

KENAI PENINSULA BOROUGH

ORDINANCE NO. 33

AN ORDINANCE ENTITLED: AN ORDINANCE RELATING TO THE
ESTABLISHMENT OF INTERIM ZONING
REQUIREMENTS IN THE HOMER AREA

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA
BOROUGH:

Section 1. Title 20 of the Kenai Peninsula Borough
Code of Ordinances is amended by adding a new chapter
including sections 20.20.05 - 20.20.40, to read as follows:

CHAPTER 20. THE HOMER DISTRICT

Section 20.20.05. Title and Purpose.

- (a) This Chapter may be cited as "The Homer District Zoning Code". The provisions of this chapter are applicable only within the district which is described as all land contained within the city limits of the City of Homer.
- (b) This ordinance is adopted in order to:
 - (1) Designate, regulate and restrict the location and use of buildings, structures and land, for residence, commerce, trade, industry or other purpose.
 - (2) To regulate and limit the height, number of stories, and size of buildings and other structures hereinafter erected or alterations of any existing buildings.
 - (3) To regulate and determine the size of yards and other open spaces.
 - (4) To regulate and limit the density of population.
 - (5) To conserve and stabilize the value of property.
 - (6) To provide adequate open spaces for light and air, and to prevent and fight fires.

(7) To prevent undue concentration of population.

(8) To lessen congestion on streets and highways.

(9) To promote health, safety and general welfare.

Section 20.20.10, Definitions.

For the purpose of this chapter, the following words used herein shall be interpreted or defined as follows: When not inconsistent with the context, words used in the present tense shall include the future, the singular number includes the plural, the word "person" includes a firm, partnership or corporation as well as an individual, the word "lot" includes the words "plot", "piece", "parcel", the term "shall" is always mandatory, and the words "used" or "occupied" shall be construed to include the words "intended", "arranged", or designed to be used or occupied.

(1) Accessory Use or Building: A use or building customarily incidental and subordinate to and located on the same lot with the principal building.

(2) Agricultural Building: A building located in the unclassified district and used to shelter farm implements, hay, grain, poultry, livestock, or other farm products, in which there is no human habitation and which is not used by the public.

(3) Alley: A public thoroughfare less than thirty (30) feet in width, which affords only a secondary means of access to abutting property.

(4) Alterations: Any change, addition or modification in construction or occupancy.

(5) Apartment House: See Dwelling Multiple.

(6) Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of steps.

(7) Automobile Wrecking: The dismantling of used motor vehicles or trailers or the storage or sale of parts from dismantled or partially dismantled, obsolete, or wrecked vehicles.

(8) Basement: A story partly or wholly underground. See definition of Story.

(9) Boarding House: A building other than a hotel with not more than five sleeping rooms where lodging, with or without meals, is provided for compensation for three or more persons, but not exceeding 15 persons, on other than day-to-day basis and which is not open to transient guests.

(10) Building: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(11) Building Code: The Building Code of the City and/or other building regulations applicable in this district.

(12) Building Existing: A building erected prior to the adoption of this chapter or one for which a legal building permit has been issued.

(13) Building Height: The vertical distance from the finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip-roof.

(14) Building Line, Front: The line of that part of the building nearest the front line of the lot.

(15) Building, Principal or Main: A building in which is conducted the principal or main use of the lot on which said building is situated.

(16) Dwelling Unit: One or more rooms in a dwelling or apartment hotel designed for occupancy by one family for living or sleeping purposes and having kitchen and bath facilities.

(18) Dwelling, one-family: A detached building designed exclusively for occupancy by one family.

(19) Dwelling, Two-family: A detached building designed exclusively for occupancy by two families living independently of each other, but under one roof.

(20) Dwelling, Multiple-family: A building used or designed as a residence for three or more families living independently of each other.

(21) Family: One or more persons occupying a premises and living as a single housekeeping unit in a dwelling unit.

(22) Fence, Height: The vertical distance between the ground, either natural or filled, directly under the fence and the highest point of the fence.

(23) Garage, Private: A building, or a portion of a building, not more than one thousand square feet in area, in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

(24) Garage, Public: A building other than a private garage used for the care, repair, or equipment of automobiles, or where such vehicles are parked, or stored, for remuneration, hire or sale.

(25) Garage, Storage: Any premises except those described as a private or public garage, used exclusively for the storage of self-propelled vehicles.

