



Homer City Hall
491 E. Pioneer Avenue
Homer, Alaska 99603
www.cityofhomer-ak.gov

City of Homer Agenda

**City Council Worksession
Monday, June 10, 2019 at 4:00 PM
City Hall Cowles Council Chambers**

CALL TO ORDER, 4:00 P.M.

AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)

DISCUSSION TOPIC(S)

- a.** Ordinance 19-23, An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting Homer City Code Title 14 to be Entitled "Homer Public Utility Systems" and Homer City Code Title 17 to be Entitled "Public Assessments" to: 1) Consolidate Water and Sewer System Regulations and Rates; 2) Update Definitions and Common Terms, and 3) Create Uniformity Between Service and Assessment Practices and Repealing Homer City Code Chapters 9.08, 13.24 and 13.28 to Relocate Utility Construction Practices and Fees from Homer City Code 13.24 and Homer City Code 13.28 Into Titles 14 and 17 and Move Homer City Code 9.08 to Homer City Code 17.03 and Update Assessment Lien Enforcement Provisions to Incorporate State Law Requirements. Lord/Stroozas. Introduction May 28, 2019, Worksession June 10, 2019. Public Hearing June 10, 2019, Public Hearing and Second Reading June 24, 2019.

Ordinance 19-23(S), An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting Homer City Code Title 14 to be Entitled "Homer Public Utility Systems" and Homer City Code Title 17 to be Entitled "Public Assessments" to: 1) Consolidate Water and Sewer System Regulations and Rates; 2) Update Definitions and Common Terms, and 3) Create Uniformity Between Service and Assessment Practices and Repealing Homer City Code Chapters 9.08, 13.24 and 13.28 to Relocate Utility Construction Practices and Fees from Homer City Code 13.24 and Homer City Code 13.28 Into Titles 14 and 17 and Move Homer City Code 9.08 to Homer City Code 17.03 and Update Assessment Lien Enforcement Provisions to Incorporate State Law Requirements. Lord/Stroozas.

Memorandum 19-058 from Councilmembers Lord and Stroozas as backup
Memorandum 19-063 from City Attorney as backup

COMMENTS OF THE AUDIENCE (3 minutes)

ADJOURNMENT, NO LATER THAN 4:50 P.M.

Next Regular Meeting is Monday, June 24, 2019 at 6:00 p.m., Worksession at 4:00 p.m. and

Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

1 CITY OF HOMER
2 HOMER, ALASKA

Lord/Stroozas

3
4 ORDINANCE 19-23

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 REPEALING AND REENACTING HOMER CITY CODE TITLE 14 TO
8 BE ENTITLED "HOMER PUBLIC UTILITY SYSTEMS" AND
9 HOMER CITY CODE TITLE 17 TO BE ENTITLED "PUBLIC
10 ASSESSMENTS" TO: 1) CONSOLIDATE WATER AND SEWER
11 SYSTEM REGULATIONS AND RATES; 2) UPDATE DEFINITIONS
12 AND COMMON TERMS, AND 3) CREATE UNIFORMITY
13 BETWEEN SERVICE AND ASSESSMENT PRACTICES AND
14 REPEALING HOMER CITY CODE CHAPTERS 9.08, 13.24 AND
15 13.28 TO RELOCATE UTILITY CONSTRUCTION PRACTICES AND
16 FEES FROM HOMER CITY CODE 13.24 AND HOMER CITY CODE
17 13.28 INTO TITLES 14 AND 17 AND MOVE HOMER CITY CODE
18 9.08 TO HOMER CITY CODE 17.03 AND UPDATE ASSESSMENT
19 LIEN ENFORCEMENT PROVISIONS TO INCORPORATE STATE
20 LAW REQUIREMENTS.

21
22 WHEREAS, The Homer City Code currently requires property owners to connect to the
23 Homer Sanitary Wastewater and Sewage System and the Homer Public Water System and
24 regulates construction, installation, and use of these systems; and

25
26 WHEREAS, The regulatory, assessment, and fee provisions regarding Homer's public
27 utilities are located in various sections throughout the Code; and

28
29 WHEREAS, The laws governing Homer's public utilities have not been recently updated
30 to reflect the City's growth, progress, and needs; and

31
32 WHEREAS, The Code contains technical construction and installation requirements
33 that are best addressed via permit criteria rather than provisions in the Code; and

34
35 WHEREAS, It is in the City's and the public's best interest to identify assessments and
36 procedures arising from public utilities and capital improvements in the same title and ensure
37 all assessment procedures are clear, consistent, and easily understood; and

38
39 WHEREAS, Certain fees and assessments were addressed in Titles 9, 13, and 14 while
40 others were in Title 17.

41
42 NOW THEREFORE, THE CITY OF HOMER ORDAINS:

43
44 Section 1: Chapter 13.24 entitled "Sanitary Systems" is hereby repealed.

88 and the current utility rates adopted by Council shall be available for public inspection at the
89 City Clerk's office, the Public Works Department, and on the City's website.

90

91 b. No person shall fail to comply with any rule or regulation adopted under the authority of this
92 section.

93

94 14.01.030 Immunity for discretionary acts.

95

96 An action for damages may not be brought against the City, or any of its agents, officers,
97 contractors or employees, for a claim based on the exercise or failure to exercise any
98 discretionary function or duty granted in this title, whether or not the discretion was abused,
99 including, without limitation, the exercise of discretion to restrict, interrupt, decrease, or
100 terminate the sale of water to bulk water customers, resellers, or others for export or
101 consumption outside the certificated service area or the discontinuance of water or sewer
102 services. Nothing in this section shall be construed to limit any defenses or immunities
103 available under AS 09.65.070 or any other provision of law.

104

105 14.01.040 Violation.

106

107 a. The penalty for violating a provision of this title is the fine listed in the fine schedule in HCC
108 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in
109 court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless
110 another penalty is specifically provided.

111

112 b. The City shall provide notice of a violation via certified return receipt U.S. mail to the owner
113 of the property on which the violation is occurring. This notice shall include the name of the
114 property owner, the location of the violation, the Code provisions violated, and the action
115 necessary to correct the violation.

116

117 c. Before assessing penalties under this section, the City shall provide written notice of penalty
118 to the property owner via certified return receipt U.S. mail and personal delivery. This notice
119 shall include all the information required in subsection (b), the date from which penalties incur,
120 and notice of the right to appeal to the City Manager.

121

122 14.01.045 Violation-Right of appeal.

123

124 a. The finding of a violation and assessment of a penalty within 30 days from the date the
125 notice of penalty was postmarked.

126

127 b. Untimely appeals shall not be accepted. A notice of appeal must be filed in writing with the
128 City Clerk and be accompanied by the appeal fee set forth in the Homer fee schedule. The
129 notice must contain:

130

1. Name and address of the owner of the property issued the citation;

- 131 2. A copy of the notice being appealed;
132 3. A statement of the grounds for appeal that must include detailed and specific
133 allegations of error and references to applicable provisions of the Code or other law.

134
135 c. The City Manager may appoint a hearing officer or City official, other than the Public Works
136 Director, to act as the decision maker in an appeal under this section.

