

Bookmark Summary

[SR 19-50 Medical Clinics in the CBD dated June 5, 2019](#)

[HAPC Minutes excerpt June 5, 2019](#)

[SR 19-45 Medical Clinics dated May 15, 2019](#)

[HAPC Minutes excerpt May 15, 2019](#)



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 19-50

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: June 5, 2019
SUBJECT: Medical Clinics in the Central Business District (CBD)

Introduction

Prior to a technical code update in 2008, a medical clinic that did not dispense medication or sell merchandise would be permitted as a 'professional office' in the CBD. The change in the definition of 'professional office' in the 2008 technical code update produced an unintended consequence of excluding medical clinics in the CBD and only allowing the use as a conditional use in the Residential Office District (RO).

Analysis

The RO district was never intended to be an exclusive location of Medical clinics. Medical Clinics have a long history of providing services in the CBD. The Central Business district also supports retail sales and pharmacies. Medical Clinics, whether dispensing medicine or selling general merchandise, are an appropriate use in the CBD.

Staff Recommendation

Planning commission move to recommend the addition of 'Medical clinic' as a permitted use in the CBD to the Homer City Council.

Attachments

Draft Ordinance

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

3 Planning

4 **ORDINANCE 19-xx**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 AMENDING HOMER CITY CODE 21.18.020, CENTRAL BUSINESS
8 ZONING DISTRICT, ADDING MEDICAL CLINICS.
9

10 WHEREAS, the 2018 Homer Comprehensive Plan promotes a pattern of growth
11 characterized by a concentrated mixed-use center; and
12

13 WHEREAS, the Central Business District is a centrally located area for the provision of
14 professional services; and
15

16 NOW THEREFORE, THE CITY OF HOMER ORDAINS:
17

18 Section 1. Homer City Code 21.18.020 is hereby amended to read as follows:
19

20 21.18.020 Permitted uses and structures.
21

22 The following uses are permitted outright in the Central Business District, except when such
23 use requires a conditional use permit by reason of size, traffic volumes, or other reasons set
24 forth in this chapter:
25

26 a. Retail business where the principal activity is the sale of merchandise and incidental services
27 in an enclosed building;
28

29 b. Personal service establishments;
30

31 c. Professional offices and general business offices;
32

33 d. Restaurants, clubs and drinking establishments that provide food or drink for consumption
34 on the premises;
35

36 e. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
37

38 f. Hotels and motels;
39

40 g. Mortuaries;
41

- 42 h. Single-family, duplex, and multiple-family dwellings, including townhouses, but not
43 including mobile homes;
44
- 45 i. Floatplane tie-up facilities and air charter services;
46
- 47 j. Parks;
48
- 49 k. Retail and wholesale sales of building supplies and materials, only if such use, including
50 storage of materials, is wholly contained within one or more enclosed buildings;
51
- 52 l. Customary accessory uses to any of the permitted uses listed in the CBD district; provided,
53 that a separate permit shall not be issued for the construction of any detached accessory
54 building prior to that of the main building;
55
- 56 m. Mobile homes, provided they conform to the requirements set forth in HCC 21.54.100;
57
- 58 n. Home occupations, provided they conform to the requirements of HCC 21.51.010;
59
- 60 o. Ministorage;
61
- 62 p. Apartment units located in buildings primarily devoted to business or commercial uses;
63
- 64 q. Religious, cultural, and fraternal assembly;
65
- 66 r. Entertainment establishments;
67
- 68 s. Public, private and commercial schools;
69
- 70 t. Museums and libraries;
71
- 72 u. Studios;
73
- 74 v. Plumbing, heating and appliance service shops, only if such use, including the storage of
75 materials, is wholly within an enclosed building;
76
- 77 w. Publishing, printing and bookbinding;
78
- 79 x. Recreational vehicle parks only if located south of the Sterling Highway (Homer Bypass) from
80 Lake Street west to the boundary of the Central Business District abutting Webber Subdivision,
81 and from Heath Street to the west side of Lakeside Village Subdivision, provided they shall
82 conform to the standards in HCC 21.54.200 and following sections;
83

