture Lumens	41,000 (Photopic) 98,000 (Visually Effective)
Optics	Faceted, Die-Formed, High Specular Reflectors
Distribution	IES Type IV, IES Type V
Scotopic/Photopic Ratio	2.4
Dimming Range	20 - 100%
Protective Lens	3/16" Clear Tempered Glass
Color Temperature	5,200K
CRI	75
Input Voltage	90V - 277V or 347V - 480V 50/60Hz
Rated Lamp Life (L70)	50,000 Hrs
Lumen Maintenance	70%
Finish	Marine Grade Powder Coat w/ UV Inhibitors in Natural
Construction	Low Copper Content Aluminum
Cooling	Natural Convection
Operating Temperature	-40°C to 50°C
Measurements	26"L x 17"W x 10"H
Weight	45 lbs (20.4 kg)
EPA (Windload)	1.54 ft²
Warranty	5-Year Limited Warranty
Approvals	UL / cUL 1598 for Wet Location, CE

Additional

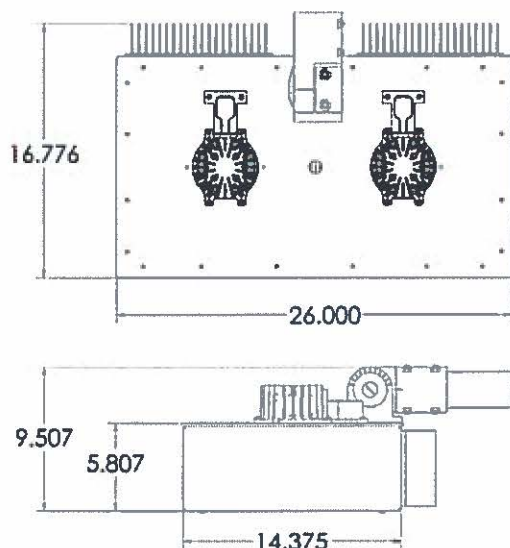
All components are UL recognized and rated from -40°C to + 50°C ambient. Luminaire is supplied with two high power factor (>.94) and low THD (<20%) AC/DC power supplies. Built in surge protection offers 10kV suppression in accordance with IEEE/ANSI C62.41.2. Finish passes 1000 hour salt fog test per ASTM B117 and D2247 and is ROHS compliant. Comes with die cast aluminum arm mount with +90 vertical adjustment that fits 2.375" (60mm) O.D. tenon. Designed and manufactured in the USA.



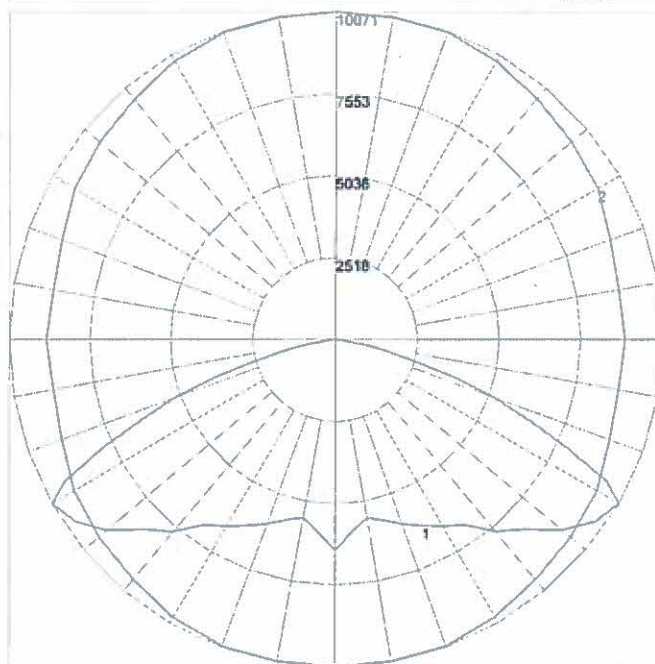
*Specifications subject to change without notice



Dimensions



Photometrics



Energy Efficiency

Light Source	1000W HPS	BLP1000
System Wattage	1200W	540W
Daily Usage	12 Hrs	12 Hrs
Annual Energy Consumption	5256 kWh	2365 kWh
Cost per kWh	\$0.12	\$0.12
Annual Operating Cost	\$631	\$284
Rated Lifetime	15,000 Hrs	50,000 Hrs
Replacement Lamps per Year	.29	.09
Maintenance Cost per Lamp	\$300	\$400
Annual Maintenance Cost	\$87	\$36
Total Annual Cost	\$718	\$320
Savings per Fixture		\$398
Estimated Utility Rebate	N/A	\$145
Total Savings per Fixture	N/A	\$543
Savings per Installation	500 units	\$271,500

*Maintenance Cost includes Labor, Lift Expense, Ballast, Etc.

†Rebate Based on \$0.05 per Annual kWh Saved. Utility Participation Varies

‡Use of Wireless Dimming Controller Increases Annual Energy Savings by 30%

Plot Generated With Nominal STA-41-01 Light Source, Max Candela = 10071
Located At Horizontal Angle = 90, Vertical Angle = 60
#1 - Vertical Plane Through Horizontal Angles (90-270) Through Max. Cd.
#2 - Horizontal Cone Through Vertical Angle (60) Through Max. Cd.

BLP1000 vs 1000W HPS



Ordering Information

Product	-	Lamp	Color Temp	Distribution	EMC	Voltage	Accessories
BLP1000	-	P1 41-01	52K 5200K	S4 IES Type IV S5 IES Type V	M Mesh N No Mesh	27 110-277V 34 347V 48 480V	WC Wireless Control
Example: BLP1000-P152KS5M48WC					Note: With mesh, luminaire is FCC Part 18 Class A compliant.		

ORDINANCE REFERENCE SHEET
2016 ORDINANCE
ORDINANCE 16-03

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.

Sponsor: City Manager

1. Council Regular Meeting January 11, 2016 Introduction
 - a. Second Amendment to Loan Agreement
 - b. Ordinance 13-02(S)(2)
 - c. Ordinance 13-03(S)(2)
2. Council Regular Meeting January 25, 2016 Public Hearing and Second Reading
 - a. Ordinance 16-03(S)
 - b. Second Amendment to Loan Agreement
 - c. Ordinance 13-02(S)(2)
 - d. Ordinance 13-03(S)(2)

**CITY OF HOMER
HOMER, ALASKA**

City Manager

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.

WHEREAS, By Ordinance 13-03(S)(2), adopted February 25, 2013, the City authorized the issuance of a Natural Gas Distribution Special Assessment Bond ("Bond") in the principal amount of not to exceed \$12,700,000, and the execution and delivery of a Loan Agreement between the City and the Kenai Peninsula Borough ("Borough") regarding the Bond; and

WHEREAS, All advances that will be made under the Loan Agreement have been made, the aggregate amount of such advances is \$12,359,388, and such amount may be documented by issuing a new bond to the Borough in exchange for the original Bond; and

WHEREAS, By Resolution 15-017, adopted March 23, 2015 the City confirmed the assessment roll for the Homer Natural Gas Distribution Special Assessment District ("District"); and

WHEREAS, Due to delays in the assessment process, the first assessment payments were due on September 1, 2015, and subsequent assessment installment payments will be due on July 1 of each year; and

WHEREAS, As of the September 1, 2015 assessment payment date, the City had made a payment of principal and interest on the Bond to the Borough from assessment payments received by the City as of that date; and

WHEREAS, To allow prompter payments under the Loan Agreement the due date for installment payments on the Bond should be changed from April 1 to September 1 commencing with the installment payment that is due in 2016.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

43
44 Section 1. Section 2 of Ordinance 13-03(S)(2) is amended to read as follows (added
45 language is underlined; deleted language is stricken through):
46

47 For the purpose of providing the funds necessary to pay the costs of designing and
48 constructing the Improvement, to pay interest on the Bond during the construction of the
49 Improvement, the funding of the reserves required herein, and to pay all costs incidental
50 thereto and to the issuance of the Bond, the City shall issue the Bond in a principal amount
51 equal to the aggregate amount of the advances that the Registered Owner makes to the City
52 for such purposes, **which is \$12,359,388** but not to exceed \$12,700,000.

53
54 Section 2. The second paragraph of Section 4 of Ordinance 13-03(S)(2) is amended to
55 read as follows (added language is underlined; deleted language is stricken through):
56

57 The Bond shall bear interest from its date at a rate of Four Percent (4.0%) per annum,
58 and shall be payable in two payments of interest only on the 1st days of April 2014 and 2015, **a**
59 **payment of principal and interest that was received by the Borough as of the September**
60 **1, 2015 assessment due date,** and **nine** ~~ten~~-equal annual installments of principal and
61 interest, commencing on the 1st day of **September** ~~April~~-2016 and continuing
62 on **September** ~~April~~-1 of each year thereafter, until **September** ~~April~~-1, 2024~~5~~ when the
63 remaining principal balance of the Bond, plus accrued interest, shall be due and payable.
64 Interest will be computed on the basis of a 360-day year ~~consisting of twelve 30-day months.~~

65
66 Section 3. The first paragraph of the form of the bond in Section 7 of Ordinance 13-
67 03(S)(2) is amended to read as follows (added language is underlined; deleted language is
68 stricken through):
69

70 The City of Homer (the "City"), a municipal corporation of the State of Alaska,
71 acknowledges itself indebted and for value received promises to pay (but only out of the
72 sources mentioned herein) to the Registered Owner identified above, or its registered assigns,
73 a principal amount equal to the aggregate amount of the advances that the Registered Owner
74 makes to the City to pay the costs of designing and constructing the Improvement, to pay
75 interest on the Bond during the construction of the Improvement, the funding of the reserves
76 required herein, and to pay all costs incidental thereto and to the issuance of the
77 Bond, **which is** ~~but not to exceed~~ Twelve Million **Three** ~~Seven~~-Hundred **Fifty**
78 **Nine** Thousand **Three Hundred Eighty Eight** Dollars (**\$12,359,388**~~12,700,000~~), together with
79 accrued interest on the outstanding principal amount of this Bond at a rate of Four Percent
80 (4.0%) per annum. This Bond is payable in two payments of interest only on the 1st days of
81 April 2014 and 2015, **a payment of principal and interest that was received by the**
82 **Borough as of the September 1, 2015 assessment due date,** and **nine** ~~ten~~-equal annual
83 installments of principal and interest, commencing on the 1st day of **September** ~~April~~-2016
84 and continuing on **September** ~~April~~-1 of each year thereafter, until **September** ~~April~~-1, 2024~~5~~,

when the remaining principal balance of the Bond, plus accrued interest, shall be due and payable. Both principal of and interest on this Bond shall be payable in any lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest on this Bond shall be computed on the basis of a ~~360-day year consisting of twelve 30-day months.~~ **365-day year.** Installments of principal and interest on this Bond shall be paid at the office of the Registered Owner in Soldotna, Alaska, or at the option of the Registered Owner at the office of the Treasurer of the City in Homer, Alaska

Section 4. The third paragraph of the form of the bond in Section 7 of Ordinance 13-03(S)(2) is amended to read as follows (added language is underlined; deleted language is stricken through):

This Bond is issued pursuant to Chapter 46, Title 29 of the Alaska Statutes and Ordinance 13-03(S) of the City duly and regularly adopted February 25, 2013, for the purpose of providing funds to pay the costs of designing and constructing a natural gas distribution system (the "Improvement") in the City of Homer Natural Gas Distribution Special Assessment District, and is the single registered Bond entitled **\$12,359,388**~~12,700,000~~ City of Homer Natural Gas Distribution Special Assessment Bond, 2013.

Section 5. The amended Bond shall be executed in the name of the City by the signature of the Mayor, and its corporate seal shall be impressed or otherwise reproduced thereon and attested by the signature of the City Clerk.

Section 6. The City Manager is hereby authorized to execute the Second Amendment to Loan Agreement, in substantially the form presented at this meeting, but with such changes, modifications, additions and deletions therein as she shall deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of approval of any and all changes, modifications, additions or deletions therein from the form and content of said document now before this meeting. The City Manager also is hereby authorized to deliver the amended Bond to the Kenai Peninsula Borough in exchange for the original Bond.

Section 7. This Ordinance is not permanent in nature, and shall not be codified.

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

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

127

128

129 JO JOHNSON, MMC, CITY CLERK

130

131

132

133

134 YES:

135 NO:

136 ABSTAIN:

137 ABSENT:

138

139

140 First Reading:

141 Public Hearing:

142 Second Reading:

143 Effective Date:

144

145 Reviewed and approved as to form.

146

147

148 Mary K. Koester, City Manager

149

150 Date: _____

151

152

153 Fiscal Note: NA

Thomas Klinkner, City Attorney

Date: _____

SECOND AMENDMENT TO LOAN AGREEMENT

This SECOND AMENDMENT TO LOAN AGREEMENT ("Amendment"), dated as of January __, 2016, amends the LOAN AGREEMENT ("Loan Agreement") dated as of March 25, 2013, by and between the KENAI PENINSULA BOROUGH ("Lender"), an Alaska municipal corporation, and the CITY OF HOMER ("Borrower"), an Alaska municipal corporation.

R E C I T A L S

WHEREAS, by Ordinance 13-03(S)(2), adopted February 25, 2013, Borrower authorized the issuance to Lender of a Natural Gas Distribution Special Assessment Bond ("Bond") in a principal amount equal to the aggregate amount of all advances under the Loan Agreement, but not to exceed \$12,700,000, and the execution and delivery of the Loan Agreement; and

WHEREAS, all Advances that will be made under the Loan Agreement have been made, and the aggregate amount of such advances is \$12,359,388, and such amount may be documented by amending the Loan Agreement; and

WHEREAS, by Resolution 15-017, adopted March 23, 2015, Borrower confirmed the assessment roll for the Homer Natural Gas Distribution Special Assessment District ("District"); and

WHEREAS, due to delays in the assessment process, the first assessment payments were due on September 1, 2015, and subsequent assessment installment payments will be due on July 1 of each year; and

WHEREAS, as of the September 1, 2015 assessment payment date, Borrower made a payment of principal and interest on the Bond to Lender from assessment payments received by Borrower as of that date; and

WHEREAS, to allow prompter payments under the Loan Agreement the due date for installment payments on the Loan should be changed from April 1 to September 1 commencing with the installment payment that is due in 2016.

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties hereto covenant and agree as follows:

Section 1. Section 3.01 of the Loan Agreement is amended to read as follows:

Section 3.01 Loan to Borrower. The Lender hereby makes the Loan to the Borrower in the principal amount of \$12,359,388, which is equal to the aggregate amount of the Advances that the Lender has made to the Borrower under this Loan Agreement. Upon the execution of the Second Amendment to the Loan Agreement, the Borrower shall execute and deliver to the Lender a new

special assessment bond in the form authorized by City of Homer Ordinance 13-03(S) payable to the order of the Lender for the principal amount of the Loan, in exchange for the special assessment bond that the Borrower issued to the Lender at the time of execution of the original Loan Agreement. Thereafter, all references to the Bond herein shall be to such new special assessment bond.

Lender consents to Borrower's amendment of Borrower's Ordinance 13-03(S)(2) to authorize the issuance of an amended Bond with a principal amount conforming to the principal amount stated herein.

Section 2. Section 3.02 of the Loan Agreement is amended to read as follows:

Section 3.02 Payment of Principal and Interest. Borrower shall pay the principal amount of the Loan together with interest on each Advance from the date of the Advance at the rate of Four Percent (4.00%) per annum, in two payments of interest only on the 1st day of April 2014 and 2015, a payment of principal and interest that was received by Lender as of the September 1, 2015 assessment due date, and nine equal annual installments of principal and interest, commencing September 1, 2016 and on each September 1 thereafter until September 1, 2024, when the remaining principal balance of the Loan, plus accrued interest, shall be due and payable. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Both principal of and interest on the Loan shall be payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Installments of principal and interest on the Loan shall be payable on the due date in immediately available funds at the principal office of the Lender in Soldotna, Alaska, or at another location specified at the option of the Lender; provided that the final installment of the principal of the Loan, plus accrued interest, shall be payable upon presentation and surrender of the Bond by the Registered Owner at the office of the Registered Owner in Soldotna, Alaska.

Lender consents to Borrower's amendment of Borrower's Ordinance 13-03(S)(2) to authorize the issuance of an amended Bond with payment dates conforming to the amended Loan payment dates herein.

Section 3. Except as expressly amended herein, all terms and conditions of the Loan Agreement as originally executed and previously amended shall remain in full force and effect.

IN WITNESS WHEREOF, the Lender and the Borrower have caused this Amendment to be executed in their respective names all by their duly authorized officers, as of the date first set forth above.

LENDER: KENAI PENINSULA BOROUGH

By: _____
Mike Navarre, Mayor

ATTEST:

Johni Blankenship, Borough Clerk

BORROWER: CITY OF HOMER

By: _____
Mary K. Koester, City Manager

ATTEST:

Jo Johnson, City Clerk

City Manager

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA CREATING THE CITY OF HOMER NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT DISTRICT, APPROVING THE IMPROVEMENT PLAN FOR THE DISTRICT, AND AUTHORIZING THE CITY MANAGER TO PROCEED WITH THE IMPROVEMENT.

WHEREAS, On September 24, 2012, the Council adopted Resolution 12-081 accepting and approving the improvement plan submitted by the City Manager for the proposed natural gas distribution system special assessment district; and

WHEREAS, Notice of a public hearing on the improvement plan has been published at least twice in a newspaper of general circulation in the City, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing; and

WHEREAS, The Council conducted public hearings on the improvement plan on January 14, and January 28, 2013; and

WHEREAS, Owners of real property that would bear 50 percent or more of the assessed cost of the improvement did not file timely written objections to the improvement plan with the City Clerk.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The natural gas distribution system in the City that is proposed in the improvement plan will improve the public health, safety and welfare, and is necessary and of benefit to the properties to be assessed.

Section 2. Owners of real property that would bear 50 percent or more of the assessed cost of the improvement did not file timely written objections to the improvement plan with the City Clerk

Section 3. There is hereby created the City of Homer Natural Gas Distribution Special Assessment District (“District”). The improvement that is to be constructed in the District shall be as described in the improvement plan and illustrated in Exhibit B to this ordinance. The properties that are to be assessed for the improvement are described in Exhibit A to this ordinance.

Section 4. The estimated cost of the improvement is \$16,875,551. Seventy-five percent (75%) of the cost of the improvement will be assessed against the properties in the District. The estimated amount of the assessments is \$3,283.30 per lot.

Section 5. The improvement shall be constructed in two phases. Phase I construction shall commence in 2013 and Phase II construction shall commence in 2014. The two phases are illustrated in Exhibit B to this resolution.

Section 6. The City Manager is authorized to proceed with the improvement, negotiate for the sale of a special assessment bond or other financing for the construction of the improvement for Council approval, and take such other actions that are necessary to accomplish the improvement in accordance with the improvement plan upon financing approval by the Council.

Section 7. Upon the completion of Phase II of the construction of the improvement, an amount equal to the actual total improvement cost not paid from grant funds, divided by the total number of properties within the District shall be assessed against each property within the District. The City Clerk shall prepare a final assessment roll assessing to each property in the District the amount determined under this section. The proposed assessment roll for the District shall be prepared and presented in accordance with HCC 17.04.070.

Section 8. The special assessments against properties in the District are liens on those properties and are prior and paramount to all liens except municipal real property tax liens and may be enforced as provided for the enforcement of municipal real property tax liens.

Section 9. This ordinance is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 11th day of February, 2013.

CITY OF HOMER

Francis W Roberts
FRANCIE ROBERTS, MAYOR
PRO TEMPORE

ATTEST:



JO JOHNSON, CMC, CITY CLERK

YES: 6

NO: 6

ABSTAIN: 6

ABSENT: 6

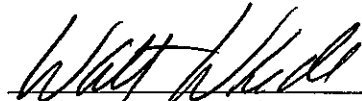
First Reading: 1/28/13

Public Hearing: 2/11/13

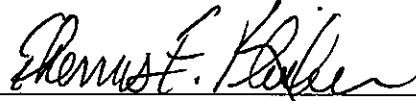
Second Reading: 2/11/13

Effective Date: 2/12/13

Reviewed and approved as to form:



Walt E. Wrede, City Manager



Thomas F. Klinkner, City Attorney

Date: 2/14/13

Date: 2-28-13

**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 13-03(S)(2)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AUTHORIZING THE CITY TO ISSUE A NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$12,700,000 TO FINANCE THE DESIGN AND CONSTRUCTION OF NATURAL GAS DISTRIBUTION IMPROVEMENTS IN THE CITY, FIXING CERTAIN DETAILS OF SUCH BOND AND AUTHORIZING ITS SALE; AND REPEALING HCC CHAPTER 17.08.

WHEREAS, On February 11, 2013, the Council adopted Ordinance 13-02 creating the City of Homer Natural Gas Distribution Special Assessment District (“District”), and authorizing the City Manager to proceed with the design and construction of a natural gas distribution system in the District (the “Improvement”), and negotiate for the sale of special assessment bonds or other financing for the construction of the Improvement for Council approval; and

WHEREAS, Interim financing for the Improvement is required in anticipation of the levying of special assessments against the real property in the District, and after the levying of the assessments, long-term financing for the Improvement will be required; and

WHEREAS, AS 29.46.130 and AS 29.46.140 authorize the City of Homer “City” respectively to issue notes to obtain interim financing for improvements in a special assessment district, and to issue bonds to obtain long-term financing for improvements in a special assessment district, in each case payable out of special assessments for the improvement, without voter approval; and

WHEREAS, The City Manager has negotiated a Loan Agreement between the Kenai Peninsula Borough (“Lender”) and the City, the form of which is now before this meeting, which provides for the Lender to purchase a bond to finance the Improvement on the terms and conditions set forth therein and in this Ordinance, and it is in the best interest of the City that the City sell the bond to the Lender under such terms and conditions; and

WHEREAS, Homer City Code Chapter 17.08, regarding special assessment bonds, contains terms that are obsolete and conflict with the terms of the financing authorized by this ordinance, and should be repealed.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1 – Definitions. In addition to the terms that are defined in the recitals above, the following terms shall have the following meanings in this Ordinance:

47 "Bond Register" means the registration books maintained by the Registrar as Bond
48 registrar, which include the names and addresses of the owners or nominees of the owners of the
49 Bond.

50
51 "Bond" means the "Natural Gas Distribution Special Assessment Bond, 2013" of the
52 City, the issuance and sale of which are authorized herein.

53
54 "City" means the City of Homer, a municipal corporation of the State of Alaska,
55 organized as a first class city under Title 29 of the Alaska Statutes.

56
57 "Council" means the Council of the City of Homer, as the general legislative authority of
58 the City, as the same shall be duly and regularly constituted from time to time.

59
60 "District" means the Homer Natural Gas Distribution System Special Assessment District
61 created by Ordinance 13-02.

62
63 "ENSTAR" means ENSTAR Natural Gas Company, a division of Semco Energy, Inc., a
64 Michigan corporation.

65
66 "Guaranty Fund" means the fund of that name created by Section 15.

67
68 "Improvement" means the natural gas distribution system to be constructed in the
69 District.

70
71 "Lender" means the Kenai Peninsula Borough, a municipal corporation of the State of
72 Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.

73
74 "Loan Agreement" means the Loan Agreement between the City and the Lender
75 concerning the Bond.

76
77 "Ordinance" means this Ordinance 13-03(S) of the City.

78
79 "Registered Owner" means the person named as the registered owner of a Bond in the
80 Bond Register. The Lender is the initial Registered Owner.

81
82 "Registrar" means the City Treasurer, or any successor that the City may appoint by
83 resolution.

84
85 "Reserve Fund" means the fund of that name created by Section 14.

86
87 "Sinking Fund" means the fund of that name created by Section 13.

"Special Assessments" means all special assessments to be levied against real property in the District to pay the costs of the Improvement.

Section 2 – Authorization of Bond and Purpose of Issuance. For the purpose of providing the funds necessary to pay the costs of designing and constructing the Improvement, to pay interest on the Bond during the construction of the Improvement, the funding of the reserves required herein, and to pay all costs incidental thereto and to the issuance of the Bond, the City shall issue the Bond in a principal amount equal to the aggregate amount of the advances that the Registered Owner makes to the City for such purposes, but not to exceed \$12,700,000.

Section 3 – Obligation of Bond. The Bond is a special obligation of the City and is payable solely from assessments to be levied against the real property in the District for the Improvement, and funds pledged for the payment of the Bond under this Ordinance. Said assessments shall constitute a sinking fund for the payment of principal of and interest on the Bond. Neither the faith and credit nor the taxing power of the City is pledged for the payment of the Bond.

Section 4 – Description of Bond. The Bond shall be designated "City of Homer Natural Gas Distribution Special Assessment Bond, 2013," shall be issued in fully registered form, and shall be numbered in the manner and with such additional designation as the Registrar deems necessary for purposes of identification, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to the rules and regulations of any governmental authority or any usage or requirement of law with respect thereto. The Bond shall be dated as of its delivery date.

The Bond shall bear interest from its date at a rate of Four Percent (4.0%) per annum, and shall be payable in two payments of interest only on the 1st days of April 2014 and 2015, and ten equal annual installments of principal and interest, commencing on the 1st day of April 2016 and continuing on April 1 of each year thereafter, until April 1, 2025, when the remaining principal balance of the Bond, plus accrued interest, shall be due and payable. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Section 5 – Optional Redemption. The Bond shall be subject to optional redemption in whole or in part at any time, at a redemption price equal to the principal amount of the Bond to be redeemed plus accrued interest to the date of redemption.

Section 6 – Notice of Redemption. Notice of any intended redemption of the Bond shall be given not less than 10 nor more than 45 days prior to the date fixed for redemption by first class mail to the Registered Owner of the Bond at its address as it appears on the Bond Register on the day the notice is mailed. The requirements of this section shall be deemed to be complied with when notice is mailed as herein provided, whether or not it is actually received by the Registered Owner. All official notices of redemption shall be dated and shall state the redemption date and the redemption price.

Section 7 – Form of Bond. The Bond shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Ordinance:

UNITED STATES OF AMERICA
STATE OF ALASKA
CITY OF HOMER

No. _____ \$ _____

NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT BOND, 2013

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Homer (the “City”), a municipal corporation of the State of Alaska, acknowledges itself indebted and for value received promises to pay (but only out of the sources mentioned herein) to the Registered Owner identified above, or its registered assigns, a principal amount equal to the aggregate amount of the advances that the Registered Owner makes to the City to pay the costs of designing and constructing the Improvement, to pay interest on the Bond during the construction of the Improvement, the funding of the reserves required herein, and to pay all costs incidental thereto and to the issuance of the Bond, but not to exceed Twelve Million Seven Hundred Thousand Dollars (\$12,700,000), together with accrued interest on the outstanding principal amount of this Bond at a rate of Four Percent (4.0%) per annum. This Bond is payable in two payments of interest only on the 1st days of April 2014 and 2015, and ten equal annual installments of principal and interest, commencing on the 1st day of April 2016 and continuing on April 1 of each year thereafter, until April 1, 2025, when the remaining principal balance of the Bond, plus accrued interest, shall be due and payable. Both principal of and interest on this Bond shall be payable in any lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest on this Bond shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Installments of principal and interest on this Bond shall be paid at the office of the Registered Owner in Soldotna, Alaska, or at the option of the Registered Owner at the office of the Treasurer of the City in Homer, Alaska

This Bond is subject to prepayment by or on behalf of the City, in whole or in part, at any time without penalty, upon notice as provided in the Ordinance referred to below (the “Ordinance”).

This Bond is issued pursuant to Chapter 46, Title 29 of the Alaska Statutes and Ordinance 13-03(S) of the City duly and regularly adopted February 25, 2013, for the purpose of providing funds to pay the costs of designing and constructing a natural gas distribution system (the “Improvement”) in the City of Homer Natural Gas Distribution Special Assessment District, and

is the single registered Bond entitled \$12,700,000 City of Homer Natural Gas Distribution Special Assessment Bond, 2013.

THIS BOND IS PAYABLE SOLELY FROM ASSESSMENTS TO BE LEVIED AGAINST THE REAL PROPERTY IN THE CITY OF HOMER NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT DISTRICT, AND FUNDS PLEDGED FOR THE PAYMENT OF THE BOND UNDER THE ORDINANCE, AND IS NOT A GENERAL OBLIGATION OF THE CITY, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY IS PLEDGED FOR ITS REPAYMENT.

IT IS HEREBY CERTIFIED and declared that this Bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of Alaska and the ordinances of the City of Homer, and that all acts, conditions and things required to happen, to be done and to be performed precedent to and on the issuance of this Bond have happened, been done and been performed.

IN WITNESS WHEREOF, the City of Homer, Alaska, has caused this Bond to be executed by the signature of its Mayor and attested by its Clerk under the seal of the City on this ____ day of March, 2013.

CITY OF HOMER

FRANCIE ROBERTS, MAYOR
PRO TEMPORE

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Section 8 – Execution. The Bond shall be executed in the name of the City by the signature of the Mayor, and its corporate seal shall be impressed or otherwise reproduced thereon and attested by the signature of the City Clerk. The execution of the Bond on behalf of the City by persons who at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bond or shall not have held office on the date of the Bond.

Section 9 – Payment of Principal and Interest. The Bond shall be payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Installments of principal and interest on the Bond shall be

payable on the due date in immediately available funds at the office of the Registered Owner in Soldotna, Alaska, or at another location specified at the option of the Registered Owner; provided that the final installment of the principal of the Bond, plus accrued interest, shall be payable upon presentation and surrender of the Bond by the Registered Owner at the office of the Registered Owner in Soldotna, Alaska.

Section 10 – Registration.

(a) Bond Register. The Bond shall be issued only in registered form as to both principal and interest. The Registrar shall keep, or cause to be kept, a Bond Register at its principal office. The Treasurer of the City is hereby appointed as Registrar and paying agent for the Bond.

(b) Registered Ownership. The City and the Registrar, each in its discretion, may deem and treat the Registered Owner of the Bond as the absolute owner thereof for all purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of the Bond shall be made only as described in Section 9, but such registration may be transferred as herein provided. All such payments made as described in Section 9 shall satisfy and discharge the liability of the City upon the Bond to the extent of the amount or amounts so paid.

(c) Transfer or Exchange of Registered Ownership. The registered ownership of the Bond may be transferred or exchanged, but no transfer of the Bond shall be valid unless it is surrendered to the Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall cause to be executed and delivered, without charge to the Registered Owner or transferee, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered and canceled Bond. The Bond may be surrendered to the Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity, and interest rate. The Registrar shall not be obligated to transfer or exchange the Bond following any notice of redemption.

Section 11 – Lost Stolen, Destroyed or Mutilated Bond. Upon surrender to the Registrar of a mutilated Bond, the City shall execute and deliver a new Bond of like maturity and principal amount. Upon filing with the Registrar of evidence satisfactory to the City that a Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the City with indemnity satisfactory to it, the City shall execute and deliver a new Bond of like maturity and principal amount. The person requesting the execution and delivery of a new Bond under this section shall comply with such other reasonable regulations as the City may prescribe and pay such expenses as the City may incur in connection therewith.

261 Section 12 – Application of Bond Proceeds. The proceeds of the sale of the Bond shall
262 be applied to pay the costs of designing and constructing the Improvement, including the funding
263 of the reserves required herein, and to pay all costs incidental thereto and to the issuance of the
264 Bond, including without limitation the costs of the Lender as provided in the Loan Agreement,
265 and shall be deposited in the appropriate funds or accounts of the City for such purposes.
266

267 Section 13 – Sinking Fund. A special fund of the City designated the "City of Homer
268 Natural Gas Distribution Special Assessment Bond Sinking Fund" is hereby created for the
269 purpose of paying and securing the payment of the Bond. The Sinking Fund shall be held
270 separate and apart from all other funds and accounts of the City and shall be a trust fund for the
271 Registered Owner of the Bond. Payments of principal and interest on assessments levied for the
272 Improvement in the District shall be deposited in the Sinking Fund. Amounts in the Sinking
273 Fund shall be used to pay principal and interest on the Bond, and are hereby pledged for that
274 purpose. Prepayments of assessments shall be applied to prepay the principal of the Bond, and
275 upon any such prepayment the amortization of the principal of the Bond shall be adjusted so that
276 each remaining scheduled payment of principal and interest on the Bond shall be in an equal
277 amount.
278

279 Section 14 – Reserve Fund.
280

281 (a) A special fund of the City designated the "City of Homer Natural Gas Distribution
282 Special Assessment Bond Reserve Fund" is hereby created for the purpose of paying and
283 securing the payment of the Bond, and is hereby pledged for that purpose. The Reserve Fund
284 shall be held separate and apart from all other funds and accounts of the City and shall be a trust
285 fund for the Registered Owner of the Bond. There shall be paid into the Reserve Fund:
286

287 (1) That part of the proceeds of the Bond which is designated for deposit in
288 the Reserve Fund by the Loan Agreement; and
289

290 (2) All monies received from ENSTAR as refunds of main extension
291 advances or free main allowance arising out of new customers connecting to the
292 Improvement; and
293

294 (3) Any Sinking Fund and Guaranty Fund balances remaining after the
295 discharge of the Bond.
296

297 (b) Until the Bond has been discharged, the funds in the Reserve Fund may be used
298 only to pay the difference between the amount of principal and interest due on the Bond and the
299 amount in the Sinking Fund that is available to pay that principal and interest; provided, if the
300 Finance Director determines that the amount of funds available in the Reserve Fund exceeds the
301 amount of the next annual installment of principal and interest due on the Bond, the Finance
302 Director may apply such excess to a prepayment of the Bond.
303

(c) At such time as the Finance Director determines that the sum of the amounts in the Reserve Fund, the Guaranty Fund and the Sinking Fund equals or exceeds the amount required to (i) discharge the Bond, (ii) pay all refunds of assessments required upon discharge of the Bond, and (iii) pay any other amounts that may be owing on the Bond, the Finance Director shall cause such payment to be made and the Bond to be discharged.

Section 15 – Guaranty Fund. A special fund of the City designated the "City of Homer Natural Gas Distribution Special Assessment Bond Guaranty Fund" is hereby created for the purpose of paying and securing the payment of the Bonds, and is hereby pledged for that purpose. The Guaranty Fund shall be held separate and apart from all other funds and accounts of the City and shall be a trust fund for the Registered Owner of the Bonds. The Council annually shall appropriate to the Guaranty Fund a sum the Council determines to be adequate, with all other available funds, to cover a deficiency in the funds available to pay principal and interest on the Bonds if the reason for the deficiency is nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments levied in the District shall be credited to the Guaranty Fund. Amounts in the Guaranty Fund shall be used to pay principal and interest on the Bonds when other funds are not available for that purpose.

Section 16 – Amendatory and Supplemental Ordinances.

(a) The Council from time to time and at any time may adopt an Ordinance or Ordinances supplemental hereto, which Ordinance or Ordinances thereafter shall become a part of this Ordinance, for any one or more of the following purposes:

(1) To add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the City.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Ordinance or in regard to matters or questions arising under this Ordinance as the Council may deem necessary or desirable and not inconsistent with this Ordinance and which shall not adversely affect the interests of the Registered Owner of the Bond.

Any such supplemental Ordinance may be adopted without the consent of the Registered Owner of the Bond, notwithstanding any of the provisions of subsection (b) of this section.

(b) With the consent of the Registered Owners of not less than 60 percent in aggregate principal amount of the Bond at the time outstanding, the Council may adopt an Ordinance or Ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental Ordinance; provided, however, that no such supplemental Ordinance shall:

(1) Extend the due date of any principal installment payable under the Bond, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Registered Owners of all of the Bond so affected; or

(2) Reduce the aforesaid percentage of Registered Owners of the Bond required to approve any such supplemental Ordinance without the consent of the Registered Owners of all of the Bond then outstanding.

(3) Remove the pledge and lien of this Ordinance on assessments to be levied against the real property in the District, and funds pledged for the payment of the Bond under this Ordinance.

It shall not be necessary for the consent of the Registered Owner of the Bond under this subsection (b) to approve the particular form of any proposed supplemental Ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

(c) Upon the adoption of any supplemental Ordinance pursuant to the provisions of this section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City and the Registered Owner of the Bond shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modification and amendment, and all the terms and conditions of any such supplemental Ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

(d) Any Bond executed and delivered after the adoption of any supplemental Ordinance pursuant to this section may bear a notation as to any matter provided for in the supplemental Ordinance, and if the supplemental Ordinance shall so provide, a new Bond so modified as to conform, in the opinion of the Council, to any modification of this Ordinance contained in any such supplemental Ordinance may be prepared by the City and delivered without cost to the Registered Owner of the Bond then outstanding, upon surrender for cancellation of such Bond in an equal aggregate principal amount.

Section 17 – Sale of Bond; Loan Agreement. The Bond shall be sold at negotiated sale to the Lender as provided in the Loan Agreement. The City Manager is hereby authorized to execute the Loan Agreement, in substantially the form presented at this meeting, but with such changes, modifications, additions and deletions therein as he shall deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of approval of any and all changes, modifications, additions or deletions therein from the form and content of said document now before this meeting, and from and after the execution and delivery of said document, the City Manager hereby is authorized, empowered and directed to do all acts and things and to execute all documents as may be necessary to carry out and comply with the

provisions of the Loan Agreement as executed. Upon the execution of the Loan Agreement, the City shall execute and deliver the Bond to the Borough in the form authorized herein.

Section 18 – Authority of Officers. The City Manager, the acting City Manager, the Clerk and the acting Clerk are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this Ordinance, to the end that the City may carry out its obligations under the Bond and this Ordinance.

Section 19 – Miscellaneous. No recourse shall be had for the payment of the principal of or the interest on the Bond or for any claim based thereon or on this Ordinance against any member of the Council or officer of the City or any person executing the Bond.

Section 20 – Ordinance a Contract with Registered Owner. In consideration of the purchase and acceptance of the Bond by those who shall own the same from time to time, the provisions of this Ordinance shall constitute a contract with the Registered Owners of each Bond, and the obligations of the City under this Ordinance shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Bond.

Section 21 – Severability. If any one or more of the provisions of this Ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond.

Section 22 – Repeal of HCC 17.08. HCC Chapter 17.08 is repealed.

Section 23 – Codification. Section 22 of this Ordinance is of a permanent and general character and shall be included in the City Code. The remainder of this Ordinance is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 25th day of February 2013.

CITY OF HOMER

FRANCIE ROBERTS, MAYOR
PRO TEMPORE

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____

ORDINANCE(S)

ORDINANCE REFERENCE SHEET
2016 ORDINANCE
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.

Sponsor: Planning Commission

1. Council Regular Meeting January 25, 2016 Introduction
 - a. Memorandum 16-016 from City Clerk as backup
 - b. Memorandum 16-017 from City Planner as backup
 - c. Commercial Cannabis Cultivation Map
 - d. Commercial Cannabis Retail and Manufacturing Map
 - e. State of Alaska Marijuana Regulations as of December 1, 2015

**CITY OF HOMER
HOMER, ALASKA**

Planning Commission

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.

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

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

THE CITY OF HOMER ORDAINS:

Section 1. 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;

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

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

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

v. Plumbing, heating and appliance service shops, only if such use, including the storage of materials, is wholly within an enclosed building;

w. Publishing, printing and bookbinding;

x. Recreational vehicle parks only if located south of the Sterling Highway (Homer Bypass) from Lake Street west to the boundary of the Central Business District abutting Webber Subdivision, and from Heath Street to the west side of Lakeside Village Subdivision, provided they shall conform to the standards in HCC 21.54.200 and following sections;

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

z. Mobile food services;

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

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

cc. Rooming house, bed and breakfast and hostel;

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

be stored indoors or inside the fenced enclosure out of view of the public;

ee. Farmers' market;

ff. Dormitory;

gg. Financial institutions;

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

ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot.

jj. Marijuana testing facility as defined by state law.

Section 21.18.030 Conditional uses and structures.

The following uses may be permitted in the Central Business District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Planned unit developments, excluding all industrial uses;

b. Indoor recreational facilities and outdoor recreational facilities;

c. Mobile home parks;

d. Auto fueling stations;

e. Public utility facilities and structures;

f. Pipeline and railroads;

g. Greenhouses and garden supplies;

h. Light or custom manufacturing, repair, fabricating, and assembly, provided such use, including storage of materials, is wholly within an enclosed building;

i. Shelter for the homeless, provided any lot used for such shelter does not abut a residential zoning district;

j. More than one building containing a permitted principal use on a lot;

k. Group care homes and assisted living homes;

l. Drive-in car washes, but only on the Sterling Highway from Tract A-1 Webber Subdivision to Heath Street;

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

m. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot;

n. Other uses approved pursuant to HCC 21.04.020

o. Marijuana cultivation facilities, manufacturing facilities, and retail facilities as defined by state law.

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

Section 21.24.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 1 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. Air charter operations and floatplane tie-up facilities;

b. General business offices and professional offices;

c. Dwelling units located in buildings primarily devoted to business uses;

d. Auto repair;

e. Auto and trailer sales or rental areas;

f. Auto fueling stations and drive-in car washes;

g. Building supply and equipment sales and rentals;

h. Restaurants, including drive-in restaurants, clubs and drinking establishments;

i. Garden supplies and greenhouses;

j. Heavy equipment and truck sales, rentals, service and repair;

k. Hotels and motels;

l. Lumberyards;

m. Boat and marine equipment sales, rentals, service and repair;

n. Mortuaries;

o. Open air businesses;

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

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

- 168 q. Manufacturing of electronic equipment, electrical devices, pottery,
169 ceramics, musical instruments, toys, novelties, small molded products
170 and furniture;
171 r. Publishing, printing and bookbinding;
172 s. Recreation vehicle sales, rental, service and repair;
173 t. Retail businesses;
174 u. Trade, skilled or industrial schools;
175 v. Wholesale businesses, including storage and distribution services
176 incidental to the products to be sold;
177 w. Welding and mechanical repair;
178 x. Parks and open space;
179 y. Appliance sales and service;
180 z. Warehousing, commercial storage and mini-storage;
181 aa. Banks, savings and loans, credit unions and other financial
182 institutions;
183 bb. Customary accessory uses to any of the permitted uses listed in the
184 GC1 district; provided, that no separate permit shall be issued for the
185 construction of any type of accessory building prior to that of the main
186 building;
187 cc. Dry cleaning, laundry, and self-service laundries;
188 dd. Taxi operation;
189 ee. Mobile food services;
190 ff. Itinerant merchants, provided all activities shall be limited
191 to uses permitted outright under this zoning district;
192 gg. Recreational vehicle parks, provided they shall conform to the
193 standards in Article II of Chapter 21.54 HCC;
194 hh. Day care homes; provided, that a conditional use permit was
195 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play
196 areas must be fenced;
197 ii. Rooming house and bed and breakfast;
198 jj. Dormitory;
199 kk. As an accessory use, one small wind energy system per lot.

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

II. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by state law.

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

Section 21.26.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 2 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. Production, processing, assembly and packaging of fish, shellfish and seafood products;
- b. Construction, assembly and storage of boats and boat equipment;
- c. Manufacture and assembly of pottery and ceramics, musical instruments, toys, novelties, small molded products, electronic instruments and equipment and electrical devices;
- d. Research and development laboratories;
- e. Trade, skills or industrial schools;
- f. Publishing, printing and bookbinding facilities;
- g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair, excluding storage of vehicles or equipment that is inoperable or in need of repair;
- h. Storage and distribution services and facilities, including truck terminals, warehouses and storage buildings and yards, contractors' establishments, lumberyards and sales, or similar uses;
- i. Airports and air charter operations;
- j. Underground bulk petroleum storage;
- k. Cold storage facilities;
- l. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- m. Mobile commercial structures;
- n. Accessory uses to the uses permitted in the GC2 district that are clearly subordinate to the main use of the lot or building, such as wharves, docks, restaurant or cafeteria facilities for employees; or caretaker or dormitory residence if situated on a portion of the principal lot; provided, that separate permits shall not be issued for the

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

construction of any type of accessory building prior to that of the main building;
o. Taxi operation;
p. Mobile food services;
q. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;
r. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.54 HCC;
s. Hotels and motels;
t. Dormitory;
u. As an accessory use, one small wind energy system per lot;
v. Open air business.

w. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by state law.

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

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;

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

- 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;
- dd. Research and development laboratories;
- ee. Storage and distribution services and facilities, including truck terminals, warehouses and storage buildings and yards, contractors' establishments, lumberyards and sales, or similar uses;
- ff. Cold storage facilities;
- gg. Mobile commercial structures;
- hh. Single-family and duplex dwellings, only as an accessory use incidental to a permitted principal use; provided, that no permit shall be issued for the construction of an accessory dwelling prior to the establishment of the principal use;
- ii. The repair, replacement, reconstruction or expansion of a single-family or duplex dwelling, including a mobile home, that existed lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding any provision of Chapter 21.61 HCC to the contrary; provided, that a mobile home may not be used to replace or expand such a dwelling;
- jj. Customary accessory uses to any of the uses permitted in the EEMU district that are clearly subordinate to the main use of the lot or building, including without limitation wharves, docks, storage facilities, restaurant or cafeteria facilities for employees; or caretaker or employee dormitory residence if situated on a portion of the same lot

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

as the principal use; provided, that no permit shall be issued for the construction of any type of accessory building prior to the establishment of the principal use;

kk. Taxi operation;

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

mm. More than one building containing a permitted principal use on a lot;

nn. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory use to a residential use in a manner consistent with the requirements of all other provisions of the Homer City Code and as long as such animals are pets of the residents of the dwelling and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property.

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

Section 5. Homer City Code Chapter 21.28 is amended to read as follows:

Section 21.28.030 Conditional uses and structures

a. Drinking establishments;

b. Public utility facilities and structures;

c. Hotels and motels;

d. Lodging;

e. More than one building containing a permitted principal use on a lot;

f. Planned unit developments, limited to water-dependent and water-related uses, with no dwelling units except as permitted by HCC 21.28.020(o);

g. Indoor recreational facilities;

h. Outdoor recreational facilities;

i. The location of a building within a setback area required by HCC 21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC 21.71.030, the building must meet the following standards:

1. Not have a greater negative effect on the value of the adjoining property than a building located outside the setback area; and

2. Have a design that is compatible with that of the structures on the adjoining property.

j. Retail marijuana facilities as defined by state law.

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

Section 6. Chapter 21.62 is hereby enacted as follows:

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;**

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

- 401 7. The growing of marijuana on public lands and the attendant public safety
402 and environmental dangers posted my marijuana production on public
403 land; and
404 8. Marijuana possession or use on federal property.

405
406 **21.62.030 Definitions [reserved]**

407
408 **21.62.040 Pre-application Conference.**

409
410 **21.57.050 Costs.**

411
412 The cost of all permits, studies and investigation required under this
413 chapter shall be borne by the applicant.

414
415 When Title 21 requires a conditional use permit for a marijuana facility, the
416 applicant must meet with the City Planner to discuss the conditional use
417 permit process and any issues that may affect the proposed conditional
418 use. This meeting is to provide for an exchange of general and preliminary
419 information only and no statement made in such meeting by either the
420 applicant or the City Planner shall be regarded as binding or authoritative
421 for the purposes of this title.

422
423 **21.62.060 Safety and Security Plan**

424
425 A conditional use permit for a marijuana facility required by this title shall
426 include an analysis of the ways in which the intent and purpose of this
427 chapter have been met and the safety concerns identified in Sections
428 21.62.010 and 21.62.020 will be addressed.

429
430 **21.62.070 Buffers**

- 431
432 a) The Commission may require buffers, including berms, fences, trees, and
433 shrubs, to minimize impacts to adjacent property. A landscaped buffer or
434 combination of landscaping and berms of no less than ten feet in width will
435 be required where the property with a marijuana facility adjoins districts
436 in which marijuana facilities are prohibited or permitted only as a
437 conditional use.
438
439 b) The following buffer zones shall be applied to all marijuana facilities in all
440 districts:

- 441
442 1. Schools 1000 feet
443 2. Churches 500 feet

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

3. Jail 500 feet
4. Youth/rec. center 500 feet
5. Library 200 feet

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

21.62.80 General restrictions applied to all marijuana facilities.

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

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.

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

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

487 AYES:

488 NOES:

489 ABSTAIN:

490 ABSENT:

491

492

493

494 First Reading:

495 Public Reading:

496 Second Reading:

497 Effective Date:

498

499

500

501 Reviewed and approved as to form:

502

503

504 _____
Mary K. Koester, City Manager

505

506 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

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(f) 907-235-3143

Memorandum 16-016

TO: MAYOR WYTHER 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.

State of Alaska - 2014 General Election
November 4, 2014
Official Results

Date:11/24/14
Time:13:20:23
Page:5 of 11

	Ballot Measure 2 - 13PSUM				Ballot Measure 3 - 13MINW			
	Reg. Voters	Total Votes	YES	NO	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
31-300 Anchor Point	1707	710	330	380	1707	710	436	274
31-310 Diamond Ridge	997	434	282	152	997	433	342	91
31-320 Fox River	577	221	120	101	577	221	154	67
31-340 Funny River No. 2	1597	596	271	325	1597	591	338	253
31-350 Homer No. 1	2490	909	492	417	2490	920	673	247
31-360 Homer No. 2	2009	682	358	324	2009	686	475	211
31-370 Kachemak/Fritz Creek	1677	696	425	271	1677	697	504	193
31-380 Kasilof	2312	1003	564	439	2312	1002	658	344
31-390 Ninilchik	1217	481	243	238	1217	493	333	160
District 31 - Absentee	0	2452	1317	1135	0	2461	1703	758
District 31 - Question	0	282	193	89	0	275	227	48
District 31 - Early Voting	0	69	40	29	0	68	41	27
Total	14583	8535	4635	3900	14583	8557	5884	2673



City of Homer

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Memorandum 16-017

TO: MAYOR WYTHER AND HOMER CITY COUNCIL
THROUGH: KATIE KOESTER, CITY MANAGER
FROM: RICK ABBOD, 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

District

Activity	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.

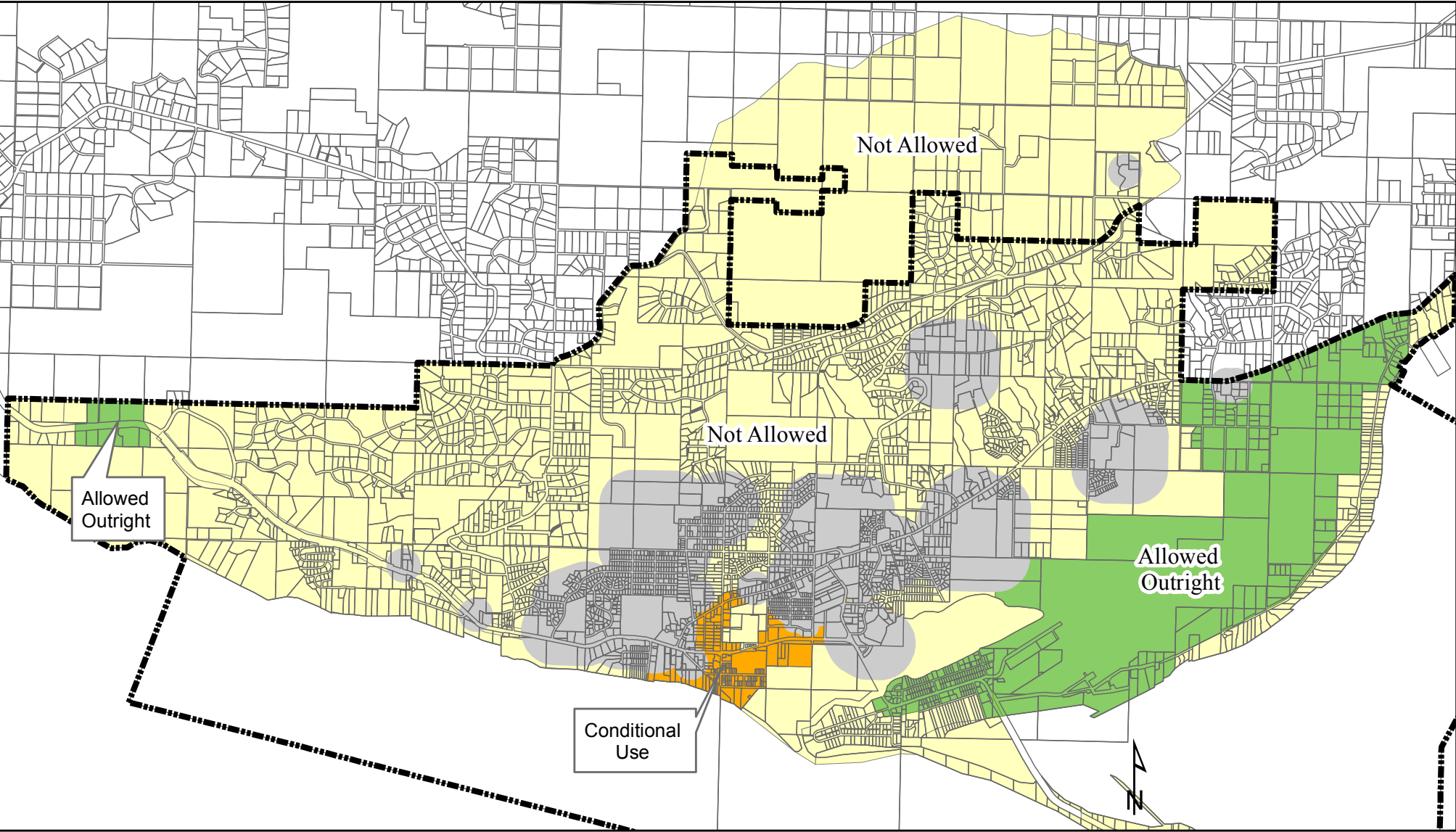
I consider the cannabis club as a fraternal organization of sorts. This is not open to the general public in the sense that you have to be a member to enter, think ELKs. In this case, I would treat this use as the 'run-of-the-mill' fraternal assembly. The fraternal assembly may do anything that is not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

Commercial Cannabis Cultivation Map 1/25/2016



Legend

City Limits

Buffers

Cultivation

Permitted

CUP

No Commercial Cannabis Businesses

0

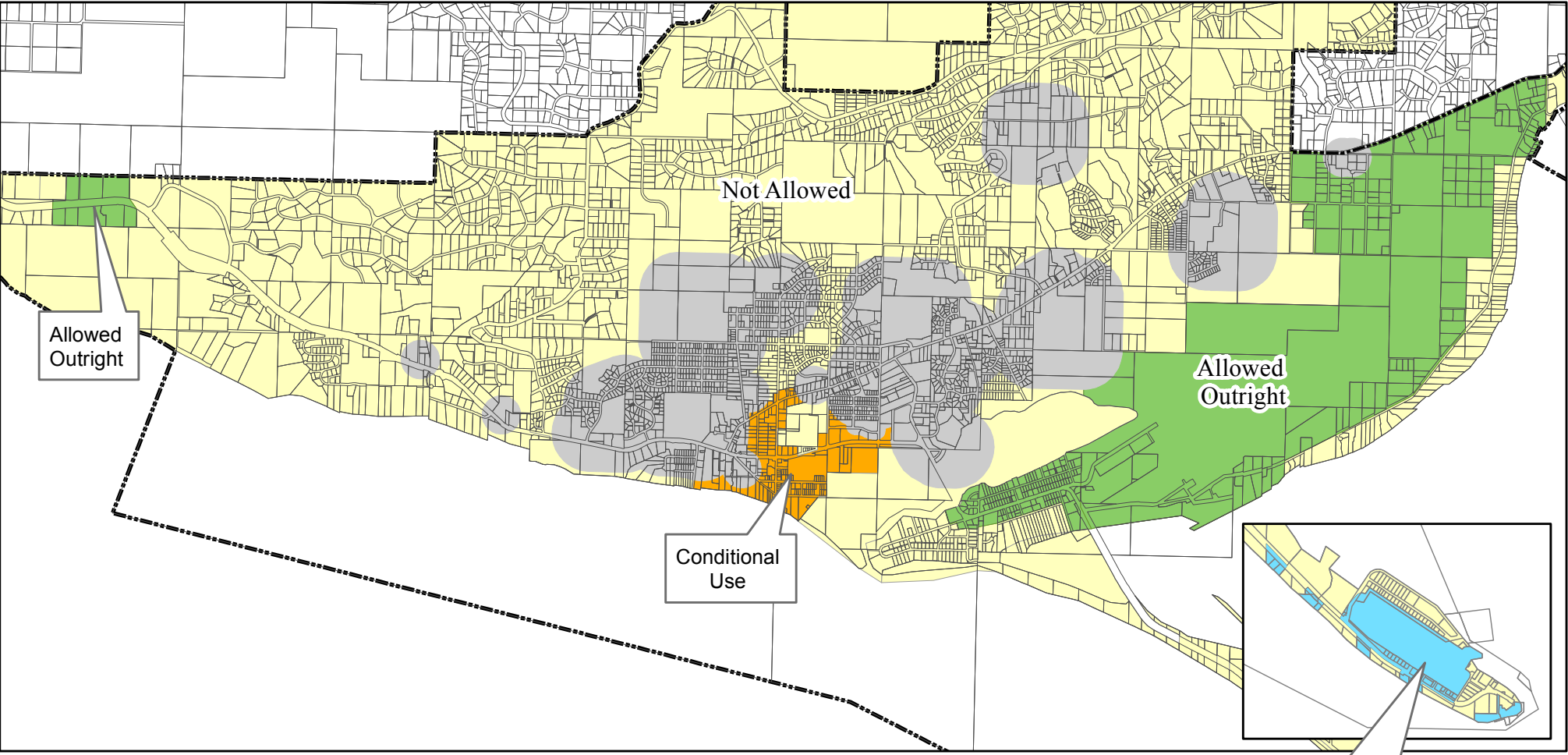
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1

Miles

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

Commercial Cannabis Retail and Manufacturing Map, January 25, 2016
Testing is allowed outright in the green areas, and in downtown Homer.



Legend

City Limits **Commercial Cannabis Activities**

- Buffers
- Retail and Manufacturing allowed outright
- Retail and Manufacturing by Conditional Use Permit
- Retail Only, CUP
- No Commercial Cannabis Businesses



0 0.25 0.5 1 1.5 Miles

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

3 AAC is amended by adding a new chapter to read:

Chapter 306. Regulation of Marijuana Industry.

Article	beginning page
1. Licensing, Fees (3 AAC 306.005 - 3AAC 306.100)	1
2. Local Options (3 AAC 306.200 - 3AAC 306.260)	28
3. Retail Marijuana Stores (3 AAC 306.300 - 3AAC 306.360)	34
4. Marijuana Cultivation Facilities (3 AAC 306.400 - 3AAC 306.480)	44
5. Marijuana Product Manufacturing Facilities (3 AAC 306.500 - 3AAC 306.570)	63
6. Marijuana Testing Facilities (3 AAC 306.600 - 3AAC 306.675)	80
7. Operating Requirements for All Marijuana Establishments (3 AAC 306.700 - 3AAC 306.755)	97
8. Enforcement, Civil Penalties (3 AAC 306.800 - 3AAC 306.850)	112
9. General Provisions (3 AAC 306.905 - 3AAC 306.990)	122

Article 1. Licensing, Fees.

Section

- 05. License required
- 10. License restrictions
- 15. License conditions
- 20. Application for new license
- 25. Application procedure
- 30. Petition for license in area with no local government
- 35. Application for renewal of license

- 40. Ownership change to be reported
- 45. Application for transfer of a license to another person
- 50. Relocation of licensed premises not allowed
- 55. Criminal justice information and records
- 60. Protest by local government
- 65. Public participation
- 70. Hearing on public protest
- 75. Procedure for action on license application
- 80. Denial of license application
- 85. Informal conference
- 90. Formal hearing
- 95. Appeals
- 100. Fees, refund

3 AAC 306.005. License required. A marijuana establishment may not operate in the state unless it has obtained the applicable marijuana establishment license from the board. The board will issue the following marijuana establishment licenses under this chapter:

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 - 3 AAC 306.360 and 3 AAC 306.700 - 3AAC 306.755;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.405 – 3 AAC 306.410, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3AAC 306.755;

(3) a marijuana product manufacturing facility license, as described in 3 AAC

306.505 and 3 AAC 306.515, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 – 3 AAC 306.755; and

(4) a marijuana testing facility license, granting authority for activities allowed under AS 17.38.070(d), and subject to the provisions of 3 AAC 306.600 - 3 AAC 306.675 and 3 AAC 306.700 - 3 AAC 306.755. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.010. License restrictions. (a) The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school grounds, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school, recreation or youth center, or the main public entrance of the building in which religious services are regularly conducted, or the correctional facility. This section does not prohibit the renewal of an existing marijuana establishment license or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the school, recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility began use of a site within 500 feet. If an existing marijuana establishment license for premises located within 500 feet of a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility is revoked, or expires, the board will not issue another

marijuana establishment license for the same premises unless the school, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises.

(c) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds that that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

(d) The board will not issue a marijuana establishment license to a person that

(1) is prohibited under AS 17.38.100(i) from receiving a marijuana establishment license because of a conviction of a felony; if the applicant is a partnership, limited liability company, or corporation, the board will not issue a license if any person named in 3 AAC 306.020(b)(2) is prohibited under AS 17.38.100(i) from obtaining a license; in this paragraph, "conviction of a felony" includes a suspended imposition of sentence;

(2) has been found guilty of

(A) selling alcohol without a license in violation of AS 04.11.010; or

(B) selling alcohol to a minor in violation of AS 04.16.051

or AS 04.16.052; or

(C) a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the preceding five years

(3) has, within two years before submitting an application, been convicted of a

class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed contrary to state law.. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.015. License conditions. (a) The board will issue each marijuana establishment license to a specific individual, to a partnership, including a limited partnership, to a limited liability company, to a corporation, or to a local government. A person other than a licensee may not have a direct or indirect financial interest in the business for which a marijuana establishment license is issued.

- (b) The board will not issue a marijuana establishment license to
- (1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;
 - (2) a partnership unless each partner is a resident of the state;
 - (3) a limited liability company unless the limited liability company is qualified to do business in the state, and each member of the limited liability company is a resident of the state; or
 - (4) a corporation unless the corporation is incorporated or qualified to do business in the state, and each shareholder is a resident of the state.

(c) The board will issue each license for a specific location identified on the license as the licensed premises. A marijuana establishment must have a right to possession of its licensed premises at all times, and may not lease its licensed premises to another person for any reason. If

a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana establishment, the marijuana establishment must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval. A marijuana establishment may not relocate its licensed premises to a different place without obtaining a license for the new premises.

(d) The board will impose other conditions or restrictions on a license issued under this chapter when it finds that it is in the interests of the public to do so.

(e) In this section,

(1) "direct or indirect financial interest" means

(A) a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

(i) rental charges on a graduated or percentage lease-rent agreement for real estate leased to a licensee; or

(ii) a consulting fee from a licensee for services that are allowed under this chapter;

(2) "resident of the state" means a person who meets the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which that person applies for a marijuana establishment license under this chapter. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.020. Application for new license. (a) An applicant for a new marijuana

establishment license must file an application as provided in 3 AAC 306.025, on a form the board prescribes, with the information and documents described in this section, along with the application fee and the annual license fee set out in 3 AAC 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

(b) An application for a new marijuana establishment license must include

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70;

(2) the name, mailing address, telephone number, and social security number of each proposed licensee and each affiliate of each proposed licensee; unless the context indicates otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a "licensee" under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, each member holding any ownership interest; and

(D) if the applicant is a corporation, each owner of any of the corporation's stock

(E) if the applicant is a local government, an authorized official of the

local government.

(3) for each applicant that is not an individual, the applicable documents and information as follows:

(A) for a partnership, including a limited partnership, the partnership agreement, the name of each general or managing partner, and a list of all partners with percentage of ownership of each partner;

(B) for a limited liability company, the limited liability company agreement, and a list of all members with the percentage of ownership of each member;

(C) for a corporation, the certificate of incorporation, the name of each corporate officer, and a list of all shareholders with percentage of ownership of each shareholder;

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment.

(4) for each person listed in compliance with paragraph (2) of this subsection, a statement of financial interest on a form the board prescribes;

(5) for each applicant that is not an individual, the name of the individual licensee or designated government official listed in the application under paragraph (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with state laws;

(6) an electronic mail address at which the applicant agrees to receive any correspondence from the board before and after it receives a license; an applicant and a licensee must ensure that any electronic mail address provided to the board is current so that the board

can contact the applicant or licensee at any time;

(7) the type of license the applicant is requesting;

(8) the address of the premises to include GPS coordinates where the applicant intends to operate a marijuana establishment; and a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, and storage areas;

(9) the title, lease, or other documentation showing the applicant's right to possession of the proposed licensed premises;

(10) an affidavit showing where and when the applicant posted notice of the application; and proof of advertising as required in 3 AAC 306.025(b); and

(11) additional information required by the board as follows:

(A) for a retail marijuana store, the information required under 3 AAC 306.315;

(B) for a marijuana cultivation facility, the information required under 3 AAC 306.420;

(C) for a marijuana product manufacturing facility, the information required under 3 AAC 306.520; and

(D) for a marijuana testing facility, the information required under 3 AAC 306.615.

(c) A marijuana establishment license application must include the applicant's operating plan, in a format the board prescribes, describing, to the board's satisfaction, the proposed marijuana establishment's plans for

(1) security;

- (2) inventory tracking of all marijuana and marijuana product on the premises;
 - (3) employee qualification and training;
 - (4) waste disposal;
 - (5) transportation and delivery of marijuana and marijuana products; and
 - (6) signage and advertising.
- (d) An application for a marijuana establishment license must be signed by
- (1) the applicant, if the applicant is an individual;
 - (2) an authorized general partner if the applicant is a partnership, including a limited partnership;
 - (3) a member who owns at least 10 percent of the limited liability company if the applicant is a limited liability company;
 - (4) the authorized officers of the corporation if the applicant is a corporation; or
 - (5) a designated official if the applicant is a local government.
- (e) Each person signing an application for a marijuana establishment license must declare under penalty of unsworn falsification that
- (1) the application is true, correct, and complete;
 - (2) the applicant has read and is familiar with AS 17.38 and this chapter; and
 - (3) the applicant will provide all information the board requires in support of the application. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

Editor's note: Forms and instructions for filing an application for a marijuana establishment license can be obtained online at the Marijuana Control Board's website or at the

board's office. The board's Internet address is www.commerce.alaska.gov/web/abc/ and its office is at 550 West 7th Ave. Suite 1600, Anchorage, AK 99501. The board's telephone number is (907)269-0350.

3 AAC 306.025. Application procedure. (a) An applicant shall initiate a new marijuana establishment license application on a form the board prescribes, using the board's electronic system.

(b) As soon as practical after initiating a new marijuana license application, the applicant shall give notice of the application to the public by

(1) posting a copy of the application, on the form the board prescribes, for 10 days at

(A) the location of the proposed licensed premises; and

(B) one other conspicuous location in the area of the proposed premises;

and

(2) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, by announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license applied for along with a citation to a provision of this chapter authorizing that type of license; and

(D) a statement that any comment or objection may be submitted to the board; and

(3) submitting a copy of the application on the form the board prescribes to

(A) the local government; and

(B) any community council in the area of the proposed licensed premises.

(c) After the applicant completes the notice requirements in (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant shall pay the application and licensing fees set out in 3 AAC 306.100. The applicant must then use the board's electronic system to inform the board that the applicant has submitted a complete application.

(d) When the director receives an application for a marijuana establishment license, the director shall determine if the application is complete. Any application for a marijuana establishment license that the director receives without the application fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to

(1) the applicant;

(2) the local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant by email at the address provided by the applicant, and will either

(1) return an incomplete application in its entirety; or

(2) request the applicant to provide additional, identified items needed to complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90 day period after the director's notice, the applicant shall file a new application and pay a new application fee to obtain a marijuana establishment license. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.030. Petition for license in area with no local government. (a) The board will not approve a new license in an area outside, but within 50 miles of, the boundary of a local government unless the board receives a petition to issue the license signed by a majority of the permanent residents residing within one mile of the proposed premises.

(b) The board will not approve a new license in an area that is 50 miles or more from the boundary of a local government unless the board receives a petition to issue the license containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the petition must be signed by two-thirds of the permanent residents residing within a five mile radius of the proposed licensed premises.