137
138 d. An appeal before the City Manager or his or her designee shall be heard within 30 days from
139 the day the appeal is filed. The person against whom the violation is assessed shall be given an
140 opportunity to be heard at a public hearing and shall have an opportunity to make an oral
141 argument and present evidence.

142
143 e. The City Manager or his or her designee shall issue a final written decision with his or her
144 findings no more than 30 days after the hearing.

145
146 14.01.050 Bond or cash deposit

147
148 a. Every person, firm or corporate entity carrying on the business of construction and
149 connecting to City sewer and/or water within the City may be required to deposit a bond or
150 cash deposit in favor of the City in an amount and under such conditions deemed appropriate
151 by the City Manager or his or her designee to cover damages of any kind resulting from that
152 person's, firm's or entity's operations. All such sewer or water construction and connections
153 shall be completed in a good and workmanlike manner in accordance with the specifications
154 required by the City. The bond or cash deposit shall be further conditioned that the principal
155 shall repair any damage done to the public sewer or water system on account of such work and
156 shall return the surface of the ground, street, road, building, facility, right-of-way or easement
157 to its original condition insofar as possible and in accordance with the requirements of the City.

158
159 b. Every person, firm or corporate entity carrying on the business of construction and
160 connecting to City sewer and/or water within the City must be approved in writing by the
161 Public Works Director. The Public Works Director shall approve a person, firm or corporate
162 entity under this section so long as he, she or it:

- 163 1. Meets all state and local licensing requirements
164 2. Provides a statement demonstrating experience in substantially similar or the
165 same construction projects
166 3. Carries liability insurance in the aggregate amount of not less than \$500,000 or
167 as may be additionally required in an amount in excess of \$500,000 as may be deemed
168 necessary for the work by the Public Works Director or their designee to cover the insurance
169 requirement of the work.

170
171 14.01.060 State contractor required.

172

173 A contractor working for the City on a water or sewer project or conducting construction within
174 a public easement or right-of-way shall file a copy of their current State contractor's certificate
175 with the office of the City Clerk.

176

177 14.01.070 Utility permits-Appeal procedure.

178

179 a. Any person who is dissatisfied with the approval or denial of a permit under this title may
180 appeal the decision to the City Manager no more than 30 days after the Public Works Director
181 approves or denies the permit.

182

183 b. An appeal to the City Manager must be filed within 30 days of the written approval or denial
184 of a permit under this chapter. Untimely appeals shall not be accepted. A notice of appeal
185 must be filed in writing with the City Clerk and be accompanied by the appeal fee set forth in
186 the Homer fee schedule. The notice must contain:

187 1. Name and address of the permit applicant;

188 2. A copy of the order or decision being appealed;

189 3. A statement of the grounds for appeal that must include detailed and specific
190 allegations of error and references to applicable provisions of the Code or other law.

191

192 c. The City Manager may appoint a hearing officer or City official, other than the Public Works
193 Director, to act as the decision maker in an appeal under this section.

194

195 d. An appeal before the City Manager or his or her designee shall be heard within 30 days from
196 the day the appeal is filed. The permit applicant shall be given an opportunity to be heard at a
197 public hearing and shall have an opportunity to make an oral argument and present evidence.

198

199 e. The City Manager or his or her designee shall issue a final written decision with his or her
200 findings no more than 30 days after the hearing.

201

202 14.01.080 Utility permit appeals- Superior Court

203

204 A final decision of the City Manager or his or her designee may be appealed to the Superior
205 Court no later than 30 days following the date the decision of the hearing officer is issued. An
206 appeal to the court must be filed according to the applicable court rules.

207

208 14.01.090 Water and sewer rate schedule

209 a. The City Council shall adopt, renew, review and amend, as necessary, a water and sewer rate
210 schedule annually via resolution. Copies of the rate schedule shall be available at the Public
211 Works Department. The schedule may also be available on the City's website.

212

213 b. The City will allow, upon approval of a written application and payment of fee established by
214 the City Council, a second water usage meter to measure the flow of City water that is not

215 discharged to the Sanitary System. This second meter will be read monthly and sewer charges
216 will be credited monthly.

217

218

CHAPTER 14.04

219

HOMER SANITARY WASTEWATER AND SEWAGE SYSTEM

220

221 Sections:

222 14.04.010 Purpose.

223 14.04.015 Definitions.

224 14.04.020 Connection – Required.

225 14.04.030 Industrial Waste.

226 14.04.050 Sewer service connections and extensions.

227 14.04.055 Sewer connection and extension permit fee.

228 14.04.060 Disposition of revenue.

229 14.04.070 Destruction of private sewage disposal systems.

230 14.04.080 Sewage or waste disposal permit.

231 14.04.090 Discharge of surface drainage into public sewer.

232 14.04.140 Operation of water valves, fire hydrants and curb stops.

233 14.04.150 Water meter installation.

234 14.04.160 Backflow and cross-connection prevention.

235

236 14.04.010 Purpose.

237

238 It is the intent of this chapter to establish rules and regulations for the operation and
239 installation of the Homer Sanitary Wastewater and Sewage System, which may be called the
240 "HSWS" or the "Sanitary System" throughout this chapter. It is the goal of the City of Homer
241 for all wastewater and sewage within City boundaries to be connected to the HSWS, ensuring
242 proper wastewater and sewage management throughout the City. This Code should be
243 interpreted in furtherance of that goal.

244

245 14.04.015 Definitions.

246

247 For the purposes of this chapter, the following words and phrases shall have the meanings set
248 forth below:

249

250 "ADEC" means the State of Alaska Department of Environmental Conservation.

251

252 A "directly adjacent" sewer main means either (1) the main extends the entire length of the
253 frontage of the lot along an easement or right-of-way; or (2) it extends at least 10 feet into an
254 easement or right-of-way adjacent to the lot and the Public Works Director determines that
255 the main will not be extended to serve additional lots.

256

257 "Domestic sewage" means waste containing human or animal excretion, other than industrial
258 waste.

259
260 "Dwelling" or "dwelling unit" means any building or portion thereof which contains living
261 facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than
262 one family.

263
264 "Industrial plant" means a plant or works producing waste material, other than domestic
265 sewage.

266
267 "Industrial waste" means liquid or solids contained within a liquid, other than domestic
268 sewage.

269
270 "Multiple-family dwelling" means a building or portion thereof designed for occupancy by two
271 or more families living independently in separate dwelling units which may or may not share
272 common entrances and/or other spaces.

273
274 "On-site sewer connection line" means the part of the sewer connection line located on the
275 property being serviced by that line.

276
277 "Off-site sewer connection line" means the part of the sewer connection line located in a public
278 easement or right-of-way.

279
280 "Premises" means a lot, parcel of land, building or establishment.

281
282 "Sewage" means a combination of liquid- or water-carried human waste conducted away from
283 residences, business buildings and institutions, which is known as domestic sewage, together
284 with the liquid- or water-carried waste resulting from a manufacturing process employed in
285 industrial establishments, including the washing, cleaning or drain water from such process or
286 establishment, which is known as industrial waste.

