

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Port Director

RESOLUTION 25-056

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA APPROVING A SUBLEASE BETWEEN HAPPY FACE LLC AND SPITTOON LLC OCCUPYING A SECTION OF THE PARKING AREA IDENTIFIED AS FT #1 (DESIGNATED AS FOOD TRUCK PEDESTAL/AREA APPROX. 200 SQ FT) LOCATED ON THE PROPERTY ENTITLED T7S R13W SEC 1 SEWARD MERIDIAN HM 0890034 HOMER SPIT AMENDED LOT 32, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Happy Face, LLC is the tenant in good standing of a ground lease for the property at 4400 Homer Spit Road entitled T7S R13W Sec 1 Seward Meridian HM 0890034 Homer Spit Amended Lot 32; and

WHEREAS, Under HCC 18.08.140, subleases on City Property leases require approval of City Council; and

WHEREAS, Happy Face, LLC submitted a complete Sublease Application for the space FT #1, an area of approximately 200 square feet for Spittoon, LLC to park their Food Truck; and

WHEREAS, The proposed business aligns with the purpose in the prime lease, the business qualifications are sufficient, and the proposed use is in line with Marine Commercial zoning.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby approves a sublease between Happy Face, LLC and Spittoon, LLC occupying a section of the parking area identified as FT #1, located on the property entitled T7S R13W SEC 1 Seward Meridian HM 0890034 Homer Spit Amended Lot 32, and authorizes the City Manager to negotiate and execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 9th day of June, 2025.

CITY OF HOMER

RACHEL LORD, MAYOR

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44 ATTEST:

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48 _____
RENEE KRAUSE, MMC, CITY CLERK

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50 Fiscal Note: refer to Memorandum CC-25-159

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City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road

Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Sublease Application - Staff Review Checklist

Applicant (Primary Lease Holder) Information	
Lessee Name: Happy Face LLC	
Sublessee Information	
Business Name: Spittoon LLC – Food Truck	Primary Contact: Steve Nolan
Sublease Information	
Comments regarding description of the subleased premises: A corner of the parking areas is marked and being reserved for the placement of this Food Truck. Parking, vehicle operation and pedestrian traffic is unlikely to be disrupted by the placement of the unit.	
Authorized use is consistent with the authorized purpose in the primary lease: Yes <u>X</u> No__ Comments: The Food Truck will provide BBQ items to customers off the street as well as to the Spittoon – Red Table restaurant operating inside the Happy Face LLC building.	
The applicant's experience in the proposed business or venture is adequate: Yes <u>X</u> No__ Comments: Many years of experience. Fat Olives is another of their operations.	
Is information supporting the financial capability adequate? Yes <u>X</u> No__ Comments:	
Sublease contains an agreement to the terms and conditions of the primary lease. Yes <u>X</u> No__ Comment:	
Sublease includes a requirement that sublessee agrees to maintain insurance for sublessee's leasehold in the manner and form required under the primary lease and names the City of Homer as an additional insured. Yes <u>X</u> No__ Comment:	
The following documents (mark with Y, N or NA) have been provided: Business licenses (Y), KPB Tax Compliance Certification (Pending), Articles of Incorporation (pending), DEC (Y), Permits (List)_____, Other City, KPB and State required documents (List): Mobile Food is pending the COI document.	
Port and Harbor Staff Comments: Port and Harbor staff recommend Sublease approval. The Sublease will be operated by a well establish business and is likely to be of benefit to the community and the tourism industry operating on the Spit. Community Development Comments: Mobile Vendor documents are pending a Certificate of Liability Insurance. City Manager Comments:	
Recommended Action to City Council <input type="checkbox"/> N/A	
City Manager Signature: _____ Print Name: _____ Date: _____	



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Sublease Application

Applicant (Primary Lease Holder) Information

Lessee Name: HAPPY FACE LLC
Mailing Address: P.O. BOX 3147, HOMER, AK 99603
Phone Number(s): 907-235-8783
Email Address(es): swapa@swpilots.net or support@swpilots.net

Sublessee Information

Business Name: SPITTOON, LLC Primary Contact: STEVE NOLAN
Mailing Address: P.O. Box 297, Homer AK 99603
Phone number(s): 509-845-0051
Email Address(es): TLNOLANAK@GMAIL.COM

Sublease Information

Description of the subleased premises:

Sq ft: 200 Description: PARKING FOR FOOD TRUCK

Authorized use: (Must be consistent with authorized purpose in the primary lease.)