(c) A petition authorized by this section must be on a form the board prescribes. The applicant must obtain the required signatures within the 90 day period immediately before

submitting the petition to the board. A signature may not be added to or removed from the petition after the board has approved the application.

(d) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode. A person may be a permanent resident of only one place. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.035. Application for renewal of license. (a) On or before May 1 of each year, the director shall send notice that a marijuana establishment must file a renewal application not later than June 30 of the current year. The director shall send the notice to the marijuana establishment's electronic mailing address on file with the board. The notice will include a hyperlink for the marijuana establishment to access the electronic renewal application by means of the internet, along with instructions on using and submitting the form. The marijuana establishment must submit the completed renewal application electronically, along with the license renewal fee, to the director no later than June 30 of each year; if June 30 falls on a Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30. A marijuana establishment must maintain a current electronic mailing address on file with the director. A marijuana establishment is not excused from filing a renewal application as required in this section even if the marijuana establishment fails to receive a renewal notice from the director.

(b) A marijuana establishment's renewal application must

(1) identify the license sought to be renewed by license number, license type,

establishment name, and premises address;

(2) provide the information required for a new license application under 3 AAC 306.020(b)(1)-(9);

(3) report any change from the marijuana establishment's new license application or last renewal application, and pay the fee as provided in 3 AAC 306.100 for board review of any change in

(A) the name of the marijuana establishment business;

(B) the licensed premises from the last diagram submitted; and

(C) the marijuana establishment's operating plan;

(D) any new product a licensed marijuana product manufacturing facility wishes to produce;

(4) report, for each licensee listed in 3 AAC 306.020(b)(2),

(A) any criminal charge on which that licensee has been convicted in the previous two calendar years; and

(B) any civil violation of AS 04, AS 17.38, or this chapter in the previous two calendar years; and

(5) declare under penalty of unsworn falsification that

(A) the application is true, correct and complete;

(B) the applicant has read and is familiar with AS 17.38 and this chapter;

and

(C) the applicant will provide all information the board requires in support of the renewal application.

(c) If the director determines that the renewal application is complete, the director shall

give written notice of a renewal application to

- (1) the applicant;
- (2) the local government in the area in which the applicant's proposed licensed premises are located;
- (3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and
- (4) any nonprofit community organization that has requested notification in writing.

(d) The director may require an applicant for renewal of a license under this chapter to submit fingerprints and pay fees as required by 3 AAC 306.055(a).

(e) A licensee that does not deliver a renewal application to the director on or before June 30 of each year is delinquent, and must pay a non-refundable \$1,000 late renewal application fee with the renewal application.

(f) On or before August 15 of each year, the director shall deliver a notice of expiration to each marijuana establishment that has not filed a complete application for renewal of a license, along with any applicable affidavit and the required fee, unless the marijuana establishment has notified the director that it does not intend to seek a renewal of its license. The director shall deliver the notice of expiration to the electronic mail address the marijuana establishment has provided to the director. A marijuana establishment is not excused from filing a license renewal application not later than August 31 of each year even if the marijuana establishment does not receive the notice of expiration described in this section.

(g) If a marijuana establishment fails to deliver a complete license renewal application, or fails to pay the required renewal fee and the late renewal application fee on or before August

31 of each year, that marijuana establishment license expires at 12:00 midnight on August 31 of that year. A holder of an expired license shall immediately return the license to the board. Any holder of an expired license that seeks authority to operate must file a complete new application under 3 AAC 306.020, and 3 AAC 306.025, along with the required fees. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.040. Ownership change to be reported. (a) A licensed marijuana establishment shall, not later than 10 days after an ownership change as described in this section, report the change on a form prescribed by the board. In this section, an ownership change means

(1) if the licensee is a partnership, including a limited partnership, any change in the identity of the partners, or in the ownership percentages held by any partners;

(2) if the licensee is a limited liability company, any change in the identity of the members, or in the ownership percentage held by any member; or

(3) if the licensee is a corporation, any sale of corporate stock to a person not currently an owner, or any change of the percentage ownership of an existing shareholder.

(b) If any change required to be reported under this section will result in a change in controlling interest of the marijuana establishment license, the marijuana establishment must file an application for transfer of license to another person under 3 AAC 306.045. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.045. Application for transfer of a license to another person. (a) A person may not receive or transfer a marijuana establishment license or a controlling interest in a marijuana establishment license issued to a partnership, including a limited partnership, a limited liability company, a corporation or a local government, without applying for and receiving the written consent of the board. Transfer of a license includes a sale of all or part of the interest of an individual owner.

(b) An application for transfer of a marijuana establishment license, or of a controlling interest in a marijuana establishment license issued to a partnership, a limited liability company, a corporation or a local government, must be filed in writing on a form the board prescribes, in compliance with the application procedure set out in 3 AAC 306.025. The application must name the current holder of the marijuana establishment license and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, a corporation, or a local government. The application must contain the following information:

(1) the same information about each transferee as is required of an applicant for a new license under 3 AAC 306.020;

(2) a statement, under oath, executed by the current holder of the marijuana establishment license, listing all debts of the business, all taxes the business owes, current contact information for each creditor, and an affirmation that the current holder of the marijuana establishment license has submitted a copy of the transfer application to all creditors; and

(3) any other information required by the board for the type of marijuana establishment license sought to be transferred.

(c) When the board receives a complete application for transfer of a license to another person, the director shall immediately send written notice of the proposed transfer to

(1) each listed creditor of the current holder of the marijuana establishment license, along with the amount shown as owed to that creditor;

(2) the local government in the area in which the licensed premises are located;

(3) the community council if the licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(d) A current holder of a marijuana establishment license must submit a license renewal application before or at the same time as an application for a transfer of a marijuana establishment license that is submitted after April 30 and before July 1. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.050. Relocation of licensed premises not allowed. A marijuana establishment license may not be relocated to any other premises. A holder of a marijuana establishment license that wishes to operate a marijuana establishment at a different location must submit a new application for any new premises, and must surrender an existing license for any premises where the marijuana establishment does not intend to continue its operation. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

3 AAC 306.055. Criminal justice information and records. (a) When filing an application for a new marijuana establishment license or transfer of a license, the applicant, including each individual listed in 3 AAC 306.020(b)(2), must submit the person's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check.

(b) The director shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400. The board will use the information obtained under this section to determine if an applicant is qualified for a marijuana establishment license.

(c) In this section, "criminal justice information" has the meaning given in AS 12.62.900.
(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010

AS 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

3 AAC 306.060. Protest by local government. (a) Not later than 60 days after the director sends notice of an application for a new marijuana establishment license, renewal of a marijuana establishment license, or transfer of a marijuana establishment license to another person, a local government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. If a local government protests an application for a new or renewal license or for a transfer of a license to another person, the board will deny the application unless

the board finds that the protest is arbitrary, capricious, and unreasonable.

(b) A local government may recommend that the board approve an application for a new license, renewal of a license, or transfer of a license to another person subject to a condition. The board will impose a condition a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable. If the board imposes a condition a local government recommends, the local government shall assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(c) If a local government determines that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the licensee, the local government may notify the board. Unless the director finds that the local government's notice is arbitrary, capricious, and unreasonable, the director will prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as provided under 3 AAC 306.820. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.065. Public participation. A person may object to an application for a new license, renewal of a license, or transfer of a license to another person by submitting a written statement of reasons for the objection to the board and the applicant not later than 30 days after notice of the application, but no later than the deadline for objections stated in a posted or published notice of the application. The objection must be sent to the applicant at the mailing address or electronic mail address provided in the notice of application. If the board determines to conduct a public hearing under this section, an interested person may give oral testimony at

the public hearing. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.070. Hearing on public protest. The board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local government to an application. The director will send notice of a hearing under this section as provided in AS 44.62. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.075. Procedure for action on license application. (a) The board will decide whether to grant or deny an application not later than 90 days after receiving the complete application. However, the board will not grant or deny the application before

(1) the time allowed for a protest under 3 AAC 306.060, unless the local government waives its right to protest; or

(2) the time allowed for an objection under 3 AAC 306.065 has elapsed.

(b) Not later than 7 days before the date set for board action on an application for a new license, renewal of a license, or transfer of a license to another person, the director will post a meeting agenda listing the matters scheduled for action at that meeting. The board may review an application for a new license, renewal of a license, or transfer of a license to another person, without additional notice to the applicant.

(c) The board will consider any written objection, protest, suggested condition, or

petition, and any testimony received at a hearing on public protest held under 3 AAC 306.070 when it considers the application. The director will retain the written objection, protest, or suggested condition or petition, and the hearing record as part of the permanent record of the board's review of an application. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.080. Denial of license application. (a) After review of the application, including the applicant's proposed operating plan and all relevant information, the board will deny an application for a new license if the board finds that

- (1) the application is not complete as required under the applicable provisions of 3 AAC 306.020 - 3 AAC 306.055, or contains any false statement of material fact; or
- (2) the license would violate any restriction in 3 AAC 306.010; or
- (3) the license would violate any restriction applicable to the particular license type authorized under this chapter;
- (4) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.110, 3 AAC 306.200, or 3 AAC 306.230;
- (5) the board finds that the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter; or
- (6) the license would not be in the best interests of the public.

(b) After review of the application and all relevant information, the board will deny an application for renewal of a marijuana establishment license if the board finds

- (1) any cause listed in (a) of this section;

(2) that the license has been revoked for any cause;

(3) that the license has been operated in violation of a condition or restriction the board previously imposed; or

(4) that the applicant is delinquent in the payment of taxes due in whole or in part from operation of the licensed business.

(c) After review of the application and all relevant information, the board will deny an application for transfer of license to another person if the board finds

(1) any cause listed in (a) of this section;

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority;

(3) that transfer of the license to another person would result in violation of the provisions of this chapter relating to identity of licensees and financing of licensees; or

(4) that the prospective transferee does not have the qualifications of an original applicant required under this chapter.

(d) If the board denies an application for a new license, renewal of a license, or transfer of a license to another person, the board will, not later than 15 days after the board meeting at which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. The notice of denial will inform the applicant of the right to an informal conference under 3 AAC 306.085, and to a formal hearing under 3 AAC 306.090. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

3 AAC 306.085. Informal conference. (a) An applicant for a new license, renewal of a license, or transfer of a license to another person that is aggrieved by an action of the board denying the application may, no later than 15 days after the date of the written notice of denial, request an informal conference with the director or the board. An informal conference requested under this section must be held at a time and place convenient to the applicant and the board, but not later than the next scheduled meeting of the board. An informal conference may be conducted telephonically.

(b) If the informal conference does not resolve the matter to the applicant's satisfaction, the applicant may, within 15 days after the last day of the informal conference, request a formal hearing under 3 AAC 306.090 by filing a notice of defense in compliance with AS 44.62.380(b). (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010

AS 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

3 AAC 306.090. Formal hearing. An applicant for a new license, renewal of a license, or transfer of a license that is aggrieved by an action of the board denying the application may request a formal hearing by filing a notice of defense in compliance with AS 44.62.380 within 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.085(b) if the applicant requested and participated in an informal conference. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a formal hearing.

(b) When an aggrieved person requests a hearing under the section, the board may

request the Office of Administrative Hearings to conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 AAC 64.990. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.095. Appeals. (a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new license, a license renewal, or a transfer of license to another person.

(b) An applicant or marijuana establishment license holder aggrieved by a final decision of the board regarding an application for a new license, a license renewal, or a transfer of license to another person may appeal to the superior court under AS 44.62.560. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.100. Fees, refund. (a) The non-refundable application fee for a new marijuana establishment license or an application to transfer a license to another person is \$1000.

(b) The non-refundable application fee for a license renewal application is \$600; if a renewal application is late as provided under 3 AAC 306.035(e), an additional non-refundable late renewal application fee is \$1000.

(c) The nonrefundable fee to request board approval of a change in a licensed marijuana establishment's business name, licensed premises diagram, operating plan, or proposed new marijuana product is \$250; a change fee does not apply to an application for transfer of a license to another person.

(d) The annual license fee, to be paid with each application for a new marijuana establishment facility license and each license renewal application is

- (1) for a marijuana retailer license, \$5000;
- (2) for a limited marijuana cultivation facility license, \$1000;
- (3) for a marijuana cultivation facility license, \$5000;
- (4) for a marijuana extract only manufacturing facility license, \$1000;
- (5) for a marijuana product manufacturing facility license, \$5000;
- (6) for a marijuana testing facility license, \$1000.

(e) The fee for a marijuana handler permit card is \$50.

(f) If the board denies an application for a license or for renewal of a license, the board will refund the annual license fee. The board will not refund a license fee after the license has been issued.

(g) Processing fees for late renewal after failure to pay taxes are as follows:

- (1) if a licensee pays its delinquent tax after a local government protests renewal of the license, but before the board denies license renewal, \$200;
- (2) if a licensee pays its delinquent tax after appealing the board's denial of a license renewal, but before a hearing officer is appointed to hear the applicant's appeal, \$500;
- (3) if a licensee pays its delinquent tax after appealing the board's denial of a license renewal, but before the administrative hearing begins, \$5000; and

(4) if a licensee pays its delinquent tax after an administrative hearing that results in a hearing officer recommendation to deny the license renewal, \$10,000. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

Article 2. Local Options.

Section

- 200. Local options
- 210. Change of local option
- 220. Removal of local option
- 230. Procedure for local option election
- 240. Prohibition of importation or purchase after election
- 250. Effect on licenses of restriction on sale
- 260. Notice of the results of a local option election

3 AAC 306.200. Local options. (a) If a majority of the persons voting on the question vote to approve the option, or if a local government's assembly or city council passes an ordinance to the same effect, the local government shall adopt a local option to prohibit

(1) the sale or importation for sale of marijuana and any marijuana product;
(2) the operation of any marijuana establishment, including one or more of the following license types:

- (A) a retail marijuana store;
- (B) a marijuana cultivation facility;

- (C) a marijuana product manufacturing facility; or
- (D) a marijuana testing facility.

(b) A ballot question to adopt a local option under this section must at least contain language substantially similar to: "Shall (name of local government) adopt a local option to prohibit (local option under (a) of this section)? (yes or no)."

(c) The ballot for an election on the options set out in (a)(2) of this section must include a brief explanation of the activity that each license type on the ballot may carry out.

(d) If a local government dissolves under AS 29.06.450, any marijuana establishment license issued to that local government expires when the local government dissolves.

(e) A local government may not prohibit the personal use and possession of marijuana and marijuana products as authorized under AS 17.38.020.

(f) Nothing in 3 AAC 306.200 – 3 AAC 306.260 precludes a local government from applying for a marijuana establishment license under other provisions of this chapter. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

3 AAC 306.210. Change of local option. If a majority of persons voting on the question vote to approve a local option different from one previously adopted under this section and currently in effect, or if the local government's assembly or city council passes an ordinance to the same effect, the local government shall change the local option to the newly approved option. A ballot question to change a local option under this section must at least contain language substantially similar to: "Shall (name of local government) change the local option currently in effect, that prohibits (current local option), and adopt in its place a local option to

prohibit (proposed local option)? (yes or no)." (Eff. ____/____/____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

3 AAC 306.220. Removal of local option. (a) If a majority of the persons voting on the question vote to remove a local option previously adopted under this section and currently in effect, or if a local government's assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month after the election is certified. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of local government) remove the local option currently in effect, that prohibits (current local option), so that no local option continues in effect? (yes or no)."

(b) When issuing a license within the boundaries of a local government that has removed a local option, the board will give priority to any formerly licensed applicant whose license was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to a license and the board is not required to approve the application. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

3 AAC 306.230. Procedure for local option election. When it receives a petition to adopt, change, or remove a local option under 3 AAC 306.200 or 3 AAC 306.220, the local government shall conduct the election in compliance with the initiative process under the local government's election ordinances and regulations and the applicable provisions of AS 29. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

3 AAC 306.240. Prohibition of importation or purchase after election. (a) If a majority of the voters vote to prohibit the importation for sale of marijuana and any marijuana product under 3 AAC 306.200(a)(3), or if the local government's assembly or city council passes an ordinance to the same effect, a person, beginning on the first day of the month after the results of the election are certified, may not knowingly bring, send, or transport marijuana or marijuana products for sale into the area within the boundary of the local government.

(b) A person who resides within the boundary of a local government that has adopted a local option under 3 AAC 306.200(a) may not purchase marijuana or a marijuana product from another person that has brought, sent, or transported marijuana or a marijuana product into the local government for sale in violation of the local option.

(c) Notwithstanding (a) or (b) of this section, a licensed marijuana establishment may transport marijuana or any marijuana product through the boundaries of a local government that has prohibited importation or purchase of marijuana if the marijuana or marijuana product is shipped with an attached transport manifest created in compliance with 3 AAC 306.750 and documenting that the shipment originates and terminates in a place that does not prohibit importation and purchase of marijuana or a marijuana product.

(d) In this section,

(1) "bring" means to carry or convey or to attempt or solicit to carry or convey;

(2) "send" means to cause to be taken or distributed or to attempt or solicit or cause to be taken or distributed, and includes use of the United States Postal Service;

(3) "transport" means to ship by any method, and includes delivering or

transferring or attempting or soliciting to deliver or transfer marijuana or marijuana products to be shipped to, delivered to, or left or held for pickup by any person. (Eff. ____/____/____,

Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

3 AAC 306.250. Effect on licenses of restriction on sale. If a majority of the voters vote under 3 AAC 306.200(a) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board may not issue, renew, or transfer to another person, a license for a marijuana establishment with premises located within the boundary of the local government or in the unincorporated area within ten miles of the boundaries of the local government. A license for a marijuana establishment within the boundary of the local government or in the unincorporated area within ten miles of the boundary of the local government is void 90 days after the results of the election are certified. A license that expires during the 90 days after the certification of a local option election may be extended until it is void under this section, by payment of a prorated portion of the annual license fee. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

3 AAC 306.260. Notice of the results of a local option election. (a) If a majority of the voters vote to adopt, change, or remove a local option under 3 AAC 306.200 - 3 AAC 306.220 or if the assembly or city council passes an ordinance to the same effect:

(1) the clerk of the local government shall notify the board of the results of the election or of the passage of the ordinance immediately after the results of the election are

certified or the ordinance is formally adopted;

(2) the local government shall post public notice of the prohibition in a central location within the boundary of the local government before the date the prohibition becomes effective; and

(3) the board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

Article 3. Retail Marijuana Stores.

Section

- 300. Retail marijuana store license required
- 305. Retail marijuana store privileges
- 310. Acts prohibited at retail marijuana store
- 315. Application for retail marijuana store license
- 320. Marijuana handler permit required
- 325. Access restricted at marijuana retail store
- 330. Marijuana inventory tracking system
- 335. Health and safety requirements
- 340. Testing required for marijuana and marijuana products
- 345. Packaging and labeling
- 350. Identification requirement to prevent sale to person under 21
- 355. Limit on quantity sold

360. Restriction on advertising of marijuana and marijuana products

3 AAC 306.300. Retail marijuana store license required. (a) Except as permitted under AS 17.38.020, a person may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a retail marijuana store license from the board in compliance with this chapter, or is an employee or agent acting for a licensed retail marijuana store operating in compliance with this chapter. A person seeking a retail marijuana store license must

(1) submit an application for a retail marijuana store license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.315; and

(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.300 - 3 AAC 306.360 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises is located.

(b) A licensee of any retail marijuana store, or an employee or agent of a retail marijuana store, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.305. Retail marijuana store privileges. (a) A licensed retail marijuana

store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for consumption off the licensed premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for consumption off the licensed premises;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 – 3 AAC 306.720;

(4) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

(b) This section does not prohibit a licensed retail store from refusing to sell marijuana or marijuana product to any consumer. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.310. Acts prohibited at retail marijuana store. (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

(1) to any person under the age of 21;

(2) to any person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(3) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(4) in a quantity exceeding the limit set out in 3 AAC 306.355;

(5) over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

(6) after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises, except as provided in paragraph (a)(4) of 3 AAC 306.305;

(3) offer or deliver to a consumer, as a marketing promotion or for any other reason:

(A) free marijuana or marijuana product, including a sample; or

(B) alcoholic beverages, free or for compensation. (Eff. ____/____/____,

Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.315. Application for retail marijuana store license. A person seeking a new retail marijuana store license must submit an application on a form the board prescribes

including the information required under 3 AAC 306.020, and the following

(1) a copy of the food safety permit required under 18 AAC 31.020(a);

(2) in the operating plan required under 3 AAC 306.020(c), a description of the way marijuana and marijuana products at the retail store will be displayed and sold. (Eff.

____/____/____, Register_____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.320. Marijuana handler permit required. A retail marijuana store shall ensure that

(1) each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, or a valid copy on file on the premises, at all times when on the licensed premises of the retail marijuana store. (Eff. ____/____/____, Register _____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.325. Access restricted at retail marijuana store. (a) A person under the age of 21 may not enter a retail marijuana store.

(b) Each entry to a retail marijuana store must be posted with a sign that says "No one under 21 years of age allowed." The sign must be not less than 12 inches long and 12 inches

wide, with letters at least one half inch in height in high contrast to the background of the sign.

(c) An area of a retail marijuana store's licensed premises where marijuana or any marijuana product is stocked for sale, or dispensed for sale, is a restricted access area. The retail marijuana store must post signs, require identification, and escort visitors in compliance with 3 AAC 306.710. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.330. Marijuana inventory tracking system. (a) A retail marijuana store shall use an inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the store's possession is identified and tracked from the time the retail marijuana store receives any batch of marijuana or lot of marijuana product through the sale, transfer to another licensed marijuana establishment, or disposal of the batch of marijuana or lot of marijuana product.

(b) When any marijuana from a marijuana cultivation facility or marijuana product from a marijuana product manufacturing facility is delivered or transported to the licensed premises of a retail marijuana store, the retail marijuana store shall immediately enter identification information for that batch of marijuana or lot of marijuana product into the retail marijuana store's inventory tracking system. A retail marijuana store may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the inventory tracking system of the marijuana establishment that originated the delivery.

(c) A retail marijuana store shall reconcile each transaction from the store's point of sale system and current inventory to its inventory tracking system at the close of business each day.

(d) A retail marijuana store shall account for any variance in the quantity of marijuana or marijuana product the store received and the quantity the store sold, transferred, or disposed of.

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.335. Health and safety requirements. A retail marijuana store must comply with each applicable health and safety requirement set out in 3 AAC 306.735. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.340. Testing required for marijuana and marijuana products. (a) A retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed, and the label required under 3 AAC 306.475 or 3 AAC 306.570 is affixed. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.345. Packaging and labeling. (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not

apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products;

(3) any marijuana or marijuana product sold at a retail marijuana store must be packaged in opaque, re-sealable, child-resistant packaging when the purchaser leaves the retail premises; the packaging must be designed or constructed to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

(2) states the total estimated amount of THC in the labeled product, and

(3) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There are health risks associated with consumption of marijuana"

(D) "For use only by adults twenty-one and older. Keep out of the reach of children;" and

(E) "Marijuana should not be used by women who are pregnant or breast feeding;" (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.350. Identification requirement to prevent sale to person under 21. (a)

A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid photo identification showing that person is 21 years of age or older.

(b) A valid form of identification includes:

- (1) an unexpired, unaltered passport;
- (2) an unexpired, unaltered driver's license; instruction permit, or identification card of any state or territory of the United States, the District of Columbia, or a province of Canada;
- (3) an identification card issued by a federal or state agency authorized to issue a driver's license or identification card. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.355. Limit on quantity sold. (a) A licensed retail marijuana store shall not sell more than the following quantity of marijuana or marijuana product in a single transaction:

- (1) one ounce of useable marijuana;
- (2) seven grams of marijuana concentrate for inhalation, or
- (3) marijuana or marijuana products containing more than 5600 Milligrams of THC. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.

(a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 square inches.

(b) An advertisement for marijuana or marijuana product may not contain any statement or illustration that

- (1) is false or misleading;
- (2) promotes excessive consumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under the age of 21 consuming marijuana; or

(5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

(1) within one thousand feet of the perimeter of any child-centered facility, including a school, childcare facility or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21;

- (2) on or in a public transit vehicle or public transit shelter; or
- (3) on or in a publicly owned or operated property;
- (4) within 1000 feet of a substance abuse or treatment facility; or
- (5) on a campus for post-secondary education.

(d) A retail marijuana store may not use giveaway coupons as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.

(e) All advertising for marijuana or any marijuana product must contain the following warnings:

- (A) "Marijuana has intoxicating effects and may be habit forming and addictive;"
- (B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"
- (C) "There are health risks associated with consumption of marijuana"
- (D) "For use only by adults twenty-one and older. Keep out of the reach of children;" and
- (E) "Marijuana should not be used by women who are pregnant or breast feeding." (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

Article 4. Marijuana Cultivation Facilities.

Section

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3 AAC 306.400. Marijuana cultivation facility license required. (a) Except as provided under AS 17.38.020, a person may not plant, propagate, cultivate, harvest, trim, dry, cure, package, or label marijuana grown at a place under that person's control, or sell marijuana grown at a place under that person's control to any marijuana establishment unless the person has obtained a marijuana cultivation facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana cultivation facility. The board will issue the following types of marijuana cultivation facility licenses, with the privileges

and subject to the prohibitions set out in sections 3 AAC 306.405 - 3 AAC 306.410:

(1) a standard marijuana cultivation facility license;

(2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with fewer than 500 square feet under cultivation.

(b) A person seeking a standard or limited marijuana cultivation facility license as provided in (a) of this section must

(1) submit an application for the applicable marijuana cultivation facility license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.420; and

(2) demonstrate to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of any marijuana cultivation facility, or an employee or agent of a marijuana cultivation facility, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.030 AS 17.38.090 AS 17.38.900
AS 17.38.070

3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts. (a) A licensed standard marijuana cultivation facility is authorized to

(1) propagate, cultivate, harvest, prepare, cure, package, store and label marijuana;

(2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;

(3) provide samples to a licensed marijuana testing lab for testing;

(4) store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's inventory tracking system as required under 3 AAC 306.730;

(5) transport marijuana in compliance with 3 AAC 306.750;

(6) conduct in-house testing for the marijuana cultivation facility's own use;

(7) provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale.

(b) A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains any other marijuana establishment license shall

(1) conduct any product manufacturing or retail marijuana store operation in a room completely separated from the cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer any marijuana or marijuana product to a consumer, with or without compensation;

(2) allow any person, including a licensee, employee, or agent, to consume

marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.410. Limited marijuana cultivation facility: privileges and prohibited acts. A licensed limited cultivation facility

(1) has the privileges set out in 3 AAC 305.405(a) and (b), except that it must have fewer than 500 square feet under cultivation; and

(2) is subject to each prohibition set out in 3 AAC 306.405(c). (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.090	AS 43.61.010
	AS 17.38.070	AS 17.38.100	AS 43.61.020
	AS 17.38.084	AS 17.38.900	

3 AAC 306.420. Application for marijuana cultivation facility license. (a) An applicant for a new standard marijuana cultivation facility license or a new limited marijuana

cultivation facility shall file an application on a form the board prescribes, including

(1) the information required under 3 AAC 306.020; and

(2) the proposed marijuana cultivation facility's operating plan, including, in

addition to the information required under 3 AAC 306.020(c):

(A) the size of the space intended to be under cultivation;

(B) the growing medium to be used;

(C) fertilizers, chemicals, gases, and delivery systems, including CO2

management, to be used;

(D) the irrigation and waste water systems to be used;

(E) waste disposal arrangements;

(F) odor control; and

(G) the testing procedure and protocols the marijuana cultivation facility

will follow.

(b) An applicant for a limited marijuana cultivation facility license must submit the information required for a new marijuana establishment license set out in 3 AAC 306.020, and

(a)(2) of this section. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

Editor's note: The form for an application for a marijuana cultivation facility license is available online as provided in the editor's note under 3 AAC 306.020.

3 AAC 306.425. Marijuana handler permit required. A marijuana cultivation facility must ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before

being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.430. Restricted access area. (a) A marijuana cultivation facility shall conduct any operation in a restricted area in compliance with 3 AAC 306.710 and this section.

(b) A marijuana cultivation facility shall conduct any marijuana growing operation within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Where not prohibited by local government, outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscuring wall or fence at least six feet high.

(c) A marijuana cultivation facility shall ensure that any marijuana at the cultivation facility

(1) cannot be observed by the public from outside the cultivation facility; and

(2) does not emit an odor that is detectable by the public from outside the cultivation facility except as allowed by a local government conditional use permit process.

(d) A marijuana cultivation facility shall have full video surveillance of the licensed premises as required under 3 AAC 306.720, including any area where marijuana is grown, processed, packaged, or stored, or where marijuana waste is destroyed. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.435. Marijuana inventory tracking system. (a) A marijuana cultivation facility shall use an inventory tracking system in compliance with 3 AAC 306.730 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility must assign a tracking number to each plant over 8 inches tall. When harvested, bud and flowers, clones or cuttings, or leaves and trim may be combined in harvest batches of distinct strains, not exceeding five pounds; each harvest batch must be given an inventory tracking number. Clones or cuttings must be limited to 50 or fewer plants and identified by a batch tracking number.

(b) A marijuana cultivation facility shall record each sale and transport of each batch in its marijuana inventory tracking system, and shall generate a valid transport manifest to accompany each transported batch.

(c) A marijuana cultivation facility shall record in its marijuana inventory tracking system all marijuana used to provide a sample authorized under 3 AAC 306.460 for the purpose of negotiating sales, including

- (1) the amount of each sample;
- (2) the retail marijuana store or marijuana product manufacturing facility that received the sample; and
- (3) the disposal of any expired or outdated promotional sample returned to the marijuana cultivation facility. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

3 AAC 306.440. Health and safety requirements. (a) A marijuana cultivation facility must comply with all applicable health and safety requirements set out in 3 AAC 306.735, and the additional requirements set out in this section.

(b) A marijuana cultivation facility shall ensure that any licensee, employee, or agent who is present at the marijuana cultivation facility and in contact with any marijuana

(1) wears clean clothing appropriate for the duties that person performs;

(2) wears protective apparel, such as head, face, hand and arm coverings, as necessary to protect marijuana from contamination; and

(3) practices good sanitation and health habits. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010

AS 17.38.084

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

3 AAC 306.445. Standards for cultivation and preparation. A marijuana cultivation facility shall use certified scales in compliance with AS 45.75.080 and 3 AAC 306.745. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010

AS 17.38.084

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

3 AAC 306.450. Production of marijuana concentrate prohibited. A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.455 on its licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation

facility must

(1) be in a separate room that

(A) is physically separated by a secure door from any cultivation area;

and

(B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and

(2) comply with all applicable provisions of 3 AAC 306.500 - 3 AAC 306.570.

(Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.455. Required laboratory testing. (a) Except as provided in (d) of this section, a marijuana cultivation facility shall provide a sample of each harvest batch of marijuana produced at the facility to a marijuana testing facility, and may not sell or transport any marijuana until all laboratory testing required by 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana cultivation facility shall

(1) collect a random, homogenous sample for testing by segregating harvested marijuana into batches of individual strains of bud and flower, then selecting a random sample from each batch in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755;

(3) transport the sample to the marijuana testing facility's licensed premises in compliance with 3 AAC 306.750.

(c) A marijuana cultivation facility shall segregate the entire batch from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana cultivation facility that provided the sample shall maintain the batch in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy. The facility that provided the sample may not sell or transport any marijuana from the segregated batch until the marijuana testing facility has completed its testing and provided those results, in writing, to the marijuana cultivation facility that provided the sample. The marijuana cultivation facility shall maintain the testing results as part of its business books and records.

(d) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.460. Samples. (a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store if packaged in a sample jar containing no more than 3 1/2 grams of marijuana and protected by a plastic or metal mesh screen to allow customers to smell the product before purchase.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a retail

marijuana store or marijuana product manufacturing facility as follows:

(1) a sample provided for the purpose of negotiating a sale may be no more than one ounce;

(2) a marijuana cultivation facility may not provide any one licensed retail marijuana store or marijuana product manufacturing facility with more than one ounce of marijuana per month free of charge for the purpose of negotiating a sale.

(c) A retail marijuana store that receives a marijuana sample may not sell the marijuana sample to a customer; and shall either

(1) return the marijuana sample to the cultivation facility that provided the sample; or

(2) destroy the marijuana sample after use and document the destruction in its marijuana inventory control system. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.465. Random sampling. (a) The board or the director will from time to time require a standard or limited marijuana cultivation facility to provide samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. The sample may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other laboratory tests the director finds to be in the interests of the public. The marijuana cultivation facility shall bear all costs of testing under this subsection.

(b) When the board or the director orders random sampling under this section, the director will identify a licensed marijuana testing facility to perform the testing. The marijuana

testing facility will collect the test samples; the marijuana cultivation facility shall cooperate to facilitate the collection of samples. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.470. Packaging of marijuana. (a) A licensed marijuana cultivation facility shall package its marijuana bud and flower for sale as follows:

(1) to a retail marijuana store, either

(A) in a package not exceeding one ounce for resale to consumers without additional handling by the retail marijuana store except to add the retail marijuana store's own identifying name or logo and license number; or

(B) in a wholesale package not exceeding five pounds for re - packaging by the retail marijuana store; or

(2) to a marijuana product manufacturing facility in a wholesale package not exceeding five pounds, consisting of a single strain or a mixture of strains as identified on the label.

(b) When a licensed marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the packaging may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must protect the product from contamination and must not impart any toxic or damaging substance to the marijuana;

(c) Each package prepared in compliance with this section must be identified by a tracking label generated for tracking by the marijuana cultivation facility's marijuana inventory control system.

(d) A marijuana cultivation facility shall prepare marijuana for transport or transfer to another marijuana establishment by

(1) placing marijuana packaged in compliance with (a) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 to the shipping container;
and

(3) generating a transport manifest from the marijuana cultivation facility's marijuana inventory system; the transport manifest must remain with the marijuana at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.475. Labeling of marijuana. (a) When a licensed marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the marijuana cultivation facility shall affix a label to each package of marijuana or marijuana product that contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There are health risks associated with consumption of marijuana;" and

(D) "For use only by adults twenty-one and older. Keep out of the reach of children"

(E) "Marijuana should not be used by women who are pregnant or breast

feeding.”

(b) With each harvest batch of marijuana sold, a marijuana cultivation facility must disclose in writing

(1) each soil amendment, fertilizer, and other crop production aid applied to the growing medium or marijuana plant included in the batch, including any pesticide, herbicide, or fungicide that was used; and

(2) the name of the licensed marijuana testing facility that performed any required laboratory test and the results of each required laboratory test.

(c) A marijuana cultivation facility may not label marijuana as organic.

(d) A marijuana cultivation facility shall affix a label containing the following information to each package of marijuana sold to another marijuana establishment.

(1) the name and license number of the marijuana cultivation facility where the marijuana was grown;

(2) the harvest batch number assigned to the marijuana in the package;

(3) the net weight of the marijuana in the package, not including weight of the shipping container, using a standard of measure compatible with the inventory tracking system; and

(4) a complete list of all pesticides, fungicides, and herbicides used in cultivation of the marijuana.

(e) If a marijuana cultivation facility transports wholesale marijuana to another marijuana establishment for sale at retail or for use in manufacturing a marijuana product, then a label must be affixed to the shipping container showing that a licensed marijuana testing facility has tested each harvest batch in the shipment as provided in 3 AAC 306.645. The label must

report the test results, including the following information:

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that strain of marijuana from the same marijuana cultivation facility within the last three months;

(2) a statement listing the results of microbial testing required by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC 306.645(b)(3), if applicable;

(4) a statement listing any of the following contaminants for which the product was tested:

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(B) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(f) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (e)(4) of this section, the label for that batch must include a statement identifying each contaminant listed in (e)(4) of this section for which that harvest batch has not been tested. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.480. Marijuana tax to be paid. (a) A marijuana cultivation establishment, including a standard marijuana cultivation facility and a limited marijuana cultivation facility

shall submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020 on all marijuana sold, or provided as a sample to any marijuana establishment. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.900
	AS 17.38.030	AS 17.38.090	AS 43.61.010
	AS 17.38.070	AS 17.38.100	AS 43.61.020

Article 5. Marijuana Product Manufacturing Facilities.

Section

- 500. Marijuana product manufacturing facility license required
- 505. Marijuana product manufacturing facility privileges
- 510. Acts prohibited at marijuana product manufacturing facility
- 515. Marijuana concentrate manufacturing facility license
- 520. Application for marijuana product manufacturing facility license
- 525. Approval of concentrates and marijuana products
- 530. Marijuana handler permit and food safety worker training
- 535. Restricted access and storage areas
- 540. Marijuana inventory tracking system
- 545. Health and safety standards
- 550. Required laboratory testing
- 555. Production of marijuana concentrate
- 560. Potency limits per serving and transaction for edible marijuana products
- 565. Packaging of marijuana products

570. Labeling of marijuana products

3 AAC 306.500. Marijuana product manufacturing facility license required. (a) A person may not extract marijuana concentrate for sale, or formulate or manufacture any marijuana product for sale unless that person has obtained a marijuana product manufacturing facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana product manufacturing facility. The board will issue

(1) a standard marijuana product manufacturing facility license; and

(2) a marijuana concentrate manufacturing facility license.

(b) A person seeking any type of marijuana product manufacturing facility license must

(1) submit an application for a marijuana product manufacturing facility license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.520; and

(2) demonstrate to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306-700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of any marijuana product manufacturing facility, or an employee or agent of a marijuana product manufacturing facility, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. ____/____/____,

Register _____)

Authority: AS 17.38.010

AS 17.38.084

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

3 AAC 306.505. Marijuana product manufacturing facility privileges. (a) Except as provided in 3 AAC 306.515, a licensed marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, is authorized to

(1) purchase marijuana from a marijuana cultivation facility or from another marijuana product manufacturing facility;

(2) extract marijuana concentrate in compliance with 3 AAC 306.555;

(3) manufacture, refine, process, cook, package, label, and store marijuana products approved under 3 AAC 306.525, including

(A) marijuana concentrate; or

(B) any product intended for consumption or use on the body that is comprised of marijuana and other ingredients, including edible products, ointments, salves, patches, or tinctures;

(4) sell, distribute, or deliver marijuana extract or any marijuana product only to a licensed retail marijuana store or to another licensed marijuana product manufacturing facility;

(5) provide and transport samples of marijuana concentrate or other marijuana product to a certified marijuana testing lab for testing;

(6) provide a sample of marijuana concentrate or a marijuana product approved under 3 AAC 306.525 to a licensed retail marijuana store for the purpose of negotiating a sale;

(7) store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535; and

(8) transport marijuana in compliance with 3 AAC 306.750; or

(9) conduct in-house testing for the marijuana product manufacturing facility's

own use. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility. (a)

A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate manufacturing facility, may not

(1) sell, deliver, distribute, or transfer marijuana, marijuana concentrate, or a marijuana product directly to a consumer, with or without compensation;

(2) sell marijuana, marijuana concentrate, or a marijuana product that is not manufactured, packaged, and labeled in compliance with 3 AAC 306.500 – 3 AAC 306.570;

(3) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

(4) manufacture or sell any product that

(A) is an adulterated food or drink;

(B) closely resembles any familiar food or drink item including candy; or

(C) is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children.

(b) In this section, “closely resemble” or “look like” means the product or its packaging has a shape, color, markings, or decorative patterns that are familiar to the public from a widely distributed branded food product, so that the marijuana product could reasonably be mistaken for that branded product, especially by children.

(c) A marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the facility that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment. Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.090 AS 17.38.900
AS 17.38.070 AS 17.38.100 AS 43.61.010
AS 17.38.084

3 AAC 306.515. Marijuana concentrate manufacturing facility license. A licensed marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not

(1) manufacture, refine, process, cook, package, label or store any marijuana product other than marijuana concentrate;

(2) sell, distribute, or deliver any marijuana product other than marijuana concentrate to a retail marijuana store or to another marijuana product manufacturing facility;

(3) provide and transport a sample of any marijuana product other than marijuana concentrate to a licensed marijuana testing lab for testing; or

(4) provide samples of any product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.520. Application for marijuana product manufacturing facility license. An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility, must file an application on a form the board prescribes, and

provide the information required under 3 AAC 306.020 and the following:

(1) a copy of a food safety permit if required under 18 AAC 31.020 from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;

(2) a diagram of the proposed licensed premises required in 3 AAC 306.020(b), identifying the area where

(A) in-house testing, if any, will occur; and

(B) marijuana and any marijuana product, including marijuana concentrate, will be stored;

(3) in the applicant's operating plan required under 3 AAC 306.020(c), a description of

(A) the equipment and solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;

(B) each marijuana product the applicant intends to process at this location; the product description must include the color, shape, texture, ingredients and standard production procedure to be used and the additional information required for product approval in 3 AAC 306.525;

(C) the packaging to be used for each type of product; and

(D) sample labels showing how the labeling information required in 3 AAC 306.570 will be set out; and

(E) the applicant's plan for disposal of waste. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

Editor's note: The form for an application for a marijuana product manufacturing facility license or a marijuana concentrate manufacturing license is available online as provided in the editor's note under 3 AAC 306.020.

3 AAC 306.525. Approval of concentrates and marijuana products. (a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, must obtain the board's approval for each product it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve any product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may at any time submit a new product approval request to the board on a form the board prescribes along with a fee of \$250.

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility must be made available for inspection on request by the director, or an employee or agent of the board. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.530. Marijuana handler permit and food safety worker training. (a) A marijuana product manufacturing facility including a licensed marijuana concentrate manufacturer facility shall ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing facility who handles marijuana at the facility shall obtain a food safety worker card in compliance with AS 18.31.330, and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.535. Restricted access and storage areas. (a) A marijuana product manufacturing facility shall conduct any extraction or product manufacturing operation in a restricted area in compliance with 3 AAC 306.710.

(b) A marijuana product manufacturing facility shall have full video surveillance of the

licensed premises as provided in 3 AAC 306.720, including any area where

- (1) marijuana concentrate is produced;
- (2) any operation involved in manufacturing any product containing marijuana

occurs,

- (3) marijuana or a marijuana product is stored or stockpiled; or
- (4) marijuana waste is destroyed.

(c) Any area where marijuana or a marijuana product is stored must be moisture and temperature controlled and protected from pests and vermin. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.540. Marijuana inventory tracking system. (a) A marijuana product manufacturing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure that the marijuana product manufacturing facility identifies and tracks any marijuana or marijuana product from the time the marijuana or marijuana product is received, through

- (1) use of the marijuana or marijuana product in manufacturing any other marijuana product;
- (2) sale or transfer of the marijuana or marijuana product originally received, or any marijuana product manufactured at that marijuana product manufacturing facility to another licensed marijuana establishment; and
- (3) disposal of any expired or outdated marijuana or marijuana product that is not sold or transferred to another licensed marijuana establishment.

(b) When marijuana from a marijuana cultivation facility or marijuana product from another marijuana product manufacturing facility is delivered or transported to the licensed premises of a marijuana product manufacturing facility, the marijuana product manufacturing facility shall immediately enter tracking information for that marijuana or marijuana product into the inventory tracking system. A marijuana product manufacturing facility may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the marijuana inventory tracking system of the licensed marijuana establishment that supplies the marijuana or marijuana product.

(c) A marijuana product manufacturing facility shall track any received marijuana or marijuana product to its use in a marijuana product, and shall reconcile each transaction to its inventory tracking system at the close of business each day.

(d) A marijuana product manufacturing facility shall account for any variance in the quantity of marijuana or marijuana product the facility received, and the quantity the facility sold, transferred, or disposed of. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.545. Health and safety standards. (a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.735, the Alaska Food Safety Code, 18 AAC 31, if applicable, and any local kitchen-related health and safety standards for retail food establishments.

(b) In addition to inspection by the director or an employee or agent of the board, a marijuana product manufacturing facility is subject to inspection by local safety officials, including a local fire department, building inspector, or code enforcement officer. (Eff. ____/____

/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.550. Required laboratory testing. (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed marijuana testing facility, and may not sell or transport any marijuana product until all laboratory testing required by 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana product manufacturing facility shall

(1) collect a random sample for testing by selecting a product from each production lot in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755, and

(3) transport the sample to the marijuana testing facility in compliance with 3 AAC 306.750.

(c) After collecting and transporting a sample for testing, a marijuana product manufacturing facility shall segregate the entire production lot from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana product manufacturing facility that provided the sample shall maintain the production lot in a secure, cool, and dry location to prevent the marijuana

product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility may not sell or transport any marijuana product from the segregated lot until the marijuana testing facility has completed its testing and analysis and provided those results, in writing, to the marijuana product manufacturing facility that provided the sample. The marijuana product manufacturing facility shall maintain the testing results as part of its business records.

(e) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.555. Production of marijuana concentrate. (a) Before producing any marijuana concentrate for sale, a marijuana product manufacturing facility shall develop standard operating procedures, good manufacturing practices, a safety plan, and a training plan for each individual employed in an extraction process.

(b) A marijuana product manufacturing facility may create marijuana concentrates only as follows:

(1) water-based marijuana concentrate may be produced by extracting cannabinoids from marijuana by using only water, ice or dry ice;

(2) food-based marijuana concentrate may be produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; infused dairy butter and oils or fats derived from natural sources may

be used to prepare infused edible products, but may not be prepared as stand-alone edible products for sale;

(3) solvent-based marijuana concentrate may be produced using the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases the board approves that exhibit low to minimal potential human health-related toxicity; approved solvents must be of at least ninety-nine percent purity and must be used

(A) in a professional grade closed loop extraction system designed to recover the solvents;

(B) in an environment with proper ventilation; and

(C) with control of all sources of ignition if a flammable atmosphere is or may be present.

(c) A marijuana product manufacturing facility using a professional grade closed loop gas extraction system must ensure that

(1) every vessel is used in compliance with the manufacturer's stated pressure ratings;

(2) any CO₂ used is of at least ninety-nine percent purity;

(3) any person using a solvent or gas to extract marijuana concentrate in the closed looped system must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store the solvent and gas safely;

(4) a licensed engineer has certified that the professional grade closed loop system was commercially manufactured, is safe for its intended use, and is built to codes of recognized and generally accepted engineering practices;

(5) any professional grade closed loop system, and other equipment and facilities

used in the extraction process must be approved for their use by the local fire code official and must meet any applicable fire, safety, and building code requirements.

(d) A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(e) A marijuana product manufacturing facility may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere. (Eff.

____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products. (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of marijuana product, five milligrams active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of marijuana product to be eaten or swallowed, not more than ten servings, or fifty milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product. (Eff. ____/____

/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.565. Packaging of marijuana products. (a) A marijuana product manufacturing facility shall observe the potency limits set out in 3 AAC 306.560 in packaging each product for resale by a retail marijuana store.

(b) A container or packaging for any edible marijuana product produced by a marijuana product manufacturing facility may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and not impart any toxic or damaging substance to the product;

(2) if the marijuana product contains multiple servings, the product itself must have markings or demarcations clearly delineating each serving of the product. For liquid marijuana products with multiple servings the packaging must indicate the number and size of individual servings.

(c) A licensed marijuana product manufacturing facility may transfer marijuana products that are not edible marijuana products to another licensed facility in wholesale packages not to exceed 5 pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory control system.

(e) A licensed marijuana product manufacturing facility shall prepare marijuana products for transfer to another marijuana establishment by

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) to the shipping container; and

(3) generating a transport manifest from the marijuana product manufacturing facility's marijuana inventory system; the transport manifest must remain with the marijuana products at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.570. Labeling of marijuana products. (a) With each production lot of marijuana product sold, a marijuana product manufacturing facility must disclose in writing the name of the licensed marijuana testing facility that performed any required test and the results of each required test.

(b) A marijuana product may not be labeled as organic.

(c) A marijuana product manufacturing facility shall affix a label containing the following information to each package of marijuana product sold to a retail store for resale to a consumer:

(1) the name and license number of the marijuana product manufacturing facility where the marijuana product was prepared;

(2) the production lot number assigned to the product in the package;

(3) the net weight of the product in the package, not including weight of packaging, using a standard of measure compatible with the inventory tracking system;

(4) a label containing the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There are health risks associated with consumption of marijuana;" and

(D) "For use only by adults twenty-one and older. Keep out of the reach of children"

(E) "Marijuana should not be used by women who are pregnant or breast feeding."

(d) A marijuana product manufacturing facility transporting marijuana product to a retail marijuana store shall affix a label to the shipping container showing that a licensed marijuana testing facility has tested each lot of marijuana product in the shipment and giving the test results, including the following information:

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that production lot from the same marijuana product manufacturing facility within the last three months;

(2) a statement listing the results of microbial testing required by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC 306.645(b)(3), if applicable;

(4) a statement listing any of the following contaminants for which the product was tested:

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(B) herbicides, pesticides, and fungicides, and

(C) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana product from a production lot of marijuana product that has not been tested for each contaminant listed in (d)(4) of this section, the label for that lot must include a statement identifying each contaminant listed in (d)(4) of this section for which that lot has not been tested. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

Article 6. Marijuana Testing Facilities.

Section

- 600. Applicability
- 605. Marijuana testing facility license required
- 610. Marijuana testing facilities: privileges and prohibitions
- 615. Application for marijuana testing facility license
- 620. Approval of testing facility
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- 645. Laboratory testing of marijuana and marijuana products
- 650. Chain of custody
- 655. Marijuana inventory tracking system
- 660. Failed materials, retests

665. Supplemental marijuana quality testing

670. Reporting, verification

675. Records retention

3 AAC 306.600. Applicability. (a) The provisions of 3 AAC 306.600 - 3 AAC 306.675 apply to any person offering any service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminant in marijuana or any marijuana product to any other person including a marijuana establishment or any member of the public, whether for compensation or not, as a independent or third party testing facility.

(b) The provisions of 3 AAC 306.600 - 3 AAC 306.675 do not apply to any licensed marijuana establishment that controls marijuana testing equipment used solely for its own in-house testing of its own cultivated crop, of products produced or manufactured at its own facility, or of retail products placed or offered for sale in its marijuana retail store. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.605. Marijuana testing facility license required. (a) A person may not offer or provide any marijuana testing service or test results unless the person has obtained a marijuana testing facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana testing facility.

(b) A person seeking a marijuana testing facility license must

(1) submit an application for a marijuana testing facility license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.615; and

(2) demonstrate to the board's satisfaction that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.600 – 3 AAC 306.675, and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(C) does not hold any marijuana establishment license in this state other than a testing facility license, or have any financial interest in common with any person who is a licensee of a marijuana establishment in this state other than a testing facility license; and

(D) meets the board's standards for approval as set out in 3 AAC 306.620 - 3 AAC 306.625.

(c) A licensee of any marijuana testing facility, or an employee or agent of a licensed marijuana testing facility may not have an ownership interest in, or a direct or indirect financial interest in any other licensed marijuana establishment. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.610. Marijuana testing facilities: privileges and prohibitions. (a) A licensed marijuana testing facility may have any amount of marijuana and marijuana product on its premises at any given time provided that the testing facility's marijuana inventory tracking system and other records document that all marijuana and marijuana products are on the premises only for the testing purposes described in 3 AAC 306.600 – 3 AAC 3306.675.

(b) A licensed marijuana testing facility may not

(1) have any licensee, employee, or agent who holds any type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;

(2) sell, deliver, distribute, or transfer any marijuana or marijuana product to a consumer, with or without compensation; or

(3) allow any person to consume marijuana or marijuana product on its licensed premises. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.615. Application for marijuana testing facility license. An applicant for a new marijuana testing facility license must file an application on a form the board prescribes, including

(1) the information required under 3 AAC 306.020; and

(2) the proposed marijuana testing facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c), the following:

(A) each test the marijuana testing facility will offer;

(B) the facility's standard operating procedure for each test the facility will offer; and

(C) the acceptable range of results for each test the facility will offer.

(Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.620. Approval of testing facility. (a) A person seeking a marijuana testing

facility license must first obtain the approval of the board by showing competence to perform each test the licensee will offer as an independent third party testing facility, including tests to identify

- (1) THC, THCA, CBD, CBDA and CBN potency;
- (2) harmful microbials including E. coli or salmonella;
- (3) residual solvents;
- (4) poisons or toxins;
- (5) harmful chemicals;
- (6) dangerous molds, mildew or filth;
- (7) pesticides.

(b) In evaluating whether a person has shown competence in testing under this section, the board or the board's contractor may

- (1) conduct an on-site inspection of the applicant's premises;
- (2) require the applicant to demonstrate proficiency in testing; and
- (3) examine compliance with any applicable requirement of 3 AAC 306.630 -

3AAC 306.675, and 3 AAC 306.700 - 3AAC 306.755, including

- (A) qualifications of personnel;
- (B) standard operating procedure for each testing methodology the facility will use;
- (C) proficiency testing results;
- (D) quality control and quality assurance;
- (E) security;
- (F) chain of custody;

- (G) specimen retention;
- (H) space;
- (I) records; and
- (J) reporting of results.

(c) In this section, “approval” means the board or its contractor has examined the qualifications and procedures of the marijuana testing facility license applicant and found them generally in compliance with good laboratory practices; “approval” does not mean the board guarantees that the testing facility can or will protect the public from all potential hazards of marijuana including microbials, poisons or toxins, residual solvents, pesticides, or other contaminants. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.625. Proficiency testing program. (a) When an accredited proficiency testing program becomes available in the state, the board may require an applicant for a marijuana testing facility license to participate successfully in a proficiency testing program within 12 months before receiving a license. The proficiency testing program must require an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be used for product testing. Successful participation means the positive identification of 80 percent of the target analytes that the testing facility reports, and must include quantitative results when applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency test.

(b) Before renewing the license of a marijuana testing facility, the board may require the

facility to participate in a proficiency testing program with documentation of continued performance satisfactory to the board. The license of a marijuana testing facility may be limited, suspended, or revoked if the facility fails to participate and receive a passing score in a proficiency testing program.

(c) The scientific director and each testing analyst of an applicant for a marijuana testing facility license and a licensed marijuana testing facility that participated in a proficiency test shall sign a corresponding attestation statement. The scientific director must review and evaluate each proficiency test result.

(d) An applicant for a marijuana testing facility license, and a licensed marijuana testing facility participating in the proficiency testing program, shall take and document remedial action when the applicant or the facility meets the standards of (a) of this section, but scores less than 100 percent in a proficiency test. "Remedial action" means the marijuana testing facility's scientific director shall, at a minimum, review all samples tested and results reported after the date of the marijuana testing facility's last successful proficiency test. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.630. Scientific director. (a) A marijuana testing facility must employ a scientific director who must be responsible for

- (1) overseeing and directing the laboratory's scientific methods;
- (2) ensuring that the laboratory achieves and maintains quality standards of practice; and
- (3) supervising all staff of the laboratory.

(b) The scientific director of a marijuana testing facility must have the following qualifications:

(1) a doctorate degree in chemical or biological sciences from an accredited college or university and have at least 2 years of post-degree laboratory experience;

(2) a master's degree in chemical or biological sciences from an accredited college or university and have at least 4 years of post-degree laboratory experience; or

(3) a bachelor's degree in chemical or biological sciences from an accredited college or university and have at least 6 years of post-degree laboratory experience. (Eff.

___/___/___, Register ___)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.635. Testing methodologies. (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall

(1) use the following materials, which are adopted by reference, as guidelines or references for testing methodologies:

(A) *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014* published by the American Herbal Pharmacopoeia; and

(B) United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).

(2) notify the board of any alternative scientifically valid testing methodology the facility proposes to use for any laboratory test it conducts; the board may require third-party validation of any monograph, peer reviewed scientific journal article, or analytical method the

marijuana testing facility proposes to follow to ensure the methodology produces comparable and accurate results.

(b) An applicant for a marijuana testing facility license and the holder of a marijuana testing facility license must observe good laboratory practices.

(c) The board or the board's contractor may inspect the practices, procedures, and programs adopted, followed, and maintained by the applicant or the licensed marijuana testing facility; and may examine all records of the applicant or the licensed marijuana testing facility that are related to the inspection. The board may require an applicant or a licensed marijuana testing facility to have an independent third party inspect and monitor laboratory operations to assess testing competency and the facility's compliance with its quality program. The board may require random validation of a marijuana testing facility's execution of all testing methodologies the facility uses. The marijuana testing facility must pay all costs of validation. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

Editor's note: *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014*, published by the American Herbal Pharmacopoeia may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address <http://www.herbal-ahp.org/>

United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).is available at the internet address <https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf>

OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organisation for Economic Co-operation and Development as revised as of 1997 is available at the internet address

3 AAC 306.640. Standard operating procedure manual. (a) An applicant for a

marijuana testing facility license and a licensed marijuana testing facility must have a written procedures manual with detailed instructions explaining how to perform each testing method the applicant or marijuana testing facility uses, and minimum standards for each test. The written procedures manual must be available to each employee of the marijuana testing facility at all times. A standard operating procedures manual must cover at least the following procedures:

- (1) sample preparation for each matrix that will be tested;
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;
- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results;
- (7) identification criteria;
- (8) quality control frequency;
- (9) quality control acceptance criteria; and
- (10) corrective action protocol.

(b) The scientific director of a licensed marijuana testing facility shall approve, sign, and date each standard operating procedure, and each revision to any standard operating procedure.

(Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products. (a) A licensed marijuana testing facility must use the general body of required laboratory tests for marijuana plant material, any extract or concentrate of marijuana, and any edible marijuana

products as listed in the tables in this section. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

(b) The tests required for each marijuana type or marijuana product, are as follows:

(1) potency testing is required on marijuana bud and flower, marijuana concentrate, and marijuana product, and is subject to the following rules:

(A) required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid provided the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, by listing for each required cannabinoid a single percentage concentration that represents an average of all samples within the test batch; alternatively, the sum of THC + THCA may be reported as total THC; the sum of CBD + CBDA may be reported as total CBD;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, by listing for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale; and

(iii) for testing whether the THC content is homogenous, the THC content of each single serving in a multi-unit package must be reported, and must

be within 20% of the manufacturer's target; for example, in a 25 mg total THC package with 5 servings, each serving must contain between 4 and 6 mg of THC;

(C) edible marijuana products will be considered to have failed potency testing if:

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than 50 mg of THC within it;

(ii) if the THC content of an edible marijuana product is not homogenous;

(2) microbial testing for the listed substances on the listed marijuana products is required as follows:

Substance	Acceptable Limits Per Gram	Product to be Tested
-Shiga-toxin producing Escherichia coli (STEC)*- Bacteria	< 1 Colony Forming Unit (CFU/g)	Flower; Retail Marijuana Products; Water- and Food-Based Concentrates
Salmonella species* – Bacteria	< 1 Colony Forming Unit (CFU/g)	
Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger - Fungus	< 1 Colony Forming Unit (CFU/g)	

(3) testing for the listed residual solvents and metals on the listed marijuana products is required as follows:

Substance	Acceptable Limits Per Gram	Product to be Tested
Butanes	< 800 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< 500 Parts Per Million (PPM)	
Benzene**	< .025 Parts Per Million (PPM)	
Toluene**	< 1 Parts Per Million (PPM)	
Hexane**	< 10 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 1 Parts Per Million (PPM)	

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.650. Chain of custody. A marijuana testing facility must establish an adequate chain of custody and sample requirement instructions that include

- (1) issuing instructions for the minimum sample requirements and storage requirements;
- (2) documenting the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the sample;
- (3) documenting the condition and amount of sample provided at the time the sample is received at the facility;
- (4) documenting each person handling the original samples, aliquots, and extracts;
- (5) documenting any transfer of samples, aliquots, and extracts to another marijuana testing facility for additional testing or at the request of the marijuana cultivation facility or marijuana product manufacturer that provided the testing sample;
- (6) maintaining a current list of authorized personnel and restricting entry to the facility to those authorized persons;
- (7) securing the facility during non-working hours;
- (8) securing short-term and long-term storage areas when not in use;
- (9) using a secured area to log in and aliquot samples;
- (10) ensuring samples are stored appropriately; and
- (11) documenting the disposal of samples, aliquots, and extracts. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

3 AAC 306.655. Marijuana inventory tracking system. A marijuana testing facility shall use an inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana transported to the marijuana testing facility's premises is identified and tracked from the time the marijuana arrives at the testing facility to the use and destruction of the marijuana in testing, or disposal in compliance with 3 AAC 306.740. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.660. Failed materials, retests. (a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, the facility that provided the sample shall

(1) dispose of the entire harvest batch or production lot from which the sample was taken; and

(2) document the disposal of the sample using its marijuana inventory control system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fails the required test. The board may approve a request to allow a batch of marijuana that fails a required test to be used to make a CO2 or solvent-based extract. After processing, the CO2 or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a re-test of marijuana or a marijuana product that failed a required test, the board may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility must pay all costs of a retest. (Eff. ____/____/____,

Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.665. Supplemental marijuana quality testing. (a) The board or director may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board or director requires random supplemental marijuana testing, the board or director will direct the marijuana cultivation facility that produced the marijuana, or the marijuana product manufacturing facility that manufactured the product, to submit a specified sample, batch, or packaged product to a designated marijuana testing facility. The material must be packaged in a manner that ensures the testing facility will be able to confirm that it has received and is testing the correct supplemental sample.

(b) When a marijuana testing facility receives a sample for supplemental laboratory testing under this section, the marijuana testing facility shall

- (1) perform any required laboratory test the board requests; and
- (2) report its results to the board or director and the facility that provided the sample.

(c) A marijuana testing facility that conducts laboratory testing under this section shall bill all costs directly to the marijuana cultivation facility or the marijuana product manufacturing facility that provided the samples for testing. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.670. Reporting, verification. (a) A marijuana testing facility must report the result of each required laboratory test directly into its marijuana inventory control system

within twenty-four hours after the test is completed. A marijuana testing facility must provide the final report

- (1) to the facility that submitted the sample in a timely manner; and
- (2) to the director within 72 hours when results of tested samples exceed

allowable levels.

(b) A marijuana testing facility shall establish procedures to ensure that reported results are accurate, precise, and scientifically valid. To ensure reported results are valid, a marijuana testing facility must include in all final reports:

- (1) the name and location of the marijuana testing facility;
- (2) the unique sample identifier assigned by the testing facility;
- (3) the marijuana establishment or other person that submitted the testing sample;
- (4) the sample identifier provided by the person that submitted the testing

sample;

- (5) the date the facility received the sample;
- (6) the chain of custody identifier;
- (7) the date of report;
- (8) the type of product tested;
- (9) the test results;
- (10) the units of measure; and

(11) any other information or qualifiers needed for interpretation of the test method and the results being reported, including any identified and documented discrepancy.

(c) A marijuana testing facility may amend a final report for clerical purposes except that test results may not be amended. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.675. Records retention. A marijuana testing facility shall maintain the business records required under 3 AAC 306.755 for the period of time specified in that section.

The books and records required under 3 AAC 306.755(a)(1) include:

- (1) test results;
- (2) quality control and quality assurance records;
- (3) standard operating procedures;
- (4) chain of custody records;
- (5) proficiency testing records;
- (6) analytical data to include printouts generated by the instrumentation;
- (7) accession numbers;
- (8) specimen type;
- (9) raw data of calibration standards and curves, controls and subject results;
- (10) final and amended reports;
- (11) acceptable reference range parameters;
- (12) identity of analyst; and
- (13) date of analysis. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

Article 7. Operating Requirements for All Marijuana Establishments.

Section

- 700. Marijuana handler permit
- 705. Licensed premises, alteration
- 710. Restricted access areas
- 715. Security alarm systems and lock standards
- 720. Video surveillance
- 725. Inspection of licensed premises
- 730. Marijuana inventory tracking system
- 735. Health and safety standards
- 740. Waste disposal
- 745. Standardized scales
- 750. Transportation
- 755. Business records

3 AAC 306.700. Marijuana handler permit. (a) A marijuana establishment and each licensee, employee, or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

(b) To obtain a marijuana handler permit, a person shall complete a marijuana handler permit education course approved by the board, pass a written test demonstrating an understanding of the course material, and obtain a certificate of course completion from the course provider. An approved marijuana handler permit education course must cover at least the following topics:

- (1) AS 17.37, AS 17.38, and this chapter;

(2) the effects of consumption of marijuana and marijuana products;

(3) how to identify a person impaired by consumption of marijuana;

(3) how to determine valid identification;

(4) how to intervene to prevent unlawful marijuana consumption; and

(5) the penalty for an unlawful act by a licensee, an employee, or an agent of a marijuana establishment.

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit course described under (b) of this section shall present the course completion certificate to the director. The director shall issue a marijuana handler permit card valid for three years from the date of issue. A person may renew a card issued under this section by passing a written test demonstrating an understanding of the course subjects.

(d) A licensee, employee, or agent of a marijuana establishment shall keep the marijuana handler permit card described in (c) of this section in that person's immediate possession when on the licensed premises of the retail marijuana store.

(e) The board will review an approved marijuana handler permit education course at least once every three years, and may rescind approval of the course if the board finds that the education course contents are insufficient or inaccurate. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.705. Licensed premises, alteration. (a) A marijuana establishment license will be issued for a specific licensed premises, which is a place clearly designated in a license application and described by a line drawing submitted with the license application. The licensed

premises must

- (1) have adequate space for its approved operations, including growing, manufacturing, processing, packaging, or storing marijuana or marijuana products; and
- (2) be located and constructed to facilitate cleaning, maintenance, and proper operation.

(b) A marijuana establishment's license must be posted in a conspicuous place within the licensed premises.

(c) A holder of a marijuana establishment license may not alter the functional floor plan or reduce or expand the area of the licensed premises without first obtaining the director's written approval. A marijuana establishment license holder seeking to change or modify the licensed premises shall submit a request for approval of the change on a form prescribed by the board, along with

- (1) the fee prescribed in 3 AAC 306.100;
- (2) a drawing showing the proposed change;
- (3) evidence that the proposed change conforms to any local restrictions; and
- (4) evidence that the licensee has obtained any applicable local building permit.

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
 AS 17.38.070 AS 17.38.090 AS 17.38.900
 AS 17.38.084

3 AAC 306.710. Restricted access areas. (a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked.

(b) Except as provided in 3 AAC 306.325 for a marijuana retail store, each entrance to a restricted access area must be marked by a sign that says “Restricted access area. Visitors must be escorted.” A marijuana establishment shall limit the number of visitors to not more than five visitors for each licensee, employee, or agent of the licensee who is actively engaged in supervising those visitors.

(c) In a restricted access area, any licensee, employee, and agent of the marijuana establishment shall wear a current identification badge bearing the person’s photograph. A person under the age of 21 may not enter any restricted access area. Any visitor to the restricted area must

(1) show identification as required in 3 AAC 306.350 to prove that person is not under the age of 21;

(2) obtain a visitor identification badge before entering the restricted access area; and

(3) be escorted at all times by a licensee, or an employee or an agent of the marijuana establishment. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.715. Security alarm systems and lock standards. (a) Each licensee, employee, or agent of a marijuana establishment shall display an identification badge issued by the marijuana establishment at all times when on the marijuana establishment’s licensed premises.

(b) The licensed premises of a marijuana establishment must have

- (1) exterior lighting to facilitate surveillance;
- (2) a security alarm system on all exterior doors and windows; and
- (3) continuous video monitoring as provided in 3 AAC 306.720.

(c) A marijuana establishment shall have policies and procedures that

- (1) are designed to prevent diversion of marijuana or marijuana product;
- (2) prevent loitering;
- (3) describe the use of any additional security device, such as a motion detector,

pressure switch, and duress, panic, or hold-up alarm to enhance security of its licensed premises; and

(4) describe the actions to be taken by a licensee, employee, or agent of the marijuana establishment when any automatic or electronic notification system alerts a local law enforcement agency of an unauthorized breach of security.

(d) A marijuana establishment must use commercial grade, non-residential door locks on all exterior entry points to the licensed premises. Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.720. Video surveillance. (a) A marijuana establishment shall install and maintain a video surveillance and camera recording system as provided in this section. The video system must cover

- (1) each restricted access area and each entrance to a restricted access area within the licensed premises;
- (2) each entrance to the exterior of the licensed premises;

(3) each point-of-sale area.

