

Revised Homer City Code  
Title 21 ZONING AND PLANNING

**Public Review Draft**  
**Redline Version**

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## Homer Title 21 Update – Summary of Moved and Renamed Items

Former Section / Title	New Section / Title
21.91 Planning Commission and Hearing Officer	21.05.030 Planning Commission and 21.05.040 Hearing Officer
21.95 Legislative Procedures and Amendments	21.08 Zoning Amendments
21.72 Variances	21.10 Variances and Administrative Adjustments
21.73 Site Plans and Right of Way Access	21.11 Site Plans and 21.59 Right of Way Access
21.93 Administrative Appeals	21.13 Appeals
21.61 Nonconforming Uses, Structures, and Lots	21.15 Nonconformities
21.59 Off-Site Impacts	21.16 Nuisances and 21.57 Lighting
21.90 Administration and Enforcement (all sections except 010 and 020)	21.17 Violations and Enforcement
Division III Overlay Districts and Sensitive Areas	Division III Zoning Districts and 21.34 Flood Prone Areas and 21.35 Slopes and Coastal Development
21.52 Planned Unit Developments	21.36 Planned Unit Developments
21.20.020(g) Agricultural Activities (in the RR District) and 21.40.090 Agricultural Activity (in the Bridge Creek Watershed Projection District)	21.38 Agricultural Activities
21.18.020(dd) Auto Repair (Central Business District)	21.39 Auto Repair and Auto Fueling Stations
21.57 Large Retail and Wholesale Stores	21.42 Large Format Development
21.18.080 Nuisance Standards (Central Business District), 21.20.080 Nuisance Standards (Town Center District), 21.59.010(g) Nuisances, Materials and Equipment Storage, 21.14.020(i) Outdoor Storage (Urban Residential District), 21.12.020(k) Outdoor Storage (Rural Residential District), and 21.27.080 Nuisance Standards East End Mixed Use District)	21.45 Outdoor Storage
21.56 Religious, Cultural, and Fraternal Assembly	21.51 Places of Assembly

21.50.010-040 Site Development Standards	21.53 Drainage and Erosion Control
21.74 Development Activity Plan, and 21.75 Stormwater Plan	21.54 Stormwater Management
21.57.170 Landscaping (Large Retail and Wholesale Stores), 21.50.020(c), 030(f), and 040(b) Landscaping Requirements (Site Development Standards), 21.20.070(e) Landscaping Requirements (Town Center District), and 21.46.080 Landscaping (Small Boat Harbor Overlay District)	21.56 Landscaping
21.50.110 Fences (Site Development Standards and Miscellaneous Regulations)	21.58 Fences

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**ZONING AND PLANNING**

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## DIVISION I. GENERAL

### Chapter 21.01. Title and Purpose

#### 21.01.010 Title.

This title shall be known and cited as the “Homer Zoning Code,” and may be referred to hereinafter as the “zoning code” or “this title.”

#### 21.01.020 Scope.

- a. The Homer Zoning Code is applicable to all lands within the municipal boundaries of the City of Homer.
- b. Chapter 21.31 HCC is further applicable to certain lands outside the municipal boundaries, as provided in that chapter. [Ord. 08-29, 2008].
- ~~b.c.~~ Municipal zoning powers are delegated to the City of Homer by the Kenai Peninsula Borough via Resolution 82-126, adopted July 20, 1982.

#### 21.01.030 Purpose.

The Homer Zoning Code is adopted as one means of implementing the general goals and policies of the Homer Comprehensive Plan. Its purpose is to enhance the public health, safety and welfare through land use regulations to:

- a. Designate, regulate and restrict the location and use of buildings, structures and land;
- b. Regulate the height, number of stories, and size of buildings and other characteristics of structures;
- c. Regulate and determine the size of yards and other open spaces;
- d. Regulate and limit the density of population;
- e. Conserve and stabilize the value of property;
- f. Provide adequate open spaces for light and air; and to prevent and fight fires;
- g. Prevent undue concentration of population;
- h. Lessen congestion on streets and highways;
- i. Preserve and enhance the aesthetic environment of the community;
- j. Promote health, safety and general welfare.

## Chapter 21.02. Definitions and Rules of Construction

### 21.02.010 Tense, number, and gender.

As used in this title, when not inconsistent with the context, the present tense includes the future; the singular number includes the plural and the plural includes the singular; and words of any gender may, when the sense so indicates, refer to any other gender. [Ord. 08-29, 2008].

### 21.02.020 Words and phrases.

As used in this title:

- a. Words and phrases shall be construed according to the rules of grammar and, if not defined in HCC Title 1 or this title, according to their common and approved usage.
- b. Except where the context indicates otherwise, the term “shall” is mandatory.
- c. When the words “include” or “including” or “such as” are used, they shall be construed as though followed by the phrase “but not limited to” unless the context clearly indicates the contrary. [Ord. 08-29, 2008].

### 21.02.030 Rules of construction.

In this title, unless otherwise provided, when an overlay district regulation is in irreconcilable conflict with a regulation of the underlying zoning district(s), the overlay district regulation supersedes the conflicting underlying zoning district regulation. [Ord. 08-29, 2008].

### 21.02.040 Definitions used in zoning code.

As used in this title, the words and phrases defined in this section shall have the meaning stated, except where (a) the context clearly indicates a different meaning or (b) a special definition is given for particular chapters or sections of the zoning code.

“Abut” means to touch by sharing a common boundary at one or more points. Two adjacent lots separated by an alley or road right-of-way do not abut.

“Accessory building” means an incidental and subordinate building customarily incidental to and located on the same lot occupied by the principal use or building, such as a detached garage incidental to a residential building.

~~“Accessory use” means a use or activity that is customary to the principal use on the same lot, and which is subordinate and clearly incidental to the principal use.~~

~~“ADT” or “average daily traffic” means the estimated number of vehicles traveling over a given road segment during one 24 hour day. ADT is usually obtained by sampling and may be seasonally adjusted.~~

“Adverse impact” means a condition that creates, imposes, aggravates or leads to inadequate, impractical, detrimental, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.

~~Aggrieved. See “person aggrieved.”~~

“Agricultural activity” shall mean farming, including plowing, tillage, fertilizing, cropping, irrigating, seeding, cultivating or harvesting for the production of food and fiber products (excluding commercial logging and timber harvesting operations); the grazing or raising of livestock (excluding feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. “Agricultural activity” excludes private stables and public stables.

“Agricultural building” means a building used to shelter farm implements, hay, grain, poultry, livestock, horticulture, or other farm products, in which there is no human habitation and which is not used by the public.

“Aisle” means an area within a parking lot that is reserved exclusively for ingress, egress and maneuvering of automobiles.

“Alley” means a public thoroughfare, less than 30 feet in width, that affords only a secondary means of access to abutting property.

“Alteration” means any change, addition or modification in construction, occupancy or use.

“Animal unit equivalent” is a convenient denominator for use in calculating relative grazing impact of different kinds and classes of domestic livestock. An animal unit (AU) is generally one mature cow of approximately 1,000 pounds and a calf as old as six months of age, or their equivalent. Animal unit equivalents vary according to kind and size of animals. [AU equivalents are specified in performance standards Chapter 21.X37X](#)

The following table of AU equivalents applies to the Homer Zoning Code:

<b>Kinds and classes of animals</b>	<b>Animal unit equivalent</b>
Slaughter/feed cattle	1.00
Mature dairy cattle	1.40
Young dairy cattle	0.60
Horse, mature	2.00
Sheep, mature	0.20
Lamb, one year of age	0.15
Goat, mature	0.15
Kid, one year of age	0.10

Exotic species (e.g., llamas, alpaca, reindeer, musk ox, bison and elk) and unlisted species require application to the Planning Commission for determination of AU equivalents.

~~Apartment House. See “dwelling, multiple family.”~~

“Area, building” means the total area, taken on a horizontal plane at the main grade level, of a building, exclusive of steps.

“Area, floor” means the total area of all floors of a building as measured to the outside surfaces of exterior walls, including attached garages, porches, balconies, and other structures when covered by a roof.

“Area, footprint” has the same meaning as “area, building.”

“Area, lot” means the total horizontal net area within the boundary lines of a lot, exclusive of rights-of-way for streets and alleys.

“Area ratio, floor” or “floor area ratio” means the ratio of floor area of all buildings on a lot to the area of the lot.

“Arterial” means a street whose principal function is the transmission of vehicular through traffic, that performs a major role in serving the transportation needs of the community, and that is identified as a “major arterial” or “community arterial” in the Homer Roads and Streets Master Plan.

“Assisted living home” has the meaning given in AS 47.32.900(2)(A).

“Auto, Marine, Recreational Vehicle, and trailer sales or rental area” means an automobile related use that may consist of any combination of the following:

1. An open, outdoor display area for automobiles, boats and marine equipment, recreational vehicles, light trucks or trailers for rent, lease or sale;

2. Buildings for the indoor display and sale or leasing of automobiles, boats and marine equipment, recreational vehicles, light trucks or trailers, and sale of parts and accessories customarily incidental to the sale of such vehicles; and

3. Buildings at the location of a ~~motor vehicle~~ dealership for automobiles, boats and marine equipment, recreational vehicles, light trucks or trailers used for ~~auto~~ repairs customarily incidental to the operation of a dealership.

“Auto fueling station” means any premises used to sell motor fuels and lubrication to motor vehicles. An auto fueling station may include the sale of minor accessories. Auto fueling station does not include auto repair.

“Auto repair” means service and repair of motor vehicles, trailers and similar mechanical equipment, including painting, upholstering, rebuilding, reconditioning, body and fender work, frame straightening, undercoating, engine or transmission rebuilding or replacement, tire retreading or recapping, and the like. It also includes minor service work to automobiles or light trucks including tune up, lubrication, alignment, fuel system, brakes, mufflers, and replacement of small items.

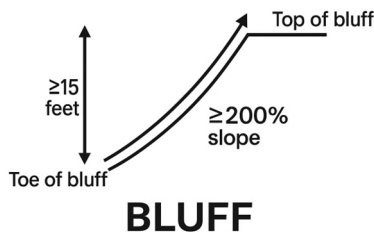
“Basement” means any floor level partly or wholly underground, except when such floor level meets the definition of “story.”

~~“Batch Plant” means a facility, or facilities, where materials are mixed to create products such as asphalt or concrete. Said products may be used on site, or transported off site to a construction site.~~

“BCWP ~~district~~District” means the “Bridge Creek Watershed Protection District” described in Chapter 21.33 HCC.

“Bed and breakfast” means a dwelling in which an individual or family resides and rents no more than five bedrooms in the dwelling to overnight guests, if the bed and breakfast use is accessory to the principal use of the dwelling as the primary residence of the operator. ~~If the dwelling has six or more bedrooms available for rental to overnight guests it is a hotel and not a bed and breakfast.~~

“Bluff” means an abrupt elevation change in topography of at least 15 feet, with an average slope of not less than 200 percent (two feet difference in elevation per one foot of horizontal distance).



“Boat storage yard” means a lot used for the indoor or outdoor commercial dry storage of boats.

“Bridge Creek Watershed” means the watershed contributing to the City’s reservoir at Bridge Creek.

“Buffer” means an open space, landscaped area, fence, wall, berm, or any combination thereof used to physically separate or screen one use or property from another ~~so as~~ to shield or block visibility, noise, lights, or other undesirable effects.

“Buffer, runoff” means an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and that provides for infiltration of the runoff and filtering of silt and pollutants. The buffer is measured landward from the normal full water elevation of impounded structures and from the top of the bank of each side of a stream, river, ditch, or other channel.

“Buffer, stream” means a runoff buffer of a designated distance on each side of a channel measured perpendicularly from the top of the bank of each side of a stream, river, ditch, or other channel.

~~“Build-to Line” means an alignment establishing a certain distance from the front lot line to a line along which the principal structure or other specified structure shall be built.~~

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“Building construction” means the placing of construction materials in a permanent position and fastened in a permanent manner in the course of constructing or erecting a building.

~~“Building coverage” means the area of a lot covered by the footprints of principal and accessory structures divided by the total area of the lot.~~

“Building height” is the vertical distance from grade plane to the maximum point of measurement of the building average height of the highest roof surface of a structure, as measured according to HCC 21.05.030.

~~“Building, main” means the building of chief importance or function on the lot.~~

“Business, open air” or “open air business” means the retail sale or display of merchandise or services, including but not limited to farmers’ markets and flea markets, conducted outdoors or under a canopy for protection from the elements and held on a regular or periodic basis. Open air business does not include (1) outdoor display or sales of goods or services by a retail or wholesale business that is principally located in a building, or (2) sales, services or rentals of any kind of boat or motorized vehicle.

“Business, retail” means a place of business principally engaged in selling goods, substances or commodities in small quantities to the ultimate consumer, and may include rendering services incidental to the sale of such goods, substances or commodities. The term “retail business” does not include, as either a principal or accessory use, ~~automobile-oriented~~ automobile-oriented uses, the sale, rental, storage, service, or repair of any motor vehicles, or any use separately defined or listed in any zoning district.

“Business, wholesale” or “wholesale” means a place of business principally engaged in selling or distributing goods, substances or commodities in quantity to retailers or to industrial, commercial or institutional users mainly for resale or business use.

“Campground” means a parcel of land where two or more campsites are located that provides facilities for temporary recreational living in any manner other than a permanent building.

“Cemetery” means land used or intended to be used for burial of the dead and dedicated for cemetery purposes, including columbaria and mausoleums when operated in conjunction with and within the boundary of such cemetery.

“Channel protection storage volume” ~~or “Cpv”~~ means the volume used to design structural management practices to control stream channel erosion.

Church. See ~~“religious, cultural, and fraternal”~~ Place of assembly.”

“City Engineer” means an engineer within the Homer Department of Public Works designated by the Director of Public Works.

“Clearing” means the removal of trees and brush from the land, but shall not include the ordinary pruning of trees or shrubs or mowing of grass.

“Clinic, Medical” means a professional office with facilities for providing outpatient medical, dental or psychiatric services, which may include as incidental to the principal use a dispensary to handle medication and other merchandise prescribed by occupants in the course of their professional practices.

~~“Coalescing plate separators” or “CPS” are oil/water separators that employ a series of oil attracting plates. Oil droplets collect and float to the surface, where they can be skimmed off or removed mechanically and separators may be installed above or below ground.~~

“Coastal edge” means the seaward extent of a relatively flat land where a slope break or scarp occurs that is adjacent and within 300 feet of the mean ~~high water~~high-water line of Kachemak Bay. The chosen coastal edge must represent the seaward extent of land that is neither part of a previous landslide nor a bench on a slope.

“Cold storage” means a building equipped with refrigeration or freezing facilities that provides cold or frozen storage or freezing services.

“Collocation” means the placement or installation of wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

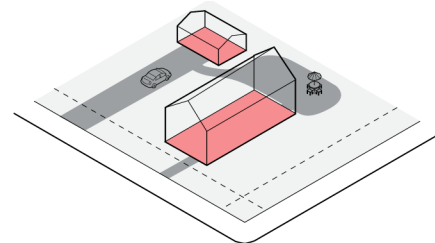
“Commercial vehicle” means any motor vehicle defined in AS 28.90.990 as a commercial motor vehicle or any motor vehicle with signs or logos exceeding nine square feet in combined area.

~~“Commission” means the Homer Planning Commission.~~

“Community Design Manual” means the Community Design Manual for the City of Homer, adopted by City Council Resolution 04-34, as may be amended from time to time.

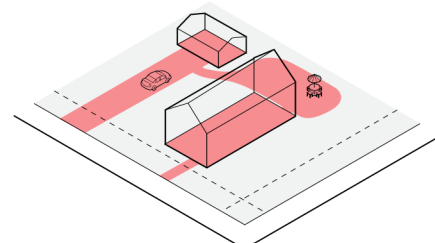
~~“Comprehensive Plan” means a public declaration of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City. See HCC 21.02.010.~~

~~“Building coverage”~~Coverage, Building means the area of a lot covered by the footprints of principal and accessory structures divided by the total area of the lot.



Building Coverage

“Coverage, Impervious” means an area of ground that, by reason of its physical characteristics or the characteristics of materials covering it, does not absorb rain or surface water. All parking areas, driveways, roads, sidewalks and walkways, whether paved or not, and any areas covered by buildings or structures, concrete, asphalt, brick, stone, wood, ceramic tile or metal shall be considered to be or have impervious coverage.



Impervious Coverage

~~“Construction camp” means one or more buildings, trailers, mobile homes or similar structures used to house workers or employees for logging, mining, off shore and on shore construction, development and other projects, installed primarily for the duration of the project or operation and not open for use by the general public as accommodations or for permanent mobile home living.~~

“Date of distribution” means the date on which a City official mails a written decision or order issued under the zoning code or, if the document is personally delivered, the date of such personal delivery.

“Day care facility” means any establishment for the care of children, whether or not for compensation, excluding day care homes and schools. Such day care facility must also be duly licensed by the State, if so required by State law or regulation.

“Day care home” means the principal dwelling unit of one or more persons who regularly provide(s) care, in the dwelling unit, whether or not for compensation, during any part of the 24-hour day, to eight or less children at any one time, not including adult members of the family residing in the dwelling. The term “day care home” is not

intended to include baby-sitting services of a casual, nonrecurring nature, child care provided in the child's own home, or cooperative, reciprocating child care by a group of parents in their respective dwellings.

"Department" or "Planning Department" means the department or division of the City of Homer under the direction of the City Planner, whose functions and powers include the administration and enforcement of the zoning code as described in Chapter 21.90 HCC.

"Design year" means the year that is 10 years after the opening date of development.

~~"Detention, extended" means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events.~~

"Detention structure" means a permanent structure for the temporary storage of water runoff that is designed so as not to create a permanent pool of water.

"Develop" or "development activity" means to construct or alter a structure or to make a physical change to the land, including but not limited to excavations, grading, fills, road construction, and installation of utilities.

"Development" means all manmade changes or improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as public spaces, plazas and walkways, but does not include natural geologic forms or unimproved land. See also "project."

"Stormwater management plan" or "~~DAPSWP~~" means a plan, prepared according to standards set forth in this title, that provides for the control of stormwater discharges, the control of total suspended solids, and the control of other pollutants carried in runoff during construction and the use of the development.

"Development, new" means development on a site that was previously unimproved or that has had previously existing buildings demolished.

"Direct discharge" means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in critical habitat areas.

"Dividers" means areas of landscaping that separate from each other structures or improvements, including parking lots or buildings.

"Dog lot" means any outdoor area where more than six dogs over the age of five months are kept.

"Dormitory" means a building or portion of a building that provides one or more rooms used for residential living purposes by a number of individuals that are rented or hired out for more than nominal consideration on a greater than weekly or pre-arranged basis. A building or structure that provides such rooms on less than a weekly basis shall be classified as a "hotel" or "motel," "rooming house," or other more suitable classification. "Dormitory" excludes hotel, motel, shelter for the homeless and bed and breakfast.

"Drainage area" means that area contributing water runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

~~"Dredging/filling"~~ means an activity that involves excavating along the bottom of a water body for the purpose of channeling, creating a harbor, mineral extraction, etc., and the subsequent deposition of the dredge material to build up or expand an existing land mass or to create a new one.

"Drip line" means the outermost edge of foliage on trees, shrubs, or hedges projected to the ground.

"Drive-in car wash" means automated or manual car wash facilities and equipment used for retail car wash services enclosed within a building, which may include accessory vacuum cleaning and other equipment for car interior detailing outside of a building.

“Driveway” means the aisle area within a parking lot which abuts designated parking spaces and which is reserved exclusively for ingress, egress and maneuvering of automobiles in and out of those spaces.

“Dwelling” or “dwelling unit” means a building, or portion of a building, that has independent living facilities including provisions for sleeping, cooking and sanitation, and is designed for residential use. ~~any building or portion thereof designed or arranged for residential occupancy by not more than one family and includes facilities for sleeping, cooking and sanitation.~~

“Dwelling, Accessory” or “Accessory Dwelling Unit” means a residential dwelling unit smaller and clearly subordinate to a primary dwelling unit(s) located on the same lot, which is attached or detached. Can also be referred to as an “ADU”.

“Dwelling, duplex” means a building designed or arranged for residential occupancy ~~by two families living independently, the structure~~ having only two dwelling units.

“Dwelling, factory built” means a structure containing one or more dwelling units that is built off-site, other than a manufactured home, and: (1) is designed only for erection or installation on a site-built permanent foundation; (2) is not designed to be moved once so erected or installed; and (3) is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing.

“Dwelling, ~~multiple family~~ Multi-Unit” means a building or a portion thereof designed for residential occupancy ~~by three or more families living independently in separate~~ with three or more dwelling units.

“Dwelling, ~~single family~~ Detached” means a detached dwelling unit designed for residential occupancy by one family.

“Easement” means a grant or reservation by the owner of an interest in land for the use of such land for a specific purpose or purposes, and which must be conveyed or reserved by an instrument affecting the land.

~~Educational Institution. See “school.”~~

“Employee-occupied recreational vehicle” means a recreational vehicle utilized by an employee or employer for housing.

“Entertainment establishment” means a public or private institution or place of business providing live or prerecorded shows or performances for entertainment.

“Equipment compound” means the area occupied by a wireless communications support structure and within which wireless communications equipment is located.

“Extractive enterprises” means uses and activities that involve the removal of ores, liquids, gases, minerals, or other materials or substances from the earth’s surface or subsurface.

~~“Extreme flood volume” or “Qf” means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100 year floodplain.~~

“Family” means an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit in a dwelling unit.

~~“Farmers’ market” means a location where the primary activity is the sale of goods:~~

- ~~1. Grown upon the land that the seller controls, in the case of fruits, nuts, vegetables, other plant products, or other processed agricultural products;~~
- ~~2. Bred, raised, cultivated or collected by the seller, in the case of animal, poultry, viticulture, vermiculture, aquaculture, eggs, honey and bee products;~~

~~3. Cooked, canned, preserved, or otherwise significantly treated by the seller, in the case of prepared foods; or~~

~~4. Created, sewn, constructed, or otherwise fashioned from component materials by the seller.~~

~~Fence Height. See HCC 21.05.030(d).~~

“Financial institution” means banks, credit unions, saving and loan companies, stockbrokers, and similar businesses.

~~“Flow attenuation” means prolonging the flow time of runoff to reduce the peak discharge.~~

~~“Garage, parking” means any building (including an underground structure), except one described as a private garage, used principally for the parking or storage of motor vehicles. This does not include garages used by a property owner for the parking or storage of their personal motor vehicles.~~

~~“Garage, private” means a building, or a portion of a building, in which motor vehicles used only by the occupants of the building(s) located on the premises are stored or kept.~~

~~Garage, Public. See “auto repair.”~~

“Gardening, personal use” means gardening for personal purposes as an accessory use to the primary residential use of a lot.

“Glare” means direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.

“Grade” in reference to adjacent ground elevation means the lowest point of elevation of the existing surface of the ground within the area between the structure and a line five feet from the structure.

“Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, or filled, or any combination thereof.

~~“Greenhouse and Garden Supplies” means a light-permeating structure used for cultivating and growing plants in a controlled temperature and humidity environment where such plants are offered for sale either on the premises with other products, or at another location.~~

“Group care home” means a residential facility that provides training, care, supervision, treatment or rehabilitation to the aged, disabled, infirm, those convicted of crimes or those suffering the effects of drugs or alcohol. The term “group care home” does not include day care homes, day care facilities, foster homes, schools, hospitals, assisted living homes, nursing facilities, jails or prisons.

“Guest room” means a single unit for the accommodation of guests without kitchen or cooking facilities in a bed and breakfast, rooming house, hotel or motel.

~~“Guesthouse” means an accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests or by persons employed on the premises.~~

“Helipad” means any surface where a helicopter takes off or lands, but excludes permanent facilities for loading or unloading goods or passengers, or for fueling, servicing or storing helicopters.

“Heliports” means any place including airports, fields, rooftops, etc., where helicopters regularly land and take off, and where helicopters may be serviced or stored.

~~Highway. See “street” and “State highway.”~~

“Home occupation” means any use customarily conducted entirely within a dwelling or a building accessory to a dwelling, and carried on by the dwelling occupants, that is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and includes no display of stock in trade, no outside storage of materials or equipment and no commodity sold upon the premises. “Home occupation” does not include bed and breakfast.

“Hospital” has the meaning given in AS 47.32.900.

“Hostel” means any building or portion of a building containing dormitory-style sleeping accommodations for not more than 15 guests that are used, rented or hired out on a daily or longer basis.

“Hotel” or “~~motel~~Motel” means any building or group of buildings containing six or more guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. “Hotel” or “motel” also means any building or group of buildings containing five or less guest rooms that are used, rented or hired out to be occupied for sleeping purposes by more than 15 guests. The terms “hotel” and “motel” exclude bed and breakfast, rooming house, dormitory, shelter for the homeless, and hostel.

~~“Impervious coverage” means an area of ground that, by reason of its physical characteristics or the characteristics of materials covering it, does not absorb rain or surface water. All parking areas, driveways, roads, sidewalks and walkways, whether paved or not, and any areas covered by buildings or structures, concrete, asphalt, brick, stone, wood, ceramic tile or metal shall be considered to be or have impervious coverage.~~

“Impound yard” means a lot, establishment, area, facility or place of business used for the temporary custody of abandoned or junk vehicles, as defined in HCC 18.20.010, or other abandoned or illegally stored personal property pending determination of possessory or proprietary rights therein. If impounded property is held in custody longer than six months, it shall be classified as a junk yard and not an impound yard.

“Independent business” means a business establishment that operates independently of other business establishments. If retail and wholesale business establishments have common management or common controlling ownership interests, they are not operated independently of one another.

“Infiltration” means the passage or movement of water into the soil surface.

“Islands,” when used to describe landscaped areas within parking lots, means compact areas of landscaping within parking lots designed to support mature trees and plants.

“Itinerant merchant” means a “transient or itinerant merchant” as defined in HCC 8.08.010.

“Joint use parking area” means a parking lot that contains required off-street parking spaces for more than one lot.

“Junk” means any worn out, wrecked, scrapped, partially or fully dismantled, discarded, or damaged goods or tangible materials. “Junk” includes, without limitation, motor vehicles that are inoperable or not currently registered for operation under the laws of the State and machinery, equipment, boats, airplanes, metal, rags, rubber, paper, plastics, chemicals, and building materials that cannot, without further alteration or reconditioning, be used for their original purpose.

“Junkyard” means any lot, or portion of a lot, that is used for the purpose of outdoor collection, storage, handling, sorting, processing, dismantling, wrecking, keeping, salvage or sale of junk.

“Kennel” means any land and any buildings thereon where three or more dogs, cats, or other animals at least four months of age are kept for boarding, propagation or sale. If a use meets the definitions of both “dog lot” and “kennel,” it shall be classified as a dog lot.

“Kitchen” means any room or part of a room intended or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen.

“Landscaping” means lawns, trees, plants and other natural materials, such as rock and wood chips, and decorative features, including sculpture.

“Large Format Development” means one or more structures of more than 30,000 square feet of combined building area containing a retail or wholesale business use.

“Level of service” or “LOS” means a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, and convenience. Six levels of service, from A to F, are used to represent a range of operating conditions with LOS A representing the best operating conditions and LOS F the worst.

“Light trespass” means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

“Living ground cover” means low growing, spreading, perennial plants that provide continuous coverage of the area.

“Living plant life other than ground cover” means plants, including, but not limited to, trees, flower beds, rock gardens, shrubs and hedges.

“Loading space” means an off-street space on the same lot with a building or contiguous to a group of buildings, designated or intended for the use of temporarily parked commercial vehicles while loading and unloading, and that abuts upon a street, alley or other appropriate means of access.

~~“Lodging” means any building or portion of a building that does not contain a dwelling unit and that contains no more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests.~~

~~LOS. See “level of service.”~~

“Lot” means a single parcel of land of any size, the boundaries of which have been established by some legal instrument of record, that is recognized and described as a unit for the purpose of transfer of ownership. It may be shown on a subdivision plat map, or record of survey map, or described by metes and bounds and recorded in the office of the District Recorder. “Lot” includes tracts and parcels of land of any size or shape.

“Lot, corner” means a lot situated at the intersection of two or more streets having an angle of intersection of not more than 135 degrees.

“Lot depth” means the horizontal distance between the front and rear lot lines measured on the longitudinal centerline.

“Lot, interior” means a lot other than a corner lot.

“Lot line, front” means the shortest lot line that is a street line. In the case of (1) a square, or nearly square-shaped, corner lot, or (2) a through lot, ~~the owner may choose which street to designate as the front of the lot by giving written notice to the Department each side abutting a public right of way shall be considered a front yard.~~ Once the choice of frontage has been made, it cannot be changed unless all requirements for yard space with the new front lot line are satisfied.

“Lot line, rear” means a lot line that is opposite and most distant from the front lot line and, in case of an irregular or triangular lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

“Lot line, side” means any lot boundary line that is not a front lot line or rear lot line.

“Lot, through” means a lot having a frontage on two parallel or approximately parallel streets.

“Lot width” means the width of a lot calculated according to HCC 21.04.050.

“Luminaire” means a complete lighting unit, including a lamp or lamps together with parts to distribute light.

“Luminaire, cut-off” means a luminaire that allows no direct light from the luminaire above the horizontal plane through the luminaire’s lowest light emitting part, in its mounted form either through manufacturing design or shielding.

“Luminaire, height of” means the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct light emitting part of the luminaire.

“Manufactured home” means a detached dwelling designed for long-term human habitation and having complete living facilities; constructed and fabricated into a complete unit in a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer, meeting the manufacturer’s association codes and designed primarily for placement on an impermanent foundation. Manufactured homes meeting this definition are constructed on or after June 15, 1976.

“Ministorage” means one or more buildings containing units available for rent for the purpose of the general storage of household goods and personal property in which each unit (1) is separated from all other such units, (2) is fully enclosed, and (3) does not have an area greater than 600 square feet.

“Mitigation plan” means a plan designed to mitigate the effect of impervious cover on water flow and loss of ground cover, and may include systems of water impoundment, settling ponds, grease and sand traps, and leach fields, among others.

“Mobile commercial structure” means a structure constructed as a movable or portable unit, capable of being transported on its own chassis or wheels, that is designed for nonpermanent uses and placed on a nonpermanent foundation and is used in any activity that promotes, supports or involves a land use permitted outright in the zoning district in which the mobile commercial unit is to be placed.

“Mobile food service” has the meaning defined in HCC 8.11.020 and, for purposes of the zoning code, is treated as a temporary business.

“Mobile home” or “manufactured home” means a detached dwelling designed for long-term human habitation and having complete living facilities; constructed and fabricated into a complete unit in a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer. Mobile homes meeting this definition are constructed prior to June 15, 1976. a structure, transportable in one or more sections: (1) that in the traveling mode is eight feet or more in width or 40 feet or more in length, or when erected on site is 320 square feet or more; and (2) that is built on a permanent chassis and is designed for use as a dwelling with or without a permanent foundation when the plumbing, heating, and electrical systems contained therein are connected to the required utilities. A mobile home shall be construed to remain a mobile home whether or not wheels, axles, hitch or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a recreational vehicle or a factory built dwelling.

“Mobile home park” means one or more lots developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.

“Mortuary” means an establishment in which the deceased are prepared for burial or cremation. The facility may include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings or display of funeral equipment. Also referred to as “Crematorium” or “Funeral Home”.

“Native vegetation” means native plant communities that are undisturbed or mimicked.

“Natural or manmade features” means features in landscaping other than plants, including, but not limited to, boulders or planters.

Nonconforming Lot. See HCC 21.1561.0210.

Nonconforming Structure. See HCC 21.1561.0210.

Nonconforming Use. See HCC 21.1561.0210.

“Nursing facility” means a facility that is primarily engaged in providing skilled nursing care or rehabilitative services and related services for those who, because of their mental or physical condition, require care and services above the level of room and board. “Nursing facility” does not include a facility that is primarily for the care and treatment of mental diseases or an assisted living home.

“Occupancy” means the purpose for which a building is used or intended to be used. The term may also include the building or room housing such use. Change of occupancy does not result from a mere change of tenants or proprietors.

“Office” means a physical location designed for, or used for conducting the affairs of a business, profession, personal service or service industry, veterinary, or government used as, ~~the office of professional, business, administrative, institutional, charitable, personal service or public organizations or persons,~~ but does not include direct retail or wholesale sale of goods except for those sales that are clearly incidental to the principal office use. Offices that are part of and are located with a business or industrial firm in another category are considered accessory to that firm’s primary activity.

~~“Office, general business” means an office maintained and operated for the conduct of management level-administrative services or in which individuals or entities are provided services in office settings in the nature of government, business, real estate, insurance, property management, title companies, investment and financial, personnel, travel, and similar services, including business offices of public utilities or other activities when the service rendered is a service customarily associated with office services. Offices that are part of and are located with a business or industrial firm in another category are considered accessory to that firm’s primary activity. Professional office is excluded.~~

~~“Office, professional” means an office maintained and operated for the conduct of a professional business or occupation requiring the practice of a learned art or science through specialized knowledge based on a degree issued by an institute of higher learning, including but not limited to medicine, dentistry, law, architecture, engineering, accounting, and veterinary medicine. General business office and clinic are excluded.~~

“Off-road vehicle” means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, wetland, or other natural terrain, except that such terms exclude (1) registered motorboats, (2) military, fire, emergency, and law enforcement vehicles when used for such military, emergency, and law enforcement purposes, and (3) any vehicle whose use is expressly approved by the City of Homer.

“Oil water separators” means passive, physical separation systems, designed for removal of oils, fuels, hydraulic fluids, and similar products from water. They are generally large-capacity, underground cement vaults installed between a drain and the connecting storm drain pipe. These vaults are designed with baffles to trap sediments and retain floating oils. The large capacity of the vault slows down the wastewater, allowing oil to float to the surface and solid material to settle out.

“Open space” means an area reserved or developed for recreational uses or preserved for its natural amenities. Open space may include squares, parks, bicycle and pedestrian paths, refuges, campgrounds, picnic areas, playgrounds, and gardens. “Open space” does not include outdoor recreation facilities.

“Ordinary High Water Mark” means the line on a shore or bank of a body of water established by the normal fluctuations of water and indicated by a relatively abrupt change in observable physical, hydrologic, and biologic characteristics above and below the line. For a stream or lake the OHWM is approximately equivalent to the "bank." For a marine shoreline, the OHWM is approximately equivalent to the "mean high water line." In all cases, an appropriate mix of indicators used to establish the OHWM at a particular location are selected using means and methods that consider the type of water body and the characteristics of the surrounding area.

“Overbank flood protection volume” or “Qp” means the volume controlled by structural practices to prevent an increase in the frequency of out of bank flooding generated by development.

“Overlay district” means a defined area with supplementary regulations that is superimposed upon all or part of one or more underlying zoning districts. The boundaries of an overlay district are usually shown on the official map, but may be established by description.

“Overslope development” means an overslope platform and the structures located on the overslope platform.

“Overslope platform” means an elevated horizontal structure designed to support buildings that are located above the slope between an upland lot and the water of the Homer small boat harbor.

“Parking lot” means an off-street, ground level open area, usually improved, containing parking spaces for motor vehicles.

“Parking lot, double-loaded” means all or any portion of a parking lot in which there are parking spaces on both sides of the driving aisle.

“Parking lot, single-loaded” means all or any portion of a parking lot in which there are parking spaces on only one side of the driving aisle.

“Parking space” or “Parking stall” is a space in a parking lot that is reserved for the parking of a vehicle.

“Parking stall” is synonymous with “parking space.”

“Peak hour” in reference to traffic means a one-hour period representing the highest hourly volume of traffic flow on the adjacent street system during the morning (a.m. peak hour), during the afternoon or evening (p.m. peak hour) or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).

“Pedestrian way” means a maintained walkway or path, no less than four feet wide, that connects two or more focal points of pedestrian activity, including other pedestrian ways, trails, transit stops, street or parking area crossings, or building entry points. Sidewalks may be pedestrian ways.

“Performance standards” means minimum requirements or maximum allowable limits on the effects or characteristics of a use.

“Permeable, continuous nonliving ground cover” means landscaping surfaces made up of materials such as, but not limited to, crushed rock, bark and mulch.

“Permit” means any permit, approval or other authorization issued by the City under the authority of the Homer Zoning Code or regulations.

“Person aggrieved” means a person who shows proof of the adverse effect an action or determination taken or made under the Homer Zoning Code has or could have on the use, enjoyment, or value of real property owned by that person. An interest that is no different from that of the general public is not sufficient to establish aggrievement.

“Personal service” means a business primarily engaged in providing services involving the care of an individual or his or her personal goods or apparel.

“Pipeline” means a line six inches or larger, which may include accessory pumps, valves and control devices, for conveying liquids, gases or finely divided solids that are constructed within rights-of-way or easements or from one parcel to another. However, for the purpose of securing a conditional use permit the following are excluded: the mains, hydrants, pumps, services, and pressure stations of the City of Homer water utility; the mains, services, manholes and lift stations of the City of Homer sewer utility; and the local service mains, valves and services of a gas utility legally authorized to provide such service within the City.

“Place of Assembly” means a building or a portion of a building owned or maintained by an organized religious organization or nonprofit entity for assemblies for social, cultural, civic, or philanthropic purposes, or where persons regularly assemble for worship.

“Planned unit development” or “PUD” means a residential, commercial, office, industrial, or other type of development, or a combination thereof, approved under the conditional use procedures and applicable provisions of this title and characterized by comprehensive planning for the entire project, the clustering of buildings to preserve open space and natural features, and provision for the maintenance and use of open space and other facilities held in common by the property owners within the project.

“Planning Commission” means the Homer Planning Commission.

“Pollutant” in reference to waters means any substance that causes contamination or other alteration of the physical, chemical, or biological properties of waters including change in temperature, taste, color, turbidity, or odor of the

waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into the waters that will or is likely to create a nuisance or render such waters harmful. These substances include, but are not limited to, any dredge, spoil, solid waste, incinerator residue, oil, grease, garbage, sewage, sludge, medical waste, chemical waste, biological materials, heat, petrochemical, and sediment.

“Pollution, nonpoint source” means pollution from any source other than from any discernible, confined, and discrete conveyances and shall include, but not be limited to, parking lots and roof tops and include substances such as pathogens, petrochemicals, sediments, debris, toxic contaminants, or nutrients.

“Pollution, point source” means pollution from any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.

~~Principal Use. See “use, principal.”~~

“Project” means an existing or proposed development.

“Public spaces” means space containing amenities for public use or enjoyment, for example, benches, bike racks, water features, public art, and kiosks that enhance the community.

“Public utility facility or structure,” for the purpose of requiring a conditional use permit, means (1) any facility or structure owned and operated by a public or private utility, or (2) a telecommunications tower or antenna, but it excludes water distribution mains, pressure stations and hydrants, sewage collection lines, manholes and lift stations, underground and overhead electrical, cable and telephone lines and poles, street lights and small wind energy systems.

“Ravine” means a long, deep hollow in the earth’s surface with walls that have a height of at least 15 feet and an average slope of not less than 500 percent (five feet difference in elevation per one foot of horizontal distance).

“Recharge volume” ~~or “Rev”~~ means that portion of the water quality volume used to maintain groundwater recharge rates at development sites.

“Recreational facility, indoor” means a building used for indoor sports, recreation, physical activities or games such as bowling alleys, racquetball courts, skating rinks, and other physical recreation activities.

“Recreational facility, outdoor” means a lot used for outdoor sports activities or games such as skating rinks, batting cages, sports fields, golf courses, miniature golf, driving ranges, equestrian arenas, open air performing arts centers and similar activities. It does not include sport fishing in the waters of any watercourse, water body, or Kachemak Bay.

“Recreational vehicle” is a vehicular unit, other than a manufactured home, that is designed and manufactured as temporary lodging for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, and fifth-wheel trailer.

“Recreational vehicle park” means a parcel of land that has been planned and improved for use by two or more recreational vehicles for transient occupancy.

~~“Religious, cultural and fraternal assembly” means a use or building owned or maintained by an organized religious organization or nonprofit entity for assemblies for social, cultural, civic, or philanthropic purposes, or where persons regularly assemble for worship.~~

“Reservoir” means a pond, lake, or basin, either natural or artificial, for the storage, regulation, and control of water.

“Residential districts” or “residential zoning districts” means the rural residential, urban residential, and neighborhood flex and ~~residential office~~ zoning districts.

“Retention structure” means a permanent structure that provides for the storage of water runoff.

“Right-of-way” means the entire width of property dedicated for a public street or private easement providing ingress and egress from property abutting thereon.

Road. See “street.”

“Roadside stand” means a temporary structure on land adjacent to a street, usually for the attraction of motorists for profit-making purposes. Common roadside stands sell local food, produce, firewood, handcrafted items or imported goods.

“Rooming house” means a dwelling containing not more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. A rooming house shall not accommodate in excess of 15 guests. A rooming house shall also include any structures associated with the dwelling, such as guest cabins; provided, that a conditional use permit was obtained for any associated structures, if a permit is required in order to have more than one building containing a permitted principal use on the lot. “Rooming house” does not include bed and breakfast.

“School” means any public or private property, or building or part thereof, which is designed, constructed or used for educational purposes or instruction in any branch of knowledge, an institution or place for instruction or education, including all structures and land necessary to the accomplishment of educational purposes.

~~“School, commercial” means a school for the teaching of clerical, managerial, administrative, service or artistic skills. This applies to schools operated privately for profit that do not offer a complete educational curriculum, e.g., beauty school, modeling school and secretarial school. Commercial school does not include trade, skilled or industrial school.~~

~~“School, private” means a school that provides a complete educational curriculum and is owned and operated by private educational, religious, charitable, or other institution. It may provide elementary, secondary or post-secondary levels of education.~~

~~“School, public” means a school owned and operated or chartered by the Kenai Peninsula Borough or the State or University of Alaska for the purpose of public education.~~

~~“School, trade, skilled or industrial” means a school for the teaching of industrial, construction, technical and skilled trades skills, including schools operated by or for labor unions. Examples include welding, carpentry, electrician, and similar training schools.~~

“Sediment” means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

“Senior housing” means attached or detached independent living developments, including retirement communities, age-restricted housing and active adult communities.

~~Service Station. See “auto fueling station” and “auto repair.”~~

“Setback” means the required minimum distance between the lot line and a building, measured according to Chapter 21.05 HCC. The setback area establishes a required yard in which structures are prohibited or limited as provided in the zoning code.

“Sewer, community” means that portion of a nonpublic sewerage serving:

1. One or more multifamily dwellings;
2. A mobile home park, a trailer park, or a recreational vehicle park;
3. Two or more:
  - a. Single-family homes or duplexes;
  - b. Commercial establishments;

- c. Industrial establishments; or
- d. Institutions; or

4. Any combination of two or more of the structures listed in subsections (3)(a) through (d) of this definition.

“Sewer, public” means a sewer system operated for the benefit of the public by the City of Homer or a public utility under a certificate of convenience and necessity issued by the Regulatory Commission of Alaska or by its predecessor or successor agency.

“Shelter for the homeless” means a building used primarily to provide on-site meals, shelter and secondary personal services such as showers and haircuts to the homeless and the needy on a nonpermanent basis for no or nominal compensation.

“Short-term rental” means a transient lodging establishment, located within a residential structure, engaged in providing temporary accommodations for the general public. Stay duration is less than thirty days. These may include, but are not limited to: entire dwellings, rooms within a dwelling, attached and detached accessory dwelling units, and bed and breakfast establishments. Short-term rentals do not include worker housing as defined in this title, which is strictly for transient workers.

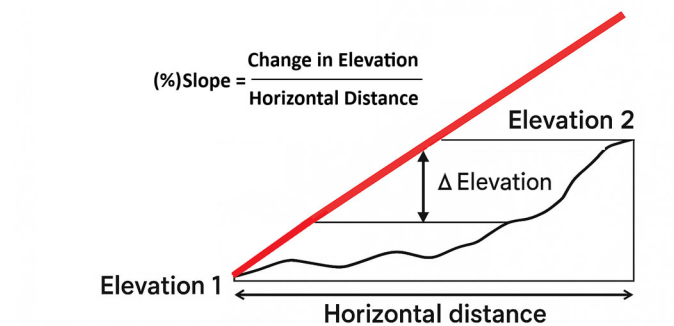
Sign. See HCC 21.60.040.

“Site” means any lot, tract, or parcel of land, or a portion thereof, or any combination thereof that is in one ownership or is contiguous and in diverse ownership, where development exists or will be created as one unit, subdivision, or project.

“Site plan” means a plan, to scale, showing the proposed use and development of a site. The plan generally includes lot lines, streets, points of vehicular access to the site, building sites and setbacks, reserved open space, existing buildings, major landscape features (both natural and manmade), and the locations of utility easements~~lines~~. Specific requirements for site plan submittal are described in applicable sections of the zoning code~~Additional information may be required on a site plan by applicable provisions of the zoning code.~~

“Slash pile” means a row or pile of woody debris from timber harvesting, land clearing, or similar activity.

“Slope” means, with respect to two points on the surface of the ground, the ratio, expressed as a percentage, of the difference between their elevations divided by the horizontal distance between them. Slope is measured as provided in HCC 21.05.040.



~~“Small wind energy system” means a wind energy system having a rated capacity of less than 25 kilowatts and a total height less than 170 feet, whose primary function is to provide electric power for on-site consumption.~~

“Stabilization, soil” means the prevention of soil movement by any of various vegetative or structural means.

“Stable, private” means an accessory building in which one or more horses are kept for private use and enjoyment and not for boarding, hire or sale; or in which not more than one horse is kept for boarding, hire or sale.

“Stable, public” means a building in which two or more horses are kept for boarding, hire or sale.

“State highway” or “Highway” means a street designated by the State as a part of the State highway system.

“Steep slope” means an elevation change in topography of at least 15 feet, with an average slope of not less than 45 percent (one foot difference in elevation per 2.22 feet of horizontal distance). A steep slope can occur naturally or can be created by excavation into or filling over natural ground.

“Stormwater management” means:

1. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by manmade changes to the land; and
2. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

“Stormwater management, off-site” means the design and construction of a facility necessary to control stormwater from more than one development.

“Stormwater management, on-site” means the design and construction of systems necessary to control stormwater within an immediate development site.

“Stormwater management plan” or “SWP” means a set of drawings or other documents prepared according to the requirements of this title and submitted by a person as a prerequisite to obtaining a stormwater management approval. A SWP will contain all of the information and specifications pertaining to stormwater management.

“Stormwater runoff” means flow on the surface of the ground, resulting from precipitation or snow melt.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such basement or cellar shall be considered a story.

“Story, half” means a story under a gable, hip, gambrel or mansard roof, the wall plates of which on at least two of its opposite exterior walls are not more than two feet above the floor of such story.

“Stream” means ~~any~~ body of flowing water, including a river, creek, tributary, or other watercourse.

“Stream banks” are defined by the steep or sloping ground that borders a stream and confines the water in the natural channel when the water level or flow is normal.

“Stream, intermittent” means a stream that does not flow continuously but stops or dries up from time to time.

“Stream, perennial” means a stream that flows continuously throughout the year, in contrast to an intermittent stream.

“Street” means a public thoroughfare including a public street, road or highway of any description that affords a principal means of access to abutting property. Street does not include alley or driveway.

“Street line” means the line of demarcation between a street right-of-way and the abutting lot(s).

“Stripping” means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.

“Structural alteration” means any change of the supporting members of a building or structure such as bearing walls, columns, beams or girders.

“Structure” means anything constructed or erected that requires location on the ground or that is attached to something having location on the ground.

“Structure, Principal” means a building in which is conducted the primary or main use of the lot on which the building is situated.

“Studio” means a room, rooms or building where an artist or photographer does work, a place where dancing lessons, music lessons, or similar artistic lessons are given, or where radio or television programs are produced or where recordings are made.

~~“Taxi” means any motor vehicle, permitted and licensed by the City, having a manufacturer-rated seating capacity of nine passengers or less engaged in the carrying of persons in exchange for receiving fares, not operated over a fixed route, and subject to calls from a central location or otherwise operated for hire to perform public transportation.~~

~~“Taxi operation” means a taxi business operated from a fixed location, but not limited in its operation to any particular route, which may include a dispatch office and vehicle fleet parking.~~

“Timber growing, harvesting and forest crops” means the growing, harvesting, or both, for commercial purposes, of (1) trees including, without limitation, live trees, Christmas trees and tree products in the form of logs, chunks, bark chips or similar items; or (2) minor forest crops such as cones, ferns, greenery, berries and moss.

“Tiny House~~come~~” means a dwelling that is 400 square feet or less in floor area excluding lofts.

“Total suspended solids” means the sum of the organic and inorganic particles (e.g., sediment) suspended in and carried by a fluid (e.g., water).

“Tower, amateur radio” means a fixed vertical structure used exclusively to support an antenna used by an amateur radio operator licensed by the Federal Communications Commission, plus its accompanying base plates, anchors, guy cables and hardware.

“Tower, communications” means a fixed vertical structure built for the primary purpose of supporting wireless communications equipment, plus its accompanying base plates, anchors, guy cables and hardware.

“Townhouse” means a building on its own separate lot containing one dwelling unit that occupies space from the ground to the roof and is attached to one or more other townhouse dwelling units by at least one common wall.

“Trip” in reference to traffic means a single one-way motor vehicle movement either to or from a subject property or study area.

“Turbidity” means an expression of the optical property that causes light to be scattered and absorbed rather than transmitted in straight lines through a water sample; turbidity in water is caused by the presence of suspended matter such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms.

“Use” means the purpose for which land or a structure is occupied, arranged, designed or intended, or for which either land or a structure is or may be occupied or maintained.

“~~Accessory use~~Use, Accessory” means a use or activity that is customary to the principal use on the same lot, and which is subordinate and clearly incidental to the principal use.

“Use, ~~principal~~Principal” means the use of a lot or structure that is of chief importance or function on the lot.

“Variance” means any deviation from the requirements of the zoning code authorized by the Planning Commission pursuant to Chapter 21.72 HCC.

“Vehicle fleet” means a group of vehicles operated under unified control.

Vehicle Maintenance or Repair. See “auto repair.”

~~Vehicle Repair~~. See “auto repair.”

“Visibility ~~or vision~~ clearance” means the assurance of adequate and safe vision clearance particularly for vehicle operators and pedestrians; a specified area of clearance at corners of intersections where no plantings, walls, structures or temporary or permanent obstructions exceeding a specified height above the curb level are allowed.

“Warehouse” means a building used primarily for the storage of goods and materials. Also referred to as “commercial storage”.

“Water-dependent” means a use or activity that can be carried out only on, in or adjacent to water areas because the use requires access to the water body.

“Water quality volume” or “WQV” means the volume needed to capture and treat 90 percent of the average annual runoff volume at a development site.

“Water-related” means a use or activity that is not directly dependent upon access to a water body, but which provides goods and services that are directly associated with water-dependent uses or activities.

“Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or floodwater.

“Watershed” means any area of land that water flows or drains under or across ground on its way to a lake, pond, river, stream, or wetland. A watershed can be delineated on a topographical map by connecting the high points of the contour lines surrounding any water body.

“Wetland” means an area of land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

~~Wholesale~~. See “business, wholesale.”

“Wind energy system” means a wind turbine and its supporting wind energy system tower.

~~Small w~~Wind energy system, Small” means a wind energy system having a rated capacity of less than 25 kilowatts and a total height less than 170 feet, whose primary function is to provide electric power for on-site consumption.

“Wind energy system tower” means a fixed vertical structure that supports a wind turbine, including a monopole or lattice tower, plus its accompanying base plates, anchors, guy cables and hardware.

“Wind turbine” means a bladed or other type of rotating mechanism that converts wind energy into electric energy.

“Wireless communications equipment” means the set of equipment and network components used in the provision of wireless communications services, including without limitation antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding any wireless communications support structure.

“Wireless communications services” means transmitting and receiving information by electromagnetic radiation, by an operator (other than an amateur radio operator) licensed by the Federal Communications Commission.

“Wireless communications support structure” means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a communications tower, utility pole, or building.

“Worker Housing” means accommodation that is used solely for the purpose of providing cooking, sanitary, and sleeping facilities to house transient workers associated with a particular business, institution or industry. Housing types may include, but are not limited to, bunkhouses, boarding houses, dormitories, attached dwelling units, and manufactured homes.

“Yard” means a required open, unoccupied space on a lot. A yard is unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, except (1) fences, walls, posts, poles and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility, and (2) certain structures may be permitted in certain yards when authorized by code provisions applicable to a particular zoning district.

“Yard, front” means a yard extending across the full width of a lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

“Yard, rear” means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto.

“Yard, side” means a yard between a ~~main building~~principal structure and the side lot line extending from the front yard to the rear yard.

“Zoning code” means this title.

“Zoning districts” means those districts established and described in Division II of this title. [Ord. 22-32 § 1, 2022; Ord. 19-32(S) § 3, 2019; Ord. 18-04 § 1, 2018; Ord. 14-18(A)(S-2) § 1, 2016; Ord. 14-49(A) § 1, 2014; Ord. 13-11(A) § 1, 2013; Ord. 10-56 § 1, 2011; Ord. 09-44(S) § 1, 2009; Ord. 09-34(A) §§ 1, 2, 2009; Ord. 09-12(A) §§ 1, 2, 2009; Ord. 08-29, 2008].

## Chapter 21.03. General Provisions

### 21.03.010 Compliance.

No person shall develop, construct, use, occupy, keep, or alter any land or structure except in conformance with the Homer Zoning Code requirements applicable to the zoning district in which the same are located. [Ord. 08-29, 2008].

### 21.03.020 Unlisted uses.

- a. Unlisted uses may be allowed within a zoning district upon application of the property owner and written decision by the Planning Commission, if, after a public hearing, the Commission finds the proposed use meets all of the following criteria:
  1. The use is not specifically permitted outright or conditionally in any other district;
  2. The use is not more appropriate in another district;
  3. The use is compatible with the purposes of the district in question;
  4. The use is similar to and not more objectionable than other uses permitted outright in that district;
  5. The use satisfies any other criteria specifically applicable to approval of unlisted uses in the zoning district in question.
- b. In approving an application for a specific unlisted use, the Planning Commission may determine that the unlisted use should be treated as a conditional use. If it does, then the application shall be processed and decided under the provisions of Chapter 21.71 HCC. The applicant will be given notice and an opportunity to provide supplemental information in support of the matter as a conditional use permit application. [Ord. 08-29, 2008].

### ~~21.03.030 — Parking and loading facilities.~~

~~Every building hereafter erected, enlarged or converted to a different use shall conform to the parking and loading requirements of City ordinances. [Ord. 08-29, 2008].~~

### 21.03.030 Zoning fees.

The City Council may by resolution establish fees to be charged for any application, filing, permit, inspection, appeal, or any other action or service provided for in the Homer Zoning Code or applicable regulations. This includes the authority to amend such fees from time to time and set conditions, if any, under which a fee will be increased or waived, in whole or in part. [Ord. 08-29, 2008].

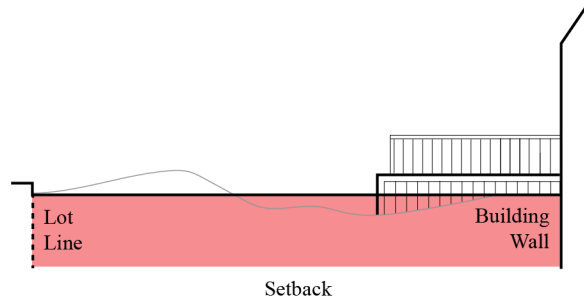
## Chapter 21.04. Measurements

### 21.04.010 Purpose.

This chapter explains how certain measurements are made in the zoning code. [Ord. 08-29, 2008].

### 21.04.020 Measuring distances.

- a. When measuring distances for setbacks, structure dimensions, and similar measurements, all distances are measured along a horizontal plane from the appropriate lot line, edge of structure, or other object. These distances are not measured by following the topography of the land.
- b. When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the shortest distance between the two objects, except as otherwise provided in this section or other sections of the zoning code.
- c. Measurements involving a building are made to the closest wall of the building. Windowsills, belt courses, cornices, eaves, chimneys, bay windows up to 12 feet in length, and similar incidental architectural features that project not more than two feet into any required yard are not included in the measurement, and if they extend more than two feet into a required yard, that portion beyond two feet is included in the measurement. Paved terraces are not included in the measurement.
- d. Covered porches, covered decks and covered entrances are included in a measurement involving a building. Unroofed porches, decks, landings and stairs are excluded from the measurement of front and rear yards only if no portion other than a light handrail extends higher than 16 inches above the finished grade.
- e. Open fire escapes are excluded from the measurement of any required yard only if they project not more than four feet, six inches into a required yard.
- f. Structures or portions of structures that are entirely underground are not included in measuring required distances. [Ord. 08-29, 2008].

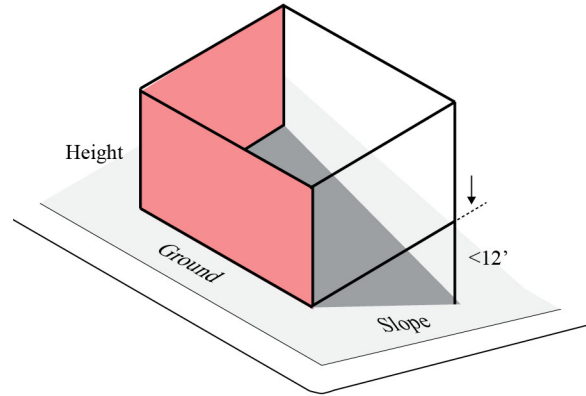


f.g. No structure or portion of a structure, including unroofed porches, decks, landings and stairs, or portions of structures that are underground, may encroach into a utility easement or right-of-way.

### 21.04.030 Measuring heights.

- a. When measuring height of a building, the following are included in the measurement: screening, parapets, mansards or similar structures.
- b. When measuring height of a building, the following are excluded from the measurement:
  1. Steeples, spires, belfries, cupolas and domes if not used for human occupancy, chimneys, ventilators, weather vanes, skylights, water tanks, elevator shafts, bulkheads, monuments, flagpoles, wind energy systems, television and radio antennas, other similar features, and necessary mechanical appurtenances usually carried above roof level.
  2. Wireless communications equipment that does not extend more than 10 feet above the height of the building.
  3. For buildings located within an area of special flood hazard, the vertical distance between grade and the base flood elevation plus two feet is excluded from the calculation of building height.

- c. When determining building height on a sloping lot, building height shall be calculated as follows: more than 50 percent of the perimeter of the building shall meet the maximum building height requirements; any portion of the building not meeting this standard shall not exceed the elevation established by the compliant portion and shall not exceed the maximum building height by more than twelve (12) feet at any location. the maximum elevation of the remainder of the building shall not exceed the elevation of the first portion nor add more than 12 feet of building height at any point.



- d. When determining the height of a nonbuilding structure, such as a sign, fence, amateur radio tower, communications tower or wireless communications support structure, the height shall be calculated as the distance from the base of the structure at normal grade to the top of the highest part of the structure, excluding lightning rods. For this calculation, normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any fill, berm, mound, or excavation made for the purpose of locating or supporting the structure. In cases in which the normal grade cannot reasonably be determined, structure height shall be calculated on the assumption that the elevation of the normal grade at the base of the structure is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal primary main building principal structure on the lot, whichever is lower. [Ord. 20-53 § 1, 2020; Ord. 19-22 § 1, 2019; Ord. 14-18(A)(S-2) §§ 2, 3, 2016; Ord. 09-34(A) § 3, 2009; Ord. 08-29, 2008].

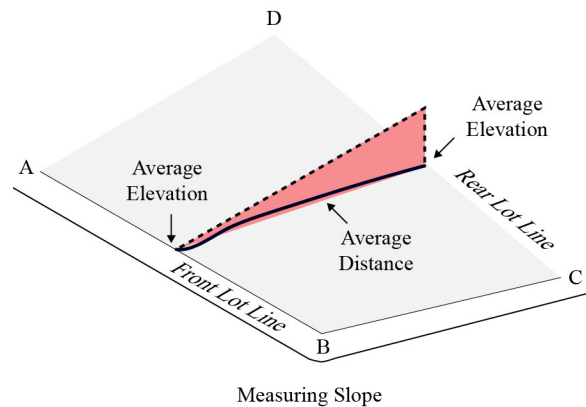
**21.04.040 Measuring slopes.**

When calculating the slope of a lot, an average slope is used based on the elevations at the corners of the lot. The average slope of a lot, expressed as a percentage, is calculated by subtracting the average elevation of the uphill lot line and the average elevation of the downhill lot line and dividing the difference by the average distance between the two lot lines. The average elevation of the uphill or downhill lot line is calculated by adding the elevations at the ends of the lot line and dividing by two. See Figure 1.

$$\frac{\text{Average elevation of uphill lot line} - \text{Average elevation of downhill lot line}}{\text{Average distance between the uphill and downhill lot lines}}$$

$$\frac{\left(\frac{A+B}{2}\right) - \left(\frac{C+D}{2}\right)}{\left(\frac{\text{Length of line AC} + \text{Length of line BD}}{2}\right)}$$

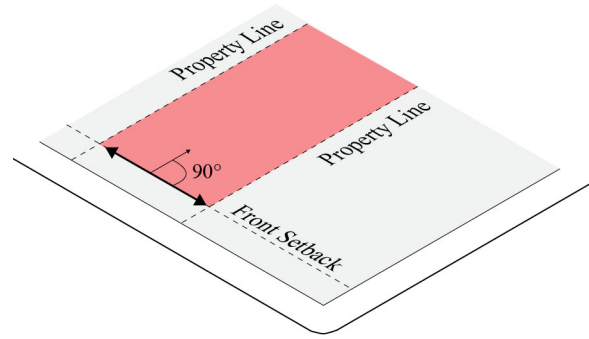
Figure 1



[Ord. 08-29, 2008].