FOOD TRUCK

What is the applicant's experience in the proposed business or venture?

30 yrs Fat Olives, Cosmic
owning food establishments

What property improvements are planned as part of this sublease? (At least 30 days prior to construction, plans must be submitted to the Landlord for approval, and often an as-built is required once the work is complete. See your lease for additional requirements and details.)

N/A

Information supporting the financial capability or backing including a credit history, prior lease history, and assets that will be used to support the proposed business: (Attach supporting documents.)

Please contact

Erick Y. Jekuhv

FNB Homer Branch

Sublease includes a statement that the sublease is subject to all of the terms and conditions of the primary lease.

Initial: SN Sublease Section #: 40 (Attach sublease.)

Sublease includes a requirement that sublessee agrees to maintain insurance for sublessee's leasehold in the manner and form required under the primary lease and names the City of Homer as an additional insured.

Initial: SN Sublease Section #: 40

Business licenses, Permits, Articles of Incorporation, KPB Tax Compliance Certification and other documents providing evidence of compliance with City, Kenai Peninsula Borough and State of Alaska laws.

Initial: SN (Attach supporting documents.)

Additional Notes:

Sublease Application Signature Page

Primary Lease Holder Signature:

I hereby attest that, to the best of my knowledge, the information contained in this document is accurate, complete, and true.

Signature: [Signature]

Date: 23 May 25

Print Name: Steve Nolan

Title: owner

Page 1 of 2

John Stewart

Signed by:

[Signature]

D4478C8610FC486...

5/28/2025

CITY OF HOMER
CONSENT TO SUBLEASE

SAMPLE OF REQUIRED FORM TO BE SIGNED AFTER CITY APPROVAL

This CONSENT TO SUBLEASE ("**Consent**"), dated as of the [____] day of [____], 2025 (the "**Effective Date**"), is entered into among:

CITY OF HOMER, an Alaska municipal corporation, having an address at 491 E Pioneer Avenue, Homer, Alaska 99603 (the "**City**"), as landlord,

[TENANT NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE], having an address at [ADDRESS] ("**Tenant**"), as tenant; and

[SUBTENANT NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE], having an address at [ADDRESS] ("**Subtenant**"), as subtenant

(collectively referred to herein as the "**Parties**" or, individually, a "**Party**").

RECITALS

WHEREAS, the City is the owner of the land having an address of [_____] (KPB Tax Parcel No. [____]), and legally described as follows: [_____] (the "**Property**");

WHEREAS, the City and Tenant entered into that certain [TITLE] dated as of [_____] (the "**Primary Lease**"), pursuant to which the City leased to Tenant the Property;

WHEREAS, Tenant and Subtenant entered into a [SUBLEASE TITLE] (the "**Sublease**"), dated as of [____], pursuant to which Tenant subleased to Subtenant a portion of the Property, as shown on Exhibit A attached hereto and made a part hereof (the "**Subleased Premises**");

WHEREAS, Tenant has requested that City consent to Tenant subletting the Subleased Premises to Subtenant pursuant to the Sublease; and

WHEREAS, City has agreed to consent to the subletting on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Consent to Subletting. Subject to the satisfaction of the conditions set forth in Section 9, the City hereby consents to the subletting of the Subleased Premises by Tenant to Subtenant on the

terms and conditions set forth herein and as set forth in the Sublease, a true and correct copy of which is attached hereto as Exhibit B.

2. Sublease Subject and Subordinate to Primary Lease. The Sublease is subject and subordinate always to the Primary Lease. In the case of any conflict between the provisions of the Primary Lease and the provisions of the Sublease, the provisions of the Primary Lease will govern.

3. Tenant Not Released. Neither the Sublease nor this Consent releases or discharges Tenant from any covenants, duties, agreements, or liabilities under the Primary Lease. Tenant will remain liable and responsible for the full performance and observance of all the provisions, covenants, and conditions set forth in the Primary Lease on the part of Tenant to be performed and observed. Any breach or violation of any provisions of the Primary Lease by Subtenant will be deemed to be and will constitute a default by Tenant.