287
288 "Sewer connection line" means a line or pipe carrying sewage from a premises to a sewer main.

289
290 "Sewer extension" means an extension of the sewer main.

291
292 "Spaghetti line" means a pipe or line connecting to a sewer main that is not directly adjacent
293 to the lot being serviced by the line or pipe.

294
295 14.04.018 Service connection charges.

296
297 A person applying for sewer service to property not previously connected to the Sanitary
298 System shall pay a sewer connection charge, which shall include engineering costs of
299 inspecting and/or installing the on-site sewer connection line and permit application fees and

300 costs. The amount of the sewer connection charge and the costs included in that charge shall
301 be published annually on the City website and a newspaper of general circulation.

302

303 14.04.020 Connection – Required.

304

305 a. Except as otherwise provided in this chapter, no person shall erect or occupy a dwelling or
306 commercial or industrial building directly adjacent to the Sanitary System without connecting
307 to the Sanitary System.

308

309 b. Except when expressly approved by permit, spaghetti lines are prohibited. No service will be
310 provided to a lot that is not directly adjacent to a sewer main.

311

312 c. Where the Sanitary System is not available, a septic system may be used so long as the
313 septic system is installed and maintained as required by ADEC and all other laws and provide
314 adequate disposal of waste.

315

316 d. Except as otherwise provided in this section, Property owners must connect to the Sanitary
317 System no more than three years after the owner of a property receives written notice that the
318 Sanitary System is available to the property.

319

320 e. Property owners with compliant and fully functioning septic systems may wait to connect to
321 the Sanitary System but shall connect to the Sanitary System before and instead of replacing
322 or repairing any substantial component of a septic system on the property. Property owners
323 delaying connection the Sewer System under this subsection must provide written notice of
324 the property owner’s intent to temporarily stay connection only in compliance with the code.
325 The notice of stay must be received by the City no more than 60 days after the City provides
326 written notice to the property owner that the Sanitary System is available to the property. A
327 Notice to Stay Connection is available at the Clerk’s office, the Public Works Department,
328 and/or on the City’s website.

329

330 f. Outhouses, cesspools, privies or any private wastewater system that is not subject to
331 approval and regulation by the Conservation is prohibited within the City.

332

333 14.04.030 Industrial Waste.

334

335 The City shall adopt industrial pretreatment discharge and waste disposal procedures and
336 regulations. These procedures and regulations and any amendments to them must be
337 approved by Council via ordinance.

338

339 14.04.050 Sewer service connections and extension permits.

340

341 a. No person shall install a sewer extension or a sewer connection line without first obtaining a
342 sewer connection permit from the City. Permit applications may be obtained from the Public

343 Works Department, the City Clerk's office, and/or the City's website. Permit fees must be paid
344 at the time the application is submitted. The sewer connection and extension permit fee shall
345 include all inspection and administrative costs. All other fees for deferred services, in lieu of
346 assessments and necessary right-of-way permits shall be in addition to the permit fee.

347

348 b. A property owner installing a sewer connection or extension which requires a deferred
349 assessment payment or in lieu of assessment payment, shall pay the assessment prior to
350 issuance of the connection or extension permit.

351

352 c. The sewer connection permit criteria shall be identified in the permit application obtained
353 from the Public Works Office.

354

355 d. All work and materials must meet the standards and specifications as described in the
356 permit application, Homer City Code, the Uniform Building Code, and ADEC.

357

358 e. Property owners connecting to the Sanitary System shall provide and pay for all materials,
359 labor, and equipment for the excavation, connection and installation of the sewer line and shall
360 be responsible for any liability, damages or costs arising from installation, excavation, and
361 connection.

362

363 f. All sewer connections and extensions shall be inspected by the Public Works Department
364 before the connection is used. The customer shall make arrangements with the Public Works
365 Department at least 24 hours in advance for all required inspections.

366

367 14.04.070 Destruction/Abandonment of private sewage disposal systems.

368

369 All septic tanks, cesspools, privies, or sewage holding tank/vaults shall be removed, filled or
370 destroyed in full compliance with Conservation requirements and the Uniform Plumbing Code.

371

372 14.04.080 Commercial waste disposal permit.

373

374 a. Except for property owners connecting to the Sanitary System for disposal of waste from a
375 single family dwelling or property owners required to obtain an industrial waste disposal
376 permit, all property owners must obtain a commercial waste disposal permit before
377 discharging any waste into the Sanitary System.

378

379 b. The waste disposal permit application shall be available at the Public Works Office and may
380 be available on the City's website. The permit fee must be paid at the time the application is
381 submitted. The criteria for the permit shall be included in the application.

382

383 c. The Public Works Director shall issue a commercial waste disposal permit so long as:

384 1. The Public Works Director reasonably believes, and the property attests that the type
385 of waste reported by the property owner will not damage the Sanitary System; and

386 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

387
388 d. The Public Works Director or his designee may revoke, modify or impose conditions upon a
389 disposal permit if he or she finds, in his or her sole discretion, that revocation, conditions or
390 modifications to the permit are required to prevent or stop damage to the Sanitary System.
391 Except when immediate action is necessary to protect the Sanitary System and prevent
392 immediate harm to public health and sanitation, the Public Works Director shall provide notice
393 to the property owner at least 30 days before revoking or modifying a disposal permit.

394

395 14.04.090 Industrial waste disposal permit.

396

397 a. All significant industrial users must obtain an industrial waste disposal permit from the City.
398 A significant industrial user means an industrial user of the System who meets any one of the
399 following criteria:

400 1. Is subject to or potentially subject to national pretreatment standards promulgated
401 under Section 307(b) or (c) of the Clean Water Act;

402 2. Has in its wastes any priority toxic pollutants listed in 40 CFR 401.15 or 40 CFR Part
403 403 or listed by the Public Works Director;

404 3. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Clean
405 Water Act or regulations promulgated thereto;

406 4. Has a discharge flow of 10,000 gallons or more of wastewater per average work day;

407 5. Has a flow greater than five percent of the flow into the STW or of the design
408 pollutant loading capacity of the STW; or

409 6. Is determined by the Public Works Director to have a significant impact or potential
410 for significant impact, either singly or in combination with other contributing industries,
411 on the wastewater treatment system, the quality of sludge, the STW effluent quality, or
412 air emissions generated by the STW.

413

414 b. The industrial waste disposal permit application shall be available at the Public Works Office,
415 and may also be available on the City's website. The permit fee must be paid at the time the
416 application is submitted. The criteria for the permit shall be included in the application.

417 c. The Public Works Director shall only issue an industrial waste disposal permit after finding
418 that:

419 1. The applicant and the sewage generated on the property subject to the permit
420 complies with the City of Homer Industrial Pretreatment and Discharge Policies as
421 adopted by Council; and

422 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

423

424 d. The Public Works Director or his designee may revoke, modify or impose conditions upon an
425 industrial waste disposal permit if he or she finds, in his or her sole discretion, revocation,
426 conditions or modifications to the permit are required to prevent or stop damage to the
427 Sanitary System. Except when immediate action is necessary to protect the Sanitary System
428 and prevent immediate harm to public health and sanitation, the Public Works Director shall

429 provide notice to the property owner at least 30 days before revoking or modifying a disposal
430 permit.