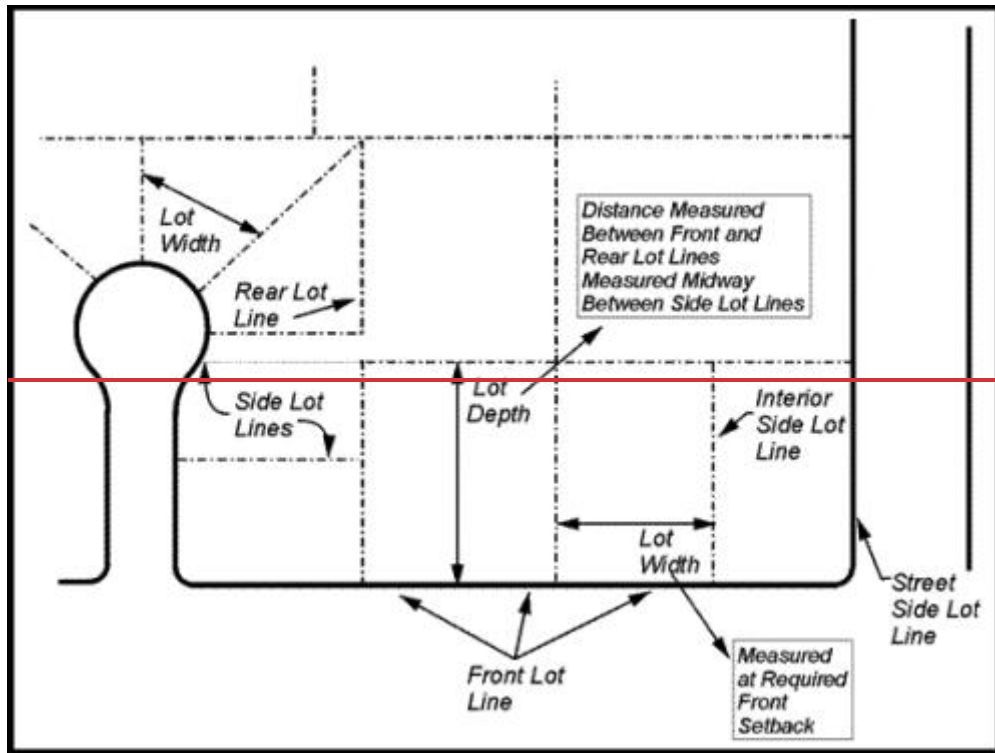
**21.04.050 Measuring lot width.**

- a. The width of a lot is calculated as horizontal distance between the side property lines of a lot, measured at right angles to the lot depth at the rear of the required front yard setback. See Figure 2.



**Figure 2**

Measuring Lot Width

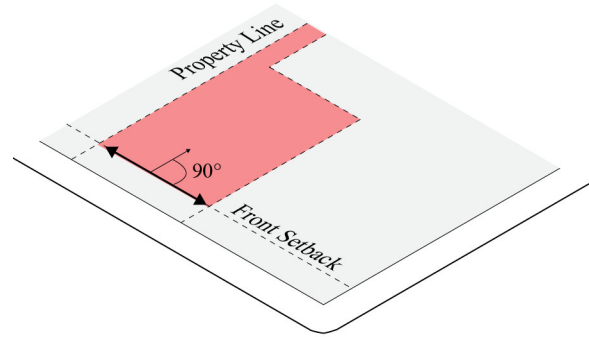
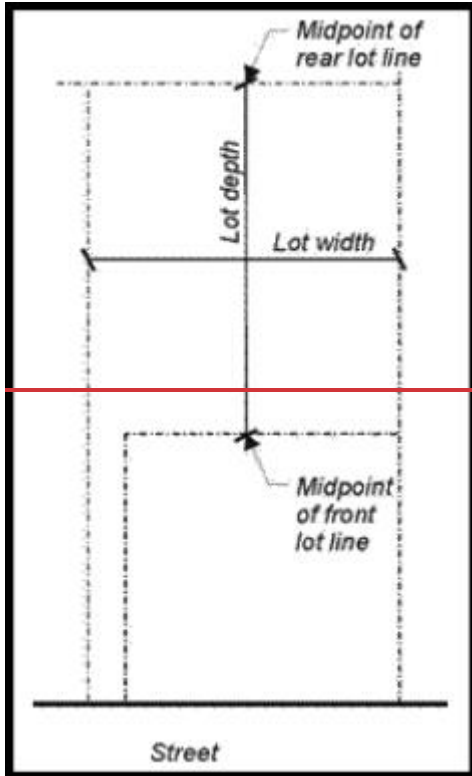


**LOT DEPTH AND LOT WIDTH**

**(The diagram is illustrative)**

- b. The pole portion of a flag-shaped lot shall be disregarded in calculating lot width. See Figure 3.

**Figure 3**



Width of Flag Shaped Lot

**FLAG LOT DEPTH AND LOT WIDTH**

**(The diagram is illustrative)**

[Ord. 08-29, 2008].

## DIVISION II. ADMINISTRATION, PROCEDURES, AND ENFORCEMENT

### Chapter 21.05 Decision Making Authorities

#### 21.05.010 Department of Administration.

The administration and enforcement of the Homer Zoning Code is a function of the Department of Administration under the supervision of the City Manager. [Ord. 08-29, 2008].

#### 21.05.020 City Planner.

- a. The City Manager may appoint a City Planner and one or more assistants, however denominated.
- b. If appointed by the City Manager, the City Planner shall have all functions and may exercise all powers necessary to administer and enforce the zoning code. Assistants to the City Planner may exercise the administration and enforcement functions and powers of the City Planner under the City Planner's supervision.
- c. Administration and enforcement functions and powers of the City Planner include, but are not limited to, the following:
  1. Maintaining records of all zoning text and district changes related to this title.
  2. Providing technical assistance upon request by the City Manager.
  3. Providing and processing all applications under this title.
  4. Interpreting and enforcing this title.
  5. Maintaining records of all activity related to this title.
  6. Other functions and powers assigned by this title. [Ord. 08-29, 2008].

#### 21.05.030 Planning Commission.

- a. Planning Commission Established. There shall be a Planning Commission established and functioning pursuant to Chapter 2.72 HCC. [Ord. 21-44(S) § 1, 2021; Ord. 08-29, 2008].
- b. Powers and functions. In addition to the powers and functions assigned to the Planning Commission in Chapter 2.72 HCC, the Commission has ~~all the~~ the following powers and functions: ~~assigned to it in this title~~. [Ord. 21-44(S) § 1, 2021; Ord. 08-29, 2008].
  1. The Planning Commission shall act as the decision-maker on all Conditional Use Permit and Variance applications.
  2. The Planning Commission shall review and make recommendations to the City Council on all Land Use Plan, Zoning Text, and Zoning Map Amendments.
  3. The Planning Commission shall work with the Planning Department to create the City Comprehensive Plan to be reviewed by the City Council and approved by the Kenai Peninsula Borough.
  - ~~4.~~ 4. The Planning Commission shall review and make recommendations on all proposed plats to the Kenai Peninsula Borough.

#### 21.05.040 Hearing Officer.

- a. Hearing officer appointment. A hearing officer shall be appointed by the City Manager to hear and decide appeals authorized by Chapter 21.93 HCC. A hearing officer appointed by the City Manager must have

experience acting as an administrative law judge or administrative hearing officer and must be licensed to practice law in the State of Alaska and in good standing. [Ord. 21-44(S) § 1, 2021; Ord. 08-29, 2008].

b. Powers and functions.

1. The hearing officer appointed by the City Manager shall hear and decide appeals pursuant to the provisions of the zoning code.
2. The hearing officer shall act as the decision maker in appeals of decisions made by the City Manager, City Planner, City Planner's designee, or the Planning Commission. [Ord. 21-44(S) § 1, 2021; Ord. 17-07(S-3)(A) § 2, 2017; Ord. 08-29, 2008].

c. Procedures. Appeals heard by a hearing officer shall be conducted according to applicable procedures specified in Chapter 21.93 HCC. [Ord. 21-44(S) § 1, 2021; Ord. 17-07(S-3)(A) § 3, 2017; Ord. 08-29, 2008].

d. Appeals to Superior Court.

1. An appeal from a final decision of a hearing officer may be taken directly to the Superior Court by a party who actively and substantively participated in the proceedings before the hearing officer or by the City Manager or City Planner or any governmental official, agency, or unit.
2. An appeal to the Superior Court shall be filed within 30 days of the date of distribution of the final decision to the parties appearing before the hearing officer.
3. An appeal from a final decision of the hearing officer to the Superior Court is governed by court rules. [Ord. 21-44(S) § 1, 2021; Ord. 17-07(S-3)(A) § 4, 2017; Ord. 08-29, 2008].

**21.05.050 City Council.**

- a. Within the context of Title 21, the City Council shall serve as the decision-maker on all Land Use Plan, Zoning Code, and Zoning Map Amendments.

**21.05.060 Fees.**

The applicant for any application or permit prescribed in this title shall pay a fee according to the fee schedule established by resolution of the City Council. No application shall be processed until the fee is paid.

### Chapter 21.06 Review Matrix

**21.06.010 General**

Review procedures established in this section are applicable to any development or land use located within the City of Homer.

**21.06.020 Review Matrix**

The review matrix is provided as Table 21.06.a. The review matrix identifies each land use action along with the corresponding review authority, decision-making authority, and appellate authority.

<b><u>Table 21.06.a Review Matrix</u></b>			
<b><u>Permit/Application Type</u></b>	<b><u>Reviewing Authority (Recommendation)</u></b>	<b><u>Decision-making Authority</u></b>	<b><u>Appellate Authority</u></b>
<u>Comprehensive Plan</u>	<u>City Council</u>	<u>Kenai Peninsula Borough</u>	<u>n/a</u>
<u>Land Use Plan Amendments</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>n/a</u>
<u>Zoning Code and Map Amendments</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Superior Court</u>
<u>Conditional Use Permits</u>	<u>Planning Department</u>	<u>Planning Commission</u>	<u>Hearing Officer</u>
<u>Variances</u>	<u>Planning Department</u>	<u>Planning Commission</u>	<u>Hearing Officer</u>
<u>Administrative Adjustments</u>	<u>Planning Department</u>	<u>City Planner</u>	<u>Hearing Officer</u>
<u>Zoning Permits</u>	<u>Planning Department</u>	<u>City Planner</u>	<u>Hearing Officer</u> <u>Superior Court</u>
<u>Floodplain Permit</u>	<u>Planning Department</u>	<u>City Planner</u>	<u>Hearing Officer</u>
<u>Stormwater management plan</u>	<u>Planning Department</u>	<u>City Engineer</u>	<u>Hearing Officer</u>
<u>Right-of-Way Access Plan</u>	<u>Planning Department</u>	<u>City Engineer</u>	<u>Hearing Officer</u>
<u>Traffic Impact Analysis</u>	<u>Planning Department</u>	<u>City Engineer</u>	<u>Hearing Officer</u>
<u>Termination of Nonconforming Status</u>	<u>Planning Department</u>	<u>Planning Commission</u>	<u>Hearing Officer</u>
<u>Enforcement Orders</u>	<u>Planning Department</u>	<u>City Planner</u>	<u>Hearing Officer</u>

## Chapter 21.07 Comprehensive Plan

### 21.07.010 Comprehensive Plan – Adoption.

- a. A comprehensive plan is a public declaration of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City. As provided in KPBC 21.01.025, from time to time the City Council shall recommend to the Kenai Peninsula Borough for adoption of a Homer Comprehensive Plan and amendments to that plan.
- b. The following documents, as initially approved and subsequently amended, are adopted by reference as comprising the Homer Comprehensive Plan.
  1. Homer Comprehensive Plan (~~2018~~2025).
  2. Homer Master Roads and Streets Plan (1986).
  3. Homer Transportation Plan (2024).
  4. Homer Town Center Development Plan (2006).
  5. Homer Spit Plan (2010).
- c. As required by the Kenai Peninsula Borough Code of Ordinances, each of the component parts of the Homer Comprehensive Plan identified in subsection (b) of this section has been adopted by the Kenai Peninsula Borough, except land use plan amendments that were adopted the City, only, as provided in HCC 21.02.020. [Ord. 24-31(S) § 3, 2024; Ord. 11-17 §§ 1, 2, 2011; Ord. 09-40(S) § 3, 2009; Ord. 08-60 § 2, 2008; Ord. 08-29, 2008].

### 21.07.020 Land use plan – Amendments.

- a. One element of the Homer Comprehensive Plan is a land use plan comprised of one or more component parts. The City accepts delegated authority to make amendments to its land use plan as authorized by KPBC 21.01.025.
- b. The Borough Planning Commission shall be notified in writing of all proposed and adopted amendments to the City's land use plan. All amendments to the Homer land use plan shall be made by an ordinance of the City Council after a public hearing on the proposed amendments. [Ord. 08-29, 2008].

## Chapter 21.08 Zoning Amendments

### ~~LEGISLATIVE PROCEDURES AND AMENDMENTS<sup>1</sup>~~

#### **21.08.010 Initiating ~~zoning code text~~ amendment.**

A ~~text~~ amendment to this title may be initiated by any of the following:

- a. A member of the City Council;
- b. A member of the Planning Commission;
- c. The City Manager;
- d. The City Planner; or
- e. A petition bearing the signatures, and the printed names and addresses, of not less than 50 qualified City voters. [Ord. 10-58, 2011].

#### **21.08.020 Initiating zoning map amendment.**

An amendment to the official zoning map may be initiated by any of the following:

- a. A member of the City Council;
- b. A member of the Planning Commission;
- c. The City Manager;
- d. The City Planner; or
- e. A petition of property owners meeting the following requirements, ~~where the proposed amendment would:~~
  1. The proposed amendment would either:
    - i. Apply to an area not less than two acres, including half the width of any abutting street or alley rights-of-way; or
    - ii. Reclassify the area to a zoning district that is contiguous to the area or separated from the area only by a street or alley right-of-way.
  2. The petition represents lots that include more than 50 percent of the area (excluding rights-of-way) that is the subject of the proposed amendment. A lot is represented on the petition only if the petition bears the signatures, and the printed names and addresses, of all record owners of the lot.
  3. The petition ~~also~~ shall include the following:
    - i. The following statement on each page of the petition: "Each person signing this petition represents that the signer is a record owner of the lot whose description accompanies the signature; that the signer is familiar with the proposed zoning map amendment and the current zoning district of the lot; and that the signer supports the City Council's approval of the amendment."
    - ii. The name of each record owner, the legal description and the Borough tax parcel number of each lot that is the subject of the proposed amendment.
    - iii. A map showing the lots comprising the area that is the subject of the proposed amendment, all lots contiguous to the boundary of that area, and the present zoning and proposed zoning of each such lot.
    - iv. A statement of the justification for the proposed amendment. [Ord. 10-58, 2011].

**21.08.030 Restriction on repeating failed amendment proposals.**

No proposal by qualified voters to amend this title, or by property owners to amend the official zoning map, shall be reviewed by the Planning Department, or submitted to the Planning Commission or the Council, if it is substantially the same as any other amendment that the Council rejected within the previous ~~nine~~-twelve months. [Ord. 10-58, 2011].

**21.08.040 Planning Department review of ~~code-text~~ amendment.**

The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.08.010 and qualified under HCC 21.08.030, and may recommend approval of the amendment only if it finds that the amendment:

- a. Is consistent with the Comprehensive Plan and will further specific goals and objectives of the plan.
- b. Will be reasonable to implement and enforce.
- c. Will promote the present and future public health, safety and welfare.
- d. Is consistent with the intent and wording of the other provisions of this title. [Ord. 10-58, 2011].

**21.08.050 Planning Department review of zoning map amendment.**

The Planning Department shall evaluate each amendment to the official zoning map that is initiated in accordance with HCC 21.08.020 and qualified under HCC 21.08.030, and may recommend approval of the amendment only if it finds that the amendment:

- a. Is consistent with the Comprehensive Plan and will further specific goals and objectives of the plan.

**b. Is consistent with the Future Land Use Map within the Comprehensive Plan.**

~~b-c.~~ Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

~~e-d.~~ Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns. [Ord. 10-58, 2011].

**21.08.060 Review by Planning Commission.**

- a. The Planning Commission shall review each proposal to amend this title or to amend the official zoning map before it is adopted by the City Council.
- b. Within 30 days after determining that an amendment proposal is complete and complies with the requirements of this chapter, the Planning Department shall present the amendment to the Planning Commission with the Planning Department's comments and recommendations, ~~accompanied by proposed findings consistent with those comments and recommendations.~~
- c. The Planning Department shall schedule one or more public hearings before the Planning Commission on an amendment proposal, and provide public notice of each hearing in accordance with Chapter 21.94 HCC.
- d. After receiving public testimony on an amendment proposal and completing its review, the Planning Commission shall submit to the City Council its written recommendations regarding the amendment proposal along with the Planning Department's report on the proposal, all written comments on the proposal, and an excerpt from its minutes showing its consideration of the proposal and all public testimony on the proposal. [Ord. 16-57 § 1, 2017; Ord. 10-58, 2011].

**21.08.070 Review by City Council.**

City Council shall consider an amendment proposal to this title in accordance with the ordinance enactment procedures in the Homer City Code but shall not adopt an amendment proposal under this title without considering the recommendations of the Planning Commission regarding an amendment proposal. When City Council is considering an amendment proposed by the Planning Commission, the City Council may adopt the proposed amendment as submitted or with amendments, or reject the proposed amendment. [Ord. 16-57 § 2, 2017; Ord. 10-58, 2011].

## **Chapter 21.09 Conditional Use Permits**

**21.09.010 Scope and purpose.**

- a. This chapter applies to the review and approval of conditional use permit applications when a conditional use permit is required by other provisions of the zoning code.
- b. A conditional use permit may be granted to approve land uses and structures with special design or site requirements, operating characteristics, or potential adverse effects on surroundings. Approval may occur through Planning Commission review and, where necessary, the imposition of special conditions of approval.
- ~~e. Nothing in the zoning code shall be construed to require the granting of a conditional use permit. [Ord. 08-29, 2008].~~

**21.09.020 Application for conditional use permit.**

- a. An application for a conditional use permit shall be submitted to the City Planner on a form provided by the City. The application shall include:
  1. Name and mailing address of the owner of the subject lot.
  2. Name and mailing address of the applicant for the permit.
  3. A legal description and the street address of the subject lot.
  4. A narrative description of all proposed uses and structures, specifically identifying those that require conditional use permit approval.
  5. A level one or higher site plan prepared according to Chapter 21.73 HCC. In addition to the requirements of Chapter 21.73 HCC, the site plan shall show the location of all outdoor areas to be used for the conditional use.
  6. A map showing neighboring lots and a narrative description of the existing uses of all neighboring lots.
  7. All additional information (including any permits, plans and analyses) required by other provisions of the zoning code applicable to the proposed use within the subject zoning district.
  8. Any additional information the City Planner may require to determine whether the application satisfies the criteria for issuance of a permit.
  9. If the applicant is not the owner of the subject lot, the owner's signed authorization granting applicant the authority to (a) apply for the conditional use permit and (b) bind the owner to the terms of the conditional use permit, if granted.
  10. The applicant's signed certification that all the information contained in the application is true and correct.
- b. The City Planner will determine if the application is complete. If not complete, the City Planner will advise the applicant what corrective actions should be taken to complete the application. [Ord. 08-29, 2008].

**21.09.030 Review criteria.**

The applicant must produce evidence sufficient to enable meaningful review of the application. Unless exceptions or other criteria are stated elsewhere in this code, the application will be reviewed under these criteria:

- a. The ~~applicable code authorizes each proposed use and structure by conditional use permit~~ proposed use is listed as a conditional use in that zoning district.
- b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which ~~the lot~~ is located.
- ~~e. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.~~
- ~~d.c.~~ The proposal is compatible with ~~existing uses of~~ surrounding land uses.
- ~~e.d.~~ Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.
- ~~f.e.~~ Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.
- ~~g.f.~~ The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the City as a whole.  
~~The proposal does or will comply with the applicable regulations and conditions specified in this title for such use.~~
- ~~h.g.~~ The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.
- ~~i.h.~~ The proposal will comply with all applicable provisions of the Community Design Manual. [Ord. 08-60 § 1, 2008; Ord. 08-29, 2008].

**21.09.040 Approval of conditional use.**

- a. The Planning Commission will review and may approve, approve with conditions, or deny an application for conditional use permit. The application shall not be approved unless it is established that the proposal, with conditions if necessary, satisfies the applicable review criteria.
- b. In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:
  1. Special yards and spaces.
  2. Fences, walls and screening.
  3. Surfacing of vehicular ways and parking areas.
  4. Street and road dedications and improvements (or bonds).
  5. Control of points of vehicular ingress and egress.
  6. Special restrictions on signs.
  7. Landscaping.
  8. Maintenance of the grounds, buildings, or structures.

9. Control of noise, vibration, odors, lighting or other similar nuisances.
10. Limitation of time for certain activities.

~~11. A time period within which the proposed use shall be developed and commence operation.~~

~~12.11. A limit on total duration of use or on the term of the permit, or both.~~

~~More stringent dimensional requirements, such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.~~

~~13.12. Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot. [Ord. 08-29, 2008].~~

#### **21.09.050 Commission hearing and procedures.**

- a. When the application is determined to be complete, the City Planner shall schedule a public hearing before the Planning Commission and provide notice of the application as specified in Chapter 21.14 HCC. The public hearing shall be held within 45 days after determining the application is complete.
- b. The Commission shall, within 45 days of the close of the public hearing, approve, approve with conditions, or disapprove the application. The Commission shall promptly issue written findings and reasons supporting its decision.
- c. In the event the Commission fails to act within 45 days of the close of the public hearing, the application is considered approved with such conditions or limitations as may have been recommended by the City Planner. The applicant for a conditional use permit may consent in writing to extend the period for action by the Commission.
- d. Approval of the conditional use shall require the affirmative vote of four members of the Commission.
- e. If a conditional use permit is denied, the written findings and reasons for that decision shall be approved by those who voted against the permit, even if the number against is less than a majority of the Commission. [Ord. 14-08 § 1, 2014; Ord. 08-29, 2008].

#### ~~21.09.060 — Permit issued by planner.~~

~~The City Planner shall promptly issue a conditional use permit in accordance with a decision of the Commission approving an application. [Ord. 08-29, 2008].~~

#### ~~21.09.0670 Time limitations~~**Revocation.**

Failure of the applicant to meet any conditions or time limits imposed by the conditional use permit is grounds for revocation of the conditional use permit by the Commission, after notice to the permittee and public hearing. An extension of any time limit may be granted by the Commission following a public hearing on the matter. The Commission may grant extensions for any cause it deems sufficient. [Ord. 08-29, 2008].

## Chapter 21.10. Variances and Administrative Adjustments

### 21.10.010 General Scope and Purpose.

The variance and administrative adjustments procedures are established to allow applicants to seek deviations and modifications from certain requirements of this title to overcome unique site conditions. Deviations or waivers from the Title 21 requirements may be necessary to accommodate infill projects, adaptive reuse activities, and redevelopment projects in established areas of the city. Variances are intended to allow applicants to seek regulatory relief through a public hearing process, whereas administrative adjustments are intended to allow applicants to seek minor regulatory relief through an administrative process. A variance may be granted by the Planning Commission to provide relief when a literal enforcement of the Homer Zoning Code would deprive a property owner of the reasonable use of a lot. [Ord. 08-29, 2008].

### 21.10.020 Application for a variance.

Application for a variance shall be filed with the City Planner. The application shall include, but is not limited to, all of the following:

- a. All of the information required for a conditional use permit application, but referring to the requested variance instead of a conditional use.
- b. A precise description of the variance requested, including each section, paragraph and sentence of the zoning code from which the applicant wishes to deviate.
- c. A written narrative describing how the application satisfies each of the requirements specified in HCC 21.72.020. [Ord. 08-29, 2008].

### 21.10.030 Variance Procedures.

- a. An application for a variance shall be reviewed by the Planning Commission following, to the extent practicable, the procedures for reviewing a conditional use permit application, except as provided in subsection (b) of this section.
- b. If the Commission fails to act on a variance application within 45 days after the close of the public hearing, the application is deemed denied for failure to prove entitlement to the variance. The time to appeal such a denial begins to run on the forty-sixth day following the close of the public hearing. [Ord. 08-29, 2008].

### 21.10.040 Administrative Adjustments.

- a. An administrative adjustment is a process where applicants may seek minor and limited reductions, deviations or modifications from certain dimensional or site design standards of this title. Administrative adjustments may be approved through application and approval from the City Planner pursuant to Table 21.06.a.
- b. Applicants may seek administrative adjustments where specified in this title, and from the following code provisions:
  1. Up to two feet reduction of setback requirements.
- ~~a.c.~~ Administrative adjustments are reviewed by the Planning Department and acted upon by the City Planner per Table 21.06.a.

### 21.10.0450 Conditions precedent to granting variance Approval Criteria.

- a. All of the following conditions shall exist before a variance ~~or administrative adjustment~~ may be granted:
  1. A literal interpretation of the provisions of the Homer Zoning Code would ~~deprive the applicant of rights commonly enjoyed~~ create a practical difficulty to the use of the property consistent with by other properties in the same zoning district.
  2. Special conditions and circumstances exist that are peculiar to the land or structures involved and are not applicable to other lands and structures in the same district.

3. The special conditions and circumstances that require the variance have not been caused by the applicant.

~~3.4. Granting the variance or administrative adjustment will not be detrimental to the public's health, safety, or welfare.~~

- b. Financial hardship or inconvenience shall not be the sole reason for granting a variance.
- c. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance.
- d. If approved, a variance or administrative adjustment shall be the minimum ~~variance~~ necessary to permit the reasonable use of the land or structure.
- e. A variance or administrative adjustment shall not be granted that will permit a land use in a district in which that use is otherwise prohibited. [Ord. 08-29, 2008].

## Chapter 21.11 Site Plans

### 21.11.010 Scope and Purpose.

The purpose of this section is to establish standards and procedures for the preparation and submission of a site plan as required by the various sections of this zoning code.

### 21.~~1173~~.020 ~~Site plan—General~~Procedure.

a. Site plans are reviewed and approved, when required, during the zoning permit and Conditional Use Permit processes.

a.b. When a site plan is required by other provisions of the zoning code, the applicant shall submit to the City Planner for approval a site plan prepared in conformance with this chapter.

b.c. The level of site plan required is specified in the applicable zoning district regulations. If the level is not specified, a level one site plan is required. [Ord. 08-29, 2008].

### 21.~~1173~~.030 ~~Site plan—Level one -~~ Application.

A level one site plan shall show on a survey, map or plan of the subject property, drawn to a scale ~~of not less than one inch equals 20 feet~~appropriate for the site or proposed structure, all of the following:

- a. The precise location of the lot boundaries and all setbacks and easements.
- b. The precise location and dimensions of all existing and proposed structures (labeled), including any proposed changes to the exterior dimensions of existing structures.
- c. Elevation drawings and dimensions of all ~~existing and~~ proposed structures, including any proposed changes to exterior dimensions of existing structures.
- d. Existing site features and conditions, including topography, steep slopes, drainage, streams, water bodies, wetlands, lines of mean high tide, storm berms, areas prone to erosion, and the general location of vegetation.
- e. The precise location of all existing and proposed structures in relation to existing and proposed streets and other rights-of-way.

f. Access, including proposed driveway and curb cuts, with arrows indicating vehicular traffic patterns into and out of the site and to and from all parking areas.

g. For residential sites, driveway, parking area, and storage pad locations and dimensions for the calculation of impervious surface coverage.

f.h. If applicable, parking lot ingress and egress points, driveways, parking lot aisles, and the number and location of off-street parking spaces and loading spaces (with dimensions). Where off-site parking will be provided to meet a requirement for off-street parking, a similar survey or plan also shall be provided for the off-site parking, accompanied by the document required by HCC 21.53.060(d).

~~g.~~ ~~On-site traffic and pedestrian circulation systems, and a detailed parking plan.~~

h.i. Pedestrian access to adjacent public lands, waters, walkways and trails. Where practical, safe, and where other means of access have not been provided, access easements may be required.

i.j. A grading and drainage plan indicating all cuts, fills and areas of disturbance. The plan shall display elevation changes and cut and fill quantities including imported and exported materials. Proposed contours or finish grade elevations may convey the proposed topography.

j.k. The location of the site in relation to other existing uses on neighboring properties. [Ord. 08-29, 2008].

### 21.~~1173~~.040 ~~Site plan—Level two -~~ Application.

A level two site plan shall show on a survey, map or plan of the subject property, drawn to a scale appropriate for the site or proposed structure~~of not less than one inch equals 20 feet~~, all of the following:

- a. All information required by HCC 21.~~1173~~.020(a) through (e);
- b. On-site traffic and pedestrian circulation systems, and a parking plan showing parking stall dimensions, curb stops, and signage.

**b.c.** Access, including proposed driveway and curb cuts, with arrows indicating vehicular traffic patterns into and out of all loading berths or areas;

**e.d.** Turning radius for vehicles;

**d.e.** The location and proposed screening of open storage areas;

**e.f.** Basic floor plans and location of all existing and proposed structures;

**f.g.** Location of existing and proposed utilities;

**g.h.** Proposed signs and lighting;

**h.i.** The location of the site in relation to residential uses and other existing industrial uses on adjacent properties;

**i.j.** Location of snow storage and additional information per HCC 21.45 [Ord. 08-29, 2008].

**21.11.050 Review Criteria.**

The applicant must produce sufficient evidence and detail to enable meaningful review of the application against the standards of this title. If hand-drawn plans are submitted, they must be to-scale, with dimensions labeled so that staff can determine compliance with dimensional requirements.

## Chapter 21.12 Zoning Permit

### 21.12.010 Zoning permit required.

- a. Except as provided in subsection (c) of this section, a zoning permit shall be obtained from the City Planner for the following:
  1. Erection, construction or moving of any building or structure.
  2. ~~Site development~~Drainage and erosion control activities that trigger other review or approval requirements under the Homer Zoning Code, such as, but not limited to, the requirement of a site plan, ~~development-activity plan~~stormwater management plan or stormwater protection plan.
  3. An increase in the height, ~~or an exterior dimension of any floor, of an existing building, or an increase in the height,~~ or the footprint area, of an existing structure.
  4. A change or expansion of the use of a lot.
- b. The zoning permit required by this section shall be obtained prior to the commencement of any activity for which the permit is required. ~~Failure to do so is a violation.~~
- c. The following are exempt from the requirement to obtain a zoning permit, but not from compliance with applicable requirements of the Homer Zoning Code, such as, but not limited to, the ~~development activity-~~planstormwater management plan or stormwater protection plan:
  1. Any change to an existing building that does not increase the height, ~~or exterior dimension of any floor, of the building, and any change to an existing structure that does not increase the height,~~ or footprint area, of the structure.
  2. Erection or construction of a one-story detached accessory building used as a tool and storage shed, playhouse, or other accessory use, provided the building area does not exceed 200 square feet; and further provided, that there is already a main building principal structure on the same lot.
  3. Erection or construction of a communications tower with a height not exceeding 35 feet, or an amateur radio tower.
  4. Fences or walls used as fences, unless otherwise regulated by the Homer City Zoning Code.
  5. Removal of any building or structure.
  6. Termination of any type of use. [Ord. 14-18(A)(S-2) § 6, 2016; Ord. 14-56(A) § 1, 2015; Ord. 08-29, 2008].

### 21.12.020 Application.

- a. Only the owner or lessee of the lot or a person authorized in writing by the owner or lessee may apply for a zoning permit. The City Planner may require the applicant to submit proof of authority to apply for a zoning permit.
- ~~a-b.~~ When an application is accepted, it is subject to the requirements of the zoning code on that date.
- ~~b-c.~~ All applications for zoning permits shall be on forms furnished by the City. The application shall require the following information:
  1. The name, residence address, and mailing address of the applicant, the owner of the lot, and any lessee of the lot.
  2. The legal description and street address of the lot.
  3. A narrative description of the intended use of the lot, building, or structure.

4. The zoning code use classification under which the permit is sought.
5. If construction or a new or changed use under a zoning permit will change the quantity or location of required off-street parking, a survey, plat, or plan, drawn to ~~scale – a scale of not less than one inch equals 20 feet~~ showing the actual dimensions of the lot, the exact location of the buildings and structures erected or to be erected thereon, adjacent street rights-of-way, utility easements and facilities, building setbacks, drainage, parking lot ingress and egress points, driveways, parking lot aisles, and the number and location of off-street parking spaces and loading spaces. The plan must include staking of the actual lot corners and lot lines, a photo of each stake, and a signed affidavit indicating that the stakes are based on the location of property monuments and/or measurements reflecting the legal description of the lot.

Where off-site parking will be provided to meet a requirement for off-street parking, a similar survey, plat or plan also shall be provided for the off-site parking, accompanied by the document required by HCC 21.35.060(d). A site plan prepared according to Chapter 21.11 HCC may be substituted for the survey, plat, or plan required by this subsection.

6. For new buildings or structures, or for changes to the exterior dimensions of existing buildings or structures, the survey, plat, or plan required by subsection (b)(5) of this section, ~~and~~ ~~so~~ plan and elevation drawings of the buildings and structures erected or to be erected thereon. A site plan prepared according to Chapter 21.11 HCC may be substituted for the survey, plat, or plan required by this subsection.
7. Copies of any building permits or other permits required by applicable Federal, State or local law or regulations.
8. Copies of approved plans or other submittals that may be required by code, such as, but not limited to, traffic impact analysis, development activity plan, and stormwater plan.
9. Such additional information as the City Planner shall require to enable the City Planner to determine whether the application satisfies the requirements for issuance of a permit.
10. The applicant's signed certification that all the information contained in the application is true and correct. [Ord. 09-12(A) § 4, 2009; Ord. 08-29, 2008].

#### **21.12.030 Permit issuance and denial.**

- a. The City Planner will review the application to determine whether the proposed building or structure, and intended use, comply with the zoning code and other applicable provisions of the City Code, and to determine whether all permits and approvals required by applicable Federal, State, or local law or regulation have been obtained. The City Planner may also refer the application to other City officials for review, comment or approval for compliance with applicable City Code. If the application meets all of the requirements, the City Planner will issue the zoning permit.
- b. The City Planner will deny a zoning permit if the application is incomplete or the City Planner determines that the application does not meet all the requirements for issuance of a zoning permit. A denial must be in writing and state the reasons for denial. It shall be promptly given to the applicant. If an application is denied because of incompleteness, the applicant may resubmit the application at any time, supplying the missing information.
- c. In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws and regulations, unless such authority is expressly contained therein. ~~Any zoning permit that attempts to do so may be revoked by the City Manager as void.~~ The applicant, owner, lessee, and occupant of the lot bear continuing responsibility for compliance with the zoning code and all other applicable laws and regulations.
- d. If the City grants a zoning permit when the applicant has not obtained all necessary permits or approvals from the Federal, State, or other local governments or agencies, or has otherwise failed to satisfy all the requirements for a permit, neither the City, the City Planner, or any other City officer or employee shall be liable to any person for any consequences thereof. The applicant, owner, lessee, and occupant of the lot are solely

responsible to ensure that all required permits and approvals have been obtained, and the issuance of a zoning permit by the City does not excuse any such requirement nor does it constitute a warranty or representation that all required permits and approvals have been obtained from the Federal, State, or other local governments or agencies. [Ord. 08-29, 2008].

#### **21.12.040 Permit terms.**

~~a.—The work for which a zoning permit was issued shall commence within six months of the date of issuance unless a request for extension has been submitted and approved by the City Planner.~~

~~b.a.~~ A zoning permit shall include a deadline ~~of twelve months from the date of issuance or another~~ ~~—that allows the applicant a~~ reasonable amount of time in which to complete the work authorized by the ~~permit~~City Planner. If the work is not completed within the time allowed, the City Planner may grant one reasonable extension for good cause shown ~~and substantial progress is being made~~. No additional extension will be granted, except upon the approval of the Commission for good cause shown.

~~e.b.~~ A zoning permit for a building or structure shall require the applicant to submit to the City Planner an as-built survey, completed by a licensed surveyor, of the location, foundation, dimensions, and proximity to all lot lines of all buildings and structures covered by the permit, promptly after completion of the work. [Ord. 20-03 § 1, 2020; Ord. 08-29, 2008].

#### **21.12.050 Permit – Public display.**

- a. All permits issued under this chapter, including amendments and extensions, shall be displayed for public inspection in a prominent place, readily viewable from the nearest street, at the site for which the permit was obtained. The permit shall be on display prior to commencement of any work at the site and remain on display until all work is completed.
- b. The display of the permit constitutes the property owner’s implied consent to the public to enter upon the property as reasonably necessary to inspect the permit at the point of display, and no person shall impede the access of the public to that point for the purpose of inspecting the permit. [Ord. 08-29, 2008].

#### ~~21.12.060 — Permit — Fee.~~

~~The applicant for a zoning permit shall pay a fee according to the fee schedule established by resolution of the City Council. No application shall be processed until the fee is paid. [Ord. 08-29, 2008].~~

#### **21.12.060 Other permits under zoning code.**

Nothing in this chapter shall relieve the applicant of the obligation to obtain a conditional use permit, sign permit, variance, administrative adjustment, or other permit or approval required by other provisions of the zoning code. The zoning permit required by this chapter shall be in addition to any other applicable permit or approval requirements. If any such additional permits or approvals are required, they must be obtained prior to the issuance of the zoning permit under this chapter. [Ord. 08-29, 2008].

#### **21.12.070 Revocation of permit.**

- a. The City Planner may revoke a permit for cause, including but not limited to any of the following:
  1. The application for the permit contained any error, misstatement or misrepresentation of material fact, either with or without intention on the part of the applicant, such as might or would have caused a denial of the permit or the inclusion of additional conditions or requirements.
  2. Any material change in the location, size, or shape of the building or structure made subsequent to the issuance of a permit, except pursuant to written amendment of the zoning permit approved by the City Planner.
  3. Any material change in the use or intended use of the building, structure, or land made subsequent to the issuance of a permit, except pursuant to written amendment of the zoning permit approved by the City Planner.

4. The failure to comply with the terms of the zoning permit or the failure to complete the work authorized by the zoning permit within the time allowed in the permit, including any extensions that may be granted.
  
- b. Prior to revoking a permit, the City Planner shall give the applicant, property owner, or lessee affected by the revocation notice of the grounds for revocation and a meaningful opportunity to be heard concerning those grounds. If after such hearing the City Planner determines the permit shall be revoked, the City Planner shall prepare and promptly deliver to the interested parties a written decision stating the grounds for revocation and citing the evidence in support thereof. The City Planner's written decision may be appealed. [Ord. 08-29, 2008].

**21.12.080 Occupancy without a permit prohibited.**

No person shall use or occupy a building or structure that has been erected, constructed, enlarged, altered, repaired, moved, improved, or converted after January 1, 2000, without a properly issued and unrevoked zoning permit required by this chapter. [Ord. 08-29, 2008].

**Chapter 21.1393**  
~~ADMINISTRATIVE~~ Appeals

**21.13.010 Appeals, general.**

This chapter governs ~~administrative-all~~ appeals ~~to a hearing officer~~ from actions and determinations taken under the Homer Zoning Code. [Ord. 21-44(S) § 2, 2021; Ord. 08-29, 2008].

**21.13.020 Decisions subject to appeal.**

- a. The following final decisions made under this title by the City Manager, City Planner, City Planner's designee may be appealed by a person with standing:
  1. Approval or denial of a zoning permit.
  2. Approval or denial of a sign permit.
  3. Approval or denial of any other permit that is within the authority of the City Planner to approve or deny.
  4. An enforcement order issued under HCC 21.1790.04060.
  
- b. The following final decisions of the Commission may be appealed by a person with standing:
  1. Grant or denial of a conditional use permit.
  2. Grant or denial of a variance.
  3. Grant or denial of formal recognition of a nonconforming use or structure, or a decision terminating a nonconforming use or structure.
  4. ~~Grant or denial of a conditional fence permit.~~
  5. ~~A decision by the Commission in a matter appealed to the Commission under HCC 21.93.020. [Ord. 22-31 § 1, 2022; Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 5, 2017; Ord. 08-29, 2008].~~

**21.13.030 Standing.**

- a. Only the following have standing to appeal an appealable action or determination of the City Manager, City Planner, or City Planner's designee to a hearing officer:
  1. The applicant for the action or determination, or the owner of the property that is the subject of the action or determination.
  2. The City Manager or City Planner or any governmental official, agency, or unit.
  3. Any person aggrieved by the action or determination.
  
- b. Only the following have standing to appeal an appealable action or determination of the Planning Commission to a hearing officer:
  1. Applicant for the action or determination, or the owner of the property that is the subject of the action or determination under appeal.
  2. The City Manager, the City Planner or the City Planner's designee, or any governmental official, agency, or unit.
  3. Any person who actively and substantively participated in the proceedings before the Commission and is aggrieved by the action or determination.

4. Any person who actively and substantively participated in the proceedings before the Commission and would be aggrieved if the action or determination being appealed were to be reversed on appeal. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 6, 2017; Ord. 14-45 § 1, 2014; Ord. 08-29, 2008].

**21.13.040 Time for appeal.**

An appeal must be filed within 15 days after the date of:

- a. Distribution of the final decision of the City Manager, City Planner, or planning staff members to the applicant or other person whose property is the subject of the matter being appealed; or
- b. Distribution of the final decision of the Planning Commission to the applicant and other parties, if any. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 7, 2017; Ord. 08-29, 2008].

**21.13.050 Notice of appeal.**

- a. A notice of appeal from an action or determination of the City Planner or the Planning Commission shall be filed with the City Clerk and shall be accompanied by the planning appeal fee as established in the City of Homer Fee Schedule.
- b. A notice of appeal shall be in writing, be signed by the appellant, and shall contain the following information:
  1. The name and address of the appellant.
  2. A description of the action or determination from which the appeal is sought and the date upon which the action or determination became final.
  3. The street address and legal description of the property that is the subject of the action or determination being appealed, and the name and address of the owner(s) of that property.
  4. Detailed and specific allegations of error, including reference to applicable provisions of the zoning code or other law.
  5. A statement of whether the action or determination should be reversed, modified, or remanded for further proceedings, or any other desired relief.
  6. Proof showing that the appellant is an aggrieved person with standing to appeal under HCC 21.13.050.
- c. The City Clerk shall reject any notice of appeal that does not comply with HCC 21.13.070 and this section and notify the appellant of the reasons for the rejection. If a notice of appeal is rejected for reasons other than timeliness, a corrected notice of appeal that complies with this section will be accepted as timely if filed within seven days of the date on which the City Clerk mails the notice of rejection.
- d. Within seven days of the date on which the City Clerk determines the notice of appeal complies with HCC 21.13.070, copies of the notice of appeal shall be mailed to the appellant, appellee, owner of the property that is the subject of the action or determination, and to owners of record on the Borough Assessor's records of real property within a 300-foot periphery of the site that is the subject of the proposed action. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 8, 2017; Ord. 08-29, 2008].

**21.13.060 Representation.**

- a. A party to an appeal may be represented by an attorney or may be self-represented. An agency or entity is self-represented when acting through an authorized employee or officer.
- b. A party represented by an attorney in the appeal shall file, or cause the attorney to file, and serve on the other parties a document that:
  1. Identifies the attorney; and

2. Provides the address, telephone number, facsimile number, and electronic mail address for the attorney. [Ord. 21-44(S) § 2, 2021; Ord. 08-29, 2008].

**21.13.070 General appeals procedure.**

- a. ~~The hearing officer~~ The appellate authority, in accordance with Table 21.06.a shall be convened. Where necessary, Aa hearing officer shall be appointed in accordance with HCC 21.05.040.
- b. The City Clerk shall notify all parties by mail of the appointed hearing officer. All parties shall have 10 days from the date of mailing of the notice to object in writing to the hearing officer based upon conflicts of interest, personal bias or ex parte contacts. Failure to file an objection to the hearing officer within the 10 days shall waive any objection to the hearing officer.
- c. All appeals must be heard and a decision rendered within 90 days after the appeal record has been prepared. The ~~hearing officer~~ appellate authority may, for good cause shown, extend the time for hearing.
- d. The hearing officer or City Clerk will hold a preconference hearing to develop a briefing schedule, set a hearing date, and address other matters as needed related to the appeal hearing.
- e. The appellant, appellee, owner of the property that is the subject of the action or determination, and their representatives shall be provided not less than 15 days' written notice of the time and place of the appeal hearing.
- f. A notice of hearing shall be published at least once during the calendar week prior to the appeal hearing date and the notice shall contain:
  1. A brief description of the proposal on which the public body is to act;
  2. A legal or common description of the property involved and a street address;
  3. Date, time and place of the public hearing;
  4. A statement that the complete proposal is available for review, specifying the particular City office where the proposal may be examined.

Two weeks prior to the appeal hearing, the notice of hearing discussed in this subsection shall be mailed to owners of record on the Borough Assessor's records of real property within a 300-foot periphery of the site that is the subject of the proposed action.

- g. An electronic recording shall be kept of the entire proceeding. The electronic recording shall be preserved for one year unless required for further appeals. No recording or minutes shall be kept of deliberations that are not open to the public. [Ord. 22-31 § 2, 2022; Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 9, 2017; Ord. 10-41(A) § 1, 2010; Ord. 08-29, 2008].

**21.13.080 Appeal decisions.**

- a. All final decisions on appeals shall be in writing.
- b. A decision shall include an official written statement of factual findings and legal conclusions supporting the decision. This statement shall refer to specific evidence in the record and to the controlling sections of the zoning code. The ~~hearing officer~~ appellate authority may adopt, as their statement of findings and reasons, those findings and reasons officially adopted by the body or officer below from which the appeal was taken.
- c. Copies of the written decision shall be promptly mailed to the appellant, appellee, the owner of the property that is the subject of the action or determination, and their representatives. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 10, 2017; Ord. 10-41(A) § 2, 2010; Ord. 08-29, 2008].

**21.13.090 New evidence or changed circumstances.**

- a. Except as provided in subsection (b) of this section, the hearing officer shall not consider allegations of new evidence or changed circumstances and shall make their decision based solely on the record. If new evidence or changed circumstances are alleged, the hearing officer may, in their discretion, either hear the appeal without considering the allegations or may remand the matter to the appropriate lower administrative body or official to rehear the matter, if necessary.
- b. When the standing of a person is in issue, the hearing officer may take additional evidence for the limited purpose of making findings on the question of the person's standing. No evidence received under this subsection shall be considered for purposes other than determining standing. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 12, 2017; Ord. 10-41(A) § 5, 2010; Ord. 08-29, 2008].

**21.13.100 Preparation of record.**

- a. The appeal record shall be completed within 15 days after receipt of a timely and complete notice of appeal. The appeal record shall consist of the items, and shall be prepared in the manner, described in this subsection.
  1. The Clerk will assemble and paginate all relevant documents involved in the original decision, including any staff reports, minutes, exhibits, notices, and other documents considered in making the original decision.
  2. A party may elect to include a verbatim transcript of the testimony before the Planning Commission in the appeal record by making a written request to the City Clerk for a recording of the testimony within 14 days after the Clerk mails copies of the notice of appeal to the parties pursuant to HCC 21.13.050(d). The requesting party shall arrange and pay for the preparation of the transcript. Only a transcript prepared and certified as accurate by a qualified court reporter shall be accepted. The original transcript must be filed with the City Clerk to be provided to the hearing officer with the record on appeal.
- b. The appellant, appellee, owner of the property that is the subject of the action or determination, or any person may obtain a copy of the record upon payment of the costs of reproduction and any applicable mailing costs. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 13, 2017; Ord. 10-41(A) § 6, 2010; Ord. 08-29, 2008].

~~**21.93.530 Prehearing conference.**~~

~~Repealed by Ord. 22-31. [Ord. 21-44(S) § 2, 2021; Ord. 10-41(A) § 7, 2010; Ord. 08-29, 2008].~~

**21.13.110 Appeal hearing.**

Unless otherwise established in the prehearing conference an appeal to a hearing officer will be conducted as follows:

- a. Preliminary matters.
- b. Oral arguments – 20 minutes each for appellant and appellee. The appellant may reserve a portion of their time for rebuttal or closing comments.
- c. The hearing officer may question each of the parties.
- d. Adjourn for deliberative purposes. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 14, 2017; Ord. 10-41(A) § 8, 2010; Ord. 08-29, 2008].

~~**21.13.120 Hearing officer decision.**~~

~~The ~~hearing officer~~ **appellate authority** may affirm or reverse the decision of the lower administrative body in whole or in part. A decision affirming, reversing, or modifying the decision appealed from shall be in a form that finally disposes of the case on appeal, except where the case is remanded for further proceedings. A decision by the ~~hearing officer~~ **appellate authority** is a final administrative decision appealable under HCC 21.05.040 and is not subject to reconsideration. [Ord. 22-31 § 3, 2022; Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 15, 2017; Ord. 08-29, 2008].~~

**21.13.130 Remand.**

- a. The hearing officer may remand the appeal to the lower administrative body when the hearing officer determines that:
  1. There is insufficient evidence in the record on an issue material to the decision of the case;
  2. There has been a substantial procedural error that requires further consideration by the lower administrative body; or
  3. There is other cause requiring further proceedings by the lower administrative body.
- b. A decision remanding a case shall describe any issue upon which further evidence should be taken, and shall set forth any further directions the hearing officer deems appropriate for the guidance of the lower administrative body.
- c. The lower administrative body shall promptly act on the case upon remand in accordance with the decision of the hearing officer. A case on remand has priority on the agenda of the lower administrative body, except cases remanded under HCC 21.193.09510(a) are not entitled to priority. The applicant or owner of the property in question may waive the priority given by this subsection. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 16, 2017; Ord. 08-29, 2008].

**21.13.140 Other procedures.**

If no specific procedure is prescribed by the code, the hearing officer may proceed in an administrative appeal in any lawful manner not inconsistent with this title, statutes, and the Constitution. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 17, 2017; Ord. 08-29, 2008].

**21.13.150 Conflict of interest.**

A hearing officer or administrative law judge shall refrain from hearing or otherwise deciding a case presenting a conflict of interest. A conflict of interest may arise from a financial or other personal interest of the hearing officer or administrative law judge, or of an immediate family member. A conflict of interest exists if:

- a. The financial or other personal interest reasonably could be perceived to influence the official action of the hearing officer; or
- b. A hearing officer previously represented or provided legal advice to a party on a specific subject before the hearing officer or administrative law judge. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 18, 2017; Ord. 08-29, 2008].

**21.13.160 Ex parte communication prohibited.**

- a. The hearing officer appointed to review a decision issued by the Commission shall not have ex parte communication with any person. "Ex parte communication" means to communicate, directly or indirectly, with the appellant, other parties or persons affected by the appeal, or members of the public concerning an appeal or issues specifically presented in the notice of appeal, either before the appeal hearing or during any period of time the matter is under consideration, without notice and opportunity for all parties to participate in the communication.
- b. This section does not prohibit:
  1. Communications between municipal staff and Commission or the hearing officer where:
    - i. Such staff members are not themselves parties to the appeal; and
    - ii. Such communications do not furnish, augment, diminish, or modify the evidence in the record on appeal.
  2. Communications between the Commission and its legal counsel.

~~e. Repealed by Ord. 21-44(S).~~

~~d. Repealed by Ord. 21-44(S).~~

~~e. Repealed by Ord. 21-44(S).~~

- c. It is a violation, subject to penalties and other enforcement remedies under this title:
1. For any person to knowingly have or attempt to have ex parte communication with a hearing officer in violation of subsection (a) of this section.
  2. For the hearing officer to knowingly receive an ex parte communication in violation of subsection (a) of this section.
  3. For the hearing examiner to knowingly fail to place on the record any matter that is an ex parte contact. [Ord. 22-31 § 4, 2022; Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 19, 2017; Ord. 08-29, 2008].

## Chapter 21.1494 Public Hearings

### 21.14.010 General.

This chapter governs public hearings held by the Commission under the Homer Zoning Code. [Ord. 08-29, 2008].

### 21.14.020 Public hearing procedures.

- a. Notice of the public hearing shall be published at least once in a paper of general circulation within the City. The notice shall be published at least once during the calendar week prior to the public hearing date.
- b. The notice shall contain at least the following information:
  1. A brief description of the proposal on which the public body is to act;
  2. A legal or common description of the property involved and a street address;
  3. Date, time and place of the public hearing;
  4. A statement that the complete proposal is available for review, specifying the particular City office where the proposal may be examined. [Ord. 08-29, 2008].

### 21.14.030 Notification of neighboring property owners.

- a. Except as provided in subsection (b) of this section, a copy of the aforementioned newspaper notification or notice containing at least the same information shall be mailed to owners of record on the Borough Assessor's records of real property within a 300-foot periphery of the site that is the subject of the proposed action.
- b. When a public hearing is to be held about a zoning ordinance amendment involving only a change in the zoning code text or major district boundary changes, no mailing of the notification to neighboring property owners is required, but notice shall be published in the newspaper and displayed in at least three public places. [Ord. 08-29, 2008].

## Chapter 21.1561 Nonconformities

### 21.15.010 Nonconformities in general.

When a zoning ordinance or other land use regulation is adopted or amended, or when the zoning district designation applicable to a lot changes, or when annexation or other boundary changes occur, then as a result a previously lawful lot, structure, or use may no longer be allowed. Such previously lawful lot, structure, or use shall be considered a nonconforming lot, structure or use. Such nonconformities may continue, subject to the requirements of this chapter and any other provisions of the Homer Zoning Code that expressly apply to nonconforming lots, structures, or uses. [Ord. 08-29, 2008].

### 21.15.020 Definitions.

For the purposes of this chapter the following words and phrases shall be interpreted or defined as set forth in this section, and such interpretations or definitions shall supersede any conflicting interpretations or definitions set forth elsewhere in this title:

“Abandon” means (1) with respect to a use, the cessation of such use for any length of time, combined with intent to indefinitely cease such use, or (2) with respect to a structure, the cessation of occupancy of such structure for any length of time, combined with intent to indefinitely cease occupancy of such structure.

“Change” means, with respect to a nonconforming use, that the nonconforming use has been converted to a different use for any period of time, regardless of intent.

“Discontinued” means that a nonconforming use has ceased, and has not substantially resumed, for a period of 24 consecutive months, regardless of intent.

“Occupy” or “occupancy” means actual physical occupancy of a structure or lot, regardless of intent.

“Primary use” means the primary activity actually conducted in a serious, substantial, and ongoing manner on a lot or in a structure, and for which the lot or structure is actually and primarily occupied and maintained, regardless of intent.

“Substantially resumed” means substantial and continuous resumption of the use as the primary use for a period of at least 60 consecutive days. Activity that does not meet this standard is not sufficient to interrupt a period of discontinuance.

“Use” means activity actually conducted on a lot or in a structure, and for which the lot or structure is actually occupied and maintained, regardless of intent. [Ord. 13-42(A) § 1, 2013; Ord. 08-29, 2008].

### 21.15.030 Nonconforming lots.

- a. A nonconforming lot containing at least 6,000 square feet ~~on May 16, 1978~~ before the effective date of the minimum lot area requirement that renders it nonconforming, may be developed in conformity with all other provisions of this title even though such lot fails to meet currently applicable minimum area or width requirements.
- b. No lot containing less than 6,000 square feet ~~on May 16, 1978~~, may be used except as follows:
  1. In the residential districts, i.e., RR, UR, and ~~NFR~~, on any lot that fails to meet minimum area or width requirements, one single-family dwelling with a proper zoning permit is permitted; and
  2. In all other districts such lots may be used only in full compliance with all applicable provisions of the current zoning code. [Ord. 08-29, 2008].

### 21.15.040 Nonconforming structures.

A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. A nonconforming structure may be enlarged or altered, but only if it does not increase its nonconformity;

- b. If a nonconforming structure is moved for any reason for any distance ~~whatsoever~~ it shall thereafter conform to the code provisions applicable in the zone in which it is located after it is moved;
- c. If a nonconforming structure ~~or nonconforming portion of a structure~~ is damaged by any means to an extent of more than 50 percent of its replacement cost at time of the damage, it shall not be reconstructed except in conformity with the provisions of Homer City Code.
- d. If at any time a nonconforming structure is abandoned or brought into conformity with this title, the structure shall thereafter conform to all the regulations of the zoning district in which it is located, and the nonconforming structure shall not be allowed to continue in use. [Ord. 08-29, 2008].

**21.15.050 Nonconforming uses.**

A nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area (including land area or height) of land than was occupied as of the date it became nonconforming;
- b. No nonconforming use shall be moved in whole or in part to any other portion of the lot that was not occupied by the nonconforming use as of the date it became nonconforming;
- c. Any new structure built in connection with the nonconforming use must be in full compliance with all applicable provisions of the zoning code and other laws then in effect;
- d. If at any time a nonconforming use is abandoned, changed, discontinued, or ceases to be the primary use of a lot, the use of that lot shall thereafter conform to the code provisions applicable in the zone in which the lot is located, and the nonconforming use shall not thereafter be resumed or allowed to continue. [Ord. 08-29, 2008].

**21.15.060 Proof of nonconforming use or structure.**

- a. It is the responsibility of the owner to produce evidence proving the existence and continuous use of ~~every~~ lawful nonconforming uses and structures.
- b. Proof of the following nonconforming uses and structures shall be submitted to the City Planner:
  - 1. Uses and structures that existed lawfully before annexation to the City on or after March 20, 2002, and that are nonconforming as a result of the annexation;
  - 2. Structures that existed lawfully before inclusion within the Bridge Creek Watershed Protection District and that are nonconforming as a result of the inclusion;
  - 3. Structures that existed lawfully on or before September 27, 1982; and
  - 4. Structures that existed lawfully before an amendment to this title or an amendment to the zoning map, and that are nonconforming as a result of the amendment.
- c. Proof of all other nonconforming uses and structures shall be submitted to the City Planner for presentation to the Planning Commission at a public hearing.
- d. Upon presentation of such proof, the reviewing authority finds to be a nonconforming use or structure under HCC 21.~~1564~~.010. For each use or structure that the reviewing authority finds to be a nonconforming use or structure under HCC 21.~~1564~~.010, the reviewing authority shall adopt a written decision that includes a complete description of the nonconforming use or structure.
- e. No zoning permit may be issued under Chapter 21.~~1270~~ HCC for any activity on a lot prior to a determination under this section approving of all nonconforming uses and structures existing on the lot. [Ord. 09-10(A) § 1, 2009; Ord. 08-29, 2008].

**21.15.070 Termination of nonconforming use or structure.**

The right to continue a nonconforming use or structure previously approved under this chapter is subject to termination by the Commission if it finds, after providing the property owner notice and an opportunity to be heard at a public hearing, that:

- a. In the case of a nonconforming structure, it has subsequently been abandoned or brought into conformity with the Homer Zoning Code; or
- b. In the case of a nonconforming use, the use has subsequently been abandoned, changed, discontinued, or ceases to be the primary use of a lot. [Ord. 09-10(A) § 2, 2009; Ord. 08-29, 2008].

**21.15.080 Small wind energy systems.**

The installation of a small wind energy system that complies with all applicable laws at the time of its installation does not enlarge, increase or expand a nonconforming use or structure. [Ord. 09-34(A) § 22, 2009].

## Chapter 21.16 Nuisances

### 21.16.010 Nuisances.

~~When made applicable to a zoning district or to a use or structure by other provisions of the zoning code, these~~ These prohibitions and requirements apply to uses or structures as applicable:

- a. Air Pollution.
  1. Smoke. The emission of any air contaminant greater than 20 percent opacity from any chimney, stack, vent, opening or process is prohibited.
  2. Odors and Gases. The emission of odors in such quantities as to be objectionable to any person with normal sensitivities at any point beyond the lot line is prohibited. Noxious, toxic, and corrosive gas emissions shall be treated by full control techniques and shall not exceed permissible levels established by Federal, State or local laws or regulations.
  3. Particulate Matter. All facilities will be designed and operated with the highest and best emission control equipment practicable. Persons responsible for a suspected source of air pollution, upon the request of the City, shall provide quantitative and qualitative information regarding the discharge that adequately and accurately describes operation conditions and the discharge of particulate matter. Any responsible person may be required to have its plans and specifications reviewed by the State Department of Environmental Conservation prior to final approval of the plans by the City.
- b. Noise. All noise shall be muffled so as not to be objectionable due to intermittences, beat, frequency, or shrillness. Off-site noise, when measured at the lot line, shall not exceed 50 decibels between 10:00 p.m. and 6:00 a.m. and 80 decibels at all other times.
- c. Vibration. No vibration that is discernible without instruments, other than that caused by highway vehicles or aircraft, shall be permitted beyond the lot line of the site.
- e. Heat and Glare. No activity shall produce objectionable heat or glare that unreasonably annoys or disturbs a person of ordinary sensibilities beyond the lot line of the site.
- f. Water and Solid Waste Pollution. No liquid or solid waste disposal will be allowed on the site or into adjacent drainage ditches, storm sewers, sloughs or other waterways. The discharge of treated or untreated sewage or wastes into the sanitary sewer systems shall conform to the codes and ordinances of the City.
- g. Handling of Dangerous Materials. The storage, handling and use of dangerous materials, such as flammable liquids, incendiary devices, compressed gases, corrosive materials and explosives, shall be in accordance with the regulation and codes of the State Fire Marshal, the National Fire Protection Association, the U.S. Coast Guard and other applicable law.

**Chapter 21.44**

**~~SLOPES AND COASTAL DEVELOPMENT~~**

**Sections:**

- ~~21.44.010 — Purpose and intent.~~
- ~~21.44.020 — Applicability.~~
- ~~21.44.030 — Slope development standards.~~
- ~~21.44.040 — Exceptions to setback requirements.~~
- ~~21.44.050 — Site plan requirements for slope development.~~

**~~21.44.010 — Purpose and intent.~~**

~~This chapter regulates development activity and structures in areas affected by slopes, bluffs, ravines, and the coastal edge, and provides the means for additional review and protection to encourage safe and orderly growth to promote the health, welfare and safety of Homer residents. [Ord. 22-32 § 2, 2022; Ord. 08-29, 2008].~~

**~~21.44.020 — Applicability.~~**

~~a. This chapter applies to all development activity that disturbs the existing land surface, including without limitation clearing, grading, excavating and filling in areas that are subject to any of the following conditions:~~

- ~~1. Lots with average slopes 15 percent or greater, bluffs, coastal edge and ravines;~~
- ~~2. Located within 40 feet of the top or within 15 feet of the toe of a steep slope, bluff, coastal edge or ravine; and~~
- ~~3. Any other location where the City Engineer determines that adverse conditions associated with slope stability, erosion or sedimentation are present.~~

~~b. This chapter imposes regulations and standards in addition to the requirements of the underlying zoning district(s). [Ord. 22-32 § 2, 2022; Ord. 08-29, 2008].~~

**~~21.44.030 — Slope development standards.~~**

~~The following standards apply to all development activity on a site described in HCC 21.44.020:~~

~~a.:~~

## Chapter 21.17 Violations and Enforcement

### 21.17.010 Invalid ~~land-use~~ permits – Correction of violations.

Any permit issued in violation of this title is voidable upon written notice from the City Planner or City Manager. The issuance of a permit under the Homer Zoning Code may be conditioned upon the correction of any or all other violations of the Homer Zoning Code, the regulations promulgated under the Homer Zoning Code, and the terms and conditions of any previously issued permits issued under the Homer Zoning Code on the property that is the subject of the permit. [Ord. 14-56(A) § 2, 2015; Ord. 08-29, 2008].