(b) At a marijuana establishment, a required video camera must be placed in a way that produces a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises. Both the interior and the exterior of each entrance to the facility must be recorded by a video camera.

(c) Any area where marijuana is grown, cured, or manufactured, or where marijuana waste is destroyed, must have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, in order to allow for the clear and certain identification of any person and activity in the area at all times.

(d) Surveillance recording equipment and video surveillance records must be housed in a locked and secure area or in a lock box, cabinet, closet or other secure area that is accessible only to a marijuana establishment licensee or authorized employee, and to law enforcement personnel including an agent of the board. A marijuana establishment may use an offsite monitoring service and offsite storage of video surveillance records as long as security requirements at the offsite facility are at least as strict as onsite security requirements as described in this section.

(e) Each surveillance recording must be preserved for a minimum of 40 days, in a format that can be easily accessed for viewing. All recorded images must clearly and accurately display the time and date, and must be archived in a format that does not permit alteration of the recorded image, so that the images can readily be authenticated. After 40 days, a marijuana establishment may erase video recordings, unless the licensee knows or should know of any pending criminal, civil, or administrative investigation for which the video recording may

contain relevant information. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.725. Inspection of licensed premises. (a) A marijuana establishment or an applicant for a marijuana establishment license under this chapter shall, upon request, make the licensed premises or the proposed licensed premises, including any place for storage, available for inspection by the director, an employee or agent of the board, or an officer charged with the enforcement of this chapter. The board or the director may also request a local fire protection agency or any other state agency with health and safety responsibilities to inspect licensed premises or proposed licensed premises.

(b) Inspection under this section includes inspection of the premises, facilities, qualifications of personnel, methods of operation, business and financial records, marijuana inventory tracking system, policies, and purposes of any marijuana establishment and of any applicant for a marijuana establishment license. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.730. Marijuana inventory tracking system. (a) A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana

establishment, or use in manufacturing a product, to a completed sale of marijuana or marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

(b) All marijuana delivered to a marijuana establishment must be weighed on a scale certified in compliance with 3 AAC 306.745. (Eff. ____/____/____, Register ____)

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.735. Health and safety standards. (a) A marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present.

(b) A marijuana establishment shall take all reasonable measures and precautions to ensure that

(1) any person who has an illness, an open sore or infected wound, or other potential source of infection may not come in contact with marijuana or a marijuana product while the illness or source of infection persists;

(2) the licensed premises have

(A) adequate and readily accessible toilet facilities that are maintained in good repair and sanitary condition; and

(B) convenient hand-washing facilities with running water at a suitable temperature; the marijuana establishment shall require employees to wash or sanitize their hands, and must provide effective hand-cleaning, sanitizing preparations, and drying devices;

(3) each person working in direct contact with marijuana or a marijuana product shall conform to good hygienic practices while on duty, including

(A) maintaining adequate personal cleanliness; and

(B) washing hands thoroughly in an adequate hand-washing area before starting work, after using toilet facilities, and at any other time when the person's hands may have become soiled or contaminated;

(4) litter, waste, and rubbish are properly removed; the waste disposal equipment must be maintained and adequate to

(A) avoid contaminating any area where marijuana or any marijuana product is stored, displayed, or sold; and

(B) prevent causing odors or attracting pests;

(5) floors, walls, and ceilings must be constructed to allow adequate cleaning, and must be kept clean and in good repair;

(6) adequate lighting is installed in any area where marijuana or a marijuana product is stored, displayed, or sold, and where any equipment or utensil is cleaned;

(7) screening or other protection adequately protects against the entry of pests;

(8) any building, fixture, and other facility is maintained in sanitary condition;

(9) any toxic cleaning compound, sanitizing agent, and pesticide chemical must be identified and stored in a safe manner to protect against contamination of marijuana or marijuana product and in compliance with any applicable local, state, or federal law;

(10) adequate sanitation principles are used in any receiving, inspecting, transporting, and storing of marijuana or marijuana product; and

(11) any marijuana or marijuana product must be held in a manner that prevents

the growth of bacteria, microbes, or other undesirable microorganisms.

(c) A marijuana establishment shall ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace; in this section, “stored improperly” means being exposed to extremes in temperature, humidity, smoke, fumes, pressure, or radiation due to a natural disaster, fire, accident, or equipment failure.

(d) If a marijuana establishment does not have reliable information about the age or storage conditions of marijuana or a marijuana product in its possession, the marijuana establishment may salvage the marijuana only if:

(1) a licensed marijuana testing facility determines from quality assurance testing that the marijuana or marijuana product meets all applicable standards of moisture, potency, and contaminants;

(2) inspection of the premises where a disaster or accident occurred shows that the marijuana or marijuana product stored there was not adversely affected by the disaster or accident; and

(3) the marijuana establishment maintains a record of the salvaged marijuana or marijuana product in its marijuana inventory tracking system, including the name, lot number and final disposition. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.740. Waste disposal. (a) A marijuana establishment shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during marijuana

cultivation production, processing, testing, or retail sales, in compliance with applicable federal, state, and local laws and regulations.

(b) Marijuana waste must be rendered unusable for any purpose for which it was grown or produced before it leaves a marijuana establishment. Marijuana waste includes:

- (1) marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent;
- (2) solid marijuana sample plant waste in the possession of a marijuana testing facility; and
- (3) other waste as determined by the board.

(c) A marijuana establishment shall

- (1) give the board at least 3 days notice in the marijuana inventory tracking system required under 3 AAC 306.730 before making the waste unusable and disposing of it; except that the director may authorize immediate disposal on an emergency basis; and
- (2) keep a record of the final destination of marijuana waste made unusable.

(d) Marijuana plant waste must be made unusable by grinding the marijuana plant waste and mixing it with at least an equal amount of other compostable or non-compostable materials. A marijuana establishment may use other methods to make marijuana waste unusable if the board approves the method in advance. Material that may be mixed with the marijuana waste includes

- (1) compostable materials including food waste, yard waste, vegetable based grease or oils, or other wastes approved by the board when the mixed material can be used as compost feedstock or in another organic waste method such as an anaerobic digester with approval of any applicable local government entity; or

(2) non-compostable materials including paper waste, cardboard waste, plastic waste, oil, or other wastes approved by the board when the mixed material may be delivered to a permitted solid waste facility, incinerator, or other facility with approval of any applicable local government entity.

(e) When marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.745. Standardized scales. A marijuana establishment shall use certified scales in compliance with AS 45.75.080, the Alaska Weights and Measures Act. A marijuana establishment shall

(1) maintain registration and inspection reports of certified scales; and

(2) upon request by the board or the director, provide a copy of the registration and inspection reports of the certified scales to the board or the director for review. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.750. Transportation. (a) A licensed marijuana establishment shall transport marijuana as follows:

(1) a marijuana cultivation facility may transport marijuana to another marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(2) a marijuana product manufacturing facility may transport a marijuana product to another marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(3) a marijuana testing facility may transport marijuana or a marijuana product to the facility from which it received the marijuana or another marijuana testing facility; and

(4) a marijuana retail store may transport marijuana or a marijuana product to another marijuana retail store.

(b) A marijuana establishment from which a shipment of marijuana or marijuana product originates is responsible for preparing, packaging, and securing the marijuana or marijuana product during shipment, for recording the transfer in the marijuana inventory tracking system, and for preparing the transport manifest. Any individual transporting marijuana in compliance with this section shall have a marijuana handler permit required under 3 AAC 306.700.

(c) When any marijuana or marijuana product is transported, the marijuana establishment that originates the transport shall use the marijuana tracking system to record the type, amount and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model and license plate number of the transporting vehicle. A complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times.

(d) During transport, any marijuana or marijuana product must be in a sealed package or container in a locked, safe and secure storage compartment in the vehicle transporting the

marijuana or marijuana product. The sealed package may not be opened during transport. Any vehicle transporting marijuana or marijuana product must travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and must not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other licensed marijuana establishment.

(e) When a marijuana establishment receives marijuana or a marijuana product transported in compliance with this section, the recipient of the shipment shall use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana product received. The licensed recipient shall refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

(f) A marijuana establishment must keep records of all marijuana or marijuana product shipped from or received at that marijuana establishment as required under 3 AAC 306.755.

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.755. Business records. (a) A marijuana establishment shall maintain, in a format that is readily understood by a reasonably prudent business person, the following information:

(1) all books and records necessary to fully account for each business transaction conducted under its license for the current year and three preceding calendar years; records for the last six months must be maintained on the marijuana establishment's licensed premises; older records may be archived on or off premises;

(2) a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment;

(3) the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises;

(4) records related to advertising and marketing;

(5) a current diagram of the licensed premises including each restricted access area;

(6) a log recording the name, and date and time of entry of each visitor permitted in a restricted access area;

(7) all records normally retained for tax purposes;

(8) accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed; and

(9) transportation records for marijuana and marijuana product as required under 3 AAC 306.750(f).

(b) A marijuana establishment shall provide any record required to be kept on the licensed premises to an employee of the board upon request. Any record kept off premises must be provided to the board's employees within three business days after a request for the record.

(c) A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Loss of records and data, including electronically maintained records, will not be considered an excuse for a violation of this rule. Failure to retain records required under this section may be interpreted by the board as a license violation affecting public safety. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

Article 8. Enforcement and Civil Penalties.

Section

- 800. Inspection and investigation
- 805. Report or notice of violation
- 810. Suspension or revocation of license
- 815. Suspension or revocation based on act of employee
- 820. Procedure for action on license suspension or revocation
- 825. Summary suspension to protect public health, safety, or welfare.
- 830. Seizure of marijuana or marijuana product
- 835. Hearing
- 840. Civil fines
- 845. Appeal
- 850. Surrender or destruction of license

3 AAC 306.800. Inspection and investigation. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of any marijuana establishment, including any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue a report or notice as provided in 3 AAC 306.805; and

(3) as authorized under AS 17.38.085, exercise peace officer powers and take any other action the director determines is necessary.

(b) A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, to enforce the laws related to marijuana, including

(1) permitting entry upon and inspection of the licensed premises; and

(2) providing access to business records at reasonable times when requested by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

3 AAC 306.805. Report or notice of violation. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may issue an inspection report, an advisory report, or a notice of violation before taking action to suspend or revoke a marijuana establishment license.

(b) An inspection report documents an investigator's inspection of licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed by statute, regulation, or the board.

(c) The director, an enforcement agent, an employee of the board, or a peace officer may issue an advisory notice when an incident occurs or a defect is noted that could result in a violation of a statute, regulation, or municipal ordinance. An advisory notice may result from an

inspection report, but is not a basis for administrative action unless the incident or defect continues or is not corrected.

(d) The director, an enforcement agent, an employee of the board, or a peace officer may issue a notice of violation when an inspection report or other credible information shows a marijuana establishment is in violation of AS 17.38, this chapter, or other law relating to marijuana. The notice of violation must be delivered to the marijuana establishment at its licensed premises, and to the board. The notice must describe any violation, and cite the applicable statute, regulation, or order of the board. A marijuana establishment that receives a notice of violation may respond to the notice orally or in writing, and may, within ten days after receiving the notice, request an opportunity to appear before the board. A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as provided under 3 AAC 306.810. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.810. Suspension or revocation of license. (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony, or a crime listed in 3 AAC 306.010 (c) (2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(c)(2) or (3).

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, or impose a civil fine, if the board finds that a licensee for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment

license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; or

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; or

(B) selling or distributing any marijuana concentrate or product that has not been approved by the board;

(3) failed, within a reasonable time after receiving a notice of violation from the director, to correct any defect that is the subject of the notice of violation of

(A) AS 17.38 or this chapter;

(B) a condition or restriction imposed by the board; or

(C) other applicable law;

(4) knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the board;

(5) failed to comply with any applicable public health, fire, safety, or tax law or regulation in the state; or

(6) used the licensed premises for any illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director will prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360,

and conduct proceedings to resolve the matter as described under 3 AAC 306.820. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.815. Suspension or revocation based on act of employee. If, in a proceeding to suspend or revoke a marijuana establishment license under 3 AAC 306.810 and 3 AAC 306.820, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension or revocation of the marijuana establishment's license if committed by a licensee, the board may find that licensee knowingly allowed the act if

(1) the licensee was physically present when the violation occurred, and knew or should have known, the violation was occurring and took no action to stop it;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee in the requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the agent or employee. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.820. Procedure for action on license suspension or revocation. A proceeding to suspend or revoke a license must be initiated by service of an accusation on the

marijuana establishment in compliance with AS 44.62.360 and AS 44.62.380, and conducted in compliance with AS 44.62.330 – AS 44.62.630. The accusation must be served at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5). The marijuana establishment is entitled to a hearing as provided under AS 44.62.390. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.825. Summary suspension to protect public health, safety, or welfare.

(a) If the director finds that a person holding a marijuana establishment license has acted and appears to be continuing to act in a way that constitutes an immediate threat to the public health, safety or welfare, the director may issue an order immediately suspending the license of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health, safety, or welfare.

(b) When the director issues a summary suspension under this section, the director shall immediately give the marijuana establishment subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for an expedited hearing before the board. Unless the marijuana establishment subject to the summary suspension order requests a delay, the hearing will be held within five days after the director gives notice of the reasons for the summary suspension and the scheduled hearing. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100

AS 17.38.070

AS 17.38.087

AS 17.38.900

AS 17.38.084

AS 17.38.090

3 AAC 306.830. Seizure of marijuana or marijuana product. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana or any marijuana product from a licensed or previously licensed marijuana establishment if the marijuana establishment has

(1) any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) any adulterated marijuana food or drink product forbidden under 3 AAC 306.510(a)(4); or

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465 and 3 AAC 306.470 or 3 AAC 306.565 and 3 AAC 306.570;

(4) not renewed its license as required under 3 AAC 306.035.

(b) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, seizes marijuana or a marijuana product under this section, the director shall update the marijuana inventory control tracking system to reflect the seizure and ensure that the seized items are stored in a reasonable manner. The director shall immediately give the marijuana establishment from which the marijuana or marijuana product was seized notice of the reasons for the seizure and the time and place of a hearing before the board. Unless the marijuana establishment from which the marijuana or marijuana product was seized requests a delay, the hearing will be held within ten days after the director gives notice of the reasons for seizure and the scheduled hearing. If the seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary

suspension.

(c) If the marijuana establishment from which the marijuana or marijuana product was seized does not request or participate in a hearing under this section, or if, after a hearing the board finds that seizure of the marijuana or marijuana product was justified, the marijuana or marijuana product will be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(d) If a seizure under this section is of marijuana plants in place in a licensed standard or limited marijuana cultivation facility, the seizure order may direct the cultivation facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

3 AAC 306.835. Hearing. (a) Except as provided in 3 AAC 306.825 or 3 AAC 306.830, any person aggrieved by an action of the director, an enforcement agent, or an employee of the board, may request a hearing in compliance with AS 44.62.390 by filing a notice of defense within 15 days after receiving a written accusation. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a hearing.

(b) The Office of Administrative Hearings will conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 AAC 64.990. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.085	AS 17.38.100
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AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.840. Civil fines. (a) The board may, in addition to any other penalties imposed under this title, impose a civil fine on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 – 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board;

(2) \$10,000 for the first violation;

(3) \$30,000 for the second violation; or

(4) \$50,000 for the third or subsequent violation. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.845. Appeal. (a) An aggrieved party may appeal to the board regarding any action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter, including suspending or revoking a license, seizing marijuana or a marijuana product, or imposing a civil fine.

(b) A person aggrieved by a final decision of the board suspending or revoking a license under this chapter, or imposing a civil fine may appeal to the superior court under AS 44.62.560. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.850. Surrender or destruction of license. A license issued under this chapter must be surrendered to the director, an enforcement agent, or an employee of the board on demand if the director or board so orders. A license issued under this chapter must be surrendered within 10 days after the marijuana establishment loses or vacates the licensed premises. If a license is destroyed, the marijuana establishment shall promptly notify the board. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

Article 9. General Provisions.

Section

905. Public records
910. Refusal to sell marijuana
915. Exercise of authority
920. Death of licensee
990. Definitions

3 AAC 306.905. Public records. Marijuana establishment applications are public records. The board may, at the request of any applicant, designate materials confidential if they

(1) contain proprietary information including trade secrets; or

(2) are required to be kept confidential by any federal or state law.

(Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.090 AS 17.38.900
AS 17.38.070 AS 17.38.100 AS 40.25.110
AS 17.38.084

3 AAC 306.910. Refusal to sell marijuana. Nothing in this chapter prohibits a licensee from refusing to sell marijuana or marijuana products to any person unless that refusal is a violation of AS 18.80.210. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.915. Exercise of authority. Until a marijuana establishment surrenders its license to the board, and so long as business is conducted under the license on the licensed premises, the person holding the license, whether an individual, a partnership, a limited liability company, a corporation, or a local government, is responsible and liable for the conduct of the business. Any individual exercising actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license, or an agent or employee of that person unless the board has approved a transfer of the license to a different person. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.920. Death of licensee. (a) If an individual who is the sole licensee of a marijuana establishment dies, the marijuana establishment shall cease operation. A personal representative appointed by the superior court for the estate of the deceased licensee may submit

to the director a written request to reopen the business, along with a copy of the court order appointing the personal representative. If the licensed marijuana establishment is in good standing, and the personal representative is not a person prohibited from holding a marijuana establishment by AS 17.38.100(i), the director shall grant permission to the personal representative to operate the business on the licensed premises subject to (b) of this section. In this section, "good standing" means the marijuana establishment

- (1) has a valid current license;
- (2) has paid all fees due under this chapter, and all local taxes due; and
- (3) has no unresolved suspension or revocation proceedings against it.

(b) A personal representative authorized to operate a marijuana establishment under (a) of this section must submit an application for a transfer of ownership to another person in compliance with 3 AAC 306.045 within 90 days after obtaining the director's approval to operate. The board may extend the time allowed in this section for another 90 days if the personal representative requests the additional time.

(c) This section does not authorize the transfer of a marijuana establishment license unless the board approves the personal representative's application for transfer of license to another person. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 ACC 306.990 is repealed and readopted to read:

3 AAC 306.990. Definitions. (a) In AS 17.38 and this chapter,

(1) "affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a partnership,

limited liability company, or corporation subject to this chapter;

(2) “assisting” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(3) "delivering"

(A) means handing to a person who purchases the product on licensed premises only;

(B) does not include transferring or transporting to a consumer off licensed premises;

(4) “flowering” means a marijuana plant that has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds, or flowers;

(5) “immature” means a marijuana plant with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds, or flowers;

(6) “in public”

(A) means in a place to which the public or a substantial group of people

has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305.

(7) “personal cultivation” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(8) “possess” means having physical possession or control over property;

(9) “registration” means “licensure,” or “license;”

(10) “transport” or “transfer” means to deliver between licensed marijuana establishments as provided in 3 AAC 306.750.

(b) In this chapter, unless the context requires otherwise,

(1) "adulterated food or drink product"

(A) means a product that is intended to be consumed orally and that

existed without marijuana in a form ready for consumption before marijuana was added by any process;

(B) does not include raw ingredients that are combined with marijuana in a manufacturing process;

(2) “agent”

(A) means a representative who is authorized to act for a licensee, the board, or the director;

(B) includes a contractor or subcontractor;

(3) “batch” or “harvest batch” means a specifically identified quantity of plant trim, leaf, and other usable product from marijuana plants that are uniform in strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals including pesticides and fungicides, and harvested at the same time;

(4) “bud and flower” means the hairy, sticky, or crystal-covered parts of mature female marijuana plants generally harvested for their high potency content;

(5) “business day” means a day other than a Saturday, Sunday, or a state holiday;

(6) “CBN” means cannabinol;

(7) “CBD” means cannabidiol;

(8) “CBDA” means CBD Acid;

(9) “clones” or “cuttings” means small starter plants

(A) shorter than eight inches tall; and

(B) used to propagate marijuana plants;

(10) “compensation”

(A) means money, bartered objects or services, or anything else of value,

whether given as payment or voluntarily as a donation, when accepted by a person who gives, distributes, or delivers marijuana to another;

(B) includes a cover charge, a delivery charge, and a packaging charge;

(11) “concentrate” or “marijuana concentrate” means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant;

(12) “consumer”

(A) means an individual who purchases and uses marijuana or a marijuana product; and

(B) does not include any marijuana establishment that re-sells marijuana or incorporates marijuana into a manufactured product;

(13) “contaminant” means one or more of the following:

(A) harmful microbials, including *Escherichia coli* (*E. coli*), or *Salmonella* species;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals, including pesticides;

(E) dangerous molds, mildew, or filth;

(14) “controlling interest” means ownership or control of

(A) 50 percent or more of the ownership interest or voting shares of a corporation; or

(B) less than 50 percent if a person and family members jointly exert actual control as demonstrated by

(i) making decisions for the corporation without independent participation of other owners;

(ii) exercising day-to-day control over the corporation's affairs;

(iii) disregarding formal legal requirements;

(iv) using corporation funds for personal expenses or investments, or intermingling corporation finances with personal finances; or

(v) taking other actions that indicate the corporation is a mere instrumentality of the individual;

(15) “distribute” means spread out or pass out among several or many members of a group;

(16) "edible" and "edible marijuana product"

(A) means a marijuana product that is intended to be consumed orally, whether as food or drink;

(B) does not include an adulterated food or drink product;

(17) “extraction” or “marijuana extraction” means production of marijuana concentrate by any water-based, food-based, or solvent-based method;

(18) “homogenous” means a component or quality, such as THC, is spread evenly throughout the product, or can be found in equal amounts in each part of a multi-serving unit;

(19) “individual” means a natural person;

(20) “in-house testing”

(A) means laboratory testing as provided in 3 AAC 306.635;

(B) does not include consumption of any marijuana or marijuana product

on the licensed premises;

(C) does not meet the requirements of 3 AAC 306.645;

(21) "licensed"

(A) means holding a current and valid license that the board has issued under this chapter;

(B) does not include holding a formerly valid license that has expired or that the board has suspended or revoked;

(22) "licensee" means each individual identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

(23) "licensed premises" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed;

(24) "lot" or "production lot" means a group of marijuana products that were prepared at the same time from the same batch of marijuana, using the same recipe or process;

(25) "marijuana" has the meaning given in AS 17.38.900;

(26) "marijuana cultivation facility" has the meaning given in AS 17.38.900;)

(27) "marijuana infused product"

(A) means a product that contains marijuana or marijuana concentrate and is intended for human use;

(B) does not include bud and flower marijuana;

(28) "marijuana plant" means a living organism of the genus *Cannabis* capable of absorbing water and inorganic substances through its roots, and synthesizing nutrients in its

leaves by photosynthesis;

(29) "marijuana product" has the meaning given in AS 17.38.900;

(30) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(31) "peace officer" has the meaning given in AS 01.10.060;

(32) "person" has the meaning given in AS 01.10.060;

(33) "process" or "processing" means harvesting, curing, drying, trimming of a marijuana plant;

(34) "propagate" means to cause a marijuana plant to grow by planting clones or cuttings, and nurturing them into viable plants up to 8 inches in height;

(35) "recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for minors; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;

(36) "retail marijuana store" has the meaning given in AS 17.38.900;

(37) "square feet under cultivation"

(A) means an area of the licensed premises of a standard or limited marijuana cultivation facility that is used for growing marijuana, measured from the perimeter of the floor or growing space for marijuana;

(B) does not include a processing or storage area, an equipment storage area, an office, a hallway, or another area, if that area is not used for growing marijuana;

(38) “THC” means *tetrahydrocannabinol*, the main psychoactive substance found in marijuana;

(39) “THCA” means THC Acid;

(40) “transaction” means one single occurrence in which marijuana or a marijuana product not exceeding the limits set out in 3 AAC 306.355 is passed from a licensed marijuana establishment to another person. Eff. _2/24 /2015, Register ____; amended ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

A. Staff Report PL 16-02 Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Chair Stead opened the public hearing.

Lindianne Sarno, city resident, thanked the commissioners for their work. She encouraged they continue to look at ways to keep this moving forward, emphasizing flexibility. We don't have all the answers yet but we are educating each other and moving forward. It's important to inform, assure, and educate potential investors about what we are envisioning. Also how to support the limited grows which will be the foundation of the whole thing.

Carrie Harris, city resident, commented the current zoning is very restricted for limited grow operations. It doesn't represent what a majority of the people in the City of Homer voted for. Limited growing isn't big money, but the money that comes from it stays in the town. She encouraged the Commission to lessen the restriction and make it profitable for people to grow and to the city for their share of licensing fees. She appreciates the Commissions work, but the current map is completely against the spirit of what all Alaskans voted on, especially in Homer.

Jeremiah Emerson, city resident, is excited about this opportunity. He thought there wouldn't be a CUP for the central business district and doesn't think it's good for the industry. In looking at the number of bars in the CBD he questions why cannabis isn't regulated like alcohol. It should have zoning equivalent to bars. Limited grows were intended for a person to bring their home grow into the legal market where they can test their product. In looking at child safety and strengthening community, keeping black market products on the street removes the opportunity to test for mold and contaminants are in the product. Allowing limited grows results in a safer product.

Tim Clark, city resident, appreciates the Commissions work and agrees that the map is pretty restrictive. It might not be enough room for everyone who wants to be involved and open these types of facilities. He also questions restriction in the central business district with all the bars there. Maybe they could consider CUP's in the not allowed areas. There are a lot of people who want to convert over and grow legally. The state laws are there to protect the people around them.

Mike Glasgow, city resident, encouraged the Commission to keep working on this. There could be a lot of revenue from this and he wants them to keep going forward.

Derrick Hartman, city resident, expressed his concern on the restriction in rural residential and how it will bolster the black market. It's already here, we might as well do what we can to bring these people out at light. It's what we voted on.

There were no further comments and the hearing was closed.

VENUTI/BOS MOVED TO ADD A 1000 FOOT BUFFER FROM THE COLLEGES AND PLAYGROUNDS AND TO ALLOW MANUFACTURING AS A PERMITTED ACTIVITY IN GC1 AND GC2, AND EAST END MIXED USE DISTRICTS.

There was discussion regarding Jack Gist Park being included as a playground area. It was noted it doesn't meet the apparatus limit as a playground and is in a residential district.

Commissioner Erickson noted the ball fields are also used by the high school.

ERICKSON/VENUTI MOVED TO ADD JACK GIST PARK TO THE AMENDMENT.

There was procedural discussion in that Jack Gist is called out on line 510 of the draft ordinance. It was also noted that Ben Walter's Park is not included.

ERICKSON/BOS MOVED TO AMEND THE AMENDMENT TO ALSO INCLUDE BEN WALTERS PARK.

There was brief discussion.

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

Motion carried.

There was no further discussion on the primary amendment.

VOTE (Primary amendment as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Commissioner Highland commented about manufacturing. It can be dangerous if done improperly so what is in place to ensure safety? City Planner Abboud commented that there are regulations through permitting. A manufacturing facility will have to have a plan to submit to the state for the operation and it should be as safe as any other manufacturing facility.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud commented that the buffers adopted have excluded the residential area and central business district. He would rather not have CUP's on any of the uses and either allow it outright or not at all. He encouraged having that discussion. Comment was raised about retail by CUP on the spit. City Planner Abboud doesn't know if it is a viable tourist season business with the cost and permitting requirements.

There was discussion reiterating the Commissions comments at previous meetings that this is a new opportunity and they felt this was a good place to start. If they want to relax some of the zoning once things get underway they can. But it is challenging to make zoning stricter once it has started. They also touched on enforcement, which will likely be done by police and the state through licensing.

VENUTI/HIGHLAND MOVED TO APPROVE THE ORDINANCE WITH THE CHANGES THAT WERE MADE THIS EVENING.

Comment was made to confirm retail will require a CUP in CBD and on the spit.

City Planner Abboud added if they want to allow manufacturing in CBD they will need to make that amendment. He also confirmed testing is allowed outright and cultivation small and large are conditional use.

STROOZAS/VENUTI MOVED TO AMEND TO ALLOW MANUFACTURING AS A CUP IN CBD.

There was comment they had looked at manufacturing as having some potential for danger. It was noted there is a system of checks and balances with a CUP requirement.

VOTE (Amendment): YES: BOS, STEAD, VENUTI, STROOZAS, BRADLEY
NO: HIGHLAND, ERICKSON

Motion carried.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Plat Consideration

Pending Business

A. Staff Report PL 16-03 Towers

City Planner Abboud reviewed the staff report.

The Commission discussed:

- Equipment failures and inspections
- Insurance
- The 1.1 times the total height buffer
- Concern about codifying ANSI 222 G

ERICKSON/VENUTI MOVED TO ACCEPT THE CHANGES AND MOVE THE ORDINANCE FORWARD TO PUBLIC HEARING.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

The first of these is the fact that the
the second is the fact that the



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STAFF REPORT PL 16-02

TO: Homer Advisory Planning Commission
FROM: Rick Abboud AICP, City Planner
MEETING: January 6, 2016
SUBJECT: Zoning for Marijuana, second public hearing

Requested Action: Hear testimony on the draft ordinance regulating commercial marijuana activities by zoning district and make amendments if desired.

GENERAL INFORMATION

This is the second of two scheduled public hearings. The draft ordinance creates zoning regulations for the four types of commercially regulated marijuana activities licensed by the state.

1. Cultivation. There are two sizes of cultivation operations:
 Small scale is limited to 500 square feet of cultivation, and
 Large scale is anything larger than that.
2. Testing
3. Manufacturing
4. Retail

The city may propose regulations in addition to the state regulations but may not allow anything that is less restrictive than the state. Below is a table of the activities proposed by zoning district. In addition to state regulations, the city has proposed additional buffers:

- 1000 ft from schools (this mirrors the federal drug free zones)
- 200 ft from the library
- 200 ft from Jack Gist, Karen Hornaday, Bayview, and Ben Walters Parks

After reviewing the U.S. Code, 21 USC 860 (found below), I recommend that the Planning Commission make a motion to **propose a 1000 foot buffer from the Kenai Peninsula College , the Alaska Bible institute, and from Karen Hornaday and Bayview Parks.** This will make Homer consistent with the federal double penalty zone.

(a) Penalty

Any person who violates [section 841\(a\)\(1\) of this title](#) or [section 856 of this title](#) by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a **public or private college, junior college, or university**, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject

to (1) twice the maximum punishment authorized by [section 841\(b\) of this title](#); and (2) at least twice any term of supervised release authorized by [section 841\(b\) of this title](#) for a first offense. A fine up to twice that authorized by [section 841\(b\) of this title](#) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by [section 841\(b\) of this title](#), a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

You may also notice the provision for “playground” in the code. Below is the federal definition. It is defined as “containing three or more apparatus.

(e) Definitions For the purposes of this section—

(1)

The term “playground” means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2)

The term “youth center” means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3)

The term “video arcade facility” means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4)

The term “swimming pool” includes any parking lot appurtenant thereto.

Update

A few changes were made after the Planning Commission meeting.

After consulting with the City Attorney, it was felt that the industry and the city would be better served by allowance of permitted activities in appropriate locations rather than requiring Conditional Use Permits (CUP's) over wide areas of the city. A CUP has some qualitative standards for the community to support. This may be particularly challenging to defend in some circumstances.

The federal government, through the Cole Memo, places a high priority on keeping the industry from the under aged. Most of the recommendations of the City Planner focus on being the best steward for this concept. This is why I recommend keeping distances from schools in line with the increased penalty zones for drug activities, which has been an accepted concept of both the Cannabis Advisory Committee (CAC) and the Planning Commission. This also plays a role in why I do not support these activities in residential districts that are meant to support families, many of which include children. Opening up marijuana activities in these areas is at the peril of not only the operator, but the city.

Cultivation is not supported in the rural residential district. Previously, the Commission was considering the option of allowing limited commercial grows (up to 500sf) with an approved CUP on lots greater than 20,000 square feet in the rural residential district. No examples or recommendations were found from Washington or Colorado of commercial grows in residential neighborhoods.

The intent of the rural residential? district is to provide for low density residential development and limited agricultural pursuits. The highly regulated nature of marijuana cultivation, as proposed by the state, does not resemble limited agriculture, it is a commercial activity. This commercial activity has many mandated security requirements and will require commercial building review, continuous video monitoring, and lighting of at least twenty feet in front of any outside access. This type of commercial activity is not found to support the intent of the district in code or the comprehensive plan. As such, the commission feels commercial marijuana businesses are better suited for commercial districts that were devised to support such activities.

The Planning Commission did decide to allow most marijuana related activities to be permitted in commercial districts (General Commercial 1 & 2 and East End Mixed Use), as these districts restrict dwelling options. The exception, for now, is manufacturing which is still proposed to require a CUP. I do **request that the Planning Commission make a motion to allow manufacturing as permitted in these districts** to be consistent with the other prosed recommendations.

The state is now proposing to allow a consumption component to a retail facility. This is a bit tough to judge at the moment. While there is a great deal of rules and regulation regarding how the retail component will operate, there is no additional information (so far) regarding any other regulation regarding the operation of the facility with an attached place of consumption. This certainly adds to the complexity of the subject of retail facilities. The model that I have observed in Washington and Colorado (without consumption) was one that I saw as having little negative consequences compared to other retail operations such as liquor or convenience stores. Thoughts and discussion are welcome.

A = Allowed. C = Conditional Use Permit needed.

**Table 1. Cannabis Activity by
Zoning District**

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

STAFF COMMENTS:

While we are 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 that apply (Article 7) to all of the activities along with more specific requirements that address each of the 4 individual licensing areas. One really needs to understand the state regulations to get an accurate picture of what these activities may look like when approved. There are 133 pages that compose articles 1-9, which the state uses for regulation. I will attempt to highlight some of these and draw attention to those that need particular consideration for zoning.

All activities are to 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. All personal that work or have ownership interest will need a handlers permit and this permit must be on the person at all times when in the facility.

Many other aspects of the activities 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
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5am and 8am

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:

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

The City's regulations do not address personal use or consumption of marijuana. State regulations still allow for the growing, possession, and gifting as many as six marijuana plants. Only three of the plants can be mature and flowering at any one time. According to the State of Alaska (<https://www.commerce.alaska.gov/web/abc/MarijuanaInitiativeFAQs.aspx>) an unlicensed person may possess up to 4 ounces of marijuana. It is illegal to smoke marijuana in public as defined by the state, no additional restrictions have been suggested.

RECOMMENDATIONS:

Make Motions to consider a 1000 foot buffer from the colleges and playgrounds and to allow manufacturing as a permitted activity in the GC1 & 2, and EEMU districts. Hear testimony and consider amending the ordinance if appropriate. Recommend for adoption to the City Council.

ATTACHMENTS

1. Draft ordinance 12/9/2015
2. January 6 2016 Commercial Cannabis Maps (2)
3. Memorandum PL 16-01
4. Letters received on the draft ordinance (Received after December 2nd Meeting, in reference to the ordinance as it stood at that meeting)



CITY OF HOMER
HOMER, ALASKA

Planning Commission

ORDINANCE 16-__

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, RETAIL, AND TESTING FACILITIES

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

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

THE CITY OF HOMER ORDAINS:

Section 1. 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:

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

- 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;

- 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,
- 79 including 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
- 83 of the Central Business District abutting Webber Subdivision, and from
- 84 Heath Street to the west side of Lakeside Village Subdivision, provided
- 85 they shall conform to the standards in HCC 21.54.200 and following
- 86 sections;
- 87 y. Taxi operation limited to a dispatch office and fleet parking of no more
- 88 than five vehicles; maintenance of taxis must be conducted within an
- 89 enclosed structure, and requires prior approval by the City Planner of
- 90 a site, access and parking plan;
- 91 z. Mobile food services;
- 92 aa. Itinerant merchants, provided all activities shall be limited
- 93 to uses permitted outright under this zoning district;
- 94 bb. Day care homes and facilities; provided, however, that outdoor play
- 95 areas must be fenced;

cc. Rooming house, bed and breakfast and hostel;

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

ee. Farmers' market;

ff. Dormitory;

gg. Financial institutions;

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

ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot.

jj. Marijuana testing facility as defined by state law.

Section 21.18.030 Conditional uses and structures.

The following uses may be permitted in the Central Business District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

- 123 a. Planned unit developments, excluding all industrial uses;
- 124 b. Indoor recreational facilities and outdoor recreational facilities;
- 125 c. Mobile home parks;
- 126 d. Auto fueling stations;
- 127 e. Public utility facilities and structures;
- 128 f. Pipeline and railroads;
- 129 g. Greenhouses and garden supplies;
- 130 h. Light or custom manufacturing, repair, fabricating, and assembly,
131 provided such use, including storage of materials, is wholly within an
132 enclosed building;
- 133 i. Shelter for the homeless, provided any lot used for such shelter does
134 not abut a residential zoning district;
- 135 j. More than one building containing a permitted principal use on a lot;
- 136 k. Group care homes and assisted living homes;
- 137 l. Drive-in car washes, but only on the Sterling Highway from Tract A-1
138 Webber Subdivision to Heath Street;
- 139 m. One small wind energy system having a rated capacity exceeding 10
140 kilowatts; provided, that it is the only wind energy system of any capacity
141 on the lot;
- 142 n. Other uses approved pursuant to HCC 21.04.020
- 143 **o. Marijuana retail facilities and cultivation facilities as defined by**
144 **state law.**

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

146 Section 21.24.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 1 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. Air charter operations and floatplane tie-up facilities;
- b. General business offices and professional offices;
- c. Dwelling units located in buildings primarily devoted to business uses;
- d. Auto repair;
- e. Auto and trailer sales or rental areas;
- f. Auto fueling stations and drive-in car washes;
- g. Building supply and equipment sales and rentals;
- h. Restaurants, including drive-in restaurants, clubs and drinking establishments;
- i. Garden supplies and greenhouses;
- j. Heavy equipment and truck sales, rentals, service and repair;
- k. Hotels and motels;
- l. Lumberyards;
- m. Boat and marine equipment sales, rentals, service and repair;
- n. Mortuaries;
- o. Open air businesses;
- p. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;

- 168 q. Manufacturing of electronic equipment, electrical devices, pottery,
169 ceramics, musical instruments, toys, novelties, small molded products and
170 furniture;
- 171 r. Publishing, printing and bookbinding;
- 172 s. Recreation vehicle sales, rental, service and repair;
- 173 t. Retail businesses;
- 174 u. Trade, skilled or industrial schools;
- 175 v. Wholesale businesses, including storage and distribution services
176 incidental to the products to be sold;
- 177 w. Welding and mechanical repair;
- 178 x. Parks and open space;
- 179 y. Appliance sales and service;
- 180 z. Warehousing, commercial storage and mini-storage;
- 181 aa. Banks, savings and loans, credit unions and other financial institutions;
- 182 bb. Customary accessory uses to any of the permitted uses listed in the
183 GC1 district; provided, that no separate permit shall be issued for the
184 construction of any type of accessory building prior to that of the main
185 building;
- 186 cc. Dry cleaning, laundry, and self-service laundries;
- 187 dd. Taxi operation;
- 188 ee. Mobile food services;
- 189 ff. Itinerant merchants, provided all activities shall be limited
190 to uses permitted outright under this zoning district;

gg. Recreational vehicle parks, provided they shall conform to the standards in Article II of Chapter 21.54 HCC;

hh. Day care homes; provided, that a conditional use permit was obtained for the dwelling, if required by HCC 21.24.030; all outdoor play areas must be fenced;

ii. Rooming house and bed and breakfast;

jj. Dormitory;

kk. As an accessory use, one small wind energy system per lot.

II. Marijuana testing retail facilities, cultivation facilities as defined by state law.

Section 21.24.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 1 District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Campgrounds;

b. Crematoriums;

c. Multiple-family dwelling;

d. Public utility facility or structure;

e. Mobile home parks;

f. Planned unit developments;

g. Townhouses;

h. Pipelines and railroads;

i. Shelter for the homeless, provided any lot used for such shelter does not abut an RO, RR, or UR zoning district;

j. More than one building containing a permitted principal use on a lot;

k. Day care facilities; provided, however, that outdoor play areas must be fenced;

l. Other uses approved pursuant to HCC 21.04.020;

m. Indoor recreational facilities;

n. Outdoor recreational facilities

o. Marijuana manufacturing facilities as defined by state law.

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

Section 21.26.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 2 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. Production, processing, assembly and packaging of fish, shellfish and seafood products;

b. Construction, assembly and storage of boats and boat equipment;

c. Manufacture and assembly of pottery and ceramics, musical instruments, toys, novelties, small molded products, electronic instruments and equipment and electrical devices;

d. Research and development laboratories;

e. Trade, skills or industrial schools;

f. Publishing, printing and bookbinding facilities;

g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair, excluding storage of vehicles or equipment that is inoperable or in need of repair;

- 239 h. Storage and distribution services and facilities, including truck
240 terminals, warehouses and storage buildings and yards, contractors'
241 establishments, lumberyards and sales, or similar uses;
- 242 i. Airports and air charter operations;
- 243 j. Underground bulk petroleum storage;
- 244 k. Cold storage facilities;
- 245 l. Parking lots and parking garages, in accordance with
246 Chapter 21.55 HCC;
- 247 m. Mobile commercial structures;
- 248 n. Accessory uses to the uses permitted in the GC2 district that are clearly
249 subordinate to the main use of the lot or building, such as wharves, docks,
250 restaurant or cafeteria facilities for employees; or caretaker
251 or dormitory residence if situated on a portion of the principal lot;
252 provided, that separate permits shall not be issued for the construction of
253 any type of accessory building prior to that of the main building;
- 254 o. Taxi operation;
- 255 p. Mobile food services;
- 256 q. Itinerant merchants, provided all activities shall be limited
257 to uses permitted outright under this zoning district;
- 258 r. Recreational vehicle parks, provided they shall conform to the standards
259 in Chapter 21.54 HCC;
- 260 s. Hotels and motels;
- 261 t. Dormitory;
- 262 u. As an accessory use, one small wind energy system per lot;
- 263 v. Open air business.

**w. Marijuana testing, retail facilities, cultivation facilities as defined
by law.**

Section 21.26.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 2
District when authorized by conditional use permit issued in accordance with
Chapter 21.71 HCC:

- a. Mobile home parks;
- b. Construction camps;
- c. Extractive enterprises, including the mining, quarrying and crushing of
gravel, sand and other earth products and batch plants for asphalt or
concrete;
- d. Bulk petroleum product storage above ground;
- e. Planned unit developments, excluding residential uses;
- f. Campgrounds;
- g. Junk yard;
- h. Kennels;
- i. Public utility facilities and structures;
- j. Pipelines and railroads;
- k. Impound yards;
- l. Shelter for the homeless, provided any lot used for such shelter does
not abut an urban, rural or office residential zoning district;
- m. More than one building containing a permitted principal use on a lot;
- n. Day care facilities; provided, however, that outdoor play areas must be
fenced;

o. Group care homes and assisted living homes;

p. Other uses approved pursuant to HCC 21.04.020;

q. Indoor recreational facilities;

r. Outdoor recreational facilities.

s. Marijuana manufacturing facilities as defined by state law.

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

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

Section 21.27.030 Conditional uses and structures.

The following conditional uses may be permitted in the East End
Mixed Use District when authorized by conditional use permit issued in
accordance with Chapter 21.71 HCC:

- a. Construction camps;
- b. Extractive enterprises, including crushing of gravel, sand and other
earth products and batch plants for asphalt or concrete;
- c. Auto fueling stations;
- d. Bulk petroleum product storage;
- e. Planned unit developments;
- f. Junk yard;
- g. Kennels;
- h. Public utility facilities and structures;
- i. Impound yards;
- j. Indoor recreational facilities;
- k. Outdoor recreational facilities;
- l. Other uses approved pursuant to HCC 21.04.020.

m. Marijuana manufacturing facilities as defined by state law

Section 6. Homer City Code Chapter 21.28 is amended to read as follows:

Section 21.28.030 Conditional uses and structures

- a. Drinking establishments;
- b. Public utility facilities and structures;
- c. Hotels and motels;
- d. Lodging;

- e. More than one building containing a permitted principal use on a lot;
- f. Planned unit developments, limited to water-dependent and water-related uses, with no dwelling units except as permitted by HCC 21.28.020(o);
- g. Indoor recreational facilities;
- h. Outdoor recreational facilities;
- i. The location of a building within a setback area required by HCC 21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC 21.71.030, the building must meet the following standards:
 - 1. Not have a greater negative effect on the value of the adjoining property than a building located outside the setback area; and
 - 2. Have a design that is compatible with that of the structures on the adjoining property.

j. Retail marijuana facilities as defined by state law.

Section 9. Chapter 21.62 is hereby enacted as follows:

Chapter 21.62

Marijuana Cultivation, Manufacturing, and Retail 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, testing, and retail 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 posed by marijuana production on public land;
and
8. Marijuana possession or use on federal property.

21.62.030 Definitions [Reserved.]

21.62.040 Pre-application Conference.

21.57.050 Costs.

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

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

21.62.060 Safety and Security Plan

A conditional use permit for a marijuana facility required by this title shall

include an analysis of the ways in which the intent and purpose of this chapter have been met and the safety concerns identified in Sections 21.62.010 and 21.62.020 will be addressed.

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:**

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

c) **Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park must have 200 feet or more buffers measured from the boundary of the park.**

21.62.80 General restrictions applied to all marijuana facilities.

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

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 8. This ordinance shall take effect upon its adoption by the Homer City Council.

Section 9. 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 _____ 2015.

CITY OF HOMER

BETH WYTHER, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Kate Koester, City Manager

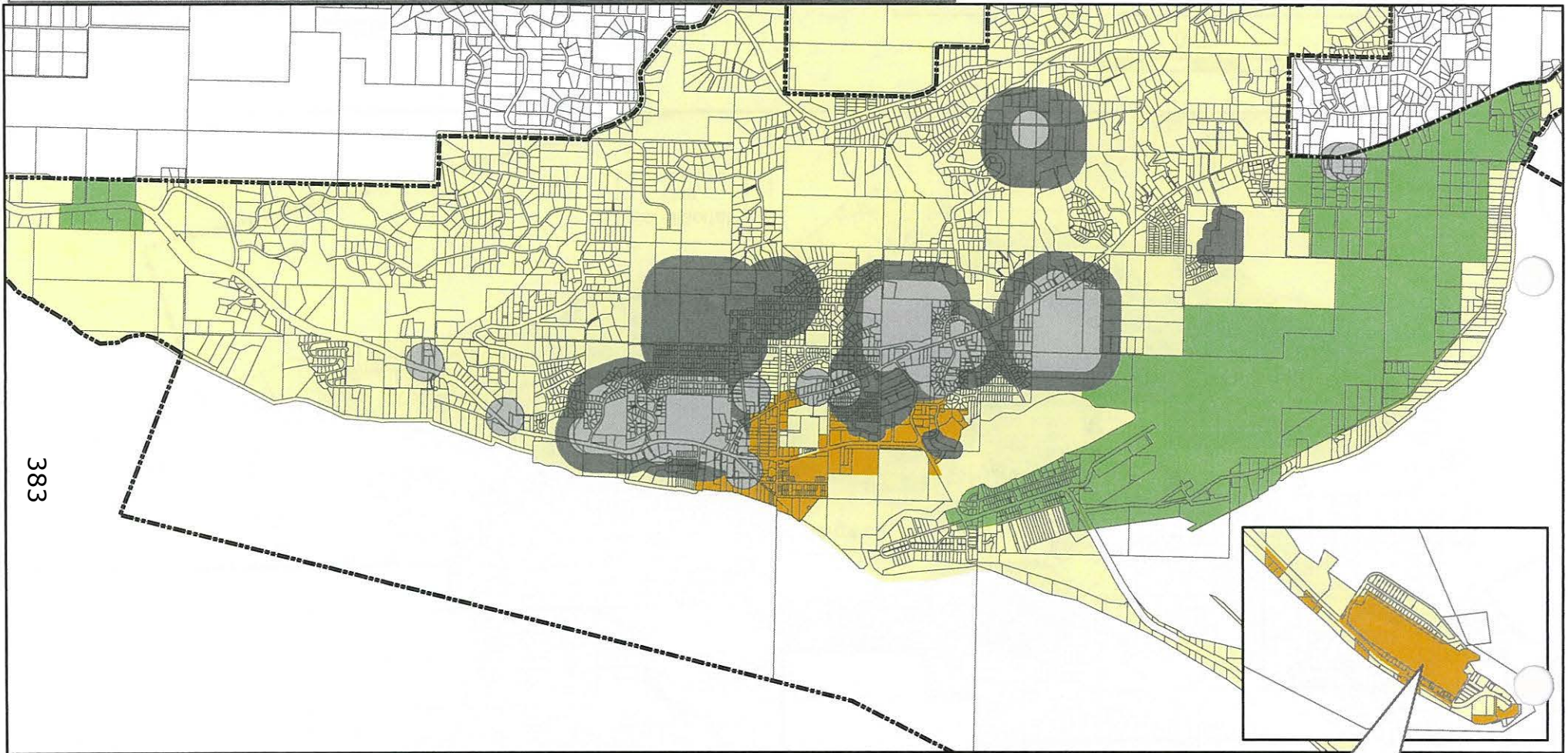
City Attorney

Date: _____

Date: _____

**January 6, 2016 Public Hearing Version Homer Advisory Planning Commission
2016 Commercial Cannabis Retail and Manufacturing Map.**
Testing is allowed outright in the green areas, and in downtown Homer.

Questions? Contact City Planner Rick Abboud



Legend

- City Limits
- State Buffers
- Additional City Buffers

Commercial Cannabis Activities

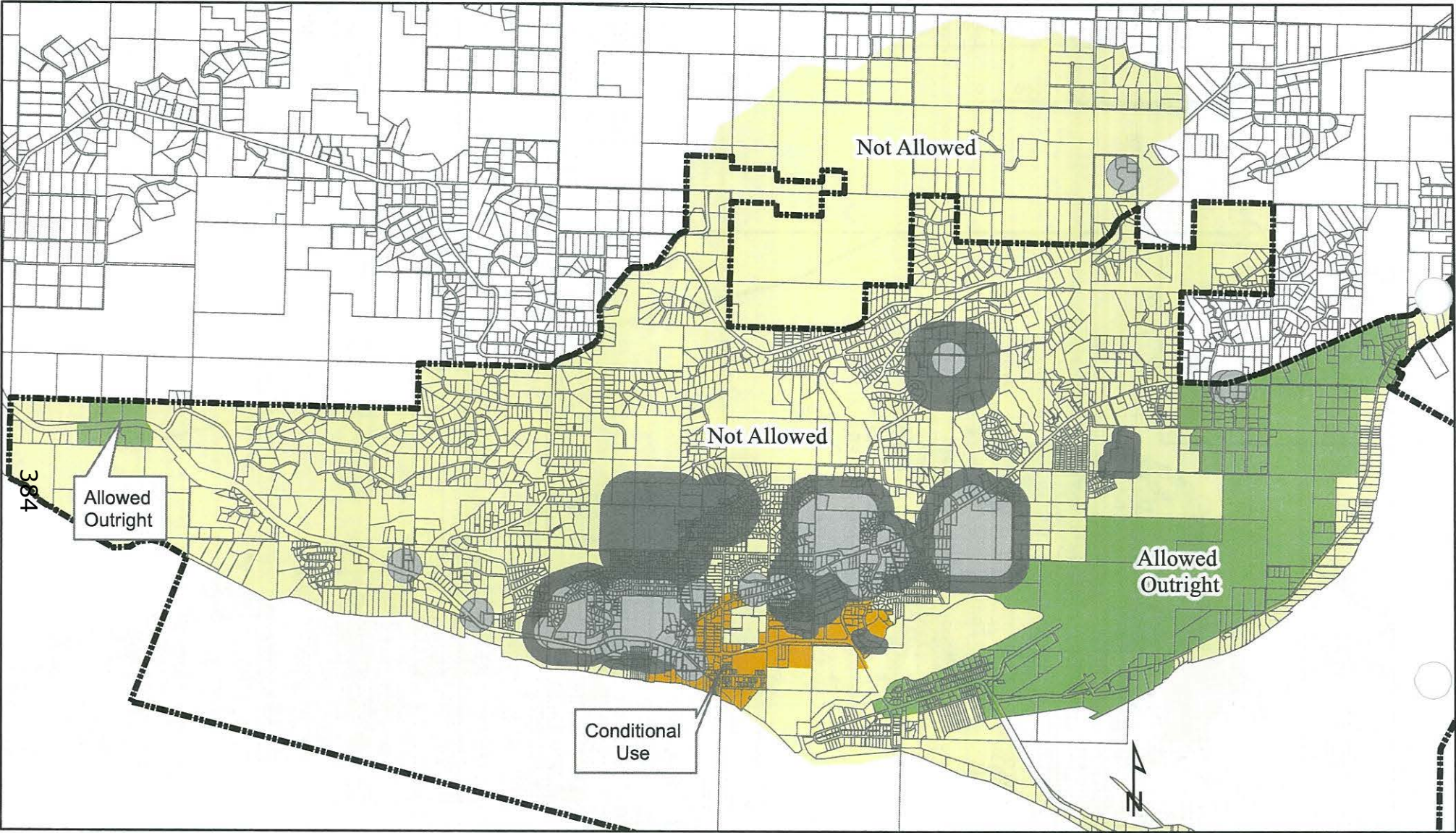
- Retail by Conditional Use Permit
- Retail allowed outright, Manufacturing by CUP
- No Commercial Cannabis Businesses

0 0.25 0.5 1 1.5 Miles

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

Commercial Cannabis Cultivation Map 1/6/2016

Questions? Contact City Planner Rick Abboud, 235-3106



Legend

- City Limits
- State Buffers
- Additional City Buffers
- Cultivation Permitted
- CUP
- No Commercial Cannabis Businesses



Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum PL16-01

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: January 6, 2016
SUBJECT: Planning Staff review of Marijuana Industries Ordinance

Planning Staff review per 21.95.040

21.95.040 Planning Department review of code amendment. The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

A. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

1. *Staff response:* This proposal to varying degrees supports the goals and objectives listed below. The industry is proposed to be allowed with the least amount of additional regulation in the commercial districts GC1 & 2 and EEMU. A higher level of review (CUP) is required in the CBD, which is a mixed use residential and commercial district, where more dwellings are found. As currently proposed, the businesses would not be allowed to introduce commercial activity in residential districts such as rural, urban and residential office.
 - a. 2008 Comprehensive Plan Chapter 8, Economic Vitality Goal 1, GOAL 1: Define and encourage economic development that meets the desires and interests of Homer residents and positively supports the unique character of the community.
 - b. 2008 Comprehensive Plan Chapter 8, Economic Vitality Goal 1, Define and encourage economic development that meets the desires and interests of Homer residents and positively supports the unique character of the community, economic development strategies;
 1. #2, Encouraging the production or sales of goods and services to better serve the local economy.
 2. #3, Amend land use and taxation regulations to encourage production of custom or unique products to sell locally and outside the community; such as art, technology, or value added seafood products.
 3. #4, Encourage "import substitution;" i.e., leakage control by producing locally what is otherwise imported. An example is the local farmer's market, which provides produce

which would otherwise be trucked into the community with profits leaving the community

- c. 2008 Comprehensive Plan Chapter 8, Economic Vitality Goal 2, Encourage the creation of more year-round, higher wage jobs, implementation strategies;
 - i. #3, Ensure that zoning and land use regulations do not unduly restrict entrepreneurial development and new business formation. Also ensure that the value of adjacent property is not degraded through noise, odor or similarly negative impacts.
 - ii. #6, Promote and enable small-scale employers who may have different land use and infrastructure needs than one or two-person sole proprietorships.
 - iii. #10 Establish and maintain consistent municipal standards and policies relating to the establishment and/or expansion of business activities on private and municipal lands.
 - iv. #13 Examine and replicate appropriate regional successes.
- d. 2008 Comprehensive Plan Chapter 4, Land Use, Objective D, Introduce new commercial districts to better encourage and accommodate commercial land uses in appropriate locations, and allow new types of commercial activities to take place.

B. Will be reasonable to implement and enforce.

Staff response: This amendment introduces a new industry to Homer, Alaska, and the United States and as such will be a learning experience to all. Leaving the majority of regulation to the state lessens the burden and liability of the City of Homer. Implementation and enforcement of the suggested CUP's may be the largest challenge to reasonable implement and enforce.

C. Will promote the present and future public health, safety and welfare.

Staff response: This amendment promotes health, safety and welfare by only locating the industry in commercial areas that are regulated in order to limit incompatible uses.

d. Is consistent with the intent and wording of the other provisions of this title.

Staff response: This amendment has been reviewed by the City Attorney and is consistent with the intent, wording and purpose of HCC Title 21.

STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per 21.95.040 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council with consideration for the amendments suggested in staff report 16-02.

lay down HOPC 1/6/16

RECEIVED

JAN 05 2016

CITY OF HOMER
PLANNING/ZONING

To whom it may concern,

My name is Derek S Hartman. Homer is my home town, this is where I was raised, where I went to school, and where I plan on raising my family. I am writing this letter in opposition to the ban of Marijuana cultivation in Rural Residential Zoning in the city of Homer. Here are a few things I have observed about this community while living here;

- 1) We Depend a lot on tourists
- 2) We Depend a lot on the Fishing Industry
- 3) Opportunities are rare!!!!
- 4) Marijuana has already been integrated into the community for years.

With the States' regulations, the individual will have to provide a precise detailing of building plans, property plans and security fences. The State requires the applicant to provide precise details even down to nutrient formulas upon applying for a license. The State has red-line requirements, essentially requiring the individual to acquire the property at the time of/or prior to, applying for the license. Once things are approved by the States' Marijuana Control Board, they cannot be changed until the next year when the individual renews their license. With the States requirements and the cities proposed ban of Marijuana cultivation in rural residential zones, the cost of having to have a commercial property that would be unable to generate income for the first four to six months, effectively puts it out of the hands of average Homer citizens.

I would rather see families that live in Homer year round have a chance to be involved in this opportunity, rather than people from Anchorage that would take the money they make here back up to Anchorage to spend it there. My wife and I, for example, already operate a small business called Handmade Alaska. We make our products from home, right now, we mostly have to travel out of Homer to sell our products directly to tourists. It would take a lot of pressure off of our Family having another source of steady income we can make on our property. By allowing cultivation in the Rural Residential district, it would help keep the money here, for the good of our community & economy.

The state already sees this, with their state residency requirements.

The state is controlling this new industry very tightly. They have codes to address most any issues a neighbor might have. They address line-of-sight, perimeter fencing, odor-control, & security. Making the Buffer Zones where it matches other zoning requirements makes sense also, cultivation should be kept 100ft from the neighbor's house. At first I was going to recommend a 40,000 sqft limit on lot size, but felt the 100ft buffer took care of the need for it. I included an excerpt from the RR zoning section of title 21 for easy reference;

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;

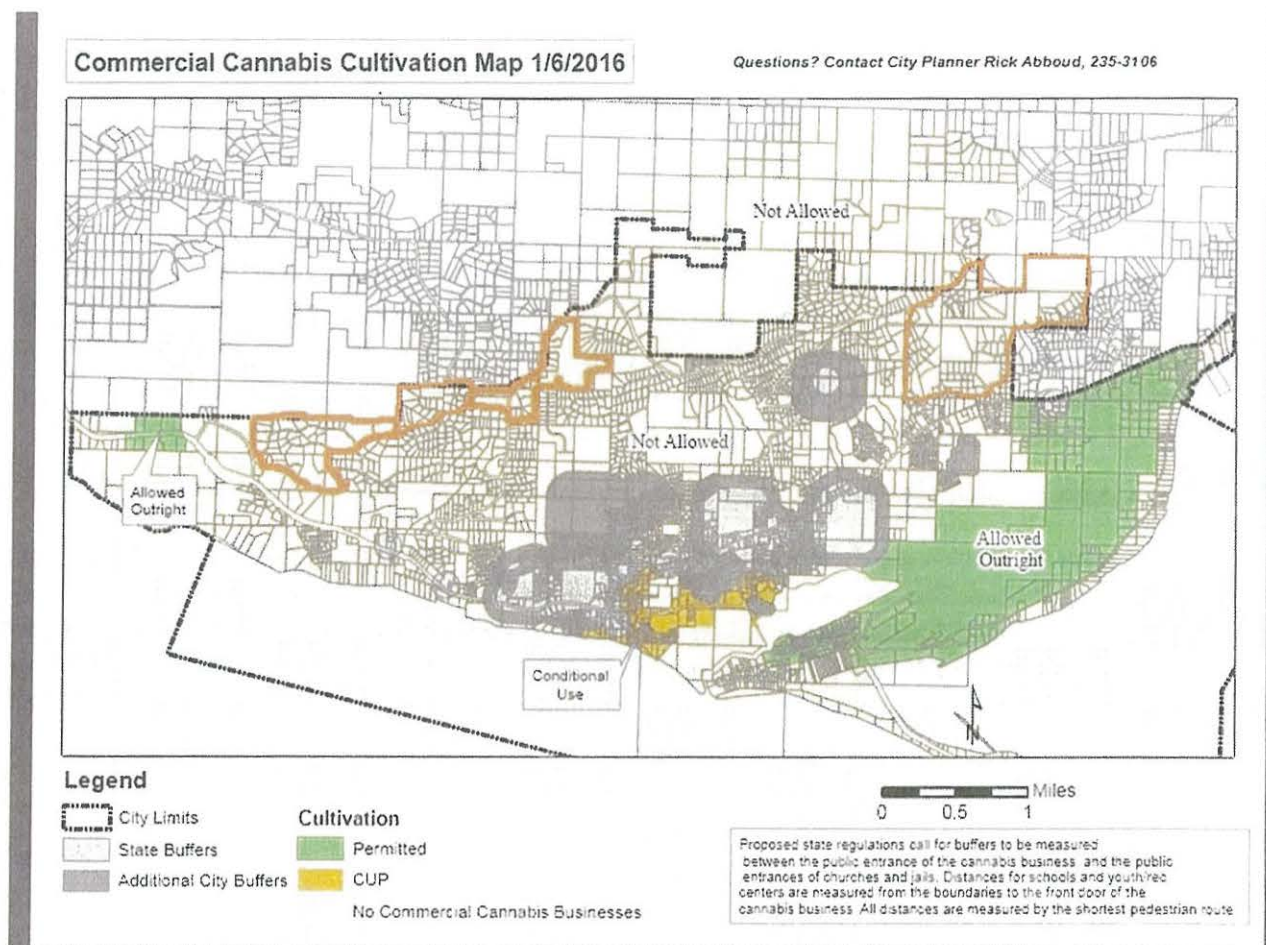
Also, I would like to propose, instead of limiting the type of cultivation license people can apply for, we should limit the square foot that can be cultivated. This would allow local people to grow and expand in this new industry, by allowing people to take their license and move to the preferred commercial piece of property.

When looking at a map of Homer, outside edges seem to stand out as an area to zone for this. Most lots are a bit bigger on average in these areas, and I feel that most people move out of "town" because they want privacy. I'd hate to exclude anyone but I have included a map on which I've outlined some areas in the Rural Residential which I feel would work.

I believe the economy should be grown from the ground up, and the more opportunities that average local citizens have to be in business, the better off we all will be. Also I believe small business owners are more likely to shop locally. I would love to see a town full of locally owned businesses, and in which good families have a chance to be business owners. I would like to see our community make the type of decisions that enables average citizens to become prominent business owners. Keeping business accessible to average citizens is how I believe we build a strong economy within our community.

Thank you for your time

Derek Hartman



Diamond Ridge Art Studio

November 4, 2015

City of Homer

Planning Commission

491 E. Pioneer Avenue

Homer, AK 99603

RECEIVED

DEC 21 2015

CITY OF HOMER
PLANNING/ZONING

RE: Cannabis Advisory/Oversight Committee Proposed Spheres

Dear Commission Members:

In May of 2014, I opened Diamond Ridge Art Studio at 4025 Homer Spit Road, #17. My decision to locate my business there was based primarily on the nature of the prospective clientele that visits the area. The Homer Spit attracts large numbers of vacationing families, tourists, fishermen and boaters. Between May 4th and Labor Day of this year, I logged over 5,000 visitors to my gallery. Many of these visitors were families with children of all ages. Also, many were residents of Homer. I organized painting demonstrations that were attended by both children and adults, both from Homer and elsewhere. In addition, I carry art items that are appropriate for families.

The proposed city ordinance permits the retail sale of marijuana on the Spit. I would ask the Commission to consider establishing a buffer zone due to its proximity to the Nick Dudiak Lagoon, adjacent campgrounds (which serve as temporary residences) and the small boat harbor.

The Homer Spit is a seasonal retail environment. Virtually all of the businesses close for the winter. A police presence is a challenge to the city to maintain during the busy summer season and would need to become a greater presence during the winter should marijuana sales be conducted there.

I know that there are several families who would no longer come to my business for any reason if there is an establishment selling marijuana nearby. As a small business owner, I strive to attract every potential customer by providing an environment that is family-friendly and wholesome.

Homer has demonstrated its commitment to promoting tourism. The city, the Chamber of Commerce, and the business community have successfully collaborated to attract tourists and to grow the cruise

Olga Amara, Owner
#17 Homer Spit Road
Homer, AK 99603
(907)299-7750
Diamond.ridge.art@gmail.com

Diamond Ridge Art Studio

ship business. Much of that is centered on the Spit. The retail sale of marijuana and cannabis products does not seem to me to be consistent with the promotion of a family-centered vacation destination.

I would welcome the opportunity to discuss this further with you and can be reached at the number listed below.

Sincerely,

Olga Amaral

*Olga Amaral, Owner
#17 Homer Spit Road
Homer, AK 99603
(907)299-7750
Diamond.ridge.art@gmail.com*

Dotti Harness

Subject: FW: Zoning and Planning: Cannabis

I need to correct one thing.

I mentioned NO on a CUP permit, anywhere in Homer, for Limited Cultivation Facilities: one exception, the pink zone, where our city water is. That is the only reasonable area, where a CUP should be required as there are waste issues to be concerned with, especially if they do not have proper plumbing. Yes to CUP on limited up by the city water. Anywhere else, no.

Jeremiah

-----Original Message-----

From: Jeremiah Emmerson [mailto:publisher@alaskacannabiscollective.com]

Sent: Thursday, December 03, 2015 10:36 AM

To: Department Planning

Subject: Zoning and Planning: Cannabis

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DEC 3 - 2015

CITY OF HOMER
PLANNING/ZONING

I wanted to follow up to my oral testimony given in the Planning Workshop held on December 2nd.

A few things that I addressed, were the school buffer zone increases, limit on licenses issued, forcing a half acre in general residential areas as well as limiting retail operations on the spit.

I would like to expand on what I mentioned at the workshop.

One of the biggest issues that I see is that there is a lack of information on the planning committee's behalf. It did not appear to me that the board members have even read the regulations. I understand that cannabis is not the only issue that the planning committee addresses and surely no one person could attempt to know everything there is to know. However, this issue needs addressed and the planning committee should read the regulations prior to making zoning or else we run into ignorant decision making.

The regulations are currently heading to the Department of Law for review, then they will be heading to the Lieutenant Governor for final approval. There will be amendments and adjustments made in the future, these regulations are never going to be set in stone, another common misconception people have. The board can go back and make changes. Bruce Schulte has assured me that this is the intention of the board, to revisit and make changes as necessary for the better good of all involved.

What I would like to reiterate is the state regulations are incredibly strict. Keeping cannabis out of the hands of minors is one of the highest priorities for ALL cannabis establishments. Most of the industry members I have spoken to, recognize the importance of keeping cannabis out of the hands of minors. They are intending on being business owners and they all know the consequences for selling to minors. In reality, usage rates in other states that have legalized, among minors, has either a: stayed the same with no increase in rates, even amongst teens, or b: has decreased as everyone is now required to present a photo id.

In those states the legalized market is winning over the black market and that's a good sign and something that should be supported instead of blocked.

In a lot of ways right now, trust is being built between industry members and government. We both essentially need to trust each other and find ways to limit the sale to minors as well as help the industry grow.

For many years now, black market operations have had full control of cannabis sales, nobody knows for sure where it comes from, nobody knows if it contains contaminants or other harmful substances, nobody can validate that the product is safe. Nor can anyone check and see if there are sales to minors. Nobody knows where the money is going and not one red cent is taxed.