431

432 14.04.100 Discharge of surface drainage into HSWS Illegal.

433

434 No connections shall be made to any public sewer or any premises for the purpose of directing
435 or diverting any storm water or any surface or underground drainage into the sewer, and no
436 person shall discharge into any public sewer or house lateral any leader pipe from a roof,
437 surface drain, underground drain or any solid or liquid waste other than the sewage composed
438 of the ordinary liquid wastes of residences, business buildings and institutions from baths,
439 toilets, laundries, wash tubs, sinks and floor drains. Connections of surface or groundwater to
440 the sanitary sewer are considered illegal.

441

442

CHAPTER 14.08

443

HOMER PUBLIC WATER SYSTEM

444

Sections:

445

14.08.010 Purpose.

446

14.08.020 Definitions.

447

14.08.030 Water connections and extensions.

448

14.08.037 Water meters.

449

14.08.040 Private water systems – Connection permits – Fees.

450

14.08.050 Condition of service – Rule making authority.

451

14.08.055 Rule making authority.

452

14.08.060 Frozen pipes – City not liable.

453

14.08.070 Discontinuance of supply.

454

14.08.072 Priority use of water.

455

14.08.074 Surplus water – Sale.

456

14.08.076 Water shortage or emergency declaration.

457

14.08.077 Water shortage or emergency – Interruption of sale of surplus water –

458

Other measures.

459

14.08.078 Water shortage or emergency – Appeal.

460

14.08.079 Immunity for discretionary acts.

461

14.08.080 Schedule of rates – Rules and regulations.

462

14.08.090 Schedule of rates outside of the City limits.

463

14.08.091 Service deposits.

464

14.08.100 Bulk water sales.

465

14.08.105 Resale of water.

466

14.08.110 Permit for resale of water.

467

14.08.120 Permit for water filling station.

468

469

14.08.010 Purpose.

470

471 It is the intent of this chapter to establish rules and regulations for the operation of the Homer
472 Public Water System. The Homer Public Water System may also be called "HPWS" or the
473 "Water System" in this chapter, permit applications, and/or City regulations and policies. The
474 provisions in this chapter also provide for the financial management of the Water System.

475

476 14.08.020 Definitions.

477

478 For the purposes of this chapter, the following words and phrases shall have the meanings set
479 forth below:

480

481 "Bulk water" means water purchased from the City and supplied to the customer by means of
482 fire hydrant, tanker truck, or by any other means other than through a direct connection from a
483 water main to the premises where the water is consumed.

484

485 "Bulk water customer" means a person who purchases bulk water from the City.

486 A "directly adjacent" water main either (1) extends the entire length of the frontage of the lot
487 along a public easement or right-of-way; or (2) extends at least 10 feet into the easement or
488 right-of-way adjacent to the lot and the Public Works Director has determined that at no time
489 will the water main be extended to serve additional lots.

490

491 "Reseller" or "reseller of water" means a person who purchases water from the City and, for
492 valuable consideration, provides any quantity of such water to another person, but it shall not
493 include any eating or drinking establishment that provides its customers City water only by the
494 glass.

495

496 "Standard service account" means an established City water utility account for metered water
497 service through a direct connection from the City water main to the premises served.

498

499 "Surplus water" means water that the City administration has determined, in its sole
500 discretion, is in excess of the water needed to meet the consumption, sanitation, and fire
501 protection needs within the boundaries of the City.

502

503 "Multiple-family dwelling" means a building or portion thereof designed for occupancy by two
504 or more families living independently in separate dwelling units which may or may not share
505 common entrances and/or other spaces.

506

507 "Off-site water connection line" means the part of the sewer connection line located in a public
508 easement or right-of-way.

509

510 "On-site water connection line" means the part of the water connection line located on the
511 property being serviced by that line.

512

513 "Premises" means a lot, parcel of land, building or establishment.

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“Water connection line” means a line or pipe carrying water from the water main to a premises.

“Water extension” means an extension of the water main.

“Spaghetti line” means a pipe or line connecting to a sewer main that is not directly adjacent to the lot being serviced by the line or pipe.

“Water filling station” means a non-City facility used to supply bulk water from the Water System to a tanker truck or other means of conveyance.

14.08.030 Operation of water valves, fire hydrants and curb stops.

Only authorized City personnel shall operate water valves, fire hydrants, and curb stops.

14.08.040 Water meter installation.

a. Property owners must install a water meter and related components before they will be eligible to connect to the Water System. Installation of all water meters must comply with installation instructions drafted by the Public Works Department and approved by City Council and available at the City Clerk’s Office and Public Work’s office. A violation of the installation instructions shall constitute a violation of this chapter.

b. The property owner required to install the water meter shall be responsible for all costs associated with installation of that meter and its corresponding mechanisms and a rental fee for the meter from the City.

c. The City shall have the right to install a water meter remote on a building serviced or scheduled to be serviced by the Water System. The meter shall be the size and model indicated by the Public Works Director.

d. Water meters remain City property. Persons renting meters shall be responsible for damage arising from external damage and freezing. Internal wear and tear and failure of the meter due to general external wear and tear shall be the responsibility of the City. Customers shall provide reasonable access for City personnel to maintain, monitor, and service a meter.

14.08.050 Water connections and extension permit.

a. All property owners connecting to the Water System must obtain a permit prior to starting construction.

556 b. The Water System connection and extension permit application shall be available at the City
557 Clerk's office, the Public Works Department, and/or on the City's website. The permit fee must
558 be paid at the time the application is submitted. The criteria for the permit shall be included in
559 the application.

560
561 c. The Public Works Director or his or her designee may revoke, modify or impose conditions
562 upon a Water System permit if he or she finds, in his or her sole discretion, that revocation,
563 conditions or modifications to the permit are required to prevent or stop damage to the Water
564 System. Except when immediate action is necessary to protect the Water System and prevent
565 immediate harm to public health and sanitation, the Public Works Director shall provide notice
566 to the property owner at least 30 days before revoking or modifying a Water System permit.

567
568 d. Installation of a Water System connection or extension of a water main must meet the
569 standards and specification in the permit application, the Homer City Code, and any applicable
570 state or federal law or regulations, including but not limited to State of Alaska Department of
571 Labor Occupational Safety and Health requirements.

572
573 e. A property owner installing an on-site water connection line or extending a water main is
574 solely responsible for all costs and liability associated with or arising from the excavation,
575 connection, and installation of the on-site water line or water main extension.

576
577 14.08.060 Disconnection due to nonpayment.

578
579 The City may discontinue water service for nonpayment of any utility service charges,
580 connection fees and related charges. The City shall provide notice to a Water System user at
581 least 30 days before discontinuing water service due to nonpayment.

582
583 14.08.070 Frozen pipes – City not liable.

584
585 Customers will be solely responsible for all on-property frozen water connections and
586 extensions.

587
588 14.08.080 Discontinuance of water.

