

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

City Clerk

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4 **ORDINANCE 13-17(S)**

5  
6 AN ORDINANCE OF THE CITY OF HOMER, ALASKA, MAKING  
7 TECHNICAL CORRECTIONS TO THE HOMER CITY CODE BEFORE ITS  
8 REPUBLICATION BY CODE PUBLISHING, INC.  
9

10 WHEREAS, Code Publishing, Inc. has performed a legal analysis of the current Homer  
11 City Code, that has identified Code provisions that require technical correction before the  
12 republication of the Code; and  
13

14 WHEREAS, It is desirable that the technical corrections identified by Code Publishing,  
15 Inc. be adopted before the Code republication to assure that the republished Code is as accurate  
16 and current as possible.  
17

18 NOW, THEREFORE, THE CITY OF HOMER HEREBY ORDAINS:  
19

20 Section 1. Subsection (c) of Homer City Code 1.16.040, Disposition of Scheduled  
21 Offenses—Fine Schedule, is amended to read as follows:  
22

23 (c) The following violations of this code are amenable to disposition without court  
24 appearance upon payment of a fine in the amount listed below.  
25

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
<b><u>HCC 5.38.010</u></b>	<b><u>Feeding or baiting certain birds (first offense)</u></b>	<b><u>\$50</u></b>
<b><u>HCC 5.38.010</u></b>	<b><u>Feeding or baiting certain birds (second and subsequent offense)</u></b>	<b><u>\$200</u></b>
HCC 19.20.020	General rules	\$300
HCC 19.20.030	Park closure	\$150

26  
27 Section 2. Subsection (a) of Homer City Code 1.70.010, Created; Membership, is  
28 amended to read as follows:  
29

30 a. There shall be a City of Homer Public Arts Committee, hereinafter referred to as the  
31 Committee. The Committee shall consist of five members, who shall be appointed by the Mayor  
32 subject to confirmation by the City Council. Prior to making appointments, the Mayor may  
33 solicit nominations from the Pratt Museum, community arts groups, and the public. All members  
34 of the Public Arts Committee **should** ~~may~~ have a demonstrated interest and familiarity with arts

35 and culture, either through professional practice or volunteer work. When considering applicants,  
36 preference may be given to:

- 37 1. A working professional artist.
- 38 2. A person working in the public education community.
- 39 3. A City Council member.
- 40 4. A person with experience or training related to the arts, such as art history, or  
41 employment in fields such as architecture, education, curation, conservation, performing  
42 arts or visual arts.
- 43 5. A person representing the public at large.

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45 Section 3. Homer City Code 1.70.020, Terms of members; Vacancies, is amended to  
46 read as follows:

47  
48 1.70.020 Terms of members; Vacancies. a. Members of the Committee are appointed for  
49 two-year terms, with ~~two three~~-terms and ~~three four~~-terms commencing in alternate years.

50 b. A vacancy on the Committee is filled for the unexpired term by appointment by the  
51 Mayor subject to confirmation by the City Council.

52 c. The Committee may declare a vacancy in the office of a Committee member with three  
53 or more unexcused absences from successive regular and special meetings of the Committee.

54  
55 Section 4. Homer City Code 3.01.025, Deposit of money, is amended to read as follows:

56  
57 3.01.025 Deposit of money. Deposit of money. All money collected by departments of  
58 the City shall be deposited with the Finance Director/Treasurer within three working days after  
59 collection, ~~except that for~~ amounts less than \$100 **shall be deposited with the Finance**  
60 **Director/Treasurer, deposit Friday by 10:00 AM the following Friday.**

61  
62 Section 5. Homer City Code 3.05.005, Budget Assumptions, is amended to read as  
63 follows:

64  
65 3.05.005 Budget Assumptions. By the third Friday in September the City Manager shall  
66 present to the Council an overview of preliminary budget assumptions **for the next fiscal year**  
67 **of the City.** These preliminary assumptions will address by fund, revenue projections, tax and  
68 utility rates, program additions or deletions, wages and benefits, or other issues with potential  
69 impact on the City's overall financial condition.