When you legalize cannabis and have regulations such as we have today, most of those problems disappear. You now have to test your product through a licensed, strict protocol, laboratory testing facility. These are state of the art facilities, that checks for things such as harmful substances, contaminants, mold, and general filth. The product becomes cleaner and safer now. Every single gram of cannabis sold also must be documented and is excise taxed at the rate of \$50/ounce. Then add sales tax on to that.

Doing this essentially will eliminate the unsafe black market, that you currently have no control over or ever will, without responsible regulation that promotes legal, safe, documented sales. If you create major barriers to legal operations, you essentially give the black market more control and you lose valuable tax revenues. Not only that the enforcement factor alone, is too costly.

The next item is the economy in general. Homer and many other communities in the state are all trying to figure out how to deal with budget cuts. Its hurting us and we all know it, yet, we are still poking at cannabis unsure of what we should do.

Let me tell you its not just about cannabis smokers and getting high. Now that folks can be legitimate, tax-paying business owners, they will act as such. What comes with that is jobs, growth, and revenues.

Think about this for a minute, if we create reasonable zoning that allows small start ups, to operate in small area its easier for them to "move on up", without high startup costs. Most generally want a facility that is designed to their needs and do not want to grow in their own homes, and they may also have property size limitations.

Regardless if they are looking to renovate or build a new property, or build a new unit on an existing property you just inextricably placed the construction industry and real estate industry together. The three become tied together and folks have jobs. They don't even have to be a cannabis consumer yet they are benefiting from the industry.

In conclusion, the cannabis industry brings so much more to the table than folks getting high. If we choke business out with zoning, limits, and unreasonable or ignorant decisions, were going to miss out in so many ways I can't even list them all today.

Here is my suggestion:

NO to 1000 foot buffers on schools, we already have a state mandated 500 square foot buffer.
NO to CUP permits for ANY Limited Cultivation Facility, anywhere in Homer. You may do a CUP on any Standard.
NO to restricting cannabis retail stores on the spit.
NO to requiring a property owner to hold 20k square feet to operate a Limited Cultivation Facility.

Please revert back to the November 4th, 2015 version of the proposed zoning, as this is the best version to date.

Jeremiah Emmerson
Local Resident
Owner of Alaska Cannabis Collective, an Online Business Directory and Blog

December 2, 2015,

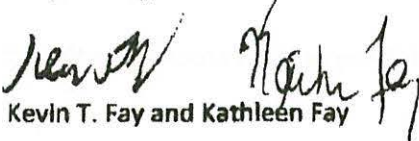
Homer Planning Commission, (907) 235-3118

Homer, Alaska 99603

Dear Homer Planning Commission,

Please be advised, that Kevin and Kathleen Fay, owners of 1590 East Skyline Drive, Homer, Alaska, and 1642 East Skyline Drive, Homer, Alaska strongly oppose the "Production sale or use of Marijuana." We are hopeful you will not approve this, within the City limits of Homer, Alaska.

Respectfully,


Kevin T. Fay and Kathleen Fay

2002 Ocean Ave.

Belmar, NJ 07719

(732) 681-4128

kevinfay@verizon.net

RECEIVED

DEC 4 - 2015

CITY OF HOMER
PLANNING/ZONING

Dotti Harness

Subject:

FW: Zoning for Cannabis

RECEIVED

DEC 9 - 2015

CITY OF HOMER
PLANNING/ZONING

From: Jeremiah Emmerson [<mailto:publisher@alaskacannabiscollective.com>]

Sent: Tuesday, December 08, 2015 5:59 PM

To: Department Planning

Subject: Zoning for Cannabis

Looked at the zoning maps, I believe scheduled for a vote on the 6th of January, I am finding some positives and a few questionable items. I made comment before and one positive thing that I do see, is that we are going to allow retail on the spit.

Bravo!

Next, we are going to allow any establishment (minus manufacturing) near Kachemak Drive, Beluga Lake Area, and Baycrest Area with no CUP. Bravo!

Now, a couple of things that are questionable. First off, Not allowing ANY establishments in areas other than the one's I mentioned above, other than the CUP area in Old Town.

We need to do something that doesn't essentially "forbid it across the board".

Limited Cultivation Facilities (22 feet by 22 feet, max grow space allowed) were designed as a license type by the state marijuana control board for two reasons: convert the small home grower to the legal market as well as provide a "boutique grower" option.

Cutting out areas like West Hill, East Hill, Skyline, and Sterling Hwy headed out of Homer, is cutting out a lot of land that could be utilized for a limited cultivator. Most limited cultivators will more than likely use their own property for growing or lease space from a friend. We can't restrict this. Were being unreasonably impracticable here and were forcing folks to buy land elsewhere, lease space in that teeny little zone on Kachemak Drive, or were forcing them to leave Homer City Limits altogether.

Let limited's license in this area you have wiped out, at least the four major areas I mentioned above, if you want to cut out mid Homer, fine, so be it, lets compromise here. No CUP in those zones as well for limited cultivators.

Manufacturing facilities are also going to be defined by what they are manufacturing. Are they making brownies or extracts? How are they extracting? Are they making essential oils and lotions? What are they making?

The only time a CUP should be required for any manufacturing facility is if they are doing solvent-based extraction using flammables or hydrocarbons such as butane, propane, naptha, alcohol, and or carbon dioxide, etc. Its simple, these things are explosive.

Heat and ice extraction, on the other hand, is less dangerous than a turkey fryer.

More thought needs to be placed into this. Good work so far in some areas, lots more work to do in others. If you have any questions about cannabis, extraction methods, anything, I can answer a lot of questions. Lets get this right now and help bring new revenues to Homer, with reasonable zoning.

Regards,
Jeremiah Emmerson
Local Resident

Motion carried

PLAT CONSIDERATION

A. Staff Report PL 15-81 Tsunami View No. 2

Chair Stead read the title into the record. City Planner Abboud reviewed his report. He noted the following:

- there may be a levy of assessments for the Natural Gas Special Assessment District to the this decision.
- this is located north and west of Bayview park
- Rural residential District
- No wetlands
- City utilities available
- Notice was sent to 75 property owners
- require a 15 foot utility easement adjacent to Right of Way
- Noted comments from Public Works regarding access and the steep grade
- Fire Department concerned with access

No Applicant was present to comment or to answer questions.

Chair Stead opened the public hearing. Hearing no comments the public hearing was closed and the Chair requested questions for the City Planner.

The commission asked questions of the City Planner on the viability of the hillside and expressed concerns with maintaining the stability of the hillside, noted that construction on the steep slope would be limited, and expressed concerns of the access by the Fire Department, and questioned if they can put conditions on the plat to accommodate the Fire Department and the comments from Public Works.

VENUTI/HIGHLAND - MOVED TO ADOPT STAFF REPORT PL 15-81 TSUNAMI VIEW NO 2 WITH STAFF RECOMMENDATIONS 1-7

The commission held additional discussion on the steep slope issues.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

A. Staff Report PL 15-80 Zoning for Marijuana

Chair Stead read the title into the record. Staff teleconferenced in City Attorney Wells to the meeting.

City Planner Abboud stated that they combined the two items into one and they are running out of time having extended the time of the meeting to 10:00 p.m. He reported on the changes to the state regulations and that may bring about changing other rules; he still has concerns with bringing this issue of commercial grow operations in a Rural Residential Area, there are places to do business and that business does not belong in residential. He also doesn't believe that it should be allowed by CUP since that may open them to litigation. He stated that with the regulations imposed by the state the industry will take care of itself. If they become too stringent and put too many limitations then they will end up with it on the outskirts of town and not have any of the benefits. The City Attorney recommended trying it a smaller area without having another layer of rules on top of the state's. City Planner Abboud stated that as far as limiting licenses there were concerns in limiting licenses without incurring litigation, the state handles the alcohol licenses and how would they choose or select who will get the license would open the city up to more problems. He did not see this as a business on every corner type of situation.

City Attorney Wells supported what City Planner Abboud stated, narrowly focus on what the City wants to have discretion since the city will be involved in every application but the state will be involved in any possible backlash. The city should narrowly focus its involvement.

Commissioner Erickson requested clarification with commercial ventures, questioning if they should keep it all in General Commercial until they see where it falls. Her other question is if they allow this type of commercial business in Rural Residential would they have to allow other types of commercial enterprises also.

City Attorney Wells stated that the commission should carefully review which districts to allow it and then allow it outright due to the nature of the CUP process. That they should limit the requirements. She further noted that the commission should consider that this is a new industry and look at each district and what they currently allow in each of those districts that is similar to this industry. She further stated that as far allowing it in Rural Residential, the commissioners have to really consider if they want this business in that district, it is new, yes, but in many ways it is the same as any other business. It would be a good use of time to consider the challenges since it is still federally unlawful and there are many questions and concerns surrounding the legislation and regulation of the industry.

Commissioner Venuti questioned the status of the 1000 ft rule. City Planner Abboud explained that the Cannabis Advisory Commission (CAC) has discussed this issue too, especially regarding the federal requirements, and have questioned whether this rule would apply to the college. He will be checking more into that for both commissions.

There was a brief comment on extending the meeting since it was coming up on the deadline.

ERICKSON/HIGHLAND - MOVED TO EXTEND THE MEETING TO 10:15 PM

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ERICKSON/HIGHLAND - MOVED TO PROHIBIT SMALL CULTIVATION IN THE BRIDGECREEK WATERSHED PROTECTION DISTRICT, RURAL RESIDENTIAL AND SMALL AND LARGE CULTIVATION IS ALLOWED AND/OR PERMITTED IN GENERAL COMMERCIAL 1 AND GC 2

Brief discussion by the commission on the fact the Rural Residential comprises 75% of Homer and they encourage certain actions in rural residential.

VOTE. YES. HIGHLAND, BRADLEY, ERICKSON, STEAD, STROOZAS

VOTE. NO. VENUTI

Motion carried.

Highland questioned corrections to line 362-365 in the draft ordinance. Staff noted that all corrections will be done prior to the next regular meeting. He then asked the commission to consider allowance in the East End Mixed Use District.

ERICKSON/ STROOZAS - LARGE CULTIVATION IS ALLOWED IN EAST END MIXED USE TO BE CONSISTANT.

There was no discussion.

VOTE. YES. STROOZAS, STEAD, ERICKSON, BRADLEY, HIGHLAND.

VOTE. NO. VENUTI.

Motion carried.

City Planner Abboud inquired about actions on retail activities in any district. He noted that the General Commercial is good but the CBD is a toss-up.

ERICKSON/ HIGHLAND - MOVED THAT RETAIL ACTIVITIES BE ALLOWED IN GENERAL COMMERCIAL 1 AND GENERAL COMMERCIAL 2 AND THE EAST END MIXED USE DISTRICTS CONSISTANT WITH CULTIVATION IN THOSE DISTRICTS.

Discussion followed on changing from having the conditional use process in these districts and the fact the commission is limited to follow the law, offer areas where people who want to do the business they want to do and keep it out of areas that people don't want to have it. The fact that this has to be allowed somewhere and currently the way it is written there is no retail allowed in the city without a CUP.

VOTE. YES. HIGHLAND, BRADLEY, ERICKSON, STEAD, VENUTI, STROOZAS.

Motion carried.

Chair Stead noted that they are past the 10:15 p.m. deadline for the meeting and questioned if there is a desire to extend the meeting time again. The commission agreed by consensus to adjourn the meeting. Staff recommended that they allow comment since several people stayed throughout the entire length of the meeting.

Chair Stead noted for the record that they will postpone discussion on the item until the next regular meeting and go straight comments of the audience.

B. Staff Report PL15-81 Towers Considerations

NEW BUSINESS

A. Staff Report PL 15-84 Marijuana Business Licenses

INFORMATIONAL MATERIALS

A. City Manager's Report from November 23, 2015 City Council Meeting

COMMENTS OF THE AUDIENCE

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

Catriona Reynolds commented that the limit for Council financial conflict of interest is \$500. She further noted that CUP's put on Right of Way rather than the person's property have been problematic in the past.

COMMENTS OF STAFF

City Planner Abboud commented on the changes made by the Commission and that if they are going to allow this industry then they needed to pick the places to allow it, don't make the hurdles so high. If they don't want it, then ban it. He was afraid of an unending appeal of a CUP that they approve and if they went that way and what those costs to the city would do. It was a productive meeting.

Deputy City Clerk Krause noted the city code did not reflect a specific amount, just "substantial financial" for the Conflict of Interest and that it was probably outlined in their bylaws. It is always better to err to the side of caution. Very good meeting though long.

COMMISSION

Commissioner Highland had no comments.



Dotti Harness

From: Holly Brennan <hollyfromhomer@gmail.com>
Sent: Tuesday, December 01, 2015 7:17 PM
To: Department Planning
Subject: comments for Dec 2 meeting

Homer Planning Commission and City of Homer Planning Department -

Thank you for your thoughtful considerations when drafting the Zoning for Marijuana documents. I found the outcome to be surprisingly reasonable.

As more information begins to reach the general public, I have noticed an increase in the number of comments expressing concern about cannabis zoning in Homer. It is not surprising to me that the majority of these comments are seemingly misguided, such as most made during the Nov 4, 2015 meeting.

I just wanted to reiterate my previous suggestion to take these comments opposing "marijuana" and replace with the phrase "cannabis businesses," since this is what the zoning regulations are addressing. Regulating the zoning for cannabis businesses does nothing to stop individuals from possessing it, which is something many people just do not seem to get. Many seem to think that if you change the zoning requirements they'll be able to create a personal buffer around themselves and prevent all use/possession, but of course this isn't true.

Thank you for creating zoning regulations for cannabis that are reasonable for residential, business, and commercial areas - especially business. It's my hope that one outcome of the legalization of cannabis is that Homer is able to take advantage of the potential revenue from sales, and this can't be done without ideal places to set up legitimate businesses (such as the spit).

Keep up the good work.

-Holly Brennan

City of Homer resident

RECEIVED

DEC 2 - 2015

CITY OF HOMER
PLANNING/ZONING

Dotti Harness

From: Crisi Matthews <broker@cmreagent.com>
Sent: Wednesday, December 02, 2015 3:28 PM
To: Department Planning
Subject: Public Comment for Planning Commission Meeting Tonight

I find it rather disappointing that members of the community came forward in support of limiting cannabis sales here in Homer from recreational areas such as the Spit and resulted in such minute support from the Commission. This conversation is not about alcohol on the Spit as was Council's statement in opposition of our request for restrictions to sales on the Spit. As a governing body, one member went on to read the definition of the City Code for recreation and it's facilities as they exist in Homer. In addition, the General Plan also designates OSR zones on Homer Spit and therefore it seems natural that RECREATION as defined by your code should have the same buffer zone as the 'Park' does. Children congregate in these zones while visiting Homer more than any other Zone in our City. I'm still not clear how the Council who has defined Recreation and it's Zones so clearly isn't placing any protection on them now. Buffer Zones for the zones of OSR need to be identified also as there won't be specific designations addressed in the state code such as these nor on marine OSR zones as this designation pertains to Homer not the state at large. The code limits construction so as to preserve them and their use a buffer zone here seems only logical.

To date, the state committee is still answering public questions on these same texts and they haven't completed the adoption of their guidelines as they apply to Alaska. It also states at this time that the local jurisdiction must approve a license request before the state will issue it once these guidelines are in place, so I'm not sure why there is such haste in generating Homer's guidelines ahead of the state. If ANYTHING it would seem prudent to allow them to lead not to supersede local recommendations ahead of theirs. The idea that we need to have our doors open first is extremely liberal and not reflective of the overall populous of Homer. As shown in the last public hearing the opponents far outweighed those in support and none from the Cannabis committee even attended.

According to the 2010 Census nearly 25% of Homer's population is under 19. In addition, a call to the Chamber of Commerce identified that 11,600+ visitors came into the Chamber not including the City of Homer in general from May 1 to August 31 and 9 cruise ships distributing 4500 visitor guides to these. Big draws like the Birding Week and Salmon Derby are big draws here also. It seems pretty obvious to me, a business owner in town and to the others that spoke last month requesting your expressed protection of the Spit that the Planning Commission HAS the authority and the obligation to protect the OSR Zones they've created for outdoor use. The families that live here came for all that is Homer; a safe community to raise healthy families. The residents and the visitors came for every reason OTHER than access to Cannabis Sales. Tourism is the heart of Homer's summer revenue as a City and for small time business owners that depend on the summer commerce, not a hope for retail tax from these proposed businesses.

We ask that you revisit the OSR and place a buffer zone on them just the same as you have identified for the Hornaday Park.

--

Loyally,
Crisi Matthews, Broker
c: 907-299-8700
f: 888-552-2805
www.CMREagent.com

RECEIVED

DEC 2 - 2015

CITY OF HOMER
PLANNING/ZONING

Dotti Harness

Subject:

FW: Comments for public hearing December 2nd planning commission

RECEIVED

DEC 2 - 2015

From: Chad Matthews <info@ofishial.com>

Date: December 2, 2015 at 3:59:47 PM AKST

To: planning@ci.homer.ak.us

Subject: Comments for public hearing December 2nd planning commission

CITY OF HOMER
PLANNING/ZONING

I apologize ahead of time for being a terrible public speaker and my wife and I can't be there tonight but ask that you be patient for a couple of serious points not only on the Cannabis subject but how I have witnessed it address by this board. Neither point will mean anything unless you know my background. So please humor me for a minute down a quick blink of my life which I promise is all relevant to this town that I/we call home. I was born and raised in San Jose California more specifically the East side "the wrong side of town". It was ridden by drugs and gangs and my father and I were only there to grant my grandmother's dying wish to live out her years in the house that my grandfather built. As much as I loved my grandmother we said every year that this would be grandma's last Christmas living in what became one of the top rated ghettos in the lower 48. My grandfather's hand built home was built in the middle of an almond orchard that in 40 years became the festering grounds for gang activity, drug trafficking and violence. There I both witnessed and was a victim of violence based on drug trade both from gang selling and at the hands of the childhood product of druged out parenting. I went to school everyday sick to my stomach about about what would happen before the day was out. To save you the long "opera" moment I have been beaten to an inch of the end of my life more than once. Many of these kids who were violent in the name of gang involvement began their drugged lives at the hand of marijuana. It was a gateway drug for them. My rear neighbors who were 5th graders had access to marijuana and sold it within the neighborhood. How is that related to the pot here, in Homer I am sure you ask as well as this is not a forum to discuss the legality legalizing it since that has already been done.

I offer further evidence of the effects of it and ask what basis anyone in this room has to offer to the affects on this town? The Cannabis of the 70s when pot was a fraction of the potency and was a part of a free loving era that was the platform of counter capitalism has evolved. Those who believe the legality is just are ignoring that it is a controlled substance and it has become a more potent, more marketed, more effectively and illegally grown product that has lead to continual growth and profitability of major gangs and cartels that have changed everything from those fun loving hippy days. My story does not end there, at 13; the year before my grandmother passed and I had an out to get out of the ghetto based on my parents' divorce. I moved with my mother to a small dairy town in the Central Valley of California. This is the town that shaped me but I've been told by the teachers there that we were the last good class to come through a long history of a good wholesome town. Even my younger brother was on the wrong path. He harmlessly thought smoking pot was a good idea in contrast to myself who saw the devastating effects as a kid in the ghetto. I have not spoken to him in 10 years. He now sells marijuana through California's medical marijuana laws, he has multiple convictions of driving under the influence and theft still living with our mother at nearly 30 years old. I watched his demise which started with pot.

As an adult man legally hunting pigs in the mountains of California, I've been shot at by those growing illegally on forestry land. The crime report we produced for this board a month ago regarding the effects of legalization in Colorado, who read it? Was it a priority to look at those unbiased statistics before making decisions on how it will be implemented here before THE STATE OF ALASKA has even completed it's editing process of this document to serve as our template here in Homer?

Back to this board their basis for addressing this issue. In the first meeting I addressed specific questions that were brought up but not addressed in discussion since they clearly did not conform to what appeared to be personal agenda. Only one proponent without a logical presentation showed up

to the meeting to state 'it's already here' in our town yet the appeal by business owners who are the lifeline of the City's revenue was largely ignored. 44% of the City's Budgeted Revenue is generated by taxes; sales and property therefore, why would the Plannign Commission ignore that this is largely based on the series Homer currently offers; safety, community, clean wholesome family activities and tourism of this town? When only 2 of the board both Roberta and Shelia tried to address questions by the people they were shut down or it was likened to rot gut sales on the Spit which has nothing to do with this issue nor minimized in light of alcohol a legalized and VERY REGULATED industry. How is it that in representing the people, their comments are ignored? What experience (like mine in seeing direct result of loose oversight of controlled substances) does the rest of the board have in this matter? I'm not sure why in Homer there is the need to be the trendsetter with this legislation in rushing to approval ahead of the state? I don't see more advocates for looser restrictions appearing than the opposite asking for more restriction. I'm a staunch advocate of the exact draw there is for people to Homer—1. tourism, 2. family based community 3. small town and low crime rates
The mission statement of Homer is:

The City of Homer Community Recreation will promote community involvement and life-long learning through educational and recreational opportunities for people of all ages. This will be accomplished through maximizing usage of all community facilities and resources, while utilizing, expanding and uniting local business and school resources and expertise. Our program shall be designed to recognize cultural diversity and to address social and community concerns.

Is your direction to allow pot retail in nearly all parts of Homer a reflection of that?
Do you see the need for liberal Cannabis legislation to be paramount to building our community and the families here? You've outlined Recreation should have a buffer and in the General Plan there are numerous OPEN SPACE RECREATION areas and you further defined those at the last meeting per the City Code yet no consideration is being given to a buffer zone for those even at the request of those who conduct business there. I'm a little frustrated as I have seen first hand the effects of liberalization and left behind all of that for a place to conduct a family-run business and a community like many here to raise our family.

O'Fish'ial Charters of Alaska

Capt. Chad Matthews

907-299-6991

Homer, Alaska

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Staff Report PL 15-84

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: December 2, 2015
SUBJECT: Marijuana Licensing

Introduction: I was asked to bring the subject of license restriction to the Planning Commission for consideration of license limitations including amount of licenses and hours of operation.

Analysis: Currently, hours of operation mirror those for selling alcohol which are not to operate between the hours of 5-8am. An amendment to the state regulations now permits use of the product at retail facilities. This action may deserve consideration in regards to the hours of operation.

Municipalities may also limit the amount of licenses. This can be done in a few different ways. It could be total licenses for each type of license throughout the city and/or it could be tied to the amount of license type allowed in the respective districts where such activities are allowed. After speaking with the City Attorney, it was cautioned that limiting the number of licenses may open up the city to litigation.

I believe that the demand for the various licenses in Homer will sort itself out, resulting in only a handful of operations at most. Of course, we do not have definitive proof of this yet. Keeping the facilities restricted to minimal zoning districts may be a better way to contain and measure the impact of the new industry.

My early recommendation to the CAC was to disallow any operations in residential districts. My reports on lessons learned in the various conference sessions and literature on the industry continue to support my recommendation. The only mitigating factor for this activity may be the reference to "allow for limited agricultural pursuits" in the purpose of the rural residential district *[The purpose of the Rural Residential District is primarily to provide an area in the City for low-density, primarily residential, development; allow for limited agricultural pursuits; and allow for other uses as provided in this chapter (Homer Comprehensive Plan 2010).]*

Staff Recommendation: If so desired make motion(s) to support policy decisions regarding the licensing and/or recommended hours of operation for retail marijuana establishments to the City Council.



City of Homer

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STAFF REPORT PL 15-80

TO: Homer Advisory Planning Commission
FROM: Rick Abboud AICP, City Planner
MEETING: December 2, 2015
SUBJECT: Zoning for Marijuana, second public hearing

Requested Action: Conduct a public hearing on the draft ordinance regulating commercial marijuana activities by zoning district.

GENERAL INFORMATION

This is the second of two scheduled public hearings. The draft ordinance creates zoning regulations for the four types of commercially regulated marijuana activities licensed by the state.

1. Cultivation. There are two sizes of cultivation operations:
Small scale is limited to 500 square feet of cultivation, and
Large scale is anything larger than that.
2. Testing
3. Manufacturing
4. Retail

The city may propose regulations in addition to the state regulations but may not allow anything that is less restrictive than the state. Below is a table of the activities proposed by zoning district. In addition to this, the city has proposed additional buffers:

- 1000 ft from schools (this mirrors the federal drug free zones)
- 200 ft from the library
- 200 ft from Jack Gist, Karen Hornaday, Bayview, and Ben Walters Parks

Update

A few changes were made after the last public hearing. Small scale cultivation is now proposed to be a permitted activity in the East End Mixed Use District and a conditional use for lots exceeding 20,000 square feet in the Rural Residential District.

The state is now proposing allowing a consumption component to a retail facility. This is a bit tough to judge at the moment. While there is a great deal of rules and regulation regarding how the retail component will operate, there is no additional information (so far) regarding any other regulation regarding the operation of the facility with an attached place of consumption. This certainly adds to the complexity of the subject of retail facilities. The model that I have observed in Washington and Colorado was one that I saw as having little negative consequences as far as compared to other retail operations such as liquor or convenience stores. Thoughts and discussion is welcome.

Buffers

At my Planning Conference, Cynthia Franklin was expanding on the choice of the 500 foot buffers, it was revealed that these were based on state law and, as such, had a solid basis for compliance with the Cole Memo. We finally found where this is located in Alaska Statute. The City Attorney informed me that her research showed the federal government does take a stance on the 1000 foot buffer from schools.

While I found no reference to "drug free zone" or "double penalty zone", I found that misconduct that might be considered a sixth degree offense (possession of a schedule VIA controlled substance (marijuana)), becomes a third degree offense when "on or within 500 feet of a recreation or youth center as described below. This includes an athletic playing field or playground by state definition.

Interestingly, alcohol is only limited inside of a 200 foot buffer of churches, which is more in line with what we had proposed in an earlier version of the proposed ordinance. Regardless, we are only able to propose more restrictive regulations not more permissive than the state.

After review with the City Attorney, I have no recommendations. Below is the statute reference.

AS 11.71.030. Misconduct Involving a Controlled Substance in the Third Degree.

(a) Except as authorized in AS [17.30](#), a person commits the crime of misconduct involving a controlled substance in the third degree if the person

(1) under circumstances not proscribed under AS [11.71.020](#) (a)(2) - (6), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver;

(2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus.

AS 11.71.900. Definitions.

(20) "recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a municipality or the state to provide athletic, recreational, or leisure activities for minors; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for minors;

(29) "school grounds" means a building, structure, athletic playing field, playground, parking area, or land contained within the real property boundary line of a public or private preschool, elementary, or secondary school;

AS 04.11.410. Restriction of Location Near Churches and Schools.

(a) A beverage dispensary or package store license may not be issued and the location of an existing license may not be transferred if the licensed premises would be located in a building the public entrance of which is within 200 feet of a school ground or a church building in which religious services are regularly conducted, measured by the shortest pedestrian route from the outer boundaries of the school ground or the public entrance of the church building. However, a license issued before the presence of either cause of restriction within 200 feet of the licensed premises may be renewed or transferred to a person notwithstanding this subsection.

A = Allowed. C = Conditional Use Permit needed.

Table 1. Cannabis Activity by Zoning District

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

*for lots over 20,000 square feet (not allowed on lots 20,000 square feet or less)

STAFF COMMENTS:

While we are 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 that apply (Article 7) to all of the activities along with more specific requirements that address each of the 4 individual licensing areas. One really needs to understand the state regulations to get an accurate picture of what these activities may look like when approved. There are 133 pages that compose articles 1-9, which the state uses for regulation. I will attempt to highlight some of these and draw attention to those that need particular consideration for zoning.

All activities are to 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. All personal that work or have ownership interest will need a handlers permit and this permit must be on the person at all times when in the facility.

Many other aspects of the activities 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
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5am and 8am

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:

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

The City's regulations do not address personal use or consumption of marijuana. State regulations still allow for the growing, possession, and gifting as many as six marijuana plants. Only three of the plants can be mature and flowering at any one time. According to the State of Alaska (<https://www.commerce.alaska.gov/web/abc/MarijuanaInitiativeFAQs.aspx>) an unlicensed person may possess up to 4 ounces of marijuana. It is illegal to smoke marijuana in public as defined by the state, no additional restrictions have been suggested.

RECOMMENDATIONS:

Hold a public hearing and consider amending the ordinance if appropriate. Recommend for adoption to the City Council.

ATTACHMENTS

1. Draft ordinance 11.20.15
2. November 4th map series (3 maps)

CITY OF HOMER
HOMER, ALASKA

Planning Commission

ORDINANCE 15-__

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.12, RURAL RESIDENTIAL DISTRICT; 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, BRIDGE CREEK WATERSHED PROTECTION DISTRICT 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, RETAIL, AND TESTING FACILITIES

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

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

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.12 is amended to read as follows:

Section 21.12.030 Conditional uses and structures.

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

The following uses may be permitted in the Rural Residential District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

- a. Planned unit development, limited to residential uses only;
- b. Religious, cultural and fraternal assembly;
- c. Cemeteries;
- d. Kennels;
- e. Commercial greenhouses and tree nurseries offering sale of plants or trees grown on premises;
- f. Mobile home parks;
- g. Public utility facilities and structures;
- h. Pipelines and railroads;
- i. Storage of heavy equipment, vehicles or boats over 36 feet in length as an accessory use incidental to a permitted or conditionally permitted principal use;
- j. Day care facilities; provided, however, that outdoor play areas must be fenced;
- k. Group care home;
- l. Assisted living home;
- m. More than one building containing a permitted principal use on a lot;
- n. Indoor recreational facilities;
- o. Outdoor recreational facilities;
- p. Public school and private school;

q. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot.

r. Marijuana cultivation facility as defined in state statute and only up to 500 square feet on lots greater than 20,000 square feet.

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;

p. Apartment units located in buildings primarily devoted to business or commercial uses;

q. Religious, cultural, and fraternal assembly;

r. Entertainment establishments;

s. Public, private and commercial schools;

t. Museums and libraries;

u. Studios;

v. Plumbing, heating and appliance service shops, only if such use, including the storage of materials, is wholly within an enclosed building;

w. Publishing, printing and bookbinding;

x. Recreational vehicle parks only if located south of the Sterling Highway (Homer Bypass) from Lake Street west to the boundary of the Central Business District abutting Webber Subdivision, and from Heath Street to the west side of Lakeside Village Subdivision, provided

they shall conform to the standards in HCC 21.54.200 and following sections;

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

z. Mobile food services;

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

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

cc. Rooming house, bed and breakfast and hostel;

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

ee. Farmers' market;

ff. Dormitory;

gg. Financial institutions;

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

ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot.

jj. Marijuana testing facility as defined by state law.

Section 21.18.030 Conditional uses and structures.

The following uses may be permitted in the Central Business District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Planned unit developments, excluding all industrial uses;

b. Indoor recreational facilities and outdoor recreational facilities;

c. Mobile home parks;

d. Auto fueling stations;

e. Public utility facilities and structures;

f. Pipeline and railroads;

g. Greenhouses and garden supplies;

h. Light or custom manufacturing, repair, fabricating, and assembly, provided such use, including storage of materials, is wholly within an enclosed building;

i. Shelter for the homeless, provided any lot used for such shelter does not abut a residential zoning district;

j. More than one building containing a permitted principal use on a lot;

k. Group care homes and assisted living homes;

l. Drive-in car washes, but only on the Sterling Highway from Tract A-1 Webber Subdivision to Heath Street;

m. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot;

n. Other uses approved pursuant to HCC 21.04.020

o. Marijuana retail facilities and cultivation facilities as defined by state law.

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

Section 21.24.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 1 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. Air charter operations and floatplane tie-up facilities;

b. General business offices and professional offices;

c. Dwelling units located in buildings primarily devoted to business uses;

d. Auto repair;

e. Auto and trailer sales or rental areas;

f. Auto fueling stations and drive-in car washes;

g. Building supply and equipment sales and rentals;

h. Restaurants, including drive-in restaurants, clubs and drinking establishments;

- 191 i. Garden supplies and greenhouses;
- 192 j. Heavy equipment and truck sales, rentals, service and repair;
- 193 k. Hotels and motels;
- 194 l. Lumberyards;
- 195 m. Boat and marine equipment sales, rentals, service and repair;
- 196 n. Mortuaries;
- 197 o. Open air businesses;
- 198 p. Parking lots and parking garages, in accordance with
- 199 Chapter 21.55 HCC;
- 200 q. Manufacturing of electronic equipment, electrical devices, pottery,
- 201 ceramics, musical instruments, toys, novelties, small molded products and
- 202 furniture;
- 203 r. Publishing, printing and bookbinding;
- 204 s. Recreation vehicle sales, rental, service and repair;
- 205 t. Retail businesses;
- 206 u. Trade, skilled or industrial schools;
- 207 v. Wholesale businesses, including storage and distribution services
- 208 incidental to the products to be sold;
- 209 w. Welding and mechanical repair;
- 210 x. Parks and open space;
- 211 y. Appliance sales and service;
- 212 z. Warehousing, commercial storage and mini-storage;
- 213 aa. Banks, savings and loans, credit unions and other financial institutions;

bb. Customary accessory uses to any of the permitted uses listed in the GC1 district; provided, that no separate permit shall be issued for the construction of any type of accessory building prior to that of the main building;

cc. Dry cleaning, laundry, and self-service laundries;

dd. Taxi operation;

ee. Mobile food services;

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

gg. Recreational vehicle parks, provided they shall conform to the standards in Article II of Chapter 21.54 HCC;

hh. Day care homes; provided, that a conditional use permit was obtained for the dwelling, if required by HCC 21.24.030; all outdoor play areas must be fenced;

ii. Rooming house and bed and breakfast;

jj. Dormitory;

kk. As an accessory use, one small wind energy system per lot.

II. Marijuana testing facility as defined by state law.

Section 21.24.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 1 District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Campgrounds;

b. Crematoriums;

c. Multiple-family dwelling;

- d. Public utility facility or structure;
- e. Mobile home parks;
- f. Planned unit developments;
- g. Townhouses;
- h. Pipelines and railroads;
- i. Shelter for the homeless, provided any lot used for such shelter does not abut an RO, RR, or UR zoning district;
- j. More than one building containing a permitted principal use on a lot;
- k. Day care facilities; provided, however, that outdoor play areas must be fenced;
- l. Other uses approved pursuant to HCC 21.04.020;
- m. Indoor recreational facilities;
- n. Outdoor recreational facilities
- o. Marijuana retail facilities, cultivation facilities, and manufacturing facilities as defined by state law.**

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

Section 21.26.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 2 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. Production, processing, assembly and packaging of fish, shellfish and seafood products;
- b. Construction, assembly and storage of boats and boat equipment;

- c. Manufacture and assembly of pottery and ceramics, musical instruments, toys, novelties, small molded products, electronic instruments and equipment and electrical devices;
- d. Research and development laboratories;
- e. Trade, skills or industrial schools;
- f. Publishing, printing and bookbinding facilities;
- g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair, excluding storage of vehicles or equipment that is inoperable or in need of repair;
- h. Storage and distribution services and facilities, including truck terminals, warehouses and storage buildings and yards, contractors' establishments, lumberyards and sales, or similar uses;
- i. Airports and air charter operations;
- j. Underground bulk petroleum storage;
- k. Cold storage facilities;
- l. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- m. Mobile commercial structures;
- n. Accessory uses to the uses permitted in the GC2 district that are clearly subordinate to the main use of the lot or building, such as wharves, docks, restaurant or cafeteria facilities for employees; or caretaker or dormitory residence if situated on a portion of the principal lot; provided, that separate permits shall not be issued for the construction of any type of accessory building prior to that of the main building;
- o. Taxi operation;
- p. Mobile food services;

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

r. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.54 HCC;

s. Hotels and motels;

t. Dormitory;

u. As an accessory use, one small wind energy system per lot;

v. Open air business.

w. Marijuana testing facilities as defined by law.

Section 21.26.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 2 District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Mobile home parks;

b. Construction camps;

c. Extractive enterprises, including the mining, quarrying and crushing of gravel, sand and other earth products and batch plants for asphalt or concrete;

d. Bulk petroleum product storage above ground;

e. Planned unit developments, excluding residential uses;

f. Campgrounds;

g. Junk yard;

h. Kennels;

- i. Public utility facilities and structures;
- j. Pipelines and railroads;
- k. Impound yards;
- l. Shelter for the homeless, provided any lot used for such shelter does not abut an urban, rural or office residential zoning district;
- m. More than one building containing a permitted principal use on a lot;
- n. Day care facilities; provided, however, that outdoor play areas must be fenced;
- o. Group care homes and assisted living homes;
- p. Other uses approved pursuant to HCC 21.04.020;
- q. Indoor recreational facilities;
- r. Outdoor recreational facilities.
- s. Marijuana retail facilities, cultivation facilities, and manufacturing facilities as defined by state law.**

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

Section 21.27.020 Permitted uses and structures.

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

- a. Offices for tourism-related charter and tour businesses, such as fishing, flightseeing, day excursions and boat charters and tours;
- b. Marine equipment sales, rentals, service, repair and storage;
- c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;
- d. Business offices for water-dependent and water-related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves; provided, that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

f. Mobile food services;

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

h. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.54 HCC;

i. Restaurants;

j. Cold storage facilities;

k. Campgrounds;

l. Manufacturing, processing, cooking, and packing of seafood products;

m. Parks;

n. Boat launching or moorage facilities, marinas;

o. Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50 percent of the floor area of a building and for use by an occupant for more than 30 consecutive days;

p. Lodging as an accessory use, limited to no more than 50 percent of the floor area of a building;

q. As an accessory use, one small wind energy system per lot.

r. Marijuana testing facilities as defined by state law.

s. Marijuana cultivation facilities up to 500 square feet as defined by state law.

Section 21.27.030 Conditional uses and structures.

The following conditional uses may be permitted in the East End Mixed Use District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Construction camps;

b. Extractive enterprises, including crushing of gravel, sand and other earth products and batch plants for asphalt or concrete;

c. Auto fueling stations;

d. Bulk petroleum product storage;

e. Planned unit developments;

f. Junk yard;

g. Kennels;

h. Public utility facilities and structures;

i. Impound yards;

j. Indoor recreational facilities;

k. Outdoor recreational facilities;

l. Other uses approved pursuant to HCC 21.04.020.

m. Marijuana testing facilities as defined by state law

n. Cultivation facilities up to 500 square feet as defined by state law.

Section 6. Homer City Code Chapter 21.28 is amended to read as follows:

Section 21.28.030 Conditional uses and structures

a. Drinking establishments;

b. Public utility facilities and structures;

c. Hotels and motels;

d. Lodging;

e. More than one building containing a permitted principal use on a lot;

f. Planned unit developments, limited to water-dependent and water-related uses, with no dwelling units except as permitted by HCC

21.28.020(o);

g. Indoor recreational facilities;

h. Outdoor recreational facilities;

i. The location of a building within a setback area required by HCC 21.28.040(b). In addition to meeting the criteria for a conditional use permit under HCC 21.71.030, the building must meet the following standards:

1. Not have a greater negative effect on the value of the adjoining property than a building located outside the setback area; and

2. Have a design that is compatible with that of the structures on the adjoining property.

j. Retail marijuana facilities as defined by state law.

Section 8. Homer City Code Chapter 21.40 is amended to read as follows.

Section 21.40.060 Conditional uses and structures.

The following uses are permitted in the BCWP district if authorized by a conditional use permit granted in accordance with Chapter 21.71 HCC and subject to the other requirements of this chapter:

a. Cemeteries;

b. Public utility facilities and structures;

c. Timber harvesting operations, timber growing, and forest crops, provided they conform to HCC 21.40.100;

d. Agricultural activity and stables, if they conform to HCC 21.40.090, but not including farming of swine;

e. Other uses similar to uses permitted and conditionally permitted in the BCWP district, as approved by written decision of the Planning Commission upon application of the property owner and after a public hearing;

f. Uses, activities, structures, exceptions, or other things described as requiring a conditional use permit in HCC 21.40.080(a), 21.40.110(b) or any other provision of this chapter;

g. More than one building containing a permitted principal use on a lot.

h. Marijuana cultivation up to 500 square feet as defined by law.

Section 9. Chapter 21.62 is hereby enacted as follows:

Chapter 21.62

Marijuana Cultivation, Manufacturing, and Retail 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, testing, and retail 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;**

- 479 7. The growing of marijuana on public lands and the attendant public safety
480 and environmental dangers posted my marijuana production on public land;
481 and
482 8. Marijuana possession or use on federal property.
483

484 21.62.030 Definitions [Reserved.]
485

486 21.62.040 Pre-application Conference.
487

488 21.57.050 Costs.
489

490 The cost of all permits, studies and investigation required under this chapter
491 shall be borne by the applicant.
492

493 When Title 21 requires a conditional use permit for a marijuana facility, the
494 applicant must meet with the City Planner to discuss the conditional use
495 permit process and any issues that may affect the proposed conditional use.
496 This meeting is to provide for an exchange of general and preliminary
497 information only and no statement made in such meeting by either the
498 applicant or the City Planner shall be regarded as binding or authoritative
499 for the purposes of this title.
500

501 21.62.060 Safety and Security Plan
502

503 A conditional use permit for a marijuana facility required by this title shall
504 include an analysis of the ways in which the intent and purpose of this
505 chapter have been met and the safety concerns identified in Sections
506 21.62.010 and 21.62.020 will be addressed.
507

508 21.62.070 Buffers
509

- 510 a) The Commission may require buffers, including berms, fences, trees, and
511 shrubs, to minimize impacts to adjacent property. A landscaped buffer or
512 combination of landscaping and berms of no less than ten feet in width will
513 be required where the property with a marijuana facility adjoins districts in
514 which marijuana facilities are prohibited or permitted only as a conditional
515 use.
516

- 517 b) The following buffer zones shall be applied to all marijuana facilities in all
518 districts:
519

- | | |
|---------------------------------|-------------------------|
| 520 1. <u>Schools</u> | <u>1000 square feet</u> |
| 521 2. <u>Churches</u> | <u>500 square feet</u> |
| 522 3. <u>Jail</u> | <u>500 square feet</u> |
| 523 4. <u>Youth/rec. center</u> | <u>500 square feet</u> |
| 524 5. <u>Library</u> | <u>200 square feet</u> |
- 525

- c) Marijuana facilities abutting the Jack Gist Municipal Park, Hornaday Municipal Park, Bayview Municipal Park, Ben Walters Municipal Park, or Jeffrey Municipal Park must have 200 square feet or more buffers measured from the boundary of the park.

21.62.80 General restrictions applied to all marijuana facilities.

- a) All marijuana facilities in all districts shall comply with Section 21.59.030 of this title.
- 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 8. This ordinance shall take effect upon its adoption by the Homer City Council.

Section 9. 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 _____ 2015.

CITY OF HOMER

BETH WYTHER, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

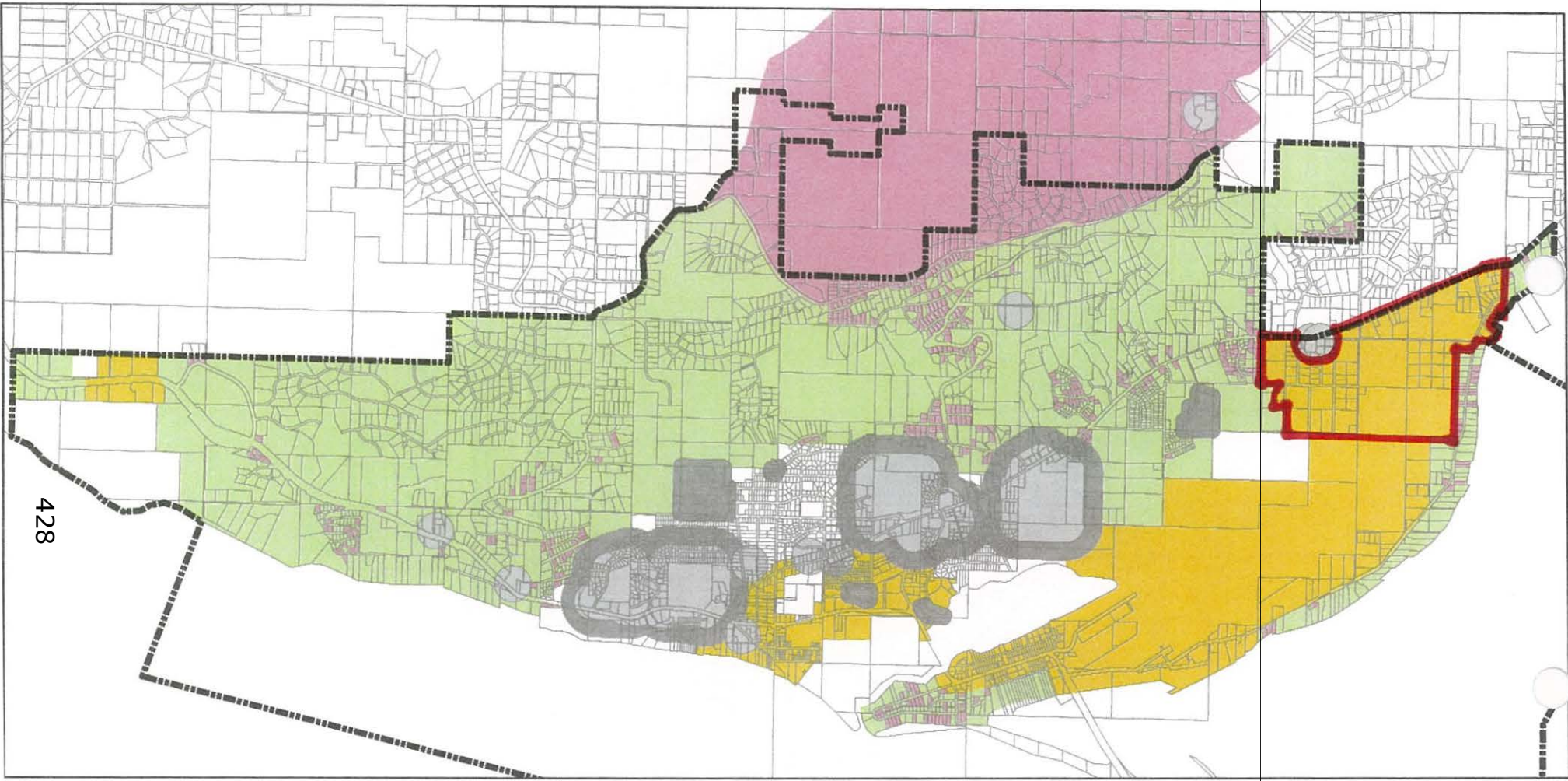
Effective Date:

Reviewed and approved as to form:

Kate Koester, City Manager

City Attorney

Commercial Cannabis Cultivation Map 11/4/2015



Legend

City Limits

State Buffers

Additional City Buffers

Small cultivation, permitted outright

Commercial Cannabis Cultivation

Small cultivation only, by CUP.

Small cultivation only, CUP

Large and Small, CUP

0 0.25 0.5 1 Miles

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

11/4/2015 Cannabis Retail and Manufacturing Map.
Testing is allowed outright as a land use in the green area,
and in downtown Homer.



Legend

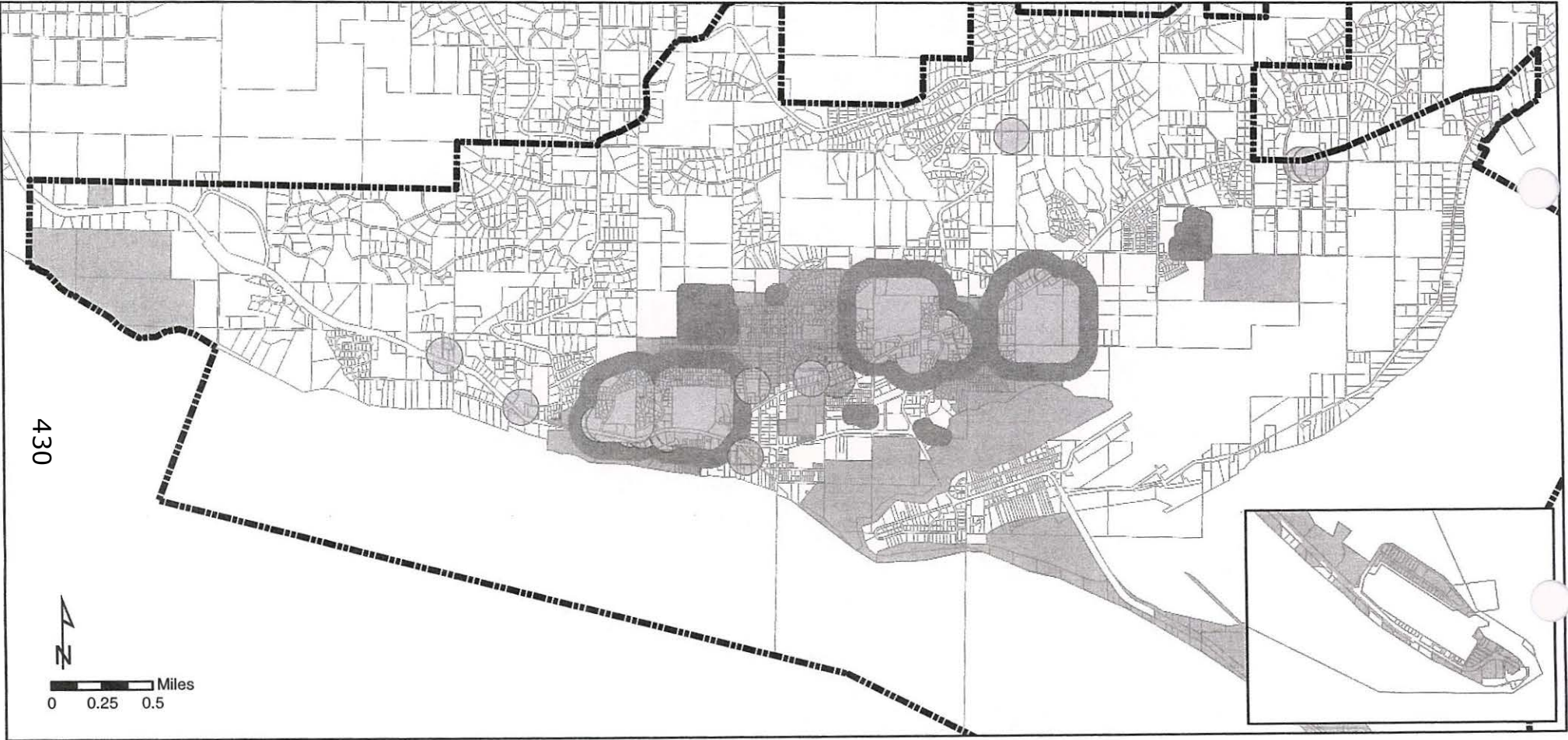
- City Limits
- State Buffers
- Additional City Buffers

Conditionally Permitted Cannabis Activities

- Retail, Mfg.
- Retail.(No Mfg).

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

11/4/2015 Commercial Cannabis not allowed



Session 15-17, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on November 4, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BRADLEY, ERICKSON, HIGHLAND, STEAD STROOZAS, VENUTI

ABSENT: BOS

STAFF: CITY PLANNER ABBODD
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

Chair Stead called for a motion to approve the agenda.

HIGHLAND/STROOZAS SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Public Comment

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

Reconsideration

Adoption of Consent Agenda

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

- A. Approval of Minutes of October 21, 2015
- B. Decision and Findings CUP 15-05 KHLT

Chair Stead called for a motion to approve the consent agenda.

HIGHLAND/BRADLEY SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

A. Staff Report PL 15-74, City Planner's Report

City Planner Abboud reviewed his staff report.

Public Hearings

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

A. Staff Report PL 15-75 Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Chair Stead opened the public hearing.

Jackie Dentz, city resident, commented in opposition to allowing retail sales on the spit because it's a recreational area. She owns Frosty Bear Ice Cream parlor which draws kids, families, and elderly visitors. She also noted visitors from cruise ships are not allowed to bring marijuana on the ship. She doesn't think a retail establishment for marijuana belongs on the spit. She is fine if locals want to buy it and if it's done safely, but encouraged the Commission to think about where they recommend putting retail.

Crisi Mathews, city resident, owns a boardwalk on the spit and real estate in town with her husband Chad. She commented that a CUP is warranted for any grow or retail facility in a residential area, she thinks they will hurt residential property values. She also expressed opposition to allowing retail for marijuana on the spit. She noted several recreational venues that draw youth and families throughout the summer including Islands and Ocean, Alaska Coastal Studies, and HOWL which conduct many of their outings on the beaches, trails, docks, and campgrounds, as well as the Kevin Bell arena in the winter. She added that if retail is allowed and is available year round, there will be minimal oversight as a majority of the area shuts down off season. With a business in Homer and rental cabins in Anchor Point, as well as raising four children here, they have a lot of vested interest in seeing this continue to be a family community.

Chad Mathews, city resident, added that there are buildings on their boardwalk. The way it is worded now, the people who own those buildings, don't have to their permission as the boardwalk owner, to open a dispensary. He encouraged that be readdressed. He thinks with the amount of accidents and almost accidents they see on the spit and impaired drivers could be an issue, as well as the potation for increased break in attempts.

Garth Bradshaw had a business on the spit for many years and his preference is no sales at all within the community, as other communities in Alaska have done. He encourages them to follow suit. That being said, if they allow one person to sell it, how will they restrict others? He suspects there will need

to be limits on licenses, like with alcohol. He supports not selling it in Homer at all, his adult kids and his grandchildren are here and he doesn't like the exposure, and doesn't think it's the thing to do to our community.

Megan Murphy attempted to comment regarding the Waddell Park 2016 Replat Preliminary Plat. It was explained that topic would be addressed under Plat Consideration and if she was unable to stay, she could contact the planning staff for more information regarding the preliminary plat.

Shlomo Gherman commented that if the recreational sale of marijuana in town is done right it could be really effective, specifically bringing in more taxable revenue to the city. We could have a PFD type situation for many of the people living here. Colorado school district received \$6 million in additional funding from sales. No matter where you place a dispensary, once it's known the town has one, there is no stopping purchasing it. Whether it's on the spit or in town, it won't really make a difference, the real concern is managing how it's sold and who is able to purchase. It's very accessible now. If the issue is stoned people on the spit, they are already there.

There were no further public comments.

City Planner Abboud said limiting the number of establishments will be in the code under licensing and not zoning. He will have something on the next agenda for the Commission to make a recommendation.

VENUTI/STROOZAS MOVED THAT EAST END MIXED USE AREA BE ALLOWED TO HAVE SMALL VOLUME CULTIVATION.

There was brief discussion to clarify small grow operations would be allowed anywhere in the district with this motion. Other comments were that this should be more restrictive to begin with.

VOTE: YES: STEAD, VENUTI, STROOZAS, BRADLEY
NO: HIGHLAND, ERICKSON

Motion carried.

HIGHLAND/VENUTI MOVED TO ADD A CUP FOR ALL SMALL CULTIVATION IN RURAL RESIDENTIAL.

Commissioner Highland commented that rural residential is the largest district, it is family oriented, and there are a lot of lots over 40,000 square feet. Allowing it outright doesn't give the residents the opportunity to speak about small grow operations in their neighborhood. Lighting is also an issue, as well as security, in rural residential.

It was noted that currently no small cultivation is allowed on lots under 20,000, and this motion allows it in all of rural residential with a CUP. It would include the smaller lots if approved as presented.

ERICKSON/HIGHLAND MOVED TO AMEND THAT A CUP BE REQUIRED ON LOTS OVER 20,000 SQUARE FEET.

There was brief discussion.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was brief discussion.

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

Motion carried.

There was discussion about buffers that are outlined by the state. City Planner Abboud said he would bring that back with information along with the license restrictions.

Discussion ensued regarding allowing retail on the spit and the comments from the public tonight.

HIGHLAND/ERICKSON MOVED TO DISALLOW RETAIL FOR MARIJUANA IN MARINE COMMERCIAL.

Commissioner Highland said tonight's public comments included good reasons to be concerned about retail sales out there.

Commissioner Venuti noted there are bars and liquor stores on the spit now that sell cheap liquor which he thinks is more dangerous.

Commissioner Erickson agrees with the public comments about not allowing retail in marine commercial.

Commissioner Bradley commented that a CUP is required for retail in marine commercial which is fairly restrictive.

Commissioner Stroozas expressed his thought that the fishing hole is a recreational facility for families with kids and youth based fishing events that are held there. Based on state buffers, that could justify disallowing retail on the spit. If the CUP remains in place, then an applicant complies with all the regulations, the Commission would have to allow it.

VOTE: YES: ERICKSON, STROOZAS, HIGHLAND
NO: STEAD, BRADLEY, VENUTI

Motion failed for lack of a majority.

No further amendments were proposed and another public hearing is scheduled for December 2nd.

11/3/2015

City of Homer
Planning Commission
491 E. Pioneer Ave., Homer, AK 99603

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NOV - 4 2015

CITY OF HOMER
PLANNING/ZONING

RE: Cannabis Advisory/Oversight Committee Proposed Spheres

Dear Commission,

As of May, we are new owners of the Boardwalk located at 4025 Homer Spit Rd. While we understand that the Commission has identified spheres of non-cannabis establishments, we wish to voice an additional concern. It doesn't appear that the Spit properties have any spheres. While we are directly adjacent to public campgrounds and across from the boat launch, we noticed that neither of those are identified as exempted areas where church nor children congregate. In this past summer of our operation, we experienced both religious groups gathering on the beach in front of our boardwalk and a great deal of families with children perusing the Spit, vacationing in its campgrounds and generally utilizing the public access areas for enjoyment. Tourism is one of the mainstays of this community. This family outlet prompted us to begin the creation of an enclosed play area upon the boardwalk for small children. We also welcomed a small fundraiser in front of our store for a church group there. We believe the following findings for exempted areas on the Spit should be considered:

1. All boaters must be free of intoxicating substances while operating a vessel
2. The Spit draws Cruise Tourism, Church Retreats, Campers, Vacationers enjoying the outdoors and Eco-Tourists many of which bring their families
3. We are a seasonal based business whereas our assumption is that a cannabis retail facility seeks to operate year round and should be located where there is routine oversight and frequent traffic management;
4. In Winter especially, the Kevin Bell Arena is likened to a youth complex and likewise should be considered as one
5. Campgrounds and the Nick Dudiak Lagoon are driven to attract all-aged visitors within City Limits should be considered youth recreation areas as families frequent them often.
6. Outdoor childhood education is conducted ALL SUMMER long by Alaska Ocean and Island Center, Coastal Studies Center and HOWL which conduct many of their youth outings on the Spit's tide pools, beaches, docks, trails and campgrounds.
7. Tourism that the community has worked very hard to improve via Cruise Liners has improved the local economy on the dates of their arrival; I'm not clear on how this would be enhanced by a Cannabis resale shop(s) near port.

8. There aren't enough resources in the Summer days to assist with people who are not obeying the law. Our boardwalk tenants called in multiple requests for law enforcement intervention this summer; drunk and disorderly pedestrians, late night intoxicated individuals trying to enter buildings, vehicle collisions, non-licensed vehicles and RVs not parking in designated places and the response time sometimes took multiple calls over multiple days. We seemed to be understaffed for this in the summer with the flux of visitors. With budget deficits that will only be lengthened AND with the Code Enforcement position being closed, there isn't a direct point of contact for such issues. We believe that our police department IS doing their best but response times will be lengthened with the added exposures. Refer to the linked 166 paged Colorado Study that refers to the impact to the state and was designed for a guideline for other jurisdictions to consider in law-making practices and objectives for legalization and implementation...the statistics regarding the impact on children are startling and Colorado is similar to Alaska in its outdoor recreational lifestyle. [http://www.in.gov/ipac/files/August_2014_Legalization_of_MJ_in_Colorado_the_Impact\(1\).pdf](http://www.in.gov/ipac/files/August_2014_Legalization_of_MJ_in_Colorado_the_Impact(1).pdf)

In addition to the findings above, there is one additional concern we have. Property owners (by state statute) must approve of a tenant's application to open a retail facility but the Spit properties are unique in that the units are individually owned (such as on our boardwalk) and the space below them is leased from us. Technically the units are real property, subject to taxation and are on the Borough assessment roll as such. Has this been fully addressed that the Land Owner (in our case of the boardwalk and beach space below the privately owned unit) must also approve such applications? Some Spit property is owned by the City, some by the State and some by individual private owners. There doesn't seem to be a clear indication if retail facilities are not omitted by way of a sphere, what are the guidelines for these unique property holdings? Will the City approve retail establishments therein?

In having 4 children of my own that are all very active in the community, volunteering in our schools and at the arena and having a vested interest in the protection of our investments here in Homer as residents and multiple business owners, we'd like to see the Spit be addressed in some fashion in respects to the findings above.

Respectfully,



Chad and Crisi Matthews
Residents and local business owners
907-299-8700

Diamond Ridge Art Studio

November 4, 2015

City of Homer

Planning Commission

491 E. Pioneer Avenue

Homer, AK 99603

RECEIVED

NOV - 4 2015

CITY OF HOMER
PLANNING/ZONING

RE: Cannabis Advisory/Oversight Committee Proposed Spheres

Dear Commission Members:

In May of 2014, I opened Diamond Ridge Art Studio at 4025 Homer Spit Road, #17. My decision to locate my business there was based primarily on the nature of the prospective clientele that visits the area. The Homer Spit attracts large numbers of vacationing families, tourists, fishermen and boaters. Between May 4th and Labor Day of this year, I logged over 5,000 visitors to my gallery. Many of these visitors were families with children of all ages. Also, many were residents of Homer. I organized painting demonstrations that were attended by both children and adults, both from Homer and elsewhere. In addition, I carry art items that are appropriate for families.

The proposed city ordinance permits the retail sale of marijuana on the Spit. I would ask the Commission to consider establishing a buffer zone due to its proximity to the Nick Dudiak Lagoon, adjacent campgrounds (which serve as temporary residences) and the small boat harbor.

The Homer Spit is a seasonal retail environment. Virtually all of the businesses close for the winter. A police presence is a challenge to the city to maintain during the busy summer season and would need to become a greater presence during the winter should marijuana sales be conducted there.

I know that there are several families who would no longer come to my business for any reason if there is an establishment selling marijuana nearby. As a small business owner, I strive to attract every potential customer by providing an environment that is family-friendly and wholesome.

Homer has demonstrated its commitment to promoting tourism. The city, the Chamber of Commerce, and the business community have successfully collaborated to attract tourists and to grow the cruise

Olga Amara, Owner
#17 Homer Spit Road
Homer, AK 99603
(907)299-7750
Diamond.ridge.art@gmail.com

11/4/15 Laydown

Diamond Ridge Art Studio

ship business. Much of that is centered on the Spit. The retail sale of marijuana and cannabis products does not seem to me to be consistent with the promotion of a family-centered vacation destination.

I would welcome the opportunity to discuss this further with you and can be reached at the number listed below.

Sincerely,

Olga Amaral

*Olga Amaral, Owner
#17 Homer Spit Road
Homer, AK 99603
(907)299-7750
Diamond.ridge.art@gmail.com*

Dotti Harness

From: Holly Brennan <hollyfromhomer@gmail.com>
Sent: Wednesday, November 04, 2015 4:05 PM
To: Department Planning
Subject: CORRECTED public comment

In my previous comment submitted a few minutes ago, I realized I incorrectly called the Cannabis Advisory Commission a BOARD. Here's the correctly version if you can replace:

I am asking that the Planning Commission rely heavily on the recommendations of the Cannabis Advisory Commission when deciding how to set up zoning districts for the cultivation, manufacturing, and testing. The Cannabis Advisory Commission has been the only official City organization I've felt that is extremely knowledgeable in this area and the only group that has had the will of the people in mind when making each decision.

Regardless of the zoning restrictions created, cannabis will still be legal in Homer - just as it was even before Ballot Measure 2 was passed. Some of the extremely restrictive zoning requirements currently being discussed will eliminate most areas, particularly in the Central Business District, from any type of legal cannabis business. (Illegal operations will remain, regardless.)

I fully support allowing legitimate businesses (of all trades) to grow and thrive in Homer. Any means for supporting businesses (and collecting those much-needed taxes) should be considered.

Thank you for your consideration.

-Holly Brennan

City Resident

Holly Brennan
hollyfromhomer@gmail.com

RECEIVED

NOV - 4 2015

CITY OF HOMER
PLANNING/ZONING

11/4/15 Laydown

RECEIVED

CITY OF HONOLULU
PLANNING DEPARTMENT



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

STAFF REPORT PL 15-75

TO: Homer Advisory Planning Commission
FROM: Rick Abboud AICP, City Planner
MEETING: November 4, 2015
SUBJECT: Zoning for Marijuana, first public hearing

Requested Action: Conduct a public hearing on the draft ordinance regulating commercial marijuana activities by zoning district.

GENERAL INFORMATION

This is the first of two scheduled public hearings. The draft ordinance creates zoning regulations for the four types of commercially regulated marijuana activities licensed by the state.

1. Cultivation. There are two sizes of cultivation operations:
Small scale is limited to 500 square feet of cultivation, and
Large scale is anything larger than that.
2. Testing
3. Manufacturing
4. Retail

The city may propose regulations in addition to the state regulations but may not allow anything that is less restrictive than the state. Below is a table of the activities proposed by zoning district. In addition to this, the city has proposed additional buffers:

- 1000 ft from schools (this mirrors the federal drug free zones)
- 200 ft from the library
- 200 ft from Jack Gist, Karen Hornaday, Bayview, and Ben Walters Parks

As proposed small scale cultivation (less than 500 square feet of cultivation) is permitted (no Conditional Use Permit (CUP)) in the Rural Residential District in lots over 40,000 square feet. A CUP is needed on lots between 39,999 and 20,000 square feet, and is not allowed on lots less than 20,000 square feet.

A = Allowed. C = Conditional Use Permit needed.

**Table 1. Cannabis Activity by
Zoning District**

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

STAFF COMMENTS:

While we are looking at regulating relatively small aspects of the industry the meat of requirements are found in the states proposed regulations. The state regulations are quite extensive. There are requirements that apply (Article 7) to all of the activities along with more specific requirements that address each of the 4 individual licensing areas. One really needs to understand the state regulations to get an accurate picture of what these activities may look like when approved. There are 133 pages that compose articles 1-9, which the state uses for regulation. I will attempt to highlight some of these and draw attention to those that need particular consideration for zoning.

All activities are to 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. All personal that work or have ownership interest will need a handlers permit and this permit must be on the person at all times when in the facility.

Many other aspects of the activities 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
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5am and 8am

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.

Also the state has proposed buffers:

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

After reviewing the draft ordinance, I did find an inconsistency of policy. Currently, limited cultivation may be permitted without a CUP in the Rural Residential District (on lots 40,000 square feet or greater). In other districts such as the East End Mixed Use, an approved CUP would be required for the same activity. This seemingly encourages cultivation in a residential district while making it more restrictive in a district where I believe the activity would be more appropriate.

RECOMMENDATIONS:

Hold a public hearing and consider amending the ordinance if appropriate. This item is scheduled for another HAPC public hearing December 4th.

ATTACHMENTS

1. Draft ordinance
2. Memo form Attorney Wells
3. November 4th map series (3 maps)

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**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 15-__

**AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING TITLE 21 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, RETAIL, AND TESTING FACILITIES**

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

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

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.12 is amended to read as follows:

Section 21.12.020 Permitted uses and structures.

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 to HCC 21.14.040(a)(2);

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

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;

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. Small scale marijuana cultivation facilities on 40,000 sq ft lots or larger

Section 21.12.030 Conditional uses and structures.