589
590 Water may at any time be shut off from water mains without notice for repairs, extensions or
591 other necessary purposes. The City will not be liable to the customer for any loss or damage
592 caused by disruptions in water service.

593
594 14.08.090 Priority use of water.

595
596 The first priority of use of the water produced by the Water System is to provide for human
597 consumption, sanitation, and fire protection needs of water consumers within the boundaries
598 of the City of Homer.

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14.08.100 Surplus water – Sale.

a. Subject to subsection (b) of this section and other provisions of this chapter, water may be made available for sale to bulk water customers, resellers, and others for export or consumption outside the boundaries of the City of Homer.

b. Notwithstanding any other provision of this title, City Council may by resolution restrict, interrupt, decrease, or terminate the sale of water for export or consumption outside the boundaries of the City if Council determines it is in the best interests of the City to do so.

14.08.110 Water shortage or emergency declaration.

a. City Council may declare a water shortage and restrict the use of water within the boundaries of the City if it finds, via resolution, and after conducting a public hearing, insufficient water available to meet the sanitation, fire protection, and consumption needs within the boundaries of the City.

b. City Council may declare a surplus water shortage via resolution and restrict use of surplus water as Council deems necessary and in the City’s best interest.

c. The City Manager may declare a water emergency of up to 30 days if he or she finds that there is an imminent threat or actual impairment to the City’s ability to meet water supply demands. The City Manager shall submit a summary of the declaration of water emergency and the reasons for the declaration at the next regularly scheduled Council meeting.

14.08.120 Water shortage or emergency – Interruption of sale of surplus water – Other measures.

a. If a water shortage or water emergency is declared, the City shall first restrict, decrease, interrupt, or terminate the sale of surplus water. The City may take any other measures that the City determines, in its sole discretion, are necessary to address the water shortage or emergency so long as it does so without discrimination between similarly situated consumers.

b. Any measures adopted in response to a declared water shortage or emergency shall, for the duration of the period of the declared shortage or emergency, prevail over any conflicting provisions of law establishing rights of persons to receive specific or proportionate amounts of the water supply.

c. Any measures adopted in response to a declared water shortage or water emergency will be made available for public inspection at the City Clerk’s office, at the City Library, and at the Public Works Department while those measures are in effect. Notice of the measures shall also be posted on the City’s website within 48 hours after the declaration of the water shortage or emergency.

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14.08.130 Water shortage or emergency – Appeal.

Any person aggrieved by a City Council declaration of a water shortage or water emergency under HCC 14.08.110, or by any action taken by the City in response to such a declaration, may appeal the declaration or action to the Superior Court. The appeal must be filed within 30 days from the date the declaration was adopted or action taken. The declaration or action of the City shall not be reversed except on the ground that such declaration or action was fraudulent, arbitrary, or capricious.

14.08.140 Water Rate Schedule

a. Water utility services shall be billed according to a schedule reviewed, revised, and adopted by City Council via resolution annually.

b. Copies of the rate schedule shall be available at the City Clerk’s office and the Public Works Department. The schedule may also be available on the City’s website.

14.08.150 Service deposits.

a. All water service users, at the time the service is established, shall pay a deposit based on meter size, established by Council via resolution.

b. Deposits and any accrued interest shall be refunded:

1. After one year of service provided the customer has made all payments owed in full and at the time due; or
2. No more than 45 days after the date customer is disconnected from the Water System or stops receiving service. Service deposits and any interest shall first be applied to any outstanding balance owed by the disconnecting customer. If there is a balance, the remaining deposit and interest after the payment of that balance shall be refunded to the disconnecting customer.

c. Waiving of Deposits. If a customer has had utility service with the City within the last two years and paid their City utility payments on time, the Finance Department may waive the deposit requirement under this section.

d. Landlord Agreement. An owner/customer who requests an automatic continuance of utility service between renters may enter into a landlord agreement with the City for this purpose. This request should be directed to the Finance Department.

14.08.160 Bulk water sales.

684 a. Bulk water sales rates shall be established by City Council via resolution. The schedule for
685 service fees shall apply to all bulk water service requests.

686
687 b. The meter deposit will be returned when the meter is returned undamaged.

688
689 c. If a bulk water customer purchases a meter from the City for measuring the quantity of
690 water purchased it shall be exempt from the monthly meter service charge. It is the
691 responsibility of the bulk water customer to maintain that meter so the City can accurately
692 determine the amount of water being purchased. In the event the meter fails, the customer
693 must repair or replace the meter at its sole expense. The City may at any time test the meter
694 for accuracy and reject a repaired meter that it is not accurate.

695
696 14.08.170 Water filling station permit.

697
698 a. No person shall establish or operate a water filling station to obtain water from the Water
699 System unless that person has a water filling station permit issued by the City.

700
701 b. A person shall apply for a water filling station permit on a form provided by the City. The
702 permit application is available at the City Clerk's office, the Public Works Department, and may
703 be available on the City's website. The permit fee must be submitted with the application.

704
705 c. The water filling station permit criteria shall be included in the permit application and any
706 conditions and terms of the permit shall be included on the face of the permit. Water filling
707 station permit terms and conditions may include, but are not be limited to, uniform or site-
708 specific flow rate restrictions, storage tank requirements, and other provisions required by the
709 Public Works Department to minimize adverse effects on the Water System and promote its
710 efficient operation.

711
712 CHAPTER 14.50
713 UTILITY DISTRIBUTION FACILITIES

- 714 Sections:
715 14.50.010 Definitions.
716 14.50.020 Underground installation of cable extensions.
717 14.50.030 Enforcement of this chapter.

718
719 14.50.010 Definitions.

720
721 The following words, terms and phrases, when used in this chapter, shall have the meanings
722 ascribed to them in this section, except where the context clearly indicates a different
723 meaning:

724
725 "Cable" includes cables and wires of all descriptions.

726

727 "Public utility" includes every corporation, whether public, cooperative, or otherwise,
728 company, individual, or association of individuals, their lessees, trustees, or receivers
729 appointed by a court, that owns, operates, manages, or controls any plant or system for (1)
730 furnishing, by generation, transmission, or distribution, electrical service to the public for
731 compensation; (2) furnishing telecommunication service to the public for compensation.

732
733 "Public utility" includes all public utilities, whether or not subject to regulation by the
734 Regulatory Commission of Alaska.

735
736 "Telecommunications" means the transmission and reception of messages, images,
737 impressions, pictures, data, and signals by means of electricity, electromagnetic waves, and
738 any other kind of energy, force variations, or impulses, whether conveyed by cable, wire,
739 radiated through space, or transmitted through other media within a specified area or between
740 designated points.

741
742 14.50.020 Underground installation of cable extensions.

743
744 After October 24, 2006, all public utility cable facilities, including, but not limited to, electric
745 power, telephone, and telecommunications cables constructed or installed for the purpose of
746 providing utility service to any land not served before that date by overhead cable facilities,
747 shall be installed underground, and no cables or supporting poles shall be constructed or
748 installed above ground for such purpose, unless the utility obtains an approved exception
749 pursuant to HCC 22.10.055(e) or (f).