70  
71 Section 6. Subsection (b) of Homer City Code 5.16.100, Overhead charge, civil  
72 penalties, is amended to read as follows:

73  
74 b. Whenever a nuisance is abated by the City, the owner of the property in question shall  
75 pay a civil penalty in addition to the actual costs and overhead charge. The civil penalty for  
76 abating a nuisance is \$300 for the first nuisance abated. For each subsequent nuisance that is  
77 abated by the City within two consecutive calendar years concerning property owned by the  
78 same person, the civil penalty shall be fifty percent of the cost of abatement or \$500, whichever  
79 is more, **but not exceeding \$1,000 per day that the nuisance has continued.** The civil penalty

80 shall be imposed without regard to whether the nuisances abated by the City involve the same  
81 real property or are of the same character.

82 Section 7. Homer City Code 5.38.060, Violations and penalties, is repealed.

83  
84 Section 8. Homer City Code 6.08.010, Flight to avoid arrest, is amended to read as  
85 follows:

86  
87 6.08.010 Flight to avoid arrest. No person **may avoid or attempt to avoid arrest by**  
88 ~~shall intentionally **evading** evade a **police** law officer following **the officer's** a request or~~  
89 ~~command **by words or signal** to stop. Such request may be made verbally or by signal.~~

90  
91 Section 9. Subsection (a) of Homer City Code 6.12.010, Definitions, is repealed and  
92 reenacted to read as follows:

93  
94 a. "Controlled substance" means a drug, substance, or immediate precursor included in  
95 the schedules set out in AS 11.71.140 – 11.71.190, as amended.

96  
97 Section 10. Subsection (b) of Homer City Code 6.12.010, Definitions, is amended to  
98 read as follows:

99  
100 b. "Drug paraphernalia" means all items, equipment, devices, products and materials of  
101 any kind which are used, or intended for use, in planting, propagating, cultivating, growing,  
102 harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,  
103 analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling,  
104 or otherwise introducing into the human body a controlled substance as defined herein. Drug  
105 paraphernalia includes, but is not limited to:

106 1. Kits used or intended for use in planting, propagating, cultivating, growing, or  
107 harvesting of any species of plant which is controlled substance or from which a  
108 controlled substance can be derived;

109 2. Kits used or intended for use in manufacturing, compounding, converting,  
110 producing, processing, or preparing controlled substances;

111 3. Isomerization devices used or intended for use in increasing the potency of any  
112 species of plant which is a controlled substance;

113 4. Testing equipment used or intended for use in identifying or in analyzing the  
114 strength, effectiveness or purity of controlled substances except for use by or under the  
115 direction of law enforcement agencies or medical research or treatment facilities;

116 5. Scales and balances used or intended for use in weighing or measuring  
117 controlled substances;

118 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, manite,  
119 dextrose and lactose, used or intended for use in cutting controlled substances;

120 7. Separation gins and sifters used or intended for use in removing twigs and  
121 seeds from, or in otherwise cleaning or refining, marijuana;

122 8. Blenders, bowls, containers, spoons and mixing devices used or intended for  
123 use in compounding controlled substances;

124 9. Capsules, balloons, envelopes and other containers used, intended for use, or  
125 designed for use in packaging small quantities of controlled substances;

126 10. Containers and other objects used or intended for use in storing or concealing  
127 controlled substances;

128 11. Hypodermic syringes, needles and other objects used or intended for use in  
129 injecting, controlled substances into the human body;

130 12. Objects used or intended for use in injecting, inhaling, or otherwise  
131 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

132 i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or  
133 without screens, permanent screens, hashish heads, or punctured metal bowls;

134 ii. Water pipes;

135 iii. Carburetion tubes and devices;

136 iv. Smoking and carburetion masks;

137 v. Roach clips, meaning objects used to hold burning material, such as a  
138 marijuana cigarette, that has become too small or too short to be held in the hand;

139 vi. Miniature cocaine spoons, and cocaine vials;

140 vii. Chamber pipes;

141 viii. Carburetor pipes;

142 ix. Electric pipes;

143 x. Air-driven pipes;

144 xi. Chillums;

145 xii. Bongs;

146 xiii. Ice pipes or chillers;

147 In determining whether an object is drug paraphernalia, a court or other authority should  
148 consider, in addition to all other logically relevant factors the following:

149 1. Statements by the manufacturer, owner or by anyone in control of the object  
150 concerning its use;

151 2. Prior convictions, if any, of an owner, or of anyone in control of the object,  
152 under any state of federal law relating to any controlled substance;

153 3. The proximity of the object, in time and space, to a direct violation of **AS**  
154 **11.71.010 – 11.71.060, as amended** ~~AS 17.10 or AS 17.12;~~

155 4. The proximity of the object to controlled substance;

156 5. The existence of any residue of controlled substances on the object;