### 21.17.020 Inspections – Right of entry.

- a. Subject to subsection (b) of this section, at any reasonable time, the City Manager, City Planner, or other City staff member designated in writing by either of them may, upon presentation of proper identification, enter upon and inspect any land, building or premises where he or she has probable cause to believe there exists a violation, or enter upon any land, building or premises to perform a duty of an official under this title.
- b. Where the Constitution of the United States or of the State so requires, the official shall obtain an administrative search warrant authorizing an inspection and exhibit the warrant to the person in charge of the premises before conducting the inspection. The official may apply to the trial courts of the State to obtain a warrant, stating in the application the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, the facts and circumstances justifying the inspection, and any other information necessary to obtain the warrant. Warrants issued under this section should be returned within 10 days. [Ord. 08-29, 2008].

### 21.17.030 Evidence of compliance.

Upon request by the City Planner, any person who has obtained a permit under the Homer Zoning Code shall provide evidence showing compliance with the terms of the permit. The obligation to provide evidence of compliance is a condition of every permit granted under the zoning code, whether expressly stated in the permit or not. [Ord. 08-29, 2008].

### 21.17.040 Enforcement orders.

- a. In addition to any other remedy or other method of enforcement available under the Homer Zoning Code or other provision of the Homer City Code or other law, the City Manager or the City Planner may order:
  1. The discontinuation of a use of land or a structure that is in violation of the Homer Zoning Code, a regulation or a permit.
  2. The abatement or removal of a structure or part of a structure that is in violation of the Homer Zoning Code, a regulation or a permit.
  3. The discontinuation of construction or other activity preparatory to a structure or use of real property that is in violation of the Homer Zoning Code, a regulation or a permit.
  4. The suspension or revocation of a permit under which a violation of the Homer Zoning Code or regulations is occupied, maintained, constructed or established.
  5. The restoration of any structure, vegetation, land, water body or other thing upon the land that is destroyed, damaged, altered or removed in violation of the Homer Zoning Code, regulations or a permit.
  6. Any other action necessary to prevent, abate or discontinue a violation of the Homer Zoning Code, a regulation or a permit.
- b. An enforcement order issued under subsection (a) of this section may be directed to one or more violators.
- c. A written enforcement order issued under subsection (a) of this section that is served on a violator personally or by certified mail is immediately appealable to the Planning Commission. An appeal must be filed within 30 days of service of the written enforcement order. Failure to appeal to the Planning Commission within 30 days

of service shall constitute a waiver of all rights of appeal from the order. The procedure for appeals is set forth in Chapter 21.13 HCC.

- d. During such time that an enforcement order is under appeal, no further use or development contrary to the order may continue.
- e. Upon correction of the condition or termination of the activity that caused the issuance of an enforcement order under subsection (a) of this section, the officer who issued the order may terminate the order or issue written confirmation of satisfactory compliance with the order.
- f. An enforcement order need not be issued before a prosecution or legal action is commenced with respect to a violation of the Homer Zoning Code, a regulation or a permit. The pendency of any proceeding regarding an enforcement order issued under subsection (a) of this section does not stay any prosecution or other legal action with respect to the violation that is the subject of the enforcement order. [Ord. 08-29, 2008].

**21.17.050 — Abatement of nuisance.**

- ~~a. Any use, activity, condition, property, or structure in violation of an enforcement order issued under HCC 21.17.040 that continues after the time for appeal from the enforcement order has passed, or if appealed, continues after all appeals are exhausted, is a public nuisance and may be abated by the City as provided in this section.~~
- ~~b. Before action is taken to abate a nuisance, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt requested to the violator and the owner of record of the property. Unless enjoined by court order within 30 days of the posting and service of the final warning notice, the City Manager will proceed to abate the nuisance. If the City Manager finds it necessary to effectively abate the nuisance, he or she may cause the physical destruction or removal of the nuisance.~~
- ~~c. The City Manager shall cause to be kept an account of the cost, including incidental expenses, incurred by the City in the abatement of any nuisance. The City Manager will cause an invoice for collection to be sent to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this section, the term “incidental expenses” shall include but not be limited to the actual expenses and costs to the City in the preparation of the notices, specifications and contracts, work inspection, attorney fees, consultant fees and interest from the date of completion at the rate of 10 percent per annum.~~
- ~~d. The property owners of the property upon which the abatement occurred are liable to the City for the entire cost of the abatement. Such charges become a lien upon the real property upon which the abatement occurred. If the invoice for the costs of the abatement remains unpaid after 30 days from the invoice, the City Manager will record a notice of lien at the District Recorder’s office. The lien shall be subordinate to all State and municipal tax liens and existing special assessment liens previously imposed upon the same property and shall be prior and paramount to all other liens. The lien shall continue until the charges and all interest due and payable thereon are paid.~~
- ~~e. The lien created under this section may be enforced as provided in AS 34.35.005 through 34.35.045. The enforcement of the lien is a cumulative remedy and does not bar the collection of the charges for abatement or costs and attorney fees through a personal action. [Ord. 08-29, 2008].~~

**21.17.060 Civil remedies.**

- a. With respect to any violation of the Homer Zoning Code, a regulation or a permit, the City may bring a civil action for any or all of the following:
  - 1. To enjoin or abate the violation. Upon application for injunctive relief and a finding that a person is in violation or threatening a violation, the Superior Court shall enjoin the violation.
  - 2. To require the restoration of any structure, vegetation, land, water body or other thing upon the land that is destroyed, damaged, altered or removed in such violation.

3. To recover damages suffered because of the violation.
  4. To recover, in addition to any injunctive or compensatory relief, a civil penalty, payable to the City, not exceeding \$1,000 for each violation.
- b. Whenever a written enforcement order is in effect that has not been appealed, or if appealed, remains in effect during an appeal or after all appeals are exhausted, and a violation continues to exist, the City Manager may:
1. Commence proceedings to cause the abatement of the violation pursuant to HCC 21.16.050; or
  2. Assess an administrative fine, not exceeding \$250.00 per day, for failure to comply with an enforcement order.
  3. The remedies provided in this section are not exclusive, but are cumulative of all other remedies available at law or in equity.
- c. Any person aggrieved by a violation of the Homer Zoning Code, a regulation or a permit may bring a civil action against the violator as provided in subsection (a) of this section. For purposes of this section, a person occupying or owning land within 300 feet of the perimeter of the parcel containing the violation is irrebuttably presumed to be a person aggrieved. The City shall not be responsible for the costs or fees of such an action, which shall be the sole responsibility of the person filing the action. [Ord. 08-29, 2008].

**21.17.070 Violations.**

- a. The following are violations of this title:
1. A structure, alteration of a structure, or use of land or a structure that conflicts with a provision of the Homer Zoning Code, or a regulation or a permit issued under the Homer Zoning Code.
  2. To use or occupy a structure, land or water other than as allowed by the Homer Zoning Code, regulations, or a permit issued under the Homer Zoning Code.
  3. To erect, construct, reconstruct, enlarge, move, repair or alter a structure or part thereof other than as allowed by the Homer Zoning Code, a regulation or a permit issued under the Homer Zoning Code.
  4. To violate the terms of an enforcement order that has not been appealed, or if appealed, remains in effect during an appeal or after all appeals are exhausted.
  5. To develop, occupy or use any land or structure contrary to or in violation of the terms of this title or the terms of any permit issued under this title.
  6. To develop, occupy or use any land or structure in any manner for which a permit is required under the Homer Zoning Code without such a permit or after a required permit has been suspended or revoked.
  7. To knowingly act in any manner declared by the Homer Zoning Code to be prohibited, unlawful, a violation, or an offense.
  8. To cause another to commit a violation of this title.
- b. Each act or condition in violation of this title, and every day upon which the act or condition occurs, is a separate violation.
- c. A violator is a person who:
1. Commits or causes a violation of this title; or
  2. Occupies, maintains, keeps, alters, constructs or establishes a structure, or use of land or a structure, in violation of the Homer Zoning Code, a regulation or a permit; or

3. Owns, controls or has the right to control land or a structure where the land or structure is used, occupied, maintained, kept, altered, constructed or established in violation of the Homer Zoning Code, a regulation or a permit. [Ord. 08-29, 2008].

**21.17.080 Fines for violations.**

Any violator of this title is, upon conviction by a court, subject to a fine as set forth in an applicable bail forfeiture schedule adopted by the City. If no fine is set forth in an applicable bail forfeiture schedule, upon conviction the violator is subject to a fine of not less than \$75.00 and not more than \$300.00 for each violation. [Ord. 08-29, 2008].

## DIVISION III ZONING DISTRICTS

### Chapter 21.18 Zoning Districts and Zoning Map

**21.18.010 Zoning districts.**

- a. The City is divided into zoning districts. Within each zoning district only uses and structures authorized by this title are allowed.
- b. The following zoning districts are hereby established:

Zone	Abbreviated Designation
<del>Residential Office</del>	<del>RO</del>
Rural Residential	RR
Urban Residential	UR
<del>Neighborhood Flex</del>	<del>NF</del>
<del>Central Business District</del> <del>Downtown Mixed Use</del>	<del>CBDDMU</del>
<del>Town Center District</del>	<del>TCB</del>
Gateway Business District	GBD
<del>General Commercial 1</del>	<del>GC1</del>
<del>General Commercial 2</del>	<del>GC2</del>
<del>East End Mixed Use</del> <del>Light Industrial Mixed Use</del>	<del>EEMULIMU</del>
Marine Commercial	MC
Marine Industrial	MI
Medical	M
Open Space – Recreational	OSR
Conservation District	CO

- c. The zoning district boundaries shall be as shown on the official Homer zoning map. [Ord. 20-59(A) § 4, 2020; Ord. 12-10 § 2, 2012; Ord. 08-29, 2008].

**21.18.020 Overlay districts.**

- a. In addition to the zoning districts described in HCC 21.18.010, one or more overlay districts, ~~or sensitive areas,~~ may be established under the zoning code.
- b. The overlay districts established elsewhere in the zoning code include:

Overlay Zone	Abbreviated Designation
Scenic Gateway Corridor Overlay District	none
Bridge Creek Watershed Protection District	BCWP

Overlay Zone	Abbreviated Designation
Small Boat Harbor Overlay District	none
Flood Prone Areas	none

- c. ~~Usually the~~ The official boundaries of an overlay district are established by illustration on the zoning map, ~~but in some cases the code may instead provide that a written narrative is the official description of boundaries of an overlay district.~~ [Ord. 09-44(S) § 2, 2009; Ord. 08-29, 2008; Ord. 08-12(S)(A-2) § 1, 2008].

**21.18.030 Zoning map.**

- a. The official zoning map shall be kept in the City offices, in either paper or electronic form. The “Homer Zoning Map” dated ~~April 4, 2012~~7/24/25, is adopted by reference and declared to be part of this title, together with all amendments subsequently approved by ordinance.
- b. Amendments shall be immediately noted on the official zoning map by the City Planner, with a notation of the ordinance and date of enactment. [Ord. 22-35 § 1, 2022; Ord. 20-59(A) § 5, 2020; Ord. 20-49 § 1, 2020; Ord. 20-02 § 1, 2020; Ord. 16-34 § 1, 2016; Ord. 13-27 § 1, 2013; Ord. 13-12(S) §§ 1 – 5, 2013; Ord. 12-10 § 3, 2012; Ord. 08-29, 2008].

**21.18.040 Zoning of waterfront property.**

Zoning code requirements applicable to property fronting on a water body shall continue to the edge of the property line, whether or not it is submerged. [Ord. 08-29, 2008].

**21.18.050 Zoning along district boundaries.**

- a. District boundaries shown as following the rights-of-way, streets, highways, or alleys shall be interpreted as following the centerlines, and district boundaries shown as following platted lot lines shall be interpreted as following the lot lines.
- b. If a lot is divided by a district boundary, the district boundary shall be respected. This does not preclude the property owner from seeking a boundary change by proposing a zoning map amendment. [Ord. 08-29, 2008].

## Chapter 21.19 RR Rural Residential District

### 21.19.010 Purpose.

The purpose of the Rural Residential District is primarily to provide an area in the City for low-density, primarily residential, development; allow for limited agricultural pursuits; and allow for other uses as provided in this chapter. [Ord. 08-29, 2008].

### 21.19.020 Permitted uses and structures.

The following uses are permitted outright in the Rural Residential District:

- a. ~~Detached~~Single family dwelling;
- b. Duplex dwelling;
- c. Factory-built or manufactured dwelling;
- d. ~~Multiple family~~Multi-unit dwelling; ~~only if the structure conforms to HCC 21.20.050(a)(2);~~
- e. Mobile homes, subject to the requirements of HCC 21.~~4354.0240~~;
- f. ~~Public parks and playgrounds~~Parks;
- g. Rooming house, bed and breakfast and hostel;
- ~~h. Agricultural activities, including general farming, truck farming, livestock farming, nurseries, and greenhouses; provided they meet standards in 21.38XX, that;~~
- h.
- ~~i. Commercial greenhouses and tree nurseries offering sale of plants or trees grown on premises; Other than normal household pets, no poultry or livestock may be housed and no fenced runs may be located within 100 feet of any residence other than the dwelling on the same lot;~~
- ~~j.i. No retail or wholesale business sales office is maintained on the premises;~~
- j. Tiny Home;
- k. Private stables;
- l. Temporary (seasonal) roadside stands for the sale of produce grown on the premises;
- m. Day care homes; provided, however, that outdoor play areas must be fenced;
- n. Schools;
- ~~n. Recreational vehicles, subject to the requirements of HCC 21.54.320;~~
- o. Open space, but not including outdoor recreational facilities described in HCC 21.11.040;
- p. More than one building containing a permitted principal use on a lot;
- ~~o-q. Public utility facilities and structures;~~

### 21.19.030 Accessory uses and structures.

- a. Exterior storage of noncommercial equipment

- ~~a.b.~~ Home occupations, provided they conform to the requirements of HCC 21.40.010;
- ~~b.c.~~ Private floatplane tie-down ~~as an accessory use incidental to residential use~~;
- ~~d.~~ Storage of personal commercial fishing gear in a safe and orderly manner and separated by at least five feet from any property line ~~as an accessory use incidental to residential use~~;
- ~~e.e.~~ Storage of heavy equipment, vehicles or boats
- ~~d.f.~~ ~~As an accessory use, o~~One small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;
- ~~e.g.~~ ~~One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single family dwelling on a lot subject to the requirements of HCC 21.12.040~~ Accessory dwelling unit; [Ord. 23-40 § 1, 2023; Ord. 22-68(A) § 1, 2022; Ord. 16-14 § 1, 2016; Ord. 14-09(A) § 1, 2014; Ord. 11-23(A) § 1, 2011; Ord. 09-34(A) § 4, 2009; Ord. 08-29, 2008].
- ~~f.h.~~ Other customary accessory uses incidental to any of the permitted uses listed in the RR district; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the ~~main building~~ principal structure;

#### **21.19.040 Conditional uses and structures.**

The following uses may be permitted in the Rural Residential District when authorized by conditional use permit issued in accordance with Chapter 21.09 HCC:

- a. Planned unit development, limited to residential uses only;
- b. Group care home;
- c. Assisted living home;
- d. Mobile home parks;
- e. Day care facilities; provided, however, that outdoor play areas must be fenced;
- f. ~~Religious, cultural and fraternal assembly~~ Places of assembly;
- g. Cemeteries;
- ~~h.~~ ~~Kennels~~;
- ~~i.h.~~ ~~Commercial greenhouses and tree nurseries offering sale of plants or trees grown on premises~~;
- ~~j.~~ ~~Public utility facilities and structures~~;
- ~~k.i.~~ Pipelines and railroads;
- ~~l.j.~~ Storage of heavy equipment, vehicles or boats over 36 feet in length as an accessory use incidental to a permitted or conditionally permitted principal use;
- ~~m.k.~~ Indoor recreational facilities;
- ~~n.l.~~ Outdoor recreational facilities;
- ~~o.a.~~ ~~Schools~~;

~~p-m.~~ One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot. [Ord. 23-40 § 1, 2023; Ord. 22-68(A) § 1, 2022; Ord. 14-49(A) § 2, 2014; Ord. 09-34(A) § 5, 2009; Ord. 08-29, 2008].

#### **21.19.050 Dimensional requirements.**

~~The following dimensional requirements shall apply to all structures and uses in the Rural Residential District:~~

a. Lot Size.

1. The minimum lot area shall be 40,000 square feet, plus 40,000 square feet for each dwelling unit in excess of one unit in areas not served by public sewer and water.
2. Each lot shall contain a minimum of 20,000 square feet, plus 20,000 square feet per dwelling unit in excess of one unit if one of the following conditions exists:
  - i. The lot is served by public water supply approved by the State Department of Environmental Conservation; or
  - ii. The lot is served by public or community sewer approved by the State Department of Environmental Conservation.
3. Each lot shall contain a minimum of 10,000 square feet, plus 10,000 square feet per dwelling unit in excess of one unit if the lot is served by both public water and sewer that satisfy both conditions of subsection (a)(2) of this section.
  - i. Multi-unit structures containing five or more units shall meet the following minimum lot size standard: 7,500 square feet for the first dwelling unit, plus 1,200 square feet per additional dwelling unit

b. Building Setbacks.

1. ~~Buildings shall be set back 20 feet from all dedicated rights-of-way~~Front: 20 feet, except as allowed by subsection (b)(3) of this section;
2. ~~Side and rear: 5 feet. Buildings shall be set back from all other lot boundary lines\_ according to the number of stories as follows:~~
3. Adjacent to those rights-of-way that lead to Kachemak Bay and have been determined to be unsuitable for road construction by resolution of the City Council, all buildings shall be set back 5 feet from the boundary of the right-of-way ~~according to the number of stories as provided in subsection (b)(2) of this section.~~

~~c. Building Height~~Maximum building height for primary and accessory structures: The building height shall be a maximum of 35 feet.

~~d.~~ Maximum building coverage: 30%

~~e-c.~~ Maximum impervious coverage: 50%

~~d-f.~~ Detached accessory buildings may occupy not more than 25 percent of a ~~required~~ rear or side yard and no portion of a ~~required~~ front yard, and shall be located at least five feet from the nearest part of a ~~main-building~~principal structure. [Ord. 08-29, 2008].

#### **21.19.060 ~~Site development~~Drainage and erosion control standards.**

All development in this district shall comply with the level one ~~site development~~drainage and erosion control standards contained in HCC 21.51.020. [Ord. 08-29, 2008].

## Chapter 21.20 NF Neighborhood Flex District

### 21.20.010 Purpose.

The Neighborhood Flex District is primarily intended to provide a sound environment for wide range of residential uses with service connectivity and pedestrian accessibility such as medium to high-density residential uses including detached, duplex, and ~~multiple family~~ multi-unit dwellings of various types and designs and other compatible uses if environmental constraints allow for it as provided in this chapter.

### 21.20.020 Permitted uses and structures.

- a. Detached dwelling, excluding mobile home;
- b. Factory-built or manufactured dwelling;
- c. Duplex dwelling
- d. Townhouses
- e. ~~Multiple family~~ Multi-unit dwelling, only if the structure conforms to HCC 21.20.050(a)(2);
- f. Parks;
- g. Open space, not including outdoor recreational facilities;
- h. Rooming house, bed and breakfast and hostel;
- ~~a.i.~~ Day care homes; provided, however, that outdoor play areas must be fenced;
- j. Day care facilities; provided, however, that outdoor play areas must be fenced
- ~~b.k.~~ Public schools and private sSchools;
- ~~a.~~ Places of assembly;
- l. Public utility facilities and structures;
- m. More than one building containing a permitted principal use on a lot;
- n. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot.
- o. Tiny Home;

### 21.20.030 Accessory uses and structures.

- a. Accessory dwelling unit, excluding mobile homes;
- b. Home occupations, provided they conform to the requirements of HCC 21.4151.010;
- c. Private floatplane tie-up facility;
- d. Recreational vehicles, subject to the standards set out in HCC 21.54.32044.050;
- e. Storage of personal commercial fishing gear in a safe orderly manner and separated by at least five feet from any property line;

- f. Exterior storage of noncommercial equipment;
- g. The outdoor harboring or keeping of fowl as an accessory to a residential use in a manner consistent with the requirements of all other provisions of the Homer City Code and as long as such animals are pets of the residents of the dwelling and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property;
- h. Storage of personal commercial fishing gear in a safe and orderly manner and separated by at least five feet from any property line;
- i. Storage of heavy equipment, vehicles or boats;
- j. Customary accessory uses to any of the permitted uses listed in the NF district; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the principal structure;
- k. One small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;

**21.20.040 Conditional uses and structures.**

- a. Planned unit development, excluding all industrial uses;
- b. Places of assembly;
- c. Pipelines;
- d. Storage of heavy equipment or boats over 36 feet in length as an accessory use incidental to a permitted or conditionally permitted principal use;
- e. Private stables and the keeping of larger animals not usually considered pets, including paddocks or similar structures or enclosures utilized for keeping of such animals as an accessory use incidental to a primary residential use; such use shall be conditioned on not causing unreasonable disturbance or annoyances to occupants of neighboring property, and on sufficient land to harbor such animals;
- f. Group care home;
- g. Assisted living home;
- h. Indoor recreational facilities;
- i. Outdoor recreational facilities.;

**21.20.050 Dimensional requirements.**

- a. Lot Size.
  - 1. The minimum lot area shall be 30,000 square feet, plus ~~4,800~~30,000 square feet for each dwelling unit in excess of one unit in areas not served by public sewer and water.
  - 2. Each lot shall contain a minimum of 15,000 square feet, plus ~~2,400~~15,000 square feet per dwelling unit in excess of one unit if one of the following conditions exists:
    - a. The lot is served by public water supply approved by the State Department of Environmental Conservation; or
    - b. The lot is served by public or community sewer approved by the State Department of Environmental Conservation.

3. For multi-unit structures of more than 3 units, Each lot shall contain a minimum of 7,500 square feet for the first two dwelling units, plus 1,200 square feet per additional dwelling unit if the lot is served by both public water and sewer that satisfy both conditions of subsection (a)(2) of this section.

4. Townhouses shall require a minimum lot size of 2,000 square feet.

b. Building Setbacks.

1. Front: 20 feet, except as allowed by subsection (b)(3) of this section;

2. Side and rear: 5 feet—.

3. Adjacent to those rights-of-way that lead to Kachemak Bay and have been determined to be unsuitable for road construction as set forth by resolution of the City Council, all buildings shall be set back from the boundary of the right-of-way according to the number of stories as provided in subsection (b)(2) of this section. 5 feet.

c. Building Height. The building height shall be a maximum of Maximum building height: 35 feet.

d. Maximum building coverage: 550%.

e. Maximum impervious coverage: 780%

f. Accessory Structures. Detached accessory structures

1. Maximum size: 1,200 square feet or 25 percent of the required rear or side yard, whichever is less.

2. Location: side or rear yard, and shall be located at least five feet from the nearest part of a principal structure. [Ord. 08-29, 2008].

**21.20.0650 Site developmentDrainage and erosion control standards.**

All development in the Urban ResidentialNeighborhood Flex District shall comply with the level one site-developmentdrainage and erosion control standards contained in HCC 21.5350.020. [Ord. 08-29, 2008].

## Chapter 21.21 UR Urban Residential District

### 21.21.010 Purpose.

The Urban Residential District is primarily intended to provide a sound environment for medium- ~~to high~~-density residential ~~occupancy uses~~ including ~~single family detached~~, duplex, ~~townhomes~~, and ~~low rise multiple family multi-unit~~ dwellings of various types and designs and other compatible uses as provided in this chapter. [Ord. 08-29, 2008].

### 21.21.020 Permitted uses and structures.

~~The following uses are permitted outright in the Urban Residential District:~~

- a. ~~Single family Detached~~ dwelling, excluding mobile home;
- b. ~~Factory-built or manufactured dwelling;~~
- ~~b.c.~~ Duplex dwelling, ~~excluding mobile home;~~
- ~~e.d.~~ Townhouses;
- ~~d.e.~~ Multiple family Multi-unit dwelling; ~~only if the structure conforms to HCC 21.20.050(a)(2) and excluding mobile home;~~
- ~~e.f.~~ Public parks and playgrounds Parks;
- f.g. Open space, not including outdoor recreational facilities;
- ~~g.h.~~ Rooming house, bed and breakfast and hostel;
- i. Day care homes; provided, however, that outdoor play areas must be fenced;
- ~~j.~~ Day care facilities; ~~provided, however, that outdoor play areas must be fenced;~~
- k. Group care home;
- ~~h.l.~~ Assisted living home;
- ~~i.m.~~ Public schools and private schools;
- n. Tiny Home;
- o. Public utility facilities and structures;
- p. More than one building containing a permitted principal use on a lot;
- ~~j.~~ One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot.
- q. ~~Townhouse developments. [Ord. 23-40 § 2, 2023; Ord. 22-68(A) § 2, 2022; Ord. 11-44(S) § 1, 2011; Ord. 11-23(A) § 2, 2011; Ord. 09-34(A) § 6, 2009; Ord. 08-29, 2008].~~

**21.21.030 Accessory uses and structures.**

- a. ~~One detached dwelling unit~~Accessory dwelling unit, excluding mobile homes,~~as an accessory building to a principal single family dwelling on a lot;~~
- b. Home occupations, provided they conform to the requirements of HCC 21.40.010;
- c. Private floatplane tie-up facility~~as an accessory use incidental to residential use;~~
- d. ~~Recreational vehicles, subject to the standards set out in HCC 21.54.320;~~
- e.d. ~~As an accessory use incidental to residential use,~~sStorage of personal commercial fishing gear in a safe orderly manner and separated by at least five feet from any property line;
- f.c. ~~As an accessory use incidental to residential use, the private outdoor storage of noncommercial equipment, including noncommercial trucks, boats, and not more than one recreational vehicle in a safe and orderly manner and separated by at least five feet from any property line, provided no stored equipment, boat or vehicle exceeds 36 feet in length;~~Exterior storage of non-commercial equipment;
- g.f. The outdoor harboring or keeping of livestock or dogs, small animals and fowl as an accessory to a residential use in a manner consistent with the requirements of all other provisions of the Homer City Code and as long as such animals are pets of the residents of the dwelling and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property;
- ~~Storage of personal commercial fishing gear in a safe and orderly manner and separated by at least five feet from any property line;~~
- g. Storage of heavy equipment, vehicles or boats;
- h. Customary accessory uses to any of the permitted uses listed in the UR district; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the ~~main~~buildingprincipal structure;
- i. ~~As an accessory use,~~oOne small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;

**21.21.040 Conditional uses and structures.**

~~The following uses may be permitted in the Urban Residential District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

- a. Planned unit development, excluding all industrial uses;
- b. ~~Day care facilities; provided, however, that outdoor play areas must be fenced;~~
- e.b. ~~Religious, cultural and fraternal assembly~~Places of assembly;
- d.c. Pipelines;
- e.d. Storage of heavy equipment or boats over 36 feet in length as an accessory use incidental to a permitted or conditionally permitted principal use;
- f.c. Private stables and the keeping of larger animals not usually considered pets, including paddocks or similar structures or enclosures utilized for keeping of such animals as an accessory use incidental to a primary residential use; such use shall be conditioned on not causing unreasonable disturbance or annoyances to occupants of neighboring property, and on sufficient land to harbor such animals;
- g. ~~Group care home;~~

~~h. Assisted living home;~~

~~i. More than one building containing a permitted principal use on a lot;~~

~~i.f. Indoor recreational facilities;~~

~~j.g. Outdoor recreational facilities;~~

~~l. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot. [Ord. 23-40 § 2, 2023; Ord. 22-68(A) § 2, 2022; Ord. 14-49(A) § 3, 2014; Ord. 09-34(A) § 7, 2009; Ord. 08-29, 2008].~~

**21.21.050 Dimensional requirements.**

~~a. The following dimensional requirements shall apply to all structures and uses in the Urban Residential District:~~

~~b.a. Lot Size.~~

~~1. Minimum lot size: 7,500 square feet for single family detached and duplex dwellings structures, and multi-unit structures of 4 units or less, there shall be a minimum lot area of 7,500 square feet.~~

~~2. Multiple-unit family dwelling structures containing three or more units shall meet the following minimum lot size standard: 7,500 square feet for the first two dwelling units, plus 1,200 square feet per additional dwelling unit.~~

~~2.3. Townhouses shall require a minimum lot size of 2,000 square feet.~~

~~The total floor area shall not be more than four tenths the lot area;~~

~~The total open area shall be at least 1.1 times the total floor area. Open area is any portion of the lot not covered or used for parking spaces and maneuvering.~~

~~e.b. Building Setbacks.~~

~~1. Buildings shall be set back 20 feet from all dedicated rights-of-way Front: 20 feet, except as allowed by subsection (b)(3) of this section~~

~~2. Side and rear: 5 feet Buildings shall be set back from all other lot boundary lines according to the number of stories as follows:~~

Number of Stories	Setback (in feet)
1	5
1-1/2	6
2	7
2-1/2	8

~~3. Adjacent to those rights-of-way that lead to Kachemak Bay and have been determined to be unsuitable for road construction as set forth by resolution of the City Council, all buildings shall be set back from the boundary of the right-of-way according to the number of stories as provided in subsection (b)(2) of this section.~~

~~d.c. Maximum Building Height: 35 feet.~~

d. Maximum building coverage: 50%

e. Maximum impervious coverage: 80%

e.f. Detached accessory ~~buildings-structures:~~

1. Maximum size: 1,200 square feet or ~~may occupy not more than~~ 25 percent of ~~the~~ required rear or side yard, ~~whichever is less.~~

+2. Location: side or rear yard. ~~and no portion of a required front yard, shall not be more than 1,200 square feet in area,~~ and shall be located at least five feet from the nearest part of a ~~main building~~ principal structure. [Ord. 08-29, 2008].

**21.21.050 ~~Site development~~ Drainage and erosion control standards.**

All development in the Urban Residential District shall comply with the level one ~~site development~~ drainage and erosion control standards contained in HCC ~~21.51.50.020~~. [Ord. 08-29, 2008].

## Chapter 21.22 M Medical Mixed Use District

### 21.22.010 Purpose.

The purpose of the Medical District is to provide an area near the hospital to support medical facilities and other ~~professional office and limited commercial uses~~ supportive uses including professional offices, assisted living facilities, and a variety of housing types. ~~The district is meant to accommodate a mixture of residential and nonresidential uses.~~ Pedestrian-friendly designs and amenities are encouraged. [Ord. 20-59(A) § 1, 2020].

### 21.22.020 Permitted uses and structures.

~~The following uses are permitted outright in the Medical District:~~

~~a. Single family~~ Detached dwelling;

~~b. —and d~~ Duplex dwelling, excluding mobile homes;

~~a-c.~~ Townhouses;

~~b-d.~~ Public parks and playgrounds Parks;

~~e.~~ Group care home;

~~f.~~ Rooming house, bed and breakfast, or hostel;

~~e.~~ bed and breakfast;

~~d-g.~~ Professional offices and general business o Offices;

~~e-h.~~ Medical C clinics;

~~f-i.~~ Day care facilities;

~~g-j.~~ Day care homes;

~~k.~~ e- Hospitals;

~~h-l.~~ Personal services;

~~i-m.~~ L Museums, libraries and similar institutions;

~~j.~~ Nursing facilities, convalescent homes, homes for the aged, assisted living homes;

~~k-n.~~ Religious, cultural and fraternal assembly Places of assembly;

~~l-o.~~ Mobile food services;

~~m-p.~~ Sale of durable and nondurable medical supplies and equipment;

~~n-q.~~ More than one building containing a permitted principal use on a lot;

~~o-r.~~ Parking lots. [Ord. 20-59(A) § 1, 2020]. \_

~~p-s.~~ Public utility facilities and structures;

**21.22.030 Accessory uses and structures.**

- a. Home occupations; provided they conform to the requirements of HCC 21.4051.010;
- b. Retail- ~~businesses as an accessory use to a permitted principal use;~~
- c. Storage of the occupant's personal commercial fishing gear in a safe and orderly manner and separated by at least five feet from any property line as an accessory use incidental to a permitted or conditionally permitted principal use;
- d. ~~Private~~ Exterior storage of the occupant's personal noncommercial equipment, including noncommercial trucks, boats, campers, and not more than one recreational vehicle in a safe and orderly manner and separated by at least five feet from any property line as an accessory use incidental to a permitted or conditionally permitted principal use;
- ~~a. Other customary accessory uses to any of the permitted uses listed in the Medical District; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the main building;~~
- ~~e. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory use in a manner consistent with the requirements of the Homer City Code and as long as such animals are kept as pets and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property;~~
- ~~f.e.~~ As an accessory use, one small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;
- ~~f. Other customary accessory uses to any of the permitted uses listed in the Medical District; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the main building principal structure.~~

**21.22.040 Conditional uses and structures.**

- a. ~~Multiple family~~ Multi-unit dwelling, provided the structure conforms to HCC 21.20.050(a)(2) ~~and excluding mobile homes;~~
- ~~b. The following uses may be permitted in the Medical District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~
- ~~e.b.~~ Planned unit developments, excluding all industrial uses;
- ~~d.c.~~ ~~Public or private~~ Schools;
- ~~e.~~ Hospitals;
- ~~d.~~ Public utility facilities and structures;
- ~~e.d.~~ Mortuaries;
- ~~f.~~ Group care homes;
- ~~f.c.~~ Helipads, but only as an accessory use incidental to a hospital conditional use;
- ~~g.f.~~ One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot;
- ~~h.g.~~ Parking garage; [Ord. 20-59(A) § 1, 2020];
- ~~h.~~ Any uses with the following estimated traffic impacts:

1. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, Ninth Edition;
2. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, Ninth Edition;
3. Is estimated to generate an increase in traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or
4. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 20-59(A) § 1, 2020].

~~i. Other uses approved pursuant to HCC 21.04.020;~~

**21.22.050 Dimensional requirements.**

~~The following dimensional requirements shall apply to all structures and uses in the Medical District:~~

- a. ~~The minimum lot size is~~Minimum lot size: 7,500 square feet.
- b. Building Setbacks.
  1. ~~Buildings shall be set back 20 feet from all dedicated rights of way~~Front: 20 feet.
  2. ~~Side and rear: 5 feet. All buildings shall be set back from all other lot boundary lines according to the number of stories as follows:~~

<u>Number of Stories</u>	<u>Setback (in feet)</u>
<u>1-story</u>	<u>5 feet</u>
<u>1-1/2 stories</u>	<u>6 feet</u>
<u>2 stories</u>	<u>7 feet</u>
<u>2-1/2 stories</u>	<u>8 feet</u>

- c. Maximum Building Height: ~~The maximum building height is 40 feet.~~
- d. Maximum building coverage: 30%~~No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area, without an approved conditional use permit. [Ord. 20-59(A) § 1, 2020].~~

**21.22.060 Site, ~~and access, and development plans.~~**

- a. A zoning permit for any nonresidential use or structure shall not be issued by the City without an approved level two site plan and an approved level two right-of-way access plan ~~that conform to the standards of Chapter 21.73 HCC.~~
- b. All ~~single family detached~~ and duplex ~~residential development dwellings~~ in the Medical District shall comply with the level one site development drainage and erosion control standards contained in HCC 21.5350.020- ~~contained in HCC 21.50.020.~~
- c. All residential multi-unit development of three-five units or more and all nonresidential development on lands in this in the Medical district shall conform to the level two site development drainage and erosion control standards contained in HCC 21.5350.030. ~~set forth in HCC 21.50.030(a) through (e), (f)(1)(a) and (f)(2).~~
  - a. ~~All access points to rights of way shall conform to the standards of a level two right of way access plan stated in Chapter 21.73 HCC. This applies to all uses and structures. [Ord. 20-59(A) § 1, 2020].~~

~~21.17.060 — Traffic requirements.~~

~~A conditional use permit is required for every use that:~~

- ~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, Ninth Edition;~~
- ~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, Ninth Edition;~~
- ~~c. Is estimated to generate an increase in traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~
- ~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 20-59(A) § 1, 2020].~~

**21.2217.070 Additional Site development standards.**

- a. Parking lots with a minimum of 24 spaces or more shall provide a minimum of 10 percent landscaped area in dividers, islands or buffers or any combination thereof, adjacent or within the parking area.
- b. New nonresidential construction shall be screened from existing ~~single family detached~~ or duplex dwellings by a continuous fence or landscaping so as to obscure the view of the parking lot and loading areas from the adjacent dwelling. [Ord. 20-59(A) § 1, 2020].

~~21.17.080 — Nuisance standards.~~

~~The nuisance standards of HCC 21.59.010 apply to all development, uses, and structures in this zoning district. [Ord. 20-59(A) § 1, 2020].~~

## Chapter 21.23 DMU Downtown Mixed Use ~~RESIDENTIAL OFFICE DISTRICT~~

### 21.23.010 Purpose.

~~The Residential Office District is primarily intended for a mixture of low density to medium density residential uses and certain specified businesses and offices, which may include professional services, administrative services and personal services, but generally not including direct retail or wholesale transactions except for sales that are incidental to the provision of authorized services. A primary purpose of the district is to preserve and enhance the residential quality of the area while allowing certain services that typically have low traffic generation, similar scale and similar density. The district provides a transition zone between commercial and residential neighborhoods.~~  
Downtown Mixed Use District is a vibrant community focal point, serving as the city's central hub for business, services, education, dining, and entertainment. It supports a mix of higher density residential and commercial uses. Potential conflicts between residential and commercial uses should be minimized through thoughtful site design, building orientation, and buffering. The district is designed to be human-scaled and pedestrian-friendly.— [Ord. 08-29, 2008].

### 21.23.020 Permitted uses and structures.

- ~~a. Single family~~Detached and duplex dwelling, ~~excluding mobile homes;~~
- ~~a-b.~~ Duplex dwelling;
- ~~b-c.~~ Townhouses;
- ~~d.~~ Factory-built dwelling;
- ~~e-c.~~ Multiple familyMulti-unit dwelling, provided the structure conforms to HCC 21.210.050(a)(2) ~~and excluding mobile homes;~~
- ~~f.~~ Mixed-use buildings containing both residential and commercial uses;
- ~~d-g.~~ Group care homes.
- ~~e.~~ Nursing facilities, convalescent homes, homes for the aged, assisted living homes;
- ~~h.~~ Open space;
- ~~f-i.~~ Public parks and playgroundsParks;
- ~~g-j.~~ Day care homes; provided, however, that outdoor play areas must be fenced;
- ~~k.~~ Day care facilities; provided, however, that outdoor play areas must be fenced;
- ~~h-l.~~ Rooming house, bed and breakfast and hostel;
- ~~i-m.~~ Professional offices and general business officesOffices;
- ~~j-n.~~ Personal services;
- ~~o.~~ Retail businesses;
- ~~k-p.~~ Itinerant or transient merchants;
- ~~q.~~ Entertainment establishments;
- ~~r.~~ Restaurants and clubs;

~~s. Mobile food services;~~

~~t. Financial institutions;~~

~~u. Museums, libraries and similar institutions;~~

~~m.v. Religious, cultural and fraternal assembly Places of assembly;~~

~~n.w. Drive-through establishments;~~

~~x. e. Medical clinics;~~

~~y. Parking garages;~~

~~z. Parking lots;~~

~~aa. Plumbing, heating, and appliance services;~~

~~bb. Printing, publishing, and bookbinding;~~

~~cc. Public utility facilities and structures;~~

~~dd. Retail and wholesale sales of building supplies and materials;~~

~~ee. Self-service laundries;~~

~~ff. Studios;~~

~~gg. More than one building containing a permitted principal use on a lot.~~

~~o. Recreational vehicles, subject to the standards set out in HCC 21.54.320;~~

~~p. Mortuaries;~~

#### **21.23.030 Accessory uses and structures.**

~~a. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single family dwelling on a lot~~Accessory dwelling unit;

b. Home occupations; provided they conform to the requirements of HCC 21.410.010;

c. Storage of the occupant's personal commercial fishing gear in a safe and orderly manner and separated by at least five feet from any property line as an accessory use incidental to a permitted or conditionally permitted principal use;

~~d. Recreational vehicles, subject to the standards set out in HCC 21.54.320;~~

~~e.d.~~ Private exterior storage of the occupant's personal noncommercial equipment, including noncommercial trucks, boats, campers and not more than one recreational vehicle in a safe and orderly manner and separated by at least five feet from any property line as an accessory use incidental to a permitted or conditionally permitted principal use;

~~f. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory use in a manner consistent with the requirements of the Homer City Code and as long as such animals are kept as pets and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property;~~

~~g.c. As an accessory use, o~~One small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;

~~h.f.~~ Other customary accessory uses to any of the permitted uses listed in the Downtown Mixed Use district; provided, that no separate permit shall be issued for the construction of any detached accessory building prior to that of the ~~main building~~principal structure;

**21.23.040 Conditional uses and structures.**

~~The following uses may be permitted in the Residential Office District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

a. Planned unit developments, excluding all industrial uses;

~~b. Public or private schools;~~

~~e. Medical clinics;~~

~~e. Public utility facilities and structures;~~

b. Auto fueling stations;

c. Auto, marine, and RV sales, rental, and repair;

d. Drive-in car washes;

e. Light or custom manufacturing, fabricating, and assembly;

f. Shelter for the homeless;

~~d.g.~~ One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot;

h. Every use that:

1. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;

2. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;

3. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or

4. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 2, 2013; Ord. 10-06 § 4, 2010].

~~e. Other uses approved pursuant to HCC 21.04.020;~~

~~f. More than one building containing a permitted principal use on a lot. [Ord. 23-40 § 3, 2023; Ord. 22-68(A) § 3, 2022; Ord. 14-49(A) § 4, 2014; Ord. 10-06 § 1, 2010; Ord. 09-34(A) § 9, 2009; Ord. 08-29, 2008].~~

**21.23.050 Dimensional requirements.**

~~a. Lot size. The minimum lot size is 7,500 square feet.~~

1. Minimum lot size: 6,000 square feet. Lawful nonconforming lots of smaller size may be newly developed and used if off-site parking is provided in accordance with the City parking code, HCC 21.53;

2. Multi-unit structures with 3 units or more shall have a minimum lot size of 6,000 sf. plus 1,200 sf. per dwelling unit for the third dwelling unit and above.

2-b. Townhouses shall require a minimum lot size of 2,000 square feet.

b-a. Building Setbacks and Placement.

1. Buildings shall be set back 20 feet from all dedicated rights of way. Build-to Line: 0-10 feet. 23

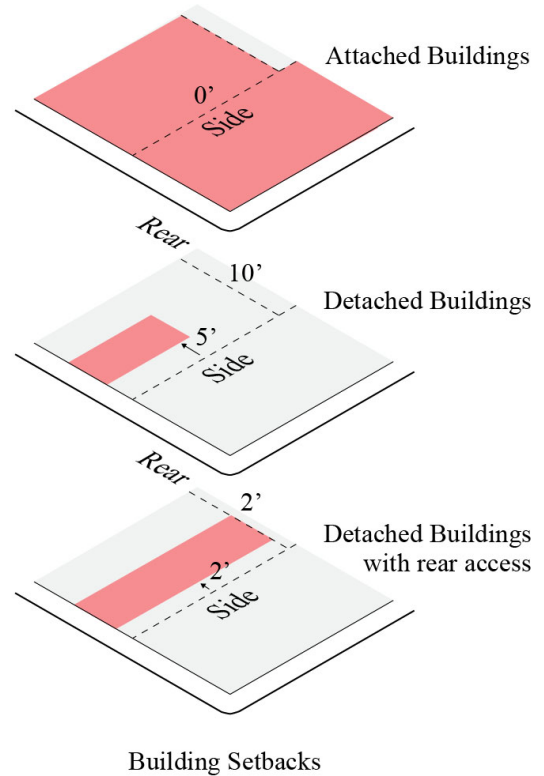
2. Minimum side setbacks: 0 feet for attached buildings, 5 feet for detached buildings, except the minimum setback shall be two feet from side and rear property lines when firewalls are provided and access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.

4-3. Minimum rear setback: 10 feet.

2. Residential buildings shall be set back from all other lot boundary lines according to the number of stories as follows:

Number of Stories	Setback (in feet)
1 story	5 feet
1 1/2 stories	6 feet
2 stories	7 feet
2 1/2 stories	8 feet

3. Nonresidential buildings shall be set back 15 feet from all other lot boundary lines, except that this setback may be reduced to not less than the setback that would apply under subsection (b)(2) of this section if the reduction is approved by the State Fire Marshal.



b. Frontage: At least 60%50% of the lot frontage within the build-to line shall be occupied by a building façade.

c. Building height: maximum of 40 feet. The maximum building height shall be 35 feet.

d. Building orientation: Primary entrances shall face the street.

d.

e. Maximum building coverage: 70%.

f. Maximum impervious coverage: 80%

g. Detached accessory buildings:

1. Maximum size: 1,200 square feet or 25 percent of the required rear or side yard, whichever is less. may not occupy more than 25 percent of a required rear or side yard and no portion of a required front yard, and shall be located at least five feet from the nearest part of a main building and five feet from all property lines.

2. Location: side or rear yard, and shall be located at least five feet from the nearest part of a principal structure.

4-3. Setbacks: same requirements as principal structure.

**21.23.060 Site, ~~and access,~~ and development plans.**

- a. A zoning permit for any nonresidential use or structure shall not be issued by the City without an approved site plan and an approved level two right-of-way access plan.
- ~~b. All access points to rights of way shall conform to the standards of a level two right of way access plan stated in Chapter 21.73 HCC. This applies to all uses and structures. [Ord. 08-29, 2008].~~
- ~~e.b. All single family detached and duplex residential development ~~in the Residential Office District~~ shall comply with the level one ~~site development~~drainage and erosion control standards contained in HCC ~~21.5150.020~~.~~
- ~~d.c. All multifamily multi-unit residential development of 5 units or more and all commercial or mixed-use development ~~on lands in this district~~ shall conform to the level two ~~site development~~drainage and erosion control standards contained in HCC ~~21.5150.030~~. [Ord. 10-06 § 3, 2010; Ord. 08-29, 2008].~~
- ~~e. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area, without an approved conditional use permit. [Ord. 22-68(A) § 3, 2022; Ord. 10-06 § 2, 2010; Ord. 08-29, 2008].~~

**21.23.060 Additional ~~site and access~~ standards.**

- a. Pedestrian access. Pedestrian connections shall be provided between principal structures and the sidewalk.
  - ~~1. —~~
- b. Parking.
  1. Off-street parking shall be located to the rear or side of the primary structure.
  2. Shared parking and use of on-street parking are encouraged.
- c. Open Space.
  1. Plazas, courtyards, or pocket parks shall be integrated into site design for developments over one acre. These spaces are to be located on private property and shall be maintained by the property owner, unless under a signed agreement with the City for a dedicated public park.
- d. Signage.
  1. Signs shall be pedestrian-scaled and integrated with the building architecture.
  2. Monument, wall, window and projecting signs are permitted; pole signs are prohibited.

**21.2316.0760 Architectural standards.**

- a. Variation. All development shall contain variation in detail to provide visual interest and to avoid monotony. Use of pitched roofs, breaks in roofs and wall lines and other architectural features are encouraged.
- b. Transparency. Ground floor facades facing public streets shall have a minimum of 650% transparent windows and doors.
- c. Franchise architecture. Where buildings of franchise design are proposed, design is encouraged to conform with the architectural section of the Community Design Manual.
- d. Buildings of less than 8,000 square feet are exempt from the siding and trim and color sections of the manual.
- e. Artwork. Architecturally integrated artwork is encouraged.
- f. Fences. Fences shall comply with the Community Design Manual.
- a-g. Materials. Durable, high-quality materials such as brick, stone, and fiber cement siding are encouraged.

**21.16.060 — Traffic requirements.**

~~A conditional use permit is required for every use that:~~

- ~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~
- ~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~
- ~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~
- ~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 2, 2013; Ord. 10-06 § 4, 2010].~~

**21.16.080 — Nuisance standards.**

~~The nuisance standards of HCC 21.59.010 apply to all development, uses, and structures in this zoning district. [Ord. 10-06 § 5, 2010].~~

**Chapter 21.18**

**CBD-CENTRAL BUSINESS DISTRICT**

**Sections:**

- ~~21.18.010 — Purpose.~~
- ~~21.18.020 — Permitted uses and structures.~~
- ~~21.18.030 — Conditional uses and structures.~~
- ~~21.18.040 — Dimensional requirements.~~
- ~~21.18.050 — Site and access plan.~~
- ~~21.18.060 — Traffic requirementrequirements set forth in HCC 21.50.030, except as otherwise provided in this section.~~

**21.18.010 — Purpose.**

~~The purpose of the Central Business District is primarily to provide a centrally located area within the City for general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and other business uses listed in this chapter. The district is meant to accommodate a mixture of residential and nonresidential uses with conflicts being resolved in favor of nonresidential uses. Pedestrian friendly designs and amenities are encouraged. [Ord. 08-29, 2008].~~

**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;~~
- ~~b. Personal service establishments;~~
- ~~c. Professional offices and general business offices;~~
- ~~d. Restaurants, clubs and drinking establishments that provide food or drink for consumption on the premises;~~
- ~~e. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;~~
- ~~f. Hotels and motels;~~
- ~~g. Mortuaries;~~

- ~~h. Single family, duplex, and multiple family dwellings, including townhouses, but not including mobile homes;~~
- ~~i. Floatplane tie up facilities and air charter services;~~
- ~~j. Parks;~~
- ~~k. Retail and wholesale sales of building supplies and materials, only if such use, including storage of materials, is wholly contained within one or more enclosed buildings;~~
- ~~l. Customary accessory uses to any of the permitted uses listed in the CBD district; provided, that a separate permit shall not be issued for the construction of any detached accessory building prior to that of the main building;~~
- ~~m. Mobile homes, provided they conform to the requirements set forth in HCC 21.54.100;~~
- ~~n. Home occupations, provided they conform to the requirements of HCC 21.51.010;~~
- ~~o. Ministorage;~~
- ~~p. Apartment units located in buildings primarily devoted to business or commercial uses;~~
- ~~q. Religious, cultural, and fraternal assembly;~~
- ~~r. Entertainment establishments;~~
- ~~s. Public, private and commercial schools;~~
- ~~t. Museums and libraries;~~
- ~~u. Studios;~~
- ~~v. Plumbing, heating and appliance service shops, only if such use, including the storage of materials, is wholly within an enclosed building;~~
- ~~w. Publishing, printing and bookbinding;~~
- ~~x. Recreational vehicle parks only if located south of the Sterling Highway (Homer Bypass) from Lake Street west to the boundary of the Central Business District abutting Webber Subdivision, and from Heath Street to the west side of Lakeside Village Subdivision, provided they shall conform to the standards in HCC 21.54.200 and following sections;~~
- ~~y. Taxi operation limited to a dispatch office and fleet parking of no more than five vehicles; maintenance of taxis must be conducted within an enclosed structure, and requires prior approval by the City Planner of a site, access and parking plan;~~
- ~~z. Mobile food services;~~
- ~~aa. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;~~
- ~~bb. Day care homes and facilities; provided, however, that outdoor play areas must be fenced;~~
- ~~cc. Rooming house, bed and breakfast and hostel;~~
- ~~dd. Auto repair and auto and trailer sales or rental areas, but only on Main Street from Pioneer Avenue to the Sterling Highway, excluding lots with frontage on Pioneer Avenue or the Sterling Highway, subject to the following additional requirements: Vehicles awaiting repair or service, inoperable vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be parked indoors or inside a fenced enclosure so as to be concealed from view, on all sides. The fence shall be a minimum height of eight feet and constructed to prohibit visibility of anything inside of the enclosure. The portion of any vehicle exceeding eight feet in height may be visible outside of the fence.~~

~~Vehicle parts (usable or unusable), vehicle service supplies, and any other debris created in the repair or servicing of vehicles shall also be stored indoors or inside the fenced enclosure out of view of the public;~~

~~ee. Farmers' market;~~

~~ff. Dormitory;~~

~~gg. Financial institutions;~~

~~hh. As an accessory use, one small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;~~

~~ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single family dwelling on a lot;~~

~~jj. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by State law;~~

~~kk. Medical clinics;~~

~~ll. Greenhouses and garden supplies;~~

~~mm. Repealed by Ord. 23-40;~~

~~nn. Group care homes and assisted living homes;~~

~~oo. Indoor and outdoor recreational facilities. [Ord. 23-40 § 4, 2023; Ord. 22-68(A) § 4, 2022; Ord. 19-31 § 1, 2019; Ord. 16-04(A-2)(S-3) § 1, 2016; Ord. 11-44(S) § 3, 2011; Ord. 11-23(A) § 4, 2011; Ord. 09-34(A) § 10, 2009; Ord. 08-29, 2008].~~

**21.18.030 — Conditional uses and structures.**

The following uses may be permitted in the Central Business District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

~~a. Planned unit developments, excluding all industrial uses;~~

~~b. Mobile home parks;~~

~~e. Auto fueling stations;~~

~~d. Public utility facilities and structures;~~

~~e. Pipeline;~~

~~f. Light or custom manufacturing, repair, fabricating, and assembly, provided such use, including storage of materials, is wholly within an enclosed building;~~

~~g. Shelter for the homeless, provided any lot used for such shelter does not abut a residential zoning district;~~

~~h. More than one building containing a permitted principal use on a lot;~~

~~i. Drive-in car washes, but only on the Sterling Highway from Tract A-1 Webber Subdivision to Heath Street;~~

~~j. One small wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot;~~

~~k. Other uses approved pursuant to HCC 21.04.020. [Ord. 22-68(A) § 4, 2022; Ord. 14-49(A) § 5, 2014; Ord. 09-34(A) § 11, 2009; Ord. 08-29, 2008].~~

**~~21.18.040 — Dimensional requirements.~~**

~~The following dimensional requirements shall apply to all structures and uses in the Central Business District:~~

~~a. Lot Size.~~

- ~~1. The minimum lot area shall be 6,000 square feet. Lawful nonconforming lots of smaller size may be newly developed and used if off-site parking is provided in accordance with the City parking code, Chapter 21.55-HCC;~~
- ~~2. Multiple family dwelling containing three or more units shall meet the standards in HCC 21.14.040(a)(2);~~
- ~~3. Townhouses shall meet the standards in HCC 21.53.010.~~

~~b. Building Setbacks.~~

- ~~1. Buildings shall be set back 20 feet from all dedicated rights of way, except as allowed by subsection (b)(4) of this section.~~
- ~~2. Nonresidential buildings shall be set back five feet from all other lot boundary lines except the minimum setback shall be two feet from all other boundary lines when firewalls are provided and access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.~~
- ~~3. Residential buildings shall be set back five feet from all other lot boundary lines.~~
- ~~4. If approved by a conditional use permit, the setback from a dedicated right of way, except from the Sterling Highway or Lake Street, may be reduced.~~
- ~~5. Alleys are not subject to a 20-foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsections (b)(1) and (2) of this section.~~
- ~~6. Any attached or detached accessory building shall maintain the same yards and setbacks as the main building.~~

~~e. Building Height. The maximum building height shall be 35 feet.~~

~~d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area, without an approved conditional use permit.~~

~~e. Building Area and Dimensions — Retail and Wholesale.~~

- ~~1. The total floor area of retail and wholesale business uses within a single building shall not exceed 75,000 square feet.~~
- ~~2. No conditional use permit, planned unit development, or variance may be granted that would allow a building to exceed the limits of subsection (e)(1) of this section and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subsection (e)(1) of this section. [Ord. 22-68(A) § 4, 2022; Ord. 08-40 § 1, 2008; Ord. 08-30(S)(A) § 1, 2008; Ord. 08-29, 2008].~~

**~~21.18.050 — Site and access plan.~~**

~~A zoning permit for any building or structure within the Central Business District shall not be issued by the City without a site plan and a level two right of way access plan approved by the City under Chapter 21.73 HCC. [Ord. 08-29, 2008].~~

**~~21.20.100 — Traffic requirements.~~**

~~A conditional use permit is required for every use that:~~

- ~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~
- ~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~
- ~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~
- ~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 4, 2013; Ord. 08-29, 2008].~~

**~~21.18.070 — Site development requirements.~~**

~~All development on lands in this zoning district shall conform to the level two site development standards set forth in HCC 21.50.030. [Ord. 08-29, 2008].~~

**~~21.20.080 — Nuisance standards.~~**

~~a. The nuisance standards of HCC 21.59.010(a) through (f) apply to all development, uses, and structures in this zoning district.~~

~~b. Storage of Items for Sale. Products for sale may be displayed outdoors in unscreened areas only during the open hours of the business. This does not apply to outdoor storage of items for sale when outdoor storage or sale is permitted in the zoning district, nor does it apply to items normally kept outdoors, such as motor vehicles.~~

~~e. Commercial vehicles, trailers, shipping containers and other similar equipment used for transporting merchandise shall remain on the premises only as long as required for loading and unloading operations, and shall not be maintained on the premises for storage purposes unless screened from public view. [Ord. 08-29, 2008].~~

**~~21.18.090 — Lighting standards.~~**

~~The level one lighting standards of HCC 21.59.030 apply to all developments, structures and uses in this district. [Ord. 08-29, 2008].~~

**Chapter 21.20**

**TOWN CENTER DISTRICT**

**Sections:**

- ~~21.20.010 — Purpose.~~
- ~~21.20.020 — Permitted uses and structures.~~
- ~~21.20.030 — Conditional uses and structures.~~
- ~~21.20.040 — Dimensional requirements.~~
- ~~21.20.050 — Architectural standards.~~
- ~~21.20.060 — Site and access plan.~~
- ~~21.20.070 — Site development requirements.~~
- ~~21.20.080 — Nuisance standards.~~
- ~~21.20.090 — Lighting standards.~~
- ~~21.20.100 — Traffic requirements.~~

**21.20.010 — Purpose.**

The primary purpose of the Town Center District is to provide a centrally located area in Homer for a core business area and a community focal point. Pedestrian-friendly designs and amenities are encouraged. [Ord. 08-29, 2008].

