

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

3 Mayor

4 **ORDINANCE 16-04(A-2)(S-3)**
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 21.18, CENTRAL BUSINESS
8 DISTRICT; HOMER CITY CODE 21.24, GENERAL COMMERCIAL 1;
9 HOMER CITY CODE 21.26, GENERAL COMMERCIAL 2; HOMER CITY
10 CODE 21.27, EAST END MIXED USE; TO IDENTIFY THE ZONING
11 DISTRICTS PERMITTING MARIJUANA FACILITIES; AND ADOPTING
12 HOMER CITY CODE CHAPTER 21.62, MARIJUANA FACILITIES,
13 REGARDING GENERAL LAND USE REQUIREMENTS FOR
14 MARIJUANA CULTIVATION, MANUFACTURING, TESTING, AND
15 RETAIL FACILITIES.
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17 WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding
18 the use of property within the City to cultivate or manufacture marijuana or to operate a retail
19 store selling marijuana; and
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21 WHEREAS, The City is dedicated to drafting regulations that prevent the distribution of
22 marijuana to minors; prevent revenue from the sale of marijuana from going to criminal
23 enterprises, gangs, and cartels; prevent the diversion of marijuana from states where it is
24 legal under state law in some form to other states; prevent state-authorized marijuana
25 activity from being used as a cover or pretext for the trafficking of other illegal drugs or other
26 illegal activity; prevent violence and the use of firearms in the cultivation and distribution of
27 marijuana; prevent drugged driving and the exacerbation of other adverse public health
28 consequences associated with marijuana use; prevent the growing of marijuana on public
29 lands and the attendant public safety and environmental dangers posed by marijuana
30 production on public land; and prevent marijuana possession or use on federal property.
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32 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
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34 Section 1. Homer City Code Section 21.18.020, Permitted uses and structures, is
35 amended to read as follows:
36

37 Section 21.18.020 Permitted uses and structures.

38 The following uses are permitted outright in the Central Business District,
39 except when such use requires a conditional use permit by reason of size, traffic
40 volumes, or other reasons set forth in this chapter:

- 41 a. Retail business where the principal activity is the sale of merchandise and
42 incidental services in an enclosed building;
43 b. Personal service establishments;
44 c. Professional offices and general business offices;

- 45 d. Restaurants, clubs and drinking establishments that provide food or drink
- 46 for consumption on the premises;
- 47 e. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 48 f. Hotels and motels;
- 49 g. Mortuaries;
- 50 h. Single-family, duplex, and multiple-family dwellings, including townhouses,
- 51 but not including mobile homes;
- 52 i. Floatplane tie-up facilities and air charter services;
- 53 j. Parks;
- 54 k. Retail and wholesale sales of building supplies and materials, only if
- 55 such use, including storage of materials, is wholly contained within one or
- 56 more enclosed buildings;
- 57 l. Customary accessory uses to any of the permitted uses listed in the CBD
- 58 district; provided, that a separate permit shall not be issued for the
- 59 construction of any detached accessory building prior to that of the main
- 60 building;
- 61 m. Mobile homes, provided they conform to the requirements set forth in
- 62 HCC 21.54.100;
- 63 n. Home occupations, provided they conform to the requirements of
- 64 HCC 21.51.010;
- 65 o. Ministorage;
- 66 p. Apartment units located in buildings primarily devoted to business or
- 67 commercial uses;
- 68 q. Religious, cultural, and fraternal assembly;
- 69 r. Entertainment establishments;
- 70 s. Public, private and commercial schools;
- 71 t. Museums and libraries;
- 72 u. Studios;
- 73 v. Plumbing, heating and appliance service shops, only if such use, including
- 74 the storage of materials, is wholly within an enclosed building;
- 75 w. Publishing, printing and bookbinding;
- 76 x. Recreational vehicle parks only if located south of the
- 77 Sterling Highway (Homer Bypass) from Lake Street west to the boundary of the
- 78 Central Business District abutting Webber Subdivision, and from
- 79 Heath Street to the west side of Lakeside Village Subdivision, provided they
- 80 shall conform to the standards in HCC 21.54.200 and following sections;
- 81 y. Taxi operation limited to a dispatch office and fleet parking of no more than
- 82 five vehicles; maintenance of taxis must be conducted within an
- 83 enclosed structure, and requires prior approval by the City Planner of a site,
- 84 access and parking plan;
- 85 z. Mobile food services;
- 86 aa. Itinerant merchants, provided all activities shall be limited
- 87 to uses permitted outright under this zoning district;