The following uses may be permitted in the Rural Residential District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Planned unit development, limited to residential uses only;

b. Religious, cultural and fraternal assembly;

c. Cemeteries;

d. Kennels;

e. Commercial greenhouses and tree nurseries offering sale of plants or trees grown on premises;

f. Mobile home parks;

g. Public utility facilities and structures;

h. Pipelines and railroads;

i. Storage of heavy equipment, vehicles or boats over 36 feet in length as an accessory use incidental to a permitted or conditionally permitted principal use;

j. Day care facilities; provided, however, that outdoor play areas must be fenced;

k. Group care home;

l. Assisted living home;

m. More than one building containing a permitted principal use on a lot;

n. Indoor recreational facilities;

o. Outdoor recreational facilities;

p. Public school and private school;

q. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot.

r. Marijuana cultivation facility as defined in state statute and only up to 500 square feet

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;

- 143 n. Home occupations, provided they conform to the requirements of
144 HCC 21.51.010;
- 145 o. Ministorage;
- 146 p. Apartment units located in buildings primarily devoted to business or
147 commercial uses;
- 148 q. Religious, cultural, and fraternal assembly;
- 149 r. Entertainment establishments;
- 150 s. Public, private and commercial schools;
- 151 t. Museums and libraries;
- 152 u. Studios;
- 153 v. Plumbing, heating and appliance service shops, only if such use,
154 including the storage of materials, is wholly within an enclosed building;
- 155 w. Publishing, printing and bookbinding;
- 156 x. Recreational vehicle parks only if located south of the
157 Sterling Highway (Homer Bypass) from Lake Street west to the boundary
158 of the Central Business District abutting Webber Subdivision, and from
159 Heath Street to the west side of Lakeside Village Subdivision, provided
160 they shall conform to the standards in HCC 21.54.200 and following
161 sections;
- 162 y. Taxi operation limited to a dispatch office and fleet parking of no more
163 than five vehicles; maintenance of taxis must be conducted within an
164 enclosed structure, and requires prior approval by the City Planner of
165 a site, access and parking plan;
- 166 z. Mobile food services;
- 167 aa. Itinerant merchants, provided all activities shall be limited
168 to uses permitted outright under this zoning district;

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

cc. Rooming house, bed and breakfast and hostel;

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

ee. Farmers' market;

ff. Dormitory;

gg. Financial institutions;

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

ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot.

iii. Marijuana testing facility.

Section 21.18.030 Conditional uses and structures.

The following uses may be permitted in the Central Business District
when authorized by conditional use permit issued in accordance with
Chapter 21.71 HCC:

- a. Planned unit developments, excluding all industrial uses;
- b. Indoor recreational facilities and outdoor recreational facilities;
- c. Mobile home parks;
- d. Auto fueling stations;
- e. Public utility facilities and structures;
- f. Pipeline and railroads;
- g. Greenhouses and garden supplies;
- h. Light or custom manufacturing, repair, fabricating, and assembly, provided
such use, including storage of materials, is wholly within an enclosed building;
- i. Shelter for the homeless, provided any lot used for such shelter does not abut a
residential zoning district;
- j. More than one building containing a permitted principal use on a lot;
- k. Group care homes and assisted living homes;
- l. Drive-in car washes, but only on the Sterling Highway from Tract A-1 Webber
Subdivision to Heath Street;
- m. One small wind energy system having a rated capacity exceeding 10 kilowatts;
provided, that it is the only wind energy system of any capacity on the lot;
- n. Other uses approved pursuant to HCC 21.04.020
- o. Marijuana retail facilities as defined by state law**
- p. Marijuana cultivation facility as defined by state law**

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

219 Section 21.24.020 Permitted uses and structures.

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

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

224 b. General business offices and professional offices;

225 c. Dwelling units located in buildings primarily devoted to business uses;

226 d. Auto repair;

227 e. Auto and trailer sales or rental areas;

228 f. Auto fueling stations and drive-in car washes;

229 g. Building supply and equipment sales and rentals;

230 h. Restaurants, including drive-in restaurants, clubs and drinking
231 establishments;

232 i. Garden supplies and greenhouses;

233 j. Heavy equipment and truck sales, rentals, service and repair;

234 k. Hotels and motels;

235 l. Lumberyards;

236 m. Boat and marine equipment sales, rentals, service and repair;

237 n. Mortuaries;

238 o. Open air businesses;

- 239 p. Parking lots and parking garages, in accordance with
240 Chapter 21.55 HCC;
- 241 q. Manufacturing of electronic equipment, electrical devices, pottery,
242 ceramics, musical instruments, toys, novelties, small molded products and
243 furniture;
- 244 r. Publishing, printing and bookbinding;
- 245 s. Recreation vehicle sales, rental, service and repair;
- 246 t. Retail businesses;
- 247 u. Trade, skilled or industrial schools;
- 248 v. Wholesale businesses, including storage and distribution services
249 incidental to the products to be sold;
- 250 w. Welding and mechanical repair;
- 251 x. Parks and open space;
- 252 y. Appliance sales and service;
- 253 z. Warehousing, commercial storage and mini-storage;
- 254 aa. Banks, savings and loans, credit unions and other financial institutions;
- 255 bb. Customary accessory uses to any of the permitted uses listed in the
256 GC1 district; provided, that no separate permit shall be issued for the
257 construction of any type of accessory building prior to that of the main
258 building;
- 259 cc. Dry cleaning, laundry, and self-service laundries;
- 260 dd. Taxi operation;
- 261 ee. Mobile food services;

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

gg. Recreational vehicle parks, provided they shall conform to the standards in Article II of Chapter 21.54 HCC;

hh. Day care homes; provided, that a conditional use permit was obtained for the dwelling, if required by HCC 21.24.030; all outdoor play areas must be fenced;

ii. Rooming house and bed and breakfast;

jj. Dormitory;

kk. As an accessory use, one small wind energy system per lot.

II. Marijuana testing and manufacturing facilities as defined by law.

Section 21.24.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 1 District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Campgrounds;

b. Crematoriums;

c. Multiple-family dwelling;

d. Public utility facility or structure;

e. Mobile home parks;

f. Planned unit developments;

g. Townhouses;

h. Pipelines and railroads;

i. Shelter for the homeless, provided any lot used for such shelter does not abut an RO, RR, or UR zoning district;

j. More than one building containing a permitted principal use on a lot;

k. Day care facilities; provided, however, that outdoor play areas must be fenced;

l. Other uses approved pursuant to HCC 21.04.020;

m. Indoor recreational facilities;

n. Outdoor recreational facilities

o. Marijuana retail facilities and cultivation facilities as defined by state law.

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

Section 21.26.020 Permitted uses and structures.

The following uses are permitted outright in the General Commercial 2 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. Production, processing, assembly and packaging of fish, shellfish and seafood products;

b. Construction, assembly and storage of boats and boat equipment;

c. Manufacture and assembly of pottery and ceramics, musical instruments, toys, novelties, small molded products, electronic instruments and equipment and electrical devices;

d. Research and development laboratories;

e. Trade, skills or industrial schools;

f. Publishing, printing and bookbinding facilities;

g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair, excluding storage of vehicles or equipment that is inoperable or in need of repair;

h. Storage and distribution services and facilities, including truck terminals, warehouses and storage buildings and yards, contractors' establishments, lumberyards and sales, or similar uses;

i. Airports and air charter operations;

j. Underground bulk petroleum storage;

k. Cold storage facilities;

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

m. Mobile commercial structures;

n. Accessory uses to the uses permitted in the GC2 district that are clearly subordinate to the main use of the lot or building, such as wharves, docks, restaurant or cafeteria facilities for employees; or caretaker or dormitory residence if situated on a portion of the principal lot; provided, that separate permits shall not be issued for the construction of any type of accessory building prior to that of the main building;

o. Taxi operation;

p. Mobile food services;

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

r. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.54 HCC;

s. Hotels and motels;

t. Dormitory;

u. As an accessory use, one small wind energy system per lot;

v. Open air business.

w. Marijuana testing and manufacturing facilities as defined by law.

Section 21.26.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 2
District when authorized by conditional use permit issued in accordance with
Chapter 21.71 HCC:

a. Mobile home parks;

b. Construction camps;

c. Extractive enterprises, including the mining, quarrying and
crushing of gravel, sand and other earth products and batch plants
for asphalt or concrete;

d. Bulk petroleum product storage above ground;

e. Planned unit developments, excluding residential uses;

f. Campgrounds;

g. Junk yard;

h. Kennels;

i. Public utility facilities and structures;

j. Pipelines and railroads;

k. Impound yards;

l. Shelter for the homeless, provided any lot used for such shelter
does not abut an urban, rural or office residential zoning district;

m. More than one building containing a permitted principal use on a lot;

n. Day care facilities; provided, however, that outdoor play areas must be fenced;

o. Group care homes and assisted living homes;

p. Other uses approved pursuant to HCC 21.04.020;

q. Indoor recreational facilities;

r. Outdoor recreational facilities.

s. Marijuana retail facilities and cultivation facilities as defined by state law.

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

Section 21.27.030 Conditional uses and structures.

The following conditional uses may be permitted in the East End Mixed Use District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Construction camps;

b. Extractive enterprises, including crushing of gravel, sand and other earth products and batch plants for asphalt or concrete;

c. Auto fueling stations;

d. Bulk petroleum product storage;

e. Planned unit developments;

f. Junk yard;

g. Kennels;

h. Public utility facilities and structures;

- i. Impound yards;
- j. Indoor recreational facilities;
- k. Outdoor recreational facilities;
- l. Other uses approved pursuant to HCC 21.04.020.

m. Marijuana testing facilities, manufacturing facilities, cultivation facilities.

Section 6. Homer City Code Chapter 21.28 is amended to read as follows:

Section 21.28.020 Permitted uses and structures.

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

- a. Offices for tourism-related charter and tour businesses, such as fishing, flight seeing, day excursions and boat charters and tours;
- b. Marine equipment sales, rentals, service, repair and storage;
- c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;
- d. Business offices for water-dependent and water-related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;
- e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves; provided, that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;
- f. Mobile food services;

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

h. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.54 HCC;

i. Restaurants;

j. Cold storage facilities;

k. Campgrounds;

l. Manufacturing, processing, cooking, and packing of seafood products;

m. Parks;

n. Boat launching or moorage facilities, marinas;

o. Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50 percent of the floor area of a building and for use by an occupant for more than 30 consecutive days;

p. Lodging as an accessory use, limited to no more than 50 percent of the floor area of a building;

q. As an accessory use, one small wind energy system per lot.

r. Marijuana retail facilities as defined by state statute.

Section 7. Chapter 21.62 is hereby enacted as follows:

Chapter 21.62

Marijuana Cultivation, Manufacturing, and Retail 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, testing, and retail 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 posed by marijuana production on public land;**
and
- 8. Marijuana possession or use on federal property.**

21.62.030 Definitions [Reserved.]

21.62.040 Pre-application Conference.

21.57.050 Costs.

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

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

489
490 **21.62.060 Safety and Security Plan**

491
492 A conditional use permit for a marijuana facility required by this title shall
493 include an analysis of the ways in which the intent and purpose of this
494 chapter have been met and the safety concerns identified in Sections
495 21.62.010 and 21.62.020 will be addressed.

496
497 **21.62.070 Buffers**

498
499 a) The Commission may require buffers, including berms, fences, trees, and
500 shrubs, to minimize impacts to adjacent property. A landscaped buffer or
501 combination of landscaping and berms of no less than ten feet in width will
502 be required where the property with a marijuana facility adjoins districts in
503 which marijuana facilities are prohibited or permitted only as a conditional
504 use.

505
506 b) The following buffer zones shall be applied to all marijuana facilities in all
507 districts:

508
509

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

511
512
513
514

515 c) Marijuana facilities abutting the Jack Gist Municipal Park, Hornaday
516 Municipal Park, Bayview Municipal Park, Ben Walters Municipal Park, or
517 Jeffrey Municipal Park must have 200 square feet or more buffers measured
518 from the boundary of the park.

519
520 **21.62.80 General restrictions applied to all marijuana facilities.**

521
522 a) All marijuana facilities in all districts shall comply with Section 21.59.030 of this
523 title.

524
525 b) An application for a conditional use permit under this chapter shall not be approved
526 if the location of the facility violates the regulatory intent in Section 21.62.020.
527
528

Section 8. This ordinance shall take effect upon its adoption by the Homer City Council.

Section 9. 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 _____ 2015.

CITY OF HOMER

BETH WYTHE, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Kate Koester, City Manager

City Attorney

Date: _____

Date: _____

MEMORANDUM
ATTORNEY-CLIENT PRIVILEGE

TO: PLANNING COMMISSION

FROM: HOLLY C. WELLS

**RE: INITIAL DRAFT OF ORDINANCE REGARDING MARIJUANA
REGULATIONS**

CLIENT: CITY OF HOMER

FILE NO.: 506,742.222

DATE: OCTOBER 29, 2015

Introduction

The purpose of this memorandum is to provide the Planning Commission an introduction and overview to Ordinance ____, and to help facilitate a discussion on the regulation of marijuana activities, permitted and prohibited activities related to the marijuana industry in each of the zoning districts, and buffers required under the zoning code. Ordinance __ incorporates the Planning Commission's zoning recommendations for the marijuana industry within the City of Homer, Alaska ("City"). Although Ordinance __ focuses primarily on recommended revisions to the conditional use permit process to address the marijuana industry, we will be providing a supplemental memo and revisions to Ordinance __ encompassing any other areas of the Homer City Code ("HCC") that need to be amended to reflect the introduction of the marijuana industry within the City.

Ordinance 15- Update

Ordinance __ incorporates the zoning and land use amendments to the City Code as recommended by the Planning Commission and expanded upon by the Planning Department. The amendments within the ordinance pertain to the conditional use permit standards that apply to all marijuana activities, permitted and prohibited activities related to the marijuana industry in each of the zoning districts, and buffers required under the zoning code.

General Standards Affecting All Marijuana Facilities

In an effort to address the Commission's substantive and policy concerns stemming from all marijuana facility operations, Section 21.62 was proposed. This section incorporates the preventive measures required under federal policy as well as land use regulations that stem from the more specific challenges presented by marijuana facility land use within the City.

The Commission's recommendations for buffers requirements are also proposed in Title 21.62, and are as follows:

1) Schools	1000
2) Churches	500
3) Jail	500
4) Youth/rec. center	500
5) Library	200
6) Parks (see below)	200

Buffers for parks would be 200 square feet but would only apply to the Jack Gist, Hornaday, Bayview, Ben Walters, and Jeffery Parks. The buffer would be measured from the boundary of the park.

Specific Zoning District Amendments

While the Commission's general comments and policy concerns are adopted through Chapter 21.62, Ordinance 15-__ also amends Title 21 to identify the specific use requirements for each specific marijuana facility in each zoning district. A brief synopsis of such uses in each district is provided below.

Residential Office ("RO")

- 1) As of this date, no use has been authorized in this district

Rural Residential ("RR")

- 1) Testing, manufacturing, and retail are not permitted
- 2) Small scale cultivation is permitted in this district on 40,000 sq ft lots or larger
- 3) CUP will be required on lots 20,000-39,999 sq ft
- 4) Lighting standards in HCC 21.59.030 apply (Level One)
- 5) New structures built for cultivation should be at least 20 feet from the nearest lot line. The goal would be separation between the grow operations and the neighboring property to minimize conflict between cultivators and their neighbors.

Central Business District ("CBD")

- 1) Testing is permitted in CBD
- 2) Retail is permitted only via conditional use permit
- 3) Cultivation is permitted only via conditional use permit

General Commercial 1 ("GC1")

- 1) Testing is permitted
- 2) Manufacturing facilities are permitted
- 3) Retail is permitted only via conditional use permit
- 4) Cultivation is permitted only via conditional use permit

General Commercial 2 ("GC2")

- 1) Testing is permitted
- 2) Manufacturing facilities are permitted
- 3) Retail is permitted only via conditional use permit
- 4) Cultivation is permitted only via conditional use permit

East End Mixed ("EEMU")

- 1) Testing is permitted only via conditional use permit
- 2) Manufacturing facilities are permitted only via conditional use permit
- 3) Retail is permitted only via conditional use permit
- 4) Cultivation is permitted only via conditional use permit

Marine Commercial ("MC")

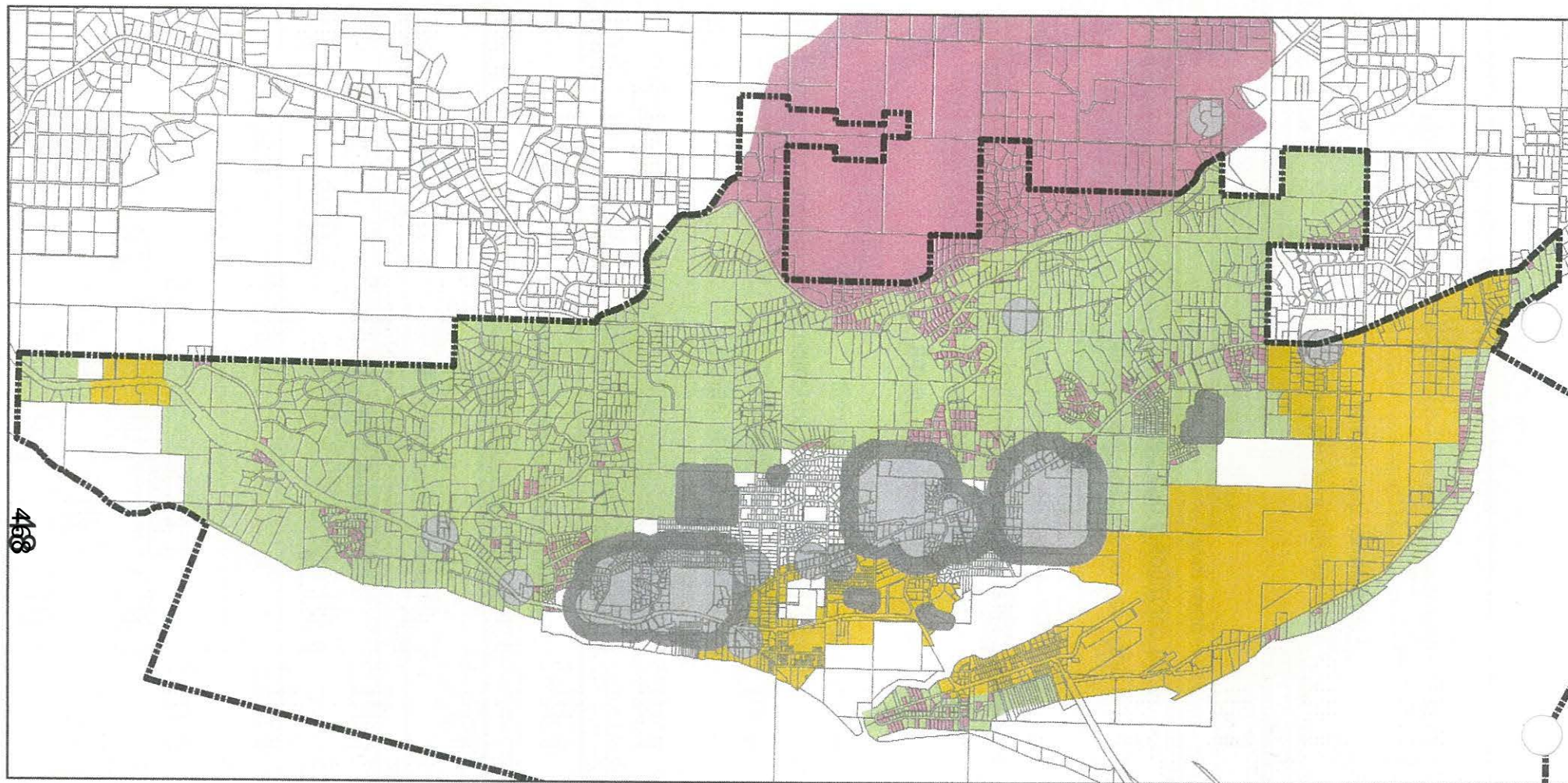
- 1) Retail is permitted in this district

Additionally, no marijuana industry cultivation efforts are permitted in some of the overlay districts.

Conclusion

This memorandum was created to serve only as an introduction to Ordinance 15-____ and to help facilitate discussion regarding the Planning Commission's recommendations. Ordinance 15-____ incorporates most of the Commission's recommended revisions but has by no means been finalized. In addition to the regulations proposed, we are currently considering additional definitions that may be needed to properly interpret the City Code.

Commercial Cannabis Cultivation Map 11/4/2015



Legend

- City Limits
- State Buffers
- Additional City Buffers

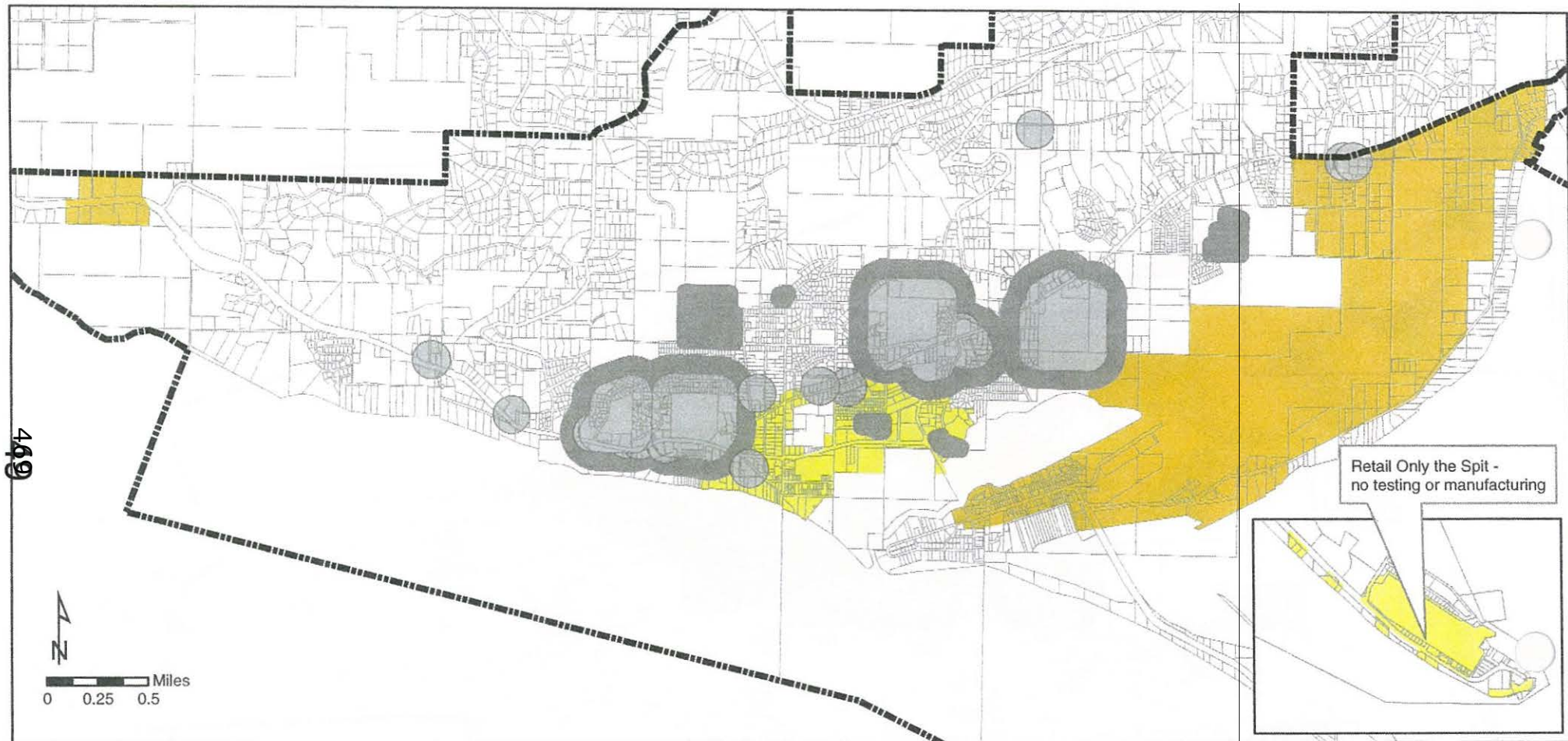
Commercial Cannabis Cultivation

- Small cultivation only, permitted outright
- Small cultivation only, CUP
- Large and Small, CUP

0 0.25 0.5 1 Miles

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

11/4/2015 Cannabis Retail and Manufacturing Map.
Testing is allowed outright as a land use in the green area,
and in downtown Homer.



Legend

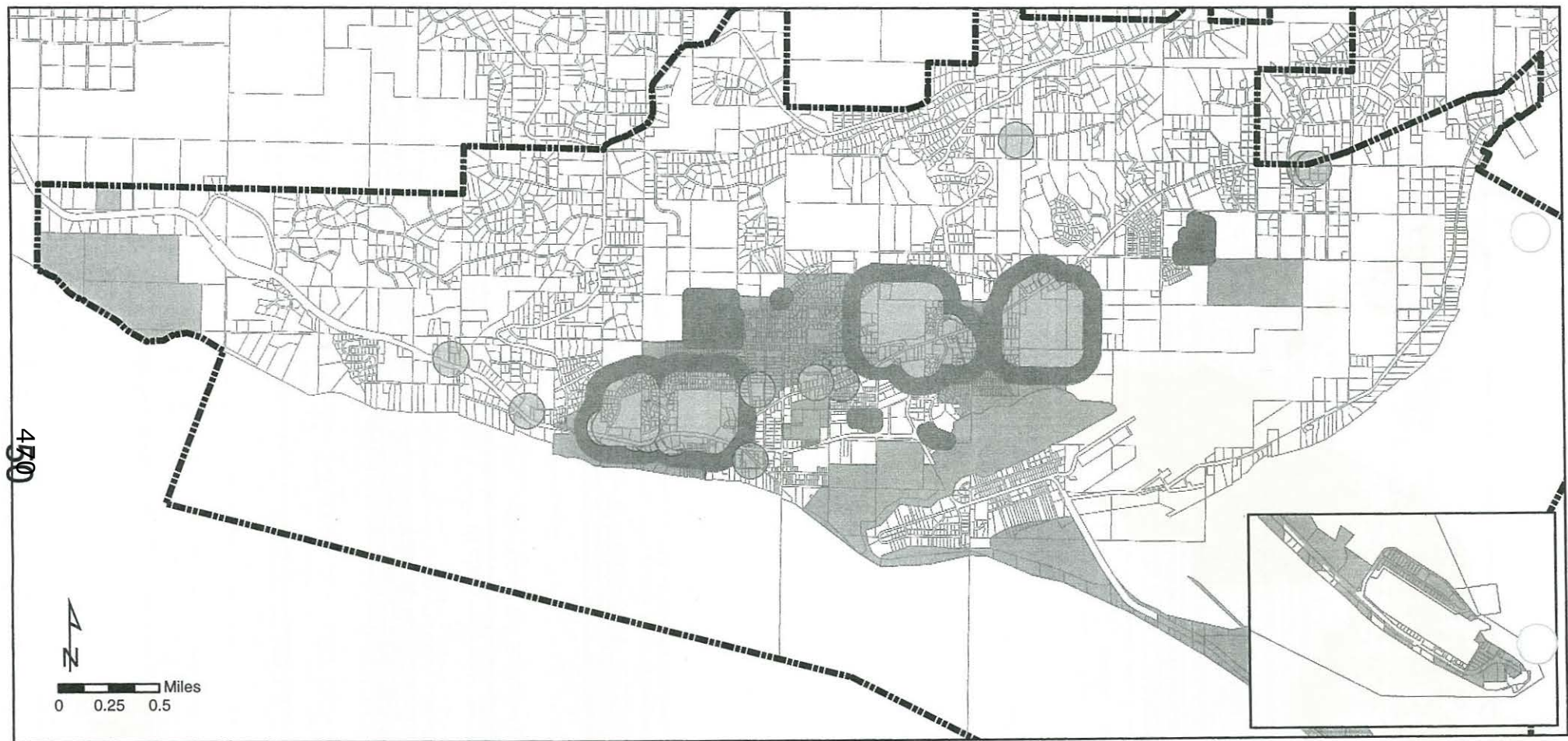
- City Limits
- State Buffers
- Additional City Buffers

Conditionally Permitted Cannabis Activities



- Retail, Mfg.
- Retail.(No Mfg).

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.



11/4/2015 Commercial Cannabis not allowed



Legend

-  City Limits
-  State Buffers
-  Additional City Buffers

Commercial Cannabis Activites

-  None
-  Allowed

Chair Stead called for a recess at 7:56 p.m. and the meeting re-convened at 7:59 p.m.

Plat Consideration

Pending Business

A. Staff Report PL 15-74, Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Commissioner Erickson feels that the 200 foot buffer around the parks should be increased at Jack Gist Park and at Hornaday Park. There are narrow roads and people walking around. She expressed her concern about drug use and parties. There are already problems in both parks and she suggested they be considered drug free zones.

Commissioner Bos expressed his concern with allowing any of the activity in rural residential. He thinks it would be detrimental to the value of neighboring properties. He recognizes it's just a building and a business, but suggested they consider lot size in the rural residential areas.

Commissioner Venuti commented he doesn't think legal pot in Homer is going to suddenly increase the number of users. People are already using it now and anyone can get it as it is right now. He thinks there is a bigger danger of drinking and driving in our community.

Commissioner Highland asked what this might look like. City Planner Abboud reviewed some of the regulations and restrictions involved in having business related to marijuana including lighting, video monitoring, security measures, disposal plans, etc. He anticipates minimal traffic from the activities in rural residential areas. On larger lots, a small scale cultivation operation probably won't be noticeable.

Concern was raised throughout the discussion regarding limiting the number of operations that can be licensed within the city. City Planner Abboud commented they could address it but it will probably be a requirement in a different section of code. They also talked briefly about taxation and how much interest they have heard at the CAC about people wanting to start businesses.

ERICKSON/HIGHLAND MOVED THAT CULTIVATION, MANUFACTURING AND TESTING ARE ONLY ALLOWED IN INDUSTRIAL ZONES AND MANUFACTURING WOULD HAVE TO HAVE A CONDITIONAL USE PERMIT.

City Planner Abboud clarified that the industrial zones are East End Mixed Use or General Commercial 2 and not in commercial districts like CBD, Town Center, GC1, or residential the gateway district or Bridge Creek.

There were opposing comments that the motion is overly restrictive and different activities should be allowed in the other districts. The legislation is clear and restrictive enough on how these activities can occur.

Supporting comments included we don't have to be like Palmer and ban it completely, but it is an intoxicating substance and it would be better starting with tighter restrictions that can be reviewed and relaxed if needed as time goes on. It would be better than starting with looser restrictions and have to deal with nonconforming uses if they need to tighten things up.

VOTE: YES: HIGHLAND, ERICKSON, STROOZAS
NO: STEAD, VENUTI, BRADLEY, BOS

Motion failed.

The Commission considered the options presented for rural residential limited cultivation standards:

Option A: No small scale growing allowed, only personal use as allowed under the law.

Option B: Conditional Use Permit Standards

- Activity would be allowed outright on 40,000 sq ft lots
- Minimum lot size is 20,000 sq ft, and a CUP required on lots 20,000 sq ft -39,999 sq ft
- New structures built for cultivation should be at least 20 feet from the nearest lot line. The goal would be separation between the grow and neighboring property. Grows may include exterior lighting, security cameras and occasional smell – theoretically there won't be any odor.

Comments included

- 40,000 sq ft lot eliminates a lot of in town lots, maybe it should be larger, but this is a good start
- A limited amount of cultivation operations allowed in rural residential, not four in the city

VENUTI/STROOZAS MOVED THAT WE ADOPT OPTION B FOR RURAL RESIDENTIAL.

City Planner Abboud commented that he isn't sure of the best way to address permits for an existing structure. It might insinuate that an existing structure would be allowed to be closer than 20 feet. It is something they will need to talk about.

After brief discussion City Planner Abboud suggested it may be best to deal with existing structures through the CUP process.

It was suggested that increasing the 40,000 sq ft would offer more of a buffer from neighbors. Point was raised that an acre is a lot of room and it will ultimately depend on placement of the grow structure.

VOTE: YES: STEAD, BRADLEY, STROOZAS, BOS, VENUTI
NO: ERICKSON, HIGHLAND

Motion carried.

ERICKSON/BOS MOVED THAT THE PARKS BUFFER BE THE SAME AS A SCHOOL, SPECIFICALLY AT JACK GIST AND HORNADAY PARK OF 1000 FEET.

It was expressed that this is overly restrictive and a majority of the people who use Jack Gist are adults who play on the ball fields and Frisbee Park. Hornaday has the playground, but also a nice campground. If the goal is to limit the number of intoxicated people at the facilities, limiting the buffer zone doesn't do that.

City Planner Abboud noted that Hornaday Park is in residential office, and you can't do anything there anyway.

VOTE: YES: BOS, ERICKSON
NO: BRADLEY, STEAD, STROOZAS, VENUTI, HIGHLAND

Motion failed.

VENUTI/HIGHLAND MOVED TO ONLY ALLOW CULTIVATION IN THE COMMERCIAL AREAS WITH A CONDITIONAL USE PERMIT.

Chair Stead clarified that includes central business district, GC1 and town center district.

Question was raised why they would allow growing in the middle of town square. It has been suggested in the past that area would be more for stores, parks, entertainment and the arts, things like that. It can be hard to deny a CUP if it fits all the criteria.

BOS/HIGHLAND MOVED TO AMEND AND REMOVE THE TOWN CENTER DISTRICT.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/VENUTI MOVED TO LEAVE THE INDUSTRIAL AS IS ON THE CHART (Small and large scale primary permitted use) AND TAKE LARGE CULTIVATION OUT OF THE BRIDGE CREEK AREA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/BRADLEY MOVED THAT MANUFACTURING BE ALLOWED BY CUP IN GC1, BY CUP IN GC2, AND PERMITTED IN EAST END MIXED USE.

Comment was raised that east end mixed use includes residential.

HIGHLAND/BOS MOVED TO AMEND TO INCLUDE A CUP FOR MANUFACTURING IN EAST END MIXED USE.

It was noted for clarification that with the amendment all allowed manufacturing will be in commercial and industrial and will be subject to a CUP.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/BRADLEY MOVED THAT TESTING BE ALLOWED AS THE CHART SHOWS.

Chair Stead clarified that with this motion testing would be allowed in commercial and industrial as an allowed activity.

BOS/ERICKSON MOVED TO AMEND THE MOTION TO INCLUDE THE SAME VALUES THAT THE MANUFACTURING HAS. GC1 IN COMMERCIAL, AND EAST END MIXED USE AND GC2 IN INDUSTRIAL ALL AS CUP.

It was clarified that the manufacturing and testing are completely separate operations, and also that testing could be done on product that comes in from all over the state. Point was raised that local cultivators could also send it out of town for testing and that it could be onerous to have a CUP.

It was suggested this is a good place to start, and they will have the opportunity to add CBD later if it seems reasonable.

VOTE (Amendment): YES: BOS, ERICKSON, HIGHLAND
NO: VENUTI, BRADLEY, STEAD, STROOZAS

Motion failed.

Commissioner Erickson feels there are people who will be very offended by these activities.

VOTE (Main motion): YES: STROOZAS, VENUTI, BRADLEY, STEAD
NO: ERICKSON, BOS, HIGHLAND

Motion carried.

HIGHLAND/STROOZAS MOVED TO ALLOW RETAIL IN COMMERCIAL AND INDUSTRIAL WITH A CUP.

There was brief discussion.

HIGHLAND/BOS MOVED TO EXTEND THE MEETING ADJOURNMENT 15 MINUTES UNTIL 9:45 P.M.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/HIGHLAND MOVED TO AMEND TO INCLUDE MARINE COMMERCIAL AS CUP.

There was brief discussion recognizing that it will be important to get public input for these activities. It was noted that they recommended testing be allowed outright with the understanding that it will be a laboratory environment.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

There was no further discussion on the main motion as amended.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud expressed his frustration with having to take these recommendations to the Cannabis Advisory Commission.

Commissioner Bos reiterated that this is a good place to start and there may be some changes here and there after they get public testimony.

New Business

Informational Materials

- A. City Manager's Report October 12, 2015
- B. 2015 Commissioner Attendance at City Council Meetings

Commissioner Bradley confirmed she will plan to report at the November 23rd City Council meeting instead of November 9th.

Comments of the Audience

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

Comments of Staff

City Planner Abboud thanked them for their work on the marijuana zoning. There is a diverse group of views and it will help to get more public members providing feedback on this.

Comments of the Commission

Commissioner Stroozas echoed that this is a good place to start. They did good work.

Commissioner Venuti said it was a good meeting. He commented that the Borough provided iPads to the Borough Planning Commissioners. He thinks it would be a good idea for the City to follow suit as it will save time and money in preparing and producing meeting packets. He recognized that some aren't computer savvy and could still receive a paper packet.

Commissioner Bos said it was a good meeting and it is nice that they can talk amongst each other at the meeting on these topics. He knows they don't have it all right, but it will get figured out. He will be absent until mid-December.

Commissioner Erickson said it's been an awful week and wished everyone a great week.

Commissioner Bradley said it was a great meeting and thanked everyone.

Commissioner Highland had no comment.

Chair Stead agreed it was a good meeting. He appreciates their comments and concerns. They are coming to an abrupt cliff and at some point will have to step off and see what happens. He thinks they made some good steps tonight toward getting there.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 9:42 p.m. The next regular meeting is scheduled for October 21, 2015 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



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(f) 907-235-3118

Staff Report PL 15-74

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: October 21, 2015
SUBJECT: Zoning for the Marijuana Industry

Introduction

At the October 7th HAPC meeting, the Commission was provided a basic introduction to potential zoning for marijuana activities. The minutes are attached to this staff report. The Commission discussed the four types of activities, and the various zoning districts. Two main points of discussion arose. First was the topic of small scale cultivation in the Rural Residential District. The Commission was of two minds; not allowing limited cultivation in the RR district, and if a conditional use, what the review standards would be. The second topic was, what the standards would be for a conditional use permit for any marijuana activities in any of the districts. This staff report offers some ideas for conditional use permit standards, and possibly finalizes the buffer distances.

Draft Ordinance Time line:

October 21: HAPC meeting

October 22: CAC meeting October 22

November 4th: HAPC public hearing on draft land use ordinance

December 2nd: Second HAPC public hearing and recommendation to City Council

January/February: City Council Adoption

February 24th: State begins taking license applications

Buffers

Buffers:	Schools	1000
	Churches	500
	Jail	500
	Youth/rec center	500
	Library	200
	Parks (see below)	200

The HAPC reviewed the buffers, and the comments of the Library Advisory Board. The LAB had request a buffer, the same as schools, for the library. The Planning Commission felt a 200

foot buffer would be adequate. Buffering from a large number of school aged children that use a facility on a regular basis may become one of the criteria for a conditional use permit.

Parks: Staff recommends naming the specific parks where the 200 foot buffer would apply. Staff initially thought of defining 'park' as a place where there was play equipment or obvious draws for children, however, its much more clear to just name the facility!

Staff Recommendation: Parks with a 200 ft buffer: Jack Gist, Hornaday, Bayview, Ben Walters.

CUP standards for all Marijuana Activities

Standards for ALL Marijuana CUP's:

- Down lighting, probably following the existing rules we have in commercial districts, but would also apply to small grows in RR
- If there is a high density of school age children, that may be grounds for denial of a permit. IE, a daycare center with more than 16 kids. Under the draft state regulations, licensed daycares will not have a buffer. **Commission discussion point: Are there buildings or places other than the library that should have a buffer, and why?**

Rural Residential limited cultivation standards

Option A: No small scale growing allowed, only personal use as allowed under the law.

Option B: Conditional Use Permit Standards

- Activity would be allowed outright on 40,000 sq ft lots
- Minimum lot size is 20,000 sq ft, and a CUP required on lots 20,000-39,999 sq ft
- New structures built for cultivation should be at least 20 feet from the nearest lot line. The goal would be separation between the grow and the neighboring property. Grows may include exterior lighting, security cameras and occasional smell – theoretically there won't be any odor.

Commission Discussion point: Under what conditions would you approve a CUP for a small grow in Rural Residential?

Land Use Table – 10/15 DRAFT

Zoning District Groupings

Residential	Commercial	Industrial	Other
Rural residential	Central business	East End Mixed	Bridge Creek
Urban residential	Town center	General commercial 2	Marine Commercial

Residential office	Gateway		Marine Industrial
	General commercial 1		

Cultivation

Residential	Commercial	Industrial	other
Small scale only RR* (500ft, or less)	Sm. and Lg. scale – CBD,GC1 TCD(Conditional Use) only	Sm. and Lg. scale • Primary Use, permitted	Sm. & Lg. • Conditional Permit Bridge Creek only

Manufacturing

Residential	Commercial	Industrial	other
Not allowed	CBD (Conditional) GC1 (CUP)	EEMUD (permitted) GC2 CUP	Not allowed

HAPC CBD concerns: lot size, and flammable materials. No manufacturing in CBD.

Testing

Residential	Commercial	Industrial	other
Not allowed	Allowed	Allowed	Not allowed

Retail

Residential	Commercial	Industrial	other
Not allowed	Allowed	Allowed	Not allowed except Marine Commercial permitted

Staff Recommendation

1. Commission discuss: Are there buildings or places other than the library that should have a buffer, and why?
2. Under what conditions would you approve a CUP for a small grow in Rural Residential?
3. Staff Recommendation: Parks with a 200 ft buffer: Jack Gist, Hornaday, Bayview, Ben Walters.

Attachments

Minutes of 10/7/2015 HAPC

There was brief discussion in support of providing 50% relief for walk ways and driveways provided appropriate retention measures are in place.

It was confirmed the Commission will hold a public hearing at their next meeting and then it should be ready to go back to City Council.

New Business

A. Staff Report PL 15-70, Zoning for the Marijuana Industry

Deputy City Planner Engebretsen reviewed the staff report, including activities and buffers for particular land uses like schools and churches. The goal is to have a zoning ordinance to City Council by the end of the year so our regulations will be in place before the state's February deadline to start receiving applications for marijuana businesses.

The commission reviewed the activities including retail, cultivation, manufacturing/processing, and testing.

Deputy City Planner Engebretsen explained the Cannabis Advisory Commission (CAC) has addressed allowing small scale cultivation, less than 500 square feet, allowable in the rural residential neighborhood. Things they might think about include a minimum lot size or separation distance from the property line. She also noted the laydown from the Library Advisory Board recommending the library have the same setback as schools and she offered to provide a map of different scenarios.

Chair Stead's opinion is a 200 foot setback for the library, he recognized that youth do frequent the library, but it doesn't have the same concentration of youth as a school.

Commissioner Highland questioned if marijuana licenses would be limited by population like liquor licenses are. Chair Stead said he wasn't aware of a restriction yet and we don't know what the marijuana control board will do. Deputy City Planner Engebretsen was unsure if they could limit based on population locally, but noted there are a lot of hurdles to get into the business.

They reviewed the table proposing allowances for marijuana related activities.

Allowing cultivation in the Bridge Creek Watershed Protection district is recommended as allowable through a conditional use permit. A grow operation would likely trigger other conditional uses depending on impervious surface and other things. Relating to a small operation less than 550 feet, the concern is fertilizers, pesticides, and the potential of chemicals not being processed properly, going into septic systems and draining out into the watershed.

Commissioner Bos suggested small scale cultivation not be allowed in rural residential. Chair Stead noted that the CAC's perspective is that 75% of Homer is rural residential and that is why they support small operations. Mr. Bos said he understands there are people who want to grow it but also that there are their neighbors who won't want it next door. He thinks it's a good place to start. Deputy City Planner Engebretsen suggested looking at two options like A- not at all or B- under some specific conditions, so people have some options to consider and testify about.

HOMER ADVISORY PLANNING COMMISSION
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Commissioner Highland commented that residential is mixed in most of the districts and there are ramifications of marijuana related activities that warrant something keeping it more restrictive in the beginning. If it is less restrictive and down the road we want to change regulation, we are left dealing with nonconforming uses.

Deputy City Planner Engebretsen confirmed for the next meeting staff will bring back two options to consider for rural residential, one not at all and two by CUP with rigorous standards like minimum lot size and separation distances to establish grounds to allow or deny.

There was general discussion about the lengthy process of getting licensed for an operation, and the stringent regulations for the marijuana related activities once they are licensed.

Under the manufacturing table it was suggested to eliminate CBD and include GC1 and GC2 as a CUP. Lot sizes in the CBD are too small and flammable materials are used at times in the process. Exclude Town Center and Gateway Business and Marine districts as well.

No changes were suggested for the table under testing.

Regarding retail, there was discussion of the notion of limiting the number of retail operations. Deputy City Planner Engebretsen explained that in staff's discussion, these stores can't sell other things. It raises the question how many can the community really support? The spit has a short retail season and there are a lot of hurdles to get a license from the state. It's questionable if it will be worth doing it out there. No changes were suggested.

Deputy City Planner Engebretsen said they will bring back a draft ordinance for the Commission to review.

B. Staff Report PL 15-71 Transportation Recommendations

Deputy City Planner Engebretsen reviewed the staff report.

BOS/HIGHLAND MOVED TO FORWARD THE TRANSPORTATION RECOMMENDATIONS TO COUNCIL.

There was brief discussion in support of the recommendations.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Informational Materials

- A. City Manager's Report September 28, 2015
- B. Town Hall Potential Revenue Solutions Pros/Cons

Comments of the Audience

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



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Memorandum

TO: ADVISORY PLANNING COMMISSION
FROM: LIBRARY ADVISORY BOARD
THRU: RENEE KRAUSE, CMC, DEPUTY CITY CLERK I
DATE: OCTOBER 7, 2015
SUBJECT: CANNABIS ZONING

Library Director Dixon has brought forward the possible issues surrounding Cannabis and the Library.

The Library Advisory Board discussed this issue at the regular meeting October 6, 2015. The Boardmembers present believed that public libraries should be included in the category of schools since they have many programs that are focused on children, many children and minors attend the library without parents or guardians at various hours presenting many opportunities where they could be approached. The Library Advisory Board opined that the same Drug Free zone should be used and as such felt the suggested 200 feet limit was not enough to keep marijuana or the temptation away from children and underage youth. The following motion was made:

KUSZMAUL/BROWN – MOVED TO HAVE PUBLIC LIBRARIES INCLUDED IN THE CATEGORY OF SCHOOLS REGARDING DISTANCE WHEN REGULATING MARIJUANA

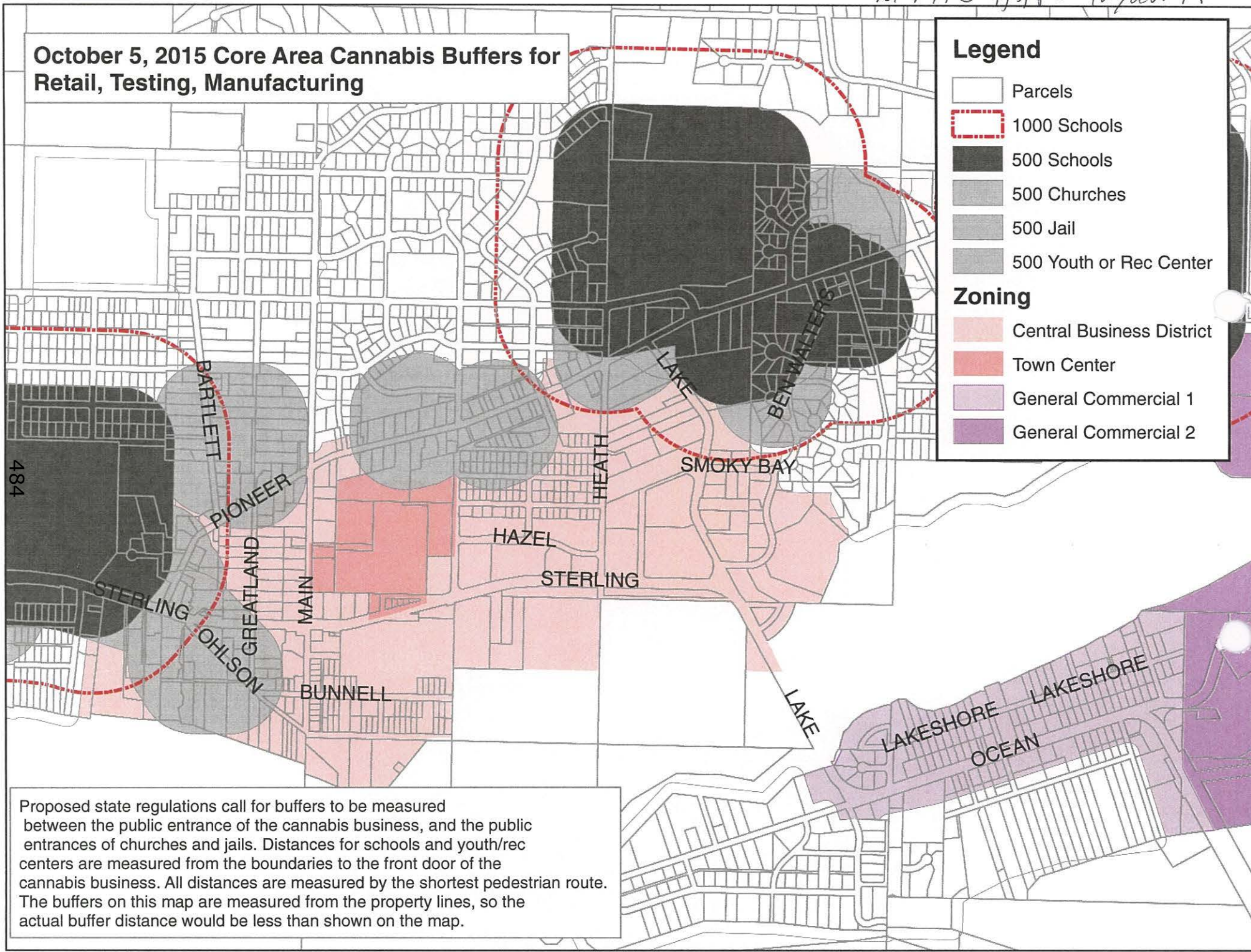
There was a brief discussion on how the distance is determined and if it would include all library property.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

10/7/15 HAPC laydown

October 5, 2015 Core Area Cannabis Buffers for Retail, Testing, Manufacturing



Legend

- Parcels
- 1000 Schools
- 500 Schools
- 500 Churches
- 500 Jail
- 500 Youth or Rec Center

Zoning

- Central Business District
- Town Center
- General Commercial 1
- General Commercial 2

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route. The buffers on this map are measured from the property lines, so the actual buffer distance would be less than shown on the map.



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Staff Report PL 15-70

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: October 7, 2015
SUBJECT: Zoning for marijuana

Introduction – After getting some general recommendation from the Cannabis Advisory Committee (CAC), we are ready to bring this subject to the Planning Commission. I expect this to spend several meeting with the planning commission before recommending adoption to the City Council. Ideally, we will have regulation in place prior to February when the state is obligated to process applications. They will have ninety days to act on the applications, so licenses should be active in May.

Analysis – The state is working on some buffer requirements for marijuana related businesses from schools and churches. We will not be able to be less restrictive at the local level. Most buffers, as of now, are 500ft. Hopefully, I can provide a laydown at the meeting the will confirm the changes. I was informed that the regulations will be available October 5, give or take a day or two. Regardless, the CAC did make some recommendation that would be in addition to the states requirements. This includes a 1000 foot buffer from schools (to match federal drug free zones) and 200 feet from playgrounds (which are not addressed according to my take of the regulations). With this in mind, we will recommend which activities are appropriate in which districts.

Discussion – Please consider the activities as suggested by the CAC in the tables below. Keep in mind that the activities of any of these ventures are highly regulated. Without going into all the details, the following applies to all activities (Article 7, 3 AAC 306). All activities will require a license and will be subject to the buffer restrictions. All establishments are required to have security systems and video surveillance. All employees need handler permits and the facilities and employees are held to health and safety standards. All facilities will have restricted access areas (under video surveillance) and are required to have a waste disposal plan and insurance. All inventory is required to be tracked. Things more unique to specific operation are discussed below. The attached articles provide draft regulation. Some changes are being made and will be forwarded to the commission when finished. Skimming through the articles will give you an idea of the regulation proposed.

Retail (Article 3) – All retail sites are restricted by the state from operation between the hours of 12am and 8am. No consumption is allowed on-site, or in public as defined by the state. No one under 21 is allowed in the premises. All employees must have a handlers permit. No more than an ounce of useable product will be sold at a time. Restrictions also exist for the quantity of the other various marijuana infused products allowed for purchase. Signage and advertising is restricted. All products have labeling requirement and will be tracked.

Cultivation (Article 4) – Cultivators may only sell or transport product to another licensed facility. A standard facility (over 500 sq. ft., as opposed to a limited one – under 500 sq. ft.) may apply for a marijuana product manufacturing facility and a retail store licenses, which would have to be separated by a secure door. No consumption is allowed within 20 of a building. Any marijuana growing operation shall be conducted within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. The operation cannot be observed by the public outside of the facility and may not emit an odor that is detectable by the public from outside the facility. The facility shall have full video surveillance of the licensed premises including any area where marijuana is grown, processed, packaged, stored or destroyed.

A limited marijuana facility must have less than 500 sq. ft. of cultivation. They are to operate through a broker. The broker will arrange for activities outside the actual cultivation of the product to be accomplished. A limited facility will be able to focus primarily on cultivation and will be subject to all the other conditions of a standard facility found in Article 7.

Manufacturing/processing (Article 5) – These facilities must meet all applicable public health, fire and safety codes. They may not sell product or allow it to be consumed on-site. Standards are set as to the method of extracting and concerning the products they create.

Testing (Article 6) – Testers may not hold any other marijuana industry licenses. They have specific standards for testing and the levels of contaminants allowable. Basically, this is a highly regulated laboratory.

Zoning District Groupings

Residential	Commercial	Industrial	Other
Rural residential	Central business	East End Mixed	Bridge Creek
Urban residential	Town center	General commercial 2	Marine Commercial
Residential office	Gateway		Marine Industrial
	General commercial 1		

Recommended allowance for marijuana related activities

Cultivation

Residential	Commercial	Industrial	other
Small scale only RR* (500ft, or less)	Sm. and Lg. scale – CBD,GC1 TCD(Conditional Use) only	Sm. and Lg. scale • Primary Use, permitted	Sm. & Lg. • Conditional Permit Bridge Creek only

Manufacturing

Residential	Commercial	Industrial	other
Not allowed	CBD (Conditional)	EEMUD (permitted)	Not allowed

Testing

Residential	Commercial	Industrial	other
Not allowed	Allowed	Allowed	Not allowed

Retail

Residential	Commercial	Industrial	other
Not allowed	Allowed	Allowed	Not allowed except Marine Commercial permitted

Staff Recommendation – Have a discussion about the implications of the various activities on the various districts. Recommend any appropriate subject for continued discussion, research, or code amendments. We will bring this back for review with the changing state draft regulations.

Attachments

1. Chapter 306. Draft Regulation of Marijuana Industry. Supplemental packet



City Planner Abboud and the Commission reviewed the ordinance information and revisions included in the staff report.

Discussion included:

- Essential services shouldn't be an exemption and telecommunications could be considered an essential service. The Environmental Protection Agency will require any utility or service using federal funds to construct will have to go through an environmental assessment. If an essential service wants to build a tower in excess of our height requirement, they should still have to come in for a CUP.
- The 1.1x setback is agreeable.
- 12 months is acceptable relating to reconstruction and replacement and also abandonment.
- Including review by a group like The Center for Municipal Solutions within the standards for approval of new tall structures. This company shouldn't be called out by name in code as there may be others offering the service.
- Continue working on and getting legal review of the draft ordinance, height requirements, and restrictions.

New Business

A. Staff Report Pl 15-15, Zoning for Marijuana

City Planner Abboud reviewed the staff report.

There was discussion that the City can adopt local regulations but they can't make them less restrictive than the state regulations. Opposition was expressed to cultivation being allowed in the GC1 and EEMU districts.

They acknowledged the work the state is doing and that it may be beneficial to wait to see what the legislators come up with first. It seems many of the other communities are stepping back to see what the state and larger cities are doing. Forming a local advisory board would be a good step in the process as it will allow a group of people time to focus on the topic and allow the city and residents to be actively engaged in the process.

HIGHLAND/BOS MOVED THAT THE COMMISSION RECOMMENDS COUNCIL FORM A LOCAL ADVISORY BOARD FOR MARIJUANA REGULATIONS.

There was discussion the Commission will still have an opportunity to address zoning relating to the allowable uses and restrictions in the districts.

VOTE: YES: STEAD, BRADLEY, STROOZAS, BOS, HIGHLAND, VENUTI
NO: ERICKSON

Motion carried.

There was brief discussion of requiring a CUP for anyone who wants to establish a growing operation or retail operation in the city. It was suggested that it not be considered all areas, but address allowing by CUP in the CBD, Town Center, GC1, and EEMU.

Informational Materials

- A. City Manager's report for February 9, 2015 Council Meeting
- B. KPB Plat Committee Decision on Tietjen Church of Christ Addition Preliminary Plat

Comments of the Audience

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

Lindianne Sarno, city resident, commented that apparently the state is doing a thorough job in drafting regulation and encouraged the city to wait to see what comes from the State Legislature. She thinks it will be good legislation for people on both sides of the issue. If the city does propose an ordinance we need to be careful and ensure we don't deny ourselves of tax revenue that we could really benefit from. Both Homer and Alaska's tax base can be very diversified by this development. She noted medical cannabis is also part of this and currently there are some extremely sick people in Homer who have to go the lower 48 for treatment and Alaska loses when people have to leave the state for treatment. Lastly she encouraged them to consider an allowance for cultivation for agricultural hemp, which is different from medicinal or recreational hemp.

Wes Schatt, borough resident and member of Kachemak Cannabis Coalition, said they look forward to working with the City on this. He commented this all comes down to personal responsibility. There is a drug and alcohol problem in town and that includes pharmaceuticals. Cannabis seems to be one of the least bad of the things going on here and it's been around the town forever.

City Manager Yoder commented to the Commission that the Economic Development Advisory Commission has been discussing low incoming housing and how to get housing prices lower. One thing that keeps coming up is getting utilities. With most land it seems the cost of the local improvement district is more than the value of the lot. He referenced the Lillian Walli subdivision and a proposed improvement district in the area. In talking with the Public Works Director about what's allowed in code, he asked if there is a way to make this work like PUD's or cluster developments. One issue in the subdivision is there are multiple owners, and another is the restriction in the code. The Public Works Director said building the subdivision out the way it is now could cost up to \$80,000 per lot. He wanted to bring it to the Commissions attention.

Comments of Staff

None

Comments of the Commission

Commissioner Stroozas said tonight's discussion was good and he will be absent at the next two meetings.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 18, 2015

Commissioner Venuti said it was an interesting meeting.

Commissioner Bos commented that there are lots of interesting topics and lots of interesting points of view. It was a good meeting.

Commissioner Erickson had no comment.

Commissioner Bradley agrees there are many interesting topics. Having grown up in Homer she never thought this would come to the plate, but here we are.

Commissioner Highland said Mr. Yoder brought up an interesting comment. She doesn't know if they can have it on their next meeting. She thinks it's important to address.

Chair Stead said he thought Mr. Yoder was expressing that there are other ways to address the Lillian Walli Subdivision than forming an assessment district and it may be worth talking to him directly first. He thought it was a good meeting.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 8:31 p.m. The next regular meeting is scheduled for March 4, 2015 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



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Staff Report PL 15-15

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: February 18, 2015
SUBJECT: Zoning for marijuana

Introduction

As the referendum for legalization has passed, I thought it would be good to have a conversation about how zoning may come into play with the legislation. I have included a summary, put together by the Alaska Clerks, of the proposed legislation regarding marijuana. Not a whole lot about zoning here. I would think that several of the issues addressed will be guided by state legislation. That said, municipalities generally have the right to offer more stringent regulations than the state.

Analysis

While I expect many aspects in relation to the growing, processing and selling of marijuana to be regulated by the state, municipalities such as Homer also may choose to create local regulations. My take on this is that by the City's silence on the subject, we just are not ready to create more burdensome regulation than the state. So at this time I will present how various aspects would be treated in relation to the current code.

Sale – If the state goes the route of others it will create regulation for sale that might typically include a distance from schools and daycares, perhaps a 1000 feet. Generally, I have seen that others do not allow for the product or depictions of the product to be seen in the general public. The municipalities may also wish to regulate hours of operation. In Denver, all shops must close by 7pm.

Currently this would be regulated as would any other retail operation. Retail activity of this nature would be allowed in CBD, TCD, GC1, and EEMU. Sales would not be allowed as a home occupation as the generation of traffic would be expected at a greater level than that found associated with residential uses. Roadside sales would likely be prohibited as they would not be able to comply with requirements regarding the view of the product to the public.

Cultivation – Expected regulation from the state would likely include that commercial operation not be visible from adjacent property and perhaps in a secure facility. Rules regarding cultivation are based on the amount of plants being grown. Several plants will likely be able to be grown in a residence while greater amounts will be subject to greater regulation. I am not sure that local conditions would be favorable to growing product outside of a green house. Currently, agricultural activities are permitted in RR and EEMU districts, while greenhouses are an allowed use in GC1 and EEMU. Commercial greenhouse including sale of plants grown on premises are allowed in RR with an approved CUP. Additionally, agricultural activities are allowed in the BCWPD with a CUP. I believe this is an area of code (agriculture) that may deserve a closer look with or without consideration to marijuana. Generally, although the code is silent, I would not challenge anyone's right to grow plants on personal property for personal use. It gets a bit more complicated when people set up a high tunnel which may have a requirement for an amount of produced to be sold or may want to plant a field of peonies, thus creating a commercial cultivation situation.

Manufacturing/processing – This is another challenging section of code as we do not have a definition of manufacturing and we tend to couch manufacturing in classification of products and agricultural or food items are not mentioned. So, one might say that this would be an unlisted item that would need to be reviewed as such per HCC 21.04.020 and would need a CUP if recommended by the commission. The only inroad I see for agricultural "manufacturing" or "processing" might be in EEMU and CBD. Lite or custom manufacturing is a conditional use in the CBD. EEMU would have an opportunity to create a combinations grow, manufacturing, and sales operation.

Staff Recommendation – Have a discussion about the implications of the various activities on the various districts. Recommend any appropriate subject for continued discussion, research, or code amendments.

Attachments

1. Local government actions relating to Ballot Measure 2

LOCAL GOVERNMENTS ACTIONS RELATING BALLOT MEASURE 2 LEGALIZED MARIJUANA

On November 4, 2014, the Alaskan voters approved ballot measure 2 which was an act to tax and regulate the production, sale, and use of marijuana. The initiative at AS 17.38.110(A) authorizes local governments to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores within their boundaries through enactment of an ordinance or by a voter initiative.

MUNICIPALITY OF ANCHORAGE

- Unanimously approved an ordinance making it illegal to consume marijuana in a public place
- In November 2014, an ordinance that would have banned commercial marijuana sales in Anchorage was voted down

CITY AND BOROUGH OF JUNEAU ALASKA

- Adopted an Ordinance on January 12 to impose a limited moratorium through October 19, 2015 on the receipt or processing of applications, permits or pending approvals pertaining to marijuana establishments.
- Adopted an Ordinance on February 2 amending the second-hand smoke control code to regulate the use of marijuana (no smoking in public places)
- Third to come is a fine schedule for the above and including marijuana in the open container laws for vehicles

MUNICIPALITY OF SKAGWAY

- Plans to address adding language to code reiterating the prohibition on public use
- Will look at regulations for commercial sale of marijuana in the Historic District

FAIRBANKS NORTH STAR BOROUGH

- Mayor is convening a task force to discuss marijuana policy for the Borough
- The task force is to develop zoning standards, production and sales requirements, and determine what other use issues need to be considered for adoption by the assembly

PETERSBURG BOROUGH

- Currently seeking letters of interest from citizens who wish to serve as a member of the Local Marijuana Regulation Advisory Committee. The committee will conduct open discussions with Petersburg's residents and business owners regarding what local regulations, if any, the community desires to place on marijuana sales, cultivation, manufacturing, etc. within the Borough.

KENAI PENINSULA BOROUGH

- Introduced an ordinance and it is up for final vote on February 24.
- Also enacted an ordinance to deal with it in personnel policies.

KETCHIKAN GATEWAY BOROUGH

- No ordinance drafted as of yet, formally considered the topic twice
- On February 2, the Assembly considered a motion directing staff to draft an ordinance banning the cultivation, processing, manufacturing, and retail sales of marijuana and marijuana-edible products in the Ketchikan Gateway Borough, in accordance with AS 17.38.110(a).
- The Assembly postponed the motion to April 20 to allow time for the State to discuss regulations, and to allow for the Borough and City governments to work together to discuss local regulations. Local regulations are being discussed in a joint committee between the KGB and the City of Ketchikan (Cooperative Relations Committee).

MATSU BOROUGH

- January 15 – the local Mayor's (Mat-Su Borough, Houston, Palmer, and Wasilla) sponsored a town hall meeting on the State's marijuana law. This was not an Assembly meeting and no action was taken.
- January 20 – the Assembly adopted a resolution (15-006) to request clarification from the state of Alaska on ballot measure 2, the legalization of marijuana.
- January 20 – the Assembly adopted a resolution (15-007) establishing the Marijuana Advisory Committee. (Brenda Henry from our office will serve as staff sport to the committee.)

CITY OF NORTH POLE (Based on news articles)

- Proposed Ordinance in North Pole defining a public place in North Pole as streets, sidewalks, alleys, transportation facilities, parking areas, arenas, schools, businesses, parks, playgrounds and prisons. Hallways, lobbies and doorways of apartment houses and hotels also fall under the definition of a public place. The ordinance was advanced, along with other marijuana ordinances, for a vote Feb. 17.

CITY OF WASILLA

- Introduced an Ordinance on February 9 for public hearing on February 23 which would adopt a Chapter for regulation of marijuana, pertaining to the manufacture, transport, possession, and use of marijuana and substances derived from marijuana

CITY OF NOME

- Introduced an Ordinance on February 9 establishing a chapter in their code for marijuana regulations

CITY OF PALMER

- Ordinance for introduction of February 24 that will establish Chapter 8.11 in their code prohibiting consumption of marijuana in a public place
- As more regulations are written, they will address more issues including zoning code and where facilities might be located.

CITY OF FAIRBANKS

- Will have a second reading on February 23 on an ordinance amending FGC Chapter 46 adding a new section to prohibit the consumption of marijuana in a public place.

CITY OF UNALASKA

- Introduced an Ordinance on February 10 that would amend Title 11 for the regulation of marijuana use outlining definitions, regulatory authority, remedies, and marijuana use in public places prohibited, marijuana possession and use under the age of 21 prohibited, unregistered commercial cultivation of marijuana prohibited. Second reading scheduled for February 20.

CITY OF VALDEZ

- Waiting for the legislature to work through the issues
- For personal use, they feel that the current language contained in the initiative gives authority to restrict use in public areas
- They currently restrict alcohol use in public facilities and will take the same approach with marijuana use
- No plans to draft resolutions at this time

CITY OF CRAIG

- Second reading on the following ordinances most likely on March 5.
 - Ordinance on prohibiting the consumption of marijuana in a public place and establishing a penalty for violation
 - Establishing a limited moratorium on the receipt or processing of applications, permits, or pending approvals pertaining to marijuana establishments

CITY OF SEWARD

- At this point, the City of Seward is waiting until state laws are further finalized before moving forward with any decisions on recreational marijuana preparations and/or establishments.

CITY AND BOROUGH OF WRANGELL

- Introduction of an ordinance on February 24 that prohibits consumption of marijuana in public places.

CITY OF DILLINGHAM

- Code Review Committee will be review two ordinances this week for a recommendation to the Council to introduce at their March 5 Council meeting. The ordinances would then be up for a public hearing on April 2 and adoption.

To whom it may concern,

My name is Derek S Hartman. Homer is my home town, this is where I was raised, where I went to school, and where I plan on raising my family. I am writing this letter in opposition to the ban of Marijuana cultivation in Rural Residential Zoning in the city of Homer. Here are a few things I have observed about this community while living here;

- 1) We Depend a lot on tourists
- 2) We Depend a lot on the Fishing Industry
- 3) Opportunities are rare!!!!
- 4) Marijuana has already been integrated into the community for years.

With the States' regulations, the individual will have to provide a precise detailing of building plans, property plans and security fences. The State requires the applicant to provide precise details even down to nutrient formulas upon applying for a license. The State has red-line requirements, essentially requiring the individual to acquire the property at the time of/or prior to, applying for the license. Once things are approved by the States' Marijuana Control Board, they cannot be changed until the next year when the individual renews their license. With the States requirements and the cities proposed ban of Marijuana cultivation in rural residential zones, the cost of having to have a commercial property that would be unable to generate income for the first four to six months, effectively puts it out of the hands of average Homer citizens.