(26) Home Occupation: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display; no stock in trade nor commodity sold upon the premises; no persons employed; and no mechanical equipment used which may make noise; dust, odor or vibration detrimental to dwelling occupancy.

(27) Hotel: A building designed for occupancy as the more or less temporary place of abode for individuals who are lodged with or without meals, in which there are six or more guest rooms, and in which no provision is made for cooking in any individual room or suite.

(28) Junk Yard: Any space 100 square feet or more of the area of any lot used for the storage, keeping or abandonment of junk or waste material, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts thereof.

(29) Loading Space: 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 parking commercial vehicles while loading and unloading, and which abuts upon a street, alley or other appropriate means of access.

(30) Lot: A parcel of land shown on a subdivision map or a record of survey map, or described by metes and bounds and recorded in the office of the District Recorder of the City of Homer, and/or a building site in one ownership having an area for each main building as hereinafter required in each zone and having frontage upon or access by adequate public easement to a public street, road or highway.

(31) Lot Line, Front: In the case of an interior lot, a line separating the lot from the street, or place; in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street. In the case of a square, or nearly squareshaped corner lot, the owner may choose which street he shall designate as the front of the lot. Once the choice of frontage has been made, it cannot be changed unless all requirements for yard space are complied with.

(32) Lot, Corner: A lot situated at the intersection of two or more streets having an angle of intersection of not more than one hundred thirty-five (135) degrees.

(33) Lot Line, Rear: A lot line which is opposite and most distant from the front lot line and, in case of an irregular, triangular or gore-shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(34) Lot Line, Side: Any lot boundary line not a front lot line or a rear lot line.

(35) Lot Width: The horizontal distance between the side lot lines measured at right angles to the longitudinal center line.

(36) Lot Depth: The horizontal distance between the front and rear lot lines measured on the longitudinal center line.

(37) Lot, Area: The total horizontal net area within the lot lines of a lot or parcel, exclusive of streets, highways, roads and alleys.

(38) Lot, Reversed Corner: A corner lot the side street line of which is substantially a continuation of the front line of the lot to its rear.

(39) Lot, Interior: A lot other than a corner lot.

(40) Lot, Key: The first interior lot to the rear of a reversed corner lot and not separated therefrom by an alley.

(41) Lot, Through: A lot having a frontage on two parallel or approximately parallel streets.

(42) Motel: A group of one or more detached or semi-detached buildings containing two or more individual dwelling units and/or guest rooms designed for or used temporarily by automobile tourists or transients, with a garage attached or parking space conveniently located to each unit, including groups designated as auto courts, motor lodges, or tourist courts.

(43) Non-Conforming Use: A use which lawfully occupied a building or land at the time this ordinance became effective and which does not conform with the use regulations of the zone in which it is located.

(44) Occupancy: The purpose for which a building is used or intended to be used. The term

shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

(45) Parking Space, Private: Any automobile parking space not less than ten feet wide and twenty feet long.

(46) Parking Space, Public: Any area, other than a street or alley, used for the parking of automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

(47) Place: An open, unoccupied space dedicated to purposes or access for abutting property.

(48) Rooming House: A dwelling in which more than four persons are housed or lodged for hire, with or without meals. Term includes boarding house, lodging house, and tourist court.

(49) Setback: The distance between the lot line and the front building line.

(50) Service Station: Any building, structure, premises, or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories; the installation and servicing of such lubricants, tires, batteries and other small accessories, and such other services which do not customarily or usually require the services of a qualified automotive mechanic. When the retail sale and dispensing of motor fuels, lubricants, and accessories is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

(51) Sign: Any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names, or trade marks, by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from any public street or highway and used to attract attention.

(52) State Highway: A right-of-way classified by the State of Alaska as a primary, Secondary A, or Secondary B Highway.

(53) Story: That portion of a building included between the upper surface of any floor and that 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, such basement or cellar shall be considered a story.

(54) Story, Half: A story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor area immediately below it.

(55) Street: A public thoroughfare including public roads or highways thirty feet or more in width, which affords principal means of access to abutting property.

(56) Structure: Anything constructed or erected which requires location on the ground or attached to something having location on the ground, but not including fences or wells used as fences.

(57) Structural Alterations: Any change of the supporting members of a building or structure such as bearing walls, columns, beams or girders.

