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8/9/21

**CITY OF HOMER
HOMER, ALASKA**

Planning Commission

ORDINANCE 21-41

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.18.020, CENTRAL BUSINESS DISTRICT; 21.24.020, GENERAL COMMERCIAL 1; 21.26.020, GENERAL COMMERCIAL 2; 21.27.020, EAST END MIXED USE; AND 21.62.020, 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 with or without a consumption endorsement; 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.

NOW, THEREFORE, 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.]

- 38 b. Personal service establishments;
- 39 c. Professional offices and general business offices;
- 40 d. Restaurants, clubs and drinking establishments that provide food or
- 41 drink for consumption on the premises;
- 42 e. Parking lots and parking garages, in accordance with
- 43 Chapter 21.55 HCC;
- 44 f. Hotels and motels;
- 45 g. Mortuaries;
- 46 h. Single-family, duplex, and multiple-family dwellings,
- 47 including townhouses, but not including mobile homes;
- 48 i. Floatplane tie-up facilities and air charter services;
- 49 j. Parks;
- 50 k. Retail and wholesale sales of building supplies and materials, only if
- 51 such use, including storage of materials, is wholly contained within one
- 52 or more enclosed buildings;
- 53 l. Customary accessory uses to any of the permitted uses listed in the
- 54 CBD district; provided, that a separate permit shall not be issued for the
- 55 construction of any detached accessory building prior to that of
- 56 the main building;
- 57 m. Mobile homes, provided they conform to the requirements set forth
- 58 in HCC 21.54.100;
- 59 n. Home occupations, provided they conform to the requirements of
- 60 HCC 21.51.010;
- 61 o. Ministorage;

- 62 p. Apartment units located in buildings primarily devoted to business or
63 commercial uses;
- 64 q. Religious, cultural, and fraternal assembly;
- 65 r. Entertainment establishments;
- 66 s. Public, private and commercial schools;
- 67 t. Museums and libraries;
- 68 u. Studios;
- 69 v. Plumbing, heating and appliance service shops, only if such use,
70 including the storage of materials, is wholly within an
71 enclosed building;
- 72 w. Publishing, printing and bookbinding;
- 73 x. Recreational vehicle parks only if located south of the
74 Sterling Highway (Homer Bypass) from Lake Street west to the
75 boundary of the Central Business District abutting Webber Subdivision,
76 and from Heath Street to the west side of Lakeside Village Subdivision,
77 provided they shall conform to the standards in HCC 21.54.200 and
78 following sections;
- 79 y. Taxi operation limited to a dispatch office and fleet parking of no
80 more than five vehicles; maintenance of taxis must be conducted within
81 an enclosed structure, and requires prior approval by the City Planner
82 of a site, access and parking plan;
- 83 z. Mobile food services;
- 84 aa. Itinerant merchants, provided all activities shall be limited
85 to uses permitted outright under this zoning district;
- 86 bb. Day care homes and facilities; provided, however, that outdoor play
87 areas must be fenced;

- 88 cc. Rooming house, bed and breakfast and hostel;
- 89 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 90 Main Street from Pioneer Avenue to the Sterling Highway,
- 91 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,
- 92 subject to the following additional requirements: Vehicles awaiting
- 93 repair or service, inoperable vehicles, vehicles for parts, and vehicles
- 94 awaiting customer pickup shall be parked indoors or inside a fenced
- 95 enclosure so as to be concealed from view, on all sides. The fence shall
- 96 be a minimum height of eight feet and constructed to
- 97 prohibit visibility of anything inside of the enclosure. The portion of any
- 98 vehicle exceeding eight feet in height may be visible outside of the
- 99 fence. Vehicle parts (usable or unusable), vehicle service supplies, and
- 100 any other debris created in the repair or servicing of vehicles shall also
- 101 be stored indoors or inside the fenced enclosure out of view of the
- 102 public;
- 103 ee. Farmers' market;
- 104 ff. Dormitory;
- 105 gg. Financial institutions;
- 106 hh. As an accessory use, one small wind energy system per lot having a
- 107 rated capacity not exceeding 10 kilowatts;
- 108 ii. One detached dwelling unit, excluding mobile homes, as
- 109 an accessory building to a principal single-family dwelling on a lot.
- 110 jj. Marijuana cultivation facilities, manufacturing facilities, retail
- 111 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
- 112 defined by State law;
- 113 kk. Medical Clinics

114 Section 2. Homer City Code Chapter 21.24 is amended as follows:

115 Section 21.24.020 Permitted uses and structures.

116 The following uses are permitted outright in the General Commercial 1
117 District, except when such use requires a conditional use permit by reason of
118 size, traffic volumes, or other reasons set forth in this chapter.