- 88 bb. Day care homes and facilities; provided, however, that outdoor play areas
- 89 must be fenced;
- 90 cc. Rooming house, bed and breakfast and hostel;
- 91 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 92 Main Street from Pioneer Avenue to the Sterling Highway, excluding lots with
- 93 frontage on Pioneer Avenue or the Sterling Highway, subject to the following
- 94 additional requirements: Vehicles awaiting repair or service, inoperable
- 95 vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be
- 96 parked indoors or inside a fenced enclosure so as to be concealed from view,
- 97 on all sides. The fence shall be a minimum height of eight feet and constructed
- 98 to prohibit visibility of anything inside of the enclosure. The portion of any
- 99 vehicle exceeding eight feet in height may be visible outside of the fence.
- 100 Vehicle parts (usable or unusable), vehicle service supplies, and any other
- 101 debris created in the repair or servicing of vehicles shall also be stored indoors
- 102 or inside the fenced enclosure out of view of the 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 rated
- 107 capacity not exceeding 10 kilowatts;
- 108 ii. One detached dwelling unit, excluding mobile homes, as an accessory
- 109 building to a principal single-family dwelling on a lot;
- 110 jj. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
- 111 testing facilities as defined by state law.

112
113 Section 2. Homer City Code Section 21.24.020, Permitted uses and structures, is
114 amended to read as follows:

115
116 Section 21.24.020 Permitted uses and structures.
117 The following uses are permitted outright in the General Commercial 1 District,
118 except when such use requires a conditional use permit by reason of size, traffic
119 volumes, or other reasons set forth in this chapter.

- 120 a. Air charter operations and floatplane tie-up facilities;
- 121 b. General business offices and professional offices;
- 122 c. Dwelling units located in buildings primarily devoted to 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 Chapter 21.55 HCC;
- 137 q. Manufacturing of electronic equipment, electrical devices, pottery, ceramics,
- 138 musical instruments, toys, novelties, small molded products and furniture;
- 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 incidental
- 144 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 institutions;
- 150 bb. Customary accessory uses to any of the permitted uses listed in the GC1
- 151 district; provided, that no separate permit shall be issued for the construction
- 152 of any type of accessory building prior to that of the main building;
- 153 cc. Dry cleaning, laundry, and self-service laundries;
- 154 dd. Taxi operation;
- 155 ee. Mobile food services;
- 156 ff. Itinerant merchants, provided all activities shall be limited to uses permitted
- 157 outright under this zoning district;
- 158 gg. Recreational vehicle parks, provided they shall conform to the standards in
- 159 Article II of Chapter 21.54 HCC;
- 160 hh. Day care homes; provided, that a conditional use permit was obtained for
- 161 the dwelling, if required by HCC 21.24.030; all outdoor play areas must be
- 162 fenced;
- 163 ii. Rooming house and bed and breakfast;
- 164 jj. Dormitory;
- 165 kk. As an accessory use, one small wind energy system per lot;
- 166 ll. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
- 167 testing facilities as defined by state law.

168
169 Section 3. Homer City Code Section 21.26.020, Permitted uses and structures, is
170 amended to read as follows:

171
172 Section 21.26.020 Permitted uses and structures.

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

- 176 a. Production, processing, assembly and packaging of fish, shellfish and
177 seafood products;
- 178 b. Construction, assembly and storage of boats and boat equipment;
- 179 c. Manufacture and assembly of pottery and ceramics, musical instruments,
180 toys, novelties, small molded products, electronic instruments and equipment
181 and electrical devices;
- 182 d. Research and development laboratories;
- 183 e. Trade, skills or industrial schools;
- 184 f. Publishing, printing and bookbinding facilities;
- 185 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals,
186 service and repair, excluding storage of vehicles or equipment that is
187 inoperable or in need of repair;
- 188 h. Storage and distribution services and facilities, including truck terminals,
189 warehouses and storage buildings and yards, contractors' establishments,
190 lumberyards and sales, or similar uses;
- 191 i. Airports and air charter operations;
- 192 j. Underground bulk petroleum storage;
- 193 k. Cold storage facilities;
- 194 l. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- 195 m. Mobile commercial structures;
- 196 n. Accessory uses to the uses permitted in the GC2 district that are clearly
197 subordinate to the main use of the lot or building, such as wharves, docks,
198 restaurant or cafeteria facilities for employees; or caretaker
199 or dormitory residence if situated on a portion of the principal lot; provided,
200 that separate permits shall not be issued for the construction of any type
201 of accessory building prior to that of the main building;
- 202 o. Taxi operation;
- 203 p. Mobile food services;
- 204 q. Itinerant merchants, provided all activities shall be limited to uses permitted
205 outright under this zoning district;
- 206 r. Recreational vehicle parks, provided they shall conform to the standards in
207 Chapter 21.54 HCC;
- 208 s. Hotels and motels;
- 209 t. Dormitory;
- 210 u. As an accessory use, one small wind energy system per lot;
- 211 v. Open air business;
- 212 w. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
213 testing facilities as defined by state law.