- 84 y. Taxi operation limited to a dispatch office and fleet parking of no more than five vehicles;
85 maintenance of taxis must be conducted within an enclosed structure, and requires prior
86 approval by the City Planner of a site, access and parking plan;
87
- 88 z. Mobile food services;
89
- 90 aa. Itinerant merchants, provided all activities shall be limited to uses permitted outright
91 under this zoning district;
92
- 93 bb. Day care homes and facilities; provided, however, that outdoor play areas must be fenced;
94
- 95 cc. Rooming house, bed and breakfast and hostel;
96
- 97 dd. Auto repair and auto and trailer sales or rental areas, but only on Main Street from Pioneer
98 Avenue to the Sterling Highway, excluding lots with frontage on Pioneer Avenue or the Sterling
99 Highway, subject to the following additional requirements: Vehicles awaiting repair or service,
100 inoperable vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be parked
101 indoors or inside a fenced enclosure so as to be concealed from view, on all sides. The fence
102 shall be a minimum height of eight feet and constructed to prohibit visibility of anything inside
103 of the enclosure. The portion of any vehicle exceeding eight feet in height may be visible
104 outside of the fence. Vehicle parts (usable or unusable), vehicle service supplies, and any other
105 debris created in the repair or servicing of vehicles shall also be stored indoors or inside the
106 fenced enclosure out of view of the public;
107
- 108 ee. Farmers' market;
109
- 110 ff. Dormitory;
111
- 112 gg. Financial institutions;
113
- 114 hh. As an accessory use, one small wind energy system per lot having a rated capacity not
115 exceeding 10 kilowatts;
116
- 117 ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal
118 single-family dwelling on a lot;
119
- 120 jj. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities
121 as defined by State
122
- 123 **kk. Medical clinics.**
124

125 Section 2: This ordinance is of a permanent and general character and shall be included in
126 the City Code.

127
128 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS ___ DAY OF _____,
129 2019.

130
131 CITY OF HOMER
132

133
134
135
136 _____
137 KEN CASTNER, MAYOR
138

139 ATTEST:

140
141 _____
142 MELISSA JACOBSEN, MMC, CITY CLERK
143

144
145
146 YES:

147 NO:

148 ABSTAIN:

149 ABSENT:

150
151
152 First Reading:

153 Public Hearing:

154 Second Reading:

155 Effective Date:

156
157 Reviewed and approved as to form:
158

159
160 _____
161 Mary K. Koester, City Manager

160 _____
161 Holly Wells, City Attorney

162
163 Date: _____

162
163 Date: _____

Hearing no further questions, Chair Venuti requested a motion.

SMITH HIGHLAND MOVED TO ADOPT STAFF REPORT 19-49 RETRACT FINDING #7 AND REPLACE WITH SUPPLEMENTAL FINDINGS 1 AND 2 AND SUPPLEMENTAL CONDITION 1.

There was a brief dialog on the desire to comment on Mr. Lund's points raised in his letter. It was noted that only if it was pertinent to the discussion. There was no further discussion or comment.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Staff Report 19-50, An ordinance of the Homer City Council to add "Medical Clinic" as a permitted use in the Central Business Zoning District.

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-50 noting the error in the 2008 rewrite of the Homer City Code regarding the definition of professional office excluded "medical clinics" in the Central Business Districts.

Chair Venuti opened the Public Hearing.

Ken Castner, city resident, commented on the timing being appropriate for the Commission to explore deeper commenting on the issues that came up tangentially with Set Free and the comments received that if Set Free were going to have medically assisted procedures such as administering a shot then it was alleged that they should be in the area up near the hospital or in the zone that doesn't exist; and that could be addressed to a broader scope than just clinics, it could be applied to rehab facilities or long term care facilities or things like that. It is a bit broader than what the Planner has indicated because it also could have something to do with the ability to do medical assistance which could be tied to the hospital.

Chair Venuti closed the public hearing and opened the floor to questions from the Commission. Hearing no questions from the commission he requested a motion.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT 19-50 AND FORWARD THE DRAFT ORDINANCE TO ADD MEDICAL CLINIC AS A PERMITTED USE IN THE CENTRAL BUSINESS DISTRICT TO CITY COUNCIL.

Brief comment was made on it being a good decision to get ahead of this issue.

↑
VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

A. Staff Report 19-51, A. A. Mattox 2019 Preliminary Plat

Chair Venuti introduced the item by reading of the title into the record.

City Planner Abboud reviewed Staff Report 19-51 for the Commission and public present.

There was no applicant present.

Chair Venuti opened public comment.

Kim Seymour, property owner of adjacent Lot 22 expressed concerns regarding flooding and drainage that exist when it rains and noted that it can get up to three feet deep in some areas depending on the amount of rain. He explained the flooding in the previous 33 years that he has resided in his residence and added that while he supports development consideration should be afforded the neighboring properties.