(58) Street Line: The line of demarcation between a street and the lot or land abutting thereon.

(59) Trailer Court, Camp, Park or Lot: Any area or premises where space for two or more trailers is rented, held out for rent, or for which free occupancy or camping for such number is permitted to trailers or uses for the purpose of securing their trade, herein referred to as a trailer court, but not including automobiles or trailer sales lots on which unoccupied house trailers are parked for inspection and sales.

(60) Trailer: Any vehicle used or intended to be used as living or sleeping quarters for humans and which may be driven, towed, or propelled from

one location to another without change in structure by wheels and including trailers, trailer coaches, and house cars.

(61) Use: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

(62) Yard: An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

(63) Yard, Front: A yard extending across the full width of a lot measured between the front lot line of the lot or a future street width line and the nearest exterior wall of the building, front of a bay window, or the front of a covered porch or other similar projection, whichever is the nearest to the front lot line.

(64) Yard, Rear: A yard extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line.

(65) Yard, Side: A yard, between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

(66) Variance: Any deviation from the requirement of the zoning ordinance, but limited to the one instance in question and to no more than one building or improvement at a time and then subject to the conditions and uses authorized by the Planning Commission. Example: A building authorized as a variance for use as a grocery store in a Residential Zone could not later be used for some other purpose even though that purpose was permissible in a normal Commercial Zone. Variances are non-precedent setting and are authorized where owing to special conditions a literal enforcement of the provisions of this chapter would result in unnecessary hardship and so that the spirit of the chapter shall be observed and substantial justice done.

(67) Exception: A form of variance granted:

A. To a public utility or public service organization by virtue of their special status in the community.

B. For some public non-commercial use regardless of to whom granted.

C. To anyone for the temporary use of a building or premises for non-conforming use, provided that such structure or use is of a temporary nature and is promotive of or incidental to the construction, establishment or development of a use that conform to the regulations for the use district in which it is located. Such permit shall be granted in the form of a temporary and revocable permit for not more than a one year period.

Section 20.20.15. Use Districts.

(a) Types of use districts. The Homer District is hereby divided into the following types of use districts:

(1) Residence Use Districts -R- One family dwellings, two family dwellings, three (or more) family dwellings.

(2) Commercial Use District -C- Commercial.

(3) Industrial Use Districts -I- Industrial.

(b) Zoning Map: The aforesaid three use districts are bounded as shown on a map entitled "Homer District Zoning Map", certified copies of which map are on file in the office of the City Clerk of the City of Homer, and in the borough office, and which map, together with all explanatory matter thereon, is hereby made a part of this chapter as if the matters and information set forth by such map were all fully described herein.

Where uncertainty exists with respect to the boundaries of any of the aforesaid use districts as shown on the said map, the following rules shall apply:

(1) Where use district boundaries are indicated as approximately following the center lines of streets or alleys, such center lines shall be construed to be such boundaries.

(2) Where use district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

(3) Where use district boundaries are shown dividing unsubdivided property the location of such boundaries shall be determined by the use of the scale appearing on said map, unless otherwise determined by dimensions thereon.

(4) Where use district boundaries are indicated as approximately following the center lines of projected streets or highways the scale of said map shall determine such use district boundaries until such time as such streets or highways are constructed, whereupon the center lines thereof shall constitute said use district boundaries.

(5) Where a use district boundary divides a lot which was in single ownership and of record at the time of the passing of this chapter, the use of and the use district requirements applying to the least restricted portion of such lot shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within 25 feet of said dividing use district boundary. The use so extended shall be deemed to be conforming.

(6) All areas within the Homer District which are under water or tidelands and are not shown as included within a use district shall be subject to all of the regulations of the use district which is immediately adjacent to such tideland and under water areas.

(7) Where property within the Homer District has not been specifically included within a use district, such property and territory shall be classed as lying and being in an R- District, until such classification shall be changed by an amendment to this Code of Ordinances.

(8) Whenever any street, alley, or public place is lawfully vacated, the zoning use district adjoining each side of such street, alley or public street shall be extended to the center of the area vacated and all such area shall thereafter be subject to all of the regulations of the so extended use districts.

(9) Where use district boundaries are indicated as approximately following section or section subdivision lines, such boundaries shall be construed as following such section or section subdivision lines.

(10) Where use district boundaries are indicated as following shore lines or approximately following the center lines of streams, such boundaries shall be construed to follow such shore lines or such center lines of streams.