I would rather see families that live in Homer year round have a chance to be involved in this opportunity, rather than people from Anchorage that would take the money they make here back up to Anchorage to spend it there. My wife and I, for example, already operate a small business called Handmade Alaska. We make our products from home, right now, we mostly have to travel out of Homer to sell our products directly to tourists. It would take a lot of pressure off of our Family having another source of steady income we can make on our property. By allowing cultivation in the Rural Residential district, it would help keep the money here, for the good of our community & economy.

The state already sees this, with their state residency requirements.

The state is controlling this new industry very tightly. They have codes to address most any issues a neighbor might have. They address line-of-sight, perimeter fencing, odor-control, & security. Making the Buffer Zones where it matches other zoning requirements makes sense also, cultivation should be kept 100ft from the neighbor's house. At first I was going to recommend a 40,000 sqft limit on lot size, but felt the 100ft buffer took care of the need for it. I included an excerpt from the RR zoning section of title 21 for easy reference;

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;

Also, I would like to propose, instead of limiting the type of cultivation license people can apply for, we should limit the square foot that can be cultivated. This would allow local people to grow and expand

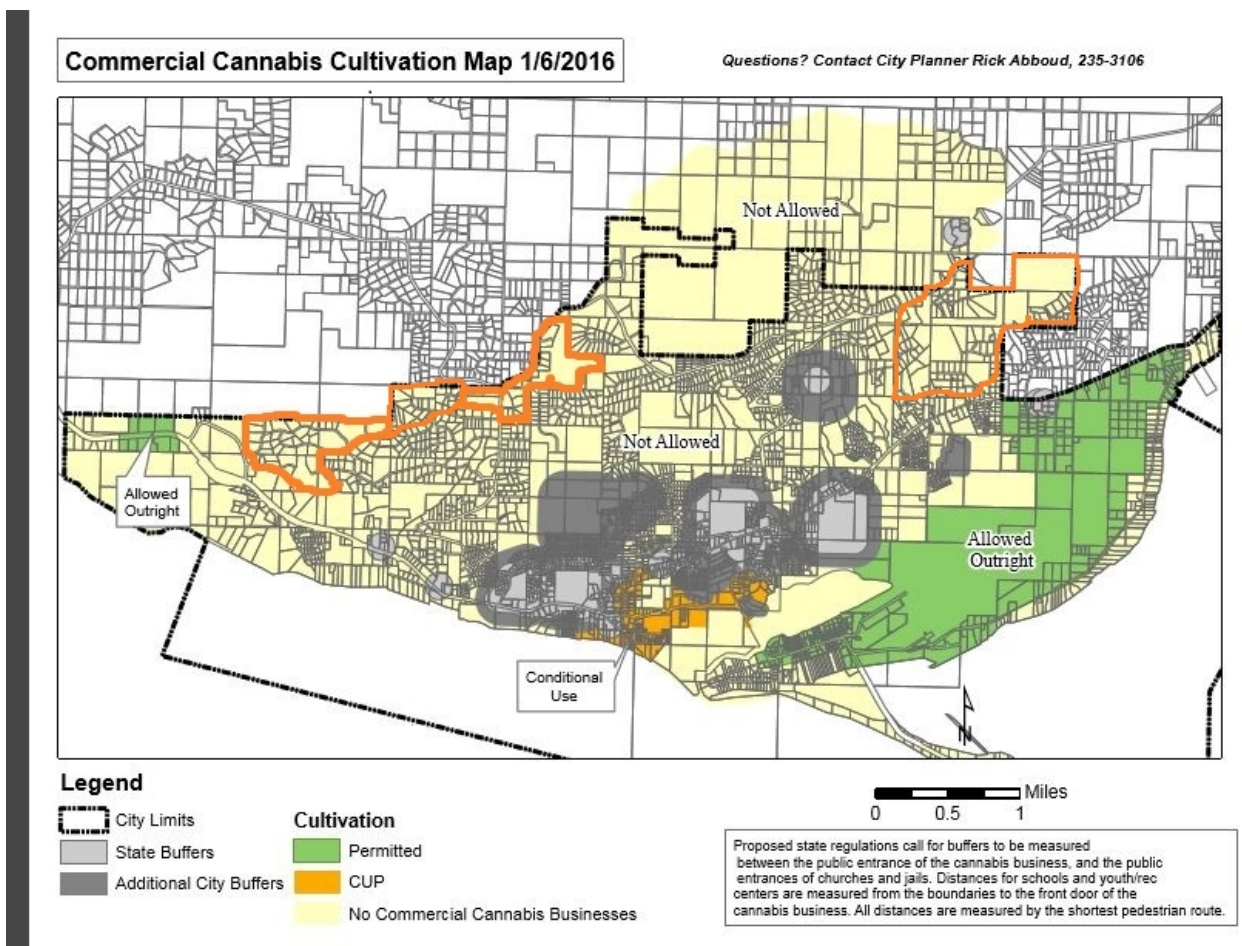
in this new industry, by allowing people to take their license and move to the preferred commercial piece of property.

When looking at a map of Homer, outside edges seem to stand out as an area to zone for this. Most lots are a bit bigger on average in these areas, and I feel that most people move out of “town” because they want privacy. I’d hate to exclude anyone but I have included a map on which I’ve outlined some areas in the Rural Residential which I feel would work.

I believe the economy should be grown from the ground up, and the more opportunities that average local citizens have to be in business, the better off we all will be. Also I believe small business owners are more likely to shop locally. I would love to see a town full of locally owned businesses, and in which good families have a chance to be business owners. I would like to see our community make the type of decisions that enables average citizens to become prominent business owners. Keeping business accessible to average citizens is how I believe we build a strong economy within our community.

Thank you for your time

Derek Hartman



Subject:

FW: ZONING FOR CANNABIS CULTIVATION

RECEIVED

JAN 11 2016

**CITY OF HOMER
PLANNING/ZONING**

From: Brenda Hays [<mailto:reelpossibility@gmail.com>]

Sent: Thursday, January 07, 2016 8:48 AM

To: Department Planning

Subject: ZONING FOR CANNABIS CULTIVATION

GREETINGS TO ALL COMMISSION MEMBERS.

I WAS NOT ABLE TO MAKE THE MEETING LAST NIGHT, BUT IF IT'S NOT TOO LATE , I WOULD LIKE TO COMMENT.

I AM LOCAL REALTOR IN TOWN, FIELDING QUESTIONS DAILY ON WHAT'S NEW WITH

CITY ZONING REGS FOR CANNABIS. WHEN THE CULTIVATION MAP CAME OUT IN NOV. RURAL RESIDENTIAL AREAS WERE TO BE ABLE TO GROW WITHOUT CUP, I RECEIVED HUNDREDS OF CALLS REGARDING PROPERTIES FOR SALE IN THIS AREA. IN DEC YOU CHANGED THAT TO BEING ABLE TO GROWN, BUT WITH CUP, (MORE CALLS REGARDING CUP'S) NOW, YOU ARE SAYING NO ONE WILL BE ABLE TO GROW IN RURAL RESIDENTIAL DISTRICTS., (NOW CALLS ASKING WHAT IS GOING ON??) I THINK TAKING RR OUT IS A HUGE MISTAKE, AS THE AMOUNT OF REVENUE THE CITY COULD MAKE WITH HAVING SMALL FARMS IN RR AREA WOULD BE HUGE, (and prices of homes and land would rise substantially!)

MOST PROPERTIES in RR ARE LARGE ENOUGH, AND PRIVATE ENOUGH , THAT NEIGHBORS WOULD NOT BE AFFECTED. 500 sq. ft. is not a large grow space, just enough for a Ma and Pa operation, that could benefit lots of people with no jobs, and little income. People can legally grow anyway, why can't they grow a few more plants and be able to sell, and have city receive the tax money? This is a one time opportunity for the city of Homer to actually make more money than ever, and cash would stay in Homer!

In the RR areas, there are still a few properties for sale. People want to come here, buy here, grow here and Homer is just turning off the lights for progress!

Regarding the map for commercial ventures (1/6/16 map) this is almost insulting. The property along Kachemak Dr. first, not much for sale, or lease, most taken up with airport, and marine ventures, more importantly it's in a "wetland area", so any new building might not be permitted. This looks like council/commission is not for new commercial interests. Again, potentially huge tax loss for city!

Also, it looks very suspicious that out of town by dump area. and gas station where again, there are no properties for sale, or lease, and only one business could benefit in this area, how fair is that?

Please go back to the drawing board, and find larger areas that are actually beneficial for income producing ventures, and not for just a few land owners who are lucky enough to already own in these areas, this is most discriminatory for new people wanting to move here, and start businesses here.

As for downtown and spit availability, very limited, only a few buildings for sale, or lease! THIS AREA SHOULD BE EXPANDED.

I know that much time and effort has gone into these zoning efforts, I believe the P&Z Commission can do better for Homer! It seems you are looking at these businesses as a nuisance, not as the next boom for Homer. This is a one time opportunity, please, fix these issues now, for the future generations of Homer. These businesses will create jobs for our young adults to be able to stay where they were raised, verses moving out of Homer. Green business will bring more tourists to Homer, who will buy more, eat more, spend more in a town where fishing is soon to be more limited and controlled. We will no longer be recognized as the best place to fish in AK. We need new industries, jobs, tax dollars. Don't kill the plants before they are seeded!!

Best regards,

Brenda Hays

42 yr. Homer resident

ORDINANCE REFERENCE SHEET
2016 ORDINANCE
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.

Sponsor: Reynolds

1. Council Regular Meeting January 25, 2016 Introduction
 - a. Memorandum 16-018 from City Manager as backup
 - b. HCC 19.16
 - c. Vehicles on Homer Beaches Map (revised)

**CITY OF HOMER
HOMER, ALASKA**

Reynolds

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.

THE CITY OF HOMER ORDAINS:

Section 1. Subsection (c) of Homer City Code 1.16.040, Disposition of scheduled offenses—fine schedule, is amended by adding new lines to read as follows:

Code Section	Description of Offense	Fine		
		1st offense	2nd offense	3rd & subsequent offenses
7.16.020	Motor vehicle in beach area	\$25	\$250	\$500
7.04.030	Motor vehicle on storm berm	\$25	\$250	\$500

Section 2. Homer City Code Chapter 7.16, Vehicles in Beach Areas, is enacted to read as follows:

7.16.010 Definitions.

In this chapter:

“Beach area” means all of the following, whether publicly or privately owned: submerged land, tideland, and the zone of sand, gravel and other unconsolidated materials that extends landward from the elevation of mean high water to the place where there is a marked change in material or physiographic form.

“Berm” means a natural, linear mound or series of mounds in a beach area composed of sand, gravel, or both, generally paralleling the water at or landward of the elevation of mean high water.

33 “Motor vehicle” means a device in, upon, or by which a person or property may be
34 transported or drawn upon or immediately over land, that is self-propelled except by human
35 or animal power.

36 “Storm berm” means a berm formed by the upper reach of storm wave surges or the
37 highest tides. Storm berms generally include an accumulation of seaweed, driftwood, and
38 other waterborne materials. A beach area may have more than one storm berm.

39 “Submerged land” means land covered by tidal water from the elevation of mean low
40 water seaward to the corporate boundary of the city.

41 “Tideland” means land that is periodically covered by tidal water between the
42 elevation of mean high water and mean low water.

43
44 7.16.020 Operating, stopping or parking of motor vehicles in beach areas prohibited;
45 Exceptions.

46 a. Except as provided in subsections b and c of this section, no person may operate,
47 stop or park a motor vehicle within or upon any beach area.

48 b. A person may operate, stop or park a motor vehicle within and upon the beach area
49 east of Airport Access Road, and within and upon the beach area west of Bishops Beach Park
50 Access.

51 c. An owner of property immediately adjacent to a beach area may operate, stop and
52 park a motor vehicle within or upon a beach area as is reasonably necessary to maintain the
53 owner’s property, in accordance with the terms of a permit issued for that purpose by the
54 chief of police.

55
56 7.16.030 Operating, stopping or parking of motor vehicles on storm berms prohibited.

57 No person may operate, stop or park a motor vehicle upon a storm berm.

58
59 7.16.040 Impoundment authorized.

60 A vehicle that is stopped or parked in violation of this chapter may be impounded as
61 provided in HCC Chapter 7.08.

62
63 Section 3. Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, is repealed.

64
65 Section 4. This Ordinance is of a permanent and general character and shall be
66 included in the City Code.

67
68 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of
69 _____ 2016.

70 CITY OF HOMER

71
72
73 _____
74 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:

Mary K. Koester, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum 16-018

TO: Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: January 20, 2015
SUBJECT: Ordinance 16-05

Ordinance 16-05 would prohibit vehicles east of the Bishops Beach parking lot (Beluga Slough to Mariner Park). A physical barrier and educational signage at entry points to this newly prohibited area was suggested by the Parks and Recreation Advisory Commission. Fish and Wildlife, who owns the property just east of the parking lot, is interested in partnering with the City on this project to protect their land and habitat. Councilmember Reynolds and I met with Refuge Manager Steve Delehanty before the holidays to discuss what this might look like. The conclusion we came to was that each organization should cater to its strengths: Fish and Wildlife should take the lead on signage and the City in creating a physical barrier, budget permitting for both organizations.

According to Public Works Director Meyer, the most cost effective barrier would be a series of boulders (20) above the high tide line. Though vehicles could still access the area at low tide, the barrier and the signage would make it very clear that if they did, they would be engaging in a prohibited activity. Any work below the high tide line would be more expensive because of the high wave energy at the beach and would require permitting. Cost estimate for labor and materials above high tide only is \$9,000.

Fish and Wildlife would like to see signage at Bishops Beach parking lot that is informative, educational and friendly. The cost for the signage will be dependent on the quality – according to Steve, high quality long lasting interpretive signage to Fish and Wildlife standards would run around \$10,000. The City would like similar signage at Mariner Park so we can send the public a consistent message on beach access. I anticipate there is an acceptable compromise between cost and quality.

If Ordinance 16-05 passes, a Resolution amending the Beach Policy and an Ordinance asking for the appropriation of funds will follow. Funding will have to come from general fund as there are no funds in the parks and recreation reserve (the balance was eliminated for the Hickerson Cemetery expansion during the 2016 budget).

Chapter 19.16

VEHICLES ON HOMER SPIT BEACH¹

Sections:

- 19.16.010 General.
- 19.16.020 Definitions.
- 19.16.030 Use of vehicles prohibited.
- 19.16.040 Violation – Penalty.

Prior legislation: Ord. 77-10.

19.16.010 General.

It is the intent of this chapter to preserve and protect certain beach areas of the Homer Spit from the uncontrolled and ever increasing use of such areas by persons driving wheeled, motorized vehicles thereon. [Code 1967 § 12-600.1].

19.16.020 Definitions.

For the purposes of this chapter, “beach area” shall include the zone of sand, gravel and other unconsolidated materials that extends landward from the low water line to the place where there is a marked change in material or physiographic form.

“Berm” means a natural, linear mound or series of mounds of sand or gravel, or both, generally paralleling the water at or landward of the line of ordinary high tide.

“Storm berm” means a berm formed by the upper reach of storm wave surges or the highest tides. Storm berms generally include an accumulation of seaweed, driftwood, and other waterborne materials. A beach may have more than one storm berm. [Ord. 02-14(A) § 2, 2002. Code 1967 § 12-600.2].

19.16.030 Use of vehicles prohibited.

a. No person shall operate a recreational vehicle, motorcycle, motor bike, or motor scooter within or upon that beach area as defined in HCC 19.16.020 located from a line bisecting the Homer Spit at the centerline of the mouth of the Fishin’ Hole to the tip of the Spit.

b. For the purpose of this section, recreational vehicle is defined as a self-propelled vehicle having wheels, tracks or rollers that may be operated on land areas located off the public roads. Use of vehicles engaged in commercial activity, as opposed to recreational, is exempted from this prohibition.

c. No person shall operate any motorized vehicle upon a storm berm on any beach within the City limits of Homer except in designated areas.

d. No person shall operate any motorized vehicle upon the following beach or tidal areas:

1. Mud Bay;

2. Louie's Lagoon;

3. Mariner Park Lagoon;

4. Beluga Slough.

e. The official "Beach Policy Map of the City of Homer" is enacted by reference and declared to be part of this chapter in its exact form as it exists on the date that the ordinance codified in this chapter is adopted by the City Council. [Ord. 02-14(A) § 2, 2002; Ord. 01-39, 2001; Ord. 78-16 § 1, 1978. Code 1967 § 12-60s.pdf">12-600.4].

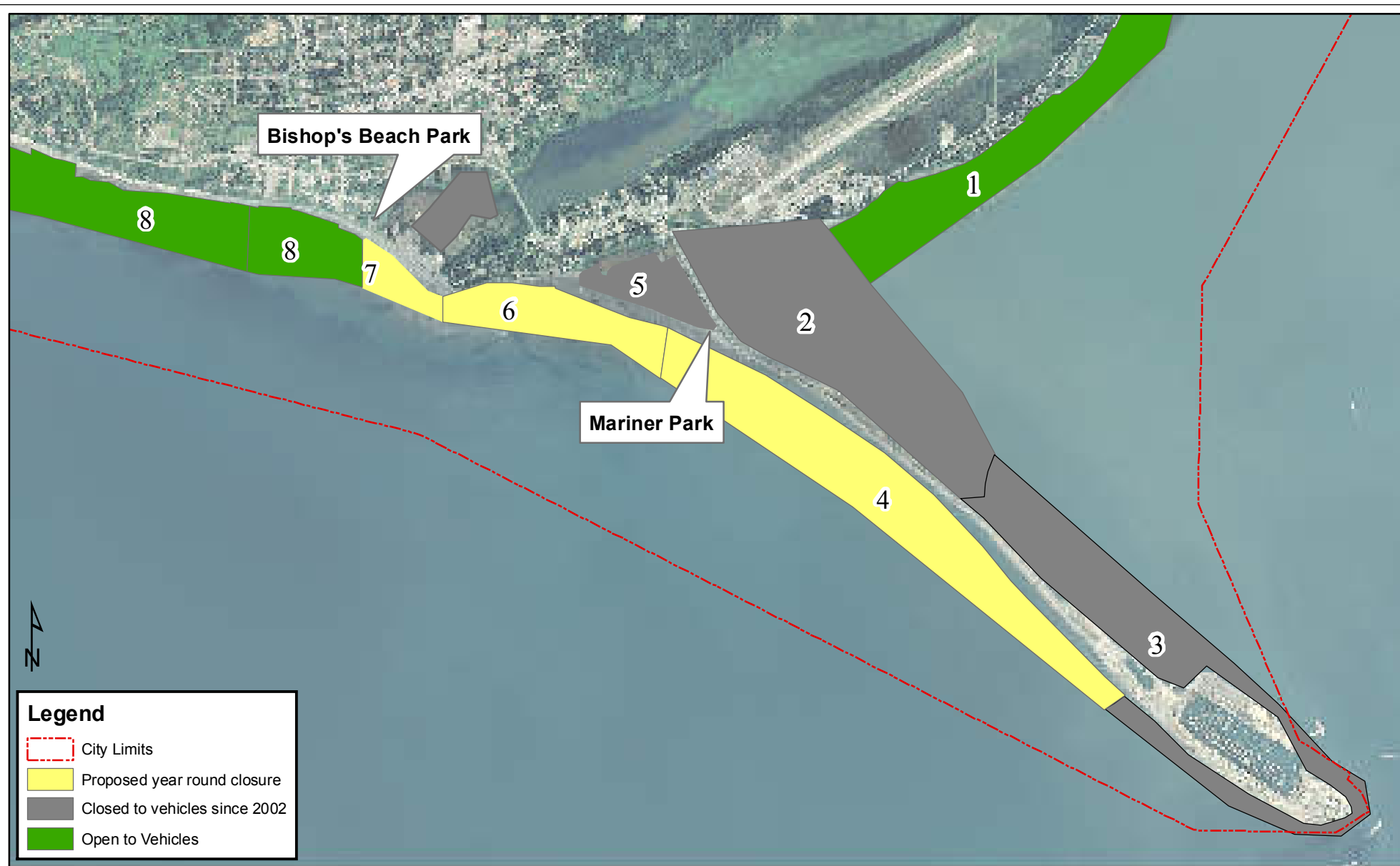
19.16.040 Violation – Penalty.

The violation of any provision contained in this chapter shall be punished as follows:

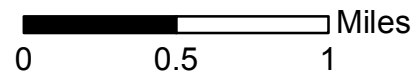
a. First offense: \$25.00 fine;

b. Second offense: \$250.00 fine;

c. Third and subsequent offenses: \$499.00 fine. [Ord. 02-14(A) § 1, 2002. Code 1967 § 12-600.6].



REVISED Vehicles on Homer Beaches Map



August 18, 2015

CITY MANAGER'S REPORT



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

City Manager's Report

TO: Honorable Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: January 25, 2016
SUBJECT: City Manager's Report

Council Lunch Hour at Library

Thanks for embracing Lunch Hour with Council with such enthusiasm. First lunch hour will be February 8 at noon with Councilmembers Reynolds and Lewis.

Hickerson Cemetery

A reminder that the Hickerson Cemetery neighborhood meeting is scheduled for February 10 at 5:30 p.m. in Council Chambers. The Planning Department and Clerk's Office are helping spread the word and sending the attached notice out to the neighborhood. Site plans and frequently asked questions are posted on the website. Please let anyone you know who may be interested in the project – including the need for a municipal cemetery, of the upcoming meeting.

TORA with DOT for Maintenance of Pioneer Avenue

The City signed an agreement with ADOT for continued maintenance of Pioneer Avenue. Given the hit the ADOT maintenance and operations budget has taken, I am thankful the maintenance responsibilities and compensation remained static – \$34,000 a year. However, this amount has not increased since 2000. Depending on the snow load, it costs the City about 30% more than DOT's contract to provide services on Pioneer. As our main business corridor, Pioneer Avenue gets a higher level of service through the City. The more responsive service is critical for businesses along Pioneer and residents trying to get around town on foot, car, or bicycle.

City Applied for AFG Grant for Harbor Fire Carts and Ventilation System at Fire Hall

Chief Painter has applied for a grant for refurbishing fire carts in the Homer Harbor (\$170,000) and installing a ventilation system for vehicle exhaust at the Fire Hall (\$40,000). The fire cart replacement project has been on the City's CIP for years and in the last budget cycle it was included in the top 5. This project would purchase new pumps and motors for the Port and Harbor Maintenance to refurbish existing fire carts with. The fire hall needs a proper ventilation system to transfer toxic vehicle exhaust gases from the vehicle bays to outside (instead of up through the stairwell and into office and living quarters, like it does now).

Boathouse Pavilion

Organizers of the Boathouse Pavilion project, a timber frame pavilion planned for the old harbormaster's office lot on the Spit, had a successful kick off to the project Wednesday January 13. About 140 people attended the Open House and organizers have already raised 1/3 of the \$210,000 goal. The following morning the Public Works Director, Harbormaster and I met with organizers and about a dozen local builders/professionals in the construction trades at a work session. The Boathouse supporters are currently working with the architects to compile community input. Next steps for the group are to continue the local and statewide fundraising efforts and work with the City on a revised site plan.

Surplus Items Up for Grabs

Public Works will man the upstairs at the HERC Friday January 29th from 11 a.m. to 1 p.m. for interested nonprofits to come by and pick up free of charge an assortment of surplus office related equipment (see attached table). Items will be given away on a first come first serve basis. Any equipment that is not picked up will be brought to the transfer site or recycled. Thanks to Public Works for taking on this spring cleaning project.

Insurance

Alaska Municipal League Joint Insurance Agency (AMLJIA) has provided insurance for the City of Homer for many years. They have provided an excellent level of service. They are incredibly responsive, have many professionals that the City can call on for advice, a workplace safety program that we have benefited from, and provide top notch legal representation when needed. However, their contract expires in June and I have given notice to AMLJIA, as is required, that we will be requesting competitive bids for 2017. There are two public providers of insurance in Alaska: AMLJIA and Alaska Public Entity Insurance (APEI). A number of municipalities have switched to APEI at significant cost savings. A very important variable for the Council to consider will include the quality and level of service. AMLJIA has requested the March 14 work session to update Council on current policy and services.

Why What Happened to the Drinking water in Flint, Michigan would not Happen in Homer

Homer Public Works staff works hard making sure that Homer drinking water meets EPA standards and is not contaminated with lead – as appears to be the case in Flint, Michigan.

The problems in Flint were first brought to the attention of the public when residents were found to have elevated levels of lead in their blood stream. The corrosive Flint River water may have caused lead from aging pipes to leach into the water supply, causing extremely elevated lead levels.

The City of Homer's drinking water source is not highly corrosive and our water distribution system has no lead components. There are some homes that may have some aging plumbing that do. Public Works does three things to make sure what happened in Flint does not happen in Homer:

- 1) At the treatment plant, small amounts of sodium hydroxide are added to the water for pH adjustment. This increases the pH of the water, minimizing the potential for the water to be aggressive, and reduces the opportunity for lead and copper to leach into the water.
- 2) Orthophosphate, a corrosion inhibitor, is added which creates a thin coating on the inside walls of the pipes in your home, creating a protective barrier between the water and the copper pipes/lead solder.
- 3) In homes constructed prior to 1986 (when lead was routinely used in building plumbing work), the City randomly completes testing at the tap to verify that lead and copper levels in the water meet EPA drinking water standards. Based on the encouraging results of these tests in Homer, EPA has approved reduced monitoring of this potential problem, but testing continues.

Public Works completes extensive testing - at the treatment plant, in the distribution system and in the homes of our customers to assure that your drinking water is safe – and that what is happening in Flint does not happen in Homer.

2016 Capital Project Update from Public Works Director Meyer

2016 promises to be another busy year for the City and Public Works. Public Works Director Meyer has compiled the following list of project updates:

- **Deep Water Dock Uplands Improvements** – This project consists of paving Outer Dock Road from Homer Spit Road to the Dock, removal of the “Walls” around the “Chip Pad”, installing chain link fence around the Chip pad (designated as a storage area for cargo coming off the dock), installing chain link fence around the gravel area between the Chip pad and the dock approach (designated as a laydown area for cargo staged for loading on to the dock), installation of security lighting and cameras, and miscellaneous drainage/paving improvements.
This project is completely funded by a legislative grant (in support of the expansion/upgrade of the Deep Water Dock). The project bids in January, will be awarded in February, work starts in April, and is to be completed by the end of June.
- **Waddell Way Road Improvements** – This project consists of the construction of a road and water line between Lake Street and Heath Street (just north of the Post Office) and a road connection south toward the Post Office. The road will include a sidewalk on one side, bike lanes on both sides, LED street lighting, and adjustments to the driveway off Heath Street to the HEA storage yard to the north.
This project is in large part funded by a legislative grant in support of the development of an east/west transportation corridor through the center of town. The project bids in January, will be awarded in March, work starts in May, and is to be completed in August.
- **Shellfish Avenue/South Slope Drive Water Main Improvements** – This project consists of the extension of a water main and installation of a pressure reducing vault from east Hill Road across to the eastern end of Mountain View Drive.

This project is in large part funded by an ADEC grant in support of interconnecting two isolated water pressure zones; increasing water service dependability City wide; providing more dependable domestic water service and fire flows to the South Peninsula Hospital, water and fire service to the adjacent properties, and water to the future Shellfish Avenue water storage tank site. The project bids in February, will be awarded in April, work starts in May, and is to be completed in September.

- **Other Significant Projects Anticipated:**

- Kachemak Drive Water and Sewer Improvements (Phase III)
- Backup Generator at the Library
- Kramer Avenue Neighborhood Paving SAD
- Lillian Walli Subdivision – Eric Lane Road and Sewer SAD
- Road Repaving – Various local residential roads
- Finishing Old Town Pedestrian Improvements
- Hickerson Cemetery Expansion (Phase I)
- West Homer Elementary Soundview Safety Improvements
- Calhoun Trail Work
- Soundview Sidewalk and Safety Improvements
- Deep Water Dock Feasibility Study
- Deep Water Dock Bird Deterrent Project
- Roger Loop Trailhead Acquisition

Enc:

Notice for Hickerson Cemetery Neighborhood Meeting
TORA with DOT for Maintenance of Pioneer
Surplus Items Available
Homer Public Library Infographic



City of Homer

www.cityofhomer-ak.gov

491 East Pioneer Avenue
Homer, Alaska 99603

(p) 907-235-8121

(f) 907-235-3140

NOTICE

January 20, 2016

Re: Hickerson Cemetery Neighborhood Meeting Wednesday, February 10, 2016 at 5:30 p.m.
Council Chambers

Dear Landowner/Interested Party,

The City of Homer will hold a neighborhood meeting Wednesday, February 10th at 5:30 p.m. at City Hall Cowles Council Chambers to discuss the proposed expansion of Hickerson Cemetery.

The existing Hickerson Cemetery has only 11 plots left for sale, and those are spread out unable to accommodate family groups that often purchase plots together. To address the need for additional space for area residents to bury their loved ones, the Homer City Council approved a capital project in the 2016 budget cycle to expand Hickerson Cemetery by developing the first 325 plots. The original project, initiated with the purchase of land adjacent to the cemetery in 2010, is for 700 plots. Due to budget constraints, Council decided to move forward with a phased approach.

Additional information, including a copy of the design, can be found on the City's webpage.

The City Manager and Public Works Director will be available at the neighborhood meeting to answer questions and address concerns the public has with the development of the Cemetery and/or the availability of this service to area residents. Additional questions regarding the neighborhood meeting can be directed to the City Manager's office, 235-8121x6.

Sincerely,

Katie Koester
City Manager



**TRANSFER OF RESPONSIBILITIES AGREEMENT
BETWEEN
THE STATE OF ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES
AND
CITY OF Homer**

This Agreement is effective upon execution by the State of Alaska, Department of Transportation and Public Facilities (hereinafter called the State) and the **City of Homer** (hereinafter called the City).

Section 1. Purpose

The City and Department have entered into a maintenance agreement (Exchange of Responsibilities Agreement for Pioneer Avenue) concerning the maintenance of Department owned road facilities located within Homer, Alaska.

Section 2. Transfer of Responsibility

The Department hereby transfers to the City all its right and obligation to perform maintenance work on the state route, Pioneer Avenue. The Department retains responsibility for the cost of operating and maintaining the existing street lighting system. The Department will continue to accomplish pavement marking in conjunction with the striping of other Department owned roads in the Homer area. The city agrees to maintain this roadway to a standard that is acceptable to the Department.

The Department shall retain full title and ownership of the specified state route and shall retain all rights incident to such ownership interest that are not expressly transferred to the City under this agreement.

Section 3. Consideration

In consideration of the receipt of the facilities, the city agrees to be responsible for the maintenance, operation, and repair described in Attachment "B" for the facilities after the effective date of this agreement.

In consideration of the receipt of the facilities, the Department agrees to reimburse the City for the maintenance, operation, and repair of facilities described in Attachment "A". The Department agrees to pay a total amount of \$34,000.00 to the City for the cost of roadway maintenance for the period from July 1 through June 30. Upon execution of this agreement, payment will be remitted to the city within sixty (60) days.

Section 4. Term of Agreement

- (A) This agreement shall become effective upon the date and time of final signatures and shall remain in full force and effect until amended or terminated.
- (B) This agreement may be amended, in writing, any time upon mutual consent of the parties thereto and this agreement may be terminated for cause by either party where the other party fails in any material way to perform its obligations under this agreement. Termination under this subsection is subject to the condition that the terminating party notify the other party of its intent to terminate, stating with reasonable specificity the grounds thereof, and the other party fails to cure the default within thirty (30) days after receiving this notice.

Section 5. Integration

This agreement and any writings incorporated by reference herein embody the entire agreement of the parties. This agreement shall supersede all previous communications, representations, or agreements, whether oral or written, between the parties hereto.

Section 6. Notices

Any notice provided for herein shall be given in writing and transmitted by personal delivery or prepaid first class registered or certified mail addressed as follows:

Katie Koester, Manager
City of Homer
Soldotna District
Homer, Alaska 995

Randy Vanderwood, P.E.
M&O Chief
Central Region
P.O. Box 196900
Anchorage, Alaska 99519

or to such other persons or addresses as the City or Department may from time to time designate in writing.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first, here written

CITY OF HOMER

STATE OF ALASKA, DEPARTMENT
OF TRANSPORTATION & PUBLIC
FACILITIES

By: Katie Koester 1.14.16
Katie Koester
City Manager
Homer, Alaska

Date

By: _____
Randy Vanderwood, P.E.
M&O Chief
Central Region

Date

Attachment "A"

STATE ROAD FACILITIES TO BE EXCHANGED

(1) Pioneer Avenue - from Lake Street to Homer Bypass (.988 miles).

Any work that goes beyond the scope of limited maintenance must be approved by both parties prior to starting work.

Attachment "B"

CITY OF HOMER ACTIVITY LIST

Winter Activities

Snow Plowing / Removal
Ice Grading
Slush Removal
Glacier Control
Wing Back
Steam Thawing
Sanding

Summer Activities

Sweeping
Ditching

	NAME	DESCRIPTION		
	Chairs	Assorted styles of desk chairs and office chairs		
	Keyboard Trays	Pullout style attachable under a desktop		
	Desks	Assorted sizes and styles		
	Tables	Assorted sizes and styles		
	Digital Camera	Sony Digital Maciva Camera with Case		
	TV's	Various sizes, some with built in VCR		
	VCR	Zenith with Remote		
	Printer/Copy Cartridges	Assorted Dell, HP, and Xerox Printer/Copier Cartridges		
	Cassette Tape Reformatter	Cassette Tape Reformatter		
	Kiosks	Metal Kiosk Brochure Holder		
	Partitions	Wall Partitions - assorted sizes and colors		
	Typewriters	IBM and Brother		

HOMER PUBLIC LIBRARY YEAR IN REVIEW

2015

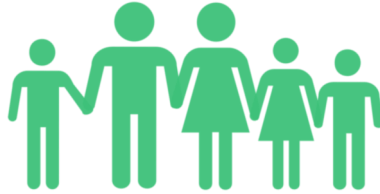
up
9%
over
2014

142,178



CHECKOUTS

135,957



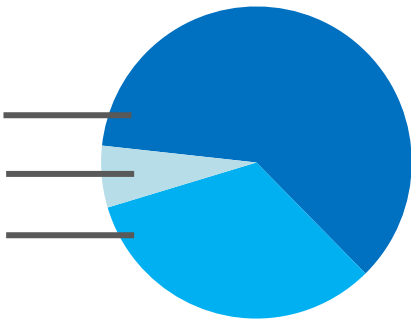
VISITS TO THE LIBRARY

49,406



COMPUTER SESSIONS

BOOKS
OTHER
VIDEOS



NOTABLE NUMBERS

115,198



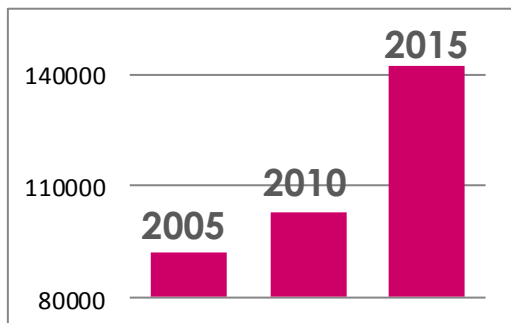
LIBRARY WEBSITE
PAGE VIEWS

4,222



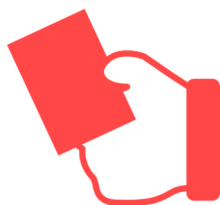
PEOPLE USED
STUDY ROOMS

AND WE'RE STILL GROWING!



ANNUAL CHECKOUTS

853



NEW LIBRARY CARDS

306



HOMEBOUND VISITS

up 26%
over 2014

2,375



VOLUNTEER HOURS



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

TO: MAYOR AND CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

DATE: JANUARY 19, 2016

SUBJECT: BID REPORT

ITB DEEP WATER DOCK UPLANDS IMPROVEMENTS PROJECT 2016 - Sealed bids for the construction of the **Deep Water Dock Uplands Improvements** project will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **2:00 p.m., Thursday, February 18, 2016**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps>

ITB AMBULANCE REPLACEMENT - Sealed bids for the manufacture of a new ambulance will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **2:00 p.m. Friday, February 26, 2016**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps>

CITY ATTORNEY REPORT

COMMITTEE REPORTS

PENDING BUSINESS



City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

Memorandum 16-001(A)

TO: HOMER CITY COUNCIL
FROM: MARY E. WYTHE, MAYOR
DATE: JANUARY 4, 2016
SUBJECT: APPOINTMENT OF COUNCILMEMBER BRYAN ZAK TO THE KENAI PENINSULA ECONOMIC DEVELOPMENT DISTRICT.

On November 19, 1987, the Kenai Peninsula Borough Resource Development (RDC) adopted a resolution recommending to the Assembly that a borough-wide economic development district be formed, with the Borough participating along with the Borough's home-rule, first class, and second-class cities. Kenai Peninsula Economic Development District was organized in 1988. KPEDD serves residents of the Kenai Peninsula Borough in south central Alaska. The Borough is home to approximately 49,600 people residing in a land area of 16,100 square miles. KPEDD has actively pursued development opportunities for the region. Over its lifetime, KPEDD has been involved in a variety of projects, including public works projects, shellfish industry development, international trade, promoting a North Slope Natural Gas Pipeline to Cook Inlet, building infrastructure and industry recruitment.

The City of Homer appoints a representative to the Kenai Peninsula Economic Development District. City Manager Koester has served as Homer's representative on the KPEDD since June 2013.

Councilmember Bryan Zak has previously served as Homer's representative and has volunteered to represent the City again.

The seat is for three years, commencing in January 2016 and expiring December 31, 2018.

RECOMMENDATION:

Confirm the appointment of Councilmember Bryan Zak to the Kenai Peninsula Economic Development District.

Fiscal Note: N/A

NEW BUSINESS



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 16-013

TO: MAYOR WYTHER AND HOMER CITY COUNCIL

FROM: JO JOHNSON, CITY CLERK

DATE: JANUARY 19, 2016

SUBJECT: TRAVEL AUTHORIZATION FOR COUNCILMEMBER ZAK TO TRAVEL TO ANCHORAGE TO ATTEND THE INSTITUTE FOR ALASKA NATIVE CORPORATION DIRECTOR EDUCATION AND INSTITUTE FOR TRIBAL COUNCIL TRAINING MARCH 21 – 22, 2016.

Councilmember Zak would like to travel to Anchorage March 21-22, 2016 to attend the Institute for Alaska Native Corporation Director Education and Institute for Tribal Council Training on behalf of the City.

The course is designed for new, prospective, and seasoned ANC directors, tribal, and city council members. CEOs, administrators, and appropriate staff interested in learning how to work more effectively with their boards and councils are also invited to attend. The course includes 14 sessions comprised of general and multiple track presentations that attendees may select based on their interests.

Cost estimates for travel include conference registration fee of \$697.00 (includes breakfasts and lunches), round trip airfare from Homer to Anchorage \$250.00 and room rates at \$140.00 per night. Per diem is \$58.00 per day, for three meals.

For FY 2016 Council budgeted \$4,500 for transportation and \$2,500 for subsistence. To date \$0 has been expended from Transportation Acct. No. 100.0100.5236, leaving a balance of \$4,500; and \$0 has been expended from Subsistence Acct. No. 100.0100.5237, with a balance of \$2,500 remaining.

For FY2016 Council budgeted \$500 for training and \$7,200 for membership dues (AML annual membership cost is approximately \$6,200). To date \$0 has been expended from Training Acct. No. 100.0100.5603, leaving a balance of \$500; and \$0 has been expended from Membership/Dues Acct. No. 100.0100.5235, leaving a balance of \$7,200.

RECOMMENDATION:

Discuss the travel and if approved allocate funds for transportation, lodging, and meals.

Fiscal Note: Mayor and Council 2016 Budget: 100.0100.5236 - Transportation: \$4,500.00;
100.0100.5237 - Subsistence: \$2,500.00; 100.0100.5603 – Training: \$500; and 100.0100.5235 –
Membership/Dues: \$7,200

JAN - 7 2016

9th Annual Director & Council Member Training & Certification Course

*Accreditation Training for ANC Directors,
Tribal, & City Council Members*

**Awards the Certificate of
ANC Director & Council Member Leadership**

March 21 - 22, 2016

The Hotel Captain Cook, Anchorage

Give us two days to show you how to enhance your board's and council's effectiveness today and beyond. Over 900 ANC Directors, Tribal Council Members, CEOs & Administrators have attended our training courses since they were launched in 2008. Course evaluations have been overwhelmingly positive. Based on attendee and client feedback, we have merged our annual ANC Director Training Course and Tribal Council Training Course into one Course this year.

About the Course

The 2016 Course, to be held **MARCH 21-22, 2016** includes a **Total of 14 Sessions** comprised of General and Multiple Track Presentations. **Attendees may select sessions based on their interests.** The **Track I** Segment is designed for directors and council members who are **first time** attendees and/or that have **less than three years** of Board or Council Service. The **Track II Segment** is designed for directors and council members **that have attended more than one** of our previous training Courses or that have more **than three years** of Board or Council Service.

Who Should Attend & Leadership Certificate

The Course is designed for new, prospective, and seasoned ANC directors, tribal, and city council members. CEOs, administrators, and appropriate staff interested in learning how to work more effectively with their boards and councils also are invited to attend.

Attendance at the Course counts toward earning and retaining the Certificate of ANC Director & Council Member Leadership.

Registration Form – May be downloaded at www.ancdirectoreducation.com

The registration fee includes continental breakfasts, lunches, refreshments, and speaker presentations. **Early registrations received by FRIDAY, MARCH 4, 2016 and/or for THREE or more attendees from the same organization qualify for a \$50 per attendee discount.**

Course Agenda

Monday, March 21, 2016

- 7:30 AM** **Registration Desk Opens & Continental Breakfast**
- 8:15 AM** **Welcome and Introductions & Invocation**
- 8:30 AM** **Keynote – Crawford Patkotak**, Chairman of the Board, EVP Shareholder & Community Programs, Arctic Slope Regional Corporation
- 10:00 AM** **Break**
- 10:30 AM** **Attendees Select One of Two Concurrent Tracks:**
 Track I: Understanding and Scrutinizing Financial Statements
 Track II: Business Ethics in the Board & Council Room
- Noon** **Lunch**
- 1:00 PM** **Track I:** Director & Council Member Roles, Responsibilities, and the Board/CEO/Tribal Administrator Partnership
 Track II: Fiduciary & Legal Duties, Confidentiality & Standards of Conduct
- 2:30 PM** **Break**
- 3:00 PM** **Track I:** Board, CEO, & Tribal Administrator Performance Evaluations
 Track II: Development of Dividend Policies
- 4:30 PM** **Recess**

Tuesday, March 22, 2016

- 7:45 AM** **Continental Breakfast**
- 8:30 AM** **Track I:** Maintaining Respectful Decorum in Board/Council and Shareholder/Member Meetings
 Track II: Dealing with Board & Council Conflicts and Difficult Board & Council Members
- 10:00 AM** **Break**
- 10:30 AM** **Track I:** Succession Planning – Board/Council & Administration Best Practices
 Track II: The Board's & Council's Role in Acquisitions and Divestitures
- Noon** **Lunch**
- 1:30 PM** **Track I:** The Role of the Board & Council in Strategic Planning
 Track II: Monitoring Financial Performance
- 3:00 PM** **Break**
- 3:30 PM** **Annual Talk Show**
- 4:45 PM** **Wrap Up and Adjourn**

Faculty

Course faculty includes native Alaskan and non-native professionals comprised of board & council chairs, CEOs, CFOs, CPAs, attorneys, educators, and consultants

Crawford Patkotak, Chairman of the Board, ASRC
Harvey Meier, Executive Director, IADE & ITCT
Lea Klingert, President, Alaska Commercial Fishing and Agriculture Bank
Ross Waddell, CPA, Co-Founder Aklaq Accounting & Consulting, LLC
Liz Ross, Executive Director, SW Colorado Small Business Development Center
Matt Block, General Counsel, Ahtna, Incorporated
Tracy Woo, Esq. CEO/President & Attorney-at-Law, SFM Pacific, LLC

9th Annual Director & Council Member Training and Certification Course

*"Accreditation Training for ANC Directors, Tribal, & City
Council Members"*

REGISTRATION FORM

March 21-22, 2016
THE HOTEL CAPTAIN COOK
939 W 5th Ave
Anchorage, AK 99501
800-843-1950 or 907-276-6000

For questions, contact
Harvey A. Meier, Executive Director
907-868-3731 or e-mail
harvey@ancdirectoreducation.com
www.ancdirectoreducation.com

*If more than one attendee from your organization,
please list all registrants on the back of this form.*

COURSE AGENDA POSTED AT
www.ancdirectoreducation.com

Name BRYAN ZAK
Position Councilman
Organization HOMER City Council / City of HOMER
Address _____
City HOMER State AK Zip 99603
Telephone (907) 223-6681 Fax _____
E-mail _____ Website _____

**Seating is limited. Please register by FRIDAY MARCH 4, 2016 to obtain the early
registration fee discount**

Please make check payable to:
Institute for ANC Director Education

Registration Fee: Covers course activities, continental
breakfast, lunches, refreshments, and speaker
presentations.

**\$697 per attendee for EARLY registrations received by
MARCH 4th or for three or more attendees from the
same organization. Registrations received after
MARCH 4th for less than three attendees are \$747 per
attendee.**

A check in the amount of \$_____ is enclosed

Refunds will be issued for written cancellations received
by Friday, March 11th 2016. No refunds after this date.

The Hotel Captain Cook Accommodations: Please ask for Institute for ANC Director Education Special
Group Rate of \$140/night plus tax. Parking is available in the Hotel's garage at the special rate of
\$20/day.

Mail your check, registration form, and
attendee list to:

Harvey A. Meier, Executive Director
Institute for ANC Director Education®
410 W. Nevada Street
Ashland, Oregon 97520-1043
Phone: 907-868-3731
FAX: 541-488-7905

harvey@ancdirectoreducation.com



City of Homer

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Homer City Council

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Homer, Alaska 99603

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Memorandum 16-014

TO: MAYOR WYTHER AND HOMER CITY COUNCIL

FROM: DAVID G. LEWIS, COUNCILMEMBER

DATE: JANUARY 19, 2016

SUBJECT: TRAVEL REIMBURSEMENT FOR MAYOR WYTHER TO TRAVEL TO JUNEAU
FEBRUARY 2 – 4, 2016 TO ADVOCATE FOR THE CITY.

On January 11, 2016 the Council defeated Memorandum 16-004 that approved travel for Mayor Wythe and Councilmembers Lewis and Reynolds to travel to Juneau February 2 – 4, 2016 to meet with legislators and advocate for the City.

Mayor Wythe believes the face-to-face time with legislators is so important that she will be traveling to Juneau at her own expense February 2 – 4 to represent the City. As a representative of the City, Mayor Wythe should be reimbursed for her travel expenses.

Cost estimates for travel include round trip airfare from Homer to Juneau at \$625.00 and room rates at \$150.00 per night. Per diem is \$58.00 per day, for three meals.

For FY 2016 Council budgeted \$4,500 for transportation and \$2,500 for subsistence. To date \$0 has been expended from Transportation Acct. No. 100.0100.5236, leaving a balance of \$4,500; and \$0 has been expended from Subsistence Acct. No. 100.0100.5237, with a balance of \$2,500 remaining.

RECOMMENDATION:

Approve travel reimbursement for Mayor Wythe to travel to Juneau to meet with legislators and advocate for the City.

Fiscal Note: Mayor and Council 2016 Budget: 100.0100.5236 - Transportation: \$4,500.00 and 100.0100.5237 - Subsistence: \$2,500.00.



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

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Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 16-015

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JANUARY 19, 2016

SUBJECT: REQUEST FOR EXECUTIVE SESSION PURSUANT TO AS 44.62.310 (A-C)(2),
MATTERS, SUBJECTS THAT TEND TO PREJUDICE THE REPUTATION AND
CHARACTER OF ANY PERSON, PROVIDED THE PERSON MAY REQUEST A PUBLIC
DISCUSSION (CITY MANAGER KOESTER ANNUAL PERFORMANCE
EVALUATION/EMPLOYMENT CONTRACT).

Pursuant to Council's Operating Manual – "Any Councilmember, the Mayor or City Manager may place consideration of an executive session on the agenda..."

Mayor Wythe requested an Executive Session regarding "City Manager Koester Annual Performance Evaluation/Employment Contract" for the Regular Meeting of January 25, 2016. This has been publicly and internally noticed since that time.

City Manager Koester may request her annual performance evaluation/employment contract be discussed in public.

RECOMMENDATION:

Approve the request for Executive Session and conduct immediately in the Conference Room.

RESOLUTIONS

**CITY OF HOMER
HOMER, ALASKA**

Reynolds

RESOLUTION 16-012

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
ADOPTING THE CITY OF HOMER ALL HAZARD MITIGATION PLAN
2015 UPDATE AND REVISION AND AUTHORIZING THE CITY
MANAGER TO FORWARD THE DOCUMENT TO THE KENAI
PENINSULA BOROUGH, THE FEDERAL EMERGENCY
MANAGEMENT AGENCY, THE ALASKA DIVISION OF HOMELAND
SECURITY, AND OTHER ORGANIZATIONS AS APPROPRIATE.

WHEREAS, The Homer City Council recognizes the threat that natural and human
generated hazards pose to its residents, their property, public infrastructure, and the health
and safety of the community at large; and

WHEREAS, Planning for and implementing actions that avoid or mitigate the impacts
of hazards before disasters occur reduces the potential for harm to people and property and
saves taxpayer dollars; and

WHEREAS, An adopted All Hazard Mitigation Plan is required as a condition for future
grant funding to the City for hazard mitigation projects; and

WHEREAS, The City has provided notice of the draft plan revision and opportunities to
comment to its local partners in disaster mitigation, has participated jointly in the planning
process with the Borough and other units of government, and held a hearing to solicit
comments from the public.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves and
adopts the All Hazard Mitigation Plan 2015 Update / Revision.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to forward the
Plan to the Kenai Peninsula Borough, the Federal Emergency Management Agency, the State
Division of Emergency Management, and other organizations as appropriate.

PASSED AND ADOPTED by the Homer City Council this 25th day of January, 2016.

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CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

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Chapter I – Introduction

A. Purpose of the Plan:

The purpose of the All-Hazard Mitigation Plan is to fulfill the FEMA requirement under The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act), Section 322, Mitigation Planning enacted by Section 104 of the Disaster Mitigation Act of 2000 (DMA) (P.L. 106-390). In accordance with FEMA directives, the City of Homer All-Hazard Mitigation Plan originally adopted in July of 2004 must be updated and revised to reflect the current situation as determined by a review of the mitigation efforts completed under the existing plan and a review of events that have occurred since adoption of the first plan. This plan will identify hazards; establish community goals and objectives and develop mitigation strategies and activities that are appropriate for the City of Homer.

The Disaster Mitigation Act of 2000 (DMA 2000), Section 322 (a-d), as implemented through 44 CFR Part 201.6 requires that local governments, as a condition of receiving federal disaster mitigation funds, have a mitigation plan that describes the process for identifying hazards, risks and vulnerabilities, identifying and prioritizing mitigation actions, encouraging development of local mitigation and providing technical support for those efforts. Although only required to address natural hazards such as earthquake, severe storms, etc., it is the intent of the City of Homer to address, to the fullest extent possible, all-hazards that might reasonably be expected to strike the greater Homer area including natural, technological, and man-made hazards.

The purpose of this plan is to produce a program of activities through actions and projects that will best deal with the City of Homer's hazard vulnerabilities, while meeting other community needs. This plan will accomplish the following objectives consistent with FEMA planning process guidelines:

- Describe the planning process to include public involvement;
- Conduct an assessment of the potential risks;
- Determine what facilities, or portions of infrastructure, are vulnerable to a disaster;
- Develop a mitigation strategy, where possible, to reduce potential losses and target resources;
- Describe how each entity will periodically evaluate, monitor, maintain and update the plan; and,
- Describe the process for implementing the plan after adoption by the local governing body of the community and receiving FEMA approval.

B. Methodology

The City of Homer All-Hazards Mitigation Plan 2015 Update was developed as a multi-jurisdictional plan in cooperation with the Kenai Peninsula Borough. On *insert date*, the Homer City Council adopted by Ordinance *insert ordinance number* the City of Homer All-Hazards Mitigation Plan 2015 Update. This plan becomes an Annex of the Kenai Peninsula Hazard Mitigation Plan. This plan must also be approved by the State of Alaska Division of Homeland Security, Emergency Management, and the Federal Emergency Management Agency (FEMA).

The approach used for the review and update of the City of Homer All-Hazard Mitigation Plan consisted of the following tasks:

1. Coordinate with other agencies and organizations
2. Solicit public involvement
3. Conduct hazard area inventory
4. Review and analyze previous and future mitigation activities
5. Describe the update and review process and schedule for plan maintenance
6. Coordinating the Plan with the KPB and State Hazard Mitigation Plan
7. Submitting to the State Hazard Mitigation Officer for Review
8. Submitting to FEMA Region 10 for Review and Approval
9. Adoption of the Plan following the public hearing process

This All Hazard Local Mitigation Plan Revision contains a list of potential goals and activities with a brief rationale or explanation of how each project or group of projects contributes to the overall mitigation strategy outlined in the plan.

This plan summarizes the activities above to assess the effects of hazards in the City of Homer: flooding, earthquake, wildfire etc. and recommends mitigation strategies and activities.

The mitigation plan will be evaluated and updated every five years. In addition, the plan will be reviewed annually by the City of Homer Director of Emergency Services (Emergency Manager) and as appropriate when a disaster occurs that significantly affects Homer, whether or not it receives a Presidential Declaration.

Years 1 & 3 Funding streams will be discussed, and which mitigation action should be implemented within the coming year. All departments and/or organization that are responsible for mitigation action will be invited to attend.

Years 2 & 4 The City will determine whether there are components of the plan's Risk Assessment that can be updated. The previous year's disasters (if any) will be assessed and, if needed, produce better maps to aid in future hazard mitigation. Continue public outreach.

Year 5 A full update of the all- hazards mitigation plan will be completed. The committee will convene and if needed assign plan update tasks.

Routine maintenance of the plan will include updating historical hazard information, completing hazard analysis and adding projects as new funding sources become available, or taking projects off the list when they are accomplished.

C. Homer – Background

The following information was obtained from the Department of Commerce, Community, and Economic Development Community Database online at this website:
<http://www.commerce.state.ak.us/> as of April 24, 2015.

General Location

Homer is located on the north shore of Kachemak Bay on the southwestern edge of the Kenai Peninsula. The Homer Spit, a 4.5-mile long gravel bar, extends from the Homer shoreline into Kachemak Bay. Homer is 227 road miles south of Anchorage, at the southern-most point of the Sterling Highway. It lies approximately 59.6425° and -151.54833°. (Section 19, Township 6 South, Range 13 West, Seward Meridian. Homer is located in the Homer Recording District. The area encompasses 10.6 square miles of land and 14.9 square miles of water. The city limits extends easterly approximately 4.5 miles, northward along Skyline Drive and to the west just beyond Roger's Loop. The City of Homer abuts Kachemak City to the east and is a part of the Kenai Peninsula Borough.

Climate

Homer lies in the Gulf Coast Maritime Climate Zone. The Minimum Daily Temperature during Winter is -1° F and the Maximum Daily Temperature during Summer is 76° F. The Maximum Daily Precipitation totals 1.1" with a Total Annual Precipitation of 24.1 inches, including 55 inches of snow.

History

The Homer area has been home to Kenaitze Indians for thousands of years. In 1895, the U.S. Geological Survey arrived to study coal and gold resources. Prospectors bound for Hope and Sunrise disembarked at the Homer Spit. The community was named for Homer Pennock, a gold mining company promoter who arrived in 1896 and built living quarters for his crew of 50 on the Spit. Their plans were to mine the beach sands along Cook Inlet, from Homer to Ninilchik. The Homer post office opened shortly thereafter. In 1899, Cook Inlet Coal Fields Company built a town and dock on the Spit, a coal mine at Homer's Bluff Point, and a 7-mile long railroad, which carried the coal to the end of the Spit. Various coal mining operations continued until World War I, and settlers continued to trickle into the area, some to homestead in the 1930s and 1940s, other to work in the canneries built to process Cook Inlet fish. Coal provided fuel for homes, and there is still an estimated 400 million tons of coal deposits near Homer. The City government was incorporated in March 1964. After the Good Friday earthquake in 1964, the Homer Spit subsided approximately 4 to 6 feet. Since then several buildings were relocated to reduce the effects of hazards with particular emphasis on new and existing buildings and infrastructure.

Culture

While commercial fishing has long been the mainstay of the Homer economy, tourism has become increasingly important. Homer is known as an arts community and is also a gateway community in relation to more remote destinations, such as Kachemak Bay State Park and Lake Clark National Park and Preserve. The Homer Jackpot Halibut Derby attracts summer recreational fisherman and the Kachemak Bay Shorebird Festival attracts spring time birders.

Population and Economy

The Alaska State Department of Labor estimates the 2014 population of Homer at 5,099. Homer is incorporated as a first-class city. It is primarily a fishing, fish processing, trade and service center, and enjoys a considerable seasonal visitor industry. The Homer Spit has two deep water docking facilities: the Deep Water Dock and the newer Pioneer Dock which is home to the U.S. Coast Guard Cutter Hickory and is the home berth of the Alaska Marine Highways Ferry Tustumena. Homer is home to the Islands and Ocean Visitor Center, an interagency facility and important meeting place.

Figure 1: Resident Workers by Industry (2014)

Estimated resident per capita income for 2014 was \$33,469 and the unemployment rate was 8.8% according to the Alaska State Department of Commerce 2014 Audit Report.

Facilities

Over 90% of homes are fully plumbed. Water is supplied by a dam and 35-acre reservoir at Bridge Creek, is treated, and stored in a 500,000-gallon tank and a newly constructed 1,000,000-gallon tank, and piped to the majority of homes in the City. The newly completed water treatment plant can treat 2 million gallons of water per day, with the potential for another one million gallons per day when needed due to population growth. Other residents use individual wells or have water delivered to home tanks. City sewage is piped to a deep-shaft sewer treatment plant; capacity is 880,000 gallons per day. Refuse is collected by one of two private trash collection services, and hauled to an updated Borough Class 1 Monofill landfill at mile 169.3 Sterling Highway.

Homer Electric Association is a member-owned electric cooperative that provides power to the western Kenai Peninsula, including Sterling, Soldotna, Kenai, Nikiski, Kasilof, Ninilchick, Homer and south Kachemak Bay. HEA facts:

- 22,892 member-owners
- 33,341 meter locations
- 2,407 total miles of energized line
- 3,166 square-mile service area on the southern Kenai Peninsula

The City is the major property owner on the Spit and operates the port and harbor facilities which include:

- **Small Boat Harbor:** which has 920 reserved stalls, plus 6000 linear feet of transient mooring.
- **Fish Dock and Ice Plant:** The Fish Dock operates for a 9-month season. The dock has eight cranes and the Ice Plant has a 200 ton ice storage capacity.
- **Deep Water Dock:** 245 linear feet with a 40 foot depth.
- **Pioneer Dock:** 469 linear feet with a 40 foot depth that serves the Alaska Marine Highway system.

KEY LOCATIONS

- Corporate office in Homer
- Central Peninsula Service Center in Kenai
- Nikiski Generation Plant
- Bradley Lake Hydroelectric Plant (owned by the State of Alaska)
- Bernice Lake Power Plant (Nikiski)
- Soldotna Power Plan

Transportation

Homer is accessible by the Sterling Highway to Anchorage, Fairbanks, Canada and the lower 48 states. It is often referred to as “The End of the Road”, because it lies at the terminus of the Sterling Highway. The State owns and operates the Homer Airport, with a 6,700 ft asphalt runway, and a seaplane base at Beluga Lake. The City is served by several scheduled and chartered aircraft services. There are four additional private landing strips in the Homer vicinity. The Alaska Marine Highway and local ferry services provide water transportation. The Deep Water Dock was constructed in 1990 and can accommodate vessels up to 800 ft, displacing 65,000 tons. The Pioneer Dock, constructed in 2001-2002 can accept vessels up to 750 ft and displacing 80,000 tons. The Small Boat Harbor has 920 reserved boat slips (up to 85 ft boats); 6,000+ linear feet of transient moorage; 48.7 acre boat basin; two tidal grids; and a five lane load and launch ramp.

Chapter II – Planning Process

A. Planning Process

The City of Homer began the 2015 All-Hazard Mitigation Plan Update process in April with a preliminary committee meeting held on April 3, 2015, and conducted the first of several public meetings regarding the plan update on April 17, 2015 (attendance included only one member of the public, 2 media representatives, and 3 committee members). The Committee will meet monthly through the completion of the update. In August 2015, committee member who is also on the Homer City Council member, Catriona Reynolds provided the public an update and timeline for public review. The Homer All-Hazard Mitigation Plan Update Committee included:

- Robert Painter, Director of Emergency Services
- Dotti Harness-Foster, Planning Technician
- Catriona Reynolds, Homer City Council
- Glenn Radeke, Support Services Director, South Peninsula Hospital
- Charlie Pierce, Enstar Natural Gas
- Joe Gallagher, Homer Electric Association
- Terry Rensel, Program Director, KBBI Homer Public Radio
- Scott Nelsen, State of Alaska Division of Homeland Security and Emergency Management, Hazard Mitigation Planner

Ex Officio members of the committee included:

- Beth Wythe, Mayor
- Katie Koester, City Manager
- Mark Robl, Police Chief
- Rick Abboud, City Planner
- Zhiyong Li, Finance Director
- Anne Dixon, Library Director
- Byran Hawkins, Port & Harbor Director/Harbormaster
- Carey Meyer, Public Works Director
- Jo Johnson, City Clerk

Other city staff, community stake-holders, and content experts provided support and review services of the draft documents and provided helpful feedback to the committee, including, but not limited to:

- Alaska Department of Transportation
- Kenai Peninsula Office of Emergency Management
- Alaska Division of Homeland Security and Emergency Management
- Homer City Council
- National Tsunami Warning Center
- Alaska Volcano Observatory
- National Weather Service

B. Opportunity for Public Involvement

Public involvement was on full-alert in March of 2015 when the South Peninsula Hospital conducted a full-scale emergency preparedness exercise. The 3-day evacuation of a large facility to an alternative site was titled “Rock and a Hard Place.” The exercise was designed to test and evaluate the City’s and South Peninsula Hospital’s response to overwhelming catastrophic events. The City of Homer along with eleven other Federal, State, and Local agencies, plus 50-75 mock victims participated in the 3-day exercise. The mock scenario involved heavy rains that saturated the ground resulting in a landslide that threatened the hospital which initiated the need for an alternate care site. The mock rains also closed the Sterling Highway.

In order to enlist public comment on the draft City of Homer All-Hazard Mitigation Plan 2016 Update/Revision, an initial Town Hall meeting was advertised and conducted on April 17, 2015 in the City of Homer Council Chambers from 6:00 PM until 7:30 PM. Links to the draft plan were posted as a Key Topic on the Fire Department and on the State’s Emergency Management Library.

Two public hearings were advertised in the local newspapers. This plan was available on the City’s website and at the Homer Public Library. Feedback was accepted by email, fax, in person, or by phone.

On January 11, 2016, the Homer City Council introduced a resolution for adoption and held a public hearing on January 25, 2016 and adopted the Plan by resolution.

Chapter III– Hazard Profiles

The City of Homer participates in the National Flood Insurance Program (NFIP). The function of the NFIP is to provide flood insurance at a reasonable cost to homes and businesses located in floodplains. The program is based upon mapping areas of flood risk, and requiring local implementation to reduce flood damage primarily through requiring the elevation of structures above the base (100-year) flood elevation (BFE). In 2009 the City of Homer adopted higher regulatory standards which require that all new structures be elevated one foot or more above the best flood elevation (BFE+1).

A. Hazard Identification Matrix – City of Homer

Flood	Wildland Fire	Earthquake	Volcano	Snow Avalanche	Tsunami
Y-M	Y-H	Y-M	Y-M	Y-M	Y-M
Weather	Landslides	Erosion	Drought	Technological	Economic
Y-H	Y-M	Y-H	N	Y-L	Y-M
Biologic	Man-Made				
Y-M	Y-L				

Hazard Identification:

- Y: Hazard is present in jurisdiction but probability unknown
- N: Hazard is not present
- U: Unknown if the hazard occurs in the jurisdiction

Risk:

- L : Hazard is present with a low probability of occurrence
- M : Hazard is present with a moderate probability of occurrence
- H: Hazard is present with a high probability of occurrence

Emergency Management Specialist rate hazards based on the following criteria for probability (Table 1) and impact (Table 2).

Table 1: Hazard Probability Criteria	
Probability	Criteria
4 - Certain	<ul style="list-style-type: none"> <input type="checkbox"/> Event is probable within the calendar year. • Event has up to 1 in 1 year chance of occurring (1/1=100 percent). • Probability is greater than 33 percent per year. • Event is Certain.
3 - Likely	<ul style="list-style-type: none"> <input type="checkbox"/> Event is probable within the next three years. • Event has up to 1 in 3 years chance of occurring (1/3=33 percent). • Probability is greater than 20per cent but less than or equal to 33 percent per year. • Event is Likely.
2 - Credible	<ul style="list-style-type: none"> <input type="checkbox"/> Event is probable within the next five years. • Event has up to 1 in 5 years chance of occurring (1/5=20 percent). • Probability is greater than 10 percent but less than or equal to 20 percent per year. • Event is Credible.
1 - Plausible	<ul style="list-style-type: none"> <input type="checkbox"/> Event is possible within the next ten years. • Event has up to 1 in 10 years chance of occurring (1/10=10 percent). • History of events is less than or equal to 10 percent likely per year. • Event is Plausible.

Table 2: Hazard Impact Criteria	
Impact	Criteria
4 - Catastrophic	<ul style="list-style-type: none"> <input type="checkbox"/> Multiple deaths. • Complete shutdown of facilities for 30 or more days. • More than 50 percent of property is severely damaged.
3 - Critical	<ul style="list-style-type: none"> <input type="checkbox"/> Injuries and/or illnesses result in permanent disability. • Complete shutdown of critical facilities for at least two weeks. • More than 25 percent of property is severely damaged.
2 - Limited	<ul style="list-style-type: none"> <input type="checkbox"/> Injuries and/or illnesses do not result in permanent disability. • Complete shutdown of critical facilities for more than one week. • More than 10 percent of property is severely damaged.
1 - Negligible	<ul style="list-style-type: none"> <input type="checkbox"/> Injuries and/or illnesses are treatable with first aid. • Minor quality of life lost. • Shutdown of critical facilities and services for 24 hours or less. • Less than 10 percent of property is severely damaged.

Table 3 assigns numerical ratings to each risk factor. Each factor is a part of the whole risk, which is represented by the number 1, (.45 + .30 + .15 + .10 = 1.0).

Table 3: Priority Risk Index Values			
.45 Probability	.30 Impact	.15 Warning Time	.10 Duration
4 - Certain	4 - Catastrophic	4 - under 6 Hours	4 - under 1 Week
3 - Likely	3 - Critical	3 - 6-12 Hours	3 - over 1 Week
2 - Credible	2 - Limited	2 - 12-24 Hours	2 - under 1 Day
1 - Plausible	1 - Negligible	1 - 24+ Hours	1 - under 6 Hours

The community rates each risk factor by degree, such as “Certain” or “Catastrophic”. The ratings are multiplied by the risk factors:

Example: Probability = 4-Certain, Impact=3-Critical, Warning Time=2-12-24 Hours, Duration=4-over 1 Week.

$$(4 \times 0.45) + (3 \times 0.30) + (2 \times 0.15) + (4 \times 0.10) = 1.8 + 0.9 + 0.3 = 3.0$$

The planning team rated each factor using data from prior disasters, and used the results to assign relative importance to each hazard.