**21.20.020 — Permitted uses and structures.**

The following uses are permitted outright in the Town Center 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;
- b. Personal service establishments;
- c. Offices;
- d. Restaurants, clubs and drinking establishments which provide food or drink for consumption on the premises;
- e. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;
- f. Hotels and motels;
- g. Single family, duplex, and multiple family dwellings, but not including mobile homes or townhouses;
- h. Townhouses subject to the standards of HCC 21.53.010(e), (f), (h), (i), and (o) only;
- i. Parks;
- j. Financial institutions;
- k. Retail sale of building supplies and materials, only if such use, including storage of materials, is wholly contained within an enclosed building;
- l. Home occupations, provided they conform to the standards in HCC 21.51.010;
- m. Dwelling units and nonresidential uses in the same building, if each use is otherwise allowed by this chapter;
- n. Religious, cultural and fraternal assemblies;
- o. Entertainment establishments;
- p. Private, public, and commercial schools;

- ~~q. Museums and libraries;~~
- ~~r. Studios;~~
- ~~s. Plumbing, heating and appliance service shops, only if such use, including the storage of materials, is wholly within an enclosed building;~~
- ~~t. Publishing, printing and bookbinding;~~
- ~~u. Mobile food services on City owned land only;~~
- ~~v. Transient or itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district, and only on City owned land;~~
- ~~w. Day care homes and facilities; provided, however, that play areas must be fenced;~~
- ~~x. Rooming house, bed and breakfast and hostel;~~
- ~~y. Farmers' market;~~
- ~~z. More than one building containing a principal permitted use on a lot;~~
- ~~aa. Greenhouse and garden supplies;~~
- ~~bb. Indoor and outdoor recreational facilities;~~
- ~~cc. Group care and assisted living facilities;~~
- ~~dd. Self-service laundries. [Ord. 22-68(A) § 5, 2022; Ord. 11-23(A) § 5, 2011; Ord. 08-29, 2008].~~

**21.20.030 — Conditional uses and structures.**

The following uses may be permitted in the Town Center District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

- ~~a. Planned unit developments, limited only to uses otherwise permitted in this district;~~
- ~~b. Light or custom manufacturing, repair, fabricating, and assembly, provided such use, including storage of materials, is wholly within an enclosed building;~~
- ~~c. Other uses approved pursuant to HCC 21.04.020;~~
- ~~d. Customary accessory uses to any of the permitted uses listed in the TCD district; provided, that a separate permit shall not be issued for the construction of any type of accessory building prior to that of the main building;~~
- ~~e. One wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system on any capacity of the lot. [Ord. 23-08 § 1, 2023; Ord. 22-68(A) § 5, 2022; Ord. 09-34(A) § 13, 2009; Ord. 08-29, 2008].~~

**21.20.040 — Dimensional requirements.**

The following dimensional requirements shall apply to all uses in the Town Center District:

- ~~a. Lot Size. The minimum lot area shall be 6,000 square feet.~~
- ~~b. Building Setbacks. Buildings shall be set back from lot boundaries and street rights of way as follows:
  - ~~1. All buildings must be set back from the Sterling Highway right-of-way by 20 feet or more, without exception.~~~~

~~2. From all other street rights-of-way, all buildings must be set back not less than 10 and not more than 20 feet, except as allowed by subsection (b)(4) of this section.~~

~~3. All buildings must be set back five feet from all other lot boundary lines, except the minimum setback shall be two feet from all other boundary lines when approved by the State Fire Marshal.~~

~~4. If approved by a conditional use permit, the distance for a required setback from a street right-of-way, except the Sterling Highway right-of-way, may be reduced or increased.~~

~~5. Alleys are not subject to the setback requirements of subsections (b)(1) and (2) of this section. All buildings must be set back at least five feet from alley rights-of-way, without exception.~~

~~6. Any attached or detached accessory building shall maintain the same yards and setbacks as the main building.~~

**e. Building Height.**

~~1. The maximum building height shall be 35 feet, except as provided in subsection (c)(2) of this section.~~

~~2. Where a suitable fire suppression system is provided a building may exceed 35 feet in height, if and to the extent approved by a conditional use permit.~~

~~d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area, without an approved conditional use permit.~~

**e. Building Area and Dimensions — Retail and Wholesale.**

~~1. The total floor area of retail and wholesale business uses within a single building shall not exceed 75,000 square feet.~~

~~2. No conditional use permit, planned unit development, or variance may be granted that would allow a building to exceed the limits of subsection (c)(1) of this section, and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subsection (c)(1) of this section.~~

~~3. Any building the main use of which is retail business, wholesale business, or a combination of the two shall not exceed 75,000 square feet of footprint area. [Ord. 08-30(S)(A) § 1, 2008; Ord. 08-29, 2008].~~

**21.20.050 — Architectural standards.**

~~a. All development will contain variation in detail to provide visual interest and to avoid monotony. Use of pitched roofs, breaks in roofs and wall lines and other architectural features will be utilized. Building materials may simulate quality traditional building materials such as wood, stone and brick.~~

~~b. Architecture based upon generic franchise design is prohibited.~~

~~1. Where buildings of generic franchise design are proposed, design architecture is instead encouraged to conform with the architectural section of the Community Design Manual.~~

~~2. Buildings of less than 8,000 square feet of building area are exempt from the siding and trim and color sections of the manual.~~

~~c. Architecturally integrated artwork is encouraged.~~

~~d. Fences shall comply with the Community Design Manual.~~

~~e. All development shall comply with the commercial streetscape guidelines of site design section of the Community Design Manual. [Ord. 08-29, 2008].~~

**21.20.060—Site and access plan.**

~~a. A zoning permit for a building or structure within the Town Center District shall not be issued by the City without a level one site plan approved by the City under Chapter 21.73 HCC.~~

~~b. A zoning permit for a building or structure within the Town Center District shall not be issued by the City without a level two right of way access plan approved by the City under Chapter 21.73 HCC, except that in the Town Center District, frontage roads are prohibited. [Ord. 08-29, 2008].~~

**21.20.070—Site development requirements.**

~~a. All development on lands in this zoning district shall conform to the level two site development requirements set forth in HCC 21.50.030, except as otherwise provided in this section.~~

~~b. HCC 21.50.030(b) and (f) do not apply in this zoning district.~~

~~c. Stormwater management and drainage will be integrated with adjacent properties to the maximum extent possible.~~

~~d. All utilities in the district are required to be underground.~~

~~e. Landscaping Requirements. All lands in this zoning district shall be landscaped to conform to the following:~~

~~1. Landscaping shall emphasize native materials, including ground cover, shrubs and trees.~~

~~2. Not less than 15 percent of the area of the lot(s) shall be landscaped. Landscaping may consist of a combination of the following, and must include all elements required by the following or any other sections of the code:~~

~~a. Buffers. To be included in the calculation of required landscaping, buffers along lot lines shall be not less than three feet in width.~~

~~b. Gardens. To be included in the calculation of required landscaping, a garden shall be not less than 10 feet in length or width as measured at its shortest dimension. In addition to landscaping, a garden may include amenities, such as pedestrian seating areas, art, sand boxes, flower and ornamental gardens, paths, bike racks, outdoor restaurant seating, and other similar structures incidental to use of the building. No more than 50 percent of a garden may have an impervious cover, e.g., pavement, brickwork, and decking. Any decks or patios included in the calculation of a garden shall be at or near ground level. Use of grass, wood chips, or natural surfaces is preferred over areas paved with asphalt or concrete. A landscaped stormwater detention area may be included in a garden or buffer.~~

~~c. Use of landscaping to buffer the public view of the backs of buildings and loading areas is encouraged.~~

~~d. Parking Lots. Parking lots shall include landscaping as follows:~~

~~i. A minimum of 10 percent of the parking area of parking lots with 35 spaces or more shall be landscaped in islands, dividers, or a combination of the two. Any island or divider must be:~~

~~(1) Large enough and designed to ensure plant survivability; and~~

~~(2) Large enough to break up the visual bulk and scale of the parking lot;~~

~~ii. Parking lots with 24 spaces or more will have a minimum 10-foot landscaped buffer adjacent to road rights of way;~~

~~iii. Parking lots with only one single-loaded or one double-loaded aisle that have a 15-foot minimum landscaped buffer adjacent to road rights of way are excluded from the requirement of subsection (e)(2)(d)(i)(1) of this section.~~

~~e. A buffer of 15 feet minimum width is required from the top of the bank of any defined drainage channel or stream.~~

~~3. Topsoil addition, final grading, seeding, and all plantings of flora must be completed within nine months of substantial completion of the project, or within the first growing season after substantial completion of the project, whichever comes first. Required landscaping will be maintained thereafter, with all shrubs, trees, and ground cover being replaced as needed. [Ord. 08-29, 2008].~~

~~**21.20.080 — Nuisance standards.**~~

~~a. The nuisance standards of HCC 21.59.010(a) through (f) apply to all development, uses, and structures in this zoning district.~~

~~b. Storage of Items for Sale. Products for sale may be displayed outdoors in unscreened areas only during the open hours of the business. This does not apply to outdoor storage of items for sale when outdoor storage or sale is permitted in the zoning district, nor does it apply to items normally kept outdoors, such as motor vehicles.~~

~~e. Commercial vehicles, trailers, shipping containers and other similar equipment used for transporting merchandise shall remain on the premises only as long as required for loading and unloading operations, and shall not be maintained on the premises for storage purposes unless screened from public view. [Ord. 08-29, 2008].~~

~~**21.20.090 — Lighting standards.**~~

~~a. The level one lighting standards of HCC 21.59.030 apply to all developments, structures and uses in this district.~~

~~b. All lighting shall comply with the building lighting and outdoor lighting sections of the Community Design Manual. [Ord. 08-29, 2008].~~

~~**21.20.100 — Traffic requirements.**~~

~~A conditional use permit is required for every use that:~~

~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~

~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 4, 2013; Ord. 08-29, 2008].~~

## Chapter 21.24 GBD Gateway Business District

### 21.24.010 Purpose.

~~The purpose of this district is to accommodate mixed-use development with a focus on businesses that serve visitors. Potential conflicts between residential and commercial uses should be minimized through thoughtful site design, building orientation, and buffering. The goals include reducing future traffic congestion along the Sterling Highway and maintaining a positive first impression for people entering Homer.~~

~~The purpose of the Gateway Business District is primarily to promote mixed-use development, with an emphasis on visitor-oriented business. Conflicts between residential and business uses are resolved in favor of business. Among the goals of the Gateway Business District regulations are the minimization of future traffic congestion along the Sterling Highway corridor, and preservation of the favorable experience residents and visitors have when entering Homer by way of the Sterling Highway. [Ord. 08-29, 2008].~~

### 21.24.020 Permitted uses and structures.

~~a. The following uses are permitted outright in the Gateway 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:~~

~~b.a. Single-family Detached, duplex, and multiple-family multi-unit dwellings, including townhouses, but not including mobile homes;~~

~~e.b. Factory built dwelling;~~

~~d.c. Mixed-use building including both commercial and residential uses;~~

~~e.d. Retail business;~~

~~f.c. General business offices and professional offices Offices;~~

~~g.f. Restaurants and clubs;~~

~~g. Drive-through establishments;~~

h. Hotels and motels;

i. Rooming house, bed and breakfast and hostel;

~~j. Open space;~~

~~j.k. Parks;~~

~~k.l. Financial institutions;~~

~~a. Dwelling units and nonresidential uses (if otherwise allowed by this chapter) in the same building;~~

~~l.m. Religious, cultural, and fraternal assembly Places of assembly;~~

~~m.n. Entertainment establishments;~~

~~n.o. Museums, and libraries and similar institutions;~~

~~e. Public and private schools Schools;~~

~~p. ;~~

- ~~q.~~ Day care homes; provided, however, that outdoor play areas must be fenced;
- ~~r.~~ Day care facilities; provided, however, that outdoor play areas must be fenced;
- ~~p-s.~~ Studios;
- ~~q-t.~~ Personal services establishments;
- ~~u.~~ Plumbing, heating, and appliance retail and service;
- ~~v.~~ Retail and wholesale sales of building supplies and materials;
- ~~w.~~ Self-service laundries;
- ~~x.~~ Auto fueling stations;
- ~~r.~~ Auto, marine, and RV sales, rental, and repair;
- ~~y.~~ Itinerant or transient merchants;
- ~~z.~~ Mobile food services;
- ~~s-aa.~~ Public utility facilities and structures;
- ~~t-bb.~~ More than one building containing a permitted principal use on a lot.

#### **21.24.030 Accessory uses and structures.**

- ~~a.~~ Accessory dwelling unit;
- ~~a-b.~~ Home occupations, provided they conform to the standards in HCC 21.40.010;
- ~~c.~~ One small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;
- ~~b-d.~~ Customary accessory uses to any of the permitted uses listed in the ~~GBD~~ CMUGBD district; provided, that separate permit shall not be issued for the construction of any type of accessory building prior to that of the main building principal structure. [Ord. 23-40 § 5, 2023; Ord. 22-68(A) § 6, 2022; Ord. 11-23(A) § 6, 2011; Ord. 08-29, 2008].

#### **21.24.040 Conditional uses and structures.**

- ~~a.~~ Auto, marine, and RV sales, rental, and repair ~~The following conditional uses may be permitted in the Gateway-Business District when authorized in accordance with Chapter 21.71 HCC:~~
  - ~~a.~~ More than one building containing a permitted principal use on a lot.
  - ~~b.~~ Detached dwelling unit;
- ~~a.~~ Light or custom manufacturing, fabricating, and assembly;
- ~~b.~~ Large format development;
- ~~b-c.~~ A conditional use permit is required for eEvery use that:
  1. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;

2. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;
3. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or
4. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 6, 2013; Ord. 08-29, 2008].

~~e.d.~~ One wind energy system having a rated capacity exceeding 10 kilowatts; provided, that it is the only wind energy system of any capacity on the lot.

~~d.~~ Other uses approved pursuant to HCC 21.03.020. [Ord. 23-40 § 5, 2023; Ord. 22-68(A) § 6, 2022; Ord. 09-34(A) § 15, 2009; Ord. 08-29, 2008].

#### **21.24.050 Dimensional requirements.**

~~The following dimensional requirements shall apply to all structures and uses in the Gateway Business District:~~

##### a. Lot Size.

1. The minimum lot area shall be 20,000 square feet. Lawfully existing smaller lot sizes may be newly developed and used subject to the provision of off-site parking as specified in the City parking code, Chapter 21.355 HCC;

2. Multi-unit structures with 3 units or more shall have a minimum lot size of 20,000 sf. plus 1,200 sf. per dwelling unit for the third dwelling unit and above.

~~b.~~ Multiple family dwellings shall meet the standards in HCC 21.20.050(a)(2);

~~a.b.~~ Townhouses shall meet the standards in HCC 21.53.010. Building Setbacks and Placement.

1. ~~Buildings shall be set back 20 feet from all dedicated rights of way, except as allowed by subsection (b)(4) of this section.~~ Build-to Line: 5-15 feet.

2. Side and rear setbacks: 5 feet ~~Commercial buildings shall be set back five feet from all other lot boundary lines, except the minimum setback shall be two feet from all other boundary lines when firewalls are provided and access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.~~

~~3.~~ ~~Residential buildings shall be set back five feet from all other lot boundary lines.~~

~~4.~~ ~~If approved by a conditional use permit, the setback from a dedicated right of way may be reduced.~~

~~5.~~ ~~Alleys are not subject to a 20-foot setback requirement from dedicated rights of way. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsections (b)(2) and (3) of this section.~~

~~6.3.~~ Any attached or detached accessory building shall maintain the same yards and setbacks as the ~~main~~ building/principal structure.

~~b.c.~~ Maximum Building Height: ~~The maximum building height shall be 50~~ 35 feet.

~~d.~~ Maximum building coverage: 50%. ~~No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area, without an approved conditional use permit.~~

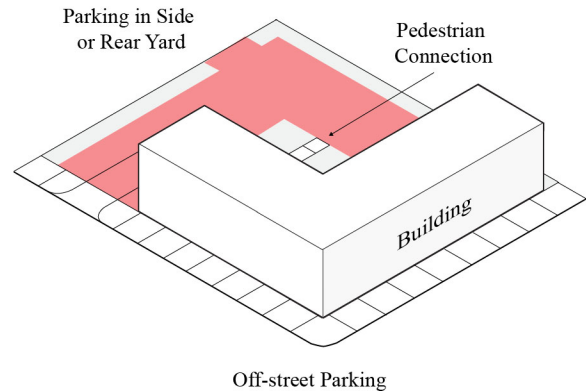
~~e.c.~~ Maximum impervious coverage: 70%.

**21.24.060 Site and access plans.**

- a. A zoning permit for a building or structure within the ~~Commercial Mixed Use Gateway Business District~~ shall not be issued by the City without a Level One site plan approved under Chapter 21.11 HCC.
- b. No zoning permit for a building or structure may be issued without a level three right-of-way access plan approved by the City under Chapter 21.55 HCC. [Ord. 08-29, 2008].
- c. All development in the ~~CMUGBD~~ shall conform to the level two drainage and erosion control standards contained in HCC ~~21.51~~50.030.

~~d. Building Area and Dimensions — Retail:~~

- ~~1. The total floor area of retail business uses within a single building shall not exceed 8,000 square feet.~~
- ~~2. In buildings with more than 8,000 square feet of building area retail business use (not including the area for stocking and warehousing) is limited to no more than 8,000 square feet of floor area. [Ord. 22-68(A) § 6, 2022; Ord. 13-27 § 5, 2013; Ord. 08-29, 2008].~~



**21.22.050 Nonconforming lots, uses and structures.**

~~Any use, lot or structure that is made nonconforming by adoption or amendment of this chapter shall not be expanded in any manner that would in any way increase the nonconformity. [Ord. 08-29, 2008].~~

**21.24.070 Additional standards.**

a. Parking:

- 1. Off-street parking shall be located in the side or rear yard.
- 2. Shared parking and access between adjacent properties is encouraged.
- 3. All parking lots and vehicular ways in a development shall be paved. [Ord. 08-29, 2008].

b. Pedestrian access:

- 1. Sidewalks shall be provided along all public street frontages.
- ~~1.~~ 2. Pedestrian connections shall be provided between buildings and from parking areas to building entrances.

c. Landscaping and buffering:

- 1. A minimum of 10% of the site shall be landscaped.
- 2. Buffering shall be provided between commercial and residential uses using landscaping, fencing, or other screening methods.

**21.24.0870 Architectural standards.**

~~a. Variation. All development will contain variation in detail to provide visual interest and to avoid monotony. Breaks in roofs and wall lines and other architectural features will be utilized. Building facades shall include architectural features such as awnings, cornices, or changes in materials to create visual interest.~~

~~a.b. Blank walls facing streets are prohibited.~~

~~b. Materials. Building materials must simulate a quality traditional building materials such as wood, stone, and brick, or fiber cement siding.~~

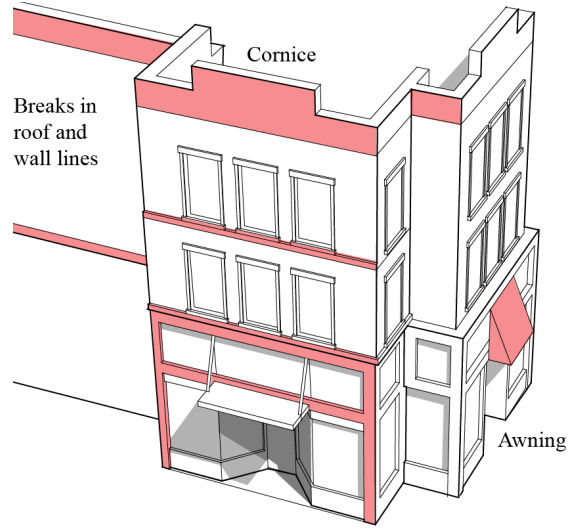
~~c. All development will contain variation in detail to provide visual interest and to avoid monotony. Use of pitched roofs, breaks in roofs and wall lines and other architectural features will be utilized. Building materials must simulate quality traditional building materials such as wood, stone and brick.~~

~~Variation. All development shall contain variation in detail to provide visual interest and to avoid monotony. Use of pitched roofs, breaks in roofs and wall lines and other architectural features are encouraged.~~

~~d. Franchise architecture. Where buildings of franchise design are proposed, design is encouraged to conform with the architectural section of the Community Design Manual.~~

~~d. Architecture based upon generic franchise design is prohibited. Rather, where franchise buildings of national chains are proposed, architects will comply with the Community Design Manual.~~

~~e. Artwork. Architecturally integrated artwork is encouraged. [Ord. 08-29, 2008].~~



Architectural Standards

**21.24.090 Access management.**

~~a. Driveway access to Sterling Highway shall be minimized and consolidated where possible.~~

~~a.b. Inter-parcel access and shared driveways are encouraged to minimize curb cuts.~~

~~**21.22.070 — Site and access plan.**~~

~~a. A zoning permit for a building or structure within the Gateway Business District shall not be issued by the City without a level one site plan approved under Chapter 21.73 HCC.~~

~~b. No zoning permit for a building or structure may be issued without a level three right-of-way access plan approved by the City under Chapter 21.73 HCC. [Ord. 08-29, 2008]. All parking lots and vehicular ways in a development will be paved. [Ord. 08-29, 2008].~~

~~**21.22.090 — Nuisance standards:**~~

~~All uses and structures in the GBD shall conform to the nuisance standards contained in HCC 21.59.010. [Ord. 08-29, 2008].~~

~~**21.22.110 — Traffic requirements.**~~

## Chapter 21.25 ~~GC1 GENERAL COMMERCIAL 1 DISTRICT~~ LIMU Light Industrial Mixed-Use

### 21.25.010 Purpose.

The ~~General Commercial 1 (GC1)~~ Light Industrial Mixed Use (LIMU) District is primarily intended to provide ~~sites for commercial and industrial uses that generally require direct motor vehicle access, locations in proximity to arterials and transportation centers, and larger land area. The district also accommodates a mixture of existing and accessory residential with non-residential uses. Detached dwelling units are purposely limited to those existing on the date of adoption of this ordinance. sites for businesses that require direct motor vehicle access and may require larger land area, and to provide business locations in proximity to arterials and transportation centers.~~ It is also intended to minimize congestion and adverse effects on adjacent residential districts and on the appearance of the community. [Ord. 08-29, 2008].

### 21.25.020 Permitted uses and structures.

~~The following uses are permitted outright in the General Commercial 1 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. Agricultural activity~~
- ~~b. Air charter and airport operations and~~
- ~~a-c. Floatplane tie-up facilities and air charter services;~~
- ~~b. General business offices and professional offices;~~
- ~~d. Dwelling units located in buildings primarily devoted to business uses~~
- ~~e. containing both residential and commercial uses;~~
- ~~e. Mixed use buildings containing both residential and commercial uses;~~
- ~~f. Auto, marine, and RV sales, rental, and repair;~~
- ~~e. Auto and trailer sales or rental areas;~~
- ~~f.g. Auto fueling stations and drive-in car washes;~~
- ~~g-h. Building supply and equipment sales and rentals;~~
- ~~i. Restaurants, including drive in restaurants and, clubs and drinking establishments;~~
- ~~h.j. Drive-through establishments;~~
- ~~i.k. Garden supplies and greenhouses;~~
- ~~j-l. Heavy equipment and truck sales, rentals, service and repair;~~
- ~~k-m. Hotels and motels;~~
- ~~l. Lumberyards;~~
- ~~m. Boat and marine equipment sales, rentals, service and repair;~~
- n. Mortuaries;

- o. Open air businesses;
- p. Parking lots and parking garages, in accordance with Chapter 21.53~~5~~ HCC;
- q. Manufacturing, fabrication and assembly;
- ~~q. Manufacturing, production, processing, cooking, and packing of fish, shellfish, and seafood products~~
- r. \_\_\_\_\_
- ~~r.s. Publishing, printing and bookbinding;~~
- ~~s. Recreation vehicle sales, rental, service and repair;~~
- t. Retail businesses;
- ~~t.u. Entertainment establishments;~~
- ~~u.v. Trade, skilled or industrial sSchools;~~
- v.w. Wholesale businesses, including storage and distribution services incidental to the products to be sold;
- w.x. Welding and mechanical repair;
- x.y. Parks and open space;
- ~~y.z. Plumbing, heating, and Appliance sales-retail and service;~~
- z.aa. Warehousing, commercial storage and mini-storage;
- ~~aa.bb. Banks, savings and loans, credit unions and other financialFinancial institutions;~~
- ~~bb.cc. Dry cleaning, laundry, and self-service laundries;~~
- ~~cc. Taxi operation;~~
- dd. Mobile food services;
- ~~ee. Mobile commercial structures;~~
- ee.ff. Itinerant or transient merchants, provided all activities shall be limited to uses permitted outright under this zoning district;
- gg. Recreational vehicle parks, provided they shall conform to the standards in ~~Article II of~~ Chapter 21.44
- ff.hh. .03054 HCC;
- ii. Day care facilities; all outdoor play areas must be fenced;
- ~~gg. Day care homes;; provided, that a conditional use permit was obtained for the dwelling, if required by HCC- 21.24.030; all outdoor play areas must be fenced;~~
- ~~\_\_\_\_\_ Multi-unit dwellings;~~
- jj. Townhouses;

~~hh-kk.~~ Rooming house and bed and breakfast;

~~ii.~~ Dormitory;

~~ll.~~

~~jj-mm.~~ Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by State law;

~~kk.~~ Day care facilities; provided, however, that outdoor play areas must be fenced;

~~ll-nn.~~ Indoor and outdoor recreational facilities. [Ord. 23-40 § 5, 2023; Ord. 22-68(A) § 7, 2022; Ord. 19-41 § 1, 2019; Ord. 16-04(A-2)(S-3) § 2, 2016; Ord. 09-34(A) § 16, 2009; Ord. 08-29, 2008].

~~oo.~~ Public utility facilities and ~~or~~ structures;

~~mm-pp.~~ Studios;

~~qq.~~ Places of assembly;

~~rr.~~ Research and development;

~~ss.~~ Small wind energy systems exceeding 10kW;

~~tt.~~ Boat storage and boat manufacturing;

~~uu.~~ Cold storage facilities;

~~vv.~~ Impound yards;

~~ww.~~ Lumberyards;

~~xx.~~ Storage and distribution services and facilities;

~~yy.~~ Storage of heavy equipment, vehicles or boats;

~~zz.~~ Kennels;

~~aaa.~~ Private stables;

~~nn-bbb.~~ More than one building containing a permitted principal use on a lot.

**21.25.030 Accessory uses and structures.**

~~a.~~ Home occupations;

~~b.~~ Worker housing;

~~c.~~ Duplex dwelling;

~~a-d.~~ Mixed-use building including both commercial and residential uses;

~~b.~~ As an accessory use, one small wind energy system per lot;

~~e.~~ Outdoor harboring or keeping of fowl;

f. Small wind energy system up to 10kW;

~~e. Customary accessory uses to any of the permitted uses listed in the GCLIMU district; provided, that no separate permit shall be issued for the construction of any type of accessory building prior to that of the main building/principal structure;~~

~~d.g.~~

**21.25.040 Conditional uses and structures.**

~~The following uses may be permitted in the General Commercial 1 District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

~~a. a. Campgrounds;~~

~~b. b. Crematoriums;~~

~~e. c. Multiple family dwelling;~~

~~d.b. d. Public utility facility or structure;~~

c. Large format development;

~~e.d. e. Mobile home parks;~~

~~f.e. f. Planned unit developments;~~

~~g. g. Townhouses;~~

~~h.f. h. Pipelines;~~

~~i.g. i. Shelter for the homeless, provided any lot used for such shelter does not abut an RO, RR, or UR zoning district;~~

~~h. j. More than one building containing a permitted principal use on a lot; Bulk petroleum storage (above or underground)~~

i. Extractive enterprises (not allowed along Ocean Drive);

j. Junkyard (not allowed along Ocean Drive);

j.k. Boat and fishing gear storage;

l. Any use that has the following traffic impacts:

1. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;

2. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;

3. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or

4. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 7, 2013; Ord. 08-29, 2008].~~k.~~

~~k-m.~~ Other uses approved pursuant to HCC 21.03.020. [Ord. 23-40 § 5, 2023; Ord. 22-68(A) § 7, 2022; Ord. 14-49(A) § 6, 2014; Ord. 08-29, 2008].

**21.25.050 Dimensional requirements.**

~~The following dimensional requirements shall apply to all structures and uses in the General Commercial I District:~~

- a. ~~Minimum Lot Size: 10,000 square feet. The minimum lot size is 10,000 square feet. The minimum area of a lot that is not served by public sewer or water shall be 40,000 square feet.~~
- b. Building Setbacks.
  1. ~~Front: 20 feet. All buildings shall be set back 20 feet from all dedicated rights-of-way.~~ Alleys are not subject to a 20-foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsections (b)(2) and (3) of this section;
  2. ~~Side and rear: 5 feet. Buildings shall be set back five feet from all other lot boundary lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal;~~
  3. Any attached or detached accessory building shall maintain the same yards and setbacks as the ~~main-~~building/principal structure.
- c. ~~Maximum Building Height: 55 feet. Administrative flexibility for buildings up to 75 feet may be granted for boat storage or construction purposes. The maximum building height shall be 35 feet.~~
- d. ~~Maximum Building Coverage: 30%. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.~~

~~d.e.~~ Maximum impervious coverage: 70%

~~e.f.~~ Building Area and Dimensions – Retail and Wholesale.

1. In that area south of Beluga Lake, identified as the Ocean Drive ~~LIMUGC1~~: the total square feet of floor area of retail and wholesale business uses within a single building shall not exceed 75,000 square feet.
2. In that area east of Alder Lane, identified as the East End Road ~~GCHLIMU~~: the total square feet of floor area of retail and wholesale business uses within a single building shall not exceed 75,000 square feet.
3. In that area west of Baycrest Park, identified as Scenic Gateway- ~~LIMUGC1~~: the total square feet of floor area of retail and wholesale business uses within a single building shall not exceed 35,000 square feet.
4. No conditional use permit, planned unit development, or variance may be granted that would allow a building to exceed the limits of subsections (e)(1), (2) and (3) of this section and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subsections (e)(1), (2) and (3) of this section.

~~1. Screening. When one or more side or rear lot lines abut land within an RO, RR, or Ur district or when a side or rear yard area is to be used for parking, loading, unloading, or servicing, then those side and rear yard areas shall be effectively screened by a wall, fence, or other sight-obscuring screening. Such screening shall be of a height adequate to screen activity on the lot from outside view by a person of average height standing at street level. [Ord. 22-68(A) § 7, 2022; Ord. 08-40 § 2, 2008; Ord. 08-30(S)(A) § 1, 2008; Ord. 08-29, 2008]. Outside storage of materials, equipment and trash/dumpsters adjacent to East End Road and Kachemak Drive shall be screened. Screening may consist of walls, fences, landscaped berms, evergreen plantings, or any combination thereof.~~

**21.25.060 ~~Site, access, and development plans.~~**

- a. A zoning permit for any use or structure within the ~~General Commercial 1 District~~ LMU shall not be issued by the City without a ~~Level 1~~ Level 2 ~~level one~~ site plan approved by the City under Chapter 21.11 HCC.
- b. No zoning permit may be granted for any use or structure without a level two right-of-way access plan approved by the City under HCC 21.55.100. [Ord. 08-29, 2008].
- ~~b.c. All development on lands in this district shall conform to the level two drainage and erosion control standards contained in HCC 21.51.030.~~

**~~21.25.070 Additional standards.~~ ~~21.24.060 Traffic requirements.~~**

~~A conditional use permit is required for every use that:~~

- ~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~
- ~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~
- ~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~
- ~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 7, 2013; Ord. 08-29, 2008].~~

~~All development on lands in this district shall conform to the level two site development standards set forth in HCC 21.50.030. [Ord. 08-29, 2008].~~

~~21.24.080 Nuisance standards. The nuisance standards of HCC 21.59.010 apply to all development, uses, and structures in this zoning district. [Ord. 08-29, 2008].~~

- a. Screening. When one or more side or rear lot lines abut a residential district and when a side or rear yard is to be used for parking, loading, unloading, or servicing, then those side and rear yards shall be effectively screened by a wall, fence, or other sight-obscuring screening. Such screening shall be a minimum of 6 feet tall. [Ord. 22-68(A) § 7, 2022; Ord. 08-40 § 2, 2008; Ord. 08-30(S)(A) § 1, 2008; Ord. 08-29, 2008].

**Chapter 21.26**

**~~GC2 GENERAL COMMERCIAL 2 DISTRICT~~**

Sections:

~~21.26.010 Purpose.~~

~~21.26.020 Permitted uses and structures.~~

~~21.26.030 Conditional uses and structures.~~

~~21.26.040 Dimensional requirements.~~

~~21.26.050 Site and access plan.~~

~~21.26.060 Traffic requirements.~~

4	5
4-1/2	6
2	7
2-1/2	8

~~2. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsections (b)(3) and (4) of this section;~~

~~3. Buildings shall be set back five feet from all other lot boundary lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal;~~

~~4. Any attached or detached accessory building shall maintain the same yards and setbacks as the main building.~~

~~e. Building Height.~~

~~1. The maximum building height shall be 35 feet, except as provided in subsection (e)(2) of this section.~~

~~2. When authorized by a conditional use permit, the maximum building height for a building used solely for commercial purposes shall be 75 feet. A building for which a conditional use permit has been issued under this subsection shall not contain dwelling units.~~

~~d. Repealed by Ord. 22-68(A).~~

~~e. Building Area and Dimensions—Retail and Wholesale. The total floor area of retail and wholesale business uses within a single building shall not exceed 75,000 square feet. No conditional use permit, planned unit development, or variance may be granted that would allow a building to exceed the limits of this subsection, and no nonconforming use or structure may be expanded in any manner that would increase its nonconformity with the limits of this subsection.~~

~~f. Screening.~~

~~1. When one or more side or rear lot lines abut land within an RO, RR, or UR district or when a side or rear yard area is to be used for parking, loading, unloading or servicing, then those side and rear yard areas shall be effectively screened by a wall, fence, or other sight-obscuring screening. Such screening shall be of a height adequate to screen activity on the lot from outside view by a person of average height standing at street level.~~

~~2. Outside storage of materials, equipment and trash/dumpsters adjacent to East End Road and Kachemak Drive shall be screened. Screening may consist of walls, fences, landscaped berms, evergreen plantings, or any combination thereof. [Ord. 22-68(A) § 9, 2022; Ord. 19-40 § 1, 2019; Ord. 12-10 § 1, 2012].~~

**21.27.050—Site and access plans.**

~~a. A zoning permit for any use or structure within the East End Mixed Use District shall not be issued by the City without a level two site plan approved by the City under Chapter 21.73 HCC.~~

~~b. No zoning permit may be granted for any use or structure without a level two right-of-way access plan approved by the City under HCC 21.73.100. [Ord. 12-10 § 1, 2012].~~

**21.27.060—Traffic requirements.**

~~A conditional use permit is required for every use that:~~

~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip-Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip-Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~

~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 9, 2013; Ord. 12-10 § 1, 2012].~~

**21.27.070—Site development requirements.**

~~All development on lands in this district shall conform to the level two standards set forth in HCC 21.50.030. [Ord. 12-10 § 1, 2012].~~

**21.27.080—Nuisance standards.**

~~The nuisance standards of HCC 21.59.010(a) through (g)(1) apply to all development, uses, and structures in this zoning district.~~



~~Chapter 21.27~~

~~EAST-END MIXED-USE DISTRICT~~

~~Sections:~~

~~21.27.010 — Purpose.~~

~~21.27.020 — Permitted uses and structures.~~

~~21.27.030 — Conditional uses and structures.~~

~~21.27.040 — Dimensional requirements.~~

~~21.27.050 — Site and access plans.~~

~~21.27.060 — Traffic requirements.~~

~~21.27.070 — Site development requirements.~~

~~21.27.080 — Nuisance standards.~~

~~21.27.090 — Lighting standards.~~

~~**21.27.010 — Purpose.**~~

~~The East End Mixed Use (EEMU) District is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area. The district is meant to accommodate a mixture of existing~~

~~and accessory residential with nonresidential uses. When a conflict exists between residential and nonresidential uses conflicts shall be resolved in favor of nonresidential uses. [Ord. 12-10 § 1, 2012].~~

~~**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;~~

~~e. 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;~~
- ~~dd. Research and development laboratories;~~

~~ee. Storage and distribution services and facilities, including truck terminals, warehouses and storage buildings and yards, contractors' establishments, lumberyards and sales, or similar uses;~~

~~ff. Cold storage facilities;~~

~~gg. Mobile commercial structures;~~

~~hh. Single family and duplex dwellings, only as an accessory use incidental to a permitted principal use; provided, that no permit shall be issued for the construction of an accessory dwelling prior to the establishment of the principal use;~~

~~ii. The repair, replacement, reconstruction or expansion of a single family or duplex dwelling, including a mobile home, that existed lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding any provision of Chapter 21.61 HCC to the contrary; provided, that a mobile home may not be used to replace or expand such a dwelling;~~

~~jj. Customary accessory uses to any of the uses permitted in the EEMU district that are clearly subordinate to the main use of the lot or building, including without limitation wharves, docks, storage facilities, restaurant or cafeteria facilities for employees; or caretaker or employee dormitory residence if situated on a portion of the same lot as the principal use; provided, that no permit shall be issued for the construction of any type of accessory building prior to the establishment of the principal use;~~

~~kk. Taxi operation;~~

~~ll. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;~~

~~mm. More than one building containing a permitted principal use on a lot;~~

~~nn. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory use to a residential use in a manner consistent with the requirements of all other provisions of the Homer City Code and as long as such animals~~

~~are pets of the residents of the dwelling and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property;~~

~~oo. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by State law;~~

~~pp. Indoor and outdoor recreational facilities. [Ord. 22-68(A) § 9, 2022; Ord. 16-04(A-2)(S-3) § 4, 2016; Ord. 12-10 § 1, 2012].~~

~~**21.27.030 — Conditional uses and structures.**~~

~~The following conditional uses may be permitted in the East End Mixed Use District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

~~a. Construction camps;~~

~~b. Extractive enterprises, including crushing of gravel, sand and other earth products and batch plants for asphalt or concrete;~~

~~c. Auto fueling stations;~~

~~d. Bulk petroleum product storage;~~

~~e. Planned unit developments;~~

~~f. Junk yard;~~

~~g. Kennels;~~

~~h. Public utility facilities and structures;~~

~~i. Impound yards;~~

~~j. Repealed by Ord. 22-68(A);~~

~~k. Repealed by Ord. 22-68(A);~~

~~l. Other uses approved pursuant to HCC 21.04.020. [Ord. 22-68(A) § 9, 2022; Ord. 12-10 § 1, 2012].~~

~~**21.27.040 — Dimensional requirements.**~~

~~The following dimensional requirements shall apply to all structures and uses in the East End Mixed Use District:~~

~~a. Lot Size:~~

~~1. The minimum area of a lot that is not served by public sewer or water shall be 40,000 square feet.~~

~~2. The minimum area of a lot that is served by either a public water supply approved by the State Department of Environmental Conservation or a public or community sewer approved by the State Department of Environmental Conservation shall be 20,000 square feet.~~

~~3. The minimum area of a lot that is served by both a public water supply approved by the State Department of Environmental Conservation and a public or community sewer approved by the State Department of Environmental Conservation shall be 10,000 square feet.~~

~~b. Building Setbacks:~~

~~1. All buildings shall be set back 20 feet from all dedicated rights of way other than alleys, except that adjacent to rights of way that lead to Kachemak Bay and have been determined to be unsuitable for road construction by~~

~~resolution of the City Council, all buildings shall be set back from the boundary of the right of way according to the number of stories as follows:~~

<del>Number of Stories</del>	<del>Setback (in feet)</del>
<del>1</del>	<del>5</del>
<del>1 1/2</del>	<del>6</del>
<del>2</del>	<del>7</del>
<del>2 1/2</del>	<del>8</del>

~~2. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsections (b)(3) and (4) of this section;~~

~~3. Buildings shall be set back five feet from all other lot boundary lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal;~~

~~4. Any attached or detached accessory building shall maintain the same yards and setbacks as the main building.~~

~~e. Building Height—~~

~~1. The maximum building height shall be 35 feet, except as provided in subsection (c)(2) of this section.~~

~~2. When authorized by a conditional use permit, the maximum building height for a building used solely for commercial purposes shall be 75 feet. A building for which a conditional use permit has been issued under this subsection shall not contain dwelling units.~~

~~d. Repealed by Ord. 22-68(A).~~

~~e. Building Area and Dimensions—Retail and Wholesale. The total floor area of retail and wholesale business uses within a single building shall not exceed 75,000 square feet. No conditional use permit, planned unit development, or variance may be granted that would allow a building to exceed the limits of this subsection, and no nonconforming use or structure may be expanded in any manner that would increase its nonconformity with the limits of this subsection.~~

~~f. Screening.~~

~~1. When one or more side or rear lot lines abut land within an RO, RR, or UR district or when a side or rear yard area is to be used for parking, loading, unloading or servicing, then those side and rear yard areas shall be effectively~~

~~screened by a wall, fence, or other sight-obscuring screening. Such screening shall be of a height adequate to screen activity on the lot from outside view by a person of average height standing at street level.~~

~~2. Outside storage of materials, equipment and trash/dumpsters adjacent to East End Road and Kachemak Drive shall be screened. Screening may consist of walls, fences, landscaped berms, evergreen plantings, or any combination thereof. [Ord. 22-68(A) § 9, 2022; Ord. 19-40 § 1, 2019; Ord. 12-10 § 1, 2012].~~

~~**21.27.050 — Site and access plans.**~~

~~a. A zoning permit for any use or structure within the East End Mixed Use District shall not be issued by the City without a level two site plan approved by the City under Chapter 21.73 HCC.~~

~~b. No zoning permit may be granted for any use or structure without a level two right-of-way access plan approved by the City under HCC 21.73.100. [Ord. 12-10 § 1, 2012].~~

~~**21.27.060 — Traffic requirements.**~~

~~A conditional use permit is required for every use that:~~

~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~e. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~

~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 9, 2013; Ord. 12-10 § 1, 2012].~~

~~**21.27.070 — Site development requirements.**~~

~~All development on lands in this district shall conform to the level two site development standards set forth in HCC 21.50.030. [Ord. 12-10 § 1, 2012].~~

~~**21.27.080 — Nuisance standards.**~~

~~The nuisance standards of HCC 21.59.010(a) through (g)(1) apply to all development, uses, and structures in this zoning district. Open storage of materials and equipment is permitted, subject to the requirement that when a lot abuts a residential zoning district any outdoor storage of materials and equipment on the lot must be screened from the residential district by a wall, fence, or other sight obscuring material. The screen must be a minimum of eight feet in height. [Ord. 12-10 § 1, 2012].~~

~~**21.27.090 — Lighting standards.**~~

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 12-10 § 1, 2012].~~

## Chapter 21.26 MC Marine Commercial District

### 21.26.010 Purpose.

The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments; therefore, performance standards are required to minimize the impact of development on the natural features on which they depend. [Ord. 08-29, 2008].

### 21.26.020 Permitted uses and structures.

~~The following uses are permitted outright in the Marine Commercial 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. Offices for tourism-related charter and tour businesses, such as fishing, flightseeing, day excursions and boat charters and tours;
- b. ~~Auto, M~~marine equipment, ~~and RV~~ sales, rentals, ~~service,~~ repair and storage;
- c. Retail ~~stores-businesses~~ limited to the sale of seafood products, sporting goods, curios, and arts and crafts;
- d. Business offices for water-dependent and water-related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

~~e.~~ Mobile food services;

~~e.f.~~ Hotels and motels;

~~f.g.~~ Itinerant ~~or transient~~ merchants, provided all activities shall be limited to uses permitted outright under this zoning district;

~~g.h.~~ Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.43.030 HCC;

~~h.i.~~ Restaurants ~~and clubs~~;

~~i.j.~~ Cold storage facilities;

~~j.k.~~ Campgrounds;

~~k.l.~~ Manufacturing, processing, cooking, and packing of ~~fish, shellfish, and~~ seafood products;

~~m.~~ Parks;

~~l.n.~~ Parking lots;

~~m.o.~~ Boat launching or moorage facilities, marinas, ~~boat charter services~~;

~~Lodging as an accessory use, limited to no more than 50 percent of the floor area of a building;~~

~~n.p.~~ More than one building containing a permitted principal use on a lot;

**21.26.030 Accessory uses and structures.**

- a. ~~As an accessory use, o~~One small wind energy system up to 10 kW per lot. [Ord. 13-11(A) § 2, 2013; Ord. 09-34(A) § 18, 2009; Ord. 08-29, 2008].
- b. ~~Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50 percent of the floor area of a building and for use by an occupant for more than 30 consecutive days;~~
- e.b. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves; provided, that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

**21.26.040 Conditional uses and structures.**~~a. Drinking establishments;~~

~~Public utility facilities and structures. Hotels and motels;~~

~~d. Lodge. More than one building containing a permitted principal use on a lot;~~

- a. Planned unit developments, limited to water-dependent and water-related uses; ~~with no dwelling units except as permitted by HCC 21.25.030(b);~~
- b. Indoor recreational facilities;
- c. Outdoor recreational facilities;
- d. All uses with the following traffic impacts:
  - 1. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;
  - 2. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;
  - 3. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or
  - 4. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 10, 2013; Ord. 08-29, 2008].

~~i. The location of a building within a setback area required by HCC 21.25.030(b). In addition to meeting the criteria for a conditional use permit under HCC 21.71.030, the building must meet the following standards:~~

- 1. ~~Not have a greater negative effect on the value of the adjoining property than a building located outside the setback area; and~~
- 2. ~~Have a design that is compatible with that of the structures on the adjoining property. [Ord. 14-49(A) § 8, 2014; Ord. 13-11(A) § 3, 2013; Ord. 08-29, 2008].~~

**21.26.050 Dimensional requirements.**

~~The following dimensional requirements shall apply to all structures and uses in the Marine Commercial District:~~

- a. ~~The m~~Minimum lot size is 120,000 square feet, except for lots lawfully platted before December 12, 2006. The minimum lot width is 150-80 feet, except for lots lawfully platted before December 12, 2006.
- b. Setbacks. ~~No building may be located in a required setback area without an approved conditional use permit.~~

1. ~~Front: Buildings shall be set back 20 feet from all dedicated rights-of-way 0 feet. Alleys are not subject to a 20-foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsection (b)(2) of this section~~
2. ~~Side and Rear: Buildings shall be set back five 5 feet from all other lot boundary lines.~~

c. The maximum building height is 35 feet.

~~d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 70 percent of the lot area without an approved conditional use permit.~~

~~e. Building Area and Dimensions—Retail and Wholesale:~~

~~1. The total floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.~~

~~2. In no event may a conditional use permit, planned unit development, or variance be granted that would allow a building to exceed the limits of subsection (e)(1) of this section and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subsection (e)(1) of this section. [Ord. 13-11(A) § 4, 2013; Ord. 08-29, 2008].~~

#### **21.26.060 Site, access, and development plans.**

- a. A zoning permit for any use or structure within the Marine Commercial District shall not be issued by the City without a site plan approved by the City under Chapter 21.11 HCC.
- b. A zoning permit for any use or structure shall not be issued without a level one right-of-way access plan approved by the City under Chapter 21.57 HCC. [Ord. 08-29, 2008].
- c. All development on lands in this district shall conform to the level three ~~site development~~drainage and erosion control standards contained in HCC ~~21.53~~50.040.

#### **~~21.28.060—Traffic requirements.~~**

~~A conditional use permit is required for every use that:~~

~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip-Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip-Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~

~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 10, 2013; Ord. 08-29, 2008].~~

#### **21.26.070 Additional ~~site development~~requirements standards.**

- a. Development shall not impair public use of adjacent publicly owned tidelands.
- b. Buildings and roadways shall be located to minimize alteration to the natural terrain.
- c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.
- d. Point source discharges to a waterway shall conform to the applicable regulations of the Alaska Department of Environmental Conservation. [Ord. 13-11(A) § 5, 2013; Ord. 08-29, 2008].

**~~21.28.080 — Nuisance standards.~~**

~~All development and structures shall conform to the nuisance standards contained in HCC 21.59.010. [Ord. 08-29, 2008].~~

## Chapter 21.27 MI Marine Industrial District

### 21.27.010 Purpose.

The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism, giving priority to those water-dependent uses over other industrial, commercial and recreational uses. [Ord. 08-29, 2008].

### 21.27.020 Permitted uses and structures.

The following uses are permitted outright in the Marine Industrial 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. Port and harbor facilities;
- b. Manufacturing, production, processing, cooking, and packing of fish, shellfish, and seafood products;
- c. Cold storage facilities;
- d. Dry docks;
- e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;
- f. Auto, Mmarine, and RV equipment, sales, rentals, service, and repair ~~and storage~~;
- g. Boat storage and boat manufacturing;
- ~~g-h.~~ Boat launching or moorage facilities, marinas, boat charter services;
- ~~h-i.~~ Warehouse and marshaling yards for storing goods awaiting transfer to marine vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based transportation;
- ~~i-j.~~ Mobile food services;
- k. Business offices for water-dependent and water-related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;
- l. Research and development;
- ~~j-m.~~ Itinerant or transient merchants, provided all activities shall be limited to uses permitted outright under this zoning district;
- ~~k-n.~~ Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.43.030 HCC;
- ~~l-o.~~ More than one building containing a permitted principal use on a lot;
- ~~m.~~ Restaurant as an accessory use;
- p. Parks;
- q. Parking lots;
- ~~n-r.~~ Public utility facilities and structures;
- ~~o-s.~~ Small wind energy system exceeding 10 kW.

~~p. Boat sales, rentals, service, repair and storage, and boat manufacturing. [Ord. 19-50 § 1, 2019; Ord. 13-11(A) § 6, 2013; Ord. 09-34(A) § 19, 2009; Ord. 08-29, 2008].~~

**21.27.030 Accessory uses and structures.**

- ~~a. Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50 percent of the floor area of a building and for use by an occupant for more than 30 consecutive days~~ Worker housing;
- b. Restaurants and clubs;
- ~~b-c.~~ One small wind energy system up to 10kW per lot.

**21.27.040 Conditional uses and structures.**

~~The following uses may be permitted in the Marine Industrial District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

- a. Planned unit development, limited to water-dependent or water-related uses and excluding all dwellings;
- b. Extractive enterprises related to other uses permitted in the district;
- c. Campgrounds;
- d. Bulk petroleum storage (above or underground);
- e. Helipads;
- f. Heliports;
- g. Indoor recreational facilities;
- h. Outdoor recreational facilities;
- i. Any use that has the following traffic impacts:
  - 1. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;
  - 2. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;
  - 3. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or
  - 4. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 7, 2013; Ord. 08-29, 2008].
- ~~j. The location of a building within a setback area required by HCC 21.30.040(b). In addition to meeting the criteria for a conditional use permit under HCC 21.71.030, the building must meet the following standards:~~
  - ~~1. Not have a greater negative effect on the value of the adjoining property than a building located outside the setback area; and~~
  - ~~2. Have a design that is compatible with that of the structures on the adjoining property. [Ord. 19-50 § 2, 2019; Ord. 14-49(A) § 9, 2014; Ord. 13-11(A) § 7, 2013; Ord. 08-29, 2008].~~

**21.27.050 Dimensional requirements.**

~~The following dimensional requirements shall apply to all structures and uses in the Marine Industrial District:~~

- a. Lot Size. The minimum lot size is 6,000 square feet.
- b. Setbacks. ~~No building may be located in a required setback area without an approved conditional use permit.~~  
~~1.—Front: 20 feet. Buildings shall be set back 20 feet from all dedicated rights-of-way.~~ Alleys are not subject to a 20-foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subsection (b)(2) of this section.

~~1.~~

~~e.—Side and rear: 5 feet. Buildings shall be set back five feet from all other lot boundary lines.~~

~~d.2.~~

~~e.c.~~ The maximum building height is 35 feet.

~~f.d. Maximum impervious coverage: 70%. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 70 percent of the lot area without an approved conditional use permit.~~

~~e. Building Area and Dimensions—Retail and Wholesale.~~

~~1. The total floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.~~

~~2. In no event may a conditional use permit or variance be granted that would allow a building to exceed the limits of subsection (d)(1) of this section and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subsection (d)(1) of this section. [Ord. 13-11(A) § 8, 2013; Ord. 08-29, 2008; Ord. 08-27(S) § 1, 2008].~~

#### **21.27.060 Site, ~~and access, and development plans.~~**

a. A zoning permit for a building or structure within the Marine Industrial District shall not be issued by the City without a level two site plan approved under Chapter 21.11 HCC.

~~b.~~ No zoning permit may be granted without a level two right-of-way access plan approved under Chapter 21.57 HCC. [Ord. 08-29, 2008].

~~b.c.~~ All drainage and erosion control shall conform to the level three drainage and erosion control standards contained in ~~21.5150.040~~.

#### **~~21.30.060—Traffic requirements:~~**

~~A conditional use permit is required for every use that:~~

~~a. Is estimated to generate more than 100 vehicle trips during any hour of the day calculated utilizing the Trip-Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the Trip-Generation Handbook, Institute of Transportation Engineers, 9th Edition;~~

~~c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips during any hour of the day due to a change in land use or intensity of use; or~~

~~d. Is expected to generate traffic that will detract from the safety of, or degrade by one level of service, the highway, road, street, alley or intersection. [Ord. 13-27 § 11, 2013; Ord. 08-29, 2008].~~

#### **21.27.070 Site development requirements ~~Additional standards.~~**

~~All site development shall conform to the level three site development standards contained in HCC 21.50.040 and the following requirements:~~

- a. Development shall not impair public use of adjacent publicly owned tidelands.
- b. Buildings and roadways shall be located to minimize alteration to the natural terrain.
- c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe conditions.
- d. Point source discharges to a waterway shall conform to the applicable regulations of the Alaska Department of Environmental Conservation. [Ord. 13-11(A) § 9, 2013; Ord. 08-29, 2008].

**~~21.30.080 — Nuisance standards.~~**

~~The nuisance standards of HCC 21.59.010 apply to all development, uses, and structures in this zoning district. [Ord. 08-29, 2008].~~

## Chapter 21.28 OSR Open Space Recreation District

### 21.28.010 Purpose.

The purposes of the Open Space – Recreation District are ~~primarily~~ to promote public recreational opportunities while protecting and preserving the natural and scenic resources of the area and public access to tidelands. Generally, pedestrian uses are given priority over motorized uses. [Ord. 08-29, 2008].

### 21.28.020 Permitted uses and structures.

~~The following uses are permitted outright in the Open Space – Recreation District:~~

- a. Marine recreation activities such as fishing and boating;
- ~~b. Open space, such as park, playground and related recreation activities;~~
- ~~b-c. Parks;~~
- ~~e-d. Marine-life raising or production for recreational purposes, but not for commercial fishing purposes;~~
- ~~d-e. Marine-life and wildlife sanctuary or preserve;~~
- f. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.43.030 HCC. [Ord. 08-29, 2008].
- ~~e-g. Public utility facilities and structures.~~

### 21.28.030 Conditional uses and structures.

~~The following uses may be conditionally permitted in the Open Space – Recreation District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

- ~~a. Public utility facilities and structures;~~
- ~~a. Any structures used for uses permitted outright in the district;~~
- ~~b-a. Fishing gear and boat storage~~Boat and fishing gear storage;
- ~~e-b. Campgrounds;~~
- ~~d-c. Pipelines and railroads;~~
- ~~e-d. Parking lots;~~
- ~~f-e. Other open space and recreation uses;~~
- ~~g-f. Indoor recreational facilities;~~
- ~~h-g. Outdoor recreational facilities. [Ord. 14-49(A) § 10, 2014; Ord. 08-29, 2008].~~

### 21.28.0450 Site, access, and development plans.

- a. All uses and structures require a level one site plan approved in advance by the City under Chapter 21.1173 HCC. [Ord. 08-29, 2008].
- ~~a-b. Drainage and erosion control in this district must comply with the level one drainage and erosion control standards contained in HCC 21.5159.020.~~

**21.28.050 ~~Additional~~Site development standards.**

~~Site development in this district must comply with the level one site development standards set forth in HCC-21.50.020. The uses and structures allowed in this district are also subject to the following standards:~~

The development shall not adversely affect the natural resources such as the littoral drift pattern and the estuarine environment;

- a. The development shall preserve all pedestrian easements and rights-of-way to the tidelands. Any application for a new development shall include a site plan showing these and any other proposed easements and their dimensions. The Planning Commission may require additional easements depending on the design, scale and location of existing public access points;
- b. All structures shall be designed in terms of their height, bulk, scale and orientation to minimize the interruption of scenic views;
- c. The development shall be compatible with adjacent and nearby properties;
- d. The development can be served by existing public services or facilities;
- e. The development shall not be contrary to the City's Comprehensive Plan or the State Coastal Management Program;
- f. The development shall not be inconsistent with the purposes of the district. [Ord. 08-29, 2008].

## Chapter 21.29 CO Conservation District

### 21.29.010 Purpose.

The Conservation District is applied to sensitive public lands that are critical to the maintenance of fish and wildlife resources, protect important watershed areas, or serve other key environmental functions. Private lands meeting the same criteria also may be included in the district with the consent of the owner. These lands are to be maintained in an undisturbed and natural state, except for parks with passive recreation activities and facilities (e.g., wildlife viewing, nature walks, educational and interpretive uses) and other uses that do not change the character of the land or disrupt fish and wildlife. Passive recreation activities are secondary to habitat protection and enhancement. [Ord. 11-32 § 1, 2011; Ord. 08-29, 2008].

### 21.29.020 Permitted uses.

~~The following uses are permitted outright in the Conservation District:~~

- a. Fish and wildlife habitat protection and enhancement.
- b. Marine-life and wildlife sanctuary or preserve; [Ord. 11-32 § 2, 2011; Ord. 08-29, 2008].
- ~~b.c. Open space.~~

### 21.29.030 Accessory uses.

- a. Parking lots incidental to a permitted or conditionally permitted use.

### 21.29.040 Conditional uses.

~~The following uses are conditionally permitted in the Conservation District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:~~

- a. Pedestrian trails, including boardwalks and viewing platforms.
- b. Educational and interpretive displays and signs.
- ~~e.~~ Public utility facilities and structures that cannot be reasonably located in another district.
- ~~d.c.~~ Parking lots incidental to a permitted or conditionally permitted use.
- ~~e.d.~~ Other conservation uses that will enhance the Conservation District, approved by the Planning Commission, provided, however, a finding of no adverse impact to the integrity of the fish and wildlife resources and habitat must be found. [Ord. 11-32 § 3, 2011; Ord. 08-29, 2008].

### 21.29.050 Dimensional requirements.

- a. Lot Width. Lot width is unrestricted.
- b. Lot Area. Lot area is unrestricted. [Ord. 08-29, 2008].

### 21.29.060 ~~Site development~~ Drainage and erosion control standards.

All development in this district shall comply with the level one ~~site development~~ drainage and erosion control standards contained in HCC ~~21.5159.020~~. [Ord. 08-29, 2008].

**Chapter 21.30 Dimensional and Intensity Standards !**

**21.30.010 Purpose.**

This chapter is intended to consolidate all dimensional and intensity of use standards from the zoning districts into one location for easy viewing and comparison.

**21.30.020 Dimensional and Intensity Standards Table.**

Table 21.30.a contains all dimension and intensity standards applicable to development within zoning districts in the City.

INSERT DIMENSIONAL STANDARDS TABLE

## **Chapter 21.31 Scenic Gateway Corridor Overlay District.**

### **21.31.010 Purpose and Intent.**

- a. The primary purpose of the Scenic Gateway Corridor Overlay District is to make additional provisions for preservation of scenic vistas, to enhance the compatibility of development and to minimize future traffic congestion and maintain safety along the Sterling Highway corridor.
- b. The Scenic Gateway Corridor Overlay District shall overlap and overlay existing zoning districts. The intent of this district is to have development that is sensitive to the “Gateway” of Homer and provide an additional layer of protection for the panoramic views of the Gateway while furthering the primary purposes of the district. [Ord. 08-29, 2008].

### **21.31.020 Boundaries.**

The Scenic Gateway Corridor Overlay District will include 150 feet of land from the center line on either side of the Sterling Highway from the intersection of the Sterling Highway and the west end of Rogers Loop Road to the intersection of the Sterling Highway and Pioneer Avenue. [Ord. 08-29, 2008].

### **21.31.030 Applicability.**

- a. Unless otherwise noted, the requirements of the Scenic Gateway Corridor Overlay District apply to all development and are in addition to the requirements of the underlying zoning district. Where the requirements of the underlying district and the overlay district conflict, the more restrictive will apply.
- b. All nonresidential development activity in the Gateway Corridor Overlay District will comply with the applicable sections of the Community Design Manual.
- c. All development activities, uses, and structures in the Gateway Corridor Overlay District that require a conditional use permit according to the requirements of an underlying residential district (i.e., RR, UR, and RO) will comply with applicable sections of the Community Design Manual. [Ord. 08-29, 2008].

### **21.31.040 Prohibited uses.**

The following uses shall not be allowed in the Scenic Gateway Corridor Overlay District:

- a. Asphalt manufacture or refining; paving mixture (batch) plant;
- b. Automobile and vehicle sales, showrooms and sales lots; vehicle repair or auto repair; vehicle maintenance; public garage;
- c. Short- and long-term commercial storage facilities warehousing and mini-storage;
- d. Junkyards; impound yards; automobile wrecking; recycling yards; and similar uses;
- e. Recreational vehicle sales, storage, repair;
- f. Mobile home parks;
- g. Service stations;
- h. Car washes, truck washes, and other vehicle washes;
- i. Heavy equipment sales, service, and storage;
- j. Taxi operation, dispatch office and vehicle fleet parking, storage and maintenance;

- k. Itinerant or transient merchants;
- l. Mobile food service. [Ord. 08-29, 2008].

**21.31.050 Signs.**

All signs in the Scenic Gateway Corridor Overlay District must comply with the sign code as it applies to the Gateway Business District ~~and Use District~~. [Ord. 08-29, 2008].

**21.31.060 Dimensional requirements**

- a. Maximum building height within the overlay district shall not exceed 25 feet, unless a view-impact analysis demonstrates that additional height does not obstruct primary scenic views.
- b. New plantings must consist of species that do not exceed 25 feet at maturity.
- c. Structures shall be sited at the lowest feasible elevation of the lot to minimize obstruction of panoramic views.

## Chapter 21.32~~1~~ Small Boat Harbor Overlay District

### 21.32.010 Purpose and intent.

The purpose of the Small Boat Harbor Overlay District is to establish additional development regulations specifically designed for the unique nature and needs of water- and tourism-oriented uses on platforms over the small boat harbor. These regulations will delineate special performance and design standards, encourage mixed use developments which contribute to the stabilization of water-dependent and water-related uses, encourage the link between the marine business and general business sectors of the community, and encourage safe and enjoyable access along the harbor's edge. [Ord. 09-44(S) § 3, 2009].

### 21.32.020 Overlay district boundaries.

The Small Boat Harbor Overlay District applies to the property described as Lot G-8 and Small Boat Harbor, Homer Spit Subdivision No. Two, T6S, R13W, Sections 35 and 36, and T7S, R 13W, Sections 1 and 2, Seward Meridian, as shown on Plat No. 92-50. [Ord. 09-44(S) § 3, 2009].

### 21.32.030 Applicability.

Unless otherwise noted, the requirements of the Small Boat Harbor Overlay District apply to all development and are in addition to the requirements of the underlying zoning district. Where a requirement of the underlying district conflicts with a requirement of the overlay district, the overlay district requirement shall govern. [Ord. 09-44(S) § 3, 2009].

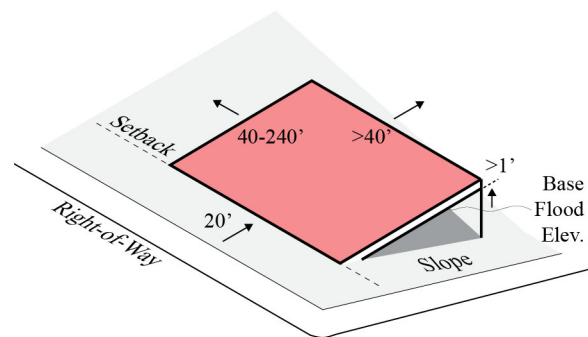
### 21.32.040 Conditional uses.

The following uses may be permitted in the Small Boat Harbor Overlay District when authorized by conditional use permit issued in accordance with Chapter 21.09 HCC:

- a. Overslope development. [Ord. 09-44(S) § 3, 2009].

### 21.32.050 Overslope platform standards.

- a. An overslope platform shall be 40 feet deep and shall be not less than 40 feet nor more than 240 feet wide.
- b. There shall be a minimum 20-foot setback separating an overslope platform from a dedicated right-of-way. Except as provided in the preceding sentence, there are no setback requirements for overslope platforms, and an overslope platform may be constructed to the lot line.
- c. An overslope platform that is used for the docking of boats shall be designed to bear the loads associated with that use, and include suitable rail access, gates, stairs and fenders.
- d. The bottom of the lowest structural member of the lowest floor of an overslope platform (excluding pilings and columns) shall be at least one foot above the base flood elevation.
- e. The area of an overslope platform that at the time of its construction is within 15 feet of the edge of a ramp shall be used as a public access area, within which no sales or commercial activity may occur. Such a public access area shall not be counted to meet open space or landscaping requirements.
- f. Direct access from an overslope platform to the ramp shall be limited to avoid user conflicts. Gates or other moveable barriers that facilitate loading and unloading may be used to control access. [Ord. 09-44(S) § 3, 2009].



