

**MEMORANDUM** 11-048

**TO: MAYOR AND COUNCIL MEMBERS**

**FROM: TOM KLINKNER**

**RE: REGULATION OF OUTDOOR STORAGE IN RESIDENTIAL ZONING DISTRICTS**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506,742.500**

**DATE: MARCH 22, 2011**

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The purpose of this memorandum is to aid the Council in reviewing Ordinance 11-03(A), by providing comparisons of storage regulations under the current Homer City Code, the Code amendments recommended by the Homer Advisory Planning Commission ("Commission"), and Ordinance 11-03, as amended by the Council. The first set of comparisons highlights changes affecting different types of storage use, and limitations on the lot area used for storage. The second set of comparisons summarizes the regulations governing outdoor storage in the Rural Residential, Urban Residential and Residential Office zoning districts under the current Code and each set of proposed amendments.

I also was asked at the March 14, 2011 Council meeting whether the Council's amendments were so extensive that the Council was required to return the amended ordinance to the Commission for further review. I conclude that the law does not mandate further review by the Commission, though the Council may seek such review if it desires to do so. While zoning code amendments must be subject to the Commission's review and recommendations, the Council "may eventually choose not to follow the recommendations" of the Commission.<sup>1</sup>

**I. Categories of Storage and Limitation of Area Used for Storage.**

**1. Fishing Gear.**

- Current Code describes as "personal"; current RO regulations limit to "occupant's"
- Planning Commission draft describes as "commercial."

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<sup>1</sup> *Griswold v. City of Homer*, 186 P.3d 558, 563 (Alaska 2008).

- Amended Ordinance 11-03 retains current RR regulations, uses “commercial” for UR, RO

**2. Motor Vehicles.**

- Current Code permits only one recreational vehicle, does not limit number of other motor vehicles; limits vehicle length to 36 feet.
- Planning Commission draft permits only five stored motor vehicles, including up to one recreational vehicle; a motor vehicle is “stored” and thus subject to the limit on the number of motor vehicles only if it is not moved for at least 240 consecutive days; no limit on stored motor vehicle length;
- Amended Ordinance 11-03 retains current RR regulations, does not limit number of stored motor vehicles in UR or RO

**3. Noncommercial Equipment other than Motor Vehicles.**

- Current Code provides that stored equipment and boats cannot exceed 36 feet in length.
- Planning Commission draft provides that stored equipment and boats cannot exceed 36 feet in length
- Amended Ordinance 11-03 retains current RR regulations, does not limit length of stored noncommercial equipment in UR or RO

**4. Area Limitations on Storage.**

- Current Code imposes no area limitation.
- Planning Commission draft limits area for all outdoor storage to 1500 square feet
- Amended Ordinance 11-03 retains current RR regulations, limits area for all outdoor storage in UR and RO to 1,500 square feet or 20%, whichever is greater, of total contiguous acreage held by a single property owner.

**II. Comparison of Storage Regulations.**

**1. Storage Uses under Current Code.**

- **Personal Fishing Gear in the RR and UR Districts; Occupant’s Personal Fishing Gear in the RO District.** HCC 21.12.020(j); 21.14.020(h), 21.16.020(k)
  - In a safe and orderly manner
  - Separated at least five feet from any property line
  - As an accessory use incidental to residential use in the RR and UR districts; As an accessory use incidental to a permitted or conditionally permitted use in the RO district

- **Noncommercial Equipment in the RR and UR Districts; Occupant's Noncommercial Equipment in the RO District.** HCC 21.12.020(k), 21.14.020(i), 21.16.020(l)
  - In a safe and orderly manner
  - Separated by at least five feet from any property line
  - As an accessory use incidental to residential use in the RR and UR districts; As an accessory use incidental to a permitted or conditionally permitted use in the RO district
  - Includes noncommercial trucks, boats and not more than one recreational vehicle (HCC 21.03.040 defines "Recreational vehicle" as "a vehicular unit, other than a manufactured home, that is designed and manufactured as temporary lodging for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle.")
  - No stored equipment, boat or vehicle may exceed 36 feet in length.

**2. Storage Uses under Commission Draft.**

- **Commercial Fishing Gear.** HCC 21.12.020(j), 21.14.020(h), 21.16.020(k)
  - In a safe and orderly manner
  - Separated at least five feet from any property line
  - Occupying an area (combined with other permitted outdoor storage) not exceeding 1,500 square feet per lot
  - As an accessory use incidental to a principal residential use in the RR and UR districts; As an accessory use incidental to a principal permitted or conditionally permitted use in the RO district
- **Motor Vehicles (if not moved for at least 240 consecutive days).** HCC 21.12.020(j), 21.14.020(h), 21.16.020(k)
  - In a safe and orderly manner
  - Separated at least five feet from any property line
  - Occupying an area (combined with other permitted outdoor storage) not exceeding 1,500 square feet per lot
  - As an accessory use incidental to a principal residential use in the RR and UR districts; As an accessory use incidental to a permitted or conditionally permitted use in the RO district
  - Not more than five motor vehicles, including not more than one recreational vehicle (HCC 21.03.040 defines "Recreational vehicle" as "a vehicular unit, other than a manufactured home, that is designed and manufactured as temporary lodging for travel,

recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle.”)

- **Noncommercial Equipment other than Motor Vehicles.** HCC 21.12.020(j), 21.14.020(h), 21.16.020(k)
  - In a safe and orderly manner
  - Separated by at least five feet from any property line
  - Occupying an area (combined with other permitted outdoor storage) not exceeding 1,500 square feet per lot
  - As an accessory use incidental to a principal residential use in the RR and UR districts; As an accessory use incidental to a principal permitted or conditionally permitted use in the RO district
  - Includes noncommercial boats and boat trailers
  - No stored equipment or boat may exceed 36 feet in length.

3. **Storage Uses under Council Amendments to Planning Commission Draft.**

- **RR District: Same as Current Code.**
- **UR and RO Districts:**
  - **Private Outdoor Storage.** HCC 21.12.020(j), 21.14.020(h), 21.16.020(k)
    - In a safe and orderly manner
    - Separated at least five feet from any property line
    - Occupying an area not exceeding 1500 square feet or 20%, whichever is greater, of the total contiguous acreage held by a single property owner
    - As an accessory use incidental to a principal residential use in the UR district; As an accessory use incidental to a principal permitted or conditionally permitted use in the RO district