Table 4: Risk Priority Index					
Hazard	Probability	Impact	Warning Time	Duration	Priority Risk Index
Earthquake	4 Certain	2 Limited	4 < 6 Hours	1 < 6 Hours	3.1
Erosion	4 Certain	1 Negligible	1 24+ Hours	4 > One Week	2.65
Flooding	1 Plausible	2 Limited	2 12-24 Hours	3 < One Week	1.65
Volcano	2 Credible	2 Limited	1 24+ Hours	1 < 6 Hours	1.75
Weather	2 Credible	2 Limited	1 24+ Hours	3 < One Week	1.95
Wildfires	3 Likely	3 Critical	2 12-24 Hours	4 > One Week	2.95
Landslides	1 Plausible	2 Limited	4 < 6 Hours	3 < One Week	1.95
Tsunami	2 Credible	1 Negligible	4 < 6 Hours	1 < 6 Hours	1.9
Technological	1 Plausible	1 Negligible	4- < 6 Hours	1- < 6 Hours	1.45
Economic	2 Credible	2 Limited	1- 24+ Hours	4- > One Week	2.05
Biological	2 Credible	3 Critical	2 -12-24 Hours	4- > One Week	2.5
Man-Made	1 Plausible	2 Limited	4- < 6 Hours	3- < One Week	1.95

B. Flood: Profile of Hazard Events

Flooding is a natural event and damages occur when humans interfere with the natural process by altering the waterway, developing watersheds, and/or building inappropriately within the floodplain. This flooding threatens life, safety and health; causes extensive property loss; and results in substantial damage.

Homer participates in the NFIP which is a source of reasonably priced flood insurance for property owners that build to floodplain standards. In 2013 the City adopted updated Flood Insurance Rate Maps. The flood maps are based on a 100 year chance event and do not include tsunamis because the relatively short period of record.

Flooding in Homer can be broken into a number of categories including: rainfall-runoff floods, snowmelt floods, ground-water flooding, and stream/creek flash floods. Homer also experiences coastal flooding from storm surge but this will be discussed in the Weather section.

Homer has experienced floods on several occasions in the last 15 years. Major events occurred in 2002, 2007 and 2013, resulting in numerous bridges being washed out on the Kenai Peninsula and isolating Homer for several weeks while temporary repairs were made. Two of these events were declared disasters and resulted in disruptions to the economy by preventing the flow of goods and materials south of Ninilchik except by barge or airplane.



There continue to be local events caused by ground water saturation, snow-melt, water runoff and local topography.

On October 26, 2013 the National Weather Service issued a flood watch for areas around Western Prince William Sound due to a slow moving system which brought heavy rainfall to the mainland. Seward, Homer, and other areas of the Kenai Peninsula received over 5 inches of rain which caused widespread flooding, landslides, and road washouts. Seward, Homer, Kenai, Anchor Point, and the Tyonek area all reported damages. Disaster Declarations were received from the Kenai Peninsula Borough on October 29, 2013. (13-F-243, KPB Flood Disaster declared by G. Parnell on Nov. 18, 2013 then FEMA declared January 16, 2014 (DR-4161).

Rainfall-Runoff Floods

A typical rainfall event occurs in mid to late summer and early fall. The rainfall intensity, duration, distribution and geomorphic characteristics of the watershed all play a role in determining the magnitude of the flood. Runoff flooding is the most common type of flood.

In November 2007 heavy rains, above freezing temperatures and melting snow caused small stream flood advisory for the southern Kenai Peninsula. The National Weather Service reported 1.64 inches of rain in a 24-hr period, which led to overflowing culverts that sent water over the roadways.

Snowmelt Floods

Snowmelt floods usually occur in the spring or early summer. The depths of the snowpack and spring weather patterns influence the magnitude of river and stream flooding. The Sterling Highway between Homer and Anchor Point is subject to snowmelt flooding each spring.

Ground-water Floods

Ground-water flooding occurs when water accumulates and saturates the soil. The water-table rises and floods low-lying areas, including homes, septic tanks, and other facilities. Ground-water flooding can also occur in basements of structures along streams or in low-lying areas. Areas along Kachemak Drive are subject to ground water flooding.

Flash Floods

These floods are characterized by a rapid rise in water. They are often caused by heavy rain on small stream basins, ice jam formation or by dam failure. They are usually swift moving and debris filled, causing them to be very powerful and destructive. Steep coastal areas in general are subject to flash floods. Debris slides are often associated with heavy rains. The 2002 events resulted in several flash floods which closed roads and washed away bridges. Several small creeks and streams in the Homer area produced substantial debris laden flows during this time.

Homer Participation in the National Flood Program

City	Initial FHB Identified	Initial FIRM Identified	Current Effective Map Date	Reg-Emer Date	Tribal
Homer	05/19/1981	06/16/1999	11/6/2013	06/02/2003	No

Homer NFIP Insurance as of 5/31/2015

Total Premium	No. of Policies	Total Coverage	Ttl Claims Since 1978	Ttl paid Since 1978
\$15,899	12	\$2,854,600	0	0

Homer Repetitive Loss

Total Payments	Losses	Properties	As of Date
0	0	0	5/27/2015

Extent

The extent of coastal flooding is limited to the Homer Spit and East End Road areas. Flooding from excessive precipitation is largely limited to roads and structures located along stream drainages.

Impact

Impacts to the community are “Limited” with minor injuries and/or illnesses not resulting in permanent disability, complete shutdown of critical facilities for more than one week, and more than 10 percent of property severely damaged (Table 2). Flooding events, even for those properties unaffected directly, will suffer due to road closures, impacts to public safety (access and response capabilities), limited availability of perishable commodities, and isolation.

Probability

Recorded historical flooding information indicates Homer experiences flooding every 10 years, and that trend is expected to continue. Therefore, the probability of continued flooding is “Plausible” (Table 1).

Probability	Impact	Warning Time	Duration	Calculated Risk
1 x .45	2 x .30	2 x .15	3 x .10	1.65

C. Wildland Fires

Wildland fires occur in every state in the country and Alaska is no exception. Each year, between 600 and 800 wildland fires, mostly between March and October, burn across Alaska causing extensive damage.

Fire is recognized as a critical feature of the natural history of many ecosystems. It is essential to maintain the biodiversity and long-term ecological health of the land. In Alaska, the natural fire regime is characterized by a return interval of 50 to 200 years, depending on the vegetation type, topography and location. The role of wildland fire as an essential ecological process and natural change agent has been incorporated into the fire management planning process and the full range of fire management activities is exercised in Alaska to help achieve ecosystem sustainability, including its interrelated ecological, economic, and social consequences on firefighter and public safety and welfare, natural and cultural resources threatened, and the other values to be protected dictate the appropriate management response to the fire. Firefighter and public safety is always the first and overriding priority for all fire management activities.

Hazard Analysis/Characteristics

Fires can be divided into the following categories:

Structure fires – originate in and burn a building, shelter or other structure. These may subsequently spread to adjacent wildlands.

Prescribed fires - ignited under predetermined conditions to meet specific objectives, to mitigate risks to people and their communities, and/or to restore and maintain healthy, diverse ecological systems.

Wildland fire - any non-structure fire, other than prescribed fire, that occurs in the wildland.

Wildland Fire Use - a wildland fire functioning in its natural ecological role and fulfilling land management objectives.

Wildland-Urban Interface Fires - fires that burn within the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels. The potential exists in areas of wildland-urban interface for extremely dangerous and complex fire burning conditions which pose a tremendous threat to public and firefighter safety.

Fuel, weather, and topography influence wildland fire behavior. Wildland fire behavior can be erratic and extreme causing fire-whirls and firestorms that can endanger the lives of the firefighters trying to suppress the blaze. Fuel determines how much energy the fire releases, how quickly the fire spreads and how much effort is needed to contain the fire. Weather is the most variable factor. Temperature and humidity also affect fire behavior. High temperatures and low

humidity encourage fire activity while low temperatures and high humidity help retard fire behavior. Wind affects the speed and direction of a fire. Topography directs the movement of air, which can also affect fire behavior. When the terrain funnels air, like what happens in a canyon, it can lead to faster spreading. Fire can also travel up slope quicker than it goes down.

Wildland fire risk is increasing in Alaska due to the spruce bark beetle infestation. The beetles lay eggs under the bark of a tree. When the larvae emerge, they eat the tree's phloem, which is what the tree uses to transport nutrients from its roots to its needles. If enough phloem is lost, the tree will die. The dead trees dry out and become highly flammable.

Homer like other areas of the Kenai Peninsula has been dramatically affected by the beetle-kill. The vast majority of wildland fires on the Kenai Peninsula are the result of human activities with open burning being the most prevalent. Lightning caused fire, though they do occur, are infrequent, especially on the south Kenai Peninsula. The 2005 Tracy Avenue Fire, and the 2009 mile 17 East End Road Fire were especially threatening to property and had potential loss of life. In May of 2014 a human caused fire started along the Funny River Road in the central Kenai Peninsula. Over its course, this fire grew to almost 200,000 acres of Black Spruce, mixed hardwoods and Spruce and old beetle kill and grass. Though located outside Homer City Limits, these recent fires demonstrate the potential for rapid fire spread given the weather conditions, topography and the availability of local and state wildfire fighting crews.

Wildland Fire Management in Alaska

In Homer, wildland fire management is the responsibility of Division of Forestry and the City of Homer, Homer Volunteer Fire Department.

The Alaska Division of Forestry has statutory authority of all wildlands within the state of Alaska. The City of Homer provides wildland fire protection under terms of a Cooperative Agreement and Annual Operating Plan with the Division of Forestry (DOF).

These two agencies, along with other mutual-aid fire departments, work together to fight wildfires in and around Homer.

Location

Wildland fires have not been documented within the boundaries of Homer; however, wildland fires have occurred in the vicinity.

Extent

During the summer, the entire community is vulnerable to wildland fire as most of the structures are constructed of wood and other flammable materials. Standing timber and other natural fuels interface with the community. The entire South Zone of the Kenai Peninsula is subject to wildfire conflagration. Perhaps with the exception of portions of the Homer Spit, the entire Homer community could be considered an “interface” zone. History has demonstrated that fire brands can be carried by local winds up to ½ mile, jumping man-made fire lines and spreading fire across large areas. Most areas of Homer are immediately adjacent to wildland areas and could be threatened by uncontrolled fire.

Impact

Based on past wildland fire events and the criteria identified in Table 2, the impacts could be “Critical” with injuries, critical facilities shut down for more than two weeks, and more than 25 percent severely damaged property and infrastructure. Additionally, airborne smoke and ash have driven those with sensitive respiratory systems to temporarily relocate during past wildfires.

Without mitigation or preparation efforts, the impacts of a wildland interface fire in Homer could grow into an emergency or disaster. In addition to impacting people, wildland fires may severely impact livestock and pets. Such situations may require emergency life support, evacuation, and alternative shelter.

Indirect impacts of wildland fires can be catastrophic. In addition to stripping the land of vegetation and destroying forest resources, large, intense fires can harm the soil, waterways, and the land itself. Soil exposed to intense heat may lose its capability to absorb moisture and support life. Exposed soils erode quickly and enhance siltation of rivers and streams, thus increasing flood potential, harming aquatic life, and degrading water quality.

Probability

Recorded wildland fires within 10 years and 50 miles of Homer have an average recurrence rate of approximately 2.5 to 3 years (Figure 1). Therefore it is “Likely” a wildland fire will occur within 50 miles of McGrath, as the probability is greater than 20 percent but less than or equal to 33 percent likely each year.

Probability	Magnitude	Warning Time	Duration	Priority
3 x .45	3 x .30	2 x .15	4 x .10	2.95

Figure 3 Alaska Fire Management Options, 2012

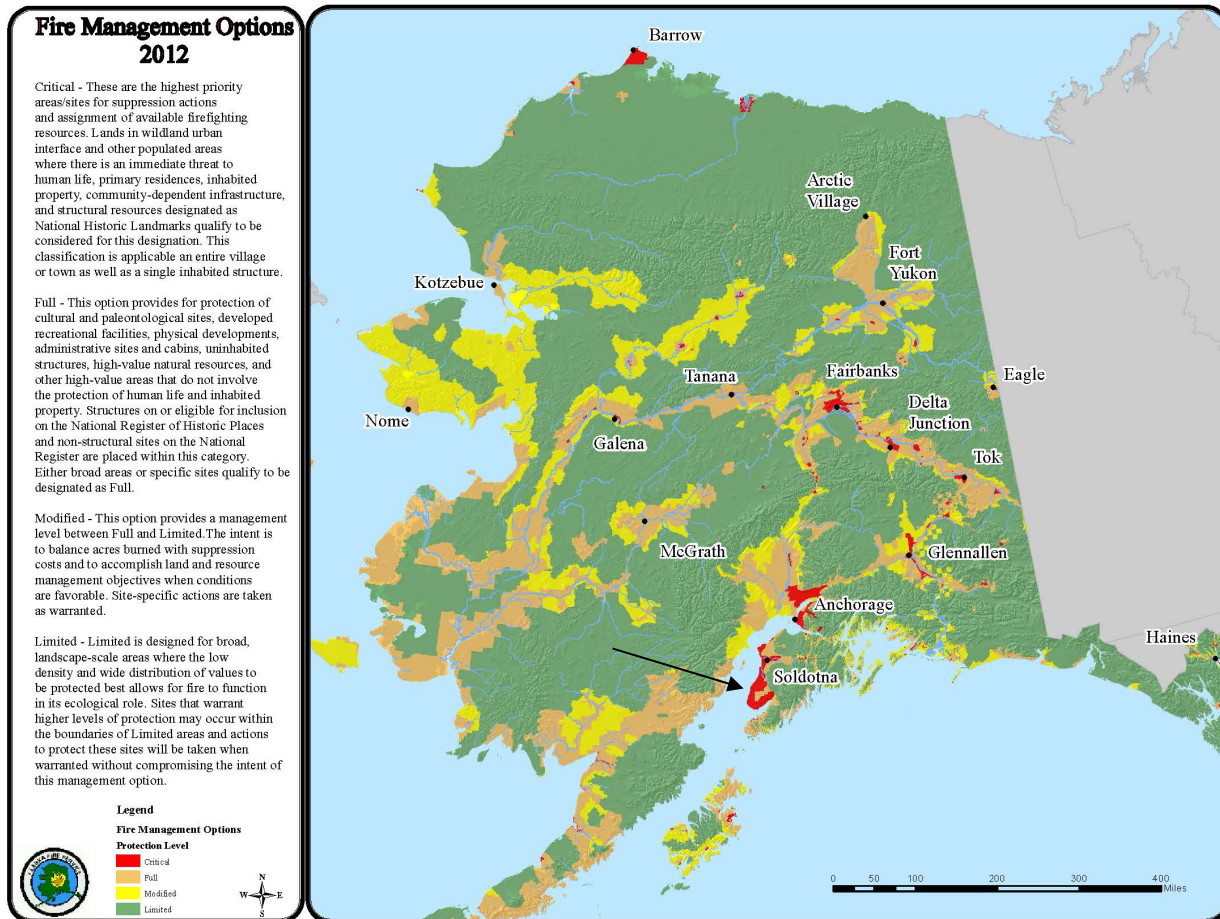


Figure 3 Source: Alaska Interagency Coordination Center 2015

According to the Alaska Interagency Coordination Center, Homer is located in a Critical Management Option area of the state (Figure 3). “Critical Management Option” is the highest management level, intending to minimize loss of life and burned acreage in developed areas.

D. Weather

Weather is the result of four main features: the sun, the planet's atmosphere, moisture, and the structure of the planet. Certain combinations can result in severe weather events that have the potential to become a disaster.

In Homer, there is potential for weather disasters. Wind-driven waves from intense storms produce coastal flooding and erosion. High winds, common on the Kenai Peninsula can topple trees, damage roofs, and result in power outages across vast areas of Homer and the surrounding communities. Heavy snow contributes to the availability of water for the Bradley Lake Hydroelectric Plant, and for keeping the Bridge Creek watershed supplied, but can also cause avalanches or collapse roofs of buildings throughout the area when accumulations are too heavy. A quick thaw can lead to erosion and flooding along creeks and area streams.

Winter Storms

Winter storms originate as mid-latitude depressions or cyclonic weather systems. High winds, heavy snow, and cold temperatures usually accompany them. To develop, they require:

- Cold air - Subfreezing temperatures (below 32°F) in the clouds and/or near the ground to make snow and/or ice.
- Moisture - The air must contain moisture in order to form clouds and precipitation.
- Lift - A mechanism to raise the moist air to form the clouds and cause precipitation. Lift may be provided by any or all of the following:
 - The flow of air up a mountainside.
 - Fronts, where warm air collides with cold air and rises over the dome of cold air.
 - Upper-level low pressure troughs.

Each year the Seward Highway between Anchorage and the Kenai Peninsula is closed for intervals due to either avalanche or avalanche control efforts.

Heavy Snow

Heavy snow, generally more than 12 inches of accumulation in less than 24 hours, can immobilize a community by bringing transportation to a halt. Until the snow can be removed, airports and major roadways are impacted, even closed completely, stopping the flow of supplies and disrupting emergency and medical services. Accumulations of snow can cause roofs to collapse and knock down trees and power lines. Heavy snow can also damage light aircraft and sink small boats. In the mountains, heavy snow can lead to avalanches. A quick thaw after a heavy snow can cause substantial flooding, especially along small streams and in urban areas. The cost of snow removal, repairing damages, and the loss of business can have severe economic impacts on cities and towns.

Injuries and deaths related to heavy snow usually occur as a result of vehicle accidents. Casualties also occur due to overexertion while shoveling snow and hypothermia caused by overexposure to the cold weather.

Record heavy snow occurred in Anchorage on March 17, 2002 when two to three feet of snow fell in less than 24 hours over portions of the city. Ted Stevens International Airport recorded a storm total of 28.7 inches, and an observer near Lake Hood measured over 33 inches. The city of Anchorage was essentially shut down during the storm, which fortunately occurred on a

Sunday morning when a minimal number of businesses were open. Both military bases, universities, and many businesses remained closed the following day, and Anchorage schools remained closed for two days. It took four days for snow plows to reach all areas of the city. This snowfall also impacted Homer and the Kenai Peninsula and resulted in airport closures, travel delays, and delays of transportation of foodstuffs and other commodities.

Ice Storms

The term ice storm is used to describe occasions when damaging accumulations of ice are expected during freezing rain situations. They can be the most devastating of winter weather phenomena and are often the cause of automobile accidents, power outages and personal injury. Ice storms result from the accumulation of freezing rain, which is rain that becomes super-cooled and freezes upon impact with cold surfaces. Freezing rain most commonly occurs in a narrow band within a winter storm that is also producing heavy amounts of snow and sleet in other locations.

Freezing rain develops as falling snow encounters a layer of warm air in the atmosphere deep enough for the snow to completely melt and become rain. As the rain continues to fall, it passes through a thin layer of cold air just above the earth's surface and cools to a temperature below freezing. The drops themselves do not freeze, but rather they become super-cooled. When these super-cooled drops strike the frozen ground, power lines, tree branches, etc., they instantly freeze.

The atmospheric conditions that can lead to ice storms occur most frequently in Southwestern Alaska along the Alaska Peninsula and around Cook Inlet. Brief instances of freezing rain occur frequently along the southern coast of Alaska, but these events generally produce very light precipitation with less than ¼ inch of ice accumulation.

High Winds

In Alaska, high winds (winds in excess of 60 mph) occur rather frequently over the coastal areas along the Bering Sea and the Gulf of Alaska because of coastal storms. High winds, especially across the coast, can also combine with loose snow to produce blinding blizzard conditions and dangerous wind chill temperatures.

They can reach hurricane force and have the potential to seriously damage port facilities, the fishing industry and community infrastructure (especially above ground utility lines).

In the spring of 2003, strong winds across the Kenai Peninsula resulted in wide-spread power outages, downed trees, and structural damage and fanned the flames of a 150 acre wildfire in Anchor Point.

On December 12, 2011 a Kenai Peninsula Windstorm was declared by Governor Parnell, followed by FEMA's declaration on February 2, 2012 (DR-4054). In November, 2011, a series of major windstorms caused widespread power outages threatening life and property. Power was disrupted to 17,300 homes and businesses. Local utilities, Homer Electric Association (HEA) and Chugach Electric employed several work crews to restore power to the area. Public Infrastructure, commercial property, and personal property damages were reported in the metropolitan areas and throughout the borough. DHS&EM received local declarations from the Kenai Peninsula Borough (KPB) requesting state disaster assistance to cover immediate response, public and individual costs and from the City of Seward through the KPB requesting State assistance.

Coastal Storms

From the fall through the spring, low pressure cyclones either develop in the Bering Sea or Gulf of Alaska or are brought to the region by wind systems in the upper atmosphere that tend to steer storms in the north Pacific Ocean toward Alaska. When these storms impact the shoreline, they often bring wide swathes of high winds and occasionally cause coastal flooding and erosion.

Homer has an extensive history of storm damage, especially in the coastal areas along the Homer Spit and adjacent properties. In August of 1989 the U.S. Army Corp of Engineers published a *Storm Damage Reduction Draft Interim Feasibility Report with Engineering Design and Environmental Assessment* for the Homer Spit.

Over the years attempts have been made to reduce the impacts of coastal storms and subsequent erosion with varying degrees of success and some notable failures. In 1982 significant damage to the sheet pile reinforcement along the Spit prompted the installation of a concrete slab revetment. In a storm in 1984 those repairs were mostly washed away, again resulting in significant damage to the State Highway leading to the end of the Homer Spit. In the 1990's a major project along the western edge of the Spit Road involved the placement of significant large rock revetments. Again in 2014, ADOT reinforced the western edge of Homer Spit Road.



Above: In the fall of 2015, the City had this camp host building removed from the west side of the Homer Spit. Previous attempts to reduce the impact of coastal storms were not successful.

Storm Surge

Storm surges, or coastal floods, occur when the sea is driven inland above the high-tide level onto land that is normally dry. Often, heavy surf conditions driven by high winds accompany a storm surge adding to the destructive force of the flooding waters. The conditions that cause coastal floods also can cause significant shoreline erosion as the flood waters undercut roads and other structures. Storm surge is a leading cause of property damage in Alaska.

Communities that are situated on low-lying coastal lands with gradually sloping bathymetry near the shore and exposure to strong winds with a long fetch over the water are particularly susceptible to coastal flooding.

The Homer Spit has a moderate exposure to coastal flooding due to the consistent effects of erosion and the extraordinary tidal range in the region. A storm surge and high water levels resulted in flooding on the Homer Spit in November of 2002.

Climatic Factors

Current weather patterns are influenced by short term climate fluctuations, such as the El Nino/La Nina Southern Oscillation (ENSO). Long term changes in atmospheric composition and sea temperatures will exert a greater influence. The Governor appointed Alaska Climate, Ecosystems & Human Health Work Group is determining pending impacts to human health and regional ecosystems from long term changes in the Earth's climate.

Location

The entire Homer area is vulnerable to the effects of severe weather. Winter snows may accumulate up to 3 feet per storm while wind speeds reach as high as 60 mph.

Extent

Homer experiences the severe weather events:

- Heavy Rain
- Heavy Snow
- Freezing Rain and Ice Storms
- Extreme Cold
- Winter Storms
- Drifting Snow

Impact

The Homer area is most vulnerable to high winds during the winter season. Winds may sweep up loose snow and produce blinding blizzards and dangerous wind chills. Additionally, high winds may damage community facilities and infrastructure.



Thrashed gabions baskets and utilities are damaged by coastal storms.

For years, private property owners on the west side of the Homer Spit have attempted to stabilize their shorelines. The typical stabilization methods are rock revetments and gabion baskets that are backfilled with stones and harbor dredge material. The aftermath of storms leaves gabion baskets destroyed and metal debris on the beach with utility service lines exposed to the harsh environment. With intense wave action and freeze/thaw conditions utility companies question the safety of offering utilities in such high hazard areas.

Probability

Based on the event history and the criteria from Table 1, it is “Credible” a severe storm may occur in the next five years. The probability is greater than 10 percent but less than 20 percent per year.

Probability	Impact	Warning Time	Duration	Calculated Risk
2 x .45	2 x .30	1 x .15	3 x .10	1.95

E: Landslides

Ground failure can occur in many ways. Types of ground failure in Alaska include landslides, land subsidence, and failures related to seasonally frozen ground and permafrost.

Landslides usually occur in steep areas but not always. They can occur as ground failure of river bluffs, cut-and-fill failures associated with road and building excavations, collapse of mine-waste piles, and slope failures associated with open-pit mines and quarries. Underwater landslides usually involve areas of low relief and slope gradients in lakes and reservoirs or in offshore marine setting.



Looking up from the beach, chunks of land slough downward toward the shoreline.

Landslides can occur naturally or be triggered by human activities. They occur naturally when inherent weaknesses in the rock or soil combine with one or more triggering events such as heavy rain, snowmelt, changes in groundwater level, and seismic or volcanic activity. They can be caused by long-term climate change that results in increased precipitation, ground saturation and a rise in groundwater level, which reduces the shear strength and increases the weight of the soil. Erosion that removes material from the base of a slope can also cause naturally triggered landslides.

Human activities that trigger landslides are usually associated with construction such as grading that removes material from the base, loads material at the top, or otherwise alters a slope. Changing drainage patterns, groundwater level, slope and surface water, for example the addition of water to a slope from agricultural or landscape irrigation, roof downspouts, septic-tank effluent, or broken water or sewer lines can also cause landslides.

The City of Homer has adopted local ordinances to define Steep Slope, and to require engineering approval for any development of steep slopes within Homer (HCC 21.44.050).

The majority of town rests on a bench of land bordered on the north with steep slopes and gullies. South Peninsula Hospital is situated immediately below such a steep slope and will be subject to landslide damage should one occur. Homer is currently addressing steep slope development to mitigate future impacts from construction in these potentially unstable areas.

In October, 2013 heavy rains caused a 16-foot tall mudslide that roared down Bear Creek Drive, (3 miles east on East End Road). Uphill, Bear Creek canyon is narrow and when heavy rains saturated the soils the steep canyon “let go” sending trees and debris down Bear Creek which jammed a culvert on the uphill side of East End Road. A Disaster Declaration was declared for several rain soaked areas in the Kenai Peninsula Borough. The road crew cleared the mudslide off the roadway allowing traffic to proceed, followed by culvert and debris clean up.

In April of 2015 a landslide occurred along a stretch of Kachemak Drive, near the Homer Airport. The slide resulted in Kachemak Drive being close about a half-mile from Homer Spit Road to the top of the hill by the old airport. Rainy conditions and wet soils caused the slope below the road to slide into Mud Bay. The slide took a 100-foot section of the east bound lane of Kachemak Drive pushing clumps of spruce and alder trees into Mud Bay. Within two-weeks ADOT had repaired the roadway and Kachemak Drive was reopened.

The secondary effects of landslides can also be very destructive. Landslide dams cause damage upstream due to flooding and downstream due to a flood which may develop as a result of a sudden mudslide.

Location

Landslide prone areas are the hillside bordering the City, the vicinities of the South Peninsula Hospital, and Homer Airport.

Extent

The City of Homer may experience landslides from excessive precipitation, frost heaving, or a rapid spring thaw. Additionally Homer may experience earthquake generated slides and liquefaction.

Impact

The City of Homer will experience a “Limited” impact, primarily upon the local hospital, public works, water and sewer service, and roads.

Probability

Referencing their local history and Table 1, it is “Plausible” that the City of Homer will experience a landslide within the next ten years.

Probability	Impact	Warning Time	Duration	Calculated Risk
1 x .45	2 x .30	4 x .15	3 x .10	1.95

F. Coastal Erosion in Homer

Erosion is a process that involves the wearing away and movement of land. Coastal erosion along Kachemak Bay is a natural phenomenon which includes four principal processes that include wave action, rain and wind, high tides, and the freeze-thaw liquefaction of soils.

In 2005 the Kachemak Bay Research Reserve completed a study of erosion rates in Homer. The study provided an estimate of coastal bluff erosion rates based on a series of aerial surveys from 1951 to 2003. The result, the average erosion rates along Homer's shoreline is approximately 0.3-1.2 meters per year.

Homer confronts coastal erosion seasonally, usually with winter storms, especially along the Spit and along Ocean Drive Loop, a residential housing area. A seawall was constructed in 2002 in an attempt to protect residential structures from continued erosion. The initial construction consisted of the installation of 20, 22, and 24 foot long resin reinforced fiberglass sheet pilings, generally installed 10 ft below beach level and 10 – 14 ft above. All construction occurred above the mean high tide line. The piling was installed by trenching. The top of the wall is at elevation 30' (mean high tide = 17.3).



Even before the seawall was completed it was damaged by a moderate storm. The City and property owners have annually attempted to replace missing anchor bolts that attach the wood timbers to the wall and replace bent/missing metal plates that were designed to protect timer joints.

In addition, portions of the Sterling Highway along the Spit had to be reconstructed when undercut by several strong winter storms in 1998-1999.

Photo: Homer's seawall.

West of the Homer Spit, erosion threatens the Sterling Highway where steep bluffs are creeping close to the Sterling Highway. Redirecting portions of the Sterling Highway inland and other mitigation methods are projects that the State of Alaska, DOT&PF and FEMA are considering.

Protective measures such as seawalls, or revetments, can actually lead to increased erosion. This is because shoreline structures eliminate the natural wave run-up and sand deposition and can increase reflected wave action. The increased wave action can scour in front of and behind structures and prevent the settlement of suspended sediment.

Factors Influencing the Erosion Process

Extent

When undeveloped coastlines undergo erosion, it does not present a problem because there is nothing to be damaged. However, pressure to develop and protect properties along the Kachemak Bay is increasing. There are a variety of natural and human-induced factors that influence the erosion process. For example, shoreline orientation, beach composition and exposure to prevailing winds, open ocean swells, and waves all influence erosion rates. Natural factors may include:

- Shoreline type
- Geomorphology of the coast
- Nature of the coastal topography
- Elevation of coastal dunes and bluffs
- Shoreline exposure to wind and waves

Human factors include: Information from *Erosion Responses for Property Owners*, pg 2, 12.

- Shoreline stabilization structures that change the power and direction of waves and of sediment transport.
- Density of development
- Development encroaching into the high hazard zones.
- Altered drainages
- Added water to soil
- Cleared lands
- Change of absorption rate of land surface

Climatic factors such as sea-level rise, increased storm activity, and land subsidence exacerbate coastal erosion in Alaska. According to the National Oceanic and Atmospheric Administration (NOAA), global average sea levels rose a total of 7.7 inches between 1870 and 2004.

Impact

The primary impact from erosion is the loss of developable land and anything on it. Utility companies reburying utilities that are exposed by ocean waves. The impact to infrastructure is expensive and ongoing and includes the Sterling Highway and Homer Spit Road.

Probability

Given the event history, it is “Certain” the City of Homer will experience further erosion of its land. Additional events are probable within the calendar year with a 1 in 1 year chance of occurring (1/1=100 percent) and the event history is greater than 33 percent likely per year.

Probability	Impact	Warning Time	Duration	Calculated Risk
4 x .45	1 x .30	1 x .15	4 x .10	2.65

G. Earthquake

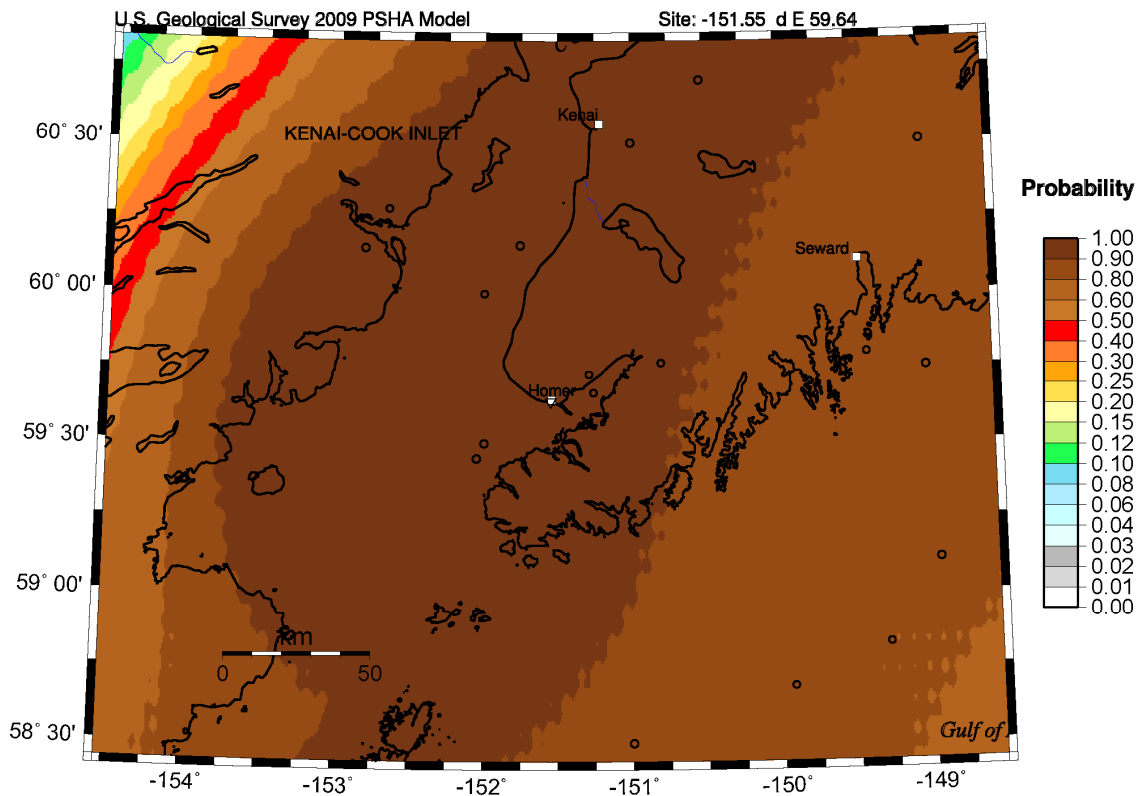
Seismic hazards in Alaska come from several sources. The largest earthquakes in the state are caused by subduction of the Pacific plate beneath Alaska. Three of the seven largest earthquakes in the 20th century occurred in Alaska (1957 Aleutian, 1964 Prince William Sound, and 1965 Rat Islands). Another type of hazard comes from the smaller magnitude 6.8 to 8.0 earthquakes, which occur in many regions of central and south-central Alaska. These events, while smaller, occur at more frequent intervals, and in locations that cannot always be predicted. On average, Alaska has a magnitude 7.0 or larger earthquake about every two years. Similar in size to recent California earthquakes, these events could cause major damage if they occurred in a populated or strategically sensitive area. A third hazard exists from the many smaller events that often occur near populated areas. While these events are too small to cause widespread damage, they are relatively common and thus pose a continuous threat to urban areas. Alaska Earthquake Information Center (AEIC) personnel locate and report about 22,000 earthquakes each year, and advise federal and state officials of each major earthquake's location and size within 30 minutes. (AEIC, 2015)

Location

The entire geographic area of Alaska is prone to the effects of an earthquake. Figure 4 was generated using the U.S. Geologic Survey (USGS) Earthquake Mapping model and indicates an 80 to 100 percent probability of a 5.0 magnitude or greater earthquake occurring within 20 years and 50 kilometers of Homer.

Figure 4 Homer Earthquake Probabilities

Probability of earthquake with $M > 5.0$ within 20 years & 50 km



GMT 2015 Jul 22 16:32:33 EQ probabilities from USGS OFR 2007-1043 PSHA. 50 km maximum horizontal distance. Site of interest: triangle. Fault traces are brown; rivers blue. Epicenters $M \geq 6.0$ circles.

The Department of Geological and Geophysical Survey (DGGS) Map of Alaska's Quaternary Faults depicts Alaska's known earthquake fault locations (Figure 5).

The plot of the hazard ratio response is additive for the two risk factors in the model. The plot of the hazard ratio response is multiplicative for the two risk factors in the model. The plot of the hazard ratio response is non-additive and non-multiplicative for the two risk factors in the model. The plot of the hazard ratio response is non-additive and non-multiplicative for the two risk factors in the model.

with the satellite. These parameters include heading, slip rate, slip angle, dip, direction, mapped scale, and mapping certainty (well constrained, moderately constrained or ill-defined). As detailed investigations are undertaken on each individual fault, significantly younger age of movement than shown on the current map is to be determined.

Map of landward routes from the coast to the interior of the Iberian Peninsula.

havior of people in Albania. We are grateful to independent consultants. The layout for this issue (Frohberg) beyond controversy does not mean that the other authors of the studies or Frohberg may have stolen the show. Please

State of Alaska

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Abstract *—* We present a new method for determining the rupture length of strike-slip earthquakes. The method is based on the observation that the rupture length of a strike-slip earthquake is proportional to the square root of the seismic moment. We use this relationship to estimate the rupture length of 155 strike-slip earthquakes that occurred between 1900 and 1999. The estimated rupture lengths are compared with the rupture lengths determined from other methods. The estimated rupture lengths are generally in good agreement with the rupture lengths determined from other methods. The estimated rupture lengths are used to estimate the seismic moment of 305 strike-slip earthquakes that occurred between 1900 and 1999. The estimated seismic moments are compared with the seismic moments determined from other methods. The estimated seismic moments are generally in good agreement with the seismic moments determined from other methods. The estimated rupture lengths and seismic moments are used to estimate the seismic hazard of strike-slip earthquakes. The estimated seismic hazard is compared with the seismic hazard determined from other methods. The estimated seismic hazard is generally in good agreement with the seismic hazard determined from other methods.

Shortest (right) and tallest (left) male and female subjects. The mean height of the tallest male and female subjects was 195.5 and 175.5 cm, respectively. The mean height of the shortest male and female subjects was 165.5 and 155.5 cm, respectively. The mean height of the tallest and shortest male and female subjects was 180.5 and 165.5 cm, respectively.

Year	Number of people (thousands)
2018	6
2019	8

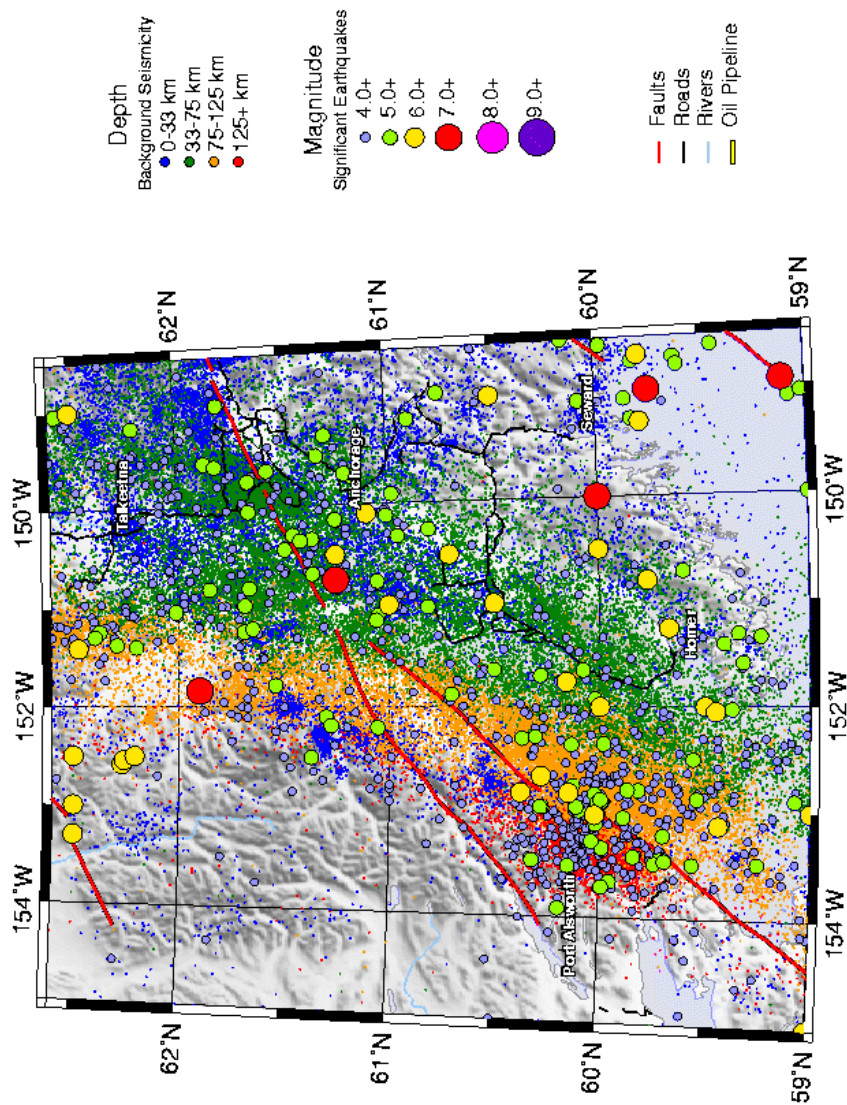
100

Submarine cross section of the Tertiary

Figure 6 shows recent earthquakes of M 4.0 or greater from 1903 to present near Homer, Alaska. No damage resulted from these earthquakes.

Figure 6 Homer Earthquake History

Cook Inlet Seismicity



Extent

Alaskans experience approximately 5,000 earthquakes annually, including 1,000 measuring above magnitude 3.5. Alaska is vulnerable to three types of earthquakes:

1. **Subduction zone earthquakes** begin with one crustal plate moving beneath another plate. This is the case in Southcentral Alaska and along the Aleutian Islands, where the Pacific Plate dives beneath the North American Plate. The Good Friday Earthquake in Alaska resulted from movement along the Aleutian Megathrust subduction zone.
2. **Transform fault earthquakes** originate from crustal plates sliding by each other. A popular example is the San Andreas Fault in California. A transform fault exists just offshore of southeastern Alaska, where the North American Plate and the Pacific Plate slide past each other on the Fairweather - Queen Charlotte Fault.
3. **Intraplate earthquakes** occur within a tectonic plate, occasionally at great distance from the plate boundaries. These types of earthquakes may have magnitudes of 7.0 and greater. Shallow earthquakes in the Fairbanks area are an example of intraplate earthquakes.

Impact

Homer is located in a region of high seismicity. Although nearby earthquakes will be felt in the City, only “Limited” impact is expected due to prior history and seismic retrofits. However, no facilities are seismically reinforced for a high magnitude event and the soil structure in the area tends to be very weak. Therefore, the impact of a high magnitude earthquake could be “Critical” with injury, illness, death, complete shutdown of critical facilities for at least two weeks, and more than 25 percent severely damaged property.

Probability

Considering Figures 1, 2, and 3, it is “Certain” an earthquake M 5.0 or greater may occur within 100 kilometers of Homer within the next 10 years (Table 1). Referencing Figure 1, earthquake modeling or Shake Map indicates an 80 to 100 percent probability of a 5.0 magnitude or greater earthquake occurring within 20 years near Homer.

This 2009 Shake Map incorporates current seismicity in its development and is the most current map available for this area. Peter Haeussler, USGS, Alaska Region, explained factors influencing probability in earthquake hazard mapping in 2009:

The occurrence of various small earthquakes does not change earthquake probabilities. In fact, in the most dramatic case, the probability of an earthquake on the Denali fault was/is the same the day before the 2002 earthquake as the day afterward. Those are time-independent probabilities. The things that change the hazard maps is changing the number of active faults or changing their slip rate.

Probability	Impact	Warning Time	Duration	Calculated Risk
4 x .45	2 x .30	4 x .15	1 x .10	3.1

H. Tsunamis

Tsunamis are traveling gravity waves in water, generated by a sudden vertical displacement of the water surface. They are typically generated by uplift or drop in the ocean floor, seismic activity, volcanic activity, meteor impact, or landslides (above or under sea in origin).

Most tsunamis are small and are only detected by instruments. Tsunami damage is a direct result of three factors: inundation (extent the water goes over the land), wave impact on structures and coastal erosion.

In 2003, Homer became the first community in Alaska to receive both a Tsunami and Storm Ready Community Designation from the National Weather Service and DHS&EM. That designation has been reviewed and updated every 4 year since then, most recently in 2015.

Types of Tsunamis

Tele-tsunami

Tele-tsunami is the term for a tsunami observed at places 1,000 kilometers from their source. In many cases, tele-tsunamis can allow for sufficient warning time and evacuation. No part of Alaska is expected to have significant damage due to a tele-tsunami. There is a slight risk in the western Aleutians and some parts of Southeast Alaska.

Most tele-tsunamis that have reached Alaska have not caused damage. In fact, most tele-tsunamis have had their largest recorded amplitude (in Alaska) at Massacre Bay, Attu Island. The amplitude is usually under 1 foot.

Risk is even less for communities within Kachemak Bay including Homer.

<i>Magnitude</i>	<i>Height (ft)</i>
-2 to -1	<1.0 to 2.5
-1 to 0	2.5 to 4.9
0 to 1	4.9 to 9.9
1 to 2	9.9 to 19.7
2 to 3	19.7 to 34.2
3 to 4	34.2 to 79.0
4 to 5	79 to >105.0

Volcanic Tsunamis

There has been at least one confirmed volcanically triggered tsunami in Alaska. In 1883, a debris flow from the Saint Augustine volcano reportedly triggered a tsunami that inundated Port Graham (across Kachemak Bay from Homer) with waves 30 feet high, although geologic evidence is inconclusive to substantiate the wave height claim. Other volcanic events may have caused tsunamis but there is not enough evidence to report that conclusively. Many volcanoes have the potential to generate tsunamis.

Seismically-Generated Local Tsunamis

Most seismically-generated local tsunamis have occurred along the Aleutian Arc. Other locations include the back arc area in the Bering Sea and the eastern boundary of the Aleutian Arc plate. They generally reach land 20 to 45 minutes after starting.

Landslide-Generated Tsunamis

Submarine and subaerial landslides can generate large tsunamis. Subaerial landslides have more kinetic energy associated with them so they trigger larger tsunamis. An earthquake usually, but not always, triggers this type of landslide and they are usually confined to the bay or lake of origin. One earthquake can trigger multiple landslides and landslide-generated tsunamis. Low tide is a factor for submarine landslides because low tide leaves part of the water-saturated sediments exposed without the support of the water.

Landslide –generated tsunamis are responsible for most of the tsunami deaths in Alaska because they allow virtually no warning time.

There is some historical evidence of a landslide generated tsunami impacting the Homer area when a large landslide near the Grewingk Glacier across from Homer impacted the glacier lake sending large quantities of water across Kachemak Bay.

Tsunamis generated by landslides in lakes occur more in Alaska than any other part of the U.S. They are associated with the collapse of deltas in glacial lakes having great depths. They may also be associated with delta deposits from rapidly flowing streams and rivers carrying glacial debris.

Historical Tsunamis

1964 Earthquake Tsunami

The 1964 earthquake triggered several tsunamis, one major tectonic tsunami and about 20 local submarine and sub aerial landslide tsunamis. The major tsunami hit between 20 and 45 minutes after the earthquake. The locally generated tsunamis struck between two and five minutes after being created and caused most of the deaths and damage. Tsunamis caused more than 90% of the deaths – 106 Alaskans and 16 Californian and Oregonian residents were killed.

Extent

Based on tsunami inundation mapping (Figure 7), very limited areas of the Homer coast line would be potentially damaged by tsunami, with no critical infrastructure immediately threatened.

Impact

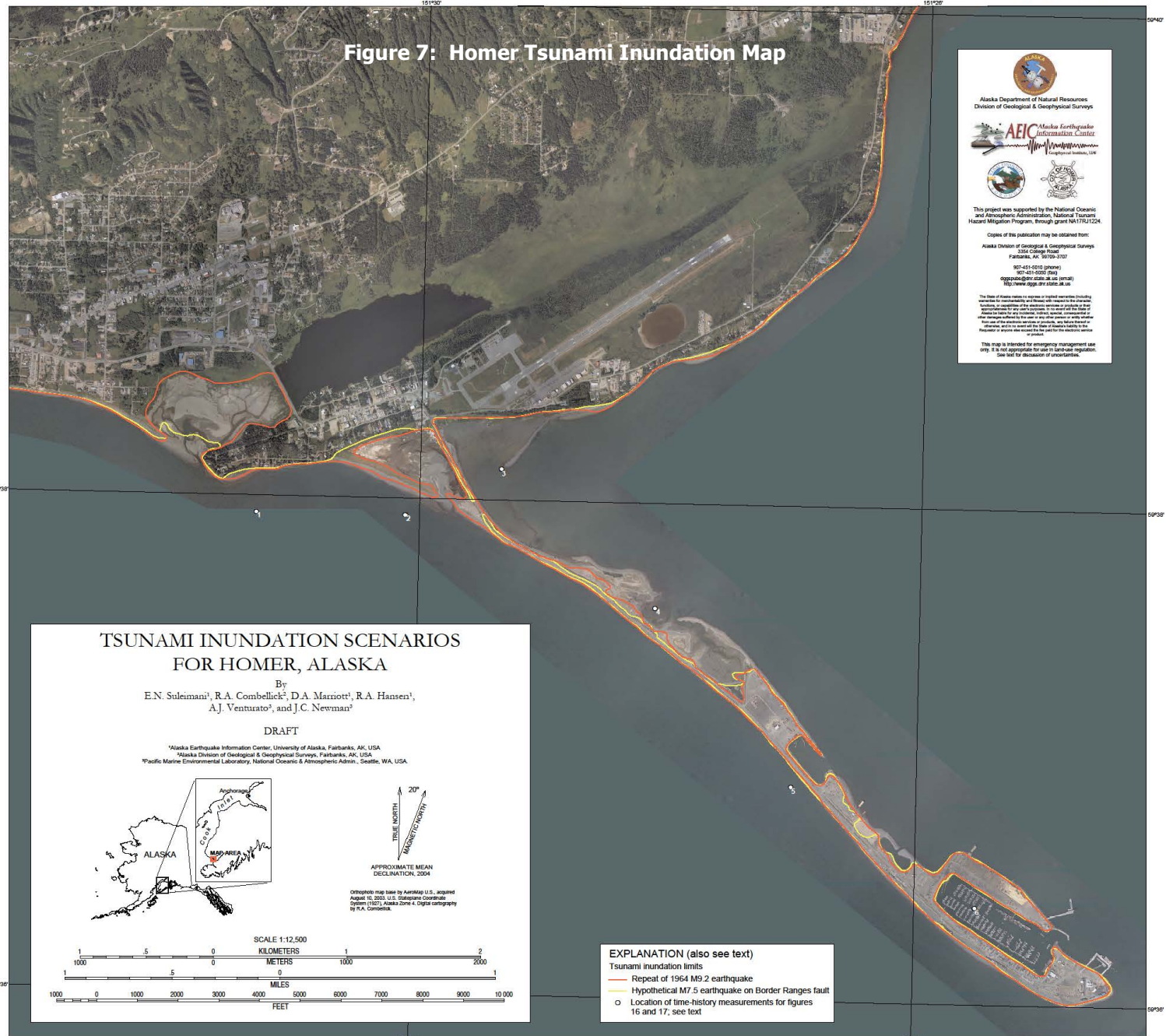
The impact to Homer proper would be “Negligible” with less than 10 percent severely damaged property. However, the Homer spit may experience “Catastrophic” damage, with more than 50% severely damaged property and many serious injuries (Table 2).

Probability

Referencing the local earthquake history and Table 1, it is “Credible” an earthquake generated tsunami could impact the Homer community.

Probability	Impact	Warning Time	Duration	Calculated Risk
2 x .45	1 x .30	4 x .15	1 x .10	1.9

Figure 7: Homer Tsunami Inundation Map



I. Volcanoes

Alaska is home to over 50 active volcanoes stretching across the entire southern portion of the State from the Wrangell Mountains to the far Western Aleutians. An average of 1-2 eruptions per year occurs in Alaska. In 1912, the largest eruption of the 20th century occurred at Novarupta and Mount Katmai, located in what is now Katmai National Park and Preserve on the Alaska Peninsula.

Homer has been impacted by volcanic ash events, Mt. Spurr in 1992, Mt. Augustine in 1986 and Mt. Redoubt in 1989-90.

Volcanic Hazards

As stated, other than the disruption of air traffic into and out of Alaska, the only danger from Cook Inlet Volcano in Homer is ash fall.

Volcanic Ash

Volcanic ash is fine fragments of solidified lava ejected into the air by an explosion or rising hot air. The fragments range in size, with the larger falling nearer the source. Ash is a problem because the weight of the ash can cause structural collapses. Further away, the primary hazard to humans is decreased visibility and inhaling the fine ash. Ash will also interfere with the operation of mechanical equipment including aircraft. In Alaska, this is a major problem as many of the major flight routes are near historically active volcanoes. Ash accumulation may also interfere with the distribution of electricity due to shorting of transformers and other electrically components (ash can conduct electricity).



Historic Volcanic Activity

The largest volcanic eruption of the 20th century occurred at Novarupta Volcano in June 1912. Ash fell on Kodiak, darkening the city. It became hard to breathe because of the ash and sulfur dioxide gas. The water became undrinkable and unable to support aquatic life. Roofs collapsed under the weight of the ash. Some buildings were destroyed by ash avalanches while others burned being struck by lightning from the ash cloud. Similar conditions could be found all over the area. Some villages ended up being abandoned, including Katmai and Savonoski villages. The ash acid rain also negatively affected animal and plant life. Large animals were blinded and many starved because their food was eliminated.

Figure 8 shows ash fall from this eruption was significantly greater than the recent eruptions of Redoubt, Spurr and Augustine Volcanoes. Fourteen earthquakes of magnitude 6 to 7 were associated with this event. At least 10 Alaskan volcanoes are capable of this type of event.

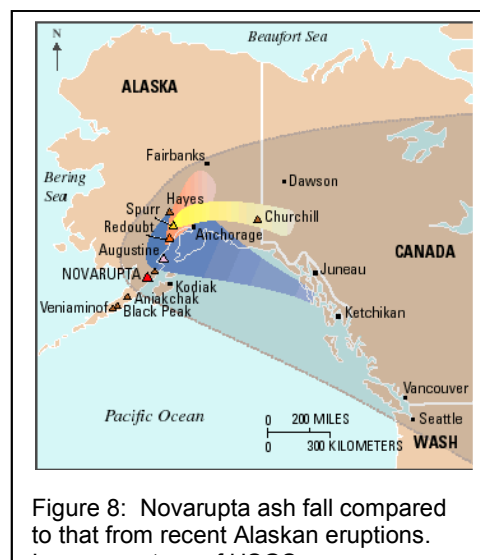


Figure 8: Novarupta ash fall compared to that from recent Alaskan eruptions.

after
and
life.

Hazard Identification and Assessment

The responsibility for hazard identification and assessment for the active volcanic centers of Alaska falls to the Alaska Volcano Observatory (AVO) and its constituent organizations (USGS, DNR/DGGS, and UAF/GI). The AVO publishes a report that describes volcanic history and the hazards they pose and the likely effects of future eruptions on populations, facilities, and ecosystems.

AVO has the primary responsibility to monitor all of Alaska's potentially active volcanoes and to issue timely warnings of activity to authorities and the public. During episodes of volcanic unrest or eruption, AVO is also the agency responsible for characterizing the immediate hazards and describing likely scenarios for an evolving volcanic crisis. AVO uses a 4-color Level of Concern Color Code to succinctly portray its interpretations of the state of activity and likely course of unrest at a given volcano.

Basic information about vulnerable assets and populations are identified in these assessments. However, Department of Commerce, Community and Economic Development (DCCED) and other State agencies could work with AVO map data to integrate quantitative, current information regarding communities and other at-risk elements to improve our analysis of vulnerability.

Extent

The entire Kenai Peninsula is subject to volcanic ash fallout. Referencing Figure 9, there are three active volcanoes within 150 miles of the City of Homer.

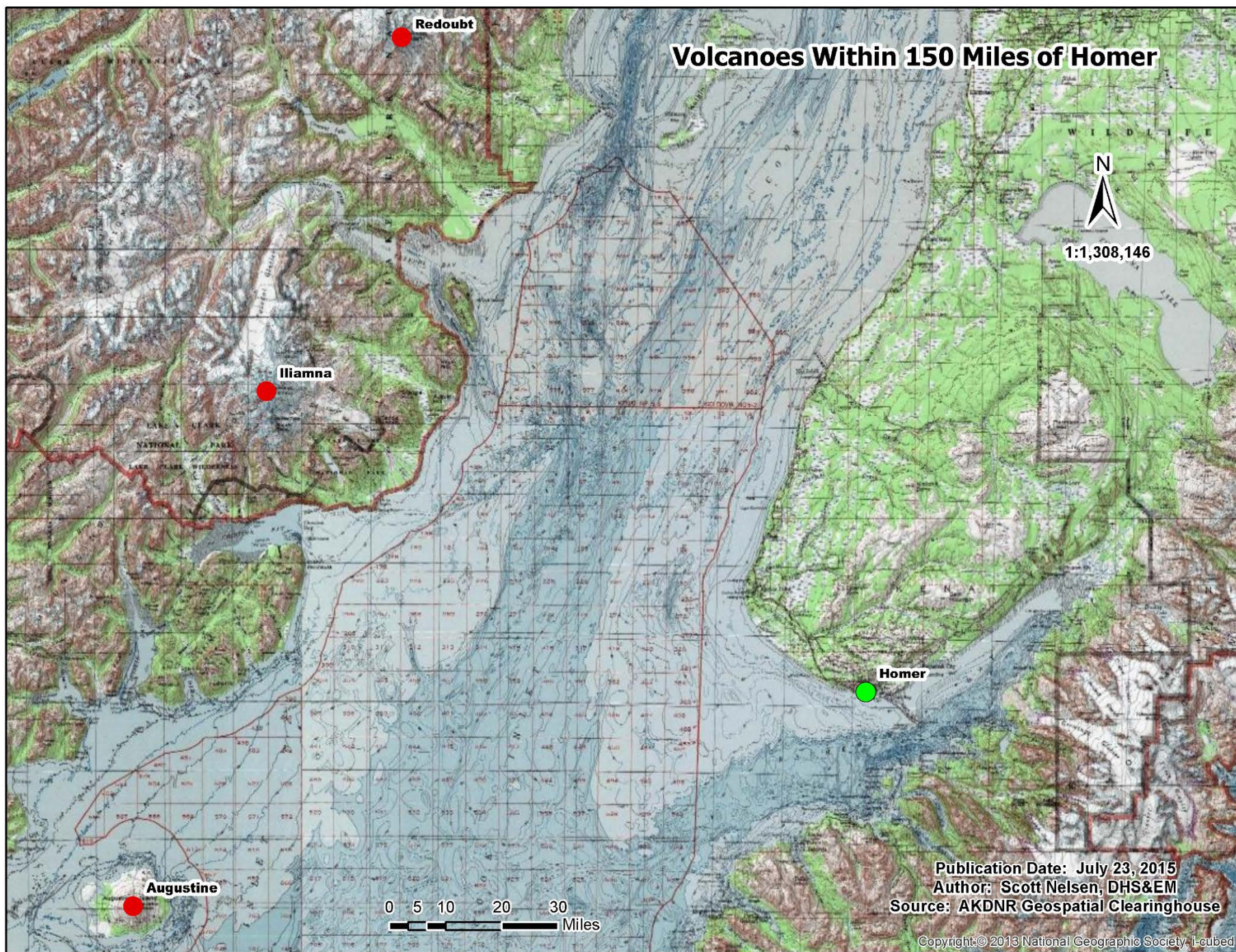
Impact

Volcanic ash is a public health hazard. Therefore, volcanic eruptions may require the greater Homer area to evacuate. The total impact would be “Negligible”, with minor injuries treatable with first aid, shutdown of critical facilities and services for 24 hours or less, and less than 10 percent severely damaged property.

Probability

Referencing the local volcanic eruption history and Table 1, it is “Credible” an ash fallout event could impact the Homer community.

Probability	Impact	Warning Time	Duration	Calculated Risk
2 x .45	1 x .30	1 x .15	4 x .10	1.75



J. Man-Made/Technological Disasters

The potential for man-made or technological disasters, while less than for natural disaster, for Homer is none-the-less of increasing potential, especially as the population grows more dependent on technology in daily activities. Man-made disasters include, but are not limited to:

1. **Hazardous Material Incidents.** Hazardous Materials are routinely transported across the Kenai Peninsula by ship, barge, vehicle, and rail (only on the Eastern Kenai Peninsula). Quantities of hazardous materials primarily include fuels and gases for local use and distribution, but also occasionally include explosives for shipment out of the Port of Homer, or other materials being shipped overseas. Hazardous materials are stored in terminals, when present for distribution, or in processing facilities for use locally (ammonia used in the ice houses). Hazardous materials are used every day across the entire Kenai Peninsula, including households and pose little danger unless released by spill or accident. As the ability to control hazardous materials is limited throughout the entire Kenai Peninsula (no Level A response team), we must rely on the State of Alaska Hazardous Materials Response Team from Anchorage to respond to local events requiring technician level support. Local responders are trained and certified for initial response at the Operations Level only. There is a Hazardous Materials Decontamination Trailer, provided by the Kenai Peninsula Borough, available locally through the fire department.
2. **Radiological Incident.** A radiological incident is one in which potentially dangerous radioactive materials have been released, either accidentally, or on purpose. The release may be in the form of a cloud or plume that could affect the health and safety of anyone in its path. Radiological materials are used in healthcare settings and in industrial applications for materials testing purposes. Though limited in use in Homer, these materials could still be found in incidental use, or be used in the creation of a so called “Dirty” bomb.
3. **Bombings.** Bombings are the purposeful detonation of explosive materials for criminal purposes, including terrorism. Even the threat of a bomb can disrupt businesses and schools as they are required to evacuate. Various types of explosive devices can be easily manufactured through instructions readily available on the internet.
4. **Civil Disturbance.** In most instances, civil disturbances are peaceful but may require some response. In some cases, civil disturbances can escalate to rioting and looting, resulting in property damage, injury and loss of life.
5. **Power Failure.** A power failure can be isolated to a specific critical business, or wide-spread. While power can fail due to many natural causes, human error is often attributed to this disaster. Loss of power, for any reason, can disrupt commerce, and be life-threatening.

Chapter IV– Risk Analysis

A risk analysis is divided into six steps:

- 4.1. Asset Inventory
- 4.2. Risk Analysis Methodology
- 4.3. Data Limitations
- 4.4. Risk Assessment Summaries
- 4.5. NFIP and Repetitive Loss Properties
- 4.6. Land Use and Development Trends

Asset Inventory

Population

Population data for Homer was obtained from the 2010 U.S. Census and the State of Alaska Department of Labor (AKDOL) 2014 Certified Figures. The U.S. Census compares Homer's population for 2010 and 2013. (Table 4-1).

Table 4-1 Estimated Population and Housing Inventory			
Population		Residential Buildings	
2010 Census	AKDOL 2013	Total Building Count	Total Value of Buildings
5,020	5,100	2,692	\$706,380,800

Source: U.S. Census 2010, listed the median housing value at \$262,400.

Estimated replacement values for residential structures were obtained from the 2010 U.S. Census, (Table 4-1). A total of 2,692 single-family residential buildings were considered in this analysis. The value was determined using the median value provided by the U.S. Census. Table 4-1 does not include estimates for special materials, shipping, or labor.

Community Assets

Critical Facilities: Table 4-2 is a list of critical facilities in the City of Homer. Losing these facilities would seriously impact not only the quality of life in Homer but also the sustainability and survivability of Homer residents.

Table 4-2: Critical Facilities	Economy	Flood	Wild fire	Weather	Land slides	Erosion	Earthquake	Tsunami	Volcano	Manmade	Tech	Biologic
Airport	x		x	x			x		x	x	x	x
Banking	x			x			x		x	x	x	x
Churches	x			x			x		x	x	x	x
City Hall	x			x			x		x	x	x	x
Fire Dept.	x	x	x	x			x		x	x	x	x
Fuel System	x	x		x		x	x	x	x	x	x	x
Groceries	x	x		x			x		x	x	x	x
HEA	x	x	x	x	x	x	x	x	x	x	x	x
Landfill	x		x	x			x		x	x	x	x
Library	x			x			x		x	x	x	x
Police Dept	x			x			x		x	x	x	x
Port & Harbor	x	x		x		x	x	x	x	x	x	x
Post Office	x			x			x		x	x	x	x
Public Works	x	x	x	x	x	x	x	x	x	x	x	x
Reservoir		x	x	x	x	x	x		x	x	x	x
Roads		x	x	x	x	x	x	x	x	x	x	
Schools	x		x	x			x		x	x	x	x
Senior Ctr	x			x			x		x	x	x	x
Sewer System	x	x	x	x			x		x	x	x	x
SP Hospital	x	x		x	x		x		x	x	x	x
Telephone	x	x	x	x	x		x	x	x	x	x	x
Water System	x	x	x	x	x	x	x	x	x	x	x	x

4.3 Data Limitations: Vulnerability Overview: Reviewed every 5 years.

The entire City of Homer and the Kenai Peninsula experience floods, earthquakes, and wildfires. Any one of these hazards could impact any part of Homer or isolate it from the rest of the State.

Other hazards are tsunamis, landslides, and erosion. The “Homer bench” is created by bluffs, some steeper than others, but all bluffs have the potential to create landslides.

Table 4-3 Vulnerability Overview for Homer				
Hazard	Percent of Geographic area	Percent of Population	Percent of Building Stock	Percent of Community Facilities and Utilities
Earthquake	100%	100%	100%	100%
Erosion	10%	10%	10%	5%
Flood	10%	10%	10%	10%
Landslides	10%	10%	10%	10%
Tsunami	10%	10%	5%	5%
Weather	100%	100%	100%	100%
Wildland Fire	100%	100%	100%	100%

Risk Analysis Methodology

The planning team referenced the State’s Critical Facility Inventory and local knowledge to inventory their critical facilities and evaluate their vulnerability to each hazard (Table 4-4).

Table 4-4 Critical Infrastructure in Alaska

Fire Stations	Airports	Cemeteries
Police Stations	Schools	Stores
Emergency Operations Centers	Telecommunications Structures & Facilities	Service Maintenance Facilities
Hospitals, Clinics, & Assisted Living Facilities	Satellite Facilities	Critical Bridges
Water & Waste Water Treatment Facilities	Public restrooms	Radio Transmission Facilities
Fuel Storage Facilities	Harbors / Docks / Ports	Reservoirs & Water Supply Lines
	Landfills & Incinerators	Community Freezer Facilities
	Power Generation Facilities	
	Oil & Gas Pipeline Structures & Facilities	

Table 4-4 Source: State of Alaska Hazard Mitigation Plan, 2013

Replacement structure and contents value estimates were provided by the U.S. Census and the planning team. They conducted an exposure analysis for each physical asset located within a

hazard area. A similar analysis was used to evaluate the proportion of the population at risk. However, the analysis simply represents the number of people at risk; no casualty estimates were prepared.

Data Limitations

The vulnerability estimates provided herein use the best data currently available, and are designed to approximate risk. Results are limited to the exposure of the built environment. It is beyond the scope of this Hazard Mitigation Plan to estimate the range of injuries, or the value of improvements and the contents. The Homer Spit is a classic example where a variety of land uses have evolved over time that include fish processing, the port and harbor, the marine highway terminal and fuel storage. Only the new Harbor Master Office is included in the Table 6 and 7. The Harbor Master Office is included in the category of “City Main Buildings.”

Facility Replacement Values

Tables 4-5 and Table 4-6 estimate the total replacement value of dwellings, critical facilities, and infrastructure. Structure values were obtained during the asset data inventory during the summer of 2015. The estimated structure and content values are grouped by HAZUS-MH occupancy classification (Table 4-6). HAZUS-MH is a geographic information system which models **Multi Hazards**: flooding, hurricanes, coastal surge and earthquakes. HAZUS also calculates the potential losses in terms of economic losses and structural damage.