750 14.50.030 Enforcement of this chapter.

751
752 a. In addition to penalties and remedies set forth in this title, no permit may be issued to install
753 a utility line on City property or in a City-owned or controlled easement or right-of-way in
754 violation of this chapter.

755
756 Section 8: Title 17 entitled "Improvement Districts" is hereby repealed and reenacted to
757 read as follows:

758
759 TITLE 17
760 PUBLIC ASSESSMENTS

- 761 Chapters:
- 762 17.01 General Provisions
 - 763 17.02 Special Assessment Districts
 - 764 17.03 Enforcement of Public Assessments
 - 765 17.05 Homer Public Water System Assessment Fund
 - 766 17.10 Water and Sewer Zone Connection Assessments
 - 767 17.15 Water and Sewer Individual Connection Assessments
 - 768 17.15 Public Utility and improvement short-term financing
 - 769 17.20 Developer Reimbursement Plans

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CHAPTER 17.01
GENERAL PROVISIONS

Sections:

- 17.01.010 Definitions.
- 17.01.020 Purpose.
- 17.01.030 Authority.
- 17.01.010 Definitions.

For the purposes of this title, the following words and phrases shall have the meanings set forth below:

“Benefited area method” means a method of assessment that determines each parcel’s share of the assessment by dividing the total cost of the improvements on which the assessment is based by the total square footage of land benefitted by the improvement and then allocating a portion of the cost of the assessment to each parcel based upon the square footage of the land benefitted by the improvement. The Public Works Director has the authority and discretion to calculate and apply the benefited area method. The square footage included in the calculation shall include only developable land.

“Cost” means all expenses incurred by the City for an improvement, including but not limited to, advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of property acquisition, payments to construction contractors, costs of interim and long-term financing of the improvement, including costs of issuing bonds and notes, and City administrative costs.

“Developable land” means land that, in the discretion of the Public Works Director, can be reasonably developed for uses permitted within the property’s zoning district.

“District” means a special assessment district created under this chapter unless otherwise specified.

“Improvement” means a capital improvement, including without limitation streets, sidewalks, alleys and bridges; street lighting; drainage and flood control facilities; sanitary sewage collection and treatment facilities; water supply and distribution facilities; natural gas distribution facilities; and parks, playgrounds, public squares and open space.

“Public Works Director” means the Public Works Director or his or her designee. If the Public Works Director position is not filled or temporarily empty, the City Manager or his or her designee will serve as the “Public Works Director” for purposes of this Title.

811 "Special Assessment Application Fee" means the fee charged for the processing of the special
812 assessment district application. The fee is approved annually by Council in the resolution
813 adopting the City fee schedule.

814

815 "Record owner" means the person in whose name real property is listed on the property tax roll
816 prepared by the Kenai Peninsula Borough and thus the record owner of that real property for
817 purposes of this Title.

818

819 17.01.020 Purpose of title.

820

821 a. The purpose of this title is to identify the assessments the City may charge for acquiring,
822 installing or constructing capital improvements and utility systems that benefit real property
823 within City boundaries.

824

825 17.01.030 Assessment authority.

826

827 The City may assess all or part of the cost of a capital improvement against real property
828 benefited by the improvement, whether the property is privately or governmentally owned,
829 including real property that is exempt from taxation.

830

831 CHAPTER 17.02

832 SPECIAL ASSESSMENT DISTRICTS

833

834 Sections:

835 17.02.030 Purpose of and authority for special assessment district.

836 17.02.040 Initiation of a special assessment district.

837 17.02.050 Creation of a special assessment district.

838 17.02.060 Contract – Approval of increased costs.

839 17.02.070 Special assessment roll.

840 17.02.080 Certification of assessment roll.

841 17.02.090 Payment.

842 17.02.100 Subdivision after levy of assessments.

843 17.02.120 Reassessment.

844 17.02.130 Objection and appeal.

845 17.02.140 Interim financing.

846 17.02.150 Special assessment bonds.

847 17.02.160 Time limit for special assessment districts.

848 17.02.170 Water and sewer connections required.

849 17.02.180 Road improvement assessments for lots with two street frontages.

850 17.02.190 Deferment of assessment payments for low income residents.

851 17.02.200 Payment in lieu of assessment.

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853 17.02.030 Purpose and authority for special assessment districts.

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a. A special assessment district may be created for the purpose of acquiring, installing or constructing a capital improvement that primarily benefits real property in the district, in contrast to capital improvements that benefit the entire community and are paid for with general government resources or improvements that benefit a specific individual parcel.

b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment district, authorizing an improvement in a special assessment district, approving and levying special assessments, payment of special assessments, and the authorization of special assessment bonds, for public information and administrative guidance.

17.02.040 Initiation of district.

a. A special assessment district may be initiated by:

1. A Resolution, initiated by a Council member, the City Manager, or through the developer reimbursement application process set forth in this Title and approved by a vote of not less than three-fourths of Council; or
2. A Petition signed by 50% of the total record owners who receive notice from the City Clerk's office that they will be assessed a portion of the costs of a single capital improvement.

b. Special assessment petition applications are available from the Clerk's office. A benefited property owner proposing a special assessment district by petition must file with the Clerk a complete special assessment petition application no more than 60 days after the notice of assessment is issued to record owners. The Clerk shall approve all properly and timely submitted applications within 10 days of the date on which the application is filed. The Clerk shall notify the petition sponsor in writing that the petition has been approved, prepare the petition, and distribute it by certified mail to all record owners of property in the proposed district no more than 30 days after the petition application is approved.

c. Upon adoption of a resolution initiating a special assessment district, or the filing of a sufficient petition with the Clerk, the City Clerk shall:

1. Schedule a meeting of record owners of real property in the proposed district, notify the record owners by mail of the date, time and location of the meeting, and include a copy of the notice in the City's regular meeting advertisement; and
2. Refer the proposed district to the Public Works Director, who shall prepare an improvement plan for the proposed district. The proposed district improvement plan shall include:
 - A. The boundaries of the proposed district
 - B. The design of the proposed improvement
 - C. A cost estimate for the improvement
 - D. The assessment allocation method used to calculate the amount owed by each record owner in the proposed district

897 E. The percentage of the improvement cost to be assessed against properties in
898 the district

899 F. The time period over which assessments will be financed, and

900 G. Preliminary assessment roll for the proposed district.

901 3. The Public Works Director shall use the benefitted area method in calculating the
902 assessment amount unless another method is specified in the improvement plan.

903

904 17.02.050 Creation of a special assessment district.

905

906 a. Upon completion of an improvement plan under this chapter, the City Clerk shall set a time
907 for a public hearing on the necessity of the improvement and proposed improvement plan.
908 Notice of the hearing shall be published at least twice in a newspaper of general circulation in
909 the City, and mailed via certified mail to every record owner of real property in the proposed
910 district not less than 60 days before the hearing.