(11) Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by one through ten above, the Commission shall interpret the district boundaries.

Section 20.20.20. Use District Regulations:

(a) General Regulations.

(1) Unless otherwise provided for in this chapter, no building or land shall be used or occupied and no building or any part thereof shall be erected, moved, or structurally altered unless in conformity with the regulations herein specified for the district in which such building or land is located. For Non-Conforming Uses, see Section VII.

(2) Unless otherwise provided for in this ordinance, no building shall hereafter be erected or altered:

- A. to exceed the height;
- B. to accomodate or house a greater number of families or lodgers;
- C. to occupy a greater percentage of lot area;
- D. or to have a smaller front, side, or rear yard; than is herein specified for the district in which such building or land is located.

(3) Every building hereafter erected, enlarged, or converted to a use which requires off-street parking shall provide garage space or parking space in compliance with all of the regulations established by this Chapter for use district in which the building is located. See section 20.20.25.

(4) Every building hereafter erected, enlarged or converted for commercial purposes shall provide reasonable facilities for the loading and unloading of goods in compliance with all of the regulations established by this chapter according to the use of such building. See section 20.20.25.

(5) Not more than one principal building shall be permitted on a lot.

(6) No yard or other open space required about any building by this Ordinance shall be considered as providing a yard or open space for any other building, and no yard or open space on any other lot.

Unless otherwise provided for in this chapter, the following regulations shall respectively apply to each of the said three use districts:

(b) R-Districts, Residential:

(1) Uses permitted:

- A. One-family and two-family dwellings;
- B. Multiple family dwellings;
- C. Schools, both public and private;
- D. Public parks and playgrounds, including public buildings accessory thereto, and other municipal recreational uses;
- E. Home occupations;
- F. The raising of vegetables, berry and fruit crops, but not including any sales rooms or buildings used primarily for the sale thereof.
- G. Public libraries, both public and private museums or art galleries;
- H. Churches;
- I. Medical clinics and professional offices.
- J. The following buildings or uses, if no portion of the structure containing such use shall be less than 15 feet from any adjacent residential lot:
 - 1. Public or private nurseries, kindergartens, children's boarding homes, orphanages.

2. Public parking areas, provided a sightly fence or hedge is provided and maintained within the side building line.
 3. Other public buildings or properties of a charter not customarily conducted as a gainful business.
- K. Customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any use commonly conducted for gain.
- L. The following buildings or uses, if located 100 or more feet from any adjoining premises in any R- Use district:
1. Private clubs operated for the benefit of the members.
 2. Hospitals, sanitariums, nursing, rest or convalescent homes, not primarily for contagious diseases nor for the care of drug addicts or alcoholics, nor for the care of the insane or feeble-minded.
 3. Police stations, fire stations.
- M. Height regulations:
1. Two and one-half stories, but not to exceed 35 feet in height for one or two family dwellings.
 2. Not to exceed 80 feet in height for multiple-family dwellings.
- N. Required lot area:
1. One and two-family dwellings - each such dwelling shall be located on a lot not less than 6,750 square feet in area and not less than 50 feet width.
 2. Multiple-family dwellings - each such building shall be located on a lot providing the following minimum area per dwelling unit, according to number of stories in building:

<u>Number of Stories</u>	<u>Lot Area Per Dwelling</u>
1	1,000 sq. feet
2	800 sq. feet
3-6	700 sq. feet

But no lot shall be less than 6,750 square feet in area and not less than 50 feet in width.

3. Other permitted uses and buildings; each such building shall be located on a lot not less than 6,750 square in area and not less than 50 feet in width.

O. Building Area Regulations:

1. One and two-family dwellings: all buildings including accessory buildings shall not cover more than 50% (fifty per cent) of the lot..
2. Multiple-family dwellings: all buildings, including accessory buildings, shall not cover more than 65% (sixty-five per cent) of the lot. .

P. Yard Regulations: Minimum

1. One and two-family dwellings:
Front yard depth: 20 feet.
Side yard width: 5 feet on each side of a building, provided where a side yard fronts on a side street, the width of that yard shall not be less than 10 feet, and provided further, that no part of any Church or school shall be within 20 feet of any adjoining residential lot.
Rear yard depth: 10 feet.
2. Multiple-family dwellings:
Front yard depth: 10 feet
Side yard width: each shall be one-fourth the height of the building, but not less than five feet each, but in event where a side yard fronts on a side street shall the width of that yard be less than 10 feet, and no part of any church or school shall be within 20 feet of any adjoining lot.