Table 4-5 HAZUS Building Occupancy Classes

Occupancy Class	Description	Contents Value %
Residential		
Single Family Dwelling	House	50
Mobile Home	Mobile Home	50
Multi Family Dwelling	Apartment / Condominium	50
Temporary Lodging	Hotel / Motel / Hostel	50
Institutional Dormitory	Group Housing (military, college, jails)	50
Nursing Home	Nursing Home	50

Cont. Table 4-5 HAZUS Building Occupancy Classes

Commercial	Description	Content Value %
Retail Trade	Store	100
Wholesale Trade	Warehouse	100
Personal and Repair Services	Service Station / Shop	100
Professional / Technical Services	Offices	100
Banks	Banks	100
Hospital/Medical Office / Clinic	Medical Facilities	150
Hospital	Medical Facilities	150
Entertainment & Recreation	Restaurants / Bars	100
Theaters	Theaters	100
Industrial		
Heavy	Factory	150
Light	Factory	150
Construction	Office	100
Agriculture		
Agriculture	Agriculture	100
Religion / Non-Profit		
Church / Non-Profit	Church / Non-Profit	100
Government		
General Services	Office	100
Emergency Response	Police / Fire Station / EOC	150
Education		
Schools and University	K-12 and KPC	100

Table 4-6 Facility and Content Value Estimates

Type	Total Count	Estimated Value	HAZUS Contents Value (%) by Occupancy Class	Estimated Value of Contents
Residential	2692	\$706,380,800	50%	\$353,190,400
Hospital	1	\$49,000,000	150%	\$73,500,000
City Main Buildings	6	\$19,350,497	100%	\$19,350,497
Educational	5	\$80,657,700	50%	\$40,328,850
Natural Gas	94 miles	\$20,000,000	NA	NA
Homer Electric		\$2,663,028	\$22,681,363	\$25,344,391
Total	2704	\$875,388,997	NA	\$511,714,138

The facility values in tables 4-6 and 4-7 are not intended to be considered the actual total value of facilities in Homer. Due to the magnitude of the task of tabulating every discrete commercial, industrial, agricultural, religious, non-profit, governmental and educational facility these tables serve as a reference point for what the total value of Homer facilities might be.

The *Residential*, *City Main Buildings* and *Education* property values are based on the Kenai Peninsula Borough assessed values. The *City's Main Buildings* include: City Hall, Police Station, Fire Hall, Library, Harbor and Public Works. The *Education* buildings include: Homer High, West Homer, Paul Banks Elementary, Homer Middle School and the Kachemak Bay Campus of Kenai Peninsula College. The *Natural Gas* and *Homer Electric* values were provided by the utilities companies. The *Natural Gas* estimate includes a 22.5 miles of an underground trunk line, 85 miles of distribution lines with approximately 1,400 new service lines. The *Homer Electric* values include the land, structures, substations, electrical facilities and their fleet. The *Hospital* value was provided by South Peninsula Hospital.

Other major facilities include, but are not limited to, Islands and Ocean Visitor Center, Pratt Museum, Safeway, Ulmer's Drug and Hardware, Spenard Builders Supply, many medical and dental offices, retail stores, art galleries, gas stations, non-profit agencies, boat yards, and numerous other buildings. A realistic estimate of the actual functional value of facilities is much more than the total value indicated in Table 4-7.

The functional value is calculated by adding the structure value to the contents value. The functional value is the sum of structure and content value.

Table 4-7 Facility Functional Value Estimates

Type of Structure (Occupancy Class)	Total Count	Estimated Value of Infrastructure	Estimated Value of Contents	Functional Value
Residential	2692	\$706,380,800	\$353,190,400	\$1,059,571,200
Hospital	1	\$49,000,000	\$73,500,000	\$122,500,000
City Main Buildings	6	\$19,350,497	\$19,350,497	\$38,700,994
Educational	5	\$80,657,700	\$40,328,850	\$120,986,550
Natural Gas	94 miles	\$20,000,000	\$0	\$20,000,000
Homer Electric		\$2,663,028	\$22,681,363	\$25,344,391
Total	2704	\$878,052,025	\$509,051,110	\$1,387,103,135

4.4 Risk Assessment Summaries

Earthquake:

The City of Homer and surrounding area may experience mild to significant earthquake movement sufficient to damage infrastructure. Although all structures are exposed to earthquakes, buildings constructed of wood exhibit more flexibility than those composed of unreinforced masonry, (URM).

The entire population, residential structures and critical facilities are vulnerable to an earthquake. All 5,100 people in 2,692 residences plus the community facilities for a total functional value of \$1.317 Billion are all vulnerable. Table 4-7.

Erosion:

In 2004, the City contracted with the Kachemak Bay Research Reserve (KBRR) to conduct a coastal erosion study. KBRR acquired historical aerial photos, and drew a line at the top of the bluff for each photograph set. Then, the researchers calculated the average rate of erosion for each part of the Homer shoreline.

Parcels along the shoreline where the erosion rates are highest are certainly vulnerable especially when high tides and high winds coincided. In all, about 10% of the population is vulnerable to erosion, 261 residential structures are vulnerable. Table 4-3.

Flood: Parcels along the shoreline are certainly vulnerable to flooding, especially when weather conditions create high velocity wave, high tides and high winds. In all, about 10% of the population is vulnerable to flooding, 261 residential structures valued are vulnerable. Table 4-3.

Subsidence:

About 10 percent of Homer's population is vulnerable to subsidence. This represents 510 people, and 261 residential structures are vulnerable. Table 4-8.

Severe Weather:

The entire population of Homer, residential structures and community facilities are vulnerable to severe weather. The total functional value of the structures in Homer is \$1.317 Billion. Table 4-7.

Wildland Fire:

The entire population of Homer, residential structures and community facilities are vulnerable to wildland fires. The total functional value of the structures in Homer is represented on Table 4-7.

Economic and Development Trends

The City has several zoning districts ranging from Conservation to Commercial-Industrial zones. In 2003 the City received the right to regulate development in the Bridge Creek Watershed Protection District (BCWPD) which surrounds the City's water supply. In 2010 the City adopted the 2008 Homer's Comprehensive Plan which also includes the 2010 Homer Spit Comprehensive Plan.

To reduce the effects of fire hazards, all new and the remodel of existing commercial and commercial residential buildings must be certified by the State Fire Marshal Office per Homer City Code (HCC) 21.70. To reduce the effects of flood and tsunami hazards, all new projects in the Flood zone must be elevated one foot or more above the Base Flood Elevation (BFE), HCC 21.41. The chart below shows the building trends from 2010 to 2014.

Zoning Permits Analysis 2010-2014

Year	Residential Zoning Permits		Commercial Zoning Permits		Total
	New Construction	Additions/Remodels/Accessory	New Construction	Additions/Remodels/Accessory	
2010	26	16	3	1	46
2011	28	12	5	1	46
2012	23	14	1	4	42
2013	36	14	11	3	64
2014	37	10	10	5	62

Alaska Risk MAP Program

The City of Homer is a participant in the Risk MAP Study of the Homer Spit which includes:

- A detailed coastal flood hazard analysis including storm surge (coastal hydrology) and overland wave height analysis (coastal hydraulics) near Beluga Lake and Beluga Slough
- A regulatory Flood Insurance Study (FIS) Report document for the Community. A FIS contains flood information for a community and is developed in conjunction with the Flood Insurance Rate Maps (FIRM). The FIS, also known as a flood elevation study, frequently contains a narrative of the community's flood history and explains the engineering methods used to develop the FIRM. The study also contains flood profiles for studied flooding sources and may be used to determine Base Flood Elevations for some areas.
- Preparation of a regulatory Flood Insurance Rate Map (FIRM) map for all panels within the Community which identifies the Community's flood zones, base flood elevations, and floodplain boundaries. This map is used to determine areas requiring flood insurance for properties with federally-backed mortgages.

Table 4-8 estimates damage values from the vulnerability assessment, and the population affected by each hazard.											
Hazard	Pop.	Residential Structures				Community Facilities				Total	
		No.	Structure Value	Contents Value	Functional Value	No.	Structure Value	Contents Value	Functional Value	No.	Functional Value
Earthquake	5100	2,692	\$706,380,800	\$353,190,400	\$1,059,571,200	72	\$135,256,597	\$149,343,646	\$284,600,243	2,764	\$1,344,171,443
Erosion	510	269	\$70,638,080	\$35,319,040	\$105,957,120	8	\$13,525,660	\$14,934,365	\$28,460,024	276	\$134,417,144
Flooding	510	269	\$70,638,080	\$35,319,040	\$105,957,120	8	\$13,525,660	\$14,934,365	\$28,460,024	276	\$134,417,144
Climate Change	510	269	\$70,638,080	\$35,319,040	\$105,957,120	8	\$13,525,660	\$14,934,365	\$28,460,024	276	\$134,417,144
Subsidence	510	269	\$70,638,080	\$35,319,040	\$105,957,120	8	\$13,525,660	\$14,934,365	\$28,460,024	276	\$134,417,144
Severe Weather	5100	2,692	\$706,380,800	\$353,190,400	\$1,059,571,200	72	\$135,256,597	\$149,343,646	\$284,600,243	2,764	\$1,344,171,443

V. Mitigation Goals, Objectives and Action Items

A. Flood Goals

The City of Homer adopted new Flood Insurance Rate Maps that became effective on November 6, 2013. These maps resolved inconsistent flood elevations on the Homer Spit. The flood maps are based on a 100 year chance event and do not include tsunamis because the relatively short period of record. The City also updated the Flood Prone Areas code (HCC 21.41) on September 15, 2009. (Ord. 09-38) which require all structures in a flood zone to be elevated to the Base Flood Elevation, plus 1 foot (BFE-1). Parties most responsible for implementation are in **bold**.

1. Participation in National Flood Insurance Program (NFIP)(Priority-High).

Objective 1.1: Maintain the City of Homer's participation in the NFIP so that low cost flood insurance is available to residents.

Action 1.1.1 Identify and analyze compliance with the NFIP.

Responsible Parties: City of Homer, Planning Department, NFIP, FEMA.

Status/Timeline: Ongoing.

2. Update the Flood Hazard Maps and map the City's watershed and drainage patterns. (Priority-High, Funding Dependent)

In addition to the 2013 maps, FEMA has restudied and resubmitted Preliminary Flood Insurance Maps of the Beluga Slough and Beluga Lake. These 2016 draft maps aim to resolve inconsistent elevations in the Old Towne and Beluga Slough areas. A thorough study of the Beluga Lake area is still needed.

The City of Homer 2010 Comprehensive Plan provides a timeframe for priorities. For example, Chapter 4, Land Use, Goal 3 "Encourage high quality buildings and site design that complements Homer's beautiful natural setting." It recommends developing specific policies regarding site development such as grading.

In addition, Chapter 4, Land Use, Goal 2, Object C states, "Develop and apply in all districts new standards addressing environmental issues including the management of storm water. . . ." This resulted in the 2011 adoption of Homer Ordinance 10-54 which describes thresholds and requirements for fill, drainage, stormwater and development on steep slopes: Storm Water Plans HCC 21.50.020(d) and Fill Standards HCC 21.50.150.

Objective 2.1: Obtain updated flood plain maps to include all current city limits, the Bridge Creek Watershed, Beluga Slough and Beluga Lake.

Action 2.1.1 Encourage FEMA to restudy and remap the city with emphasis on the Beluga Lake area.

Status/Timeline: Ongoing. Dependent of FEMA funding.

Objective 2.2: Map the watershed and drainage patterns.

Action 2.2.1 Acquire funds to develop a watershed and drainage management plan that identifies important natural water storage, low features critical to flood function and predicts future flood hazards.

Status/Timeline: Mapping watershed and drainage patterns is funding dependent. Updating the City's flood maps is expected in 2016.

Action 2.2.2. Encourage the utilization of green infrastructure mapping as a means to identify and retain natural drainage channels and important wetlands, which serve drainage functions (Homer Comprehensive Plan, page 10.5).

Responsible Parties: City of Homer, Alaska Department of Community and Economic Development, **FEMA**, Federal Insurance and Mitigation Administration, KPB.

Status/Timeline: Ongoing, especially during spring and fall clearing.

3. Review flood events to determine mitigation strategies. (Priority-Medium)

Objective 3.1: Coordinate fact finding between the Planning Office, Public Works, the Kenai Peninsula Borough and the State of Alaska DOT to map areas that experienced flooding.

Objective 3.2: Identify with the goal of reducing the effects of hazards on high risk facilities and infrastructure.

Action 3.2.1 Develop overlay map of existing infrastructure (drainages, culvert size, storm drains).

Action 3.2.2 Identify actions and projects to reduce the effects of hazards on new buildings and infrastructure.

Action 3.2.3 Establish an annual inspection of all stormwater management (public and private) and order maintenance as needed. Ongoing CRS Credit for Stormwater Management.

Action 3.2.4 Require maintenance logs on private and public stormwater plans. Ongoing.

Action 3.2.5 Require an engineer's stamp of inspection to certify that existing Stormwater Plans meet City standards prior to issuing additional zoning permits on the property.

Objective 3.3: Eliminate the long-term risk to people and infrastructure by exploring the willing acquisition of privately owned parcels in high hazard areas.

Action 3.3.1 Seek funding opportunities to acquire privately owned parcels from willing land owners whose property is threatened by coastal erosion.

Action 3.3.2 Seek support from State of Alaska and local utilities companies to help in the volunteer acquisition of privately owned parcels that are threatened by coastal erosion.

Responsible Parties: City of Homer, State of Alaska, KPBOEM.

Status/Timeline: Ongoing.

4. Manage development in flood hazard areas (Priority-Medium)

Ensure, through adequate planning and zoning oversight that all development meets the intent of HCC 21.41, Flood Prone Areas. In the future, the City may participate in the Community Rating System (CRS) which is a part of the National Flood Insurance Program (NFIP). The CRS identifies and analyzes a comprehensive range of specific mitigation actions and project to reduce the effects of flood hazard, with particular emphasis on new and existing buildings and infrastructure.

In the last five years the City has taken a more proactive role to ensure that prior to renewing property leases of City owned land on the Homer Spit, the leaseholders are required to be in compliance with the current zoning and flood mitigation standards. On both public and private projects, this includes anchoring fuel tanks to prevent floatation.

Objective 4.1: Review Chapter 21.41 to ensure up-to-date requirements are being addressed.

Action 4.1.1 Require developers/land owners to provide documentation of compliance with existing Flood Damage Prevention requirements if the project is located within a flood hazard area as defined by City Code.

Action 4.1.2 As of 2015, FEMA has provided Draft Flood Insurance Rate Maps (FIRMS) that will update all coastal areas in Homer, except for the Homer Spit which was updated in 2013. These maps are expected to be officially adopted in 2016.

Responsible Parties: City of Homer, Planning and Zoning Office.

Status/Timeline: Ongoing. The Floodplain map update is expected in 2016.

Objective 4.2: Assure that flood loss reduction measures minimize the need for rescue and relief efforts associated with flooding, and to assure that flood loss reduction measures are consistent with retaining natural flood function.

Action 4.2.1 Acquire land in high hazard areas such as the Bridge Creek Watershed area, the Homer Spit, and Kachemak Bay shoreline. Acquiring land in

these areas will help reduce the effects of floods and reduce erosion and sedimentation. Aligns with the CRS 420. KPB Mit. Plan pg 2-71.

Action 4.2.2 Identify less hazard prone areas for development. Suitability study and map 2008.

Action 4.2.3 Create and maintain buffers and building setbacks from wetlands, creeks, shorelines and drainages. KPB Hazard Mit. Plan p2-68. Landscape Suitability Map pg 49. Floodplain Management Higher Regulatory Standards, p3. 2010 Homer Comprehensive Plan; Chapter 4 Land Use, pages 4-11, Obj. B: Implementation Strategies. HCC 21.44.

Action 4.2.4 In the flood hazard areas and along the bluff, consider “relocatable structures” on skids or pilings versus permanent foundation structures. Coastal Bluff Erosion Study, pg 11, 19.

Action 4.2.5. Require the anchoring of fuel tanks, manufactured homes, and accessory structures to resist flotation, collapse and lateral movement due to the effects of wind and water loads per HCC 21.41

Action 4.2.6 Preserve open space and/or relocate structures out of high risk areas. 2010 Comp. Plan. CRS 420. Landscape Suitability Map pg 51.

Action 4.2.7 Provide a means to regulate clearing, filling, grading, dredging, and other development which may impact flood, drainage and erosion damage. Floodplain Management Higher Regulatory Standards p31, 59. Landscape Suitability Map pg 31, 33. HMP pg 18.

Action 4.2.8 Minimize adverse impacts of alterations of ground and surface waters and natural flow patterns. KPB HMP p 2-71. Landscape Suitability Map 45. Floodplain Management Higher Regulatory Standards p 13, 31 & 59

Action 4.2.9 Maintain requirements for stormwater control and mitigation through the enforcement of HCC 21.74 Development Activity Plan and HCC 21.75 Stormwater Plan. Landscape Suitability Map pg 16 & 52.

Action 4.2.10 Integrate hazard identification, ecosystem protection, protection of community infrastructure and shoreline management into zoning and subdivision ordinances. Coastal Bluff Erosion Study . Floodplain Management Higher Regulatory Standards p 4 & 5.

Responsible Parties: City of Homer, Planning Office

Status/Timeline: Ongoing.

B. Wildfire Goals

There are two phases to addressing the wildfire issue in Homer. The first and foremost revolves around public education (Item A). The second phase focuses on specific mitigation strategies found within the International Urban-Wildland Interface Code™. This code utilizes three mitigation strategies: creation and management of defensible spaces around threatened structures; wildfire fuel management; and encouraging fire-resistive construction techniques.

1. Create Defensible space.

Objective 1.1: Cooperate with the Division of Forestry in the “Fire Wise” campaign. Creating “defensible space” is one of many ways to reduce the effects of fire hazard on existing buildings. This involves limiting fuels immediately adjacent to at-risk structures. This strategy was proven during the Mansfield/Hutler Road Fires in which only one structure was lost. The Mansfield Road neighborhood had worked with the fire department in the development of defensible space in the year preceding the fire event. Additional lessons were learned as fire crews and home owners were able to immediately return to the fire area once the fire front had passed and were able to extinguish any remaining fires around their buildings.

Action 1.1.1: Encourage home owners and property owners to remove dead or diseased trees to create “defensible space”.

Action 1.1.2: Encourage home and business owners to complete a Fire Wise assessment of their home and/or business.

Action 1.1.3 Educate home owners in wildfire resistive construction techniques and strategies to limit their exposure to wildfire.

Action 1.1.4 Provide interested residents with Fire Wise informational packets and brochures.

Status/Timeline: Ongoing, especially during spring and fall clearing.

Responsible Parties: City of Homer, Alaska Division of Forestry, KPB.

2. Control and direct open burning within the City limits of Homer. (Priority-High)

Objective 2.1 Limit the number, size and location of burn piles within City Limits. Homer City Code requires that residents obtain an Open Burning Permit anytime during the year for all fires other than “warming fires” (those less than 2 feet in diameter used for cooking or warming). State regulations require residents outside of Homer to have a Burn Permit during the “fire season” of May 1 through the end of September each year.

Action 2.1.1: Issue burn permits to Homer residents who wish to dispose of organic materials. Direct non-residents to the Division of Forestry Website to obtain an open burning permit during the statutory fire season.

Status/Timeline: Ongoing, focus in spring and fall.

Responsible Parties: Homer Volunteer Fire Department, Alaska Div. of Forestry.

3. Establish alternative methods of disposal for slash, brush, and organic debris so that residents do not have to use open burning. (Priority-High)

Objective 3.1: Explore alternative methods of debris disposal other than open burning.

Action 3.1.1 Encourage use of composting, chipping, or grinding as an alternative to burning of woody debris.

Responsible Parties: KPB, City of Homer.

Status/Timeline: Ongoing, to coincide with debris removal.

4. Prohibit open burning during high-risk periods. (Priority-High)

Objective 4.1: In cooperation with the Division of Forestry, suspend burn permits and open burning during high fire danger conditions or when other factors will contribute to high fire danger.

Action 4.1.1 Maintain open lines of communication between the Division of Forestry, National Weather Service, and the Homer Volunteer Fire Department to determine when fire conditions warrant suspension of burn permits or open burning in general.

Action 4.1.2 When conditions warrant suspension of burn permits or open burning in Homer, disseminate that information in the form of press-releases to the local radio and print media.

Action 4.1.3 When open burning is prohibited, or burn permits are suspended ensure that the Homer Police Department Dispatch center is notified so that they can advise persons that call in to activate their individual permit that a temporary suspension has been placed on open burning.

Action 4.1.4 Complete a daily assessment of fire danger during closures or suspensions by 10:00 AM each day to determine the need to continue the closure or resend the closure.

Responsible Parties: Homer Volunteer Fire Department, Alaska Division of Forestry, National Weather Service, KPB-OEM.

Status/Timeline: Ongoing, coincides with high fire danger periods.

5. Develop wildfire fuel load reduction projects such trimming branches and thinning, especially around critical infrastructure and identified “safe zone” and potential emergency shelters. (Priority-High, Funding Dependent).

Objective 5.1: Review current fuel loads surrounding infrastructure and safety zone/shelter locations identified in the Community Wildfire Protection Plan.

Action 5.1.1 Develop list of know shelters (from Emergency Plan), safe zones, and critical infrastructure.

Action 5.1.2 Review wildfire fuel load and develop mapping of area in need of fuels management activities.

Action 5.1.3 Develop and implement fuel reduction plan.

Responsible Parties: Homer Volunteer Fire Department, Alaska Division of Forestry, Kachemak City, KPB.

Status/Timeline: Ongoing.

Objective 5.2: Continue collaborative effort between the Community Wildfire Protection Plan and the City of Homer.

Action 5.2.1 Attend local planning meetings when conducted.

Action 5.2.2 Review drafts of the CWPP when available and provide feedback to DOF as appropriate.

Responsible Parties: Homer Volunteer Fire Department, CWPP Stakeholders.

Status/Timeline: Ongoing.

Objective 5.3: Support emergency services by assisting them with proper premise identification/addressing.

Action 5.3.1. Inform property owners of the legal requirement to display their individual house numbers, visible from the street, or from the end of their driveways, if the house is not visible from the street.

Action 5.3.2. Inform the public of the Kenai Peninsula Borough Office of Emergency Managements program to provide, low-cost reflective house numbers, installed on their property.

Responsible Parties: Homer Volunteer Fire Department, KPB OEM.

C. Earthquake Goals

1. Protect existing critical infrastructure from earthquake damage. (Priority-Medium, Funding Dependent)

Objective 1.1: Reduce the effects of earthquake hazards on existing critical buildings and infrastructure owned by the City of Homer.

Action 1.1.1 Identify buildings and facilities that must be able to remain operable during and following a hazard event.

Action 1.1.2 Contract a structural engineering firm to assess the identified buildings and facilities to determine their structural integrity and strategy to improve their earthquake resistance.

Objective 1.2 Perform those steps identified above to protect critical infrastructure from earthquake damage and to preserve functionality.

Action 1.2.1 Identify priorities and budget to retrofit existing infrastructure to existing earthquake resistive construction standards.

Action 1.2.2 Develop a Request for Proposals to submit for design and construction of the retrofitting requirements.

Responsible Parties: City of Homer, KPB, FEMA Mitigation Programs.

2. Building Code Adoption-Seismic Requirement-New Construction (Priority-Low)

While the State of Alaska has adopted the International Building, Fire and Mechanical Codes that include seismic requirements, there is no State-wide building code for single family, duplex and triplex residential construction. There are no adopted seismic codes for these most vulnerable occupancies.

Objective 2.1: Encourage practices of the International Residential Building code, including all 1 and 2 family residential occupancies. (State of Alaska adopted Building Code covers residential occupancies greater than 3-plex).

Action 2.1.1 Reference the International Residential Code (**Current** Edition) for seismic and wind load requirements.

Action 2.1.2 Identify projects that reduce the effects of hazards on new buildings and infrastructure.

Responsible Parties: City of Homer, Planning Department, Public Works Department, Homer Volunteer Fire Department.

Status/Timeline: Ongoing

3. Existing Buildings – Non-Structural Mitigation Program (Priority-Medium, Funding Dependent)

Experience demonstrates (Nisqually Earthquake, February 28, 2001) that mitigation programs which emphasizing tie-downs and strapping of book shelves and computers is an effective and economical way to reduce property damage and loss of life during earthquake events.

Objective 3.1: Provide technical advice and information to those individuals, businesses and institutions requesting non-structural mitigation program guidance.

Action 3.1.1 Compile list of available non-structural mitigation resources available to the public.

Responsible Parties: City of Homer, KPBOEM, FEMA.

Status/Timeline: Ongoing.

D. Tsunami Goals

1. Tsunami

2. Ready Community Designation (Priority-High)

Objective 1.1: Continue to meet the requirements for a Tsunami Ready Community Certification.

Action 1.1.1: Continue to participate in the NWS/WC&ATWC Tsunami Ready Program.

Action 1.1.2: Maintain regular tsunami warning siren drills that citizens can learn to recognize and expect.

Responsible Parties: City of Homer, ADHSEM, West Coast/Alaska Tsunami Warning Center, KPBOEM.

3. Tsunami Evacuation Route Signage (Priority-High)

Objective 2.1: Maintain evacuation route signs and Tsunami Warning System.

Action 2.1.1: Continue to monitor the tsunami evacuation signs on the Homer Spit to Kachemak Drive, East to the junction with East End Road. This route directs people away from the Beluga Slough crossing which is located in the projected tsunami inundation zone.

Responsible Parties: City of Homer, Department of Transportation, ADHSEM, KPBOEM.

Status/Timeline: Ongoing, prior to summer tourist season.

4. **Encourage City of Homer, Planning & Zoning Office to incorporate high risk areas in land use planning and zoning. (Priority-Medium)**

In 2005 the City of Homer adopted the Tsunami Hazard Map. Local tsunamis should always be considered before beginning any construction in the coastal areas.

Objective 3.1: Reduce the vulnerability of infrastructure and improvements in high risk areas.

Action 3.1.1: Reduce susceptibility to damage and disruption by incorporating the Tsunami Hazard and the Flood Insurance Rate Maps into the City Planning and Zoning process.

Action 3.1.2: New development in tsunami hazard areas to meet the same standards required in the Coastal High Hazard areas per HCC 21.41.CRS Tsunami Credits pg 18.

Action 3.1.3: Require the anchoring of fuel tanks, manufactured home, accessory structures and recreational vehicles to be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads per HCC 21.41.

Action 3.1.4: Maintain compliance with the NFIP.

Responsible Parties: City of Homer, KPB, FEMA, NFIP.

Status/Timeline: Ongoing. When City Spit leases come up for renewal, all fuel tanks are required to be anchored. Mobile units require anchoring devices to resist flotation (Snug Harbor lease renewal, 2011).

E. Volcanic Ash

Fresh volcanic ash may be harsh, acidic, gritty and smell like sulfur. Heavy ash-fall may reduce sunlight, causing a sudden demand and possibly brownout of electrical power. Ash can clog watercourses, sewage plants, and all kinds of machinery.

Objective 1.1: Protect equipment and personnel from the effects of ash.

Action 1.1.1 Do not operate non-essential equipment.

Action 1.1.2 Protect office equipment such as copiers and personal computers.

Action 1.1.3 Allow employees to get home before an ash-fall occurs.

Action 1.1.4 Limit outdoor activity.

Action 1.1.5 Close doors, windows and vents.

Action 1.1.6 Do not run exhaust-circulating fans.

Action 1.1.7 Check and change (when needed) oil, oil filter and air filters.

Action 1.1.8 Wear respirator and eye protection during ash cleanup.

Action 1.1.9 Establish a communication system to alert employees

Action 1.1.10 Establish an email alert or a call-in voice recording.

Status/timeline: Event driven.

F. Technological Hazards

Technological hazards are manmade activities such as the manufacture, transportation, storage. The use of hazardous materials and our reliance on technology.

Objective 1.1: Reduce the community's risk of exposure to hazardous materials.

Action 1.1.1 Install security systems where hazard materials are stored .

Objective 1.2: Protect the community's water supply.

Action 1.2.1 Install security measure at the city water treatment plant.

Action 1.2.2 Secure all remote pump facilities.

Objective 1.3: Ensure that the city has reliable communication:

Action 1.3.1 Create redundant/back-up capability for landline telephone system.

Action 1.3.2 Develop off-site backup information technology system.

Action 1.3.3 Prepare for utility disruption.

Action 1.3.4 Secure vital records and other important document.

Objective 1.4: Protect the community's ability to operate in case of technological disruptions.

Action 1.4.1 Encourage local businesses to have adequate cash on hand for emergencies.

Action 1.4.2 Encourage local businesses to establish a regular, off-site, computer back-up system.

Action 1.4.3 Encourage local businesses to participate in the State's Continuity of Business program through the Department of Homeland Security and Emergency Management.

Responsible Parties: City of Homer, local businesses, ADHSEM, KPBOEM.

Status/Timeline: Ongoing

G. Biological, Chemical and Hazardous Materials

Liquid or solid contaminants may pose a threat to the community and can easily spread. Biological hazards include both man-made threats (bio-terrorism) and naturally occurring diseases (pandemics). Homer's Planning and Zoning (HCC) 21.59 has requirements that apply to smoke, gases, pollution, hazardous material, and material storage.

Objective 1.1: Reduce the community's vulnerability to biological, chemical and hazardous material incidents.

Action 1.1.1: Safely store biological, chemical and hazardous materials per HCC 21.59.010(f).

Action 1.1.2: Continue to require Fire Marshal certification for all commercial buildings per HCC 21.70.

Action 1.1.3: Monitor, in cooperation with the Department of Health, Public Health Center, spikes in illness that may indicate the spread of a natural or man-made pathogen among the population.

Action 1.1.3: Continue participation and leadership in the Community Based Emergency Planning Committee established by Public Health.

Responsible Parties: City of Homer, Alaska Department of Public Health, KPB-OEM, State Fire Marshal's Office and South Peninsula Hospital.

Status/Timeline: Ongoing

H. Assessing Risk

The first step to long-term mitigation is to understand which economies are at risk and how to reduce those risks through public and private investments. Ways to quantify economic risks include:

- Monitor long-term supply and demand trends,
- Measure the diversity of end-product markets,
- Measure the size and diversity of base industries,
- Measure the growth rates in employment, income and gross sales,
- Monitor the relative dependence on imports,
- Assess the skill levels in the workforce,
- Reduce the cost and dependency of transportation and energy.

Objectives and strategies

Public infrastructure, sensible regulations, public-private partnerships, efficient and coordinated service delivery, industry advocacy, marketing, economic analysis, and the dissemination of timely information all represent legitimate venues for government to promote economic development.

The following objectives define and direct the development of mitigation strategies: KPB Hazard Mitigation Plan.

Objective 1.1: Reduce the susceptibility to damage and disruption by avoiding hazardous, uneconomic and unwise development in known hazard areas.

Objective 1.2: Reduce unnecessary economic losses and promote positive economic development by incorporating hazard assessment and mitigation into land use and development decisions.

Chapter VI – Implementation & Maintenance Procedures

The City of Homer will implement this plan by using mitigation actions within our Comprehensive Plan, the Capital Improvement Plan, and other plans to pursue our mitigation goals. Priority is given to the best mitigation strategy that maximizes the benefit to the community. We will consider projects that show they are cost effective by ensuring that for every dollar spent we will reduce loss of life or property damage.

The City's 2010 Comprehensive Plan provides a timeframe for priorities. As of this update, the Homer Advisory Planning Commission is reviewing the timelines for reseeding a site that has been impacted. This furthers the goals and objectives of the Homer Comprehensive Plan (Chapter 4, Goal 2: Maintain the quality of Homer's natural environment and scenic beauty, and Objective B: Establish development standards and require development practices that protect environmental function.

We will use the following criteria to prioritize all community projects:

1. Lifesaving or personal safety issues
2. Projects will be coordinated with all community plans.

The 2010 City of Homer Local All-Hazard Mitigation Plan mitigation strategy was incorporated into the following planning mechanisms:

1. Homer Comprehensive Plan(2007-2010). With each decision made by the Homer Advisory Planning Commission a summary of how the project relates to Homer's Comprehensive Plan is provided along with a recommendation to support or deny the request.
2. Homer Capital Improvement Plan.

Some examples are:

- A. Tsunami – In 2005 the City adopted the Tsunami Hazard Map. The City continues to work with the KPB on the TsumaniReady Community Certification which includes weekly sirens and evacuation route signs.
- B. Wildfire – The City continues to educate and encourage “defensible space” and is negotiated with the KPB to reduce fuels especially in the Bridge Creek Watershed Area.
- C. Earthquake – In 1995 the fire hall renovation included an engineering study to retrofit the existing building to current earthquake standards. The study was conducted by USKH Engineering of Anchorage.
- D. Flood - In 2013 the City adopted updated Flood Insurance Rate Maps. At the same time the City updated the Flood Prone Areas code (HCC 21.41).

B. Maintenance

The City of Homer All-Hazard Mitigation Plan will be reviewed annually and will be updated at a minimum of every five years or 90 days after a Presidential declared disaster. The Director of Emergency Services will be responsible for ensuring that reviews are completed, and the general public will be notified of opportunities to review the plan by use of newspaper, radio, or flyers. Public involvement is essential to ensure that the mitigation goals, objectives and action items are addressing the community's need.

Appendix A Glossary of Terms

Community Rating System (CRS) – The Community Rating System is a voluntary program that each municipality or county government can choose to participate in. The activities that are undertaken through CRS are awarded point. A community's points can earn people in their community a discount on their flood insurance premiums.

Critical Infrastructure – Facilities that are deemed highly important to the health and welfare of the population and that are especially crucial during and after a hazard event. Critical facilities include, but are not limited to: shelters, hospitals, and fire stations.

Development – means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, or any other activity which results in the removal of substantial amounts of vegetation or in the alteration of nature site characteristics located within the area of special flood hazard or coastal high hazard area. HCC 21.41.030.

Disaster Mitigation Act – DMA 2000 (Public Law 106-390) is the latest legislation of 2000 (DMA 2000) to improve the planning process. It was signed into law on October 10, 2000. This legislation reinforces the importance of mitigation planning and emphasizes planning for disasters before they occur.

Federal Disaster Declaration – The formal action by the President to make a State eligible for major disaster or emergency assistance under the Robert T. Stafford Relief and Emergency Assistance Act, Public Law 93-288, as amended. Same meaning as a Presidential Disaster Declaration.

Federal Emergency Management Agency (FEMA) – A federal agency created in 1979 to provide a single point of accountability for all federal activities related to hazard mitigation, preparedness, response, and recovery.

Flood Hazard Area – The land covered by a flood having a 1% chance of occurring in any given year. See 100-Year Flood.

Flood Insurance Rate Map or FIRM – an official map of the City issued by the Federal Insurance Administrator which delineates both the special hazard areas and the risk premium zones. HCC 21.41

Flood Insurance Study – Flood Insurance Study (FIS) is the official report provided by the Federal Insurance Administration that includes the flood profiles and the water surface elevations for the estimated 100-Year Base Flood.

Flood Zones – Zones on the FIRM in which a Flood Insurance Study has established the risk premium insurance rates.

Hydrology – The science of the behavior of water in the atmosphere, on the earth's surface, and underground.

Infrastructure – The public services of a community that have a direct impact to the quality of life. Infrastructure refers to communications technology such as phone lines or internet access, vital services such as public water supply and sewer treatment facilities, and includes an area's transportation system, regional dams or bridges, etc..

Inundation – The maximum horizontal distance covered by flood waters, including those generated by Tsunami.

Liquefaction – The phenomenon that occurs when ground shaking causes loose soils to lose strength and act like a thick or viscous fluid. Liquefaction causes two types of ground failure: lateral spread and loss of bearing strength.

Mitigation Plan – A systematic evaluation of the nature and extent of vulnerability to the effects of natural or man-made hazards typically present in the area and includes a description of actions to minimize future vulnerability to those hazards.

One Hundred (100) Year Flood –(also called “regulatory flood,” “base flood” or “special flood hazard area”) (see “base flood”) means a flood of a magnitude which can be expected to occur on an average of once every 100 years. It is possible for this size flood to occur during any year, and possibly in successive years. It would have a one percent chance of being equaled or exceeded in any year. Statistical analysis of available stream flow or storm records, or analysis of rainfall and runoff characteristics of the watershed, or topography and storm characteristics are used to determine the extent and depth of the 100-year flood.

Riverine Flooding – Flooding related to or caused by a river, stream, or tributary overflowing its banks due to excessive rainfall, snowmelt or ice.

Run-Up – The maximum vertical height of a tsunami in relation to sea level.

State Disaster Declaration – A disaster emergency shall be declared by executive order or proclamation of the Governor upon finding that a disaster has occurred or that the occurrence or threat of a disaster is imminent. Along with other provisions, this declaration allows the Governor to utilize all available resources of the State as reasonably necessary, direct and compel the evacuation of all or part of the population from any stricken or threatened area if necessary, prescribe routes, modes of transportation and destinations in connection with evacuation and control ingress and egress from disaster areas. It is required before a Presidential Disaster Declaration can be requested.

Storm Surge – Rise in the water surface above normal water level on open coast due to the action of wind stress and atmospheric pressure on the water surface.

Subsidence – Sinking of the land surface, usually due to withdrawals of underground water, oil, or minerals.

Substantial Damage – means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to correct violations that have been previously cited based on State or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure” listed on the National Register of Historic Places or a State Inventory of Historic Places; provided, that the alteration will not preclude the structure’s continued designation as a “historic structure. See HCC 21.41.030.

Vulnerability – Describes how exposed or susceptible to damage an asset is. Vulnerability depends on an assets construction, contents, and the economic value of its functions. The vulnerability of one element of the community is often related to the vulnerability of another. For example, many businesses depend on uninterrupted electrical power – if an electrical substation is flooded, it will affect not only the substation itself, but a number of businesses as well. Other, indirect effects can be much more widespread and damaging than direct ones.

Vulnerability Assessment – The extent of injury and damage that may result from a hazard event of a given intensity in a given area. The vulnerability assessment should address impacts of hazard events on the existing and future built environment.

Watershed – means any area of land that water flows or drains under or across ground on its way to a lake, pond, river, stream, or wetland. A watershed can be delineated on a topographical map by connecting the high points of the contour lines surrounding any water body. HCC 21.03

Wetlands – Areas that are inundated or saturated frequently and for long enough to support vegetative or aquatic life requiring saturated or seasonally saturated soil conditions for growth and reproduction.

Works Cited

South Peninsula Hospital. *Rock and a Hard Plan: After-Action Report/Improvement Plan*, 2015

FEMA. *Community Rating System (CRS)*, 2013.

Foster, Rick A. *Erosion Responses for Property Owners*. Kachemak Bay Research Reserve Coastal Training Program, 2006.

FEMA. *Higher Regulatory Standards*, 2006.

Scheer, David, and Allegra Bukojemsky. *Landscape Suitability Map*. Rep. Homer: Homer Soil and Water Conservation District, 2008.

Smith, Orson P. *Coastal Erosion Responses for Alaska*. University of Alaska Fairbanks: Alaska Sea Grant College Program, 2006.

**CITY OF HOMER
HOMER, ALASKA**

Reynolds

RESOLUTION 16-xxx

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
ADOPTING THE CITY OF HOMER ALL HAZARDS MITIGATION PLAN
2015 UPDATE AND REVISION AND AUTHORIZING THE CITY
MANAGER TO FORWARD THE DOCUMENT TO THE KENAI
PENINSULA BOROUGH, THE FEDERAL EMERGENCY
MANAGEMENT AGENCY, THE ALASKA DIVISION OF HOMELAND
SECURITY, AND OTHER ORGANIZATIONS AS APPROPRIATE.

WHEREAS, The Homer City Council recognizes the threat that natural and human
generated hazards pose to its residents, their property, public infrastructure, and the health
and safety of the community at large; and

WHEREAS, Planning for and implementing actions that avoid or mitigate the impacts
of hazards before disasters occur reduces the potential for harm to people and property and
saves taxpayer dollars; and

WHEREAS, An adopted All Hazards Mitigation Plan is required as a condition for future
grant funding to the City for hazard mitigation projects; and

WHEREAS, The City has provided notice of the draft plan revision and opportunities to
comment to its local partners in disaster mitigation, has participated jointly in the planning
process with the Borough and other units of government, and held a hearing to solicit
comments from the public.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves and
adopts the All Hazards Mitigation Plan 2016 Update.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to forward the
Plan to the Kenai Peninsula Borough, the Federal Emergency Management Agency, the State
Division of Emergency Management, and other organizations as appropriate.

PASSED AND ADOPTED by the Homer City Council this _____ day of _____,
2016 .

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 16-013

A RESOLUTION OF THE HOMER CITY COUNCIL CONCERNING THE HARBOR ENTERPRISES, DBA PETRO 49, (FORMERLY PETRO MARINE SERVICES) LEASE FOR LOT 8-E-1 HOMER SPIT #6 AND DIRECTING THAT IT BE CANCELED AT THE TERM OF THE LEASE DECEMBER 1, 2018 AND THAT THE PROPERTY BE ADVERTISED FOR LEASE IN A REQUEST FOR PROPOSALS.

WHEREAS, Harbor Enterprises dba Petro 49 (formerly Petro Marine Services) is currently in a long-term lease with the City for a Fuel Float and tank farm on Lot 8-E-1 Homer Spit #6 on the Homer Spit; and

WHEREAS, The current lease for Lot 8-E-1 Homer Spit #6 expires December 1, 2018; and

WHEREAS, Harbor Enterprises, dba Petro 49, desires to enter into a new full term lease for this property with the City for the purpose of continuing to provide fuel float services to the Homer fleet; and

WHEREAS, Both the Lease Committee and the Port and Harbor Advisory Commission reviewed this proposal and recommend that this property be advertised in a RFP at the term of the lease for the purposes of providing fuel service to the Homer harbor fleet; and

WHEREAS, Both the Lease Committee and the Port and Harbor Advisory Commission cited that it was in the community's best interest to seek competitive proposals from companies seeking to provide vessel fueling services to both the vessels in the harbor and also to bring this capability out to our Deep Water Dock facility. The Commission and Committee also reasoned that if the City moves ahead with extending a new standard lease for the Coal Point fuel float to Harbor Leasing that it would be in the community's best interest to seek a competitive fuel source for Lot 8-E-1.

36 NOW, THEREFORE, BE IT RESOLVED by the Homer City Council that at the termination
37 of the lease for Lot 8-E-1 Homer Spit #6 on December 1, 2018 with Harbor Enterprises, dba
38 Petro 49, (formerly Petro Marine Service), the property will be advertised for lease in a RFP.

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40 PASSED AND ADOPTED by the Homer City Council this 25th day of January, 2016.

41
42 CITY OF HOMER

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45 _____
46 MARY E. WYTHE, MAYOR

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48 ATTEST:

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51 _____
52 JO JOHNSON, MMC, CITY CLERK

53
54 Fiscal Note: Current leases are \$11,475.00 annually, plus wharfage on petroleum products.
55 Amount is based on the appraised value of land and adjusted annually to keep pace with the
56 Consumer Price Index.



Memorandum 16-012

TO: MAYOR BETH WYTHE & HOMER CITY COUNCIL
FROM: PORT & HARBOR ADVISORY COMMISSION
DATE: DECEMBER 22, 2015
SUBJECT: HARBOR ENTERPRISE LEASE RENEWAL RECOMMENDATION

The purpose of this memorandum is to amend Memorandum 15-011, which originally gave the Lease Committee and Port and Harbor Advisory Commission's recommendations relating to the Harbor Enterprises leases. Memorandum 15-011 was submitted to the City Council at their regular meeting on January 26, 2015 and included three separate lease recommendations, but was accompanied by a resolution pertaining to only one of the recommendations, not the one specific to Harbor Enterprises. Resolutions 16-013 and 16-014, along with this supporting memorandum, resolve the issue.

Background

On November 21, 2014, Petro 49, dba Harbor Enterprises, submitted a request to the City Manager asking for two new, long-term leases as both their Homer Spit leases for the Coal Point lot and Lot 8-E-1 (30 Acres lease) will be expiring December 1, 2018.

The Lease Committee reviewed the request on December 3, 2014 and concluded that the Coal Point lease should be extended for another 20 years, with two 5-year options, under a new long-term lease. This recommendation was determined based on Petro 49's track record, investment in infrastructure, the services it provides to the community and the port and Harbor, and the jobs, revenue, and taxes it generates. The other leased lot, near the Deep Water Dock, is recommended by the Lease Committee that it go through the RFP process when the current term expires. The committee bases their recommendation for a RFP process on several reasons:

1. The Lease Policy states a preference for putting leased parcels out for RFP when they expire so that other businesses have an opportunity to benefit from leasing these properties and the City has a chance to secure the highest and best use of the land. Since the Coal Point parcel is being recommended for renewal without competitive bidding, providing this lot for RFP seemed to be the best course of action.
2. The City has an interest in promoting competition where possible, including at the port and harbor.
3. The existing lease calls for Petro 49 to engage in a second phase of site development, which is constructing another tank and a petroleum delivery pipeline to serve vessels at the Deep Water Dock. This expansion is a significant improvement and long-term business opportunity and the City would like to gauge the level of interest and see what types of proposals are submitted.

Per the City of Homer's Property Management Policies, after the Lease Committee has reviewed and made recommendations on Spit lease proposals, the Port and Harbor Advisory Commission shall supply their recommendations, along with the Lease Committee's, to City Council. At their meeting on December 17, 2014, the commission reviewed the proposal and recommends the following:

MOVED TO SUPPORT THE RECOMMENDATIONS OF THE LEASE COMMITTEE.

Recommendation

The Lease Committee and Port and Harbor Advisory Commission recommend that the Homer City Council adopt Resolution 16-014, approving the City enter into a new 20 year-term lease with two 5-year options to renew with Harbor Enterprises (dba Petro 49) lease for the Coal Point lot and authorizes the City Manager to execute the appropriate documents; and Resolution 16-013, approving that at the expiration of the lease for Lot 8-E-1 Homer Spit #6 on December 1, 2018 with Harbor Enterprises (dba Petro 49), the property will be advertised for lease in a RFP, and authorizes the City Manager to execute the appropriate documents.



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4350 Homer Spit Road

Homer, AK 99603

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(p) 907-235-3160

(f) 907-235-3152

Memorandum 15-011

TO: MAYOR BETH WYTHE & HOMER CITY COUNCIL
FROM: PORT & HARBOR ADVISORY COMMISSION
DATE: JANUARY 6, 2015
SUBJECT: RECOMMENDATIONS FOR SPIT LEASE PROPOSALS

Per the City of Homer's Property Management Policies, after the Lease Committee has reviewed and made recommendations on Spit lease proposals, the Port and Harbor Advisory Commission shall supply their recommendations, along with the Lease Committee's, to City Council. At their meeting on December 17, 2014, the commission reviewed three lease proposals. Below are their recommendations:

U.S Coast Guard Lease Renewal for Lot 20: MOVED TO GRANT THE COAST GUARD 20, ONE YEAR LEASE RENEWALS

Pacific Star Seafoods New Lease Proposal for Lot 10A: MOVED THAT THE PORT AND HARBOR COMMISSION DOES NOT RECOMMEND PACIFIC STAR SEAFOODS PROPOSAL FOR A LEASE BUT THAT THEY ALLOW THEM TO RENT MONTH TO MONTH UNTIL THERE IS A BETTER USE FOR THE PROPERTY.

Petro Marine Lease Extension for their Coal Pt. and 30 Acre Leases: MOVED TO SUPPORT THE RECOMMENATIONS OF THE LEASE COMMITTEE.

Recommendation

For informational purposes

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 16-014

A RESOLUTION OF THE HOMER CITY COUNCIL AMENDING THE HARBOR ENTERPRISES, DBA PETRO 49, (FORMERLY PETRO MARINE SERVICES) LEASE ON THE COAL POINT FUEL FLOAT AND THE TERMINAL TANK FARM ON THE COAL POINT LOT (SEC 1 T7S, R13W, S.M.) AND TO ENTER INTO A NEW 20-YEAR TERM LEASE WITH THE CITY, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Harbor Enterprises dba Petro 49 (formerly Petro Marine Services) is currently in a long-term lease with the City for the Coal Point Lot and adjoining fuel float; and

WHEREAS, The current lease for Coal Point Lot expires November 30, 2018; and

WHEREAS, Harbor Enterprises, dba Petro 49, desires to enter into a new long-term lease for this property; and

WHEREAS, Both the Lease Committee and the Port and Harbor Advisory Commission reviewed this proposal and endorses issuing a new, 20 year-term lease with two 5-year options to renew, for the Coal Point lot (SEC 1 T7S, R13W, S.M.) for the expressed purpose of continuing to provide fuel float services to the Homer Small Boat Harbor.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves that the City of Homer enter into a new, 20 year-term lease with two 5-year options to renew, with Harbor Enterprises dba Petro 49 (formerly Petro Marine Services) lease for the Coal Point lot (SEC 1 T7S, R13W, S.M.) and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 25th day of January, 2016.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: Current leases are \$4,975.00 annually, plus wharfage on petroleum products.
Amount is based on the appraised value of land and adjusted annually to keep pace with the
Consumer Price Index.

**CITY OF HOMER
HOMER, ALASKA**

Mayor

RESOLUTION 16-016

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, IN
SUPPORT OF THE HOMER PUBLIC SAFETY BUILDING AS
PRESENTED BY THE PUBLIC SAFETY BUILDING REVIEW
COMMITTEE.

WHEREAS, The Homer City Council appointed the Public Safety Building Review Committee (PSBRC) on January 13, 2014 via Resolution 14-020 with the scope of work to include:

- Review and rate GC/CM proposals and make a recommendation to the Council;
- Review the proposed contract and provide input on the scope of work and deliverables;
- Review work products and participate in regular briefing with the contractor;
- Make recommendations and provide direction to staff and the contractors as the project proceeds;
- Make recommendations to Council as to how to proceed as various benchmarks are achieved; and

WHEREAS, The PSBRC has met regularly since that time working with the selected GC/CM contract team; and

WHEREAS, The PSBRC has considered space needs, lot size requirements, and estimated costs for various construction options; and

WHEREAS, The top three options for constructing the required public safety building were presented to the Council for consideration at the January 11, 2016 worksession; and

WHEREAS, The immediate need for safe and hygienic facilities require action of the City Council and the community if police and fire services are to continue being provided by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, supports continuing with the public outreach process required to bring a bonding request for Option 2 (Option 1, or Option 3), the construction of a reduced size, full public safety building campus (full public safety campus, or a phased public safety campus with police station only) to the voters of the City of Homer during the general election in October 2016 in the amount not to exceed 25 million dollars.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 25th day of January,
2016.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

**CITY OF HOMER
HOMER, ALASKA**

Mayor

RESOLUTION 16-017

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
EXPRESSING A DEEP SENSE OF URGENCY FOR THE ALASKA
STATE LEGISLATURE TO TAKE IMMEDIATE AND DECISIVE ACTION
DURING THE 2016 LEGISLATIVE SESSION TO ENACT A COMPLETE
PACKAGE OF INITIATIVES TO PROVIDE FOR A BALANCED,
SUSTAINABLE, AND PREDICABLE STATE BUDGET FOR THE
FORESEEABLE FUTURE.

WHEREAS, Alaska is an 'owner state' who has developed its natural resources as the
primary means to fund essential/desired public services offered by the state; and

WHEREAS, Alaska has relied predominately on the development of its vast oil reserves
to fund the majority of state government expenditures over the past 35 years; and

WHEREAS, Production of Alaskan North Slope crude oil has steadily decreased over
the past 25 years; and

WHEREAS, Global oil prices have remained highly volatile over recent decades, but
until recently, have trended higher over time, masking the effect of decreasing oil production;
and

WHEREAS, Global oil prices have dropped significantly over the past two years and are
projected to remain relatively low for the foreseeable future; and

WHEREAS, The combination of reduced oil production, reduced oil prices, and an
overreliance on oil as the primary source of funding for state government has resulted in a
massive state fiscal deficit; and

WHEREAS, Cash reserves currently being used to cover the existing deficit will be
depleted in just a few years, threatening the state's annual dividend program and potentially
the state's Permanent Fund itself; and

WHEREAS, The State of Alaska has been duly warned by Standard & Poors that due to
the current fiscal imbalance, its credit rating will continue to be downgraded if the Legislature
fails to take appropriate action in 2016; and

WHEREAS, Major business leaders in the state have warned that they would be unlikely to continue making significant commercial investments in Alaska if the Legislature fails to address the fiscal deficit during the 2016 legislative session; and

WHEREAS, Governor Walker has introduced a complete fiscal plan to provide a sustainable and predictable balanced budget, using the strength of our existing financial assets, and a balanced blend of spending reductions and additional new revenues; and

WHEREAS, While spending reductions must be a part of any balanced fiscal solution, extreme care must be exercised to not inadvertently cut our way into an economic recession as was done in the 1980's; and

WHEREAS, Every dollar of cash reserves spent now to fund one-time budget shortfalls, is then unavailable to continue working for the state as an ongoing income producing asset into the future; and

WHEREAS, Continuing to spend down cash reserves in the short-term, will reduce the amount of sustainable revenue we can plan to generate from our current financial assets in the future, resulting in the necessity to increase other sources of revenue (taxes) in the future to compensate; and

WHEREAS, Now more than ever is the time for statesmanship, not provincial politics or electioneering rhetoric. Politically difficult decisions are required this year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Homer, Alaska that:

Section 1. The City Council of Homer, Alaska, calls upon the Alaska State Legislature to take affirmative and immediate action this year to enact a comprehensive package of initiatives that will provide for a sustainable and predictable balanced state budget for the foreseeable future.

Section 2. The City Council of Homer, Alaska, appreciates the difficult work of the Administration to put forth one possible comprehensive fiscal solution; and while the (Community Name) may not support every aspect of this plan, does recognize it as an appropriate starting point for legislative deliberation.

Section 3. The City Council of Homer, Alaska, insists that the Alaska State Legislature engage in meaningful discussions of all fiscal options without regard to perceived negative political fallout.

Section 4. The Homer City Clerk is instructed to transmit a copy of this resolution to every member of the Alaska State Legislature, the Governor, and all local and statewide media outlets.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 25th day of January, 2016.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A



NEW SUSTAINABLE ALASKA PLAN

Vision

To preserve jobs and provide opportunities for all Alaskans, now and in future generations, by establishing a stable and enduring fiscal framework.

Introduction

Alaska faces a period of fiscal uncertainty unrivaled in state history. In the current fiscal year, unrestricted general fund revenue will cover only 40 percent of the budget, leaving a \$3.4 billion gap between spending and revenue – despite a 35 percent reduction in state spending since 2013.

Even under optimistic assumptions, neither oil prices nor North Slope production are expected to increase sufficiently to make up for these large revenue shortfalls. Government cost reductions are required, but cuts alone cannot balance the budget. The Legislature’s fiscal analysts noted that we could lay off every state employee and it would still not close the budget gap.

If the status quo budgeting approach continues, savings from the state’s Constitutional Budget Reserve (CBR) will be required to cover the gap. At current and projected oil prices, these savings will be depleted by the end of fiscal year 2018. At that point the Permanent Fund Earnings Reserve would be needed to address the ongoing shortfall. The Earnings Reserve could last for a couple more years, and then when that fund is depleted, dividend payments would stop, and all that would remain is the Permanent Fund principal. The status quo must be avoided as it will deplete our savings, end the dividend program, and threaten the Permanent Fund itself.

This grave situation resulted in the Standard and Poor’s Rating Service revising Alaska’s credit rating outlook to negative on August 18, 2015 and calling on lawmakers to address the state’s structural deficit. The agency warned:

We expect that if lawmakers do not enact significant fiscal reforms to reduce the imbalance within the next year, the state’s rating could begin transitioning downward. The rating migration lower would likely persist and accelerate if lawmakers continued to fail to act.

A credit downgrade would increase the state’s cost of borrowing, driving up state and municipal costs when we can least afford it, it would make the natural gas pipeline project much more expensive, and it would create an overall chilling effect on investment statewide.

Most of Alaska's state revenue comes from development of our oil resources. State spending historically trends up or down in correlation with this revenue, which is largely dependent on global crude oil prices. This dependence on volatile revenue hinders Alaska's long-term prosperity by:

- Putting the state's savings at risk of rapid depletion in a prolonged low-oil-price environment;
- Making it difficult to plan program or project budgets over time, thereby compromising the efficiency, effectiveness, and reliability of government services; and
- Creating economic uncertainty that has a harmful effect on commercial investment.

Our current fiscal challenge is in large part a product of this overreliance on a volatile revenue stream.

Fortunately, Alaska has great strengths. We have built prodigious savings. We have tremendous resource wealth in the ground. The U.S. Chamber of Commerce Foundation ranked Alaska second in the nation for business climate. And our individual tax burden is one of the lowest in the nation. We certainly have the tools to solve our budget challenge, we only need to acknowledge the problem and muster the courage to act.

This summary document introduces a path to long-term fiscal stability. By necessity, implementing this plan includes new and politically difficult actions. The Walker-Mallott administration therefore welcomes a full vetting by the Legislature and the public as we reach for a common goal – a truly sustainable, balanced budget.

Background: Sovereign Wealth Approach

The sovereign wealth approach, in simplest terms, uses very large financial assets in a calculated, formulaic, sustainable way, to provide a stable source of revenue. This concept is successfully being used around the world.

Economists have observed that among major oil-producing nations that use this approach, those that can best weather low oil prices share several characteristics:

- They have very large savings accounts - or sovereign wealth funds;
- Spending from such funds is governed by a respected rule-based framework; and
- Fund assets are invested by independent authorities with appropriate government oversight.

Kuwait and Abu Dhabi, with breakeven oil prices of \$54 and \$55 per barrel respectively, use a successful sovereign wealth framework. Alaska's breakeven oil price – the minimum oil price needed to balance the budget – is currently over \$109, in line with other jurisdictions that use a more ad-hoc fiscal system.

Because our predecessors had the foresight to create the Alaska Permanent Fund; we now have the capacity to transform our nonrenewable oil resources into a renewable resource – income generating savings. We have reached that crossover point in our history where our savings are now generating more income than our oil. But to make this transformation we must restructure the fiscal framework of our state to maximize the power of our growing financial assets.

Strategy

The New Sustainable Alaska Plan calls for action on four fronts:

- Reduce government spending;
- Support key investments for Alaska’s future;
- Use the Permanent Fund consistent with a sovereign wealth approach; and
- Adjust existing taxes and implement a modest broad-based tax.

Action is required in the 2016 legislative session to avoid a potential credit downgrade and loss of flexibility as our reserves diminish. None of these steps will require a constitutional amendment.

Reduce Government Spending

First and foremost, Alaskans must establish a lean spending plan and scrutinize all operations and programs to ensure cost-effective delivery of public services. We have already begun. State general fund spending has decreased 35 percent since FY13, from \$8 billion to \$5 billion. The current-year budget alone (FY16) implements agency operating reductions of \$400 million (10%) and resulted in approximately 600 fewer state employees.

The FY17 budget proposes another \$100 million in agency operating cuts and we will continue to seek efficiencies within existing programs and to conduct the due diligence necessary to propose other transformational change. This plan also calls for the modification of the state’s oil and gas tax credit system to reduce those expenditures, while honoring existing claims and continuing to provide meaningful development assistance.

As we continue these efforts to reduce spending, we must take the time necessary to allow for a thoughtful, collaborative and open process to avoid unintended consequences or harm to Alaskans and our economy.

Action items:

- Reduce agency operating costs;
- Evaluate privatization of some government services;
- Implement cross agency efficiency initiatives to improve services and reduce costs; and
- Reform the oil and gas tax credit system to reduce state expenditures, reward Alaskan hire, and build a new system of direct loans.

Support Key Investments for Alaska's Future

We must maintain our strategic commitment to key investments in Alaska's future. These include responsible capital spending to protect our existing infrastructure, and an effective system of public education to ensure the next generation is equipped to lead. In addition, we must invest in a natural gas pipeline project to ensure the earliest possible construction. Alaskans will benefit from the economic stimulus of pipeline pre-construction and construction jobs, and upon completion, revenue from the sale of Alaska's gas will return billions of dollars annually for decades. This legacy project will further strengthen the Permanent Fund and open opportunities for Alaska's future.

Action items:

- Vigorously pursue Alaska liquefied natural gas project;
- Establish a capital budget using general obligation bonds (2016 and 2018 general elections) to support only those funding requirements that would otherwise require cash payments, such as transportation matches and disciplined deferred maintenance investments.
- Re-introduce a sustainable general fund capital budget only after stabilizing the operating budget, and once it can be shown to be compatible with the performance of new revenue sources.

Transition to Sovereign Wealth Approach

The transition to this approach requires "re-plumbing" the flow of funding in the state's fiscal structure by diverting volatile resource revenue away from the state's annual budget and putting it directly into the Permanent Fund. This new revenue into our sovereign wealth account (Permanent Fund) will capture all future spikes in global commodity markets into our savings, rather than have it fund potentially inflated and unsustainable budgets. In contrast, this approach provides a stable and consistent withdrawal from the earnings of our sovereign wealth, based on carefully calculated formulas and reasonable assumptions. This allows the Permanent Fund to grow over time, while absorbing volatility of oil market price swings. This approach puts Alaska on a stable government spending allowance indefinitely, and for the first time permits long-term strategic budget planning.

Because the current size of the Permanent Fund is only marginally large enough to implement this plan and support a perpetual state spending allowance, the funding source for the annual dividend program needs to be "re-plumbed" as well; shifting it away from the Earnings Reserve to another source.

The dividend program is seen as Alaskans' share of the state's resource wealth. But the current dividend program is largely tied to the performance of global equity markets, not natural resource development. The New Sustainable Alaska Plan addresses this disconnect by tying dividends directly to the state's resource revenue. This is done by distributing a 50 percent share of annual natural resource royalty revenue as dividends to Alaskans each year. This is consistent with Alaska's owner-state constitutional principles. The proposal sets a 2016 transitional dividend at \$1000; but dividends are expected to remain in the \$1000 range going forward based on current

estimates of future royalty revenues. If resource development and associated revenues to the state increase (i.e. a gasline is built), dividends will also increase.

The remaining 50 percent of annual natural resource royalties and 100 percent of production tax revenue will go into the Permanent Fund. Investment earnings from that Fund will continue to flow to the Earnings Reserve as it does today. This Earnings Reserve, supplemented by a one-time deposit from the CBR, will provide a fixed and sustainable draw to the unrestricted general fund. Depositing a majority of the state's natural resource revenue into the Permanent Fund increases the fund's value over time, while shielding the state budget from annual revenue volatility. No money will be spent from the principal of the Permanent Fund, as it remains constitutionally protected.

Action items:

- Distribute 50 percent of royalty revenues as dividends to Alaskans on an annual basis;
- Deposit the balance of royalty revenues and other resource revenues into the Permanent Fund on an annual basis;
- Establish a calculated sustainable draw from the Earnings Reserve to the unrestricted general fund using a formula that accounts for new revenues going into the Permanent Fund and conservative earning projections; and
- Transfer approximately \$3 billion from the CBR into the Earnings Reserve on a one-time basis to provide the initial starting balance required to permit a meaningful sustainable draw.

Adjust and Implement Taxes

Reduced state spending and the sustainable use of our sovereign wealth are expected to cover most of the state's budget deficit. However, the revenue needed to close the remaining gap will require a balanced suite of targeted and broad based taxes; as well as cross-industry tax adjustments. Under this plan, everyone is being asked to participate, from the oil & gas, mining, fishing, and tourism industries; to everyday Alaskans, as well as the many non-residents who only work here (see Appendix A). Yet despite these changes, the tax burden on individual Alaskans will still remain among the lowest in the nation.

The New Sustainable Alaska Plan calls for an increase to alcohol, tobacco, and motor fuel taxes, and implementation of an individual income tax based on a percentage of federal tax liability. Implementation of this modest broad-based tax will also address a weakness in our current system by establishing a link between population and job growth – and the resulting demand for state services – and revenue. Industry based taxes can remain modest across the board, because the burden is being spread among all major sectors.

It is important to note that delaying implementation of the New Sustainable Alaska Plan beyond 2016 will force greater short-term use of the CBR and/or Earnings Reserve. This depletion of our

savings would permanently reduce the sustainable annual draw we can get from our sovereign wealth, and therefore increase the amount of revenue needed from taxes in the future.

Action items:

- Adjust targeted taxes on alcohol, tobacco and motor fuel;
- Implement statewide income tax as a percentage of federal tax liability; and
- Implement modest adjustments on cross-industry taxes.

Conclusion

As we move forward, our common interest must be to strengthen Alaska's future and ensure opportunity for all Alaskans, now and in future generations. The New Sustainable Alaska Plan provides a balanced path to long-term fiscal stability: it protects the economy, preserves dividends, and makes the Permanent Fund permanent. It enables the state to continue meeting its obligations – to protect the safety and health of Alaskans, provide quality education, and promote employment opportunities in a growing and increasingly diverse economy.

The future of this great state is in our hands. We look forward to working with lawmakers to set Alaska on a course for long-term prosperity. The time for bold and decisive action is now.

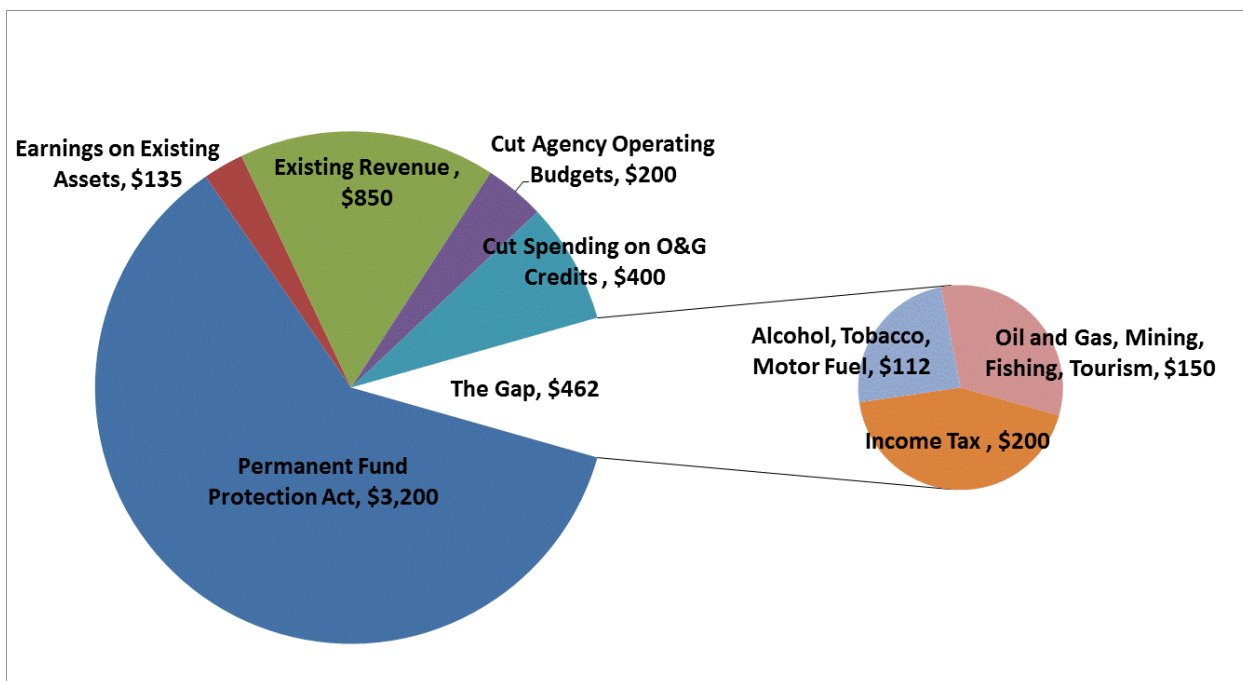
We ask you to take tomorrow and dream; we know that you will see visions we do not see.

-Alaska Constitutional Convention Delegates to future Alaskans, 1956

Appendix A

New Sustainable Alaska Plan Components (Millions of Dollars)

Existing Revenue	\$850
Alaska Permanent Fund Protection Act	\$3,200
Earnings on Other Savings	\$135
Mining (2% increase on top tax bracket)	\$12
Fishing (1% increased Surtax)	\$20
Tourism (Elimination of municipal cruise head tax exemption)	\$15
Motor Fuel (6.8 cent increase on jet fuel, 5.3 cent increase on general aviation; 5 cent increase on Marine; 8 cent increase on Highway)	\$45
Alcohol (10 cent increase per drink)	\$40
Tobacco (\$1/pack increase, includes E-Cigs)	\$27
Oil and Gas (Reduce amount spent on tax credits; harden floor & raise to 5%; add loan program)	\$500
Individual Alaskans; Income Tax (1.5% of average income – 6% of fed liability)	\$200



COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

