

**CITY OF HOMER
HOMER, ALASKA**

Mayor/Council

RESOLUTION 14-005

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, REQUESTING THAT THE ALASKA LEGISLATURE AMEND ALASKA STATUTE 16.20.590 ESTABLISHING THE KACHEMAK BAY CRITICAL HABITAT AREA BY CHANGING THE CRITICAL HABITAT AREA BOUNDARY TO EXCLUDE THE CITY OF HOMER PORT AND HARBOR AND MUNICIPAL LANDS IMMEDIATELY ADJACENT TO PORT FACILITIES NECESSARY FOR PORT OPERATIONS, AND MAKE THE STATUTE CONSISTENT WITH THE STATED INTENT OF THE CRITICAL HABITAT AREA MANAGEMENT PLAN.

WHEREAS, AS 16.20.590 creates the Kachemak Bay Critical Habitat Area and establishes its boundaries; and

WHEREAS, The established boundaries include and encompass the City of Homer Port and Harbor including municipal tide and submerged lands within the harbor basin and adjacent to the dock and port facilities; and

WHEREAS, The introduction chapter of the Kachemak Bay and Fox River Critical Habitat Areas Management Plan specifically states that “the plan does not apply to federal or municipal lands within the critical habitat areas”; and

WHEREAS, There is additional correspondence available in the record which indicates that the drafters of the Critical Habitat Management Plan did not intend to include the Homer Port and Harbor within the Critical Habitat Area Boundaries; and

WHEREAS, The apparent conflict between the Statute and the Critical Habitat Management Plan with respect to the Homer Port and Harbor has created legal ambiguity about both the enforceability of the municipal lands exemption provision in the Plan and the Department of Fish and Game’s ability to permit certain legitimate activities at the port; most notably oil and gas drill rigs attempting to dock for the purpose of maintenance and repair; and

37 WHEREAS, The Critical Habitat Management Plan states that any vessel that drops an
38 anchor or moors at a dock for more than 14 days, must obtain a permit from the Alaska
39 Department of Fish and Game; a requirement that is inefficient and clearly impractical for a
40 large municipal port and harbor facility; and

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42 WHEREAS, Because the port and harbor is within the Critical Habitat Area boundaries,
43 the City has experienced costly and time consuming permitting hurdles for construction
44 projects, even when those projects comprised replacing and repairing existing infrastructure;
45 and

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47 WHEREAS, There is a compelling public interest in bringing the statute into alignment
48 with the Critical Habitat Area Management Plan and the intent of its drafters because it will
49 eliminate legal uncertainty, clarify the permitting process, stimulate the local economy, and
50 enhance marine safety and environmental protection; and

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52 WHEREAS, The proposed boundary change would serve to improve environmental
53 protection in Kachemak Bay and the Lower Cook Inlet because oil and gas drilling rigs in
54 particular would have a safe and secure place to dock for maintenance, repair, and
55 emergencies services; and

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57 WHEREAS, Homer has the only year-around ice free, deep water port on Cook Inlet,
58 has been designated as a Port of Refuge by the U.S. Coast Guard, and has the resources and
59 assets required to improve marine safety, enhance environmental protection, and respond to
60 emergencies at sea; and

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62 WHEREAS, The City of Homer has a deep appreciation for the Kachemak Bay Critical
63 Habitat Area designation and the adopted Management Plan because it protects the
64 resources which provide the very foundation of the local economy, lifestyle, and quality of
65 life; and

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67 WHEREAS, The Amendments to the Critical Habitat Area boundary proposed by the
68 City are very limited and intended solely to remove the port and harbor and municipal lands
69 immediately adjacent from the Critical Habitat Area; and

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71 WHEREAS, If the Homer Port and Harbor is removed from the Critical Habitat Area,
72 activities there remain subject to all applicable state and federal statutes and regulations
73 governing ports and activities in marine waters; and

74 WHEREAS, The City stipulates that it does not propose or support any other
75 amendments to the Kachemak Bay Critical Habitat Area or Plan as part of this request.

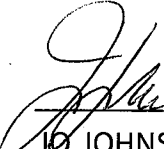
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77 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby requests that
78 the Alaska Legislature amend Alaska Statute 16.20.590 establishing the Kachemak Bay
79 Critical Habitat Area by changing the critical habitat area boundaries to exclude the City of
80 Homer Port and Harbor and municipal lands immediately adjacent to port facilities
81 necessary for port operations, and make the statute consistent with the stated intent of the
82 Critical Habitat Area Management Plan.

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84 PASSED AND ADOPTED by the City Council of Homer, Alaska, this 13th day of January,
85 2014.

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87 CITY OF HOMER

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91 MARY E. WYTHE, MAYOR

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93 ATTEST:

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96 _____
97 JO JOHNSON, MMC, CITY CLERK

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99 Fiscal Note: N/A