Rear yard depth: one-third of the height of the building but not less than 10 feet.

(c) C- Districts, Commercial:

(1) Uses Permitted:

- A. All uses permitted in R- Districts.
- B. Stores, shops and offices for the conducting of any retail, wholesale, professional, commercial or governmental business.
- C. Theaters, bowling alleys, pool parlors, restaurants, cocktail bars, dancing establishments and other places of amusement, recreation or assembly.
- D. Hotels, private clubs, fire and police stations.
- E. Trailer courts and motels.
- F. Private educational institutions.
- G. Service stations, public garages, sales rooms and shops for repair of motor vehicles and boats and other engines and appurtenances, provided that repair of automobiles and boats can be conducted wholly within the building.
- H. Newspaper and printing establishments.
- I. Cleaning and laundry establishments using non-explosive and non-inflammable cleaning fluids.
- J. Custom work and the making of articles to be sold at retail on the premises, including but not limited to watch repairing, novelties, leather goods, gunsmithing, and commercial and sports fishing equipment.
- K. The following buildings or uses, if located 100 or more feet from an adjoining premises in any residential district:

Plumbing and heating shops, upholstery shops, cabinet making, painting and decorating shops, sheet metal and welding shops, and other similar uses, provided such uses, including storage of materials is wholly within an enclosed building.

Public parking areas, subject to the regulations contained in Section 20.20.25.

Funeral and mortuary establishments, not including crematories.

Retail lumber yards.

Blacksmith shops and machine shops not using drop hammer or punch process or other similar heavy machinery, providing such uses, including the storage of materials, be conducted wholly within a completely enclosed building.

L. Public Docks.

M. Warehouses

N. Transfer and Storage.

O. Accessory buildings when located on the same lot.

P. Other uses similar to the above, as provided in Section 20.20.35 (a-f).

(2) Height regulations: Not to exceed 80 feet.

(3) Building Area Regulations: No restrictions.

(4) Required Lot Area: No minimum requirement except as necessary to meet parking, loading, and yard requirements.

(5) Yard Regulations:

A. Front yard depth: no requirements.

B. Side yard width: No side yard required except that a side yard of not less than ten feet in width shall be required on

any side abutting any lot in a residential district.

- C. Rear yard depth: No requirement except as necessary to meet parking and load requirements.

(d) I Districts, Industrial:

(1) Uses Permitted:

- A. All lawful uses except as hereinafter limited or prohibited.
- B. Junk yards, salvage yards, or automobile wrecking yards, scrap iron, scrap paper or rag storage, sorting or bailing, provided such use is conducted entirely enclosed within a solid fence at least eight (8) feet high, which fence shall be maintained in a sound structural condition and of proper appearance at all times, and which fence shall be kept free of signs, posters or any advertising matter other than signs designating the name and nature of the business.

(2) Uses Prohibited:

- A. All residential uses except dwelling for a watchman or caretaker employed on the premises or owner-operator and members of his family.
- B. All uses that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions; provided, however, that any uses may be permitted if approved by the City Council of the City of Homer sitting as a Board of Adjustment to the securing of a permit therefore conditioned on meeting such restrictions, safeguards and

conditions as may be deemed necessary by said Council for the purposes of protecting the health, safety, morals or general welfare of the community.

(3) Height regulations:

A. Not to exceed 80 feet.

(4) Building Area Regulations: No restrictions.

(5) Required Lot area: No minimum requirement except as necessary to meet parking, loading and yard requirements.

(6) Yard Regulations:

A. Front yard depth: No requirement.

B. Side yard width: No side yard required except that a side yard of not less than ten (10) feet in width shall be required on any side, abutting any lot in a residential district.

C. Rear yard depth: No requirement except as necessary to meet parking and load requirements.

Section 20.20.25. Parking and Loading Regulations:

(a) Parking and Loading Areas Required: The following off-street parking and loading spaces shall be provided and satisfactorily maintained by the owner of the property for each building which after the date of this Ordinance becomes effective is erected, enlarged or altered for use of any of the following purposes:

(1) Off-street Parking:

A. One and two-family dwellings: At least one parking space for each dwelling unit.

B. Multiple-family dwellings: At least one parking space for each dwelling unit.

C. Hotels, rooming houses and lodges and clubs with guest rooms: At least 1 1/2

parking spaces for every guest room.