Overslope Platform

**21.32.060 Architectural standards.**

Overslope development shall conform to the following architectural standards:

- a. All buildings on the same overslope platform shall receive a common architectural treatment. The main color of the exterior walls of all buildings on an overslope platform shall be one or more earth or seascape tones.
- b. Not less than five percent of the area of an overslope platform area shall be outdoor public open space.
- c. Overslope development shall include pedestrian walkways that provide direct access between common areas in the overslope development and public rights-of-way.
- d. Opaque walls, fences or planter boxes, or any combination of them, shall be used to screen mechanical equipment and trash containers from view in adjacent public areas.
- e. The design of structures and outdoor pedestrian areas shall take into consideration environmental factors such as prevailing wind, salt spray, solar exposure, snow and heavy rains.
- f. Along the length of a building, the roofline shall not be continuous for more than 60 feet.
- g. The maximum height of a building measured from the overslope platform or the adjacent grade to the highest roof peak shall not exceed 25 feet.
- h. A public access not less than eight feet wide to an area overlooking the harbor shall be provided at each end of an overslope platform and at intervals not greater than 150 feet on the overslope platform.
- i. A continuous pedestrian corridor at least eight feet wide must extend the length of the overslope development, on either the harbor or the uplands side, or some combination thereof. The corridor must be clear of obstructions, but may be covered by an awning or roof overhang. The minimum eight-foot width of the corridor may not be counted to meet landscaping or public open space requirements. [Ord. 20-29 § 1, 2020; Ord. 09-44(S) § 3, 2009].

**21.32.070 Signs.**

Signs are subject to the requirements in Chapter 21.~~57~~61 HCC that apply in the underlying zoning district; provided, that the maximum combined total area for all signs under Table 2 in HCC 21.~~57~~61.~~060050(e)~~ is calculated on a per-building basis instead of on a per-lot basis. No sign bearing a commercial message, as defined in HCC 21.~~60~~61.040, may be placed in an outdoor public open space. [Ord. 09-44(S) § 3, 2009].

**21.32.080 Architectural plans.**

An application for an overslope development conditional use shall include the following detailed plans and specifications showing compliance with the requirements of this chapter:

- a. Floor plans at a scale of one-eighth inch equals one foot.
- b. Architectural elevations.
- c. Site elevation showing the relationship to the platform of the base flood elevation and mean high tide line, and the elevation of the land where the platform adjoins the shore.
- d. Exterior finish schedule.
- e. Roof plan showing direction of drainage and where runoff will go.
- f. Drawings must show design oversight by an architect registered under the laws of the State of Alaska. [Ord. 09-44(S) § 3, 2009].

**2-3. Chapter 21.58**

**TOWERS AND RELATED STRUCTURES**

**3-4. Sections:**

**4-5. Article I. Communications Towers and Wireless Communications Equipment**

~~5-6.~~ 21.58.010 Purpose.

~~6-7.~~ 21.58.020 Exemption from regulation.

~~7-8.~~ 21.58.030 Permission for communications towers.

~~8-9.~~ 21.58.040 Application requirements.

~~9-10.~~ 21.58.050 Communications tower standards.

~~10-11.~~ 21.58.060 Public notification of communications tower application.

~~11-12.~~ 21.58.070 Action on communications tower application.

~~12-13.~~ 21.58.080 Communications tower insurance requirements.

~~13-14.~~ 21.58.090 Communications tower removal requirements.

**14-15. Article II. Small Wind Energy Systems**

~~15-16.~~ 21.58.110 Purpose and application.

~~16-17.~~ 21.58.120 Installation requirements.

~~17-18.~~ 21.58.130 Operation standards.

**18-19. Article I. Communications Towers and Wireless Communications Equipment**

**19-20. 21.58.010 Purpose.**

~~20-21.~~ The purpose of this article is to provide standards and procedures for communications towers and for wireless communications equipment. [Ord. 14-18(A)(S-2) § 5, 2016].

**21-22. 21.58.020 Exemption from regulation.**

~~22-23.~~ a. Each of the following communications towers is a permitted principal or accessory use or structure in each zoning district and is exempt from the provisions of this article:

~~23-24.~~ 1. A communications tower that is placed temporarily to support wireless communications equipment that is provided in response to a state of emergency declared by a Federal, State, or local government authority and is removed within 12 months after the termination of the state of emergency.

~~24-25.~~ 2. A communications tower that is placed temporarily to support wireless communications equipment that is provided for media coverage of a special event, and that is placed no more than 30 days before the special event and removed no more than 15 days after the end of the special event.

~~25-26.~~ 3. A communications tower with a height not exceeding 35 feet.

~~26-27.~~ 4. An amateur radio tower, to the extent that it is exempt from regulation under AS 29.35.141.

~~27-28.~~ b. The collocation, removal, replacement or installation of wireless communications equipment is a permitted principal or accessory use or structure in each zoning district and is not subject to approval under this title if it meets all of the following requirements:

~~28-29.~~ 1. The collocation, removal or replacement is in an existing wireless communications support structure or existing equipment compound that is in compliance with the requirements of this title in effect at the time of its construction and with the terms and conditions of any previous final approval under this title.

~~29-30.~~ 2. The collocation, removal or replacement will not do any of the following:

~~30-31.~~ a. Increase the overall height of the wireless communications support structure by more than 20 feet or 10 percent of its original height, whichever is greater.

~~31-32.~~ b. Increase the width of the wireless communications support structure by more than the minimum necessary to permit the collocation, removal or replacement.

~~32-33.~~ 3. The collocation, removal or replacement complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound under this title.

~~33-34.~~ 4. The installation is on an existing building that is in compliance with the requirements of this title and with the terms and conditions of any previous final approval under this title, and the wireless communications equipment does not extend more than 10 feet above the height of the building. [Ord. 14-18(A)(S-2) § 5, 2016].

~~34.35.~~ **21.58.030**      **Permission for communications towers.**

~~35.36.~~ a. Except as provided in subsection (b) of this section, a communications tower is permitted as a principal or accessory use or structure in each zoning district.

~~36.37.~~ b. A communications tower that exceeds the following maximum height for the zoning district in which the communications tower is located is permitted only when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC.

District	Maximum Height (feet)
CBD	60
TC	60
GBD	60
GC1	120
RO	85
MD	85
UR	60
RR	85
CONS	60
GC2	120
EEMU	120
MI	120
MC	120
OSR	60
BCWPD	120

~~37.38.~~  
~~38.39.~~ [Ord. 20-59(A) § 2, 2020; Ord. 14-18(A)(S-2) § 5, 2016].

[Ord. 20-59(A) § 2, 2020; Ord. 14-18(A)(S-2) § 5, 2016].

~~**21.58.040**      **Application requirements.**~~

~~a. An application for a zoning permit or conditional use permit for a communications tower that is subject to regulation under this article shall include the following information, in addition to information required by other provisions of this title:~~

~~1. A level two site plan that shows the location of the communications tower.~~

~~2. A written narrative explaining why placing wireless communications equipment at the proposed location is necessary to the applicant's wireless communications services coverage, including confirmation that there is no available site for collocation of the wireless communications equipment within a radius of 1,000 feet from the proposed location in consideration of the proposed technology, why an existing structure may not be used, an evaluation of alternate communications tower locations that the applicant considered, and an explanation why the proposed location is the best alternative.~~

~~3. A demonstration that the height of the communications tower is the minimum required for the effective operation of the wireless communications equipment plus the present and future collocations that it supports.~~

~~4. A map showing the locations of the applicant's existing communications towers that serve customers in the City and of all current and currently proposed communications towers that the applicant intends to construct to serve customers in the City.~~

~~5. A detailed list of major components of the wireless communications equipment that the communications tower will support, and accessory structures such as equipment cabinets and generators.~~

~~6. An analysis of the potential visual impacts of the communications tower at distances of 500 feet and 1,500 feet from the proposed location, through the use of photo-simulations of the communications tower and the wireless communications equipment that it will support. The analysis shall include, to the extent practicable, the visual impact along two lines extending from the shore of Kachemak Bay through the communications tower site that are separated by an angle of at least 90 degrees, and show the relationship of the communications tower to structures, trees, topography, and other intervening visual barriers. The analysis will include recommendations to mitigate adverse visual impacts of the communications tower on other properties.~~

~~7. A certificate from an engineer licensed in Alaska that the communications tower, and all antennas and other wireless communications equipment located on it, meet industry standards for their construction, including ANSI-222-G or most recent version.~~

~~8. Evidence that all wireless communications equipment supported by the communications tower meets applicable Federal Communications Commission requirements.~~

~~9. A determination of no hazard to air navigation for the communications tower issued by the Federal Aviation Administration.~~

~~10. For a conditional use permit, minutes of each public meeting held under HCC 21.58.060(a), and copies of all public comments received under HCC 21.58.060(b)(5).~~

~~b. The applicant shall pay the cost of an independent technical review of the communications tower application by a consultant retained by the City. The applicant shall submit with the application a deposit according to the fee schedule established by resolution of the City Council toward the cost of the technical review. If at any time the City finds that the actual cost of the technical review will exceed the amount of the deposit, the City may require the applicant to increase the amount of the deposit to equal the City's current estimate of the cost of the technical review. Continued review of the application shall be conditioned upon the City's receipt of the increased deposit amount. After final City action on the application, the City shall determine the actual cost of the technical review. If the actual cost exceeds the total deposit received, the applicant shall pay the balance to the City prior to permit issuance; if the total deposit received exceeds the actual cost, the City shall refund the excess to the applicant. Deposits received under this subsection shall be disbursed only as authorized by this subsection and shall not bear interest. [Ord. 14-18(A)(S 2) § 5, 2016].~~

~~**21.58.050 — Communications tower standards.**~~

~~a. The distance from a communications tower to the closest property line of a lot that contains a dwelling unit, dormitory, hotel, motel, bar, restaurant, school, day care facility, church, retail establishment or place of public assembly may not be less than 1.1 times its total height.~~

~~b. The height of the communications tower shall not be greater than the minimum height required for the effective operation of the wireless communications equipment and collocations that it will support upon its initial construction.~~

~~e. The communications tower and any related equipment compound are painted or coated in a color that blends with the surrounding environment, except to the extent that obstruction marking is required by the Federal Aviation Administration, and the fence or wall that surrounds the equipment compound at the base of the communications tower, combined with any landscaping adjacent to its exterior, shall obscure the equipment compound to view from its exterior.~~

~~d. All guy wires, cables and other accessory support structures for a communications tower shall be on the same lot as the tower, but may be located within required setback areas, and shall be properly jacketed to ensure visibility in accordance with applicable safety standards.~~

~~e. The equipment compound for a communications tower shall conform to the minimum setback requirements of the zoning district in which it is located.~~

~~f. Not less than two off street parking spaces conforming to the requirements of this title shall be provided on the lot where a communications tower is located for use in the operation and maintenance of the communications tower and the wireless communications equipment that it supports.~~

~~g. The equipment compound at the base of a communications tower shall be surrounded by a fence or wall not less than six feet in height with a secured gate. The lowest part of a climbing apparatus that provides access to equipment on a communications tower shall be at least 12 feet above the ground, and the tower shall have no handholds or footholds below the climbing apparatus.~~

~~h. Except for switch type lighting, no artificial lighting shall be mounted on a communications tower, and a communications tower shall not be illuminated with artificial lighting, except when required by the Federal Aviation Administration.~~

~~i. Signs. No sign, flag or pennant may be attached to a communications tower except that the following shall be posted in a location that is visible from the ground outside the equipment compound:~~

~~1. A sign identifying the party responsible for the operation and maintenance of the communications tower, with a 24-hour emergency contact telephone number.~~

~~2. Any antenna structure registration number required by the Federal Communications Commission.~~

~~3. Warnings of dangers associated with the communications tower or equipment that is located on the communications tower. [Ord. 14-18(A)(S-2) § 5, 2016].~~

~~**21.58.060 — Public notification of communications tower application.**~~

~~a. The applicant for a conditional use permit for a communications tower shall hold at least one meeting informing the public of the application that conforms to the following requirements:~~

~~1. The meeting shall be held at City Hall, or at a public facility that is nearer to the location of the proposed communications tower and capable of seating a minimum of 20 people.~~

~~2. The meeting shall be held on a day that is not a City holiday at least 15 days before the applicant submits its application to the City.~~

~~3. The meeting shall be scheduled to last a minimum of two hours and shall not start before 5:00 p.m. or after 7:00 p.m.~~

~~b. The applicant shall notify each record owner of property within 1,200 feet of the parcel that is the site of the proposed communications tower by first class mail at least 15 days before the meeting of the following:~~

- ~~1. The legal description, street address and a map of the vicinity of the parcel that is the site of the proposed communications tower;~~
- ~~2. A description of the proposed communications tower, including its height, design, and lighting, the proposed access to the site and the services proposed to be provided by the tower;~~
- ~~3. The date, time, and location of the meeting;~~
- ~~4. A contact name, telephone number, and address of the applicant; and~~
- ~~5. A form on which to submit written comments, with a comment submittal deadline and instructions. [Ord. 14-18(A)(S-2) § 5, 2016].~~

~~**21.58.070 — Action on communications tower application.**~~

~~a. The reviewing authority shall approve a communications tower only if the applicant demonstrates that it meets the following criteria:~~

- ~~1. The communications tower conforms to the requirements in HCC 21.58.050 and the other applicable standards in this title.~~
- ~~2. The coverage for the applicant's wireless communications services customers that the communications tower will provide cannot be provided by collocation on an existing wireless communications support structure.~~
- ~~3. Of the available alternate sites, the selected site provides necessary coverage for the applicant's wireless communications services customers with the least visual impact on other properties.~~

~~b. No action may be taken on a communications tower application on the basis of the environmental effects of radio-frequency emissions to the extent that the wireless communications equipment that will be located on the tower complies with Federal Communications Commission regulations concerning such emissions.~~

~~c. The reviewing authority shall act on a communications tower application within a reasonable period of time after the application has been filed with the City taking into account the nature and scope of the application, but within no more than 150 days after the application is filed. The 150-day period excludes (1) any time that begins when the reviewing authority gives written notice to the applicant within 30 days of receipt of the application that the application is incomplete, clearly and specifically delineating all missing documents or information, until the applicant makes a supplemental submission in response to the notice of incompleteness; and (2) any time that begins when the reviewing authority has given written notice to the applicant within 10 days of receipt of such a supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing information until the applicant makes another supplemental submission.~~

~~d. An action denying a communications tower application shall be in writing and supported by substantial evidence contained in a written record. [Ord. 14-18(A)(S-2) § 5, 2016].~~

~~**21.58.080 — Communications tower insurance requirements.**~~

~~The issuance and continuation of a zoning permit or conditional use permit for a communications tower that is subject to regulation under this article shall be conditioned upon the permittee securing and at all times maintaining insurance meeting the requirements of this section.~~

~~a. The insurance policy shall provide commercial general liability coverage for personal injuries, death and property damage with limits not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.~~

~~b. The insurance policy shall be issued by an agent or representative of an insurance company licensed to do business in the State of Alaska and with an AM Best's rating of at least A.~~

~~e. The insurance policy shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days' prior written notice in advance of the cancellation of the insurance.~~

~~d. The permittee shall provide the City with an insurance policy or certificate of insurance demonstrating compliance with the requirements of this section before the permit is issued, and a renewal or replacement policy or certificate at least 15 days before the expiration of the insurance that is to be renewed or replaced. [Ord. 14-18(A)(S-2) § 5, 2016].~~

~~**21.58.090 — Communications tower removal requirements.**~~

~~a. The owner and the lessee of the property that is the site of a communications tower are jointly and severally responsible for its removal:~~

~~1. If corrective action is not taken within six months after notice that the City Engineer has found the communications tower, or equipment on the communications tower, to be unsafe or not in compliance with applicable law.~~

~~2. Within 90 days after all wireless communications equipment on a communications tower has not been operational for a period of at least 12 consecutive months.~~

~~b. The issuance and continuation of a zoning permit or conditional use permit for a communications tower that is subject to regulation under this article shall be conditioned upon the permittee providing the City with a performance bond in an amount of at least \$150,000 issued by corporation licensed to act as a surety in Alaska and securing the obligations of the owner and the lessee of the property that is the site of the communications tower under subsection (a) of this section. [Ord. 14-18(A)(S-2) § 5, 2016]~~

## Chapter 21.33 Bridge Creek Watershed District

### 21.33.010 Purpose.

The purpose of this overlay is to prevent the degradation of the water quality and protect the Bridge Creek Watershed to ensure its continuing suitability as a water supply source for the City's public water utility. These provisions benefit the public health, safety, and welfare of the residents of the City of Homer and other customers of the City's water system by restricting land use activities that would impair the water quality or increase the cost for treatment. [Ord. 08-29, 2008].

### 21.33.020 Description of area – Authority.

- a. The district is defined as that area of land bounded by the following description and as shown on the zoning map:

Commencing at the intersection of West Hill Road and Skyline Drive, also being the section corner common to Sections 12 and 13, Township 6 South, Range 14 West and Sections 7 and 18, Township 6 South, Range 13 West;

Thence northeasterly along Skyline Drive within Section 7, Township 6 South, Range 13 West, approximately 0.9 miles to the intersection of Skyline Drive and an unnamed road to Bridge Creek Reservoir, and the Point of Beginning;

Thence northeasterly along the unnamed road passing by Bridge Creek Reservoir, within Sections 5, 6 and 7, Township 6 South, Range 13 West, approximately 1.5 miles, to the intersection of the unnamed road with the road commonly known as Crossman Ridge Road;

Thence easterly and southeasterly along the unnamed road commonly known as Crossman Ridge Road, within Sections 3, 4 and 5, Township 6 South, Range 13 West, approximately 2.5 miles, to the intersection of the unnamed road commonly known as Crossman Ridge Road and Skyline Drive;

Thence southwesterly and northwesterly along Skyline Drive, within Sections 3, 7, 8, 9 and 10, Township 6 South, Range 13 West, approximately 3.9 miles, to the intersection of Skyline Drive and the unnamed road to Bridge Creek Reservoir, and the Point of Beginning;

All within the Seward Meridian, Alaska.

- b. ~~This chapter is~~ These regulations are adopted pursuant to the authority granted to the City under AS 29.35.020 and Kenai Peninsula Borough Ordinance 99-47. If there is a conflict between this chapter and any other law or regulation applicable to property or activity in the Bridge Creek Watershed, then the more restrictive provision(s) shall apply.
- c. Excluded from the regulations of the Bridge Creek Watershed ~~Protection District overlay~~ are parcels that are within the Bridge Creek Watershed Protection District and from which all the surface waters drain away from the Bridge Creek Watershed; provided, that the drainage of the entire parcel is proven by survey to be unable to enter the Bridge Creek Watershed. The determination of whether a parcel is excluded under this subsection will be made by the Planning Commission on a case-by-case basis after notice and a public hearing. The property owner has the burden of proof. [Ord. 08-29, 2008].

### 21.33.030 Compliance.

No land or structures within the BCWP district shall be used, constructed, occupied, or altered except in conformance with the requirements of this chapter and the other applicable provisions of this title. Chapter 21.12 HCC does apply to the entire BCWP district, notwithstanding the fact that a portion of the district may lie outside of the boundaries of the City. Other provisions of this title generally applicable to interpretation, administration, enforcement, and appeals under the zoning code also apply to this district.

~~**21.31.040 Conflict.**~~

~~The Bridge Creek Watershed Protection District is an overlay district as to those lands lying within the boundaries of the City of Homer. In the case of irreconcilable conflict between the provisions of this chapter and the regulations of the applicable underlying zoning district, the more stringent provision(s) shall be applied. [Ord. 08-29, 2008].~~

**21.33.040 Conflict.**

The Bridge Creek Watershed Protection District is an overlay district as to those lands lying within the boundaries of the City of Homer. In the case of irreconcilable conflict between the provisions of this chapter and the regulations of the applicable underlying zoning district, the more stringent provision(s) shall be applied. [Ord. 08-29, 2008].

**21.33.050. Permits required.**

- a. In the BCWP district, a zoning permit issued under Chapter 21.12 HCC is required for all activity described in HCC 21.12.010. Notwithstanding any exemptions or contrary provisions in HCC 21.12.010 or any other provision of the code, a zoning permit is also required for the following activity in the BCWP district:
  1. Construction or reconstruction that creates impervious coverage of 500 square feet or more;
  2. Construction, storage or other activities that, in the aggregate, would exceed 75 percent of the allowed impervious coverage;
  3. Building construction or activity that requires a septic or sewer system;
  4. Construction or installation of a septic or sewer system, including tanks and leach fields;
  5. Repair that requires excavation of an existing septic or sewer system or leach field, in whole or in part;
  6. Cutting or clearing of brush or trees, or other disturbance of ground cover over an area in excess of 2,500 square feet;
  7. Disturbance of ground cover within the required setback or buffer of any stream or reservoir;
  8. Construction in public rights-of-way of a road, trail or driveway;
  9. Construction on private land of a road, trail or driveway longer than 100 feet;
  10. Storage of any matter that produces an impervious cover in excess of 500 square feet for more than 30 consecutive days;
  11. For any use requiring a conditional use permit in the BCWP district;
  12. Construction or enlargement of an aircraft runway;
  13. Construction of a bridge;
  14. Installation of a culvert or drainage ditch;
  15. Diversion of a stream course. [Ord. 08-29, 2008].
- b. Zoning permit not required. If they occur outside of stream and reservoir setbacks and buffers, the following uses do not require a zoning permit under Chapter 21.12 HCC. Although excluded from zoning permit requirements, these uses are still subject to all other applicable requirements of this section:
  1. Personal use gardens described in HCC 21.32.090(c).
  2. Other customary accessory uses incidental to permitted principal uses; provided, that the principal use and all accessory uses do not cumulatively exceed 75 percent of limits for impervious cover stated in this chapter.

3. Cutting or clearing of brush and trees that cover an area less than 2,500 square feet, provided the underlying ground cover is undisturbed.
4. Lawns 5,000 square feet or smaller in contiguous area. [Ord. 08-29, 2008].

**21.33.060 Permitted uses and structures.**

The following uses and structures are permitted outright in the BCWP district, except when such use or structure requires a conditional use permit by reason of its nature, size or other reasons set forth in this chapter. Permitted uses and structures remain subject to all applicable provisions of this chapter:

- a. ~~Single family~~Detached dwelling;
- b. Duplex dwelling;
- c. ~~Multiple family~~Multi-unit dwelling, provided the structure conforms ~~to the minimum lot size standards in the Urban Residential District,~~ HCC 21.20.050~~(a)(2)~~;
- d. Public parks and playgrounds;
- e. Rooming houses or bed and breakfast establishments;
- f. Storage of personal commercial fishing gear in a safe and orderly manner;
- g. Private storage in yards, in a safe and orderly manner, of equipment, including trucks, boats, recreational vehicles and automobiles; provided, that all are in good mechanical and operable condition, and if subject to licensing, currently able to meet licensing requirements; and further provided, that the stored items do not create impervious cover in excess of the limits in HCC 21.33.070;
- h. Other customary accessory uses incidental to any of the principal permitted uses listed in the BCWP district, such as limited personal use gardening as described in HCC 21.33.090(c);
- i. Temporary (seasonal) roadside stands for the sale of produce grown on the premises;
- j. Mobile homes, subject to the requirements set forth in HCC 21.~~43.02054-100~~;
- k. Day care homes;
- l. Up to four recreational vehicles on a lot as a temporary dwelling not to exceed 90 days' occupancy per vehicle in any calendar year;
- m. Religious, cultural, and fraternal assembly;
- n. Public schools and private schools;
- o. Day care facilities;
- p. Ministorage;
- q. As an accessory use, one small wind energy system per lot having a rated capacity not exceeding 10 kilowatts. [Ord. 09-34(A) § 20, 2009; Ord. 08-29, 2008].

**21.33.070 Prohibited uses.**

All uses not described in HCC 21.33.050 and 21.33.060 are prohibited in the BCWP district. Without limiting the generality of the foregoing sentence, the following are examples of uses that under all circumstances are prohibited:

- a. Junkyards and recycling yards and facilities;
- ~~b. Impound yards;~~
- ~~b.~~
- c. ~~e.~~ Dog lots or other aggregations of more than six dogs over the age of five months
- d. Farming of swine;
- e. Use of motorized vehicles, off-road vehicles, personal motorized watercraft or motorized boats on City of Homer properties or upon or in the waters on those properties, unless the use is expressly authorized by the City of Homer;
- f. Racetracks;
- g. Any use or structure requiring an Alaska Department of Environmental Conservation (ADEC) approved septic or sewer system that is not connected to a properly functioning ADEC approved septic or sewer system;
- h. All uses that would cause a degradation of the water quality or endanger the suitability of the Bridge Creek Reservoir as a water supply source for the City's public water utility. [Ord. 08-29, 2008].

**21.33.080 Conditional uses and structures.**

The following uses are permitted in the BCWP district if authorized by a conditional use permit granted in accordance with Chapter 21.71 HCC and subject to the other requirements of this chapter:

- a. Cemeteries;
- b. Public utility facilities and structures;
- c. Timber harvesting operations, timber growing, and forest crops, provided they conform to HCC 21.33.100;
- d. Agricultural activity and stables, if they conform to HCC 21.33.090, but not including farming of swine;
- e. All activities involving the disturbance of the existing ground cover (i.e., topsoil or vegetation or both) resulting from excavation, grading or filling or other similar activity and involving (1) any area within 500 feet of Bridge Creek Reservoir or 100 feet from any known stream or tributary or (2) an area in excess of 6,000 square feet. The conditional use permit must require that the activity comply with a site-specific erosion and sediment control plan prepared and signed by a certified hydrologist, professional engineer, or soil scientist whose qualifications to prepare such a plan are reviewed and approved by the Public Works Director.
- f. The following exceptions or intrusions into the stream buffer may be granted by conditional use permit approved by the Planning Commission:
  - 1. Street, driveway, culvert, recreational features, intakes, utilities, bridges or other crossings; provided, that they are designed to minimize the amount of intrusion into the buffer. The aforementioned structures and improvements may run generally within the stream buffer only where no other access route is available and when their design minimizes the amount of intrusion of the stream buffer.
  - 2. Passive recreational activities, such as walking trails; provided, that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the buffer.

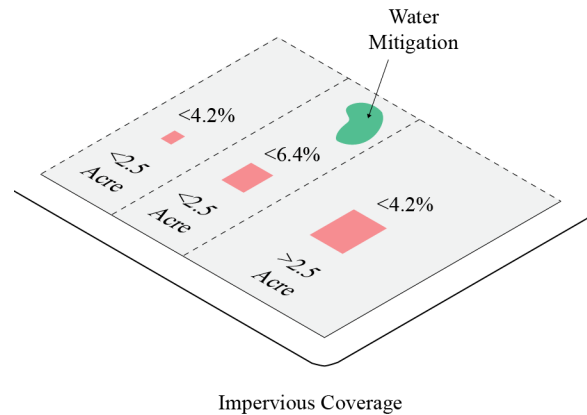
3. Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant and silt removal efficiency may be permitted based upon clear and convincing proof that efficiency will be improved.
  4. Stormwater control structures and temporary erosion control structures; provided, that:
    - i. The property owner or applicant demonstrates to the satisfaction of the Public Works Director and Planning Commission that such facilities cannot be practicably located outside of the stream buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer. Siting stormwater control structures away from the stream channel is preferable to siting such structures in the stream channel.
    - ii. A vegetated buffer of a width not less than the minimum recommended by the Public Works Director is provided around the stormwater control structures.
    - iii. Any land disturbed for construction of these structures is immediately revegetated.
  5. Timber harvest operations; provided, that:
    - i. Along perennial streams the buffer must include, but is not limited to, a 50-foot permanent buffer of undisturbed natural vegetation and an additional 75-foot buffer area of selective logging leaving no less than 30 percent of the original standing timber; and
    - ii. Along intermittent streams or drainages the buffer must include, but is not limited to, a 25-foot buffer area of selective logging leaving no less than 30 percent of the original standing timber; and
    - iii. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas. [Ord. 08-29, 2008].
- ~~e.g. Other uses similar to uses permitted and conditionally permitted in the BCWP district, as approved by written decision of the Planning Commission upon application of the property owner and after a public hearing;~~
- ~~f. Uses, activities, structures, exceptions, or other things described as requiring a conditional use permit in HCC 21.33.080(a), 21.33.110(b) or any other provision of this chapter;~~
- ~~1. More than one building containing a permitted principal use on a lot. [Ord. 10-05, 2010; Ord. 08-29, 2008].~~

**21.33.090 Requirements Standards.**

The requirements of this section shall apply to all structures and uses in the BCWP district unless more stringent requirements are required pursuant to Chapter 21.0974 HCC. The City of Homer water utility is exempt from this section.

a. Impervious Coverage.

1. Lots two and one-half acres and larger shall have a maximum total impervious coverage of 4.2 percent.
2. Lots smaller than two and one-half acres shall have a maximum total impervious coverage of 4.2 percent, except as provided in subsection (a)(3) of this section.
3. Lots smaller than two and one-half acres may be allowed impervious coverage up to 6.4 percent if (a) the owner submits a lot-specific mitigation plan for the City Planner's approval, and (b) if approved, thereafter implements and continuously complies with the approved plan. The mitigation plan must be designed to mitigate the effect of impervious coverage on water flow and the effect of loss of vegetation created by the impervious coverage and shall comply with the following performance standards:
  - i. Disturbed areas shall be reseeded by August 31st.
  - ii. Stormwater retention for the proposed new impervious surface must be provided on site.
  - iii. The post-development stormwater discharge rate shall not exceed the pre-development peak discharge rate (PDR) for the 10-year frequency storm event, consisting of rainfall for a period of three consecutive hours at a rate of one-half inch per hour.
  - iv. Retention may be provided in the form of one or a combination of dry wells, rain barrels, rain gardens, foot drain retention or other method approved by the City Planner.



b. Impervious Coverage Calculations.

1. For the purpose of calculating impervious coverage on lots smaller than two and one-half acres, 50 percent of driveways and walkways may be excluded from the calculation, if constructed and maintained in accordance with a mitigation plan that addresses the entire impervious coverage proposed for the lot, submitted and approved in accordance with subsection (a)(3) of this section. ~~Exclusion of more than 50 percent of driveways and walkways from the calculation shall require approval of the Planning Commission.~~
2. Except as otherwise provided in this section, parcels of land subdivided after February 25, 2003, shall be allowed a total impervious coverage of 4.2 percent including right-of-way (ROW) dedication. ROW coverage area shall be calculated as 50 percent of the total area of the dedicated ROW. The impervious coverage allowed for the subdivided parcels shall be calculated after deducting the ROW coverage from the total parcel allowance according to the following formula:

Formula:

$$(\text{Area of parcel being subdivided}) \times 0.042 = \text{Total allowed impervious coverage (TAC)}$$

$$(\text{Area of ROW dedication}) \times 0.5 = \text{ROW coverage (ROW C)}$$

$$(\text{TAC}) - (\text{ROW C}) = \text{Allowed impervious coverage for remainder of parcel being subdivided}$$

$$(\text{Area of parcel being subdivided}) - (\text{Area of ROW dedication}) = \text{New parcel area}$$

$$(\text{Allowed impervious coverage for remainder}) \div (\text{New parcel area}) \times 100 = \text{Percent impervious coverage allowed on subdivided lots.}$$

c. Additional Requirements for Subdivisions and Lots.

1. Lots created by subdivision after February 25, 2003, shall be a minimum of four and one-half acres.
2. Applications for subdivisions, dedications, and vacations of easements and rights-of-way in the BCWP district must be approved by the Planning Commission prior to submission to the Kenai Peninsula Borough.
3. Building Setbacks. Buildings must be set back from the Bridge Creek Reservoir and from streams as provided in HCC 21.33.050.
4. Sewer Systems. Appropriate to the use of the lot, each lot shall be served by a septic or sewer system approved by the Alaska State Department of Environmental Conservation (ADEC). Stream setbacks equal to 100 feet for drain fields and subsurface discharge and 250 feet for raised septic systems are required.
5. Ongoing Construction and Timber Harvesting. All activities including, but not limited to, timber harvesting, road building, subdivision and building activities involving loss of vegetation ground cover or soil disturbance and that are in process on February 25, 2003, shall be required to obtain permits under this chapter and shall fully conform to the terms of this chapter. Activities leaving disturbed or lost vegetative ground cover, disturbed soils without revegetation or leaving slash piles will be considered in process for the purposes of this subsection, regardless of when the activity occurred.
6. Pending Subdivisions. Subdivisions that have not received final plat approval by February 25, 2003, shall obtain approval from the Planning Commission and shall be required to conform to the requirements of this chapter. [Ord. 15-23(S) § 1, 2015; Ord. 08-29, 2008].

e.d. Erosion and sediment control.

~~1. All activities within the BCWP district involving the disturbance of the existing ground cover (i.e., topsoil or vegetation or both) resulting from excavation, grading or filling or other similar activity and involving (1) any area within 500 feet of Bridge Creek Reservoir or 100 feet from any known stream or tributary or (2) an area in excess of 6,000 square feet require a conditional use permit approved by the Planning Commission. The conditional use permit must require that the activity comply with a site-specific erosion and sediment control plan prepared and signed by a certified hydrologist, professional engineer, or soil scientist whose qualifications to prepare such a plan are reviewed and approved by the Public Works Director.~~

2.1. The erosion and sediment control plan shall ensure compliance with the following requirements:

- i. A drainage system shall be provided to direct all runoff from impervious coverage or the disturbed ground either into an engineered drainage system or into a natural drainage, but no runoff shall be discharged untreated directly into the Bridge Creek Reservoir, or any stream or watercourse tributary to Bridge Creek Reservoir.
- ii. Where open-ditch construction is used to handle drainage within the tract, a minimum of 30 feet shall be provided between any structures and the top of the bank of the defined channel of the drainage ditch.
- iii. When a closed system is used to handle drainage within the tract, all structures shall be a minimum of 10 feet from the closed system.
- iv. Natural vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, in which case it must be replanted with approved materials including ground cover, shrubs and trees. Native vegetation is preferred for replanting operations, and will be used where practicable.
- v. Grading must not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings, roads and rights-of-way must be planned to follow and conform to existing contours as nearly as possible.

- vi. Upon completion of earthwork, all exposed slopes and all cleared, filled, and disturbed soils shall immediately be given sufficient protection by appropriate means, such as landscaping, planting, and maintenance of vegetative cover, or temporary protective measures to prevent erosion.
- vii. All exposed, cleared, filled and disturbed soils shall be revegetated within the current growing season, unless required to be revegetated sooner by other provisions of this title or other law.
- viii. Drainage, erosion, siltation, slope failure and other adverse effects may be prevented or controlled by means other than vegetation, if approved by the Planning Commission.
- ix. Development activities shall not adversely impact other properties or watershed water quality by causing adverse alteration of surface water drainage, increased turbidity above natural conditions, surface water ponding, slope failure, erosion, siltation, intentional or inadvertent fill, root damage to neighboring trees, or other adverse physical impacts. The erosion and sediment control plan shall address this requirement, and the property owner and developer shall take such steps, including installation of culverts or buffers, or other methods, as necessary to comply with this requirement. [Ord. 08-29, 2008].

d.e. Agricultural activity.

1. Except as provided in subsection (c) of this section, agricultural activity requires a conditional use permit approved by the Planning Commission.
2. The application for a conditional use permit must include a written plan for each proposed agricultural activity or operation that includes the following:
  - i. Name, address, phone number and approving signature of the landowner and operator.
  - ii. A map showing the area of proposed activity and a written description detailing the activity within that area as follows:
    - a) The location of all streams, both intermittent and perennial, reservoirs, ponds, wetlands and other surface waters.
    - b) The boundaries of the agricultural area(s), types of equipment and techniques to be used in the area(s), and the specific operational period(s) for the area(s).
    - c) The location of feed and stable areas and a description of how animal wastes are to be controlled and disposed of.
    - d) The location of all buffer areas required to protect water quality.
    - e) The location of all slopes greater than 20 percent within the affected property.
    - f) The location and a description of all areas where fuel, equipment and chemicals will be stored and how spills and other potential threats to water quality will be prevented and responded to.
    - g) The location of all roads, trails and all structures that will be part of the proposed agriculture operation.
    - h) Proposed use of fertilizers, pesticides, and herbicides including type, quantities, storage, use and spill contingency plans.
  - iii. An erosion and sediment control plan if the proposed operation will include ground disturbance covered by HCC 21.33.080.
  - iv. A copy of the Homer Soil and Water Conservation District's Soil, Water, Slope and Vegetation Report for the proposed activity.
  - v. A copy of an executed cooperative agreement with the Homer Soil and Water Conservation District.
3. Agricultural activities that are customary and accessory to ~~single-family~~ residential use are exempt from the requirements of this section only. For purposes of this section, personal use gardening of not more than five separate gardening plots not exceeding 1,000 square feet each with a minimum 10-foot separation of undisturbed ground and incidental keeping of livestock (not more than three animals with a density equal to or less than two and one-half animal units per five acres) for personal use will be considered customary and accessory to single-family residential use. Larger or more intense activities are not considered customary and accessory uses. [Ord. 08-29, 2008].

e.f. Timber growing and harvesting operations.

1. Except as provided in subsection (c) of this section, no timber harvesting, timber growing, or forest crop activities are allowed without a conditional use permit approved by the Planning Commission.
2. The application for a conditional use permit must include a written plan for each proposed timber harvesting, timber growing, or forest crop use or operation that includes the following:
  - i. Name, address, phone number and approving signature of the landowner, timber rights owner, and operator or logger.
  - ii. A map showing the area of proposed activity and a written description detailing the activity within that area as follows:
    - a) The location of all streams, both intermittent and perennial, reservoirs, ponds, wetlands, and other surface waters.
    - b) The location and proposed means of all stream crossings associated with the above waters.
    - c) The boundaries of the harvest area(s), types of equipment and techniques to be used in the area(s), and the specific operational period(s) for the area(s).
    - d) The location of all roads that will be constructed, and the location of construction materials if they are to be obtained on site.
    - e) The location of all trails not included in subsection (b)(2)(d) of this section that will be used for the harvesting, processing, or transportation of timber.
    - f) The location of all buffer areas required to protect water quality.
    - g) The location of all slopes greater than 20 percent within the affected property.
    - h) The location and a description of all areas where fuel, equipment and chemicals will be stored and how spills and other potential threats to water quality will be prevented and responded to.
    - i) The location of all structures, logging yards, and storage areas that will be part of the proposed operation.
  - iii. An erosion and sediment control plan as described in HCC 21.33.080.
  - iv. In the case of timber harvesting, the reforestation plan specifications.
  - v. A restoration plan for logging yards, storage areas, stream crossings, log landings, trails, and roads that will not be maintained after a timber harvesting operation.
  - vi. A plan for maintenance and operation for all roads and trails that will remain after the operation.
  - vii. A copy of the Homer Soil and Water Conservation District's Soil, Water, Slope and Vegetation Report for the proposed activity.
  - viii. A copy of an executed cooperative agreement with the Homer Soil and Water Conservation District.
  - ix. A plan for elimination of slash piles within six months of completion of timber harvesting.
3. Clearing of trees comprising less than 20 cords in one calendar year per lot for noncommercial purposes is exempt from the requirements of this section. [Ord. 08-29, 2008].

f.g. Stream buffers.

1. A stream buffer must be preserved and maintained along all perennial and intermittent streams in the BCWP district. The stream buffer must be at least 50 feet on each side of the stream measured from the top of the stream bank. Buildings and other features that require grading or construction must be set back at least 10 additional feet from the edge of the buffer. To avoid a decrease in the buffer's effectiveness in protecting the stream the buffer shall remain in natural and undisturbed vegetation.
- ~~2. The following exceptions or intrusions into the stream buffer may be granted by conditional use permit approved by the Planning Commission:
  - i. Street, driveway, culvert, recreational features, intakes, utilities, bridges or other crossings; provided, that they are designed to minimize the amount of intrusion into the buffer. The aforementioned structures and improvements may run generally within the stream buffer only where no other access route is available and when their design minimizes the amount of intrusion of the stream buffer.~~

- ~~ii. Passive recreational activities, such as walking trails; provided, that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the buffer.~~
- ~~iii. Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant and silt removal efficiency may be permitted based upon clear and convincing proof that efficiency will be improved.~~
- ~~iv. Stormwater control structures and temporary erosion control structures; provided, that:
  - ~~a) The property owner or applicant demonstrates to the satisfaction of the Public Works Director and Planning Commission that such facilities cannot be practicably located outside of the stream buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer. Siting stormwater control structures away from the stream channel is preferable to siting such structures in the stream channel.~~
  - ~~b) A vegetated buffer of a width not less than the minimum recommended by the Public Works Director is provided around the stormwater control structures.~~
  - ~~c) Any land disturbed for construction of these structures is immediately revegetated.~~~~
- ~~v. Timber harvest operations; provided, that:
  - ~~a) Along perennial streams the buffer must include, but is not limited to, a 50-foot permanent buffer of undisturbed natural vegetation and an additional 75-foot buffer area of selective logging leaving no less than 30 percent of the original standing timber; and~~
  - ~~b) Along intermittent streams or drainages the buffer must include, but is not limited to, a 25-foot buffer area of selective logging leaving no less than 30 percent of the original standing timber; and~~
  - ~~c) Vegetation sufficient to stabilize the soil shall be established on all disturbed areas. [Ord. 08-29, 2008].~~~~

~~g)~~a) Bridge Creek Reservoir buffer.

A 500-foot reservoir buffer must be maintained from the banks of the Bridge Creek Reservoir, measured at normal full water level. The reservoir buffer must remain in undisturbed natural vegetation. The facilities and improvements of the City water utility are exempt from this section. [Ord. 08-29, 2008].

~~g-h)~~ Exceptions to buffers.

1. A conditional use permit is required for any intrusion into a required buffer including, but not limited, to those intrusions and exceptions listed in HCC 21.33.110(b). When any approved intrusion into a buffer involves excavation or clearing, the conditional use permit must require the disturbed area to be revegetated immediately.
2. Upon application of the property owner, the Planning Commission may grant a conditional use permit to reduce the reservoir buffer requirements on a case-by-case basis only if it finds that:
  - i. The full reservoir buffer would result in an exceptional hardship, depriving the property owner of the economic advantages of ownership, i.e., all potential for appreciation and all opportunity for development of the property. Mere failure to realize the maximum appreciation or full development potential from the property shall not be considered an exceptional hardship.
  - ii. The intrusion into the reservoir buffer is the minimum necessary to relieve that exceptional hardship.
  - iii. The intrusion will not cause a degradation of the water quality or endanger the suitability of the Bridge Creek Reservoir as a water supply source for the City's public water utility.

In making such findings, the Planning Commission must consider topography, water quality protection, erosion potential, surrounding uses, the size of the parcel, and any other relevant factors. A site plan and an erosion and sediment control plan must be provided by the property owner. The Planning Commission must impose any conditions necessary to protect the water quality and ensure continued suitability of the Bridge Creek Reservoir as a water supply source for the City's public water utility.

3. Upon application of the property owner, the Planning Commission may grant a conditional use permit, on a case-by-case basis, to pipe an intermittent or perennial stream, thereby reducing or eliminating stream buffer requirements, only if it finds that:
  - i. For intermittent streams, the owner demonstrates that such piping is necessary to allow reasonable use of the property or for purposes of public safety.
  - ii. For perennial streams, the owner or applicant demonstrates that use of the property without such piping will cause an exceptional hardship, depriving the property owner of the economic advantages of ownership, i.e., all potential for appreciation and all opportunity for development of the property. Mere failure to realize the maximum appreciation or full development potential from the property shall not be considered an exceptional hardship.
  - iii. The intrusion will not cause a degradation of the water quality or endanger the suitability of the Bridge Creek Reservoir as a water supply source for the City's public water utility.

If the Planning Commission approves a conditional use permit for stream piping, it must impose conditions requiring a vegetated buffer area or other device approved by the Public Works Director to protect the stream at any intake structure and other conditions as necessary to control erosion and sedimentation. All buffers and physical improvements related to the stream piping must be located entirely on the affected property or on easements adjacent to the property. [Ord. 08-29, 2008].

h-i. Nonconforming lots, uses, and structures.

1. Except as otherwise provided in this section, lawfully subdivided lots, lawful existing uses, and lawfully constructed existing structures and improvements that are rendered unlawful by the adoption of this chapter or by any amendment to this chapter shall be treated as nonconforming.
2. No aspect of any nonconforming lot, use, structure, improvement, or any other kind of nonconformity in the BCWP district shall expand or increase in size or degree of nonconformance beyond the nonconformity existing on the effective date of the enactment that rendered it unlawful.
3. Nothing in this section shall be construed to exempt ongoing activities or pending plats from the requirements of HCC 21.33.070(g) or to be an exemption from any other provision of this chapter that specifically applies to any activity or thing in progress on the effective date of the enactment.
4. Nothing in this section shall be construed to allow any preexisting or ongoing violation of HCC 21.33.140 to continue. [Ord. 08-29, 2008].

i-j. Pollution prohibited.

No person shall pollute, poison, defile or corrupt the waters of the Bridge Creek Watershed nor throw or deposit offal, refuse, rubbish, garbage, dead animals, excrement, hazardous material, petroleum product, or any foul, offensive or noxious matter into the waters of the Bridge Creek Watershed or upon these waters when frozen, or upon the shores of these waters and the land constituting the watershed. No person shall cause, allow or permit any sewage, drainage, refuse or polluting matter that either by itself or in connection with other matter will tend to corrupt or impair the quality of the water of said watershed, or tend to render it injurious to health, to discharge, drain, percolate or permeate into the watershed. [Ord. 08-29, 2008].

j-k. Enforcement.

1. In the event that any person holding a conditional use permit issued under this chapter violates the terms of the permit or any person implements site development in such a manner as to adversely affect or endanger the water quality in the Bridge Creek Watershed, the City Planner may issue a stop work order or suspend or revoke a conditional use permit. A stop work order or suspension of a conditional use permit may be imposed immediately and without prior notice to stop or prevent imminent material harm to the water quality; provided, that notice and a reasonable opportunity for a hearing must be provided promptly after the issuance of the order or suspension. A conditional use permit may be revoked permanently or suspended for longer than 30 days only after notice and a reasonable opportunity for a hearing. A

revocation or suspension of a conditional use permit for longer than 30 days must be done by written decision.

2. The City may also issue other stop work orders and take other enforcement actions under Chapter 21.90 HCC.
3. The City may also exercise one or more other legal, equitable or other remedies available to it, including, but not limited to, criminal prosecution and the imposition of civil penalties by the City Manager under HCC 1.16.020.
4. In addition to the penalties provided for herein, the City may apply to a court of competent jurisdiction for an order upon the parties responsible to cease any use or activity, or to re-establish or restore any or all of the grade, slope, stability, vegetation, drainage and other features and systems of a property in order to eliminate or prevent an adverse impact upon any adjacent or subservient property located in the Bridge Creek Watershed or to prevent degradation of the water quality, and for such other and further relief as may be appropriate in the circumstances. [Ord. 08-29, 2008].

## Chapter 21.34 Flood Prone Areas

### 21.34.010 Purpose and intent.

This section designates and classifies ~~ecologically sensitive and flood hazard areas, hazardous areas,~~ protects the functions and values of the areas, and provides the means for additional review and protection to ensure the continued growth in a safe, orderly fashion for the greater health, welfare and safety of all Homer residents.

The purpose of the section is to protect the public from flooding and other natural hazards, to minimize the need for emergency rescue, to protect unique, fragile, and vulnerable elements of the environment, to minimize the cost of replacing public facilities, to alert the public of these critical areas, to avoid public subsidy of private development impacts, to assist property owners in developing their property by promoting innovative land use techniques, and to work in concert with other land use regulations. [Ord. 08-29, 2008].

### 21.34.020 Applicability.

This chapter applies to all lands within the City of Homer and the Bridge Creek Watershed Protection District that contain areas of special flood hazard, including coastal hazard areas, and to all development on those lands. This chapter constitutes an overlay district, and the regulations in this chapter apply to lands in that overlay district in combination with the regulations of the underlying zoning districts. This chapter imposes regulations and standards in addition to what is required by the underlying zoning district(s). [Ord. 08-29, 2008].

### 21.34.030 Definitions.

For the purposes of this chapter, the following words and phrases shall be defined as follows:

“Accessory structures” means buildings such as detached garages and boat houses, that are not designed or intended for human habitation.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

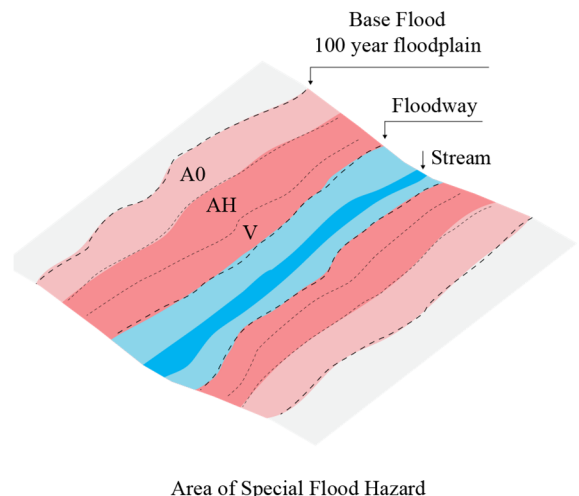
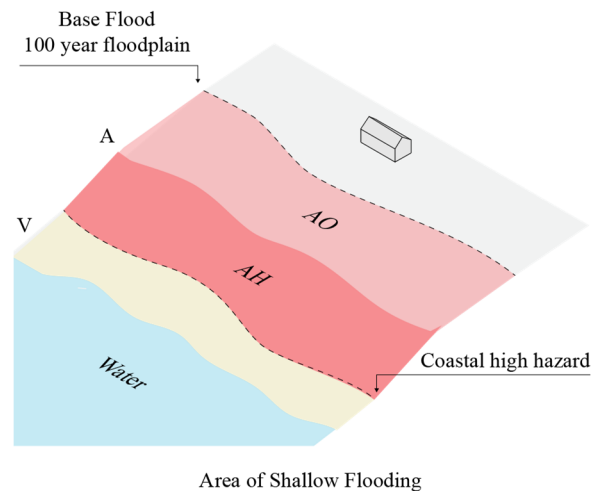
“Area of shallow flooding” means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding. The base flood depths range from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

“Area of special flood hazard” means the land in the floodplain within the City subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A, ~~or AE,~~ or VE. The term “special flood hazard area” is interchangeable with this definition. This area is often referred to as the 100-year floodplain.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.”

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its



design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE, V and LiMWA.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to: schools, nursing homes, hospitals, police, fire and emergency response installations, installations that produce, use or store hazardous materials or hazardous waste, access roads, water supply, power, communications and other public utility facilities that are vital to maintaining or restoring services.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, or any other activity which results in the removal of substantial amounts of vegetation or in the alteration of nature site characteristics located within the area of special flood hazard or coastal high hazard area.

“Elevated building” means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Federal Emergency Management Agency” or “FEMA” is the agency responsible for administration of the National Flood Insurance Program.

“Flood” or “flooding” means a general and temporary condition of partial or complete ~~inundation~~ inundation of normally dry land areas from one or both of the following:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Map” or “FIRM” means an official map of the City issued by the Federal Insurance Administrator which delineates both the special hazard areas and the risk premium zones.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, usually one foot, at any point.

“Functionally dependent use” means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than the basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at HCC 21.41342.220090.(a).

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes recreational vehicles, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include recreational vehicles, travel trailers, and other similar vehicles.

“One-hundred-year flood” (also called “regulatory flood,” “base flood” or “special flood hazard area”) (see “base flood”) means a flood of a magnitude which can be expected to occur on an average of once every 100 years. It is

possible for this size flood to occur during any year, and possibly in successive years. It would have a one percent chance of being equaled or exceeded in any year. Statistical analysis of available stream flow or storm records, or analysis of rainfall and runoff characteristics of the watershed, or topography and storm characteristics are used to determine the extent and depth of the 100-year flood.

Special Flood Hazard Area. See “area of special flood hazard.”

“Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundation or erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, external dimensions of the building.

“Structure” means a walled and roofed building, including liquid or gas storage tank, that is principally above ground, as well as a manufactured home that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to correct violations that have been previously cited based on State or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure” listed on the National Register of Historic Places or a State Inventory of Historic Places; provided, that the alteration will not preclude the structure’s continued designation as a “historic structure.”

“Variance” means a grant of relief by the City from the requirements of this chapter, which permits construction in a manner that would otherwise be prohibited by this chapter.

“Water-dependent” means a structure for commerce or industry, which cannot exist in any other location and is dependent on the water because of the intrinsic nature of its operations. [Ord. 13-32 § 1, 2013; Ord. 09-38, 2009; Ord. 08-29, 2008].

#### **21.34.040 Basis for establishing flood hazard areas.**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the Kenai Peninsula Borough and Incorporated Areas, Alaska,” dated October 20, 2016, with accompanying Flood Insurance Rate Maps (FIRM), are hereby adopted by reference and

declared to be a part of this section. The Flood Insurance Study and FIRM are on file in the Planning Department. [Ord. 16-33 § 1, 2016; Ord. 13-32 § 2, 2013; Ord. 09-38, 2009].

**21.34.050 Warning – No liability.**

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Homer, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. [Ord. 08-29, 2008].

**21.34.060 Noncompliance – Violations – Enforcement.**

- a. No structure or land shall after April 29, 2003, be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.
- b. Violations of this chapter are infractions, and are subject to criminal penalties pursuant to Chapter 1.16 HCC.
- c. In addition, the City may take any other lawful action as necessary to prevent or remedy any violation, including but not limited to all enforcement and civil remedies available under this title and Chapter 1.16 HCC. [Ord. 08-29, 2008].

**21.34.070 ~~Development permit~~Floodplain permit –required.**

A ~~development permit~~floodplain permit shall be ~~obtained~~approved before construction or development begins within special flood hazard areas established in HCC 21.32.020. The permit shall be for all development as defined by HCC 21.32.080 and 21.32.090. Application for a development permit shall be made on forms furnished by the City, ~~and shall include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.~~ Specifically, the following information is required:

- a. Elevations to be determined by registered State land surveyors in relation to North American Vertical Datum of 1988 (NAVD88, the vertical datum used as a reference in the Flood Insurance Study for flood, ground, and structure elevations) of the lowest floor (including basement) of all structures;
- b. Elevation in relation to NAVD88 to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in HCC 21.41.342, 090220(b);
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. [Ord. 09-38, 2009; Ord. 08-29, 2008].

~~d.e.~~ A floodplain permit shall expire 5 years after the date of issuance.

**~~21.41.080 — Administration by Planning Department.~~**

~~The Planning Department, acting under the direction of the City Planner, is appointed to administer, implement, and enforce this chapter by granting or denying development permit applications and otherwise acting in accordance with its provisions. [Ord. 08-29, 2008].~~

**21.34.080 Permit Review.**

~~The functions and powers of~~ the Planning Department shall review and issue zoning permits within flood hazard areas as follows:~~include:~~

- ~~1.~~ Permit Application Review. Review all development permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of HCC 21.32.090(g)(1) are met.

~~2. 1. Review all development permit applications to determine that the permit requirements have been met;~~

~~3.1.2. Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required;~~

2. Permit issuance.

- i. Upon determination that the submitted and recorded information connected with the permit application meets the terms of this chapter, the Planning Department shall issue a floodplain development permit to the original applicant.
- ii. The floodplain development permit is not assignable without permission from the Planning Department.

3. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with HCC 21.32.090(f) the Planning Department shall obtain, review, and reasonably utilize any base flood and floodway elevation data available from a Federal, State or other source, in order to administer HCC 21.32.090(f) and 21.32.090(g).

4. Information to Be Obtained and Maintained.

- i. Where base flood elevation data is provided through the Flood Insurance Study or required in subsection (c) of this section, record the actual elevation as submitted (in relation to NAVD88) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
- ii. For all new or substantially improved floodproofed structures:
  - a) Record the actual elevation as submitted (in relation to mean sea level); and
  - b) Maintain the floodproofing certifications required in HCC 21.4132.070(c);
- iii. Maintain for public inspection all records pertaining to the provisions of this chapter.

5. Alteration of Watercourses.

- i. Notify adjacent communities and the Alaska Department of Community and Regional Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. [Ord. 09-38, 2009; Ord. 08-29, 2008].

~~**21.41.100 — Fee required.**~~

~~The Planning Department shall charge fees for permits and variances. Fees shall be established by resolution of the Homer City Council to be paid by the applicant at the time that the floodplain development permit application or variance application is submitted. [Ord. 08-29, 2008].~~

**21.34.090 Standards**

All flood hazard areas. In all flood hazard areas, the following standards apply:

a. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

b. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  3. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and elevated or otherwise located to prevent water from entering or accumulating within the components during conditions of flooding.
  4. Accessory structures shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; shall be anchored to prevent flotation which may result in damage to other structures; shall have only service utilities such as electrical and heating equipment that are elevated or floodproofed; and shall have openings as required by HCC 21.41.32.220090(f)(1)(i)(b), (f)(1)(i)(c), and (f)(1)(i)(d). No elevation certificate or variance is required for a development determined by the City to be an accessory structure.
- c. Utilities.
1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
  3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- d. Subdivision Proposals.
1. All subdivision proposals shall be consistent with the need to minimize flood damage.
  2. All proposed improvements such as water, sewer, natural gas, telephone and electrical facilities shall be located and constructed in a manner which will minimize damage in the event of a flood.
  3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
  4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for all subdivision proposals located in unnumbered A or V Zones when the subdivision is planned to be 50 lots or five acres, whichever is less.
  5. It is the responsibility of the subdivider to provide all necessary information regarding flood protection measures at the time the preliminary plat is presented for consideration by the Planning Commission.
- e. Review of Development Permits.
1. Where elevation data is not available, applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding.
  2. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, and other evidence where available. [Ord. 13-32 § 3, 2013; Ord. 08-29, 2008].
- f. Standards – Base Flood Elevation.
- In all flood hazard areas where base flood elevation data has been provided as set forth in HCC 21.32.040 the following provisions are required:
1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation.
    - i. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry

- and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
- a) Fully enclosed areas below the lowest floor that are subject to flooding are to be used solely for parking of vehicles, building access, or limited storage.
  - b) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - c) The bottom of all openings shall be no higher than one foot above grade.
  - d) Openings may be equipped with screens, louvers, or other coverings or devices if they permit the automatic entry and exit of floodwaters.
2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:
- i. Be floodproofed so that one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
  - iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in HCC 21.32.070(c);
  - iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standard for space below the lowest floor as described in subsection (f)(1)(i) of this section;
  - v. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).
3. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of HCC 21.32.090(a).
4. Recreational Vehicles. A recreational vehicle placed on a site within Zones A1-30, AH, and AE on the City's FIRM either must:
- i. Be on site for fewer than 180 consecutive days; or
  - ii. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - iii. Meet the requirements of subsection (c) of this section and the elevation and anchoring requirements for manufactured homes. [Ord. 13-32 § 4, 2013; Ord. 09-38, 2009; Ord. 08-29, 2008].
- g. Standards – Floodways.

Located within flood hazard areas established in HCC 21.32.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to erosion potential and the velocity of floodwaters which carry debris, the following provisions apply:

1. All encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of HCC 21.32.090. [Ord. 08-29, 2008].

h. Standards – Shallow flooding areas.

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).
2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
  - i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
  - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer as in HCC 21.32.090(f)(2)(iii).
3. Adequate drainage paths around structures on slopes must guide floodwaters around and away from proposed structures.
4. A recreational vehicle placed on a site within AO Zones must either:
  - i. Be on the site for fewer than 180 consecutive days; or
  - ii. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - iii. Meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.
5. A minimum of two openings on at least two different walls of the enclosure must be installed. The bottom of the openings must be no higher than one foot above grade. [Ord. 08-29, 2008].

i. Standards – Coastal high hazard areas.

Located within areas of special flood hazard established in HCC 21.32.040 are coastal high hazard areas, designated as Zones V1-V30, VE or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all other provisions in this chapter, the following provisions shall also apply:

1. All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is unavailable) shall be elevated on pilings and columns so that:
  - i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and
  - ii. The pile or column foundation and structure attached thereto are anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
2. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (a~~1~~)(~~1~~) and (~~2~~ii) of this section.

3. The developer shall obtain and provide to the Planning Department the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30 and VE, and whether or not such structures contain a basement. The Planning Department shall maintain a record of all such information.
4. All new construction shall be located landward of the reach of mean high tide.
5. All new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - i. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
6. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
7. The use of fill for structural support of buildings is prohibited.
8. Manmade alteration of sand dunes that would increase potential flood damage is prohibited.
9. All manufactured homes to be placed or substantially improved within Zones V1-V30, V, and VE on the FIRM shall meet the standards of subsections (a1) through (h8) of this section and shall meet the requirements of HCC 21.41.342.220090(e)(3).
10. A recreational vehicle placed on a site within Zones V1-30, V, and VE on the FIRM shall either:
  - i. Be on the site for fewer than 180 consecutive days; or
  - ii. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - iii. Meet the requirements of HCC 21.4432.070 and subsections (a1) through (h8) of this section. [Ord. 09-38, 2009; Ord. 08-29, 2008].

~~21.41.300 — Variances — Planning Commission.~~

~~The Homer Planning Commission shall hear and decide requests for variances from the requirements of this chapter. [Ord. 08-29, 2008].~~

**21.34.100 Variances.**

- a. Factors considered. In ~~passing upon variance applications~~ evaluating variance requests, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damages;
7. The compatibility of the proposed use with the existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges. [Ord. 08-29, 2008].

b. Conditional approval.

Upon consideration of the factors of HCC 21.32.100(a) and the purposes of this chapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. [Ord. 08-29, 2008].

c. Records and reports.

The Planning Department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. [Ord. 08-29, 2008].

d. Conditions for granting.

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided HCC 21.4132.340100(a)(1) through (11) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in HCC 21.4132.300-100 through 21.41.340.
3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - i. A showing of good and sufficient cause;

- ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
  7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing where it can be determined that such action will have low damage potential, complies with all other variance criteria except HCC 21.4132.340100(ad)(1), and otherwise complies with HCC 21.4132.200090(a)(1) and (2).
  8. Variances may, if a proper showing is made, be granted for functionally dependent uses.
  9. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. [Ord. 08-29, 2008].