214
215 Section 4. Homer City Code Section 21.27.020, Permitted uses and structures, is

216 amended to read as follows:

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Section 21.27.020 Permitted uses and structures.

The following uses are permitted outright in the East End Mixed Use 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. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair;
- b. Drive-in car washes;
- c. Building supply and equipment sales and rentals;
- d. Garden supplies and greenhouses;
- e. Boat and marine equipment sales, rentals, manufacturing, storage yard, service and repair;
- f. Welding and mechanical repair;
- g. Restaurants, including drive-in restaurants, clubs and drinking establishments;
- h. Religious, cultural, and fraternal assembly;
- i. Studios;
- j. Personal services;
- k. Agricultural activities, including general farming, truck farming, nurseries, tree farms and greenhouses;
- l. Private stables;
- m. Storage of heavy equipment, vehicles or boats;
- n. Plumbing, heating and appliance service shops;
- o. Home occupations on a lot whose principal permitted use is residential, provided they conform to the requirements of HCC 21.51.010;
- p. Mortuaries and crematoriums;
- q. Open air businesses;
- r. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- s. Manufacturing, fabrication and assembly;
- t. Retail businesses;
- u. Trade, skilled or industrial schools;
- v. Wholesale businesses, including storage and distribution services incidental to the products to be sold;
- w. Parks and open space;
- x. Warehousing, commercial storage and mini-storage;
- y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b) and (c);
- z. Dry cleaning, laundry, and self-service laundries;
- aa. Mobile food services;
- bb. As an accessory use, one small wind energy system per lot;
- cc. Production, processing, assembly and packaging of fish, shellfish and seafood products;

- 259 dd. Research and development laboratories;
260 ee. Storage and distribution services and facilities, including truck terminals,
261 warehouses and storage buildings and yards, contractors' establishments,
262 lumberyards and sales, or similar uses;
263 ff. Cold storage facilities;
264 gg. Mobile commercial structures;
265 hh. Single-family and duplex dwellings, only as an accessory use incidental to a
266 permitted principal use; provided, that no permit shall be issued for the
267 construction of an accessory dwelling prior to the establishment of the
268 principal use;
269 ii. The repair, replacement, reconstruction or expansion of a single-family or
270 duplex dwelling, including a mobile home, that existed lawfully before its
271 inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding any
272 provision of Chapter 21.61 HCC to the contrary; provided, that a mobile home
273 may not be used to replace or expand such a dwelling;
274 jj. Customary accessory uses to any of the uses permitted in the EEMU district
275 that are clearly subordinate to the main use of the lot or building, including
276 without limitation wharves, docks, storage facilities, restaurant or cafeteria
277 facilities for employees; or caretaker or employee dormitory residence if
278 situated on a portion of the same lot as the principal use; provided, that no
279 permit shall be issued for the construction of any type of accessory building
280 prior to the establishment of the principal use;
281 kk. Taxi operation;
282 ll. Itinerant merchants, provided all activities shall be limited to uses permitted
283 outright under this zoning district;
284 mm. More than one building containing a permitted principal use on a lot;
285 nn. The outdoor harboring or keeping of dogs, small animals and fowl as an
286 accessory use to a residential use in a manner consistent with the
287 requirements of all other provisions of the Homer City Code and as long as
288 such animals are pets of the residents of the dwelling and their numbers are
289 such as not to unreasonably annoy or disturb occupants of neighboring
290 property;
291 oo. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and
292 testing facilities as defined by state law.

293
294 Section 5. Homer City Code Chapter 21.62, Marijuana Cultivation, Manufacturing,
295 Retail, and Testing Facilities, is enacted to read as follows:

296
297 Chapter 21.62
298 Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities.