- D. Churches, lodges and clubs, exhibition halls, restaurants, places of public assembly, dance halls, night clubs, skating rinks, bowling alleys, theaters, and other commercial recreation places: One free parking space for each four seats based on maximum seating capacity or for each four occupants if not in a C (Commercial) District.
- E. Food stores, markets and shopping centers: At least one free parking space for each 500 square feet of building floor area, if not located in a C(Commercial) District, but in any event, not less than six.
- F. Other retail establishments, clinics, professional and other offices and similar enterprises if not located in a C(Commercial) District: At least one free parking space for each 200 square feet of building floor area.
- G. Wholesale stores, warehouses and storage buildings: At least one free parking space for each employee, but not less than two parking spaces.
- H. Industrial and manufacturing establishments in which there are more than five officers and employees: At least one free parking space for every employee.
- I. Motor vehicle maintenance and repair shops: Including public garages: At least one free parking space for each employee, provided that all vehicles in the custody of the operator of the business for service, repair, storage, sale or other purpose shall be stored on the premises or on a separate vehicle parking lot and shall not be parked on a public right-of-way.
- J. Non-mentioned Use: The same as for the above mentioned use which in the opinion of the Planning Commission shall be deemed most similar.

- K. Mixed uses: The total requirement shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for any use shall not be considered as providing required facilities for any other use.

(2) Parking Space Size Requirements:

- A. For one and two family dwellings: The Parking spaces shall be not less than eight feet wide and 20 feet long.
- B. For other uses: The parking spaces shall be not less than 200 square feet per vehicle, exclusive of access and turning areas required to utilize such space.

(3) General Provisions:

- A. All parking space provided pursuant to this chapter shall be on the same lot with the main building it serves or on an adjoining lot, except that the city council may permit the parking spaces to be on any lot within 500 feet of the buildings of it determines it impractical to provide parking on the same lot with the building.
- B. No parking space or spaces which existed at the time this Ordinance became effective or which was subsequently thereto provided for the purpose of complying with this chapter shall thereafter be relinquished or reduced in any manner below the requirements established in this Ordinance.
- C. All off-street automobile parking facilities shall be designed with appropriate means of vehicular access to street or alley and adequate maneuvering area. No driveway or curb cuts in any district shall exceed 25 feet in width and detailed plans for all curb cuts shall be submitted to the Planning Commission for approval before a permit shall be issued therefore.

- D. Lighting of all parking spaces and parking areas, both public and private, shall be arranged to reflect away from adjacent residential areas and all public streets and highways.
- E. An uncovered private parking area may occupy any yard required by this Ordinance.
- F. Change in Requirements: Whenever after the effective date of this chapter, there is a change in the number of employees or in the lawful use of the premises or in any other unit of measurement specified in any of the foregoing sections of this chapter, and whenever such change creates a need for an increase or decrease of more than 33 1/3% of the number of off-street automobile parking spaces as determined by the requirements of this chapter, more or less off-street parking facilities shall be provided within a reasonable time on the basis of the adjusted needs, as determined by this chapter. In case of unusual hardship arising out of the requirements of this paragraph, recourse may be had to the Planning Commission in the manner provided by this Chapter.

(4) Loading Areas:

- A. Off-street areas for loading or unloading of vehicles shall be provided in connection with every building or premises used or designed to be used for any institutional, commercial, or industrial use where substantial amounts of goods are received or shipped at regular intervals.
- B. Such loading areas shall be of sufficient size to permit loading and unloading without interference with or projection into any public right-of-way, street or sidewalk.
- C. Loading areas shall be provided with access to any alley, or if no alley adjoins the lot, with access to a street. Any required front or rear yard may be used for such purpose.

- D. This article shall not be construed to require private loading areas for oil, laundry, milk, bakery or other similar commercial deliveries, unless such goods and commodities are so delivered for resale or processing or manufacturing.