911

912 b. A record owner of real property in the proposed district may file a written objection to the
913 improvement plan with the City Clerk no later than the day before the date of the public
914 hearing on the improvement plan. If owners of real property that would bear 50 percent or
915 more of the assessed cost of the improvement file timely written objections, the Council may
916 not proceed with the improvement unless it revises the improvement plan to reduce the
917 assessed cost of the improvement that is borne by objecting record owners to less than 50
918 percent of the assessed cost of the improvement. If the resolution changes the district
919 boundary in the improvement plan, the City Clerk shall notify all record owners of property
920 included in the district under the improvement plan of the change.

921

922 c. At the noticed date and time, Council shall hold a public hearing and shall adopt a resolution
923 approving the assessment if Council finds, via resolution, that the improvement is necessary
924 and benefits the properties that will be assessed. Council must also approve the proposed
925 improvement plan. The resolution shall contain a description of the improvement, the
926 estimated cost of the improvement, the percentage of the cost to be assessed against the
927 properties in the district, and a description of the properties to be assessed.

928

929 d. If record owners of all real property in the proposed assessment district waive in writing the
930 notice, protest period and public hearing required under this section, the question of creating
931 the district may be submitted to Council without such notice, protest period or public hearing.

932

933 17.02.060 Contract – Approval of increased costs.

934

935 a. After a special assessment district has been created, the City shall contract for the
936 construction of the improvement. If the City will own the improvement, it shall solicit bids for
937 construction of the improvement. If the City will not own the improvement, it shall contract
938 with the owner of the improvement to provide for its construction.

939

940 b. If the cost of constructing the improvement will exceed 15 percent of the estimated cost of
941 construction identified in the improvement plan, the City shall not contract for the
942 construction of the improvement without first notifying all record owners in the district via
943 certified mail of the increased cost and providing record owners in the proposed district 30
944 days to object to the increase.

945
946 c. If the City receives written objections from record owners collectively bearing one-half or
947 more of the cost of the improvement, the City may not contract to construct the improvement
948 unless it can do so at an amount not more than 15 percent above the estimated cost of
949 construction identified in the improvement plan. The City may still impose an assessment or
950 levy taxes on the district for the costs of developing the improvement plan so long as the
951 record owners approved the initiation of the district and the improvement plan.

952
953 17.02.070 Assessment roll.

954
955 a. After completion of the improvement, the City shall assess costs of the improvement and
956 prepare an assessment roll stating for each property in the special assessment district the
957 name and address of the record owner, Kenai Peninsula Borough parcel number, the legal
958 description of the property, the amount assessed against the property, and the assessed value
959 of the property as determined by the Borough Assessor.

960
961 b. Council shall certify the assessment roll by resolution.

962
963 c. Prior to certifying the assessment roll, Council shall hold a hearing. All record owners in the
964 proposed district will have an opportunity to raise objections to the assessment roll at the
965 hearing. At least 15 days before the hearing, the City Clerk shall send written notice of the
966 hearing on the certification of the assessment roll by certified mail to each record owner
967 appearing on the assessment roll and publish notice of the hearing in a newspaper of general
968 circulation in the City.

969
970 17.02.080 Certification of assessment roll.

971
972 After the hearing the Council shall correct any errors or inequalities in the assessment roll. If an
973 assessment is increased, a new hearing shall be set and notice published, except that a new
974 hearing and notice is not required if all record owners of property subject to the increased
975 assessment consent in writing to the increase. Objection to the increased assessment shall be
976 limited to record owners of properties whose assessments were increased. When the
977 assessment roll is corrected, the Council shall confirm the assessment roll by resolution. The
978 City Clerk shall record the resolution and confirmed assessment roll with the District Recorder.

979
980 17.02.090 Payment.

981

982 a. In the resolution certifying the assessment roll, Council shall fix the time or times when
983 assessments or assessment installments are due, the amount of penalty on a delinquent
984 payment and the rate of interest on the unpaid balance of an assessment. An assessment that
985 is to be paid in a single payment shall not be due before 60 days after billing.

986
987 b. Within 30 days after fixing the time when payment of the assessments is due, the Finance
988 Director shall mail a statement to the record owner of each assessed property identifying the
989 property and stating the assessment amount, the payment due date, and the amount of the
990 penalty on a delinquent payment. Within five days after mailing the statements, the Finance
991 Director shall publish notice of mailing the statements in a newspaper of general circulation in
992 the City.

993
994 17.02.100 Subdivision after levy of assessments.

995
996 a. Except as otherwise provided in this section, upon subdivision of a parcel located in an
997 assessment district where the assessment was apportioned equally between parcels, a
998 "subdivided property connection fee" shall be paid before a lot created by subdivision, and not
999 included in the original assessment, may be connected to the improvement for which the
1000 original assessment was levied.

1001 1. The amount of the "subdivided property connection fee" shall be equal to the
1002 amount of the original assessment adjusted by the increase in the number of parcels.

1003
1004 2. If the original assessment was payable in installments the City may enter into a
1005 written agreement for the payment of the connection fee in installments on terms that
1006 are substantially the same as those authorized for the payment of the original
1007 assessment, secured by a deed of trust on the parcel.

1008
1009 b. Upon the subdivision of a property assessed as a single parcel in an assessment district for
1010 natural gas distribution improvements where assessments were levied in an equal amount per
1011 parcel (i.e., without regard to parcel area, dimension or other characteristic), the assessment
1012 levied on the property that is to be subdivided shall be paid in full before the recording of the
1013 final plat. No parcel that results from the subdivision shall be subject to assessment for the
1014 improvements, but shall be charged for connecting to the improvements in accordance with
1015 the tariff of the public utility that provides natural gas service to the parcel.

1016
1017 c. Subdivisions of lots included in the original assessment shall only incur the "subdivided
1018 property connection fee" when the subdivision of the lot occurs on or before the date the total
1019 assessment for the district is paid in full.

1020
1021 d. All subdivided property connection fees collected under this section shall be deposited in the
1022 Homer Accelerated Water Sewer Program fund.

1023
1024 17.02.120 Reassessment.

1025

1026 a. Council shall within one year correct any deficiency in a special assessment found by a court,
1027 under the procedure for certification of the assessment roll in HCC 17.02.

1028

1029 b. Payments on the initial assessment are credited to the property upon reassessment. The
1030 reassessment becomes a charge upon the property notwithstanding failure to comply with any
1031 provision of the assessment procedure.

1032

1033 17.02.130 Objection and appeal.

1034

1035 a. An assessment may only be contested by a person who filed a written objection to the
1036 assessment roll before its certification. Council's decision regarding an objection to the
1037 assessment role is final and may be appealed to the Superior Court within 30 days after the
1038 date of certification of the assessment roll.

1039

1040 b. If no objection is filed or appeal taken within the time provided in this section, the
1041 assessment procedure shall be considered regular and valid in all respects.

1042

1043 17.02.140 Interim financing.

1044

1045 a. Council may provide by resolution or ordinance for the issuance of notes to pay the costs of
1046 an improvement from the special assessments for that improvement. The notes shall bear
1047 interest at a rate or rates authorized by the resolution or ordinance, and shall be redeemed
1048 either in cash or bonds for the improvement project.