119 a. Air charter operations and floatplane tie-up facilities;

120 b. General business offices and professional offices;

121 c. Dwelling units located in buildings primarily devoted to
122 business uses;

123 d. Auto repair;

124 e. Auto and trailer sales or rental areas;

125 f. Auto fueling stations and drive-in car washes;

126 g. Building supply and equipment sales and rentals;

127 h. Restaurants, including drive-in restaurants, clubs and drinking
128 establishments;

129 i. Garden supplies and greenhouses;

130 j. Heavy equipment and truck sales, rentals, service and repair;

131 k. Hotels and motels;

132 l. Lumberyards;

133 m. Boat and marine equipment sales, rentals, service and repair;

134 n. Mortuaries;

135 o. Open air businesses;

136 p. Parking lots and parking garages, in accordance with
137 Chapter 21.55 HCC;

- 138 q. Manufacturing, fabrication and assembly
- 139 r. Publishing, printing and bookbinding;
- 140 s. Recreation vehicle sales, rental, service and repair;
- 141 t. Retail businesses;
- 142 u. Trade, skilled or industrial schools;
- 143 v. Wholesale businesses, including storage and distribution services
144 incidental to the products to be sold;
- 145 w. Welding and mechanical repair;
- 146 x. Parks and open space;
- 147 y. Appliance sales and service;
- 148 z. Warehousing, commercial storage and mini-storage;
- 149 aa. Banks, savings and loans, credit unions and other financial
150 institutions;
- 151 bb. Customary accessory uses to any of the permitted uses listed in the
152 GC1 district; provided, that no separate permit shall be issued for the
153 construction of any type of accessory building prior to that of the main
154 building;
- 155 cc. Dry cleaning, laundry, and self-service laundries;
- 156 dd. Taxi operation;
- 157 ee. Mobile food services;
- 158 ff. Itinerant merchants, provided all activities shall be limited
159 to uses permitted outright under this zoning district;
- 160 gg. Recreational vehicle parks, provided they shall conform to the
161 standards in Article II of Chapter 21.54 HCC;

- 162 hh. Day care homes; provided, that a conditional use permit was
163 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play
164 areas must be fenced;
- 165 ii. Rooming house and bed and breakfast;
- 166 jj. Dormitory;
- 167 kk. As an accessory use, one small wind energy system per lot.
- 168 ll. Marijuana cultivation facilities, manufacturing facilities, retail
169 facilities, and testing facilities, **and consumption endorsement** as
170 defined by state law.

171
172 Section 3. Homer City Code Chapter 21.26 is amended as follows:

173 Section 21.26.020 Permitted uses and structures.

174 The following uses are permitted outright in the General Commercial 2
175 District, except when such use requires a conditional use permit by reason of
176 size, traffic volumes, or other reasons set forth in this chapter:

- 177 a. Production, processing, assembly and packaging of fish, shellfish and
178 seafood products;
- 179 b. Construction, assembly and storage of boats and boat equipment;
- 180 c. Manufacture and assembly of pottery and ceramics, musical
181 instruments, toys, novelties, small molded products, electronic
182 instruments and equipment and electrical devices;
- 183 d. Research and development laboratories;
- 184 e. Trade, skills or industrial schools;
- 185 f. Publishing, printing and bookbinding facilities;

- 186 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
187 rentals, service and repair, excluding storage of vehicles or equipment
188 that is inoperable or in need of repair;
- 189 h. Storage and distribution services and facilities, including truck
190 terminals, warehouses and storage buildings and yards, contractors'
191 establishments, lumberyards and sales, or similar uses;
- 192 i. Airports and air charter operations;
- 193 j. Underground bulk petroleum storage;
- 194 k. Cold storage facilities;
- 195 l. Parking lots and parking garages, in accordance with
196 Chapter 21.55 HCC;
- 197 m. Mobile commercial structures;
- 198 n. Accessory uses to the uses permitted in the GC2 district that are
199 clearly subordinate to the main use of the lot or building, such as
200 wharves, docks, restaurant or cafeteria facilities for employees; or
201 caretaker or dormitory residence if situated on a portion of the
202 principal lot; provided, that separate permits shall not be issued for the
203 construction of any type of accessory building prior to that of the main
204 building;
- 205 o. Taxi operation;
- 206 p. Mobile food services;
- 207 q. Itinerant merchants, provided all activities shall be limited
208 to uses permitted outright under this zoning district;
- 209 r. Recreational vehicle parks, provided they shall conform to the
210 standards in Chapter 21.54 HCC;
- 211 s. Hotels and motels;

- 212 t. Dormitory;
- 213 u. As an accessory use, one small wind energy system per lot;
- 214 v. Open air business.
- 215 w. Marijuana cultivation facilities, manufacturing facilities, retail
- 216 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
- 217 defined by state law.

218 Section 4. Homer City Code Chapter 21.27 is amended to read as follows:

219
220 Section 21.27.020 Permitted uses and structures.