**21.41.400 — Appeals.**

~~a. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Planning Department.~~

~~b. The Board of Adjustment or a hearing officer appointed by the City Manager shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Planning Commission.~~

~~c. Appeals under this chapter are governed by the requirements and procedures of Chapter 21.93 HCC. [Ord. 17-07(S-3)(A) § 1, 2017; Ord. 08-29, 2008]~~

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## Chapter 21.35 Slopes and Coastal Development

### 21.35.010 Purpose.

- a. The steep slopes overlay district regulates development activity and structures in areas affected by slopes, bluffs, ravines, and the coastal edge, and provides the means for additional review and protection to encourage safe and orderly growth to promote the health, welfare and safety of Homer residents.

### 21.35.020 Applicability.

This chapter applies to all development activity that disturbs the existing land surface, including without limitation clearing, grading, excavating and filling in areas that are subject to any of the following conditions:

- a. Lots with average slopes 15 percent or greater, bluffs, coastal edge and ravines;
- b. Located within 40 feet of the top or within 15 feet of the toe of a steep slope, bluff, coastal edge or ravine; and
- c. Any other location where the City Engineer determines that adverse conditions associated with slope stability, erosion or sedimentation are present.

### 21.35.030 Permit Required.

No development activity, including clearing and grading, may occur before the issuance of a zoning permit under Chapter 21.12 HCC

### 21.35.040 Drainage and erosion control.

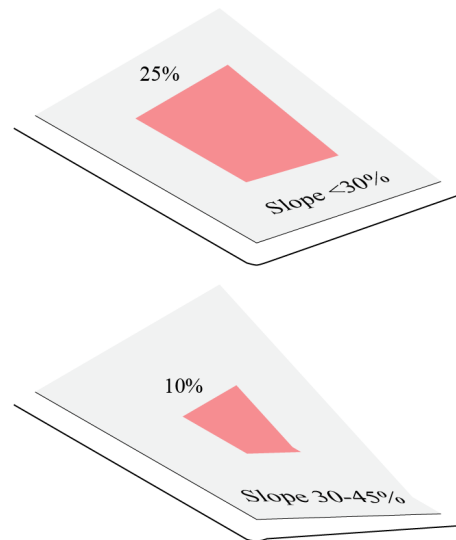
All development on a site affected by a slope of 15 percent or more, bluff, coastal edge or ravine, as described in HCC 21.35.020, shall be subject to level two drainage and erosion control standards in HCC 21.53+50.030 in addition to the requirements of this section.

### 21.35.050 Stormwater management.

All development on a site affected by a slope of 15 percent or more, bluff, coastal edge or ravine, as described in HCC 21.35.020, shall be subject to a stormwater management plan in addition to the requirements of this section.

### 21.35.060 Slope development standards.

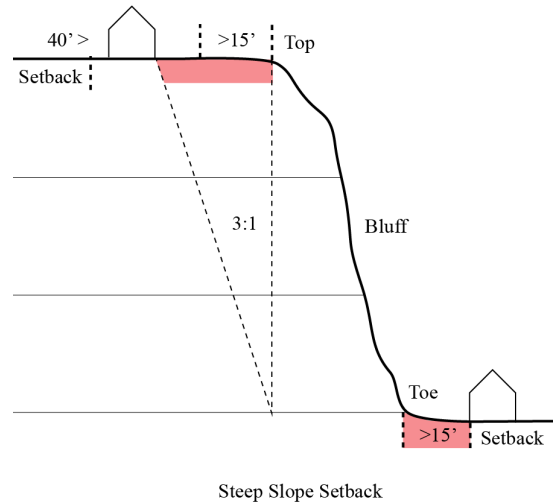
- a. Area of Development.
  1. Except where the City Engineer approves a site plan under HCC 21.35.060(b)(4) that provides for a larger area of development, the area of development on a lot with an average slope:
    - i. Of 15 to 30 percent shall not exceed 25 percent of the total lot area.
    - ii. Greater than 30 percent but less than 45 percent shall not exceed 10 percent of the total lot area.
  2. The area of development on a lot with an average slope of 45 percent or greater shall not exceed the area of development described in a site plan approved by the City Engineer under HCC 21.35.070.



Area of Development

b. Setbacks. Subject to the exceptions to setback requirements in HCC 21.35.060(b)(4), all development activity is subject to the following setback requirements:

1. No structure may be closer to the top of a ravine, steep slope or bluff than the lesser of:
  - i. Forty feet; or
  - ii. One-third of the height of the bluff or steep slope, but not less than 15 feet.
2. No structure may be closer than 15 feet to the toe of a bluff.
3. Structures shall be set back 40 feet from the coastal edge starting at the eastern extent of the City of Homer, adjacent to Kachemak Bay extending to the north-south section line dividing Sections 19 and 24 Township 6 South Range 14 West Seward Meridian, and excluding all property South of Mile Post 175 of the Sterling Highway. All structures west of the section line shall be set back 60 feet from the coastal edge. No structure may be placed closer than 15 feet from the toe of a coastal edge.



4. Exceptions to setback requirements.

- i. Any of the following may be located within a setback required by HCC 21.44.030(c):
  - a) A deck extending no more than five feet into the required setback.
  - b) An unoccupied accessory structure having a building area not greater than 200 square feet that is no closer than 15 feet to the top of any bluff or ravine.
  - c) A boardwalk, sidewalk, foot path or stairway that provides access to a beach, bluff or accessory structure, and that is located at or within three feet above ground level.
  - d) Development activity that the City Engineer determines is reasonably intended to stabilize an eroding coastal edge.
- ii. No structure other than a structure described in subsections i. of this section may be located in a required setback without a ~~conditional use permit~~ variance issued in accordance with Chapter 21.10 HCC and a site plan approved by the City Engineer under HCC 21.11. [Ord. 22-32 § 2, 2022; Ord. 08-29, 2008].

c. Natural Drainage. The site design and development activity shall not restrict natural drainage patterns, except as provided in this subsection.

1. To the maximum extent feasible, the natural surface drainage patterns unique to the topography and vegetation of the site shall be preserved. Natural surface drainage patterns may be modified only pursuant to a site plan approved by the City Engineer under HCC 21.44.050, and upon a showing that there will be no significant adverse environmental impacts on the site or on adjacent properties. If natural drainage patterns are modified, appropriate soil stabilization techniques shall be employed.
2. The site shall be graded as necessary to ensure that drainage flows away from all structures for a distance of at least 10 feet, especially where building pads are cut into hillsides.
3. The development activity shall not cause an adverse effect on adjacent land and surrounding drainage patterns.

e.d. Erosion Control During Construction.

1. Erosion control methods approved by the City Engineer, including without limitation sediment traps, small dams and barriers, shall be used during construction and site development to protect water quality, control soil erosion and control the velocity of runoff.
2. Winter Erosion Control Blankets. If development on a slope is not stabilized by October 15th, erosion control blankets (or a product with equivalent performance characteristics) must be installed upon completion of the seasonal work, but no later than October 15th. The erosion control blankets shall remain in place until at least the following May.
3. Vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, in which case it must be replanted with approved materials including ground cover, shrubs and trees. Native vegetation is preferred for replanting operations, and will be used where practicable.
4. Grading shall not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings and roads shall be planned to follow and conform to existing contours as nearly as possible. [Ord. 22-32 § 2, 2022; Ord. 08-29, 2008].

#### 21.35.070 Site plan requirements.

- a. No permit for development activity for which HCC 21.35.060 requires a site plan may be approved unless the City Engineer approves a site plan for the development activity that conforms to the requirements of this section. The City Engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval.
- b. The site plan shall be prepared by a qualified ~~civil~~geotechnical engineer licensed to practice in the State of Alaska and shall include the following information:
  1. The location of all watercourses, water bodies, and wetlands within 100 feet of the location of the proposed development activity.
  2. The location of all existing and proposed drainage structures and patterns.
  3. Site topography shown by existing and proposed contours with a maximum vertical interval of five feet.
  4. The location of all proposed and existing buildings, utilities (including on-site well and septic facilities), driveways and streets.
  5. The location of all existing vegetation types including meadow, forest and scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be preserved or replaced. Specifications for revegetation shall also be included.
  6. ~~Temporary construction erosion controls and permanent erosion controls~~Specific methods that will be used to control soil erosion, sedimentation, and excessive stormwater runoff during and after construction.
  7. A description of the stability of the existing soils on site and a narrative and other detail sufficient to demonstrate the appropriateness of the development and construction methods proposed.
  8. A grading plan for all areas that will be disturbed by the development activity with major point elevations labeled.
  9. A slope stability analysis including the following:
    - i. Summary of all subsurface exploration data, including subsurface soil profile, exploration logs, laboratory or in situ test results, and groundwater information;
    - ii. Interpretation and analysis of the subsurface data;
    - iii. Summary of seismic concerns and recommended mitigation;
    - iv. Specific engineering recommendations for design;
    - ~~v. Discussion of conditions for solution of anticipated problems;~~
    - vi. Recommended geotechnical special provisions;

vii-vi. ~~An opinion on~~ statement of adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes. [Ord. 22-32 § 2, 2022; Ord. 10-56 § 2, 2011].

## Chapter 21.36 Planned Unit Developments

### 21.36.010 Scope and purpose.

This chapter applies to all planned unit developments in the City. A planned unit development (PUD) is a device that allows a development to be planned and built as a unit, or as phased units, and permits flexibility and variation in many of the traditional controls related to density, land use, setback, open space and other design elements, and the timing and sequencing of the construction. A PUD may be applicable to either residential, commercial, noncommercial or industrial uses or a combination thereof. [Ord. 08-29, 2008].

[A PUD is different from a variance in that a PUD grants flexibility from ordinance standards in exchange for some community benefit pursuant to the review criteria herein. PUD designs and project elements shall align with the comprehensive plan in terms of community vision, land use compatibility, housing variety \(as applicable\), and environmental conservation.](#)~~ADD LANGUAGE ABOUT COMMUNITY BENEFIT~~

### 21.36.020 Uses allowed in PUDs.

a. PUDs are allowed in a zoning district only when allowed by the code provisions specifically applicable to that district. A PUD may consist of residential, noncommercial, commercial or industrial uses or a combination thereof, subject to any limitations or exceptions provided in this title.

b. In every PUD and during every stage of development of the PUD, at least 60 percent of the uses in the PUD must be uses that are listed as permitted outright or conditionally within the zoning district in which it is located. To satisfy this standard, the PUD must satisfy all of the following tests:

1. The total of floor area plus exterior lot area occupied by uses listed as permitted outright or conditionally in the zoning district must be not less than 60 percent of the total of floor area plus exterior lot area occupied by all uses in the PUD; and
2. The tax assessed valuation of that portion of the structures in the PUD used for uses listed as permitted outright and conditionally in the zoning district must total not less than 60 percent of the total assessed valuation of all structures in the PUD. [Ord. 08-29, 2008].

### 21.36.030 Development plan.

a. A conditional use permit application and a development plan for a PUD shall be submitted to the City for administrative review and recommendation to the Commission. The PUD development plan shall include the following:

1. A statement of purpose and objective;
2. A specific plan of development, including a designation of land uses by relative intensity and the land area intended for each land use;
3. A program of development outlining the stages of future development and the phase for current approval;
4. The time schedule for construction and completion of all stages and all phases;
5. A narrative description demonstrating the independence of each stage;
6. The general location and size of the area involved and the nature of the land owner's interest in the land to be developed;
7. The density of land use to be allocated to parts of the area to be developed;
8. The location, function, ownership and manner of maintenance of common open space for the management during construction; and management during each phase of development, the final management of the completed development;
9. The use, height, bulk and location of buildings and other structures;

10. A utilities and drainage plan;
11. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures, including proposed easements for public utilities and public access;
12. A plan showing parking; loading areas; snow removal and storage areas; the location and width of proposed streets and public ways; and the relationship of new or existing streets and other public facilities in proximity to the planned development;
13. In the case of plans that call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the planned development is intended to be filed;
14. A list of all permits required from local, State and Federal agencies for the uses proposed in the PUD;
15. Site plans sufficient to depict above listed requirements or other conditions required by staff;
16. A description of methods to be employed to assure maintenance of any common areas and facilities shall be submitted;
17. Calculations showing the requirements of HCC 21.52.020(b) will be satisfied;
18. Where practical and safe, and where other means of access have not been provided, public access easements or dedications may be required to provide access to contiguous public lands or connections with existing or proposed non-motorized transportation corridors.

b. The City Planner will review the conditional use permit application and development plan to determine their completeness. If adequate information is available to allow for Commission review, the application will be scheduled before the Commission as a conditional use permit application. The City Planner shall recommend approval, approval with conditions or disapproval to the Commission. [Ord. 10-57 §§ 5, 6, 2011; Ord. 08-29, 2008].

**21.36.040 Commission review.**

- a. The Commission will review the application and development plan according to provisions applicable to conditional use permits, planned unit developments and the zoning district in which the PUD is to be located.
- b. If the Commission determines that the PUD development plan does not satisfy the conditional use permit standards and requirements or is not consistent with good design, efficient use of the site, or community [standardsvision based on the Comprehensive Plan](#), the Commission shall deny the application.
- c. If the Commission determines that the PUD development plan does satisfy the conditional use permit standards and requirements, and is consistent with good design, efficient use of the site and community [standardsvision based on the Comprehensive Plan](#), the Commission may approve the development plan and a conditional use permit with such modifications or conditions that it deems necessary to protect the public health, safety, and welfare of the community and the surrounding area.
- d. In any event, the Commission shall adopt written findings of fact and conclusions that are supported by substantial evidence in the record and adequately set forth the basis for the decision. [Ord. 08-29, 2008].

**21.36.050 Residential PUD Requirements.**

~~a. All residential PUDs (any planned unit development that includes any residential uses) shall comply with the requirements and conditions of this section. A residential PUD shall also comply with HCC 21.52.060 if commercial, noncommercial or industrial uses are included in the PUD.~~

~~a. b. Utilities.~~

- ~~1. Connections to public water and sewer utilities, if available, shall be provided as part of the PUD. If public water and sewer utilities are not available, systems provided must be approved by the Alaska Department of Environmental Conservation.~~

2. Utilities, roads and other essential services must be constructed, installed and available for the immediate use of occupants of the PUD.

b. Access.

1. Nonresidential uses within a PUD shall have direct access to an arterial or collector street.

b.c. e. Dimensional Standards Density.

1. Development within a PUD shall be based on the dimensional standards of the underlying zoning district.

2. Dimensional requirements may be varied from the requirements of the district within which the PUD is located. All departures from those requirements will be evaluated against the following criteria:

- i. Topography, unique lot configurations or shapes impair compliance with underlying zoning requirements.

- i. A better or more appropriate design can be achieved by allowing flexibility from the provisions of the underlying zoning district, and

- ii. Adherence to the dimensional requirements of the zoning district is not required in order to protect health, safety and welfare of the occupants of the development and the surrounding area.

- iii. Privacy. Adequate privacy between dwelling units and other uses within a PUD shall be provided. Methods for ensuring privacy may include building spacing, window spacing and placement. The minimum building spacing is one method of providing privacy within the dwelling unit. Where windows are placed in only one or two facing walls or there are no windows, or where the builder provides adequate screening for windows, or where the windows are at such a height or location to provide adequate privacy, the building spacing may be reduced.

- iv. 2. Light and Air. Adequate light and air between buildings shall be provided. Methods for ensuring adequate light and air may include building spacing, number of windows and window placement. The building spacing provides one method of ensuring that each room has adequate light and air. Building spacing may be reduced where there are no windows or very small window areas and where rooms have adequate provisions for light and air from another direction.

- v. 3. Use. Where areas between buildings are to be used as service yards for storage of trash, clotheslines or other utilitarian purposes for both buildings, then a reduction of building space permitting effective design of a utility space may be permitted. Kitchens and garages are suitable uses for rooms abutting such utility yards.

- vi. 4. Building Configuration. Where building configuration is irregular so that the needs expressed in subsections (f)(1), (2), and (3) of this section are met by the building configuration, reduced building spacing may be permitted.

- vii. 5. Front Yard. Where the PUD provides privacy by reducing traffic flow through street layouts such as cul de sacs, or by screening or planting, or by fencing the structure toward open space or a pedestrian way, or through the room layout, the right of way setback requirement may be reduced.

- viii. Lot Width. A minimum lot width is intended to prevent the construction of long, narrow buildings with inadequate privacy, light and air. There are situations as in cul de sacs, steep slopes or off set lots where, because of lot configuration or topography, narrow or irregular lots provide the best possible design. Where the design is such that light, air and privacy can be provided, especially for living spaces and bedrooms, a narrower lot width may be permitted. [Ord. 08-29, 2008].

e.d. Perimeter Requirements. If topographical or other barriers do not provide adequate privacy for uses adjacent to the PUD, the Commission may impose conditions to provide adequate privacy, including without limitation one or both of following requirements:

1. Maximum floor area in the PUD shall not exceed 0.4 times the gross land area;

1. Structures located on the perimeter of the planned development must be set back a distance sufficient to protect the privacy of adjacent uses;

2. Structures on the perimeter must be permanently screened by a fence, wall or planting or other measures sufficient to protect the privacy of adjacent uses.

~~d.—~~

~~e.—~~

~~—2. Total open area shall be at least 1.1 times the total floor area;~~

~~—3. For purposes of subsection (e)(2) of this section, open area shall not include areas used for parking or maneuvering incidental to parking or vehicular access. Open area may include walkways, landscaped areas, sitting areas, recreation space, and other amenities. All open area shall be suitably improved for its intended use but open area containing natural features worthy of preservation may be left unimproved.~~

~~e. d. Common Open Space~~Open Area.

1. For purposes of this section, open area shall not include areas used for parking or maneuvering incidental to parking or vehicular access. Open area may include walkways, landscaped areas, sitting areas, recreation space, and other amenities. All open area shall be suitably improved for its intended use but open area containing natural features worthy of preservation may be left unimproved.

1.2. Total open area shall be at least 1.1 times the total floor area;

2.3. All or a portion of the open area may be set aside as common open space for the benefit, use and enjoyment of present and future residents of the development.

3.4. The development schedule that is part of the development plan must coordinate the improvement of the common open space with the construction of residential dwellings in the planned development.

4.5. For any areas to be held under any form of common ownership, a written description of the owner's intentions for the creation of legally enforceable future maintenance provisions shall be submitted with the conditional use permit application. The description shall indicate whether membership of property owners in an association for maintenance of the common area will be mandatory.

~~21.52.060—Commercial, noncommercial and industrial PUDs.~~

~~a. Any PUD that contains any commercial, noncommercial, or industrial use shall comply with the requirements and conditions of this section. If residential use is included in the PUD, it shall also comply with HCC 21.52.050.~~

~~1. For purposes of this section, a commercial use is defined as an occupation, employment, or enterprise that is carried on for profit that is not an industrial use.~~

~~2. For purposes of this section, an industrial use is defined as a use engaged in the processing or manufacturing of materials or products, including processing, fabrication, assembly, treatment, packaging, storage, sales or distribution of such products.~~

~~3. For purposes of this section a noncommercial use is a use that is neither residential, commercial nor industrial.~~

~~b. A planned unit development that includes commercial, noncommercial or industrial uses shall comply with the following requirements and conditions:~~

~~1. The PUD site shall have direct access to an arterial or collector street.~~

~~2. Utilities, roads and other essential services must be constructed, installed and available for the immediate use of occupants of the PUD.~~

~~3. The PUD shall be developed with a unified architectural treatment in exterior building materials, colors and design features.~~

~~e. If topographical or other barriers do not provide adequate privacy for uses adjacent to the PUD, the Commission may impose conditions to provide adequate privacy, including without limitation one or both of following requirements:~~

~~1. Structures located on the perimeter of the planned development must be set back a distance sufficient to protect the privacy of adjacent uses;~~

~~2. Structures on the perimeter must be permanently screened by a fence, wall or planting or other measures sufficient to protect the privacy of adjacent uses.~~

~~d. Dimensional Requirements. Setbacks and distances between buildings within the development shall be at least equivalent to that required by the zoning district in which the PUD is located unless the applicant demonstrates that:~~

~~f. The PUD shall meet level two site development drainage and erosion control standards of HCC 21.50.030 shall be met. [Ord. 13-27 § 17, 2013; Ord. 08-29, 2008].~~

**21.36.060 Time limit.**

After a PUD conditional use permit and development plan are approved by the Commission, construction of the planned unit development must begin within two years of the approval of the conditional use permit. The Commission may extend the time to begin construction by not more than two additional years for good cause shown. If construction is not begun within such time, including any extensions granted, the conditional use permit and development plan approvals lapse, and the conditional use permit and development plan must be resubmitted to the Planning Commission for re-approval. After a lapse of one year or more, a new conditional use permit application and PUD development plan cannot be re-approved and must be submitted to the Commission as a new application for complete reconsideration. [Ord. 08-29, 2008].

## DIVISION IV. SPECIFIC USE STANDARDS

### Chapter 21.37 Accessory Dwelling Units

#### 21.37.010 Purpose.

Accessory dwelling units (ADUs) are intended to function as an incidental and subordinate building to, and located on the same lot occupied by, ~~the principal use or building.~~ Accessory dwelling units are intended to provide ~~garages, guest housing, caretaker residence or general housing.~~ ~~for Homer Community.~~

#### 21.37.020 Applicability

The standards herein are applicable to all new ADUs and expansions to existing ADUs.

#### 21.37.030 Standards.

a. General Standards: All ADUs shall be subject to the following general standards:

1. The ADU shall be subordinate to a primary use or residence established on the same lot.
- 1.2. The ADU may be attached to or detached from the primary ~~structure~~use or ~~another~~ accessory structure (such as a garage) established on the same lot.
3. ~~Detached accessory buildings~~ADUs shall occupy no more than 25 percent of the required rear or side yard, shall not be located in the required front yard, shall not exceed 1,200 square feet in area, and shall be situated at least five feet from the nearest part of the ~~main building~~principal structure.
  - i. ~~A Tiny House, as defined in Section 21.02.040, can be used as an ADU, provided it meets the requirements of this Section and the underlying zoning district.~~
4. The ADU may be attached to or detached from the primary use or accessory structure established on the same lot.~~ADUs shall meet the Homer building code standards and are subject to building permit require~~
5. Any attached or detached ~~accessory building~~ADU shall maintain the same yards and setbacks as the ~~principal structure~~main building.
6. ~~Manufactured and m~~Mobile homes or recreational vehicles may not be used as ~~detached~~ADUs.  
~~Recreational vehicles shall not be used as ADUs.~~
7. ADUs may be associated with a detached dwelling, duplex, or townhouse but shall not be established as part of a larger multi-unit dwelling.

b. Residential Zones: The following standards apply for all ADUs in the residential ~~zone~~ districts:

1. For residential lots, one attached ADU and one detached ADU may be established on each lot where a primary use/residence exists.
- 1.2. For nonresidential lots, a maximum of one ADU, either attached or detached, may be established as a caretaker residence.

## Chapter 21.38 Agricultural Activities

### 21.38.010 Applicability

The following standards apply to agricultural activities within specific zoning districts.

### 21.38.020 Animal Units

The following table of AU equivalents applies to the Homer Zoning Code:

Kinds and classes of animals	Animal unit equivalent
Slaughter/feed cattle	1.00
Mature dairy cattle	1.40
Young dairy cattle	0.60
Horse, mature	2.00
Sheep, mature	0.20
Lamb, one year of age	0.15
Goat, mature	0.15
Kid, one year of age	0.10

Exotic species (e.g., llamas, alpaca, reindeer, musk ox, bison and elk) and unlisted species require application to the Planning Commission for determination of AU equivalents.

### 21.38.030 Rural Residential District

Within the rural residential district, allowed agricultural activities include general farming, truck farming, livestock farming, nurseries, and greenhouses; provided, that:

a. Other than normal household pets, no poultry or livestock may be housed and no fenced runs may be located within 100 feet of any residence other than the dwelling on the same lot;

a-b. ~~Roosters are prohibited in the rural residential district.~~

b-c. No retail or wholesale business sales office is maintained on the premises;

### 21.38.040 Bridge Creek Watershed Protection District

Within the Bridge Creek Watershed Protection District, agricultural activity requires a conditional use permit approved by the Planning Commission. In addition to the application materials dictated by 21.09.020, the conditional use permit must include the following:

- a. A map showing the area of proposed activity and a written description detailing the activity within that area as follows:
  1. The location of all streams, both intermittent and perennial, reservoirs, ponds, wetlands and other surface waters.

2. The boundaries of the agricultural area(s), types of equipment and techniques to be used in the area(s), and the specific operational period(s) for the area(s).
  3. The location of feed and stable areas and a description of how animal wastes are to be controlled and disposed of.
  4. The location of all buffer areas required to protect water quality.
  5. The location of all slopes greater than 20 percent within the affected property.
  6. The location and a description of all areas where fuel, equipment and chemicals will be stored and how spills and other potential threats to water quality will be prevented and responded to.
  7. The location of all roads, trails and all structures that will be part of the proposed agriculture operation.
  8. Proposed use of fertilizers, pesticides, and herbicides including type, quantities, storage, use and spill contingency plans.
- b. A stormwater management plan if the proposed operation will include ground disturbance covered by HCC 21.51.
- c. A copy of the Homer Soil and Water Conservation District's Soil, Water, Slope and Vegetation Report for the proposed activity.
- d. A copy of an executed cooperative agreement with the Homer Soil and Water Conservation District.



## **Chapter 21.39 Auto Repair and Auto Fueling Stations**

### **21.39.010 Applicability.**

The following standards apply to new auto fueling stations and auto repair establishments.

### **21.39.020 Oils and Grease.**

All new and used petroleum products and other products, liquids or chemicals used in the operation must be stored indoors, except the bulk storage of fuel.

### **21.39.030 Inoperable Vehicles.**

No inoperable vehicle shall be kept on the site longer than forty-five days.

### **21.39.040 Vehicle Sales.**

The site shall not be used to sell vehicles unless permitted in that district or a conditional use permit authorizing such use/sales has been granted.

### **21.39.050 Fencing.**

Fencing shall be required along with additional landscaping to screen the view of the use from existing residential uses.

### **21.39.060 Noise.**

Noise shall comply with HCC 21.16 nuisance standards.

### **21.39.070 LandscapingSite Plan.**

Level II site plan requirements outlined in HCC 21.11 apply to all new auto repair and auto fueling station developments.

## **Chapter 21.40 Drive-Through Establishments**

### **21.40~~XX~~.010 Intent.**

The standards of this section are intended to allow for drive-through establishments by reducing the negative impacts they may create.

### **21.40~~XX~~.020 Standards.**

- a. Sufficient stacking space shall be provided so that waiting cars can be accommodated on private property and do not cross sidewalks or pedestrian ways.
- b. For each stacking lane of a drive-through establishment, at least ~~three~~ stacking spaces shall be provided, or as otherwise required by the City Engineer.
- c. Drive-through establishment speakers shall not be audible off site.
- d. Pedestrian paths that cross a drive-through aisle shall be marked with symbols, signage and/or special painting.
- ~~e.~~ A drive-through that abuts a residentially zoned property shall be located, sized, and designed to minimize traffic, noise, air emissions, and glare impacts on surrounding properties.

## Chapter 21.XX Kennels

### Chapter 21.41.~~010~~ Home Occupations.

#### 21.41.010 Purpose.

~~The purpose of this section applies to home occupations in all districts where home occupations are permitted or conditional uses.~~ is to establish the conditions under which the home occupations are permitted. Generally, a home occupation may include any type of office, service, or commercial use that is of a scale that meets the standards herein. Commercial activities that are larger in scale than described herein are required to be located in an appropriate zoning district.

#### 21.41.020 Applicability.

This section applies to home occupations in all districts where home occupations are permitted or conditional uses.

#### 21.41.030 Standards.

- a. The home occupation shall be carried on entirely within the dwelling unit or accessory building and its function shall be clearly subordinate to the principal residential use of the premises.
- b. Compatibility: The home occupation shall not cause any noise, odors, effluent, smoke, dust, vibrations, electrical interference, bright or flashing light, or other objectionable conditions that would interfere with the quiet enjoyment of a residential neighborhood. There shall be no visible manifestations of the home occupation from the exterior, including no exterior storage or display of goods or materials, and no parking or storage of trucks, machinery or equipment on or about the premises. A home occupation shall not include automobile or machinery repairs, welding, sheet metal, or other similar work.
- c. Parking and Deliveries: A home occupation shall not require regular or frequent deliveries of goods or materials of such bulk or quantity, nor the parking of customer or client's vehicles in numbers or frequency, over and above the normal traffic associated with the dwelling as a residence.
- d. Employees: A home occupation shall be carried on only by the full-time occupants of the dwelling unit.
- e. Signage: Signage is restricted to one sign that must comply with Chapter 21.61 HCC. [Ord. 08-29, 2008].
- f. Additional Standards. The following may be allowed as home occupations with additional standards as follows:
  1. Bed and Breakfast.
    - i. A bed and breakfast must be accessory to and in a dwelling occupied by the operator as the operator's primary residence.
    - ii. A bed and breakfast is limited to a maximum of five bedrooms for overnight guests.
    - iii. Serving food to overnight guests is allowed.
    - iv. Signage is restricted to one ~~residential~~ sign that must ~~be a building sign and otherwise~~ comply with Chapter 21.61 HCC. [Ord. 08-29, 2008].
  2. Contractors.
    - i. Outdoor Storage of Materials. In the R1 and R2 districts, no outdoor storage of materials is permitted unless associated with a permitted construction project. In the RR district, all materials must be stored either within a structure or completely screened from view from neighboring properties.
    - ii. Commercial Vehicles. In the R1 and R2 districts, the number of commercially licensed vehicles shall be limited to two. In the RR district, the number of commercially licensed vehicles shall be limited to four.
    - iii. Outdoor Storage of Heavy Equipment Associated With the Contractor Operation. No heavy equipment shall be stored in the public right-of-way in any district. The number of heavy equipment machines shall be limited as follows: one in the ~~NRF1~~ and ~~URR2~~ districts, two in the RR district.
    - iv. All waste shall be disposed of off site at either a city baler/Borough landfill facility.

2. Woodworking and Furniture Repair/Fabrication. Small scale woodworking and furniture repair/fabrication may be allowed as a home occupation. These activities shall be conducted within an enclosed structure. Associated debris and materials shall be stored in a structure or within a fenced area on the property.
3. Small Engine and Appliance Repair. Small engine and appliance repair may be allowed as a home occupation. These activities shall be conducted within an enclosed structure. Associated debris and materials shall be stored in a structure. This shall not include marine craft, automobile, or aviation service and repair.
4. Prohibited Uses. Examples of occupations (businesses) that shall not be permitted as home occupations include, but are not limited to: vehicle/boat sales, vehicle/boat repair, general retail, eating establishments, drinking establishments, heavy industrial activities, activities including explosives and hazardous materials, kennels, medical services, self-storage (third party storage) and similar uses that detract from the neighborhood's residential uses.

## **Chapter 21.42 ~~LARGE RETAIL AND WHOLESALE STORES~~ Large Format Development**

### **21.42.010 Scope.**

- a. This chapter applies to development that includes one or more buildings of more than ~~3045~~,000 square feet of combined building area containing a retail business or wholesale business use when a conditional use permit is required pursuant to other provisions of the zoning code.
- b. As used in this chapter, “large format development store” means one or more buildings of more than ~~3045~~,000 square feet of combined building area containing a retail or wholesale business use. [Ord. 08-29, 2008].

### **21.42.020 Intent.**

- a. The intent of this chapter is to ensure that large store-format development is of a quality that enhances the character of Homer and does not overwhelm its surroundings. Large store-format development can result in substantial impacts to the community, such as, but not limited to, noise, traffic, community character, environment, and the local economy. One purpose of this chapter is to minimize the effects of these impacts through a detailed review and approval process.
- b. The requirements of this chapter are to be used for evaluating and assessing the quality and design of proposed large store-format developments. Where these requirements conflict with other provisions of this title, the more restrictive requirements shall apply. These requirements are in addition and complementary to the general conditions applicable to conditional use permits. [Ord. 08-29, 2008].

### **21.42.030 Pre-application conference.**

Prior to submitting a completed conditional use application for a large store-format development, the applicant must meet with the City Planner to discuss the conditional use permit process and any issues that may affect the proposed conditional use. This meeting is to provide for an exchange of general and preliminary information only and no statement made in such meeting by either the applicant or the City Planner shall be regarded as binding or authoritative for purposes of this title. [Ord. 08-29, 2008].

### ~~21.57.040 — Application.~~

~~An application for a conditional use permit or modification of an existing conditional use permit for a large store may be initiated by a property owner. If initiated by the owner’s agent, the agent shall submit with the application written authorization signed by the owner expressly stating the agent’s authority to submit the conditional use application on behalf of the owner. [Ord. 08-29, 2008].~~

### ~~21.57.050 — Costs.~~

~~The cost of all permits, studies and investigations required under this chapter shall be borne by the applicant. [Ord. 08-29, 2008].~~

### **21.42.040 Site and access plans.**

- a. A level one site plan complying with Chapter 21.11 HCC shall be submitted with the application. Site design shall utilize the natural features and topography of the individual site to the maximum extent possible.
- b. A level two right-of-way access plan complying with Chapter 21.57 HCC shall be submitted with the application. [Ord. 08-29, 2008].

### **21.42.050 Traffic impact analysis.**

The conditional use permit application shall include a traffic impact analysis if required in the applicable zoning district. The analysis and any mitigation shall comply with Chapter 21.58 HCC. [Ord. 08-29, 2008].

### **21.42.060 ~~Community and economic impact~~ Public Services.**

The conditional use permit application for a large store-format development shall include ~~a community and economic impact analysis report that evaluates the projected benefits and costs caused by the project to the public and private sectors of the community, and prescribes mitigation measures, if needed. The analysis must show an~~

~~assessment of available public services, infrastructure and utilities. The analysis must demonstrate that Public utilities and services are available at adequate levels to support the large format development. The proposed project will not have a significant adverse impact to the City in terms of balancing as near as possible the cost of public services and public revenue provided through taxes and other revenue to the City.~~

~~2. The project shall be designed to minimize negative impacts to adjoining property values.~~

~~3. The developer shall demonstrate the financial ability to complete the project and to achieve long term financial stability.~~

~~b. At a minimum the community and economic impact analysis shall include, based on a horizon year of 10 years, the following:~~

~~1. The estimated net impacts to local employment, wages and salaries, retained profits, property taxes, and sales taxes.~~

~~2. The estimated net impacts of increased local consumer spending and savings.~~

~~3. The change in the estimated number of employees, employment types, and estimated wages generated by the project.~~

~~4. The change in locally retained profits.~~

~~5. The net change in sales tax and property tax base and revenues, including any changes in overall land values.~~

~~6. The projected net costs to the City arising from increased demand for and required improvements to public services and infrastructure.~~

~~7. The value of improvements to public services and infrastructure to be provided by the project.~~

~~8. The impacts (including displacement of existing retailers) on the existing businesses in the zoning district in question and on the business community as a whole.~~

~~9. The impact on the City's Insurance Services Office (ISO) rating. [Ord. 08-29, 2008].~~

**21.42.070 Visual impacts. Pedestrian access.**

~~Parking lots and parking structures may not visually dominate the setting and should enhance the City's aesthetic qualities and natural surroundings. Parking facilities shall be designed and landscaped with increased emphasis on pedestrian ways that provide public connectivity to and through the site. The visual impacts of parking lots shall be mitigated through measures such as landscaping, screening, or situating parking areas away from the front of buildings adjacent to arterials. [Ord. 08-29, 2008].~~ Sufficient accessibility, safety and convenience to pedestrians shall be provided. Parking facilities shall be designed and landscaped with increased emphasis on pedestrian ways that provide public connectivity to and through the site. Unobstructed sidewalks shall link the site to existing public pedestrian facilities, including but not limited to sidewalks and trails. Sidewalks shall be provided along the full length of any structure where it abuts a parking lot.

**21.42.080 CitizenPublic participation meetings.**

- a. The conditional use permit application shall include a report of citizenpublic participation meetings held in accordance with this section.
- b. The purposes of the citizenpublic participation meetings are (1) to ensure that developers pursue early and effective citizenpublic participation in conjunction with their development, giving developers the opportunity to understand and try to mitigate any real or perceived detrimental impacts their development may have on the community; (2) to ensure that the citizenpublics and property owners have an adequate opportunity to learn about applications for conditional use permits that may affect them and to work with developers to resolve concerns at an early stage of the process; and (3) to facilitate ongoing communication between the developer, interested citizens-persons and property owners, City staff, and other officials throughout the application review process.

- c. A minimum of ~~two-one~~ citizenpublic participation meetings shall be held at which the applicant shall provide a detailed description of the project ~~and shall address the following items: access, parking, landscaping, building size and locations, general style and architectural finish, signage, grades and other site improvements.~~ During the meetings with the public, the developer shall have available for review all conceptual drawing(s) ~~in standard architectural format illustrating the items above.~~ This material will be filed with the Planning Department, and made available for inspection by the public.
- d. At a minimum, the citizenpublic participation meetings report shall include the following information:
1. Details of techniques the applicant used to involve the public, including:
    - i. Date and location of at ~~minimum of two~~ least one meetings where invited ~~citizens~~ persons discussed the developer's proposal;
    - ii. Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters and other publications;
    - iii. Location and date of meeting advertisements; i.e., notice posting locations within Homer, newspaper publishing dates;
    - iv. Mailing list of residents, property owners, and interested parties receiving notices, newsletters, or other written materials, and proof of advertisements and other notices; and
    - v. The number of people that participated in the citizenpublic participation meetings.
  2. A summary of concerns, issues and problems expressed during the ~~meeting process, including:~~

~~a. The substance of the concerns, issues, and problems; and~~

~~b. How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and~~

~~c. Concerns, issues and problems the applicant is unwilling or unable to address and why. [Ord. 08-29, 2008].~~

**21.42.090 ~~Development activity plan~~ Stormwater management plan.**

~~A development activity plan~~ stormwater management plan (DAPSWP) shall be submitted with the conditional use permit application if required by the code provisions of the applicable zoning district. [Ord. 08-29, 2008].

~~21.57.130 — Stormwater protection plan.~~

~~A stormwater protection plan shall be submitted with the conditional use permit application if required by the code provisions of the applicable zoning district. [Ord. 08-29, 2008].~~

~~21.57.140 — Signs.~~

~~All signage shall conform to the requirements of Chapter 21.60 HCC. [Ord. 08-29, 2008].~~

**21.42.100 Parking.**

- a. All parking lots will be posted "No Overnight Camping Permitted" as required by HCC 19.08.030.
- b. Where practical, no more than 50 percent of the required parking area for the development shall be located between the front facade of the building and the abutting streets or adjacent to arterials. [Ord. 22-13 § 1, 2022; Ord. 08-29, 2008].

~~21.57.160 — Pedestrian access.~~

~~21.57.190 — Lighting.~~

~~All lighting will conform to the requirements of the zoning district. [Ord. 08-29, 2008].~~

**21.42.110 Loading and delivery.**

- a. Loading and delivery areas shall be designed and located to mitigate visual and noise impacts to adjacent residentially zoned areas. The delivery and loading areas will also be located or screened so they are not visible from public streets, sidewalks, and adjacent residential properties. ~~A landscaped buffer may be required when~~

~~delivery and loading areas are adjacent to residentially zoned areas. The landscaped buffer will include mixed vegetation adequate to provide noise, light and visual screening~~

- b. The Commission may limit hours of delivery and loading as necessary to reduce the effects of noise and traffic on surrounding residential zones.
- c. Commercial vehicles, trailers, shipping containers and similar equipment used for transporting merchandise shall remain on the premises only as long as required for loading and unloading operations, and shall not be maintained on the premises for storage purposes unless it is screened from public view and otherwise lawful. [Ord. 08-29, 2008].

#### **21.42.120 Building and aesthetics.**

This section sets minimum requirements to help create an aesthetically attractive facade by reducing the perceived mass of large buildings, creating structures in scale with existing development, and creating a pedestrian-friendly environment, while recognizing that buildings for certain uses may not be able to fully achieve these goals. ~~In such instances, the Commission may allow increased landscaping and proper siting may be utilized to mitigate the perceived mass and visual impacts of the large building.~~

- a. If a building facade exceeds 1060 feet in length, ~~it shall be divided into smaller elements by jogging the wall in or out a minimum of four feet for at least 10 feet in length, or by adding a facade variations shall be included, element~~ such as wall offsets, a porch, recessed entry, bay window, projecting trellis or similar substantial architectural feature at intervals so that no continuous wall plane is more than 6100 feet in length.

~~b. The portion of the building within public view shall incorporate human-scale elements such as windows, arcades, lower roof overhangs, awnings, or architectural features.~~

- b. The design shall provide architectural features that contribute to visual interest at the pedestrian scale and reduce the massive scale effect by breaking up the building wall, front, side, or rear, with color, texture change, and repeating wall offsets, reveals, or projecting ribs.
- c. The roof design shall provide variations in roof lines and heights to add interest to and reduce the massive scale of large buildings. Parapet walls shall be architecturally treated to avoid a plain monotonous style.
- d. Entryways shall be designed to orient customers and to be protected from the weather. Each entrance shall be clearly defined and highly visible.

~~f. The buildings shall have exterior building materials and colors that are compatible in color, texture and scale.~~

~~g. Public Spaces. No less than five percent of the floor area shall be dedicated to interior or exterior public spaces. [Ord. 13-27 § 18, 2013; Ord. 08-29, 2008].~~

#### **21.42.130 Screening of mechanical equipment.**

Roof or ground mechanical equipment shall be screened to mitigate noise and views in all directions. If roof equipment is mounted, the screen shall be designed to conform architecturally with the design of the building. Screening of ground-mounted mechanical equipment shall be of such material and be of sufficient height to block the view and noise of the equipment. [Ord. 08-29, 2008].

#### **21.42.140 Utilities.**

All utilities providing permanent service, including, but not limited to, electric power, telephone, CATV cables and all other wires and cables, shall be located underground. The Commission may grant exceptions or recommend exceptions under the criteria established in HCC 22.10.055(d) and (e), respectively. [Ord. 08-29, 2008].

#### **21.42.150 Snow storage.**

A snow storage plan is required as a component of the site plan. Snow storage shall comply with the requirements of HCC 21.46. Use of sidewalks and required parking areas for snow storage is prohibited. Snow storage within 25 feet of stream banks is prohibited. Use of landscaped areas for snow storage may be allowed under the approved snow-

~~storage plan. The Commission may impose such restrictions on snow removal operations as are necessary to reduce the effects of noise or traffic on surrounding areas. [Ord. 08-29, 2008].~~

**21.42.160 Outdoor sales and storage.**

- a. If permitted in the zoning district, areas for outdoor sales and storage of products may be approved in the conditional use permit if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and landscaping. The areas shall be permanently defined and screened with walls, fences or both. Materials, colors and design of screening walls and fences and their covers shall be complementary to those of the primary structure. These outdoor sales and storage areas shall be considered as part of the gross floor area of the establishment.
- b. Where outdoor storage is permitted, the area used for outdoor storage (where no sales occur) must ~~be screened from view from adjacent streets and parcels, and must be more than 40 feet from a building.~~ meet the standards in HCC 21.44. Such outdoor storage, whether covered or not covered, shall not be counted as part of the floor area of the building. [Ord. 08-29, 2008].

**21.42.170 Trash and recycling collection.**

~~Noise and visual impacts of trash and recycling collection on adjoining properties and streets shall be mitigated.~~ Trash and recycling collection areas shall be located at least 50 feet from adjacent residential zones, residential uses, and public streets, unless enclosed within a structure. Unenclosed trash and recycling collection areas be screened with fences, walls, or landscaping such that they shall not be visible from public streets, sidewalks, trails, internal pedestrian walkways, or adjacent properties. [Ord. 08-29, 2008].

## **Chapter 21.43 Marijuana Cultivation, Manufacturing, Retail and Testing**

### **21.43.010 Scope.**

- a. This chapter applies to the operation of all marijuana cultivation, manufacturing, retail, and testing facilities within the City boundaries.
- b. This chapter in no way protects marijuana facilities from enforcement of Federal law nor is it intended to sanction conduct or operations prohibited by law. All persons engaged in the marijuana industry within the city operate at their own risk and have no legal recourse against the City in the event that City laws are preempted, negated or otherwise found unenforceable based upon Federal law prohibiting the sale, distribution, consumption or possession of marijuana. [Ord. 16-04(A-2)(S-3) § 5, 2016].

### **21.43.020 Intent.**

This chapter is intended to impose regulations that prevent:

- a. The distribution of marijuana to minors;
- b. Revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- c. The diversion of marijuana from states where it is legal under State law in some form to other states where it is unlawful;
- d. State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- e. Violence and the use of firearms in the cultivation and distribution of marijuana;
- f. Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- g. The growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public land; and
- h. Marijuana possession or use on Federal property. [Ord. 16-04(A-2)(S-3) § 5, 2016].

### **21.43.030 Definitions.**

[Reserved]. [Ord. 16-04(A-2)(S-3) § 5, 2016].

### **21.43.040 Pre-application conference and State of Alaska application review process.**

- a. When this title requires a conditional use permit for a marijuana facility, the applicant must meet with the City Planner to discuss the conditional use permit process and any issues that may affect the proposed conditional use. This meeting is to provide for an exchange of general and preliminary information only and no statement made in such meeting by either the applicant or the City Planner shall be regarded as binding or authoritative for the purposes of this title.
- b. Council is designated as the “local regulatory authority” as that term is used in AS 17.38.
- c. The City Planner shall review all applications filed with the State of Alaska under AS 17.38, once those applications have been transmitted to the City for its review by the Marijuana Control Board or other designated agency of the State of Alaska, for compliance with the Code. Within 15 days of receipt of an application under this section, the City Planner shall provide the City Clerk with the application with a written notice to Council stating whether the application complies or fails to comply with the Code.
- d. Upon receipt of the application and the City Planner’s notification regarding compliance, Council shall consider whether or not to protest the application at its next regularly scheduled meeting. Council may protest any

application under this section or may recommend that an application under this section be approved subject to conditions.

- e. The review of an application under this section shall not be subject to formal rules of evidence or procedure and Council may consider any facts or factors it deems relevant to its review so long as such facts or factors are not arbitrary, capricious or unreasonable.
- f. Council's decision regarding whether or not to protest an application under this section shall be final and is not subject to appeal. [Ord. 18-41 § 1, 2018; Ord. 16-50 § 1, 2016; Ord. 16-04(A-2)(S-3) § 5, 2016].

**21.43.050 Costs.**

The cost of all permits, studies and investigation required under this chapter shall be borne by the applicant. [Ord. 16-04(A-2)(S-3) § 5, 2016].

**21.43.060 Safety and security plan.**

A conditional use permit for a marijuana facility required by this title shall include an analysis of the ways in which the intent and purpose of this chapter have been met and the safety concerns identified in HCC 21.~~62.01~~043.040 and ~~21.62.020~~ will be addressed. [Ord. 16-04(A-2)(S-3) § 5, 2016].

**21.43.070 Buffers.**

- a. The Commission may require buffers, including berms, fences, trees, and shrubs, to minimize impacts to adjacent property. A landscaped buffer or combination of landscaping and berms of no less than 10 feet in width will be required where the property with a marijuana facility adjoins districts in which marijuana facilities are prohibited or permitted only as a conditional use.
- b. The following buffer zones shall be applied to all marijuana facilities in all districts:
  - 1. Schools: 1,000 feet.
  - 2. Churches: 500 feet.
  - 3. Jail: 500 feet.
  - 4. Youth/recreation center: 500 feet.
  - 5. Library: 5200 feet.
- c. Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park must have 1,000 feet or more buffers measured from the boundary of the park.
- d. For purposes of this section, "schools" mean property primarily used as a private or public elementary or secondary education facility or property primarily used as a post-secondary education facility, including but not limited to private, faith-based, and public colleges and universities. [Ord. 16-04(A-2)(S-3) § 5, 2016].

**21.43.080 General restrictions applied to all marijuana facilities.**

- a. All marijuana facilities in all districts shall comply with HMC 21.5~~59.02~~30.
- b. An application for a conditional use permit under this chapter shall not be approved if the location of the facility violates the regulatory intent in HMC 21.~~46~~2.020. [Ord. 16-04(A-2)(S-3) § 5, 2016].

**Chapter 21.44 Mobile Home Parks, Mobile Homes, and RV Parks**

**21.44.010 Standards for mobile home parks – General.**

This article establishes minimum standards governing mobile home parks. [Ord. 08-29, 2008].

- a. Where allowed. Mobile home parks will be allowed only in those zoning districts that list mobile home parks as permitted or conditionally permitted. [Ord. 08-29, 2008].
- b. Spaces and occupancy.
  1. Only one mobile home or duplex mobile home shall occupy a space.
  2. More than one space may be located on a lot, subject to the following: Each space for a mobile home shall contain not less than 3,000 square feet, exclusive of space provided for the common use of tenants, such as roadways, general use structures, guest parking, walkways, and areas for recreation and landscaping. Spaces designed and rented for duplex mobile homes shall have a minimum of 4,500 square feet. [Ord. 08-29, 2008].
- c. Lot size and setbacks.
  1. Minimum Lot Size. Lots used for mobile home parks shall be no smaller than the minimum lot size for the zoning district in which the mobile home park is located.
  2. Setbacks. In addition to the required setbacks from lot lines and rights-of-way applicable to the zoning district:
    - i. No mobile home in the park shall be located closer than 15 feet from another mobile home or from a general use building in the park.
    - ii. No building or structure accessory to a mobile home on a mobile home space shall be closer than 10 feet from another mobile home, another accessory building or another mobile home space.
    - iii. Along any vehicular right-of-way within the mobile home park, mobile homes and other buildings shall be set back a minimum of 10 feet from the edge of the right-of-way. [Ord. 08-29, 2008].
- d. Open space and recreation areas. A minimum of 10 percent of the total area of all lots used for a mobile home park shall be devoted to a common open space for use by residents of the mobile home park. This open space shall not include areas used for vehicle parking or maneuvering, vehicle access, or any area within a mobile home space. The open space may include lawns and other landscaped areas, walkways, paved terraces, and sitting areas. The common open space shall be reasonably secluded from view from streets and shall be maintained in a neat appearance. [Ord. 08-29, 2008].
- e. Required improvements.
  1. Storage. Not less than 200 cubic feet of covered storage shall be provided for each mobile home space (but not necessarily on each space).
  2. Perimeter. The land used for mobile home park purposes shall be effectively screened, except at entry and exit places, by a wall, fence or other sight-obscuring screening. Such screening shall be of a height adequate to screen the mobile home park from view and shall be maintained in a neat appearance.

3. Water and Sewer. All mobile homes in the park shall be connected to water and sewage systems before they are occupied. Evidence shall be provided with the application for a mobile home park that the park will meet the standards of the Alaska Department of Environmental Conservation. [Ord. 08-29, 2008].

f. Access and parking.

1. Access. Each mobile home space shall be directly accessible by a vehicle from an internal street without the necessity of crossing any other space. Direct vehicular access from public streets to a mobile home space is prohibited.
2. Parking. A minimum of two parking spaces shall be provided for each mobile home space. An additional common parking area for guests shall be provided with one space for every four mobile homes. [Ord. 08-29, 2008].

g. Street standards.

1. Circulation. The internal street system of a mobile home park shall provide convenient circulation by means of minor streets and collector streets. Dead-end streets shall be provided with an adequate turning circle at least 80 feet in diameter.
2. Street Widths. The width of internal streets shall be adequate to accommodate the contemplated traffic load, and no less than the following minimums:

	<b>Minimum Width</b>
	<b>(in feet)</b>
Collector streets with no parking	28
Minor streets with no parking	22

3. If utilities are planned to be in or next to streets, additional width may be required by the Commission to accommodate the utilities. [Ord. 08-29, 2008].

**21.44.020 Standards for mobile homes.**

Each mobile home structure, whether located in a mobile home park or on an individual lot, shall meet the following standards:

- a. The mobile home shall contain sleeping accommodations, a flush toilet, a tub or shower and kitchen facilities, with plumbing and electrical connections provided for attachment to public utilities or approved private systems.
- b. The mobile home shall be fully skirted and, if a single-wide unit, shall be tied down with devices that meet State standards. [Ord. 10-01(S) § 4, 2010].

~~21.42.200 — Standards for recreational vehicle parks — General RV Parks Purpose. HCC 21.54.200 through 21.54.325 The purpose of this section is to establish standards governing recreational vehicle parks, recreational vehicles in residential zoning districts, and employee occupied recreational vehicles and recreational vehicles outside recreational vehicle parks. [Ord. 18-04 § 2, 2018; Ord. 08-29, 2008].~~

**21.44.030 Standards for Recreational Vehicle Parks.**

- a. Spaces and occupancy.
  1. Space Size. ~~The space provided for each recreational vehicle shall be a M~~minimum of 600 square feet, exclusive of any space used for common areas, driving lanes, walkways, general use structures, and landscaped areas.
  2. Identification. Each recreational vehicle space shall be plainly marked and numbered for identification.
  3. Occupancy. Only one recreational vehicle shall occupy a space. Recreational vehicle parks may be open on a year-round basis. Except as otherwise permitted under this title, no recreational vehicle shall be parked for occupancy in a recreational vehicle park for more than 30 continuous days, nor shall a recreational vehicle be parked for occupancy in a recreational vehicle park for more than 120 days in any 12-month period. [Ord. 18-04 § 3, 2018; Ord. 08-29, 2008].
- b. Minimum lot size. The minimum lot size for a recreational vehicle park in any zoning district is 40,000 square feet or the minimum lot size for the zoning district in which it is located, whichever is greater. [Ord. 08-29, 2008].
- c. Surface water runoff. Surfaces shall be designed and contoured to provide for adequate runoff of surface water and be approved by the Public Works Department. [Ord. 08-29, 2008].
- d. Utilities and solid waste.
  1. Sources of potable water and wastewater disposal facilities shall be in accordance with applicable Alaska Department of Environmental Conservation regulations.
  2. The park shall provide toilets and lavatories for use by park occupants. They shall be constructed, maintained, and operated in accordance with applicable Alaska Department of Environmental Conservation regulations.
  3. Solid Waste Disposal. The recreational park must provide adequate covered receptacles for trash collection and adequate trash removal. [Ord. 08-29, 2008].
- e. Noise. Noise ~~emanating from a recreational vehicle park and its occupants shall not unreasonably disturb or interfere with the peace, comfort and repose of persons with ordinary sensibilities. It is a violation for a park owner, park operator, or park occupant to cause or allow noise in excess of this standard.~~shall comply with HCC 21.16 standards for nuisances. [Ord. 08-29, 2008].
- f. Parking.
  1. One parking space shall be provided within each recreational vehicle space. This parking space is in addition to the space allotted to the recreational vehicle.
  2. Additional parking shall be provided for exclusive use of the park manager and employees.
  3. Guest parking shall be provided at a rate of one parking space per 25 recreational vehicle spaces.
  4. Handicapped recreational vehicle spaces shall be provided in compliance with applicable Federal and State laws and regulations. [Ord. 08-29, 2008].
- g. Streets.

This section applies to all driving lanes and streets within the recreational vehicle park.

  1. All designated driving lanes ~~shall be not less than 15 feet in width for one lane traffic or 30 feet in width for two lane traffic and~~ shall adhere to applicable AASHTO design criteria.

2. All driving lanes shall be surfaced with crushed gravel, asphalt, or concrete and designed to permit easy access to all recreational vehicle spaces.
  3. Driving lane maintenance and snow removal are the responsibility of park owner and operator. [Ord. 08-29, 2008].
- h. Common areas. At least seven percent of the area of the entire recreational vehicle park site shall be devoted and maintained as open space. [Ord. 08-29, 2008].
- i. Accessory uses. Accessory uses within the recreational vehicle park may include a park office, a place for the park operator to live, a bathhouse for park occupants and outhouse buildings, a small convenience store, storage buildings, and other necessary facilities. [Ord. 08-29, 2008].

**21.54.300 — Compliance with laws.**

~~All recreational vehicle parks must comply with applicable local, State and Federal requirements prior to receiving a City zoning permit. [Ord. 08-29, 2008].~~

**21.44.040 Temporary recreational vehicle parks.**

If existing recreational park facilities are unavailable or inadequate to meet special and temporary anticipated needs of a scheduled caravan, temporary recreational vehicle parks may be established for a scheduled caravan; provided, that written authorization is obtained from the City Planner prior to occupancy. The City Planner may impose on the authorization all conditions necessary to preserve the health, safety, and welfare of the caravan participants and the community. [Ord. 08-29, 2008].

**21.44.050 Standards for recreational vehicles in rResidential aAreas**

Outside of recreational vehicle parks, the use of recreational vehicles in ~~the Rural Residential, Urban Residential or Residential Office-residential~~ zoning districts shall conform to the following standards, except to the extent otherwise specified in the regulations applicable in the zoning district:

- ~~a. a-~~As an accessory to a dwelling unit on a lot, one recreational vehicle per lot may be used for occasional living purposes. ~~to accommodate persons while visiting the residents of the dwelling unit.~~
- ~~b. A-~~The recreational vehicle ~~used for such purposes~~ must be a self-contained ~~recreational vehicle~~ and must have a receptacle approved by law for collection of liquid and semi-solid wastes. Direct hook-up to municipal water and sewer is prohibited.
- ~~39. d. While the recreational vehicle being used to accommodate visitors is parked on the property, it-~~The ~~recreational vehicle~~ must be parked in a manner that will not create a dangerous or unsafe condition on the lot or adjacent properties. Parking in such fashion that the recreational vehicle may tip or roll constitutes a dangerous and unsafe condition. A parked recreational vehicle ~~used to accommodate visitors~~ must be in a condition for the safe and effective performance of its intended function as an operable motor vehicle.
- ~~b-~~ Occasional use of a recreational vehicle ~~to accommodate visitors as allowed in subsection (a) of this section may not shall not~~ exceed a total of 90 days per calendar year ~~on a lot. Such occasional use to accommodate visitors and~~ must be approved by the property owner, and in the case of property under lease, by both the lessee and the property owner.
- ~~a-c. e-~~While actually and lawfully being used under this section, ~~to accommodate visitors~~ recreational vehicles are not considered ~~as stored for purposes of HCC 21.12.020(k), 21.14.020(i) and 21.16.020(l)-outdoor storage per HCC 21.435.~~ [Ord. 08-29, 2008].

**21.44.060 Standards for recreational vehicles in ~~the Marine Commercial District and the Marine Industrial District~~ Industrial Areas**

Outside of recreational vehicle parks, the use of recreational vehicles in ~~the marine commercial and industrial zoning industrial areas districts~~ shall conform to the following standards:

- a. ~~a.~~ A property owner may have one employee-occupied recreational vehicle per lot.
- ~~b.~~ An employee-occupied recreational vehicle must be ~~a~~ self-contained ~~recreational vehicle~~ and must have a receptacle approved by law for collection of liquid and semi-solid wastes.
- ~~b.c.~~ While the employee-occupied recreational vehicle is parked on the property, it must meet the standards for recreational vehicles in a residential area in Section 21.43.050.
- ~~e.d.~~ An employee-occupied recreational vehicle may not be placed in a parking space required to comply with the Homer Zoning Code.
- ~~d.e.~~ An employee-occupied recreational vehicle may not directly hook up to municipal water and sewer without first obtaining written approval by the Public Works Director or his or her designee. ~~The Public Works Director shall grant approval for direct hook up to the municipal water and sewer if he or she determines that the applicant is in full compliance with this title.~~ A permit under this subsection may only be submitted by a property owner or a lessee of the property.
- ~~e.f.~~ All employee-occupied recreational vehicles covered in this section must obtain a zoning permit and pay an annual fee. [Ord. 18-12(A)(S) § 1, 2018; Ord. 18-04 § 4, 2018].

## Chapter 21.45 Outdoor Storage

### 21.45.010 General.

#### a. Materials and Equipment Storage:

1. All materials and equipment including waste material shall be stored and all grounds maintained in a manner that will not attract or aid in the propagation of insects, animals, or create a health or safety hazard.
2. Open storage of materials and equipment is permitted, subject to these exceptions and conditions:
  - i. If a lot abuts a residential zoning district or abuts a lot that lawfully contains a dwelling unit, any outdoor storage of materials and equipment on the lot must be screened from the residential lot or district by a wall, fence, or other sight-obscuring material. The screen must be a minimum of eight feet in height.
  - ii. This subsection does not authorize any outdoor storage in any zoning district in which the applicable zoning district regulations do not allow such storage. [Ord. 08-29, 2008].

- b. Outside storage of materials, equipment and trash/dumpsters adjacent to Pioneer Ave., Sterling Highway, East End Road ~~and/or~~ Kachemak Drive shall be screened. Screening may consist of walls, fences, landscaped berms, evergreen plantings, or any combination thereof.

### 21.45.020 Residential Districts.

~~RR: k~~ Outdoor storage is permitted as an accessory use incidental to residential use. The private outdoor storage of noncommercial equipment, including noncommercial trucks, boats, and not more than one recreational vehicle shall be in a safe and orderly manner and separated by at least five feet from any property line, provided no stored equipment, boat or vehicle exceeds 36 feet in length.

~~UR: i. As an accessory use incidental to residential use, the private outdoor storage of noncommercial equipment, including noncommercial trucks, boats, and not more than one recreational vehicle in a safe and orderly manner and separated by at least five feet from any property line, provided no stored equipment, boat or vehicle exceeds 36 feet in length;~~

### 21.45.030 Commercial Districts.

- a. Storage of Items for Sale. Products for sale may be displayed outdoors in unscreened areas only during the open hours of the business. This does not apply to outdoor storage of items for sale when outdoor storage or sale is permitted in the zoning district, nor does it apply to items normally kept outdoors, such as motor vehicles.
- b. Commercial vehicles, trailers, shipping containers and other similar equipment used for transporting merchandise shall remain on the premises only as long as required for loading and unloading operations, and shall not be maintained on the premises for storage purposes unless screened from public view. [Ord. 08-29, 2008].

|

## Chapter 21.46 Snow Storage

### 21.46.010 Purpose.

This section is intended to establish basic standards and a review process to ensure adequate snow storage for new developments.

### 21.46~~XX~~.020 Applicability.

These provisions apply to all applications requiring a Level Two or Level Three site plan review.

### 21.46~~XX~~.030 Snow Storage Plan.

A snow storage plan shall be provided during Level Two or Level Three site plan review. The plan shall include:

- a. A sketch plan, to scale, showing the area(s) of the site to be used for snow storage. If applicable, any proposed off-site snow storage areas shall also be shown.
- b. Amount of parking spaces/area that will be taken up by snow storage, if any.
- c. Narrative description of the proposed snow storage plan. Include a description of winter parking demand if required off-street parking spaces are to be used for snow storage.

### 21.46~~XX~~.040 Standards.

The following criteria for snow storage shall be reviewed by planning staff during the site plan review:

- a. Impacts on Required Parking. Reductions in available parking spaces shall be offset by reductions in seasonal demand for parking.
- b. Adequacy of Space. Enough snow storage area shall be designated to reasonably handle expected snow storage needs on the site. This includes snow from plowed areas and snow-shedding from roofs.
- ~~a-c.~~ Visibility at Intersection(s) With Public Streets. Site visibility at intersections shall be maintained per the standards of HCC 21.57.050.

## Chapter 21.47 Small Wind Energy Systems !

### Article II. Small Wind Energy Systems

#### **21.47.010 Purpose and application.**

The purpose of this ~~article~~ ~~chapter~~ is to establish minimum health and safety standards for small wind energy systems. It applies to small wind energy systems in all districts where they are allowed as permitted or conditional uses. [Ord. 14-18(A)(S-2) § 5, 2016].

#### **21.47.020 Installation requirements.**

- a. ~~a.~~ The wind turbine of a small wind energy system may be mounted on a building or a wind energy system tower.
- b. ~~b.~~ The surfaces of all small wind energy system components that are visible when the small wind energy system is in operation shall be painted a nonreflective, neutral color.
- c. ~~c.~~ A zoning permit application for a small wind energy system shall include the following information:
  1. ~~1.~~ A level one site plan that shows the location of the small wind energy system.
  2. ~~2.~~ Specifications for the small wind energy system including manufacturer make and model, an illustration or picture of the turbine unit, maximum rated power output, blade diameter, total height, tower color and, if proposed, the location of ladders and/or climbing pegs.
  3. ~~3.~~ Tower foundation blueprints or drawings.
  4. ~~4.~~ Noise decibel data prepared by the wind turbine manufacturer or qualified engineer indicating noise decibel level at the property line nearest to the location of the small wind energy system.
  5. ~~5.~~ Evidence of compliance with, or exemption from, Federal Aviation Administration requirements.
  6. ~~6.~~ Evidence that the small wind energy system complies with current Underwriters Laboratories standards for local utility connections.

#### d. Dimensional Requirements.

1. ~~1.~~ The distance from a small wind energy system to the closest property line may not be less than 1.1 times its total height.
2. ~~2.~~ All guy wires, cables and other accessory support structures for a small wind energy system must be on the same lot as the small wind energy system, but may be located within required setback areas, and shall be properly jacketed to ensure visible safety standards. [Ord. 14-18(A)(S-2) § 5, 2016].

#### **21.47.030 Operation standards.**

- a. ~~a.~~ Electrical Standards.
  1. ~~1.~~ A small wind energy system shall comply with the National Electric Code.
  2. ~~2.~~ All electric transmission wires connected to a small wind energy system must be underground, or within the building on which the small wind energy system is mounted.
  3. ~~3.~~ A small wind energy system shall not interfere with television, microwave, navigational or radio reception.

a-b. Noise and vibration from a small wind energy system shall not exceed the levels permitted in HCC 21.1659.010(b) and (c), except during short-term events such as utility outages and severe wind storms.

b-c. Tower Safety.

1. The lowest part of a climbing apparatus that provides access to a wind turbine shall be at least 12 feet above the ground, and the wind energy system tower or building on which the wind turbine is mounted shall have no handholds or footholds below the climbing apparatus.
2. The lowest point through which a wind turbine blade rotates must be at least 20 feet above the ground.

e-d. Lighting. Except for switch type lighting, no artificial lighting shall be mounted on a small wind energy system, and a small wind energy system shall not be illuminated with artificial lighting, except when required by the Federal Aviation Administration and approved by conditional use permit.

d-e. Signs. No sign, flag or pennant may be attached to a small wind energy system except for the following:

1. A sign identifying the manufacturer or installer of the small wind energy system.
2. Signs warning of dangers associated with the small wind energy system.

e-f. Removal. The owner and the lessee of the property that is the site of a small wind energy system are jointly and severally responsible for its removal:

1. If corrective action is not taken within six months after notice that the City Engineer has found the small wind energy system to be unsafe or not in compliance with applicable law.
2. Within 90 days after the small wind energy system has not been operational for a period of at least 12 consecutive months. [Ord. 14-18(A)(S-2) § 5, 2016].

## Chapter 21.48 Temporary Storage

### **21.48.010 Temporary storage of commercial equipment and the use of mobile commercial structures.**

The temporary storage of commercial equipment and the temporary use of a mobile commercial structure for use during a specific construction project are allowed in all zoning districts only for the duration of the construction project, subject to the following:

- a. ~~a.~~ In the case of construction of a residential structure, the period shall not exceed one year.
- b. ~~b.~~ The mobile commercial structure may be hooked up to the municipal water and sewer system if no other legal waste disposal system is available on the site, and if water and sewer permit applications are approved. Such connections are limited to the duration of the construction project.
- c. ~~c.~~ The mobile commercial structure and commercial equipment must be located on the construction site. If sufficient space is not available on the construction site, they may also be located on one additional lot adjacent to the construction site.
- d. ~~d.~~ The limitations on mobile commercial structures stated in this section do not apply to those structures occupied lawfully in zoning districts, if any, in which mobile commercial structures are permitted or conditionally permitted by the provisions applicable to those districts. [Ord. 08-29, 2008].

## **Chapter 21.49 Worker Housing**

### **21.49.010 Applicability.**

The standards herein are applicable to new worker housing for temporary or seasonal employees in districts where it is an accessory use.

### **21.49.020 Standards.**

- a. Worker housing units may be in the form of detached dwellings, manufactured or factory-built dwellings, duplexes, townhomes, or multi-unit dwellings.
- b. If multi-unit dwellings are constructed, they must meet the standards in HCC 21.20.050(a)(2).
- c. All dimensional standards, including lot size, setbacks, building height, impervious coverage, and building coverage standards of the zoning district must be met.

~~4.~~

## Chapter 21.50 Short-Term Rentals

### 21.50.010 Purpose.

The purpose of this section is to establish rules, regulations, and limitations on housing arrangements which are typically an alternative to traditional lodging/accommodation establishments such as hotels and motels. Short-term rentals provide lodging or housing for terms less than thirty days.

### 21.50.020 Applicability.

The provisions of this section shall be applicable to all short-term rentals that provide accommodations for terms less than thirty days. Motels, hotels, lodges, and inns, rental cabins, and long-term residential rentals (thirty days or more) are not subject to the provisions of this section.

### 21.50.030 Specific Use Standards.

- a. Location. Short-term rentals may be located in any zoning district where dwelling units are a permitted or conditional use.
- b. Review. Short-term rentals shall be established through a short-term rental application and permit, ~~provided by the community development department.~~ The city may establish or modify a limit on the number of short-term rental permits it allows within the municipal limits, as established by resolution of the city council.
- c. Issuance. Permits will be issued and require renewal on an annual basis. During annual permit renewal period, the applicant must demonstrate that the short-term rental has been active (in both advertising and use) during the prior permit period.
- d. Types of Rental Situations. Short-term rentals may be permitted as one of the following:
  1. Dwelling Units. In these situations, a temporary tenant/guest may rent and occupy an entire dwelling unit which may include a house or apartment. These units typically possess a kitchen, bathroom, and any number of sleeping rooms. Dwelling units may have the capacity to support multiple temporary tenants.
  2. Rooms Within Dwelling Units. In these situations, individual sleeping rooms within a dwelling unit are rented/leased to temporary tenants/guests and the larger dwelling unit may be shared with the permanent resident. Rooms have limited tenant/guest capacity due to their size.
- e. Owner/Caretaker Registration. The owner shall register the name and contact information of the responsible caretakers/property manager with the city so that public safety officials can effectively respond to neighborhood complaints or safety-related events. The owner shall also post the caretaker/property manager contact information within each rental.
- ~~— Inspection Required. Prior to issuance of a short-term rental permit, the unit will be subject to an inspection to determine that the rental unit is safe for human. Each rental unit shall have adequate egress, functional smoke detectors, carbon monoxide monitors, fire extinguishers and other safety features as determined by the . Approved units may be subject to inspection during subsequent renewals.~~
- f. Transferability. Short-term rental permits are for specific properties and are not transferable to any other properties. Short-term rental permits are transferable to a new owner, if the property on which the short-term rental is located changes ownership.

**Chapter 21.495156 Places of Assembly**  
**~~RELIGIOUS, CULTURAL AND FRATERNAL ASSEMBLY~~**

**~~21.4951.010 General Sections:~~**

**~~21.56.100 — Standards for religious, cultural and fraternal assembly.~~**

**~~21.56.100 — Standards for religious, cultural and fraternal assembly.~~**

This section applies to religious, cultural and fraternal assemblies in those zoning districts where they are allowed as permitted or conditional uses.

**21.4951.020 Lot Size.**

The minimum lot size is 15,000 square feet or the minimum lot size for the zoning district, whichever is greater.

**21.4951.030 Landscaping**

Landscaping. All areas not devoted to buildings, parking, walkways or driveways shall be covered by one or more of the following: lawn grass, natural or ornamental shrubbery, or trees.

**21.4951.040 Residential Buildings.**

Residential structures may be allowed as an accessory to the main ~~religious, cultural or fraternal assembly~~ use under the same standards applicable to dwellings in the district in which they are located. Required lot areas for residential buildings shall be in addition to required lot areas for the ~~main religious, cultural or fraternal assembly~~ use. [Ord. 08-29, 2008].

## Chapter 21.~~50~~-52 Towers and Related Structures

### 21.~~50~~52.010 Purpose.

The purpose of this article is to provide standards and procedures for communications towers and for wireless communications equipment. [Ord. 14-18(A)(S-2) § 5, 2016].

### 21.~~50~~52.020 Exemption from regulation.

- a. Each of the following communications towers is a permitted principal or accessory use or structure in each zoning district and is exempt from the provisions of this article:
  1. A communications tower that is placed temporarily to support wireless communications equipment that is provided in response to a state of emergency declared by a Federal, State, or local government authority and is removed within 12 months after the termination of the state of emergency.
  2. A communications tower that is placed temporarily to support wireless communications equipment that is provided for media coverage of a special event, and that is placed no more than 30 days before the special event and removed no more than 15 days after the end of the special event.
  3. A communications tower with a height not exceeding 35 feet.
  4. An amateur radio tower, to the extent that it is exempt from regulation under AS 29.35.141.
- b. The collocation, removal, replacement or installation of wireless communications equipment is a permitted principal or accessory use or structure in each zoning district and is not subject to approval under this title if it meets all of the following requirements:
  1. The collocation, removal or replacement is in an existing wireless communications support structure or existing equipment compound that is in compliance with the requirements of this title in effect at the time of its construction and with the terms and conditions of any previous final approval under this title.
  2. The collocation, removal or replacement will not do any of the following:
    - a. Increase the overall height of the wireless communications support structure by more than 20 feet or 10 percent of its original height, whichever is greater.
    - b. Increase the width of the wireless communications support structure by more than the minimum necessary to permit the collocation, removal or replacement.
  3. The collocation, removal or replacement complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound under this title.
  4. The installation is on an existing building that is in compliance with the requirements of this title and with the terms and conditions of any previous final approval under this title, and the wireless communications equipment does not extend more than 10 feet above the height of the building. [Ord. 14-18(A)(S-2) § 5, 2016].

### 21.~~50~~52.030 Permission for communications towers.

- a. Except as provided in subsection (b) of this section, a communications tower is permitted as a principal or accessory use or structure in each zoning district.
- b. A communications tower that exceeds the following maximum height for the zoning district in which the communications tower is located is permitted only when authorized by conditional use permit issued in accordance with Chapter 21.~~097~~ HCC.

District	Maximum Height (feet)
<del>DMUCBD</del>	60

District	Maximum Height (feet)
<del>TC</del>	<del>60</del>
<del>GBD</del> <u>CMUGBD</u>	60
<del>GC1</del>	<del>120</del>
<del>RQNF</del>	<del>85</del> <u>60</u>
<del>MD</del>	85
UR	60
RR	85
CONS	60
<del>GC2</del>	<del>120</del>
<del>EMULIMU</del>	120
MI	120
MC	120
OSR	60
BCWPD	120

[Ord. 20-59(A) § 2, 2020; Ord. 14-18(A)(S-2) § 5, 2016].

**21.505258.040 Application requirements.**

a. ~~a.~~ An application for a zoning permit or conditional use permit for a communications tower that is subject to regulation under this article shall include the following information, in addition to information required by other provisions of this title:

1. ~~1.~~ A level two site plan that shows the location of the communications tower.
2. ~~2.~~ A written narrative explaining why placing wireless communications equipment at the proposed location is necessary to the applicant’s wireless communications services coverage, including confirmation that there is no available site for collocation of the wireless communications equipment within a radius of 1,000 feet from the proposed location in consideration of the proposed technology, why an existing structure may not be used, an evaluation of alternate communications tower locations that the applicant considered, and an explanation why the proposed location is the best alternative.
3. ~~3.~~ A demonstration that the height of the communications tower is the minimum required for the effective operation of the wireless communications equipment plus the present and future collocations that it supports.
2. ~~4.~~ A map showing the locations of the applicant’s existing communications towers that serve customers in the City and of all current and currently proposed communications towers that the applicant intends to construct to serve customers in the City.
3. ~~5.~~ A detailed list of major components of the wireless communications equipment that the communications tower will support, and accessory structures such as equipment cabinets and generators.
4. ~~6.~~ An analysis of the potential visual impacts of the communications tower at distances of 500 feet and 1,500 feet from the proposed location, through the use of photo simulations of the communications tower and the wireless communications equipment that it will support. The analysis shall include, to the extent practicable, the visual impact along two lines extending from the shore of Kachemak Bay through the

communications tower site that are separated by an angle of at least 90 degrees, and show the relationship of the communications tower to structures, trees, topography, and other intervening visual barriers. The analysis will include recommendations to mitigate adverse visual impacts of the communications tower on other properties.

~~5. 7-~~A certificate from an engineer licensed in Alaska that the communications tower, and all antennas and other wireless communications equipment located on it, meet industry standards for their construction, including ANSI 222 G or most recent version.

~~6. 8-~~Evidence that all wireless communications equipment supported by the communications tower meets applicable Federal Communications Commission requirements.

~~7. 9-~~A determination of no hazard to air navigation for the communications tower issued by the Federal Aviation Administration.

~~8. 10-~~For a conditional use permit, minutes of each public meeting held under HCC 21.508.060(a), and copies of all public comments received under HCC 21.508.060(b)(5).

~~b. b-~~The applicant shall pay the cost of an independent technical review of the communications tower application by a consultant retained by the City. The applicant shall submit with the application a deposit according to the fee schedule established by resolution of the City Council toward the cost of the technical review. If at any time the City finds that the actual cost of the technical review will exceed the amount of the deposit, the City may require the applicant to increase the amount of the deposit to equal the City's current estimate of the cost of the technical review. Continued review of the application shall be conditioned upon the City's receipt of the increased deposit amount. After final City action on the application, the City shall determine the actual cost of the technical review. If the actual cost exceeds the total deposit received, the applicant shall pay the balance to the City prior to permit issuance; if the total deposit received exceeds the actual cost, the City shall refund the excess to the applicant. Deposits received under this subsection shall be disbursed only as authorized by this subsection and shall not bear interest. [Ord. 14-18(A)(S-2) § 5, 2016].

**21.50258.050 Communications tower standards.**

- a. The distance from a communications tower to the closest property line of a lot that contains a dwelling unit, dormitory, hotel, motel, bar, restaurant, school, day care facility, church, retail establishment or place of public assembly may not be less than 1.1 times its total height.
- b. The height of the communications tower shall not be greater than the minimum height required for the effective operation of the wireless communications equipment and collocations that it will support upon its initial construction.
- c. The communications tower and any related equipment compound are painted or coated in a color that blends with the surrounding environment, except to the extent that obstruction marking is required by the Federal Aviation Administration, and the fence or wall that surrounds the equipment compound at the base of the communications tower, combined with any landscaping adjacent to its exterior, shall obscure the equipment compound to view from its exterior.
- d. All guy wires, cables and other accessory support structures for a communications tower shall be on the same lot as the tower, but may be located within required setback areas, and shall be properly jacketed to ensure visibility in accordance with applicable safety standards.
- e. The equipment compound for a communications tower shall conform to the minimum setback requirements of the zoning district in which it is located.
- f. Not less than two off-street parking spaces conforming to the requirements of this title shall be provided on the lot where a communications tower is located for use in the operation and maintenance of the communications tower and the wireless communications equipment that it supports.

- g. The equipment compound at the base of a communications tower shall be surrounded by a fence or wall not less than six feet in height with a secured gate. The lowest part of a climbing apparatus that provides access to equipment on a communications tower shall be at least 12 feet above the ground, and the tower shall have no handholds or footholds below the climbing apparatus.
- h. Except for switch type lighting, no artificial lighting shall be mounted on a communications tower, and a communications tower shall not be illuminated with artificial lighting, except when required by the Federal Aviation Administration.
- i. Signs. No sign, flag or pennant may be attached to a communications tower except that the following shall be posted in a location that is visible from the ground outside the equipment compound:
  - 1. A sign identifying the party responsible for the operation and maintenance of the communications tower, with a 24-hour emergency contact telephone number.
  - 2. Any antenna structure registration number required by the Federal Communications Commission.
  - 3. Warnings of dangers associated with the communications tower or equipment that is located on the communications tower. [Ord. 14-18(A)(S-2) § 5, 2016].

**21.5052.060 Public notification of communications tower application.**

a. The applicant for a conditional use permit for a communications tower shall hold at least one meeting informing the public of the application that conforms to the following requirements:

- 1. The meeting shall be held at City Hall, or at a public facility that is nearer to the location of the proposed communications tower and capable of seating a minimum of 20 people.
- 2. The meeting shall be held on a day that is not a City holiday at least 15 days before the applicant submits its application to the City.
- 3. The meeting shall be scheduled to last a minimum of two hours and shall not start before 5:00 p.m. or after 7:00 p.m.

b. The applicant shall notify each record owner of property within 1,200 feet of the parcel that is the site of the proposed communications tower by first class mail at least 15 days before the meeting of the following:

- 1. The legal description, street address and a map of the vicinity of the parcel that is the site of the proposed communications tower;
- 2. A description of the proposed communications tower, including its height, design, and lighting, the proposed access to the site and the services proposed to be provided by the tower;
- 3. The date, time, and location of the meeting;
- 4. A contact name, telephone number, and address of the applicant; and
- 5. A form on which to submit written comments, with a comment submittal deadline and instructions. [Ord. 14-18(A)(S-2) § 5, 2016].

**21.5052.070 Action on communications tower application.**

a. The reviewing authority shall approve a communications tower only if the applicant demonstrates that it meets the following criteria:

~~1.4.~~ The communications tower conforms to the requirements in HCC 21.508.050 and the other applicable standards in this title.

~~2.5.~~ The coverage for the applicant's wireless communications services customers that the communications tower will provide cannot be provided by collocation on an existing wireless communications support structure.

3-6. Of the available alternate sites, the selected site provides necessary coverage for the applicant's wireless communications services customers with the least visual impact on other properties.

- b. No action may be taken on a communications tower application on the basis of the environmental effects of radio frequency emissions to the extent that the wireless communications equipment that will be located on the tower complies with Federal Communications Commission regulations concerning such emissions.
- c. The reviewing authority shall act on a communications tower application within a reasonable period of time after the application has been filed with the City taking into account the nature and scope of the application, but within no more than 150 days after the application is filed. The 150-day period excludes (1) any time that begins when the reviewing authority gives written notice to the applicant within 30 days of receipt of the application that the application is incomplete, clearly and specifically delineating all missing documents or information, until the applicant makes a supplemental submission in response to the notice of incompleteness; and (2) any time that begins when the reviewing authority has given written notice to the applicant within 10 days of receipt of such a supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing information until the applicant makes another supplemental submission.
- d. An action denying a communications tower application shall be in writing and supported by substantial evidence contained in a written record. [Ord. 14-18(A)(S-2) § 5, 2016].

**21.5052.080 Communications tower insurance requirements.**

The issuance and continuation of a zoning permit or conditional use permit for a communications tower that is subject to regulation under this article shall be conditioned upon the permittee securing and at all times maintaining insurance meeting the requirements of this section.

- a. The insurance policy shall provide commercial general liability coverage for personal injuries, death and property damage with limits not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
- b. The insurance policy shall be issued by an agent or representative of an insurance company licensed to do business in the State of Alaska and with an AM Best's rating of at least A.
- c. The insurance policy shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days' prior written notice in advance of the cancellation of the insurance.
- d. The permittee shall provide the City with an insurance policy or certificate of insurance demonstrating compliance with the requirements of this section before the permit is issued, and a renewal or replacement policy or certificate at least 15 days before the expiration of the insurance that is to be renewed or replaced. [Ord. 14-18(A)(S-2) § 5, 2016].

**21.5052.090 Communications tower removal requirements.**

- a. The owner and the lessee of the property that is the site of a communications tower are jointly and severally responsible for its removal:
  - 3. If corrective action is not taken within six months after notice that the City Engineer has found the communications tower, or equipment on the communications tower, to be unsafe or not in compliance with applicable law.
  - 4. Within 90 days after all wireless communications equipment on a communications tower has not been operational for a period of at least 12 consecutive months.
- b. The issuance and continuation of a zoning permit or conditional use permit for a communications tower that is subject to regulation under this article shall be conditioned upon the permittee providing the City with a performance bond in an amount of at least \$150,000 issued by corporation licensed to act as a surety in Alaska and securing the obligations of the owner and the lessee of the property that is the site of the communications tower under subsection (a) of this section. [Ord. 14-18(A)(S-2) § 5, 2016].

~~Chapter 21.XX Townhouses~~

~~21.53.010 — Standards for townhouses.~~

~~In zoning districts where townhouses may be conditionally permitted, a conditional use permit for a townhouse may be approved by the Commission if the following requirements are met:~~

~~a. The proposed development satisfies all criteria for approval of a conditional use permit.~~

~~A detailed development plan is submitted with the application for a conditional use, including a site plan drawn to scale. The site plan shall include but shall not be limited to the topography and drainage of the proposed site, the location of all buildings and structures on the site, courts and open space areas, circulation patterns, ingress and egress points, parking areas (including the total number of parking spaces provided) and a general floor plan of the main building principal structures, together with other such information as the Commission shall require.~~

~~c. Not more than six contiguous townhouses shall be built in a row with the same or approximately the same front line and not more than 12 townhouses shall be contiguous.~~

~~d. No townhouse project shall be located any closer than 600 feet to another townhouse project unless otherwise approved by the Commission.~~

~~e. No portion of a townhouse or accessory structure in, or related to, one group of contiguous townhouses shall be closer than 15 feet to any portion of another townhouse (or accessory structure related to another townhouse group), or to any building outside the townhouse project.~~

~~Minimum lot width for each townhouse unit is 24 feet.~~

~~Minimum lot area for each townhouse unit shall be as follows:~~

- ~~1. For a two unit townhouse, 4,000 square feet lot area per unit;~~
- ~~2. For a three unit townhouse, 3,000 square feet lot area per unit;~~
- ~~3. For a four unit or greater townhouse, 2,000 square feet lot area per unit.~~

~~Each townhouse unit shall have a total yard area containing at least 1,000 square feet. Such total yard area may be reduced to 500 square feet per unit if 500 square feet of common open or common recreational area, not including parking spaces, is provided for each unit. Such yard area shall be reasonably secluded from view from streets and not used for off street parking or for any accessory building.~~

~~Grouping of parking spaces is desirable; provided, that spaces intended for a particular unit are no more than 100 feet from the unit. On minor streets, use of the right of way may be permitted for maneuvering incidental to parking that will facilitate snow removal. On collector and arterial streets, maneuvering incidental to parking shall not be permitted.~~

~~Visibility at Intersections. At all intersections of private drives, including such drives and access routes on adjacent property, and at the intersection of any private drive or entrance or exit for a common parking area with a public street, visibility clearance shall be maintained according to HCC 21.73.200.~~

~~Minimum setbacks for all townhouse buildings shall be the setback requirements of the zoning district within which it is located.~~

~~Maximum building height shall not exceed 25 feet.~~

~~All party walls shall adhere to fire safety standards as established by the State Fire Marshal.~~

~~All townhouse developments shall be constructed in compliance with all applicable State statutes then in effect.~~

~~All areas not devoted to buildings, drives, walks, parking areas or other authorized improvements shall be covered with one or more of the following: lawn grass, natural or ornamental shrubbery or trees.~~

~~All roadways, fire lanes or areas for maneuvering incidental to parking (not to include designated commonly held open space or recreation areas) shall be a minimum of 22 feet in width. No vehicular parking shall be allowed in the aforementioned areas.~~

~~The standards set forth in this section are in addition to the general standards for a conditional use permit. In the event of conflict, the stricter standard shall control. [Ord. 08-29, 2008].~~

~~**21.53.020 — Common Interest Ownership Act.**~~

~~If the Uniform Common Interest Ownership Act applies to a townhouse or other project, it is a violation of this code to sell, market for sale, or otherwise transfer any unit or other interest in the townhouse or other project except in full compliance with that act. [Ord. 08-29, 2008].~~

## DIVISION V. SITE DEVELOPMENT STANDARDS

### Chapter 21.51333 Drainage and Erosion Control

#### 21.5133.010 ~~Site development~~ Drainage and erosion control standards – General.

- a. All development in all zoning districts must comply with minimal ~~site development~~drainage and erosion control standards. There are various levels of standards set forth in this chapter.
- b. The level of ~~site development~~drainage and erosion control standards required is specified in the applicable zoning district regulations. [Ord. 13-27 § 12, 2013; Ord. 08-29, 2008].

#### 21.5133.020 ~~Site development standards~~Drainage and erosion control – Level one.

~~This section establishes level one site development standards.~~

~~a. Slopes. All development on a site affected by a slope of 15 percent or more, bluff, coastal edge or ravine, as described in HCC 21.44.020, shall be subject to the requirements of Chapter 21.44 HCC in addition to the requirements of this section.~~

- a. ~~Drainage. All development activity on lands shall conform to the following:~~
  1. Development shall provide a drainage system that is designed to deposit all runoff into either an engineered drainage system or into a natural drainage.
  2. Where open-ditch construction is used to handle drainage within the development, a minimum of 15 feet shall be provided between any structures and the top of the bank of the defined channel of the drainage ditch.
  3. When a closed system is used to handle drainage within the development, all structures shall be a minimum of 10 feet from the closed system.
- b. ~~Landscaping Requirements Vegetation. All development activity on lands shall conform to the following:~~
  1. Development activities shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, intentional or inadvertent fill or root damage to neighboring trees, or other damaging physical impacts. The property owner and developer shall take such steps, including installation of culverts or buffers, or other methods, as necessary to comply with this requirement.
  2. Upon completion of earthwork, all exposed slopes and all cleared, filled, and disturbed soils shall be protected against subsequent erosion by methods such as, but not limited to, landscaping, maintenance of native vegetative cover, or plantings to minimize invasive species.
  3. All exposed, cleared, filled and disturbed soils shall be revegetated within nine months following the initiation of earthwork, or reseeded by the next August 31st. Native revegetation is acceptable if the site naturally revegetates within that nine-month period. If native revegetation is not successful within that nine-month period, the property owner and developer shall revegetate by other means no later than the end of that nine-month period.
  4. Drainage can be stabilized by other means than vegetation, if approved in writing by the City Engineer.
- c. A stormwater management plan approved under Chapter 21.75-54 HCC is required for development that:
  1. Creates more than 25,000 square feet of new impervious surface area on a lot;
  2. Increases the total impervious surface area of a lot beyond one acre;
  3. Includes grading, excavation or filling that cumulatively moves 1,000 cubic yards or more of material; or

4. Includes grading, excavation or filling that creates a permanent slope of 3:1 or ~~steeper~~~~more~~, and that has a total height, measured vertically from toe of slope to top of slope, exceeding 10 feet. [Ord. 22-32 § 3, 2022; Ord. 15-08(S)(A) § 1, 2015; Ord. 13-27 § 13, 2013; Ord. 10-56 § 3, 2011; Ord. 10-54 § 1, 2011; Ord. 08-29, 2008].

**21.5153.030 ~~Site development~~ Drainage and erosion control standards – Level two.**

This section establishes level two site development standards.

a. Site Development.

1. Development shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, or root damage to neighboring trees, or other adverse effects.
2. Upon completion of earthwork, all exposed slopes and all cleared, filled, and disturbed soils shall be protected against subsequent erosion by methods such as, but not limited to, landscaping, planting, and maintenance of vegetative cover.
3. All exposed, cleared, filled and disturbed soils shall be revegetated within nine months following the initiation of earthwork.

- b. Slopes. All development on a site affected by a slope of 15 percent or more, bluff, coastal edge or ravine, as described in HCC 21.4435.020, shall be subject to the requirements of Chapter 21.354 HCC in addition to the requirements of this section.

c. Drainage.

1. Development shall provide a drainage system, as approved by the City Engineer, that is designed to deposit all runoff into either an engineered drainage system or into a natural drainage.
2. Where open-ditch construction is used to handle drainage within the development, a minimum of 15 feet shall be provided between any structures and the top of the bank of the defined channel of the drainage ditch.
3. When a closed system is used to handle drainage within the development, all structures shall be a minimum of 10 feet horizontally from the closed system.
4. Drainage can be stabilized by methods other than vegetation, if approved in writing by the City Engineer.

- d. A ~~development activity plan~~ stormwater management plan (SWPDAP) approved by the City Engineer under Chapter 21.5054 HCC is required if the project includes:

- ~~1. Land clearing or grading of 10,000 square feet or greater surface area;~~
- ~~2. The cumulative addition of 5,000 square feet or greater of impervious surface area from pre-development conditions;~~
- ~~3.1.~~ Grading involving the movement of 1,000 cubic yards or more of material;
- ~~4.2.~~ Grading that will result in a temporary or permanent slope having a steepness of 3:1 or ~~steeper~~ greater and having a total slope height, measured vertically from toe of slope to top of slope, exceeding five feet;
- ~~5.3.~~ Grading that will result in the diversion of an existing drainage course, either natural or human-made, from its existing point of entry to or exit from the grading site; or
- ~~6.4.~~ Any land clearing or grading on a slope steeper than 20 percent, or within ~~120~~ feet of any wetland, watercourse, or water body.

7. An impervious surface coverage that is greater than 60 percent of the lot area (existing and proposed development combined);
8. The cumulative addition of 25,000 square feet or greater of impervious surface area from the pre-development conditions;
9. Land grading of one acre or greater surface area;
10. Grading involving the movement of 10,000 cubic yards or more of material;

11. Grading that will result in a temporary or permanent slope having a steepness of 3:1 or ~~steeper~~ greater and having a total slope height, measured vertically from toe of slope to top of slope, exceeding 10 feet; or ~~11.~~

~~12. Any land clearing or grading on a slope steeper than 25 percent, or within 10 feet of any wetland, watercourse, or water body.~~

**21.5153.040 ~~Site development~~ Drainage and erosion control standards – Level three.**

- a. Development shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, or root damage to neighboring trees, or other adverse effects.
- b. Upon completion of earthwork, all exposed slopes and all cleared, filled, and disturbed soils shall be protected against subsequent erosion by methods such as, but not limited to, landscaping, planting, and maintenance of vegetative cover.

**21.5153.050 ~~Fill~~ standards.**

- a. Except as permitted in subsection (b) of this section, fill material shall be free of large organic debris (including without limitation stumps), construction or demolition debris (including without limitation concrete and asphalt), garbage and any material that is categorized as hazardous or toxic under Federal or State law.
- b. Fill material that will not support a structure may include large organic debris that originated on the lot where the fill is placed; provided, that it is capped with clean fill for future landscaping or driveway use.
- c. The placement of fill to a depth greater than three feet over 25 percent or more of a lot is subject to following requirements:
  1. Before any fill is placed, a grading plan for the lot must be approved by the City Engineer. The grading plan shall show the following:
    - i. The existing grade and finished grade of the lot using contour intervals sufficiently small to show the nature and extent of the work, and its compliance with the requirements of this title; and
    - ii. The existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this title; and
    - iii. Existing and future grading patterns, demonstrating that no new drainage flows to adjacent properties.
  2. Best management practices shall be used to limit sedimentation and stormwater runoff, and shall be installed before fill is placed on the lot.
  3. All corners of the lot shall be flagged before fill is placed on the lot.
  4. The slope of the fill shall not exceed 50 percent ~~or 1:2.~~  
4.
  5. No fill may be placed closer than five feet to a side or rear lot line, except that clean fill may be placed on adjoining lots up to their common lot line after approval of a development plan including a drainage plan by the City Engineer and the owners of all lots on which the fill will be placed.

6. The placement of fill shall be completed within 24 months after its commencement, and the filled area shall be capped and seeded as soon as possible within the growing season. No fill shall be placed of existing organic matter. [Ord. 10-54 § 2, 2011].

## Chapter 21. ~~52434~~ **DEVELOPMENT ACTIVITY PLAN** Stormwater Management

### 21. ~~525~~ **4.010** ~~Development activity~~ Stormwater management plan (SWP).

- a. This chapter applies to a stormwater management plan (~~DAPSWP~~) when required by another provision of the zoning code.
- b. When a ~~DAPSWP~~ is required, no person shall do or cause to be done any development activity on the site without first obtaining a ~~DAPSWP~~ approved by the City Engineer. [Ord. 08-29, 2008].
- c. A SWP shall be prepared and stamped by a person who is registered as a professional civil engineer in the State of Alaska. The engineer who prepares a SWP also shall submit to the Department written post-construction documentation that the installed mitigation methods meet the standards in HCC 21. ~~753~~.020 and the requirements of the approved SWP. [Ord. 10-26 § 1, 2010; Ord. 08-29, 2008].

### 21. ~~525~~ **4.020** Stormwater management plan standards.

The ~~DAPSWP~~ shall provide for the control of stormwater discharges, the control of total suspended solids, and the control of other pollutants carried in runoff. The ~~DAPSWP~~ shall address and satisfy each of the standards established in this section. These standards apply during construction and all other phases of development activity.

- a. **Stabilization and Sediment Trapping.** All exposed or disturbed soils with grades exceeding 10 percent and soils exposed to concentrated surface runoff flows, including soil stockpiles, shall be stabilized in a way that protects soil from the erosive forces of weather and flowing water. Applicable practices include, but are not limited to, the installation of silt fences, vegetative establishment, mulching, plastic covering, and the early application of gravel base on areas to be paved. No soils shall remain unstabilized for more than three days. At all times of the year, the contractor shall have sufficient materials, equipment and labor on site to stabilize and prevent erosion from all disturbed areas before initiating or continuing work.
- b. **Delineation of Clearing and Easement Limits.** Clearing limits, setbacks, buffers, and sensitive or critical areas such as steep slopes, wetlands and riparian corridors shall be clearly identified in the ~~DAPSWP~~, marked in the field, and inspected by the City prior to commencement of land clearing activities.
- c. **Protection of Adjacent Properties.** Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate methods.
- d. **Timing and Stabilization of Sediment Trapping Measures.** Sediment ponds and traps, perimeter dikes, sediment barriers and other approved methods intended to trap sediment on site shall be constructed as a first step. These methods shall be functional before additional land-disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall not remain unstabilized for more than three days.
- e. **Slope Stabilization.** Cut and fill slopes shall be constructed in a manner that will minimize erosion. Roughened soil surfaces are preferred to smooth surfaces. Interceptors should be constructed at the top of long, steep slopes that have significant areas above that contribute runoff. Concentrated runoff should not be allowed to flow down the face of a cut or fill slope unless contained within an adequate channel or pipe slope drain. Wherever a slope face crosses a water seepage plane, adequate drainage or other protection should be provided. In addition, slopes should be stabilized in accordance with subsection (a) of this section.
- f. **Controlling Off-Site Erosion.** Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the development site by the implementation of appropriate methods to minimize adverse downstream impacts.
- g. **Stabilization of Conveyance Channels and Outlets.** All temporary and permanent on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a two-year, three-hour duration storm for the post-development condition. Stabilization adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

- h. Storm Drain Inlet Protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment. After proper written application, the requirement for inlet protection may be waived by the City on a site-specific basis when the conveyance system downstream of the inlet discharges to an appropriate on-site sediment control method, including but not limited to sediment ponds or traps. The conveyance system will be adequately cleaned following site stabilization.
- i. Underground Utility Construction. The construction of underground utility lines shall be limited, where feasible, to no more than 500 feet of open trench at any one time. Where consistent with safety and space considerations, excavated material ~~should~~ be placed on the uphill side of the trench. Dewatering devices shall discharge to an appropriate sediment trap or pond, preceded by adequate energy dissipation, prior to runoff leaving the site.
- j. Constructed Access Routes. Wherever construction vehicle routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) and debris onto the paved road by use of approved methods. If sediment or debris is transported onto a road surface, the roads shall be cleaned thoroughly, as a minimum, at the end of each day. Sediment or debris shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.
- k. Removal of Temporary Erosion and Sediment Control Methods. All temporary erosion and sediment control methods shall be removed within 30 days after final site stabilization is achieved or after the temporary methods are no longer needed. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal of temporary methods shall be permanently stabilized. The removal of temporary erosion and sediment control methods may not be required for those projects, such as single-family developments, that will be followed by additional construction under a different permit. In these circumstances, the need for removing or retaining the measures will be evaluated on a site-specific basis.
- l. Dewatering Construction Sites. Dewatering devices shall discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site. Dewatering activities shall not adversely impact downstream property and shall be directed to a natural orf manmade drainage system.
- m. Control of Pollutants Other Than Sediment on Construction Sites. All pollutants other than sediment that occur on site during construction shall be handled and legally disposed of in a manner that does not cause contamination of ground or surface waters. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete by-products and construction materials.
- n. Maintenance. All temporary and permanent erosion and sediment control methods shall be maintained and repaired as needed to assure continued performance of their intended function. The owner shall be responsible for assuring that any such facilities damaged during floods, storms or other adverse weather conditions are immediately returned to normal operating condition.
- o. Erosion Control. Erosion control design storm event facilities designed for the control of erosion and sedimentation shall be designed for the erosion and sedimentation control design storm event, defined as the two-year, three-hour duration storm.
- p. Changes in Site Topography.
  - 1. The maximum surface gradient on any artificially created slope shall be two feet of horizontal run to one foot of vertical fall (2:1). This gradient may be increased to a steeper slope, if, in the judgment of the Director of Public Works, City Engineer, it has been demonstrated by the developer through engineering calculations performed by a qualified professional engineer that surface erosion at such a gradient can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.
  - 2. The developer shall, at all times, protect adjacent properties and public rights-of-way and easements from damage occurring during, or resulting from, grading operations. The developer shall restore public improvements damaged by the developer's operations.

- q. Correction of Defective Maintenance. If the developer or owner, or both, refuse or fail to adequately maintain and keep the erosion and sediment control facilities functional at all times, and the owner of the property is given seven days' notice to perform the work necessary to make the facility functional and fails to do so, the City may use public funds to complete maintenance of the facilities at the cost of the developer and the property owner, who shall be jointly and severally liable for such costs.
- r. Progress of Work. All work required or approved under this section shall proceed continuously to completion in an expeditious manner unless otherwise authorized by the Director of Public Works, with the intent that work may be halted, for example, due to weather conditions or the need to coordinate other construction on the project site. [Ord. 08-29, 2008].
- s. Site designs shall minimize the channelization of stormwater (surface water runoff) that results from all natural forms of precipitation (including snow melt) and maximize pervious areas for stormwater absorption.
- t. Stormwater runoff generated by development activities and discharged directly into wetlands, watercourses or waters of Kachemak Bay shall be adequately treated to limit nonpoint source and point source pollution.
- u. Water quality management shall be provided through the use of structural and nonstructural practices.
- v. Structural methods used for new development shall be designed to remove 80 percent of the average annual post-development total suspended solids load (TSS).
- w. All stormwater from paved areas 25,000 square feet or larger subject to motor vehicle traffic shall flow through a spill-containment type of oil/water separator prior to discharge to eliminate nonpoint source pollution.
- x. Development sites that include fixed storage in excess of 1,500 gallons of petroleum products shall utilize secondary containment or appropriately sized oil/water type centrifugal separators and shall incorporate a spill response plan within the SWP.
- ~~w.~~
- ~~x-y.~~ Development sites that transfer petroleum products shall utilize appropriately sized and located oil/water type centrifugal separators and shall incorporate a spill response plan within the SWP.
- ~~y-z.~~ Source Control of Pollution. Pollution source control approved methods shall be applied to all projects to the maximum extent to eliminate any discharge.
- ~~z-aa.~~ The post-development stormwater discharge rate shall not exceed the pre-development peak discharge rate (PDR) for the 10-year frequency storm event, consisting of rainfall for a period of three consecutive hours at a rate of one-half inch per hour.
- ~~aa-bb.~~ To protect stream channels from degradation, channel protection storage volume shall be provided based on two-year, three-hour duration storm.
- ~~bb-cc.~~ Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries, located in an area susceptible to runoff, shall be removed and disposed of according to applicable law.
- ~~cc-dd.~~ All approved stormwater control methods shall be installed and maintained to ensure the system functions as designed, for the life of the development.
- ~~dd-ee.~~ A schedule of monitoring and maintenance practices necessary to maintain the SWP control methods will be supplied by the developer to the City.
- ~~ee-ff.~~ A record of ongoing monitoring and maintenance shall be maintained on the premises and shall be made available for inspection by the City. [Ord. 10-26 § 2, 2010; Ord. 08-29, 2008].

**21.5254.030 Financial responsibility.**

- g. A SWP submitted to the Department shall be accompanied by the following:**

1. An estimate prepared by a person who is registered as a professional civil engineer in the State of Alaska of the cost of constructing and installing the mitigation methods and structures that are required to comply with the SWP; and
  2. If the estimated cost exceeds \$10,000, a performance guaranty meeting the requirements of subsection (b) of this section.
- b. A performance guaranty shall be in the form of either a surety bond from a company authorized to do such business in the State, or a cash deposit with the City. The terms of the performance guaranty shall provide that if the developer defaults in constructing and installing the mitigation methods and structures that are required to comply with the SWP, the City may draw upon the performance guaranty to cure the default, but that such a drawing does not relieve the developer of its obligation to comply with the SWP. The amount of the performance guaranty shall be equal to 150 percent of the engineer's estimate of the cost of constructing and installing the mitigation methods and structures that are required to comply with the SWP.
- b.c. When the engineer who prepared a SWP submits to the Department written post-construction documentation that the installed mitigation methods and structures meet the standards in HCC 21.7552.020 and the requirements of the approved SWP, the City shall release the performance guaranty for the SWP. [Ord. 10-26 § 3, 2010].

~~activity without first obtaining a SWP approved by the City.~~

~~c. A SWP shall be prepared and stamped by a person who is registered as a professional civil engineer in the State of Alaska. The engineer who prepares a SWP also shall submit to the Department written post construction documentation that the installed mitigation methods meet the standards in HCC 21.75.020 and the requirements of the approved SWP. [Ord. 10-26 § 1, 2010; Ord. 08-29, 2008].~~

~~**21.75.020—Standards for stormwater plan:**~~

~~The SWP shall provide for the control of stormwater discharges, the control of total suspended solids, and the control of other pollutants carried in runoff. The SWP shall address and satisfy each of the standards established in this section.~~

~~**21.75.030—Financial responsibility:**~~

~~a. A SWP submitted to the Department shall be accompanied by the following:~~

~~1. An estimate prepared by a person who is registered as a professional civil engineer in the State of Alaska of the cost of constructing and installing the mitigation methods and structures that are required to comply with the SWP; and~~

~~2. If the estimated cost exceeds \$7,500, a performance guaranty meeting the requirements of subsection (b) of this section.~~

~~b. A performance guaranty shall be in the form of either a surety bond from a company authorized to do such business in the State, or a cash deposit with the City. The terms of the performance guaranty shall provide that if the developer defaults in constructing and installing the mitigation methods and structures that are required to comply with the SWP, the City may draw upon the performance guaranty to cure the default, but that such a drawing does not relieve the developer of its obligation to comply with the SWP. The amount of the performance guaranty shall be equal to 150 percent of the engineer's estimate of the cost of constructing and installing the mitigation methods and structures that are required to comply with the SWP.~~

~~c. When the engineer who prepared a SWP submits to the Department written post construction documentation that the installed mitigation methods and structures meet the standards in HCC 21.75.020 and the requirements of the approved SWP, the City shall release the performance guaranty for the SWP. [Ord. 10-26 § 3, 2010].~~

## **Chapter 21.53535 Parking and Loading**

### **21.5355.010 Purpose.**

- a. Promote public safety, convenience, comfort and welfare by establishing minimum standards for safe and efficient off-street vehicle parking, avoid unnecessary interference with the public use of streets, reduce traffic hazards and provide for safe traffic circulation; and
- b. Differentiate parking requirements applicable to specific areas within the City; and
- c. Allow a reduction in the total number of parking spaces required when a mix of land uses have varying peak periods of parking demands. [Ord. 09-12(A) § 3, 2009].

### **21.5355.020 Design standards.**

- a. Parking Stall and Aisle Dimensions.
  1. All parking stalls shall be at least nine feet in width, and have an area of at least 171 square feet.
  2. All parking stalls and aisles shall have the minimum dimensions shown in Table 1.

TABLE 1

Parking Angle (degrees)	Stall Depth (feet)		Aisle Width (feet)		Total Stall and Two-Way Aisle Width (feet)
	Car-to-Wall Stalls	Interlocking Stalls	One-Way	Two-Way	
0 (parallel)	24		12		21
45	19	16	16	19	57
60	19	18	16	20	58
90	19	18	24	24	62

3. The City Planner may permit the use of parking angles other than those shown in Table 1 if necessary to provide the required number of off-street parking spaces on a lot, and determine other dimensional requirements appropriate to the permitted parking angles.
  4. The City Planner shall determine all issues of the interpretation and application of the dimensional standards in Table 1 with regard to a particular lot, considering the geometry of the lot and parking area, and the configuration of physical features on the lot.
- b. All parking stalls and aisles shall be free of any obstruction that impedes their full use for their intended purpose. No wall, post, guardrail or other obstruction that would restrict car door opening shall be located within five feet of the centerline of a parking stall.
  - c. Except as this chapter permits otherwise, the entire parking lot, including parking stalls and aisles, shall be located on private property and ~~not in~~outside of any public right-of-way.
  - d. A parking lot shall have appropriate means of vehicular access to an adjoining street or alley, and ~~adequate~~adequate maneuvering area within the parking lot. Except for parking that serves only a single-family or duplex dwelling and parking in a setback area that is permitted under HCC 21.~~553~~53.030, the parking lot shall be arranged so that all vehicle ingress to, and egress from, the parking lot is possible by forward ~~motion, and~~motion, and ~~turnaround~~turnaround motion. Turnaround areas approved by the City Planner shall be provided within a parking lot if necessary to meet this requirement.
  - e. Each point of entry to a parking lot from a street or alley, or exit from a parking lot to a street or alley, shall meet the visibility clearance standards in HCC 21.~~7357~~20050.
  - ~~f. e. Cut-off luminaires shall be used in all parking lot lighting that is installed at a height of 15 feet or more above grade.~~
  - ~~g.f.~~ An area used for commercial or industrial parking, ~~loading or servicing~~ shall be screened from view from any adjoining residential zoning district or lot used for residential purposes by a wall, fence or planting of at least 4 feet in height.
  - ~~h.g.~~ A parking lot for a multifamily dwelling that contains 10 or more spaces shall be screened from view from any adjoining residential zoning district or lot used for residential purposes by a wall, fence or planting of ~~adequate~~height to screen the parking lot at least 4 feet in height. [Ord. 09-12(A) § 3, 2009].

**21.~~5355~~55.030 Parking in setback areas.**

Off-street parking required by this chapter may be located in a required setback area, subject to the following requirements:

- ~~a.~~ a. There shall be sufficient maneuvering space for a vehicle to enter and exit the parking lot without interfering with the normal flow of traffic.

b. Any spaces used for the queuing of motor vehicles, such as for a drive-through facility, shall have sufficient space for queuing to not encroach onto sidewalks, trails, or the right-of-way, and shall not block or restrict the use of vehicles from entering and exiting from parking spaces.

c. b-The parking lot design may not permit vehicles to back onto an arterial road, and may permit vehicles to back onto any other street only through an authorized driveway or curb cut. [Ord. 09-12(A) § 3, 2009].

**21.5355.040 Construction standards.**

All off-street parking required under this chapter shall be constructed in accordance with the standards in this section.

- a. The entire parking lot, including parking stalls, aisles and other areas used for vehicular circulation, shall be permanently surfaced with a suitable gravel base or paved with concrete or asphalt compound.
- b. The surface of a parking lot shall be graded to drain properly. Except where the City Engineer approves a greater slope, the surface of a parking stall shall have a longitudinal slope not exceeding three percent and a transverse slope not exceeding five percent, and the surface slope of an aisle shall not exceed five percent in any direction.
- c. A parking lot shall contain directional, traffic control and other signage where the City Planner determines it to be necessary to inform members of the public using the parking lot. [Ord. 09-12(A) § 3, 2009].

**21.5355.050 Location of parking areas.**

All off-street parking required under this chapter shall be located in accordance with this section.

- a. Off-street parking for a single-family, duplex or multifamily dwelling shall be located on the same lot as the dwelling.
- b. Off-street parking required for a use other than a single-family, duplex or multifamily dwelling shall be located within 1,500 feet of that use, measured from the lot where the use is located to the lot where the parking is located, along the shortest distance on public or private rights-of-way that are improved and will be maintained to provide lawful pedestrian access between the lots. Off-street parking that is not located on the same lot as the use for which it is required shall meet the standards for off-site parking in HCC 21.~~5553~~.060. [Ord. 09-12(A) § 3, 2009].

**21.5355.060 Off-site parking.**

- a. Off-site parking may be used to satisfy the off-street parking requirements in this chapter only where permitted under HCC 21.~~5553~~.050, and only to the extent that space for required off-street parking is not available on the same lot as the use for which the off-street parking is required.
- b. Off-site parking must be located in a zoning district where it is a permitted use.
- c. A sign not exceeding nine square feet in area advising customers of the location of the off-site parking shall be posted prominently on each building that uses off-site parking to meet off-street parking requirements for customers. In addition, a sign of similar size, set back a minimum of 10 feet from the right-of-way, shall be posted at the lot containing the off-site parking, identifying it as parking for customers of the particular business. The signs shall comply with the visibility clearance standards in HCC 21.~~7357.200050~~.
- d. Unless the off-site parking lot and the lot containing the use served by the off-site parking are owned in fee simple by the same person, the off-street parking lot shall meet one of the following requirements:
  1. A writing executed by the owners of the off-site parking lot for the benefit of the owners of the lot containing the use served by the off-site parking shall be recorded in the Homer Recording District containing substantially the following statement:

In accordance with the requirements of Homer City Code Chapter 21.5553, the \_\_\_\_ parking spaces on the property identified and described in this instrument as the Parking Parcel have been designated as off-street parking for the benefit of the property identified and described in this instrument as the Benefited Property.

The Parking Parcel cannot be used in any manner that interferes with its use as off-site parking for the Benefited Parcel, unless this restriction is removed upon written approval of the city planner after determining that other sufficient off-street parking has been provided for the benefit of the Benefited Property.

The recorded instrument shall include legal descriptions of the benefited property and the parking parcel, and provide for the continued availability on the parking parcel of the specified number of off-street parking spaces, the permitted users of the parking spaces, the times of day that parking spaces are reserved for those users, the parking lot layout, responsibility for maintenance, cleaning and lighting, the term of the agreement, options for renewal, provisions for termination, and dispute resolution. Upon submission of satisfactory evidence either that other off-street parking spaces meeting the requirements of this chapter have been provided or that the building or use has been removed or altered in use so as to no longer require the off-site parking, the City Planner may give written approval to remove the restriction from the parking parcel. A copy of the written approval shall be made available to the owner of the parking parcel for the purpose of recordation.

- 2. The off-site parking shall be reserved and designated for that purpose by the City in a City-owned parking lot. [Ord. 09-12(A) § 3, 2009].

**21.5355.070 Joint use of off-street parking.**

The City Planner may permit the joint use of off-street parking to meet off-street parking requirements for more than one use subject to the following requirements:

~~a. The uses relying on the off street parking will not require the off street parking during the same hours.~~

~~b.a.~~ Unless the off-street parking lot and all lots containing the uses served by the off-site parking are owned in fee simple by the same person, the off-street parking lot shall comply with the requirements of HCC 21.5553.060(d)(1).

b. If the off-street parking is off-site parking with respect to a use that it serves, the off-street parking shall comply with the requirements of HCC 21.5553.050 and 21.5553.060 with respect to each such use. [Ord. 09-12(A) § 3, 2009].

**21.5355.080 Use of required off-street parking spaces.**

All required off-street parking spaces shall be used only for parking of operable vehicles of the residents, customers or employees of the related use. Required off-street parking spaces shall not be used for storage of boats, abandoned or inoperable vehicles, dumpsters or other objects. [Ord. 09-12(A) § 3, 2009].

**21.5355.090 Required number of off-street parking spaces.**

a. The number of off-street parking spaces required in this section shall be provided for every building erected, altered by adding or creating dwelling units, guest rooms, bedrooms, floor area, seats or employees, or in which a new use is established, ~~after August 9, 1988:~~

Use <del>s</del>	Parking Spaces Required
Dwellings.	<del>Two</del> One per dwelling unit, <del>or one per efficiency or one bedroom dwelling when more than one dwelling unit is located on a parcel.</del> Detached efficiency or one bedroom dwelling units shall provide an additional one guest parking space per four dwelling units. One per senior housing unit. A required parking space may be in a garage or carport if the structure is at least 12 feet wide, 20 feet long and eight feet high.

Use <del>s</del>	Parking Spaces Required
<u>Assisted Living Home and Nursing Facilities.</u>	One per three beds plus two per dwelling unit of an on-site caregiver.
<u>Dormitory.</u>	<u>One per two beds.</u>
Bed and breakfast; <u>Hostel.</u>	Two, plus one per two guest rooms.
Rooming house.	One per two guest rooms for the first five guest rooms, plus one per each guest room in excess of five.
<del>Dormitory.</del>	<del>One per two beds.</del>
Hotel, motel.	One per guest room.
<u>Auto-centric uses, including: Auto Fueling Station; Auto Repair, Vehicle Maintenance or Repair; Auto, Marine, Recreational Vehicle, and trailer sales or rental area; Heavy Equipment and Truck Sales, rentals, service and repair.</u>	<u>One per employee, plus one stall per 1,000 square feet of gross floor area.</u> <u>All vehicles in the custody of the operator of the business for service, repair, storage, sale or other purposes shall be stored on the premises or in a separate vehicle parking lot and shall not be parked on a public right-of-way.</u>
<u>Retail uses, including: Retail businesses; Retail and Wholesale Building Supply and Equipment Sales and Rentals; Plumbing, Heating, and appliance retail and service; Sales of durable and non-durable medical supplies; Greenhouse and Garden Supplies; Wholesale Businesses;</u>	<u>One per 400 square feet of gross floor area, but no less than two spaces total.</u>
<u>Large Format Development uses.</u>	<u>One per 300 square feet of gross floor area.</u>
<del>Restaurant, club, lounge, tavern or establishment for the sale and on-premises consumption of food or beverages and clubs.</del>	<del>One space per 200 square feet of gross floor area, or one for each 4 seats, whichever is greater. One per three indoor seats. If there is no fixed seating, one per 100 square feet. One per 10 seats of seasonal outdoor seating.</del>
<del>Drive-through espresso stands, mobile food vendors and other establishments that sell food and beverages prepared to order for consumption off the premises establishments.</del>	One employee parking space, and three spaces <del>not within a sidewalk or the traveled portion of a right-of-way</del> for queuing motorists.
<del>Retail stores, furniture and appliance stores, hardware stores, food stores, markets, shopping centers, household equipment, service shops, clothing, shoe repair or personal service shops.</del>	<del>One per 300 square feet of gross floor area, but not less than two.</del>
<u>Offices, including: <del>Banks</del>Financial institutions; <del>business</del>Personal Service; Research and Development; Studios; <del>professional governmental offices</del> <del>an</del> Hospitals; Medical and dental clinics.</u>	One per <del>300-350</del> square feet of gross floor area. <u>Hospitals: Two per treatment room, plus one per every two employees.</u> <u>Medical and Dental Clinics: Two per treatment room.</u>
<u>Storage Facilities, including: Warehouses, commercial storage, and mini-storage; Storage and Distribution Facilities; Storage of Boats or Vehicles; and storage buildings.</u>	One per 3,000 square feet of gross floor area.
<u>Places of Assembly: Churches, mortuaries</u> <del>Mortuaries, funeral homes,</del>	One per five seats.
<u>Industrial Uses, including: Manufacturers and processors</u> <del>light or custom manufacturing, fabricating, and assembly; manufacturing, production, processing, cooking, and packing; publishing, printing, and bookbinding.</del>	One per 1,000 square feet of gross floor area.
<del>Rest homes, convalescent homes, nursing homes, assisted living or similar uses.</del>	<del>One per three beds plus two per dwelling unit of an on-site caregiver.</del>
<u>Indoor or Outdoor Recreational Facilities, that do not have fixed seating.</u>	<u>One per 300 feet of gross floor area.</u>
<u>Dry cleaning, laundry and self-service laundries.</u>	<u>One space per 500 square feet of gross floor area.</u>
Bowling alley.	Two per bowling lane.
<del>Service station, motor vehicle maintenance and repair shop, public garage.</del>	<del>One per stall, plus one per employee. All vehicles in the custody of the operator of the business for service, repair, storage, sale or other purposes shall be stored on the premises or in a separate vehicle parking lot and shall not be parked on a public right-of-way.</del>
School.	<u>Elementary school and junior high: two per classroom.</u>

Use <del>s</del>	Parking Spaces Required
	Senior high: one per employee plus one per 10 students based on maximum classroom capacity. <del>Elementary school and junior high: one per employee plus 10 for visitor parking.</del>
Day care facility.	One per <del>300 square feet of gross floor area, but not less than two</del> 10 children, plus one per employee.
<del>Museums, Libraries.</del>	One space per 1,000 square feet of gross floor area.
Places of assembly	One per five seats and one per 100 square feet of floor area used for assembly and not containing fixed seats.
<del>Parks.</del>	As determined by the Commission based on anticipated usage.
Mixed uses.	See subsection (c) of this section.
<del>Skating rinks.</del>	One per 250 feet of gross floor area.
<del>Taxi operations, excluding water taxi operations.</del>	One per vehicle in the taxi fleet plus one per two employees.
Impound yards; Junkyards; Lumberyards; Warehouse and marshaling yards.	One per employee, plus two for customer parking.

b. ~~The number of off-street parking spaces required for a use in the DMU zoning district shall be 75 percent of the number of spaces required for that use in HCC 21.55.090(a).~~

b.c. The City Planner shall determine the number of off-street parking spaces that ~~is~~are required for a use not identified in subsection (a) of this section.

e.d. If more than one use is present on a lot, the number of required off-street parking spaces shall be equal to 75 percent of the sum of the number of required off-street parking spaces for each use computed separately, unless the Commission approves a lesser number through a conditional use permit.

d.e. When the number of required parking spaces for a use is based upon seating capacity, each chair and each 24 inches of pew, bench or similar seating space shall be counted as one seat. When the number of required parking spaces for a use is based on the number of employees, the number shall be determined using the shift during which the greatest number of employees is present during peak season. [Ord. 22-02 § 1, 2022; Ord. 09-12(A) § 3, 2009].

**221.5355.100 Reduction in Required Off-Street Parking.**

The city can reduce the number of off-street parking spaces required for a use under the following situations.

- a. Administrative Reduction. The city planner can reduce the number of off-street parking spaces required if a use is able to meet one or more of the following conditions:
  1. A Multi-Unit Dwelling restricted to residents 65 years of age and older, and/or disabled individuals: the city can reduce the total number of spaces required by 75 percent.
  2. Joint Parking: the city can reduce the number of spaces required if a joint parking facility is permitted that provides at a minimum of 75 percent of the sum of the number of off-street parking spaces required for each use computed separately.
  3. On-street parking: the city can reduce the number of off-street parking spaces required per the number of on-street parking spaces that are adjacent to the property line or present within (insert distance) of the main entrance of the use 500 feet or the property.
  4. Parking Study: the city can reduce the number of spaces required if a parking study is submitted by the developer showing that the demand for parking is less than the minimum number of spaces required, and

that the number of spaces required under the parking study can be provided on-site, off-site, or through a joint parking facility.

- 1-5. Re-use or change in use of an existing site. A site that changes in use(s) to a new use(s) that requires more spaces than the previous use(s) may be waived, provided that 50 percent of the number of spaces required for the new use(s) are provided on-site, off-site, or through a joint parking facility.
- 2-6. Multiple or Mixed Use. A site has uses that have differing peak hours or operating hours, provided that the minimum number of spaces are provided either on-site, off-site, or through a joint parking facility for the use that requires the most spaces.
- 3-7. Site Constraints. A lot that has natural constraints (such as but not limited to steep slopes, wetlands, watercourses, floodplains), or is nonconforming to the required dimensional standards of the underlying zoning district can request a reduction in the number of spaces required by up to 50 percent.
8. Joint Parking: the city can reduce the number of spaces required if a joint parking facility is permitted that provides at a minimum of 50 percent of the sum of the number of off-street parking spaces required for each use computed separately.