(5) Public Parking Areas:

- A. The City Council of the City of Homer sitting as a board of adjustment may in its discretion permit the temporary or permanent use of land in any residence district for parking areas where such land is within 200 feet from a district other than a residence district, provided:
1. The area is not be used for the sale, service, or repair of motor vehicles;
 2. entrance and exit shall be located to cause least harm to the residence district and adjacent residences; and
 3. if the area abuts a lot used for residential purposes the owner of the area shall be required to construct and maintain a sightly fence or hedge or other barrier at least six feet in height along the side lines of said lot within the side yard lines required for the district in which located:

Section 20.20.30. Supplementary Regulations:

(a) Uses:

- (1) Accessory Uses; Garages: In residence districts the number of motor vehicles for which space may be provided as accessory to authorized use shall not exceed the following:
- A. In any R District, two motor vehicles for a one and two family dwelling. For Multiple family dwellings, garage space may be provided for each dwelling unit.
 - B. A garage accessory to a multiple family dwelling or hotel may employ one or more

attendants who may service and make minor repairs to motor vehicles, provided such work is done entirely within the building and no noise or nuisance is caused by machinery or equipment used.

- (2) Accessory Uses, Motor Vehicle Repair Shops:
No motor vehicle repair shop shall be permitted as an accessory use in any district except in C-1 and I-1 Districts.
- (3) Public Garages and Service Stations: Plans for any public or private garage for more than five cars in any district and plans for any service station vending gasoline or petroleum bulk or package plant shall be first submitted to the Planning Commission for approval. The Commission may require changes in such plans in the interests of safety, traffic flow and to safeguard adjacent properties.
- (4) Signs, including name plates, advertising signs, and advertising structures in R Districts.
 - A. Signs not exceeding two square feet containing the name of the occupant and the name of the lawful home occupation shall be permitted.
 - B. For sale, for rent and for lease signs shall be temporarily permitted, not to exceed three square feet in area if located back of the setback or building line.
 - C. Signs of not more than 20 feet square shall be permitted to identify multiple-family dwellings, hotels, clubs, lodges, hospitals, public and similar uses if mounted against the building or more than 15 feet back of the front line.
 - D. Churches and public and charitable institutions may for their own use maintain an announcement sign or bulletin board not exceeding 20 square feet in area if located five or more feet back of the front lot line.
 - E. No signs of the flashing or animated variety shall be permitted. Signs for permitted

promises shall be limited to not exceeding 20 square feet in area and shall be mounted flat against the building or back of the building line.

- (5) Fences: Fences or walls not more than six feet high may be erected in any residence district but no fence, wall or shrubbery shall be maintained within 25 feet of any street intersection measured from curb line so as to interfere with traffic visibility excepting a fence, wall or shrubbery not to exceed three feet in height measuring from the level of the street, or a tree less than one foot in diameter if limbed to a height of seven feet.

- (6) Other uses permitted by the Planning Commission:

- A. Wherever the term "Other uses similar to the above" is mentioned, such shall mean uses which, in the judgement of the Planning Commission, evidenced by their written decision, are similar to and not more objectionable to the general health and welfare than the uses listed for that particular district in which the prospective or questioned use would be located.
- B. Where a use has been declared by such decision to be lawful as within the term "Other uses similar to the above" such use shall be restricted to the district in question and shall not apply to any other district.

(b) Height:

- (1) The height limitations of this chapter shall not apply to church spires, belfries, cupolas, and domes if not used for human occupancy, nor to chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads, monuments, flag poles, television and radio antennae, and other similar features, and necessary mechanical appurtenances usually carried above roof level.
- (2) The provisions of this chapter shall not apply to prevent the erection above the building height limit of parapet walls or cornices,

if without window and not to exceed five feet in height.

(c) Area:

- (1) Reduced Lot Area: No lot shall be so reduced in area that any required yard or other open space shall be smaller than prescribed in the regulations for the district in which said lot is located. Whenever such reduction in lot occurs, any building located on such lot shall thereafter not be used until such building is altered in accordance with the Building Code.
- (2) Dwellings on Small Lots: Notwithstanding the limitations imposed by any provision of this chapter, the Planning Commission may permit the construction of single-family dwellings on any lot legally subdivided and separately owned or under contract of sale and containing, at the time of the passage of this chapter an area or width smaller than required for a one-family dwelling with a proper building permit.
- (3) Improvements of Dwellings on Small Lots: Notwithstanding the limitations imposed by any provision of this chapter the Planning Commission may permit the alteration of one and two-family dwellings situated on an area of width smaller than required for such dwellings provided, however, such alterations are designed to increase the safety and sightliness of the building or to furnish off-street parking and, provided further, that the building was in existence at the time of the passage of this chapter, and that subsequently the area of the lot had not been reduced, and that such alteration does not increase the building area measurements, nor reduce the existing yard space.