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222 The following uses are permitted outright in the East End Mixed Use
223 District, except when such use requires a conditional use permit by reason of
224 size, traffic volumes, or other reasons set forth in this chapter:

- 225 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
- 226 rentals, service and repair;
- 227 b. Drive-in car washes;
- 228 c. Building supply and equipment sales and rentals;
- 229 d. Garden supplies and greenhouses;
- 230 e. Boat and marine equipment sales, rentals, manufacturing, storage
- 231 yard, service and repair;
- 232 f. Welding and mechanical repair;
- 233 g. Restaurants, including drive-in restaurants, clubs and drinking
- 234 establishments;
- 235 h. Religious, cultural, and fraternal assembly;
- 236 i. Studios;
- 237 j. Personal services;
- 238 k. Agricultural activities, including general farming, truck farming,
- 239 nurseries, tree farms and greenhouses;
- 240 l. Private stables;
- 241 m. Storage of heavy equipment, vehicles or boats;
- 242 n. Plumbing, heating and appliance service shops;
- 243 o. Home occupations on a lot whose principal permitted use is
- 244 residential, provided they conform to the requirements of HCC 21.51.010;
- 245 p. Mortuaries and crematoriums;
- 246 q. Open air businesses;
- 247 r. Parking lots and parking garages, in accordance with Chapter 21.55
- 248 HCC;
- 249 s. Manufacturing, fabrication and assembly;
- 250 t. Retail businesses;

- 251 u. Trade, skilled or industrial schools;
252 v. Wholesale businesses, including storage and distribution services
253 incidental to the products to be sold;
254 w. Parks and open space;
255 x. Warehousing, commercial storage and mini-storage;
256 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b)
257 and (c);
258 z. Dry cleaning, laundry, and self-service laundries;
259 aa. Mobile food services;
260 bb. As an accessory use, one small wind energy system per lot;
261 cc. Production, processing, assembly and packaging of fish, shellfish and
262 seafood products;
263 dd. Research and development laboratories;
264 ee. Storage and distribution services and facilities, including truck
265 terminals, warehouses and storage buildings and yards, contractors'
266 establishments, lumberyards and sales, or similar uses;
267 ff. Cold storage facilities;
268 gg. Mobile commercial structures;
269 hh. Single-family and duplex dwellings, only as an accessory use
270 incidental to a permitted principal use; provided, that no permit shall be
271 issued for the construction of an accessory dwelling prior to the
272 establishment of the principal use;
273 ii. The repair, replacement, reconstruction or expansion of a single-
274 family or duplex dwelling, including a mobile home, that existed lawfully
275 before its inclusion in the GC1, GC2 or EEMU zoning districts,
276 notwithstanding any provision of Chapter 21.61 HCC to the contrary;
277 provided, that a mobile home may not be used to replace or expand such
278 a dwelling;
279 jj. Customary accessory uses to any of the uses permitted in the EEMU
280 district that are clearly subordinate to the main use of the lot or building,
281 including without limitation wharves, docks, storage facilities,
282 restaurant or cafeteria facilities for employees; or caretaker or employee
283 dormitory residence if situated on a portion of the same lot as the
284 principal use; provided, that no permit shall be issued for the
285 construction of any type of accessory building prior to the establishment
286 of the principal use;
287 kk. Taxi operation;
288 ll. Itinerant merchants, provided all activities shall be limited to uses
289 permitted outright under this zoning district;
290 mm. More than one building containing a permitted principal use on a
291 lot;
292 nn. The outdoor harboring or keeping of dogs, small animals and fowl as
293 an accessory use to a residential use in a manner consistent with the

294 requirements of all other provisions of the Homer City Code and as long
295 as such animals are pets of the residents of the dwelling and their
296 numbers are such as not to unreasonably annoy or disturb occupants of
297 neighboring property.
298 oo. Marijuana cultivation facilities, manufacturing facilities, retail
299 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
300 defined by state law.
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302
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304 Section 5. Homer City Chapter 21.62 is amended as follows:
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306
307 21.62.010 Scope
308

309 a. This chapter applies to the operation of all marijuana cultivation,
310 manufacturing, retail, ~~and~~ testing facilities, **and consumption**
311 **endorsement as defined by state law** within the city boundaries.
312

313 b. This chapter in no way protects marijuana facilities from enforcement
314 of federal law nor is it intended to sanction conduct or operations
315 prohibited by law. All persons engaged in the marijuana industry within
316 the city operate at their own risk and have no legal recourse against the
317 City in the event that city laws are preempted, negated or otherwise
318 found unenforceable based upon federal law prohibiting the sale,
319 distribution, consumption or possession of marijuana.
320

321 Section 6. This ordinance shall take effect upon its adoption by the Homer City Council.
322

323 Section 7. This ordinance is of a permanent and general character and shall be included
324 in the City code.
325

326 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of
327 _____ 2021.
328

329 CITY OF HOMER
330

331 _____
332 KEN CASTNER, MAYOR

333 ATTEST:
334

335 _____
336 MELISSA JACOBSEN, MMC, CITY CLERK

- 337
- 338 YES:
- 339 NO:
- 340 ABSTAIN:
- 341 ABSENT:
- 342
- 343 First Reading:
- 344 Public Reading:
- 345 Second Reading:
- 346 Effective Date: