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9/23/13

CITY OF HOMER  
HOMER, ALASKA

Mayor/City Manager

ORDINANCE 13-37

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,  
ALASKA, AMENDING THE DEFINITION OF  
"DISCONTINUED" IN HOMER CITY CODE 21.61.015,  
DEFINITIONS, TO EXCLUDE FROM THE TIME FOR WHICH  
A NONCONFORMING USE MAY CEASE THE TIME FROM  
THE DEATH OF ITS OPERATOR UNTIL THE USE IS  
LEGALLY AVAILABLE FOR TRANSFER TO A SUCCESSOR  
OPERATOR.

WHEREAS, The City's zoning code permits the continuation of a lawful nonconforming use subject to limitations; and

WHEREAS, One such limitation is that the right to maintain a nonconforming use terminates when the use ceases and has not substantially resumed for a period of 12 consecutive months; and

WHEREAS, This 12-month limit on the time a nonconforming use may cease can result in an unfair forfeiture when the nonconforming use ceases because of the death of its operator, and the use is not legally available for transfer to a successor operator; and

WHEREAS, It is in the best interest of the City when a nonconforming use ceases because of the death of its operator to exclude from the 12-month limit on the time the nonconforming use may cease the time from the death until the use is legally available for transfer to a successor operator.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The definition of "Discontinued" in HCC 21.61.015, Definitions, is hereby amended to read as follows:

"Discontinued" means that a nonconforming use has ceased, and has not substantially resumed, for a period of 12 consecutive months, regardless of intent; **provided that when a nonconforming use ceases because of the death of its operator the time the nonconforming use has ceased shall not include the time from the death until the use is legally available for transfer to a successor operator.**

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

46 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of  
47 \_\_\_\_\_, 2013.

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CITY OF HOMER

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MARY E. WYTHE, MAYOR

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ATTEST:

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JO JOHNSON, MMC, CITY CLERK

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YES:

NO:

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ABSTAIN:

ABSENT:

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First Reading:

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Public Hearing:

Second Reading:

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Effective Date:

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Reviewed and approved as to form.

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Walt Wrede, City Manager

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Thomas F. Klinkner, City Attorney

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

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

[Added language underlined. ~~Deleted language stricken through.~~]