Chair Venuti closed the public comment period seeing no one coming forward from the audience and opened the floor to questions from the Commission.

City Planner Abboud responding to questions regarding soil and water displacement from the Commission noted that a Master Stormwater Plan would address these issues, development will displace water and a plan will be needed to address that drainage and they will have to contact the Army Corps of Engineers regarding permits. He expressed concern with what may be proposed to develop there. He was surprised to learn that the drainage goes in that direction as it was assumed it flowed the other direction. This is a preliminary plat and the City is an advisory authority to the Borough and commenting on their codes. This is a development issue.

Commissioner Bos commented on the “if” and “when” of progress on development for this property.

Commissioner Petska-Rubalcava questioned if the Commission has the capacity to suggest or require a drainage easement. This may assist in the application to the Army Corps of Engineers.

City Planner Abboud responded that they could recommend that a drainage easement to facilitate better development.



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 19-45

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
DATE: May 15, 2019
SUBJECT: Medical clinics

Introduction

After examining code consistencies, I have found that the term “medical clinic” is not appropriately provisioned throughout code.

Analysis

The term “medical clinic” is only found in code in the Residential Office District (RO). When it is listed as a use, it has been paired with hospital as in HCC 21.16.030(d), Hospitals and medical clinics. Further research finds that the word “medical” is not defined, but “clinic” is defined as follows; “*Clinic*” means a **professional office** with facilities for providing **outpatient medical, dental or psychiatric services**, which **may** include as incidental to the principal use a dispensary to handle medication and other merchandise prescribed by occupants in the course of their professional practices.

This definition is the culmination of several other definitions including the following:

“Office, professional” means an **office** maintained and operated for the conduct of a professional business or occupation requiring the practice of a learned art or science through specialized knowledge based on a degree issued by an institute of higher learning, including but not limited to medicine, dentistry, law, architecture, engineering, accounting, and veterinary medicine. General business office and clinic are excluded.

“Office” means a physical location designed for, or used as, the office of professional, business, administrative, institutional, charitable, **personal service** or public organizations or persons, but does not include direct retail or wholesale sale of goods except for those sales that are clearly incidental to the principal office use.

“Personal service” means a business primarily engaged in providing services involving the care of an individual or his or her personal goods or apparel.

As one goes through the progression, you may see that “office, professional” includes offices including (but not limited to) medicine and dentistry. I do not believe I have seen a medical office that does not provide what might be considered an outpatient procedure as described in clinic. Prior to this definition, these practices were permitted under the term, professional office.

It looks as though the source of this issue may have been an unintended consequence of our 2008 technical code update. Previously the definition of clinic was; *“Clinic” means a building or portion thereof containing offices and facilities for providing medical, dental or psychiatric services, **including** a dispensary to handle medication and other merchandise prescribed by occupants in connection with their medical practices.*

Additionally, professional office also underwent a transition in the 2008 code update. It was defined as follows; *“professional office” means an office which is maintained and operated for the conduct of a professional business or occupation requiring the practice of a learned art or science through specialized knowledge based on a degree issues by an institute of higher learning, including but not limited to medicine, dentistry, law, architecture, engineering, accounting, and veterinary medicine.*

These definitions would not have excluded professional office from permitting a medical practice in the CBD unless it also dispensed medication and other merchandise prescribed by occupants in connection with their medical practice.

The issue about the way this is currently positioned in code is that once a term is listed as a use in a district, it becomes prohibited from a use in any district where it is not listed. This is very problematic as it prohibits clinics in the CBD and modifies the practice (what I assume was the intent) of just requiring a medical practice to obtain a CUP in RO, **only** if they dispense medication. Support is not found in the current or past comprehensive plans for the concept that medical clinics should only be provisioned in the RO district.

The Central Business District (CBD) has traditionally housed medical clinics as defined. The purpose of the CBD is as follows, *The purpose of the Central Business District is primarily to provide a centrally located area within the City for general retail shopping, personal and **professional services**, educational institutions, entertainment establishments, restaurants and other business uses listed in this chapter. The district is meant to accommodate a mixture of residential and nonresidential uses with conflicts being resolved in favor of nonresidential uses. Pedestrian-friendly designs and amenities are encouraged.* Medical clinics in the CBD were and have been considered a professional service and not put into the more restrictive medical clinic definition. Additionally, the CBD supports several businesses that dispense medicine as a retail business.

