

1 CITY OF HOMER  
2 HOMER, ALASKA

3 Mayor/Council

4 RESOLUTION 14-005  
5

6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 REQUESTING THAT THE ALASKA LEGISLATURE AMEND  
8 ALASKA STATUTE 16.20.590 ESTABLISHING THE KACHEMAK  
9 BAY CRITICAL HABITAT AREA BY CHANGING THE CRITICAL  
10 HABITAT AREA BOUNDARY TO EXCLUDE THE CITY OF HOMER  
11 PORT AND HARBOR AND MUNICIPAL LANDS IMMEDIATELY  
12 ADJACENT TO PORT FACILITIES NECESSARY FOR PORT  
13 OPERATIONS, AND MAKE THE STATUTE CONSISTENT WITH  
14 THE STATED INTENT OF THE CRITICAL HABITAT AREA  
15 MANAGEMENT PLAN.  
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17 WHEREAS, AS 16.20.590 creates the Kachemak Bay Critical Habitat Area and  
18 establishes its boundaries; and  
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20 WHEREAS, The established boundaries include and encompass the City of Homer Port  
21 and Harbor including municipal tide and submerged lands within the harbor basin and adjacent  
22 to the dock and port facilities; and  
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24 WHEREAS, The introduction chapter of the Kachemak Bay and Fox River Critical  
25 Habitat Areas Management Plan specifically states that "the plan does not apply to federal or  
26 municipal lands within the critical habitat areas"; and  
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28 WHEREAS, There is additional correspondence available in the record which indicates  
29 that the drafters of the Critical Habitat Management Plan did not intend to include the Homer  
30 Port and Harbor within the Critical Habitat Area Boundaries; and  
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32 WHEREAS, The apparent conflict between the Statute and the Critical Habitat  
33 Management Plan with respect to the Homer Port and Harbor has created legal ambiguity  
34 about both the enforceability of the municipal lands exemption provision in the Plan and the  
35 Department of Fish and Game's ability to permit certain legitimate activities at the port; most  
36 notably oil and gas drill rigs attempting to dock for the purpose of maintenance and repair; and

37 WHEREAS, The Critical Habitat Management Plan states that any vessel that drops an  
38 anchor or moors at a dock for more than 14 days, must obtain a permit from the Alaska

Department of Fish and Game; a requirement that is inefficient and clearly impractical for a large municipal port and harbor facility; and

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

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

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

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

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

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

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

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

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

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 13<sup>th</sup> day of January, 2014.

CITY OF HOMER

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MARY E. WYTHE, MAYOR

ATTEST:

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JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A