299
300 Sections:
301 21.62.010 Scope.

302 21.62.020 Intent.
303 21.62.030 Definitions.
304 21.62.040 Pre-application conference.
305 21.62.050 Costs.
306 21.62.060 Safety and Security Plan.
307 21.62.070 Buffers.
308 21.62.080 General restrictions on all marijuana facilities.

309
310 21.62.010 Scope.

311 a. This chapter applies to the operation of all marijuana cultivation,
312 manufacturing, retail, and testing facilities within the city boundaries.

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

319
320 21.62.020 Intent.

321 a. This chapter is intended to impose regulations that prevent:

- 322 1. The distribution of marijuana to minors;
- 323 2. Revenue from the sale of marijuana from going to criminal
324 enterprises, gangs, and cartels;
- 325 3. The diversion of marijuana from states where it is legal under
326 state law in some form to other states where it is unlawful;
- 327 4. State-authorized marijuana activity from being used as a cover
328 or pretext for the trafficking of other illegal drugs or other illegal
329 activity;
- 330 5. Violence and the use of firearms in the cultivation and
331 distribution of marijuana;
- 332 6. Drugged driving and the exacerbation of other adverse public
333 health consequences associated with marijuana use;
- 334 7. The growing of marijuana on public lands and the attendant
335 public safety and environmental dangers posted by marijuana
336 production on public land; and
- 337 8. Marijuana possession or use on federal property.

338
339 21.62.030 Definitions. [reserved]

340
341 21.62.040 Pre-application Conference.

342 When Title 21 requires a conditional use permit for a marijuana facility, the
343 applicant must meet with the City Planner to discuss the conditional use permit
344 process and any issues that may affect the proposed conditional use. This meeting is

345 to provide for an exchange of general and preliminary information only and no
346 statement made in such meeting by either the applicant or the City Planner shall be
347 regarded as binding or authoritative for the purposes of this title.

348
349 21.62.050 Costs.

350 The cost of all permits, studies and investigation required under this chapter
351 shall be borne by the applicant.

352
353 21.62.060 Safety and Security Plan.

354 A conditional use permit for a marijuana facility required by this title shall
355 include an analysis of the ways in which the intent and purpose of this chapter have
356 been met and the safety concerns identified in Sections 21.62.010 and 21.62.020 will
357 be addressed.

358
359 21.62.070 Buffers.

360 a. The Commission may require buffers, including berms, fences, trees, and
361 shrubs, to minimize impacts to adjacent property. A landscaped buffer or combination
362 of landscaping and berms of no less than ten feet in width will be required where the
363 property with a marijuana facility adjoins districts in which marijuana facilities are
364 prohibited or permitted only as a conditional use.

365 b. The following buffer zones shall be applied to all marijuana facilities in all
366 districts:

- | | | | |
|-----|----|-------------------|-----------|
| 367 | 1. | Schools | 1000 feet |
| 368 | 2. | Churches | 500 feet |
| 369 | 3. | Jail | 500 feet |
| 370 | 4. | Youth/rec. center | 500 feet |
| 371 | 5. | Library | 200 feet |

372
373 c. Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday
374 Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park must have
375 1000 feet or more buffers measured from the boundary of the park.

376 d. For purposes of this section, “schools” mean property primarily used as a
377 private or public elementary or secondary education facility or property primarily
378 used as a post-secondary education facility, including but not limited to private, faith-
379 based, and public colleges and universities.

380
381 21.62.80 General restrictions applied to all marijuana facilities.

382 a. All marijuana facilities in all districts shall comply with Section 21.59.030 of
383 this title.

384 b. An application for a conditional use permit under this chapter shall not be
385 approved if the location of the facility violates the regulatory intent in Section
386 21.62.020.

387

388 Section 6. This ordinance is of a permanent and general character and shall be
389 included in the City code.

390

391 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 14th day of
392 March, 2016.

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CITY OF HOMER

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397

MARY E. WYTHE, MAYOR

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399 ATTEST:

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JO JOHNSON, MMC, CITY CLERK

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406 AYES:

407 NOES:

408 ABSTAIN:

409 ABSENT:

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413 First Reading:

414 Public Reading:

415 Second Reading:

416 Effective Date:

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421 Reviewed and approved as to form:

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Mary K. Koester, City Manager

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Date: _____

Thomas F. Klinkner, City Attorney

Date: _____