(d) Yards:

- (1) Terraces: A surfaced terrace may be included in computing yard sizes, provided such terrace is not roofed and is not enclosed. It may have an open guard rail.

- (2) Porches: An un-enclosed one-story porch, regardless of roof, may project into any yard six feet without being included in computing building area; provided, however, such porch shall not be closer than four feet to a lot line, and no building shall have such porch projecting into more than one required yard. Any two-story or enclosed porch shall be considered a part of the building in determining yard size and building area. Any enclosed porch of less than 50 square feet shall not be considered in such determination.

Section 20.20.35. Non-conforming Uses.

- (a) Existing Non-conforming Use: The lawful use of a building existing at the time of the effective date of this chapter may be continued although such use does not conform to the provisions of this Chapter.
- (b) Extension of Non-conforming Use Prohibited: No structural alteration may be done on a non-conforming building which will result in the extension of such non-conforming use, nor to enlargement of the building containing such use, nor to change the general character of the building; provided, however, that ordinary maintenance and repair may be done on such non-conforming building, and such structural alterations may be made which are necessary to maintain the building in good condition.
- (c) Changes in Use: No change in use shall be permitted unless for the purpose of conforming to the regulations of the use district in which such building is located.
- (d) Alterations: A building lawfully used for a non-conforming use at the time of the enactment of this chapter may not be reconstructed or structurally altered to an extent exceeding an aggregate cost, 50% of its assessed value in any ten year period, unless the use of such building is changed to a conforming use.

- (e) Destruction by Fire: Any building destroyed by fire or by other calamity to the extent of 50% or less of its assessed value may be renewed for purposes in use in such building at the time of the fire or calamity, even though such use is non-conforming. Any building destroyed by fire or other calamity to the extent of more than 50% of its assessed value may be renewed and reconstructed only in conformity with the provisions of this chapter. When restoration to a non-conforming use is permitted hereunder, such reconstruction shall be completed within one year from the date of partial destruction.
- (f) Discontinuance: When a non-conforming use has been discontinued, abandoned or its normal operation is not used, for a period of one year, the use of the same thereafter shall conform to the provisions of this chapter.
- (g) Construction Approved prior to this Chapter: Nothing herein contained shall require any change in plans, construction, alteration or designated use of a building, for which a building permit has been issued before the date of enactment of this chapter, and the construction of which shall have been actually begun and diligently prosecuted within one month of the date of issuance of this permit, and which the entire building or structure shall be completed according to such plans as filed with the application for such permit within one year from the date thereof.
- (h) Government Buildings: The Planning Commission may, after public hearing within 10 days notice, by special permit and subject to such protective restrictions as it may deem necessary, authorize the location in any use district within the District of any public building erected for and used by any department of the City, Territorial, State or Federal government, or any building or other structure erected and used by any public utility operating under a franchise granted by the City.
- (i) Use District Changes: Whenever the boundaries of a use district shall be changed so as to transfer an area from one use district to another use district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.

Section 20.20.40. Administration and Enforcement:

- (a) This chapter shall be enforced by the Planning Commission. The Commission may contract with the City of Homer for enforcement by officers of the City of Homer, in the name of the borough, with the consent of the borough assembly.
- (b) It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy, or maintain any building or structure in the District, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter.
- (c) Violations and Penalties: Any person, firm or corporation who shall violate, neglect or refuse to comply with or who shall maintain, use or construct any building or premises in violation of the provisions of this chapter shall be punished as provided.

In addition to the above penalties such actions at law or a suit in equity may be maintained by the borough or any authorized person as may be authorized by law.

- (d) Interpretation, conflicts with other chapters of code, separability. In their interpretations and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and the general welfare. Wherever the requirements of this chapter are at a variance with the requirements of any other lawfully adopted rule, regulation, or other chapter of this code, the most restrictive, or those imposing the higher standards shall govern.

In the event any portion, section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter."

Section 2. This ordinance becomes effective immediately upon its passage and approval according to law.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 2 DAY OF May, 1967.

Earl Simonds

Earl Simonds
Assembly President

ATTEST:

Francis Depue

Borough Clerk