157 6. Direct or circumstantial evidence of the intent of an owner, or of anyone in  
158 control of the object, to deliver it to persons who he knows, or should reasonably know,  
159 intend to use the object to facilitate a violation of **AS 11.71.010 – 11.71.060, as amended**  
160 ~~AS 17.10 or AS 17.12~~; the innocence of an owner, or of anyone in control of the object,  
161 as to a direct violation of **AS 11.71.010 – 11.71.060, as amended** ~~AS 17.10 or AS 17.12~~;  
162 shall not prevent a finding that the object is intended for use as drug paraphernalia;

163 7. Instructions, oral or written, provided with the object concerning its use;

164 8. Descriptive materials accompanying the object which explain or depict its use;

165 9. National and local advertising concerning its use;

166 10. The manner in which the object is displayed for sale;

167 11. Whether the owner, or anyone in control of the object, is a legitimate supplier  
168 of like or related items to the community, such as a licensed distributor or dealer of  
169 tobacco products;

170 12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the  
171 total sales of the business enterprise;

- 172 13. The existence and scope of legitimate uses for the object in the community;  
173 14. Expert testimony concerning its use.

174  
175 Section 11. Homer City Code 7.04.023, State schedule of minor traffic offenses and bail  
176 forfeiture--Adopted, is amended to read as follows:

177  
178 7.04.023 State schedule of minor traffic offenses and bail forfeiture--Adopted. The City,  
179 pursuant to **AS 28.05.151** Chapter 76, SLA, 1987, adopts the schedule of minor traffic offenses  
180 and bail forfeiture amounts contained in Rule 43.1 of **the Alaska Rules of Administration**  
181 ~~Rules Governing the Administration of All Courts~~. A copy of Rule 43.1 is on file in the Office of  
182 the City Clerk, and is made a part of this section.

183  
184 Section 12. Footnote 1 to Homer City Code 7.06.100, Penalty and fine schedule, is  
185 deleted:

186  
187 ~~[1] All vehicles operated within the City of Homer shall comply with this chapter by~~  
188 ~~April 28, 2004.~~

189  
190 Section 13. Subsection (b) of Homer City Code 7.08.020, Stopping or parking--Where  
191 prohibited, is amended to read as follows:

192  
193 b. No parking shall be permitted on a City arterial, as defined in Section **21.03.040**  
194 ~~7.12.005 (a)~~.

195  
196 Section 14. Homer City Code 7.08.060, Violation--Penalty, is amended to read as  
197 follows:

198  
199 7.08.060 Violation--Penalty. Unless another penalty is expressly provided, the **penalties**  
200 ~~penalty~~ for violating provisions of this chapter are the same as those listed in the State of Alaska  
201 Traffic Bail Forfeiture Schedule pursuant to Rule 43.1 of the **Alaska Rules of Administration**  
202 ~~Administrative Rules of the Alaska Rules of Court~~ for **violations** ~~violation~~ of 13 AAC 02.340  
203 through **13 AAC 02.377** ~~13 AAC 02.337~~.

204  
205 Section 15. Subsection (h) of Homer City Code 7.20.030, Use of snowmachines, is  
206 amended to read as follows:

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208 7.20.030 Use of snowmachines. No person shall drive, operate, stop or move a  
209 snowmachine:

210 \* \* \*

211 h. Without having such snowmachine registered as provided for in **AS Chapter 28.39**  
212 ~~Section 5.30.010, Alaska Statutes;~~

213  
214 Section 16. The footnote to Homer City Code Chapter 8.04, Alcoholic Beverage  
215 Licenses, is amended to read as follows:

217 For statutory provisions authorizing municipalities to regulate alcoholic beverages ~~within~~  
218 ~~the scope of authority specified by state law, see AS 29.35.210; for provisions defining the scope~~  
219 ~~of municipal authority, see AS 04.21.010 AS 04.15.0780; for provisions authorizing municipal~~  
220 ~~protest of state licensing board decisions, see AS 04.11.480 AS 04.10.270.~~

221  
222 Section 17. HCC 8.11.010, Applicable state law incorporated, is amended to read as  
223 follows:

224  
225 8.11.010 Applicable state law incorporated. All statutes of the State of Alaska and any  
226 rules or regulations adopted by any state agency pertaining to public nuisances, food and food  
227 service establishments, public health and public sanitation applicable to a mobile food service,  
228 with particular reference but not limited to, Titles 17 and 18, Alaska Statutes, **as amended, and**  
229 **18 AAC 31.600, et seq.**, as amended, are incorporated by this reference as though fully set forth  
230 in this chapter.