4. Consent Limited to Subletting. This Consent is limited solely to the subletting of the Subleased Premises by Tenant to Subtenant pursuant to the Sublease. The City expressly reserves the right to consent to or withhold consent with respect to any other matters in the Primary Lease, including, without limitation, any proposed alterations to the Property or the Subleased Premises or any further subletting either by Tenant or Subtenant.

5. Termination of Primary Lease. If at any time prior to the expiration or termination of the Sublease the Primary Lease expires or terminates for any reason, the Sublease will automatically and simultaneously terminate.

6. Notices. Tenant and Subtenant acknowledge and agree that the City must be copied simultaneously on any notices between Tenant and Subtenant delivered as provided in the Primary Lease. Notices to the City must be sent to:

City of Homer
Port and Harbor
4311 Freight Dock Rd.
Homer, Alaska 99603

Or by email to: leases@ci.homer.ak.us

7. Fee. Tenant must pay to the City, upon demand, the fee specified in the Primary Lease, or if no fee is specified, the City's fees and expenses (including without limitation the City's reasonable attorneys' fees and expenses) incurred relating to the City's review, negotiation, and processing of all information and documents relating to the Sublease or Subtenant.

8. No Further Modifications. Tenant and Subtenant agree not to amend, modify, or supplement the Sublease without the prior written consent of the City, which consent may be given

or withheld in its sole and absolute discretion. This Consent does not confer any third-party beneficiary rights upon Subtenant, except as expressly set forth herein.

9. CONDITIONS TO CONSENT TO SUBLEASE. THE SUBLEASE AND THIS CONSENT ARE NOT VALID AND SUBTENANT MAY NOT TAKE POSSESSION OF THE SUBLEASED PREMISES UNTIL EACH OF THE FOLLOWING HAS BEEN SATISFIED: (A) THE CITY'S RECEIPT OF AN ORIGINAL, EXECUTED COUNTERPART OF THE SUBLEASE, IN THE FORM ATTACHED HERETO; (B) THE CITY'S RECEIPT OF A CERTIFICATE OF SUBTENANT'S INSURANCE IN FORM AND SUBSTANCE REQUIRED BY THE PRIMARY LEASE; AND (C) PAYMENT TO THE CITY OF THE SUM REQUIRED PURSUANT TO SECTION 7. IF THE CONDITIONS OF THIS SECTION 9 HAVE NOT BEEN SATISFIED ON OR BEFORE TEN (10) DAYS AFTER THE EFFECTIVE DATE, THIS CONSENT WILL BE DEEMED NULL AND VOID AND OF NO FURTHER FORCE OR EFFECT.

10. Entire Agreement. This Consent contains the entire agreement of the Parties and may not be modified orally or in any manner other than by an agreement in writing signed by the Parties or their respective successors in interest.

11. Capitalized Terms. All capitalized terms not defined herein have the meaning given them in the Primary Lease.

12. Paragraph Headings. The paragraph headings appearing herein are for purposes of convenience only and are not deemed to be part of this Consent.

13. Governing Law. This Consent is to be construed in accordance with the laws of Alaska without regard to the choice of law rules of that state.

14. Severability. If any term or provision of this Consent is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Consent or invalidate or render unenforceable such term or provision in any other jurisdiction.

15. Counterparts. This Consent may be executed in counterparts, each of which is deemed an original, but all of which together is deemed to be one and the same agreement. A signed copy of this Consent delivered by email is deemed to have the same legal effect as delivery of an original signed copy of this Consent. Notwithstanding the foregoing, each Party hereto must deliver original counterpart signatures to the other Parties by no later than ten (10) days after the date hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Consent to be executed as of the Effective Date.

CITY OF HOMER:

By: _____

Name: _____

Title: _____

TENANT:

[TENANT NAME]

By: _____

Name: _____

Title: _____

SUBTENANT:

[SUBTENANT NAME]

By: _____

Name: _____

Title: _____

[SIGNATURE PAGE TO CONSENT TO SUBLEASE]

EXHIBIT A

DESCRIPTION OF SUBLEASED PREMISES

[Insert a drawing/plan or description of the Sublease Premises and delete this text]

SAMPLE

EXHIBIT B

SUBLEASE

A copy of the Sublease is attached.

SAMPLE