There are perhaps several ways to address the issue. Maybe the cleanest way is to give consideration to eliminating the definition of medical clinic. Medical clinics in the RO would be relegated to getting a CUP once they crossed 8,000 square feet or when building area exceeded 30% of the lot area. According to the purpose of the district, a professional office would generally be restricted in sales that are incidental to the provision of authorized services. In CBD, there seems to be no reason to restrict retail sales, as they are allowed outright. Other options include CUP for non-residential uses of a particular size in RO or the inclusion of medical clinics as a permitted use in the CBD. If “medical clinic” is kept as a definition, I do believe that it needs modification, as it fell much more far reaching for the purpose of CUP’s in RO than is necessary. Every house conversion to a medical use does not necessary warrant a CUP. RO is expected to routinely support the listed business uses which are in scale with housing options including multi-family.

Staff Recommendation

Discuss and make recommendation to move forward.

Chari Venuti called for a recess at 7:58 p.m. The meeting was called back to order at 8:03 p.m.

PENDING BUSINESS

A. Staff Report 19-44, Building Height Maximum in the East End Mixed Use District

Chair Venuti introduced the item into the record by reading of the title.

City Planner Abboud commented on the height limitation and noted that the Staff can relay any questions to Fire Chief Purcell. He can ask if there is any other concerns that the Fire Department may have. He continued by stating that it could be permitted outright at 8000 square feet and as far as addressing viewshed they are not worried about that; if there is any other concerns outside of aesthetics, setbacks he requested input from the Commission. City Planner Abboud acknowledged the requirement for stormwater plan. He requested any additional concerns from the Commission.

Commissioner Smith commented on some recent research he conducted on steel buildings and believed if they stayed away from 1950s style shed buildings and require sprinklered buildings and complied as much as possible with the Comprehensive Plan it would be beneficial. He believed the Police Station did a pretty good design.

City Planner Abboud responded that he appreciates the sentiment and by the requirement of a metal building could not picture the aesthetics that could be employed.

The Commission discussed what type of design standards they could apply to the district and questioned whether it should be permitted outright or require a conditional use permit so it does come before the Commission to make the public aware of the project. They also discussed keeping it to one floor, not multi floored buildings; fire marshal requirements and the occupancy of the building information can be researched and brought back and the concern expressed by Fire Chief Purcell on working around the occupancy requirements.

Chair Venuti inquired if City Planner Abboud would like a motion.

City Planner Abboud stated that if they agree by consensus for him to bring back draft language regarding 70 height limitation he was good with that.

The Commission expressed by consensus the desire to have draft language at the next meeting.

NEW BUSINESS

A. Staff Report 19-45, Medical Clinic in the Central Business District

Chair Venuti introduced the item by reading of the title.



City Planner Abboud reviewed Staff Report 19-45 explaining that in a technical rewrite of the Homer City Code in 2008 there was inadvertently a change in the definition of medical clinic. He would like to get something on the books right now that allows clinic in CBD out right and they can leave the size requirements, etc., to the CUP process. Currently only professional office is allowed and this does not allow medical clinics. They can then permit medical clinic outright.

City Planner Abboud brought forth points on medical clinics in the Residential Office district. He responded to a question on the ramifications to eliminating the term medical clinic would result in the requirement to make amendments to Professional Office. He commented on an instance when at one time there was a dispensary or pharmacy in the RO. The district was changed to RO because of demand and if the need is there the demand will grow and sometime in the future will change to possibly CBD because of the changes in the nature of the district.

Commissioner Banks reiterated the need for the change in the CBD by having the commission make a motion on amending City Code to add allowing Medical Clinics in the CBD and outlining the process that would be required to effect that change. He questioned if the Commission could address the medical district overlay at the same time.

City Planner Abboud explained that the Commission will have to follow the process on the remand first and appeal if that happens before addressing those changes.

Commissioner Highland pointed out that they would have to have a public hearing at the next meeting then it would go to City Council and they would not approve it until their meeting in July.

HIGHLAND/BANKS MOVED TO ADD MEDICAL CLINIC TO THE CENTRAL BUSINESS DISTRICT AS A PERMITTED USE.

There was a brief discussion on the amendment being the most reasonable.

VOTE. NON-OBJECTION. UANIMOUS CONSENT.

Motion carried.

B. Staff Report 19-46, Sign Ordinance

Chair Venuti introduced the item by reading of the title.

City Planner Abboud stated that he appreciated the work done by Dr. Richardson and advocacy on the recommendations that were proposed. He acknowledged the difficulties with the