231  
232 Section 18. Subsection (a) of HCC 9.16.100, Exemptions, is amended to read as follows:

233  
234 9.16.100 Exemptions. a. ~~Commencing January 1, 2009,~~ **Sales** sales of nonprepared food  
235 items from September 1st through May 31st of each year.

236  
237 Section 19. Subsection (b) of HCC 14.04.020, Connection--Required, is amended to read  
238 as follows:

239  
240 b. ~~After October 1, 1973, no~~ **No** person shall occupy and no person shall own, maintain  
241 or control any structure or premises used as a home, apartment, or other living quarters unless the  
242 structure is connected to the City sewer; nor, ~~after October 1, 1973,~~ shall any person occupy,  
243 maintain or control any structure or premises used for any commercial, industrial or business use  
244 unless the structure is connected to sewer; provided, however, that the provision of this  
245 subsection shall not apply if the existing sanitary facilities shall have been approved by the  
246 Alaska Department of Environmental Conservation as providing adequate disposal of wastes and  
247 continues to function as approved.

248  
249 Section 20. HCC 14.05.215, IWAN required for significant industrial users, is amended  
250 to read as follows:

251  
252 14.05.215 IWAN required for significant industrial users. No SIU may connect to or  
253 remain connected to the STW, or otherwise introduce or cause the entry of waste into the STW  
254 ~~after July 24, 1990,~~ without first obtaining an Industrial Wastewater Acceptance Notification  
255 (IWAN).

256  
257 Section 21. Subsection (b)(2) of HCC 14.05.220, Application for industrial wastewater  
258 acceptance, is amended to read as follows:

259  
260 2. The **2012 North American Industry Classification System (NAICS) Standard**  
261 **Industrial Classification (SIC) number of the SIU according to the SIC manual of the U.S.**  
262 **bureau of the Budget, 1972, as amended;**

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Section 22. Subsection (b) of HCC 18.20.010, Definitions, is amended to read as follows:

b. "Abandoned vehicle" is any vehicle, as defined by subsection (a), that has been discarded, left unattended, standing or parked in a public right-of-way upon or within 10 feet of the traveled portion of a highway or street, in excess of 48 hours; or that has been discarded, left unattended, standing or parked upon private property without the consent of the owner or person in charge of the property in excess of 24 hours; or that has been discarded, left unattended, standing or parked upon public property without the consent of the person in charge of the property for more than 30 days.

Section 23. HCC 18.28.080, Herring spawn covenant, is repealed.

Section 24. Footnote 1 to Homer City Code Chapter 19.08, Campgrounds, is deleted:

~~[1] For statutory provisions authorizing cities to provide and regulate recreational facilities, see A.S. 29.48.030(15).~~

Section 25. Subsection (b) of HCC 20.08.030, Nuisance animals, is amended to read as follows:

b. The owner of any animal shall not permit the same to defecate, dig upon or injure private property owned by another person or public property or a public thoroughfare.

Section 26. Subsection (b) of HCC 22.10.055, Underground utilities, is amended to read as follows:

b. All existing overhead utility wire or cable facilities, including, but not limited to, electric power, telephone, and telecommunications cables which shall, ~~April 14, 1987,~~ be relocated and/or which receive major modifications, shall be placed underground unless the utility obtains an exception pursuant to the provisions of subparagraphs e. and f. of this section. Major modifications shall not include reconductoring, reinsulating or in-kind replacement. The provisions of this subparagraph shall apply equally to the abandonment of pole lines except that if one utility abandons a pole line another existing utility which shares that pole line may buy the pole line and continue to use the pole line for the acquiring utility's cable facilities.

Section 27. Subsection (c) of HCC 22.10.055, Underground utilities, is amended to read as follows:

c. ~~After October 24, 2006,~~ all All extensions of utility wire or cable facilities including, but not limited to, electric power, telephone, and telecommunications cables for the purpose of providing such utility service to any land not served before that date by overhead cable facilities shall be installed only as provided by HCC Chapter 14.50.

308           Section 28. This Ordinance is of a permanent and general character and shall be included  
309 in the City Code.

310           ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 28<sup>th</sup>  
311 day of May 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, CMC, CITY CLERK

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AYES:

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NOES:

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ABSTAIN:

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ABSENT:

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First Reading:

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Public Reading:

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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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City Attorney

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

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