#### **21.5355.110 Homer Spit parking requirements.**

e.a. This section applies only to the Homer Spit, and is intended to accommodate the large seasonal and daily fluctuations in demand for parking among a variety of uses concentrated on a land formation with limited surface area. The remainder of this chapter applies to off-street parking on the Homer Spit except as this section provides otherwise. Where a provision of this section conflicts with another provision of this chapter, the provision of this section shall govern.

f.b. HCC 21.~~5553~~.050 and 21.~~5553~~.090 do not apply on the Homer Spit.

g.c. The number of off-street parking spaces required for a dwelling is determined in the manner provided in HCC 21.~~5553~~.090(a). Off-site parking is permitted for a dwelling only where the City Planner determines that locating the parking spaces on the same lot as the dwelling is not feasible because of limited land area or unique location. Off-site parking for a dwelling is subject to the requirements of HCC 21.~~5553~~.060.

h.d. Parking for year-round permanent employees, up to a maximum of five spaces, shall be provided on the same lot for each nonresidential use. Off-site parking shall be used to provide any additional parking spaces that are required for year-round permanent employees. The requirement for on-site parking for employees may be reduced only where the City Planner determines that locating the parking spaces on the same lot as the use they serve is not feasible because of limited land area or unique location. Off-site parking for a nonresidential use is subject to the requirements of HCC 21.~~5553~~.060 and 21.~~5553~~.070.

i.e. Required off-street parking may be located off-site in a City-owned multiple use parking area if the City Planner determines the parking area will adequately serve the use. To determine the feasibility the City Planner will consider the following factors in relation to the use to be served:

1. Proximity of the off-site parking facility;
2. Ease of pedestrian access to the off-site parking facility;
3. The type of uses the off-site parking facility is intended to serve;
4. Whether the off-site parking will be used by employees, retail customers, all day charter customers, or other groups; and
5. Whether the off-site parking facility contains sufficient available parking spaces to accommodate the parking that the use typically requires. [Ord. 09-12(A) § 3, 2009].

~~21.5354.120 Town center Central Business District parking requirements.~~

~~The number of off-street parking spaces required for a use in the Town Center CBD zoning district shall be 80-75 percent of the number of spaces required for that use in HCC 21.5553.090(a). Except as provided in the preceding sentence, the provisions of this chapter apply in the Town Center zoning district. [Ord. 09-12(A) § 3, 2009].~~

~~21.5355.1230 Loading areas—Required Areas.~~

- a. Each lot containing a building or use that receives or makes deliveries shall contain off-street facilities for the loading and unloading of delivery vehicles that meet the requirements of this section.
- b. Each loading area shall be situated and of sufficient size to permit loading and unloading without interference with or projection into any public right-of-way or parking area, except as provided in subsection (c) of this section. Each loading area shall be provided with convenient access to a public right-of-way. The access may be located in a required yard or setback, but this does not permit the location of a structure in a required setback.
- ~~b.c.~~ Loading areas shall be screened from view from any adjoining residential zoning district or lot used for residential purposes by a wall, fence or planting not less than 4 feet or more than 6 feet in height.
- ~~e.d.~~ No loading or unloading may be conducted in a required off-street parking area for more than four hours in any period of 24 hours. [Ord. 09-12(A) § 3, 2009].

## Chapter 21.54636 Landscaping

### 21.5456.010 Purpose.

Landscaping is required in order to improve the aesthetic quality of the built-up environment, create pedestrian friendly environments, promote retention and protection of existing vegetation, reduce the impacts of development on the natural environment, enhance the value of current and future development and increase privacy for residential areas. Where required, Aa landscaping plan shall provide for landscaping that minimizes visual, sound, and other negative impacts from the development. The materials selected shall be compatible with the climate, planting location, and landscaping function.

### 21.5456.020 Applicability.

The landscaping provisions of this chapter apply to all new development on lands within the zoning districts indicated in each section. Where existing structures are reoccupied or modified, incremental compliance with the provisions of this chapter is required as follows:

- a. Additions to or partial conversions of existing structures: compliance in the area where the addition or conversion is constructed.
- b. New or expanded parking lots with 10 or more spaces, including paving of unpaved parking lots: buffers, parking lot landscaping, or street trees are required per the zoning district requirements in this chapter.
- a. —

### 21.5456.030 General.

- a. Landscaping shall include the retention of native vegetation to the maximum extent possible.~~emphasize native-materials, including ground cover, shrubs and trees.~~
- b. A natural buffer of 15 feet minimum width is required from the top of the bank of any defined drainage channel or stream.
- c. Topsoil addition, final grading, seeding, and all required plantings of flora must be completed within nine months of substantial completion of the project, or within the first growing season after substantial completion of the project, whichever comes first. Required landscaping will be maintained thereafter, with all shrubs, trees, and ground cover being replaced as needed. [Ord. 08-29, 2008].

### 21.5456.040 Administrative Flexibility.

Special consideration will be given to site design, topography, unique relationships to adjacent properties and existing utilities in enforcing screening requirements. If the applicant can demonstrate that the public interest is better served through alternative landscape design, the City Planner may permit variation from these regulations.

### 21.5456.050 Level 2 Site Plans.

~~Landscaping Requirements. All development shall conform to the following landscaping requirements: Landscaping shall include the retention of native vegetation to the maximum extent possible and shall include, but is not limited to, the following:~~

- a. Buffers. A buffer of three feet minimum width along all lot lines where setbacks permit; except where a single use is contiguous across common lot lines, such as, but not limited to, shared driveways and parking areas. Whenever such contiguous uses cease the required buffers shall be installed.~~ii. A buffer of 15 feet minimum width from the top of the bank of any defined drainage channel or stream.~~

- b. Parking Lots.

Parking lots with a minimum of 24 spaces or more shall provide a minimum of 10 percent landscaped area in dividers, islands or buffers or any combination thereof, adjacent or within the parking area;~~A minimum of 10 percent of the area of parking lots with 24 spaces or more shall be landscaped in islands, dividers, or a combination of the two;~~

1.

- ~~1. —~~ Parking lots with 24 spaces or more must have a minimum 10-foot landscaped buffer adjacent to road rights-of-way;
2. ~~P~~ parking lots with only one single-loaded or one double-loaded aisle that have a 15-foot minimum landscaped buffer adjacent to road rights-of-way are exempt from ~~this~~ requirement ~~of subsection (f)(1)(b)(i) of this section.~~

~~2. Topsoil addition, final grading, seeding, and all plantings of flora must be completed within nine months of substantial completion of the project, or within the first full growing season after substantial completion of the project, whichever comes first. Required landscaping will be maintained thereafter, with all shrubs, trees, and ground cover being replaced as needed. [Ord. 22-32 § 4, 2022; Ord. 15-08(S)(A) § 2, 2015; Ord. 13-27 § 14, 2013; Ord. 10-56 § 4, 2011; Ord. 08-29, 2008].~~

**21.5456.060 Level 3 Site Plans.**

Landscaping shall ~~include the retention of native vegetation to the maximum extent possible and shall~~ include, but is not limited to, the following:

- a. A buffer of three feet minimum width along all lot lines where setbacks permit; except where a single use is contiguous across common lot lines, such as, but not limited to, shared driveways and parking areas. Whenever such contiguous uses cease the required buffers shall be installed.
- b. In addition to the types of plantings listed in the definition of “landscaping” in HCC 21.02.040, landscaping may include planter boxes and hanging basket plantings. Amenities for public use such as bike racks, benches, trash receptacles and information kiosks may be substituted for an equal area of required landscaping. [Ord. 13-27 § 15, 2013; Ord. 13-11(A) § 10, 2013].

**21.5456.070 ~~Town Center District~~ Downtown Mixed Use District.**

~~All lands in this zoning district shall be landscaped to conform to the following:~~

- a. Not less than ~~155~~ percent of the area of the lot(s) shall be landscaped. Landscaping may consist of any combination of the following; ~~and must include all elements required by the following or any other sections of the code:~~
  1. Buffers. ~~To be included in the calculation of required landscaping, b~~ Buffers along lot lines shall be not less than three feet in width. Use of landscaping to buffer the public view of the backs of buildings and loading areas is encouraged.
  2. Street Trees. Trees along or within the adjacent right-of-way, planted in regular intervals.
  3. All development shall comply with the commercial streetscape guidelines of site design section of the Community Design Manual. [Ord. 08-29, 2008].
  3. Gardens. ~~To be included in the calculation of required landscaping, a~~ garden shall be not less than 10 feet in length or width as measured at its shortest dimension. In addition to landscaping, a garden may include amenities, such as pedestrian seating areas, art, sand boxes, flower and ornamental gardens, paths, bike racks, outdoor restaurant seating, and other similar structures incidental to use of the building. No more than 50 percent of a garden may have an impervious cover, ~~e.g., pavement, brickwork, and decking.~~ Any decks or patios included in the calculation of a garden shall be at or near ground level. ~~Use of grass, wood chips, or natural surfaces is preferred over areas paved with asphalt or concrete.~~ A landscaped stormwater detention area may be included in a garden or buffer.
  4. Parking Lots. ~~Parking lots shall include landscaping as follo~~

- a. ~~A minimum of 10 percent of the parking area of parking lots with 35 spaces or more shall be landscaped in~~ Landscaping may be provided in the form of islands, dividers, buffers or any combination thereof, adjacent or within the parking area ~~or a combination of the two.~~ Any island, ~~or~~ divider or buffer must be:

- a) Large enough and designed to ensure plant survivability; and
- b) Large enough to break up the visual bulk and scale of the parking lot;
- b. ~~Parking lots with 24 spaces or more will have a minimum~~A landscape buffer between the parking lot and adjacent road rights-of-way shall be a minimum of 10 feet wide.~~foot landscaped buffer adjacent to road rights-of-way;~~
- ~~iii. Parking lots with only one single loaded or one double loaded aisle that have a 15 foot minimum landscaped buffer adjacent to road rights-of-way are excluded from the requirement of subsection (e)(2)(d)(i)(1) of this section.~~

**21.5456.060 ~~Landscaping~~Small Boat Harbor Overlay.**

- a. Five percent of the area of an overslope platform must be landscaped.
- b. In addition to the types of plantings listed in the definition of landscaping in HCC 21.02.040, landscaping on an overslope platform may include planter boxes and hanging basket plantings.
- c. The ~~Commission~~City Planner may permit the substitution of durable outdoor art, or amenities for public use such as bike racks, benches, trash receptacles and information kiosks, for part of the required landscaping on an overslope platform. [Ord. 09-44(S) § 3, 2009].

**21.5456.070 ~~Landscaping~~Large Format Development.**

Landscaping is required in order to improve the aesthetic quality of the built-up environment, promote retention and protection of existing vegetation, reduce the impacts of development on the natural environment, enhance the value of current and future development and increase privacy for residential areas. A landscaping plan shall provide for landscaping that minimizes visual, sound, and other negative impacts from the development. The materials selected shall be compatible with the climate, planting location, and landscaping function.

- a. A landscaping plan is required for all large format developments. The landscaping plan shall include the retention of mature natural vegetation to the greatest extent possible. [Ord. 08-29, 2008].
- b. Landscaping shall not be less than 15 percent of the total lot area of the site and shall include the retention of existing native vegetation to the maximum extent possible. The coverage of shrubs, trees and hedges shall be measured from their drip lines.

~~1.~~—Buffers shall be maintained a minimum width of three feet along all lot lines where setbacks permit.

1.

~~40-2.~~\_\_\_\_\_ In parking lots:

- i. A minimum of 10 percent of the parking area of parking lots with 24 spaces or more shall be landscaped in islands, dividers, buffers or any combination thereof, adjacent or within the parking area~~or a combination of the two.~~
- ii. Parking lots with 24 spaces or more will have a minimum 10-foot landscaped buffer adjacent to road rights-of-way.
- iii. Parking lots with only one single-loaded or one double-loaded aisle that have a 15-foot minimum landscaped buffer adjacent to road rights-of-way are excluded from the requirement of subsection (a)~~(b)~~(2)(a)~~(i)~~ of this section.
- c. General landscaping shall be additionally provided as needed to achieve the minimum required landscape coverage.
- d. Required landscaping shall be limited to the following materials:
  - 1. Living ground cover;

41.2. Permeable, continuous nonliving ground cover;

42.3. Living plant life other than ground cover;

43.4. Retained native vegetation;

44.5. Natural or manmade features, including, but not limited to, boulders and planters;

45.6. Pedestrian ways;

46.7. Public spaces.

- e. Separate sections of landscaping shall be composed of the required materials in any combination as follows:
1. Living plant life other than ground cover or natural vegetation shall have minimum coverage of five percent;
  2. Living ground cover shall have a maximum coverage of 80 percent;
  3. Permeable nonliving ground cover shall have a maximum coverage of 10 percent;
  4. Natural or manmade features shall have a maximum coverage of 10 percent;
  5. Pedestrian ways or public spaces shall have a maximum coverage of 50 percent.
- f. The ~~Commission-City Planner~~ may require buffers, including berms, fences, trees and shrubs, to minimize impacts to adjacent property. A landscaped buffer or combination of landscaping and berms of no less than 10 feet in width will be required where the development adjoins residential zones. [Ord. 08-29, 2008].

## Chapter 21.5737 Lighting

### Lighting Standards by Zoning District

#### ~~RR: Rural Residential~~

##### ~~21.12.060 — Lighting standards.~~

~~The level one lighting standards of HCC 21.59.030 apply to all developments in this district. [Ord. 19-26(S) § 1, 2019].~~

#### ~~UR: Urban Residential~~

##### ~~21.14.060 — Lighting standards.~~

~~The level one lighting standards of HCC 21.59.030 apply to all developments in this district. [Ord. 19-26(S) § 2, 2019].~~

#### ~~RO: Residential Office~~

##### ~~21.16.090 — Lighting standards.~~

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 10-06 § 6, 2010].~~

#### ~~M: Medical~~

##### ~~21.17.090 — Lighting standards.~~

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 20-59(A) § 1, 2020].~~

#### ~~CBD: Central Business District~~

##### ~~21.18.090 — Lighting standards.~~

~~The level one lighting standards of HCC 21.59.030 apply to all developments, structures and uses in this district. [Ord. 08-29, 2008].~~

#### ~~TC: Town Center~~

##### ~~21.20.090 — Lighting standards.~~

~~a. The level one lighting standards of HCC 21.59.030 apply to all developments, structures and uses in this district.~~

~~b. All lighting shall comply with the building lighting and outdoor lighting sections of the Community Design Manual. [Ord. 08-29, 2008].~~

#### ~~GBD: Gateway Business District~~

##### ~~21.22.100 — Lighting standards.~~

~~All uses and structures in the GBD shall conform to the level one lighting standards contained in HCC 21.59.030. [Ord. 08-29, 2008].~~

#### ~~GC-1~~

##### ~~21.24.090 — Lighting standards.~~

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 08-29, 2008].~~

#### ~~GC-2~~

**~~21.26.090~~—Lighting standards.**

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 08-29, 2008].~~

~~EEMU~~

**~~21.27.090~~—Lighting standards.**

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 12-10 § 1, 2012].~~

~~MC~~

**~~21.28.090~~—Lighting standards.**

~~All uses and development shall conform to the lighting standards contained in HCC 21.59.030. [Ord. 08-29, 2008].~~

~~MI~~

**~~21.30.090~~—Lighting standards.**

~~The level one lighting standards of HCC 21.59.030 apply to all development, uses, and structures in this zoning district. [Ord. 08-29, 2008].~~

**21.557.010 Intent.**

The intent of lighting standards is to reduce glare and light trespass and to improve the nighttime visual environment. Standards of varying levels may apply if made applicable by other provisions of the zoning code. [Ord. 08-29, 2008].

**21.557.020 Lighting standards—Level one.**

~~When level one lighting standards apply, the following are required:~~

- a. Outside luminaires installed at a height of 15 feet or greater above grade in all new developments or replaced in existing developments shall be cut-off luminaires.
- b. Up-lighting shall be installed so that it allows its direct illumination to fall only on the targeted building or sign.
- c. No outside lighting shall be installed so as to cause light trespass or glare.
- d. The height of any driveway or parking lot luminaire shall be a maximum of 28 feet above grade. All building-mounted luminaires shall have a maximum height of 15 feet above grade.
- e. Prohibited lighting includes search lights and laser lights.
- f. ~~Exceptions to this section~~**Administrative flexibility** may be granted to the extent necessary in any of the following situations:
  1. Where the City Planner has determined there are special requirements, such as historic decorative considerations, public monuments, or flag lighting; provided, however, that all such lighting shall be selected and installed to shield the lamp(s) from direct view to the greatest extent possible, and to minimize upward lighting, glare and light trespass.
  2. In an urban area where there is high night-time pedestrian traffic and an engineer experienced in outdoor lighting has provided a written opinion satisfactory to the City Planner that for pedestrian safety reasons it necessary to permit the installation of semi-cutoff luminaires.

3. Where a determination has been made by the Commission, after a public hearing process, that there is a compelling safety interest that cannot be adequately addressed by any other method. [Ord. 08-29, 2008].

## Chapter 21.5638-8 Fences

### 21.5658.010 General.

- a. Fences may be constructed at the lot line, subject to the limitation of this section.
- b. In all residential zoning districts no fence on or within 20 feet of the front lot line may exceed four feet in height.
- c. No fence may block any sight distance triangle that may be required by the zoning code or any other law. [Ord. 08-29, 2008].

### ~~21.38.020 — Fences — Conditional fence permit.~~

~~a. Except as provided in subsection (c) of this section, fences may be constructed to heights in excess of those allowed by HCC 21.50.110 only when a conditional fence permit is first approved by the Planning Commission.~~

~~b. Prior to granting such a permit, the applicant must demonstrate and the Planning Commission must find that:~~

- ~~1. The issuance of such a permit is reasonably necessary, by reason of unusual or special circumstances or conditions relating to the property, for the preservation of valuable property rights for full use and enjoyment of the property;~~
- ~~2. The fence will not create a safety hazard for pedestrians or vehicular traffic;~~
- ~~3. The fence is a planned architectural feature designed to avoid dominating the site or overwhelming adjacent properties and structures;~~
- ~~4. The orientation and location of the fence is in proper relation to the physical characteristics of the site and the surrounding neighborhood;~~
- ~~5. The fence will be of sound construction.~~

~~c. Exception. Under no circumstances will a conditional fence permit be considered for a fence that exceeds the limits of a required sight distance triangle. [Ord. 13-27 § 16, 2013; Ord. 08-29, 2008].~~

## Chapter 21.57939 Right-of-Way Access

### 21.5759.010 Right-of-way access plan – General.

- a. When a right-of-way access plan is required by other provisions of the zoning code, the applicant shall submit to the City Planner for approval a right-of-way access plan prepared in conformance with this chapter.
- b. The level of right-of-way access plan required is specified in the applicable zoning district regulations. If the level is not specified, a level one plan is required. [Ord. 08-29, 2008].

### 21.5759.020 Right-of-way access plan – Level one.

A level one right-of-way access plan shall conform to all of the following:

- a. Show all points of access to rights-of-way.
- b. Any access roads and frontage roads shall conform to the policies of the Master Roads and Streets Plan and the ordinances of the City. [Ord. 08-29, 2008].

### 21.5759.030 Right-of-way access plan – Level two.

A level two right-of-way access plan shall conform to all of the following:

- a. Show all points of access to rights-of-way.
- b. Entrances onto arterials and collectors shall be minimized, and individual businesses shall share access to rights-of-way whenever reasonable.
- c. Any access roads and frontage roads shall conform to the controlling street plan elements of the Homer Comprehensive Plan.
- d. The plan shall require visibility clearance according to HCC 21.7357.200050. [Ord. 08-29, 2008].

### 21.5759.040 Right-of-way access plan – Level three.

A level three right-of-way access plan shall conform to all of the following:

- a. Show all points of access to rights-of-way.
- b. Vehicular Circulation and Access.
  1. Street access shall be limited to one entrance and one exit per street. One combined entrance/exit is encouraged to facilitate traffic movement on adjacent streets.
  2. To minimize turning movements onto adjacent public roads, developers are encouraged to provide internal circulation systems that connect to adjacent developments. When several adjacent lots front one street it is preferred that they share one driveway or street access. Site design shall continue internal vehicular ways in order to reduce the number of driveway and curb cuts onto the Sterling Highway. Curb cuts onto the Sterling Highway shall be kept to an absolute minimum.
  3. Facilities and access routes for deliveries, service and maintenance shall be separated when practical from public access routes and parking areas.
- c. Where applicable, frontage roads shall conform to the Master Roads and Streets Plan, the Transportation Plan, and the ordinances of the City.
- d. The plan shall require visibility clearance according to HCC 21.7357.200050. [Ord. 08-29, 2008].

### 21.5759.050 Visibility at intersections.

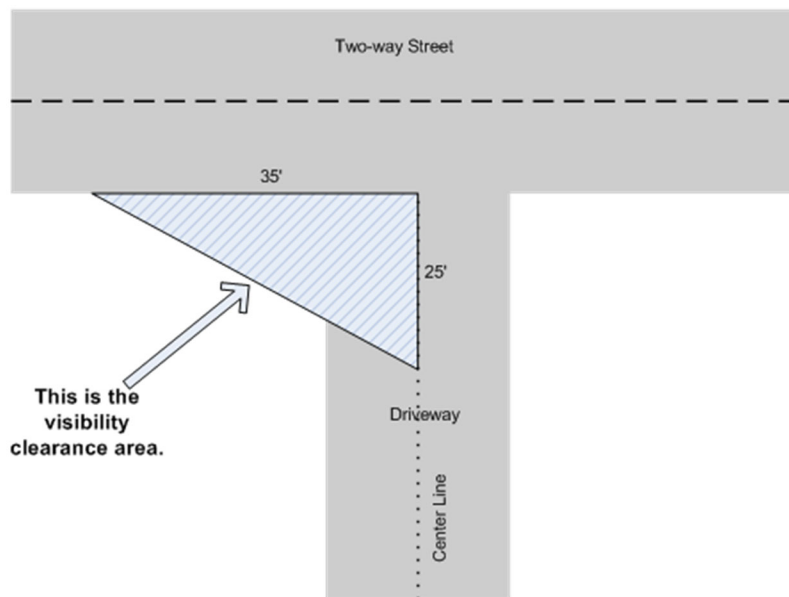
- a. When a visibility clearance is required by other provisions of the zoning code, visibility clearance for vehicles shall be protected as specified in this section.

- b. At the intersection of any private drive or entrance or exit for a parking area with a public street, no fence, wall, hedge or other planting or structure forming a material impediment of visibility between a height of two and one-half feet and eight feet shall be erected, planted, placed or maintained and no vehicle so impeding visibility shall be parked within triangular areas defined by lines connecting points as follows:

Beginning at the point where the midline of the private drive or entrance or exit for a common parking area intersects the public right-of-way, thence to a point 35 feet along the right-of-way line in the direction of approaching traffic, thence to a point 25 feet toward the interior of the property at the previously described midline, and thence to point of beginning.

This protected area may sometimes be referred to as a “sight triangle” or “visibility triangle.” See Figure 1.

- c. Unless otherwise required by law, no visibility clearance area is required on the side of the drive, entrance or exit away from approaching traffic on the same side of the street.



**Figure 1**

**Visibility Clearance Area**

[Ord. 08-29, 2008].

## Chapter 21.6040 Traffic Impact

### 21.5860.010 ~~Scope of chapter~~ **Applicability.**

This chapter applies to traffic impact analysis and traffic impact mitigation when required by other provisions of the Homer Zoning Code. [Ord. 08-29, 2008].

### 21.5860.020 Traffic impact analysis – General.

~~a.~~—A traffic impact analysis must compute traffic generated by a development in accordance with the Institute of Traffic Engineers' Trip Generation Handbook (current edition). The City Planner will, in his or her discretion, require a traffic impact analysis based upon local traffic generation values. A traffic impact analysis must be provided by the applicant and prepared by an engineer licensed under AS 08.48, following guidelines approved by the City Planner and contracted by the City.

~~b.a.~~ The analysis must be submitted to the City for review and comment under HCC 21.7658.200090.

~~e.b.~~ All traffic impact analysis costs will be borne by the applicant. [Ord. 08-29, 2008].

### 21.5860.030 Level of service analysis.

Level of service (LOS) and operational analysis for a traffic impact analysis prepared under this section must be performed in accordance with the Transportation Research Board's publication Special Report 209, Highway Capacity Manual (current edition). [Ord. 08-29, 2008].

Six levels of service, from A to F, are used to represent a range of operating conditions with LOS A representing the best operating conditions and LOS F the worst.

- a. "LOS A" means the LOS at which vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream, passing demand is well below passing capacity, drivers are delayed no more than 30 percent of the time by slow moving vehicles.
- b. "LOS B" means the LOS at which the ability to maneuver a vehicle is only slightly restricted; passing demand approximately equals passing capacity, and drivers are delayed up to 45 percent of the time; the level of physical and psychological comfort provided to drivers is still high.
- c. "LOS C" means the LOS at which the ability to maneuver a vehicle is noticeably restricted and lane changes require more care and vigilance on the part of the driver; percent time delays are up to 60 percent; traffic will begin to back up behind slow moving vehicles.
- d. "LOS D" means the LOS at which speeds begin to decline with increasing traffic flow, density begins to increase somewhat more quickly, passing demand is very high while passing capacity approaches zero, and the driver experiences reduced physical and psychological comfort levels; the percentage of time motorists are delayed approaches 75 percent, even minor incidents can be expected to back up traffic because the traffic stream has little space to absorb disruptions.
- e. "LOS E" means the LOS at which roadway is at capacity; the percentage of time delay is greater than 75 percent, passing is virtually impossible, as there are virtually no usable gaps in the traffic stream; vehicles are closely spaced, leaving little room to maneuver, physical and psychological comfort afforded to the driver is poor.
- f. "LOS F" means the LOS at which traffic is heavily congested with traffic demand exceeding traffic capacity, there is a breakdown in vehicular flow, and vehicle delay is high.

### 21.5860.040 Level of service minimums.

The minimum acceptable LOS at intersections and on road segments both on the development's opening date and in the design year is:

- a. LOS C, if the LOS on the date of application is LOS C or better;
- b. LOS C, if the LOS on the date of application is LOS D;
- c. LOS D, if the LOS on the date of application is LOS E or poorer. [Ord. 08-29, 2008].

**21.5860.050 Traffic impact analysis – Required elements.**

A traffic impact analysis prepared under this chapter must include consideration of:

- a. Intersections on streets or alleys where traffic on any approach is expected to increase as a result of the proposed development by at least five percent of the approach's capacity;
- b. Segments of streets or alleys between intersections where total traffic is expected to increase as a result of the proposed development by at least five percent of the segments' capacity;
- c. Intersections on streets or alleys where the safety of facilities will deteriorate as a result of the traffic generated by the development;
- d. Each driveway or approach road that will allow egress or ingress to a street for the proposed development;
- e. Parking and circulation routes within the proposed development, to the extent necessary to ensure that traffic does not back up onto a street; and
- f. Pedestrian and bicycle facilities that are a part of the street or alley to which a permit applicant seeks access. [Ord. 08-29, 2008].

**21.5860.060 Required projections.**

- a. Except for a development expected to generate 250 or more vehicle trips during the peak traffic hour, a traffic impact analysis prepared under this chapter must include consideration of the following:
  1. Projected traffic at the development's anticipated opening date, excluding the traffic generated by the development; and
  2. Projected traffic at the development's anticipated opening date, including the traffic generated by the development.
    - b. A traffic impact analysis prepared under this chapter for a development expected to generate 250 or more vehicle trips during the peak traffic hours must, in addition to the projected traffic volumes before and after the completion of the proposed development, include consideration of:
      1. The projected traffic in the design year for the proposed development, excluding traffic generated by the development; and
      2. The projected traffic for the design year for the proposed development including the traffic generated by the development. [Ord. 08-29, 2008].

**21.5860.070 Identification and proposals for improvements and mitigation measures.**

A traffic impact analysis prepared under this chapter must include identification of, and proposals for traffic impact mitigation measures for, the following:

- a. Locations where street improvements are necessary to mitigate traffic impacts, including locations where the LOS is less than acceptable under HCC 21.7658.040:
  1. Due to the development at either the opening date or the design year; or

2. At either the opening date or the design year without the development and improvements are necessary to prevent the LOS from deteriorating further as a result of the proposed development;
- b. Street improvement alternatives that will achieve an acceptable LOS or minimize degradation of service below an already acceptable LOS:
  1. On the opening date of the development; and
  2. In the design year of the development, for a development projected to generate 250 or more vehicle trips during peak hour on the opening date of the development;
- c. Improvements necessary to mitigate any impact on bicycle and pedestrian traffic revealed by the traffic impact analysis; and
- d. Improvements needed for internal circulation and parking plans. [Ord. 08-29, 2008].

**21.608.080 Traffic impact mitigation.**

A conditional use permit may require traffic impact mitigation measures to protect public health, safety, and welfare. It shall include those mitigation measures required by this section.

- a. Permittee shall make improvements to a street, alley or intersection to maintain an acceptable LOS if a street, alley or intersection has an:
  1. Acceptable LOS without traffic generated by the development; and
  2. Unacceptable LOS with traffic generated by the development:
    - i. At the opening date of the development; or
    - ii. In the design year of the development, for a development expected to generate 250 or more vehicle trips during peak hour on the opening date of the development.
- b. If a street, alley or intersection has an unacceptable LOS without traffic generated by the development, either at the opening date of the development or in the design year of the development, a permittee shall make improvements to the street, alley or intersection so the operation of the highway does not deteriorate in terms of delay time or other appropriate measures of effectiveness with the addition of the traffic generated by the development at the opening date of the development or in the design year. [Ord. 08-29, 2008].

**21.5860.090 Review of traffic impact analysis and mitigation proposals.**

- a. The City Planner will review and comment upon a traffic impact analysis and mitigation proposals prepared and submitted under this chapter. The City Planner will, in his or her discretion, request clarification and further analysis of the impacts that the Planner considers necessary to adequately consider the risks presented to the traveling public by the proposed development.
- b. If alternative means are proposed by an applicant for mitigation of the traffic impacts of a proposed development, the City Planner will consider the proposed alternatives that provide the greatest public benefit, at the least private cost, and that meet appropriate LOS on an impacted highway, road, street or alley.
- c. The City Planner will provide a review and recommendations to the Planning Commission.
- d. When a traffic mitigation plan is required, the plan must be approved by the Planning Commission as part of its approval of a conditional use permit prior to the issuance of a zoning permit. [Ord. 08-29, 2008].

**21.5860.100 Performance and payment bonds.**

The conditional use permit may require the posting of payment and performance bonds or other surety or collateral, approved as to form by the City Attorney, to guarantee the satisfactory completion of all traffic impact mitigation required by the conditional use permit. [Ord. 08-29, 2008].

**21.5860.110 Standards applicable to implementation of traffic plan.**

- a. A permittee for which a traffic impact analysis report and mitigation plan have been approved shall use, within the development, signs and markings on approaches to streets that conform with the Alaska Traffic Manual. The City adopts by reference the Alaska Traffic Manual, consisting of the Manual of Uniform Traffic Control Devices for Streets and Highways, current edition, including all revisions, issued by the United States Department of Transportation, Federal Highway Administration, and the State of Alaska Department of Transportation and Public Facilities Alaska Supplement, current edition.
- b. Internal circulation and parking layout must provide sufficient queuing distance within the development between the street, alley or intersection and potential internal block points to ensure that no traffic backs up onto the street, alley, or intersection, including bicycle and pedestrian facilities. [Ord. 08-29, 2008].

## Chapter 21.596161 Signs

### 21.5961.010 Sign code.

This chapter may be known and referred to as the Homer Sign Code or the sign code. [Ord. 08-29, 2008].

### 21.6159.020 Purpose.

The purposes of this sign code are: to encourage the effective use of signs as a means of communication in the City; to maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This sign code is adopted under the zoning authority of the City in furtherance of the more general purposes set forth in the zoning code. [Ord. 08-29, 2008].

### 21.6159.030 Applicability – Effect.

A sign may be erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of this chapter. [Ord. 08-29, 2008].

### 21.6159.040 Definitions.

In this chapter, in addition to terms defined in HCC 21.0302.040, the following words and phrases shall have the meanings set forth in this section:

“Abandoned sign” means a sign that refers to a business or activity that is no longer being conducted or pursued.

“Animated sign” means a sign that uses flashing lights, movement or change of lighting to depict action or create a special effect or scene, or that includes characters, letters, or illustrations whose message changes at least one time per day; provided, that a changing electronic or mechanical indication of time or temperature does not cause a sign to be an animated sign.

“Banner” means a lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constructed of nondurable materials, including without limitation cardboard, cloth and plastic. Banner material attached to a rigid frame on all edges or a flag shall not be considered a banner. \_\_

“Beacon” means a sign that emits one or more beams of light, capable of being directed in one or more directions or rotated or moved.

“Building marker” means a wall sign cut or etched into masonry, bronze, or similar material ~~that includes only the building name, date of construction, or historical data on historic site.~~

“Building sign” means a sign that is attached to and/or supported by a building, but that is not a freestanding sign.

“Changeable copy sign” means a sign that includes characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign, and on which the message changes less often than one time per day; provided, that a changing electronic or mechanical indication of time or temperature does not cause a sign to be a changeable copy sign. ~~“Commercial message” means letters, graphic material or a combination thereof that, directly or indirectly, names, advertises, or calls attention to a business, brand, product, service or other commercial activity.~~

~~“Electoral sign” means any sign used for the purpose of advertising or promoting a political party, or the election or defeat of a candidate initiative, referendum or proposition at an election.~~

“Flag” means the flag of the United States, the State, the City, a foreign nation having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction.

“Freestanding sign” means a sign supported, in whole or in part, by structures or supports that are placed on or anchored in the ground and that are independent of any building or other structure.

“Ground sign” means a freestanding sign that is placed directly on the ground having or appearing to have a foundation or solid base beneath 50 percent or more of the longest horizontal dimension of the sign.

“Incidental sign” means an informational or directional sign that is incidental and subordinate to a principal use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” or “telephone,” and that bears no commercial message that is legible from outside that lot.

“Marquee sign” means a sign attached in any manner to, or made a part of, a permanent roof-like structure projecting beyond a building, generally designed and constructed to provide protection from the weather.

“Official traffic control device” means a sign not inconsistent with AS Title 28, placed or erected by authority of a State or municipal agency or official having jurisdiction, for the purpose of traffic regulating, warning and guiding.

“Off-premises sign” means a sign containing a message drawing attention to goods or services, business or other activity not offered or conducted on the lot on which the sign is located.

“Pennant” means a lightweight plastic, fabric, or other material, whether or not containing a message of any kind suspended from a rope, wire, or string, usually in series, designed to move in the wind.

“Permanent sign” means a sign that is not a temporary sign.

~~“Temporary-Portable sign” means a sign that is not affixed permanently to a building or to a permanent support or foundation, including without limitation menu or sandwich board signs.~~

“Principal building” means a building in which the principal use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other accessory structures shall not be considered principal buildings.

“Projecting sign” means a building sign attached to a wall and that protrudes more than six inches beyond the surface of the wall ~~“Public sign” means an off-premises sign other than an official traffic control device, that provides direction or information, or identifies public facilities such as parks, playgrounds, libraries, or schools or a distinct area of the City, such as Pioneer Avenue, the Homer Spit, Old Town and entrances to the City.~~

~~“Residential sign” means a sign located in the Rural Residential, Residential Office or Urban Residential zoning districts that contains no commercial message except for advertising for goods or services legally offered on the premises where the sign is located, if offering such services at such location conforms to all requirements of the zoning code.~~

“Roof sign, integral” means a sign erected and constructed as an integral part of the roof of a building, such that no part of the sign extends vertically more than two feet above the highest portion of that roof of which it is a part.

“Setback” means the distance between a sign located on a lot and the closest lot line.

“Sign” means a device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

“Suspended sign” means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

“Wall sign” means a sign attached parallel to, but within six inches of, a wall, painted on the surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such building or structure, and which displays only one sign surface.

“Window sign” means a sign that is placed inside a window or upon the window panes or glass and is visible from the exterior of the building. [Ord. 12-01(S)(A) § 1, 2012; Ord. 09-47(A) § 1, 2009; Ord. 08-29, 2008].

**21.6159.050 Computations.**

The following principles shall control the computation of sign area and sign height:

- a. Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning code regulations and is clearly incidental to the display itself. In computing the sign area under this section, the entire area of backlit translucent material, including backlit translucent light boxes, canopies, and awnings, shall be counted as sign area.
- ~~b. Sign area shall include the area of any tenant specific motifs or architectural devices including, but not limited to, roof forms, canopies, awnings, building color or finish, striping or color bars.~~
- ~~e-b. Computations of Area of Multifaced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces, visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.~~
- b. Computation of Height. See Chapter 21.05-04 HCC. [Ord. 08-29, 2008].

**21.6159.060 Signs on private property.**

- a. Signs shall be allowed on private property in the City only in accordance with Table 1. If the letter “A” (allowed) appears for a sign type in a column, such sign type is allowed without prior permit approval in the zoning district represented by that column. If the letter “P” (permitted) appears for a sign type in a column, such sign type is allowed only with prior permit approval in the zoning district represented by that column. Special conditions may apply in some cases. ~~If a cell is blank, the sign type is not allowed in that district. If the letter “N” appears for a sign type in a column, such sign type is not allowed in the zoning district represented by that column under any circumstances. If the letters “PH” appear for a sign type in a column, such sign type is allowed in the zoning district represented by that column only with prior approval by the Commission after a public hearing.~~
- b. Although permitted ~~under subsection (a) of this section, in Table 1,~~ a sign designated by an “A” or “P” in Table 1 shall be allowed only if ~~it meets all other applicable standards of this chapter.:~~
  - ~~1. The sum of the area of all building and freestanding signs on the lot does not exceed the maximum permitted sign area for the zoning district in which the lot is located as specified in Table 2; and~~
  - ~~2. The characteristics of the sign conform to the limitations of Table 3, Permitted Sign Characteristics by Zoning District, and with any additional limitations on characteristics listed in Table 1 or Table 2.~~
- ~~e. A sign type that is not listed on the following tables is prohibited.~~

-

Key to Tables 1 through 3			
RR	Rural Residential	GBD	Gateway Business District
<del>NFRO</del>	<del>Residential Office Neighborhood Flex</del>	<del>GC1</del>	<del>General Commercial 1</del>
UR	Urban Residential	<u>LIMU</u>	<u>Light Industrial Mixed Use</u>
INS	Institutional Uses Permitted in Residential Zoning Districts (a)	<del>GC2</del>	<del>General Commercial 2</del>

<b>Key to Tables 1 through 3</b>			
<del>CBDDMU</del>	<del>Central Business-District</del> Downtown Mixed Use	<del>EEMU</del>	<del>East End Mixed Use</del>
MI	Marine Industrial	MC	Marine Commercial
<del>TC</del>	<del>Town Center District</del>	OSR	Open Space Recreation
M	Medical District	<del>PS</del>	<del>Public Sign Uses Permit</del>
A = Allowed without sign permit			
P = Allowed only with sign permit			
<del>N = Not allowed</del>			
<del>PH = Allowed only upon approval by the Planning Commission after a public hearing.</del>			
For parenthetical references, e.g., "(a)," see notes following graphical portion of table.			

Table 1

Sign Type	RR	<del>NF</del>	UR	<del>INS (a)</del>	M	DMU	<del>CMUGBD</del>	LIMU	MC	MI	OSR
<b>Freestanding</b>	<del>A</del>	<del>A</del>	<del>A</del>	-	<del>P</del>	<del>P</del>	<del>P (i)</del>	<del>P</del>	<del>P</del>	<del>P</del>	
<del>Residential (b)</del>	<del>A</del>		<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>A</del>
<del>Other (b)</del>				<del>P</del>	<del>P</del>	<del>P</del>	<del>P (i)</del>	<del>A</del>	<del>P</del>	<del>P</del>	<del>N</del>
<del>Incidental (c)</del>				<del>A (d)</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>N</del>
<del>Parking Lot Identification</del>	<del>-</del>		<del>-</del>	<del>-</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>-</del>
<b>Building</b>				-							
Building Marker <del>(e)</del>		<del>A</del>	A	<del>A</del>	A	A	A	A	A	A	A
<del>Identification (d)</del>			<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>
<del>Incidental (e)</del>				<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>N</del>
Marquee				<del>N</del>	P	P	P	P	P	P	<del>N</del>
Projecting				<del>N</del>	P	P	P	P	P	P	<del>N</del>
<del>Residential (b)</del>	<del>A</del>		<del>A</del>	<del>N</del>	<del>A</del>	<del>A</del>	<del>A</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>A</del>
Roof, Integral				<del>P</del>	P	P	P	P	P	P	<del>N</del>
Suspended				<del>P</del>	P	P	P	P	P	P	<del>N</del>
Temporary (g)	P	P	P		P	<del>P</del>	P	P	P	P	<del>N</del>
Wall	A	A	A	<del>A</del>	P	P	P	P	P	P	A
Window					P	P	P	P	P	P	
<b>Miscellaneous</b>				-							
Flag (h)	A	A	A	<del>A</del>	A	A	A	A	A	A	A
<del>Off Premises</del>					<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>

Notes to Table 1:

- ~~e. — No commercial message of any kind allowed on sign if such message is legible from any location off the lot on which the sign is located.~~
- ~~d. — Only address and name of occupant allowed on sign.~~
- ~~e. — May include only building name, date of construction, or historical data on historic site; must be cut or etched into masonry, bronze, or similar material.~~
- ~~No commercial message of any kind allowed on sign if such message is legible from any location off the lot on which the sign is located.~~
- ~~d. — Only address and name of occupant allowed on sign.~~
- ~~e. — May include only building name, date of construction, or historical data on historic site; must be cut or etched into masonry, bronze, or similar material.~~
- ~~f. — No commercial message of any kind allowed on sign.~~
- g. The conditions of HCC 21.6061.130 apply.
- h. Flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.

i. The main entrance to a development in ~~GBD~~ CMUGBD may include one ground sign announcing the name of the development. Such sign shall consist of natural materials. Around the sign grass, flowers and shrubs shall be placed to provide color and visual interest. The sign must comply with applicable sign code requirements.

**Table 2. Maximum Total Sign Area per Lot by Zoning District**

**Table 2 Part A**

The maximum combined total area of all signs, in square feet, ~~except incidental, building marker, and flags (b)~~, shall not exceed the following according to district:

	RR	UR	<del>RONE</del>	<del>RO (e)</del>	<del>INS (a)</del>	OSR	<del>PS (d)</del>	M
	4	4	<del>46</del>	<del>50</del>	<del>20</del>	4	<del>32</del>	50

**Table 2 Part B**

In all other districts not described in Table 2 Part A, the maximum combined total area of all building signs, in square feet, ~~except incidental, building marker and flags~~, shall not exceed the following:

Square feet of wall frontage (c):	Maximum allowed sign area per principal building:
750 s.f. and over	150 s.f.
650 to 749	130 s.f.
550 to 649	110 s.f.
450 to 549	90 s.f.
350 to 449	70 s.f.
200 to 349	50 s.f.
0 to 199	30 s.f.

Notes to Table 2, Parts A and B

- ~~a. The INS column does not represent a zoning district. It applies to institutional uses permitted under the zoning code in the RR, UR and RO zoning districts. "Institutional" is defined as an established organization or corporation of a public, nonprofit, or public safety or benefit nature, e.g., schools, churches, and hospitals.~~
- b. Flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulation as such.
- c. Square feet of wall frontage is defined as total square footage of wall surface, under the roof, that faces the major access or right-of-way of the business. In the case of a business located on a corner lot, square footage of wall frontage is the total square footage of wall surface, under the roof, on the side of the business with the most square footage.
- ~~d. The PS column does not represent a zoning district. It applies to public signs permitted under the zoning code, in all zoning districts.~~
- ~~e. This RO column applies only to lots in that portion of the RO district that abuts East End Road, Hohe Street, and Pennoek Street. Within this area, there is allowed a maximum of 50 square feet total area of all signs (including the ground sign referred to below), except incidental, building marker, and flags (see note (b) above). One ground sign, with a maximum total area of 16 square feet, will be permitted per lot. Each ground sign shall not exceed six feet in height, measured from the base to the highest portion of any part of the sign or supporting structure.~~
- f. In the Medical District, only one freestanding sign is allowed per lot, ~~except one freestanding public sign may be additionally allowed.~~ A freestanding sign may not exceed 10 feet in height or 36 square feet in area.

**21.601.070 Additional sign area.**

- a. In all districts covered by Table 2 Part B, on any lot with multiple principal buildings or with multiple independent businesses or occupancies in one or more buildings, the total allowed sign area may be increased beyond the maximum allowed signage as shown in Table 2 Part B, by 20 percent.
- b. In all districts covered by Table 2 Part B, special conditions for additional signage allowance above 150 square feet per building. An allowance for additional signage may be granted by the City Planner for either subsection ~~(a)~~(a1) or ~~(b)~~(b2) below.

1. Multiple-tenant buildings which adjoin and have which have more than one entrance for clients that access more than one improved street:
  - i. Secondary and tertiary entrances must be commonly used by clients and must access the interior of the building and conversely the entrance must access a parking lot, sidewalk or constructed public road. These entrances are approved at the sole direction of the Planning Department. Alleys, stairways to upper levels, emergency exits may not apply at the discretion of the Planning Director.
  - ii. Up to 50% more total sign area ~~Additional signage is allowed based on one half the allowance in Table 2 Part B existing~~ for each secondary or tertiary street wall frontage. Signage must be placed on the wall face of the building the allowance was based on.
2. ~~Additional sign allowance for multitenant split level buildings and buildings two or more businesses deep:~~
  - i. In a building that has one frontage, which is the only frontage that has access to a public street, and is split level or is more than one business in depth.
  - ii. Up to 50% more total sign area ~~Additional signage is allowed based on one half the allowance of Table 2 Part B.~~

**21.6061.080 Freestanding Signs.**

In all districts covered by Table 2 Part B, freestanding signs, when otherwise allowed, shall not exceed the following limitations:

- a. ~~a.~~ Only one freestanding sign is allowed per lot, ~~except one freestanding public sign may be additionally allowed.~~
- b. A freestanding sign may not exceed 10 feet in height.
- ~~a.c.~~ All freestanding signs must be setback at least 5 feet from all property lines.
- ~~b.d.~~ ~~b.~~ The sign area on a freestanding sign (excluding a public sign) shall be included in the calculation of maximum allowed sign area per lot and shall not exceed the following:
  1. ~~i.~~ One business or occupancy in one building – 36 sq. ft.
  2. ~~ii.~~ Two independent businesses or occupancies or principal buildings in any combination – 54 sq. ft.
  3. ~~iii.~~ Three independent businesses or occupancies or principal buildings in any combination – 63 sq. ft.
  4. ~~iv.~~ Four or more independent businesses or occupancies or principal buildings in any combination – 72 sq. ft.

**21.6061.090 Sign Characteristics.**

Permitted characteristics for signs by zoning district are included in Table 3.

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**Table 3. Permitted Sign Characteristics by Zoning District**

Sign Type	RR	UR	<del>RONF</del>	<del>INS (a)</del>	M	<del>CBDDMU</del>	<del>TC</del>	<del>GBDCMUGBD</del>	<del>GC1</del>	<del>GC2</del>	<del>EELIMU</del>	MC	MI	OSR	<del>PS (e)</del>
Animated (a)				<del>N</del>		P	<del>P</del>		<del>P</del>		P	P			<del>N</del>
Changeable Copy <del>(b)</del>				<del>P</del>	P	P	<del>P</del>	P	<del>P</del>	<del>P</del>	P	P	P		<del>PH</del>
Illumination Internal				<del>P</del>	P	P	<del>P</del>	P	<del>P</del>	<del>P</del>	P	P	P		<del>N</del>
Illumination External				<del>P</del>	P	P	<del>P</del>	P	<del>P</del>	<del>P</del>	P	P	P		<del>PH</del>
Neon <del>(be)</del>				<del>N</del>		P	<del>P</del>		<del>P</del>	<del>P</del>	P	P	P		<del>N</del>

Notes to Table 3:

~~a. The INS column does not represent a zoning district. It applies to institutional uses permitted under the zoning code, in the RR, UR and RO zoning districts. "Institutional" is defined as an established organization or corporation of a public, nonprofit, or public safety/benefit nature, e.g., schools, churches, and hospitals.~~

a. Animated signs may not be neon, or change colors, or exceed three square feet in area.

~~b. Changeable copy signs must be wall or pole mounted, and may not be flashing.~~

~~eb.~~ Neon signs may not be flashing and may not exceed 32 square feet.

~~e. The PS column does not represent a zoning district. It applies to public signs permitted under the zoning code, in all zoning districts.~~

[Ord. 20-59(A) § 3, 2020; Ord. 20-28 § 1, 2020; Ord. 14-34 § 1, 2014; Ord. 12-26 § 1, 2012; Ord. 12-01(S)(A) §§ 2-6, 2012].

**21.6061.100970 Sign permits.**

a. ~~a. Where required, a sign permit must be obtained before the No person may placement, construction, erect or modification of a sign for which a provision of this chapter requires a permit without first obtaining a permit for the sign under this section.~~

b. ~~b. Applications. An application for a sign permit shall be submitted to the Department on an application form or in accordance with application specifications published by the Department. An application for a permit for a sign that is not an off premises sign shall be submitted by the owner of the lot where the sign is to be located, or by a tenant leasing all or part of the lot when the sign is for the names, advertises, or calls attention to a business, brand, product, service or other commercial activity of the tenant business.~~

~~c. Fees. An application for a sign permit shall be accompanied by the applicable fees established by the Homer City Council from time to time by resolution.~~

c. ~~d. Action. Within seven working days after the submission of a complete application for a sign permit, the Department shall:~~

~~1. 1. If the sign is allowed only with the prior approval of the Commission after a public hearing, refer the application to the next available Commission meeting for a public hearing.~~

~~2. 2. If the sign is subject to administrative permit approval, either:~~

~~3.1. a. Issue the sign permit, if each sign that is the subject of the application conforms in every respect with the requirements of this chapter; or~~

~~4.2. b. Reject the sign permit if a sign that is the subject of the application fails in any way to conform to the requirements of this chapter. In case of rejection, the Department shall specify in the rejection the section or sections of this chapter to which the sign does not conform. [Ord. 12-01(S)(A) § 7, 2012; Ord. 08-29, 2008].~~

**21.6061.110980 Design, construction, and maintenance.**

~~a. All signs shall be designed, constructed, and maintained in accordance with the following standards:~~

- ~~b.a.~~ ~~a.~~ No sign shall be allowed to be a safety hazard. All signs shall be maintained in good repair. Any sign not in substantial, sturdy condition will be subject to abatement as a public nuisance.
- b. ~~b.~~ Except for flags, temporary signs and window signs conforming in all respects to the requirements of this chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- c. ~~e.~~ Visibility for vehicles at access points to public streets shall be protected as required in HCC 21.7357.200050. No sign shall be placed or maintained within the visibility clearance area.
- ~~d.~~ ~~d.~~ Portable Signs shall be ~~set back at least five feet from all property lines except~~ located on private property and outside of any right-of-way or public easement.
- ~~d.c.~~ ~~W~~all signs are permitted on any legally located building wall.
- ~~e.f.~~ ~~e.~~ Illumination, if used, shall not be animated. Light rays shall shine only upon the sign or upon the lot on which the sign is located, and no direct light or significant glare shall be cast onto any adjacent lot, street, or right-of-way.
- ~~f.g.~~ Projecting signs shall have a maximum projection of four feet from the building and not exceed 20 square feet in area. [Ord. 12-01(S)(A) § 8, 2012; Ord. 08-29, 2008].

**21.6061.120090 Permanent signs in public rights-of-way.**

No person may place, construct or erect a permanent sign in a public right-of-way, except for ~~the following:~~

- ~~a.~~ ~~O~~fficial traffic control devices;
- ~~b.~~ Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
- ~~e.~~ Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and
- ~~d.~~ Signs containing commercial messages that have been approved by the State of Alaska Department of Transportation. [Ord. 12-01(S)(A) § 9, 2012; Ord. 08-29, 2008].

**21.6061.130092 Off-premises signs.**

Off-premises signs are allowed with a permit in all nonresidential or mixed use zoning districts subject to the restrictions of this section, which are in addition to the other requirements of the sign code:

- ~~a.~~ Sign permit application for an off-premise sign must be accompanied by the signature of the property owner.~~a.~~
- ~~a.b.~~ No more than one sign per lot, ~~containing up to four separate messages, commercial or noncommercial per sign,~~ may be allowed;
- ~~b.c.~~ ~~b.~~ No more than one message per business, product, service or other commercial or noncommercial activity may be allowed on an off-premises sign anywhere in the City;
- ~~e.d.~~ ~~e.~~ Maximum area of signage ~~per commercial or noncommercial message shall be~~ six ~~ive~~ square feet ~~inclusive of a logo, if any, which shall not exceed one square foot in area;~~
- ~~d.c.~~ ~~d.~~ Maximum height of a freestanding off-premises sign shall not exceed 10 feet;
- ~~e.f.~~ ~~e.~~ Illumination, if used, shall not be animated. Light rays shall shine only upon the sign or upon the lot on which the sign is located, and no direct light or significant glare shall be cast onto any adjacent lot, street, or right-of-way; and

~~f.g. f.~~ The owner and lessee, if any, of the lot on which the sign is located and the owner of any ~~commercial or nonecommercial~~ activity named or depicted on an off-premises sign shall be jointly and severally responsible for compliance with the sign code. [Ord. 08-29, 2008].

~~21.60.095 — Electoral signs.~~

~~Electoral signs are allowed in all zoning districts subject to the restrictions of this section.~~

- ~~a. Electoral signs are allowed in any number and shall be in addition to any other signs allowed under the sign code.~~
- ~~b. Electoral signs may be displayed only for a period of 60 days prior to any Federal, State or municipal election. All electoral signs must be removed within one week following the election; provided, that signs erected for any primary or general election that remain relevant to a subsequent general or run-off election may remain in place for the period between the elections. During other periods of time, electoral signs shall be subject to regulation as other signs under the sign code.~~
- ~~c. Electoral signs shall not be placed on public property or rights-of-way except in accordance with HCC 21.60.090.~~
- ~~d. An electoral sign shall not exceed 16 square feet in area and shall not exceed the height limitation applicable to nonelectoral signs within the same zoning district.~~
- ~~e. Electoral signs shall not violate HCC 21.60.080. [Ord. 12-01(S)(A) § 10, 2012; Ord. 08-29, 2008].~~

~~21.60.097 — Public signs.~~

~~Public signs are allowed in all zoning districts subject to the requirements in Tables 1, 2 and 3 of HCC 21.60.060, and to the following requirements:~~

- ~~a. Public signs are allowed on publicly owned and privately owned lots.~~
- ~~b. Public signs are allowed in rights-of-way, subject to HCC 21.60.090.~~
- ~~c. No more than one public sign is allowed per lot.~~
- ~~d. No public sign may be placed within 300 feet of another public sign.~~
- ~~e. Freestanding public signs shall not exceed 32 square feet in area.~~
- ~~f. Freestanding public signs shall not exceed 10 feet in height.~~
- ~~g. Public signs other than freestanding shall not exceed 24 square feet in area.~~
- ~~h. No public sign is allowed without a permit.~~
- ~~i. Public sign design and placement must be submitted to the Planning Commission for approval, including public signs provided or installed by the City of Homer.~~
- ~~j. The Planning Commission shall conduct a public hearing prior to approving a public sign. [Ord. 09-47(A) § 2, 2009; Ord. 08-29, 2008].~~

**21.6061.14000 Signs exempt from regulation under this chapter.**

The following signs shall be exempt from regulation under this chapter:

- ~~a. a.~~ Any sign bearing only a public notice or warning required by a valid and applicable Federal, State, or local law, regulation, or ordinance.
- ~~b. b.~~ Any emergency warning sign erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within a public right-of-way.

- c. Any sign that is not legible from the public right-of-way.
- d. Works of art that do not contain a commercial message.

~~e. Holiday lights between October 15th and April 15th.~~

- e. ~~f.~~ Traffic control signs on private property, such as a stop sign, a yield sign, and similar signs, the face of which meets Department of Transportation standards ~~and that contain no commercial message of any sort.~~
- f. ~~g. Signs in existence before February 11, 1985~~ Legal nonconforming signs, but such signs shall not be replaced, moved, enlarged, altered, or reconstructed except in compliance with this chapter. [Ord. 22-70(A) § 1, 2023; Ord. 12-01(S)(A) § 11, 2012; Ord. 08-29, 2008].

**21.6061.15040 Signs prohibited under this chapter.**

All signs not expressly permitted under this chapter or exempt from regulation hereunder in accordance with HCC 21.6061.100 are prohibited in the City. Without limiting the foregoing, examples of prohibited signs include:

- a. Banners;
- b. Beacons;
- c. Pennants;

~~d. Strings of lights not permanently mounted to a rigid background, except those exempt under HCC 21.60.100;~~

- d. Inflatable signs and tethered balloons;

~~e.~~ Animated signs that are neon, change colors, or exceed three square feet in area;

~~e.f.~~ Signs that move, rotate, flap, flutter, or give the impression of such movement.

~~f.g.~~ Placement of hand bills, flyers, or bumper stickers on parked vehicles other than by owner;

~~g.h.~~ Signs placed on or painted on a motor vehicle or trailer parked with the primary purpose of providing signage not otherwise allowed by this code; prohibited is any sign displayed on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to advertise a product, service, business, or other activity. This regulation shall permit the use of business logos or identification ~~or advertising~~ on vehicles primarily and actively used for business purposes and/or personal transportation;

~~h.i.~~ Abandoned signs, which shall be removed by the owner or lessee, if any, of the lot upon which the signs are located. If such owner or lessee fails to remove such signs after an opportunity for a hearing before the ~~Planning Commission Hearing Officer~~ and 15 days' written notice to remove given by the City, then (1) the owner or lessee has committed a violation, and (2) the City may remove the signs and collect the cost of removal from such owner or lessee, who shall be jointly and severally liable for such cost. [Ord. 12-01(S)(A) § 11, 2012].

**21.6061.1630 Temporary signs.**

All temporary signs are subject to the following requirements:

- a. Temporary signs ~~that do not bear a commercial message~~ are allowed on private property in any number, subject to the total square footage limitations in this chapter
- b. Unless a smaller area is required by another provision of this chapter, the area of a single temporary sign shall not exceed 16 square feet.
- c. A temporary sign may not be ~~an illuminated or~~ animated, ~~or changeable copy sign.~~

- d. A temporary sign whose message pertains to a specific date, event, or time period shall not be displayed for more than seven days after that date or the conclusion of the event or time period.

~~b. Commercial. A temporary sign that bears a commercial message shall be limited to the following:~~

~~1. One sign advertising the property on which the sign is located for sale or for rent; or~~

~~2. One sign advertising a temporary sale of household goods located on the lot where the sale is held.~~

~~3. One temporary sign other than those described in subsections (b)(1) and (2) of this section may be allowed by permit for disp~~

**21.6061.1750 Time of compliance – Nonconforming signs and signs without permits.**

- a. Any sign that was constructed and continues to be maintained in accordance with the applicable ordinances and other laws that existed prior to an amendment to this code, but which becomes unlawful as a result of an amendment to this code, is lawfully nonconforming. A sign that is lawfully nonconforming under this subsection may remain in place and continue to be maintained until the information on the face of the sign is changed, or for a period of one year after the effective date of the amendment, whichever occurs first. If any action is taken that increases the degree or extent of the nonconformity with the amended code, the sign loses lawful nonconforming status and must be removed immediately. At the end of the period during which the lawfully nonconforming sign is allowed to remain in use, the sign shall either be removed or the owner must obtain a permit, if required, and complete all other steps and make any modifications necessary to bring it into full compliance with this code.
- b. Except as otherwise provided herein, the owner of any lot or other premises on which exists a sign that does not conform to the requirements of this chapter or for which there is no current and valid sign permit must remove such sign or, in the case of a nonconforming sign, bring it into conformity with the requirements of this chapter.
- c. Signs that were prohibited by Ordinance 84-33(S), as amended by Ordinances 86-18 and 89-8, and that are prohibited by this chapter are illegal and must be removed immediately.
- d. Any sign that was constructed and continues to be maintained in accordance with the applicable laws that governed territory prior to its annexation to the City, but which becomes unlawful under this code as a result of annexation to the City, is lawfully nonconforming. A sign that is lawfully nonconforming under this subsection may remain in place and continue to be maintained until the information on the face of the sign is changed, or for a period of one year after the later of (1) the effective date of the annexation of the territory or (2) the effective date of the ordinance that assigns the territory in which the sign is located to a zoning district under the Homer Zoning Code, whichever occurs first. If any action is taken that increases the degree or extent of the nonconformity with the code, the sign loses lawful nonconforming status and must be removed immediately. At the end of the period during which the lawfully nonconforming sign is allowed to remain in use, the sign shall either be removed or the owner must obtain a permit, if required, and complete all other steps and make any modifications necessary to bring it into full compliance with this code.

~~e. Notwithstanding the remainder of this section, a nonconforming banner or temporary sign shall be removed no later than May 1, 2012. [Ord. 12-01(S)(A) § 16, 2012].~~

**21.6061.1870 Enforcement and remedies.**

In addition to the remedies provided in Chapter 21.90-17 HCC, violations of this chapter are subject to the following remedies:

- a. A person designated to enforce this title under HCC 21.90-02905.020 may remove a temporary sign placed in a public right-of-way in violation of this chapter. The person responsible for the illegal placement shall be liable for the cost incurred in removing the sign.
- b. Notwithstanding any other provision of this title:

1. An appeal to the ~~Planning Commission~~Hearing Officer from an enforcement order that requires the abatement or removal of a temporary sign placed on private property in violation of this chapter must be filed within seven days after the date of distribution of the enforcement order to the person whose property is the subject of the enforcement order.
2. An appeal from a final decision of the ~~Planning Commission~~Hearing Officer regarding an enforcement order that requires the abatement or removal of a temporary sign placed on private property in violation of this chapter must be taken directly to the Superior Court. [Ord. 12-01(S)(A) § 18, 2012; Ord. 08-29, 2008].

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<sup>1</sup> Note: HCC 21.61.120, General permit procedures; 21.61.140, Temporary signs – Public right-of-way; and 21.61.160, Violations, repealed via Ordinance 12-01(S)(A) May 1, 2012.