1049

1050 b. Notes issued against assessments shall be claims against the assessments that are prior and
1051 superior to a right, lien or claim of a surety on the bond given to the City to secure the
1052 performance of the contract for construction of the improvement, or to secure the payment of
1053 persons who have performed work or furnished materials under the contract.

1054

1055 c. The Finance Director may accept notes against special assessments on conditions prescribed
1056 by the Council in payment of:

1057 1. Assessments against which the notes were issued in order of priority;

1058 2. Judgments rendered against property owners who have become delinquent in the
1059 payment of assessments; and

1060 3. Certificates of purchase when property has been sold under execution or at tax sale
1061 for failure to pay the assessments.

1062

1063 17.02.150 Special assessment bonds.

1064

1065 a. Council by ordinance may authorize the issuance and sale of special assessment bonds to
1066 pay all or part of the cost of an improvement in a special assessment district. The principal and
1067 interest of the bonds shall be payable solely from the special assessments levied against

1068 property in the district. The assessment shall constitute a sinking fund for the payment of
1069 principal and interest on the bonds. The benefited property may be pledged by the Council to
1070 secure payment of the bonds.

1071
1072 b. On default in a payment due on a special assessment bond, a bondholder may enforce
1073 payment of principal, interest, and costs of collection in a civil action in the same manner and
1074 with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
1075 shall be against all property on which assessments are in default. The period for redemption is
1076 the same as for a mortgage foreclosure on real property.

1077
1078 c. Before the Council may issue special assessment bonds, it shall establish a guarantee fund
1079 and appropriate to the fund annually a sum adequate to cover a deficiency in meeting
1080 payments of principal and interest on bonds if the reason for the deficiency is nonpayment of
1081 assessments when due. Money received from actions taken against property for nonpayment
1082 of assessments shall be credited to the guarantee fund.

1083
1084 17.02.160 Time limit for special assessment districts.

1085
1086 a. If five or more years elapse between the creation of a special assessment district and the City
1087 contracting for construction of the improvement, the City may not enter into the contract
1088 unless the Council by resolution extends the period for entering into the contract by not more
1089 than an additional five years.

1090
1091 b. Before the Council acts on a resolution under subsection (a) of this section, the City Clerk
1092 shall mail notice of the resolution to each current record owner of property listed on the
1093 preliminary assessment roll that the City will not contract for construction of the improvement
1094 in the district unless the resolution is adopted. The notice also shall include an updated copy of
1095 the preliminary assessment roll.

1096
1097 17.02.170 Water and sewer connections required.

1098
1099 Except as otherwise provided in Title 14, the owner of property in a water or sewer special
1100 assessment district that contains an occupied building shall connect to the improvement
1101 constructed in the district within three years after the date that the resolution confirming the
1102 assessment roll for the district becomes final.

1103
1104 17.02.180 Road improvement assessments for lots with two street frontages.

1105
1106 a. The record owner of a through lot or flag lot may obtain a deferment of the part of an
1107 assessment for road improvements that is based on frontage on a road to which the lot does
1108 not have access. To obtain the deferment, the owner shall enter into a deferred assessment
1109 agreement with the City before the end of the period for filing objections to the district under
1110 HCC 17.01.050. The agreement shall provide that the lot has frontage on two streets, to only

1111 one of which the lot has access; that the lot owner shall pay the part of the assessment that is
1112 based on frontage on the street to which the lot has access; and that the owner shall pay the
1113 part of the assessment that is based on the other street frontage when the lot acquires access
1114 to the street from that frontage. The agreement shall be recorded with the District Recorder's
1115 office.

1116
1117 b. The assessment for road improvements against a corner lot shall be based only on the
1118 longer of the lot's road frontages.

1119
1120 17.02.190 Hardship Deferrals.

1121
1122 a. Assessment payments, including payments of assessments levied in the City of Homer
1123 Natural Gas Distribution Special Assessment District created by Ordinance 13-02, but
1124 excluding other assessment payments for the infrastructure of a privately owned utility, may
1125 be deferred under the provisions of this section. A person may obtain a deferment of
1126 assessment payments under this section if the person:

- 1127 1. Has an annual family income that is less than 200% of the current U.S. Health and
1128 Human Services Poverty Guidelines for Alaska;
1129 2. Is the record owner of the assessed property, and permanently resides in a single-
1130 family dwelling on the property; and
1131 3. Is not determined by the City, after notice and hearing, to have been conveyed the
1132 property primarily for the purpose of obtaining the deferment.

1133
1134 b. A person seeking deferment of an assessment payment shall file a written application with
1135 the Finance Director supported by documentation showing that the applicant meets the
1136 criteria in subsection (a) of this section. A person requesting an assessment payment
1137 deferment the first year the assessment is levied must file an application for deferment with
1138 the City no more than 15 days after receiving the initial assessment. A person requesting an
1139 assessment payment deferment under this section in any year after the first year must file an
1140 application for deferment no later than April 15th of the year for which the deferment is
1141 sought. A person must file an application each year for which deferment is sought and shall be
1142 required to prove eligibility for deferment as of January 1st of each year for which a deferment
1143 is requested. Within the same year the City for good cause shown may waive the claimant's
1144 failure to make timely application and approve the application as if timely filed.

1145
1146 c. A person who receives an assessment payment deferment shall execute a deed of trust on
1147 the property subject to assessment, together with a promissory note payable to the City on
1148 demand, to secure the eventual payment of the deferred payment.

1149
1150 d. A deferred assessment payment shall be immediately due and payable upon the earlier to
1151 occur of the following events:

- 1152 1. The sale or lease of the assessed property; or

1153 2. The death of both the deferred assessment applicant and the applicant's surviving
1154 spouse, if any.

1155
1156 17.02.200 In lieu of assessment.

1157
1158 a. A payment in lieu of assessment may be available to record owners outside of a special
1159 assessment district who want to connect to the improvement funded by a special assessment
1160 district and are willing to pay the full and actual costs of extending the benefit of the
1161 improvement onto their property and the parcel's pro-rated share of the assessed
1162 improvement. The Public Works Director retains authority to deny a request for extension of
1163 an improvement under this section.

1164
1165 b. A payment in lieu of assessment shall be paid in accordance with written terms agreed upon
1166 by the City and the record owner of the property for which the payment in lieu of assessment is
1167 being made.

1168
1169 c. Property on which an "in lieu of assessment" has been levied in accordance with subsection
1170 (a) of this section nonetheless may be included in a special assessment district for the same
1171 service in the future date, and will be assessed in that district. An amount not exceeding the
1172 lesser of (1) the amount of "in lieu of assessment" paid for the property and (2) the amount of
1173 the assessment levied on the property in the future special assessment district shall be a credit
1174 against the amount of the assessment levied on the property in the future special assessment
1175 district.

1176
1177 CHAPTER 17.03
1178 ENFORCEMENT OF PUBLIC ASSESSMENTS

1179 Sections:
1180 17.03.010 Delinquent assessment payments-enforcement.
1181 17.03.020 Priority of lien.

1182
1183 17.03.010 Delinquent assessment payments-enforcement.

1184
1185 a. Assessments under this title and any interest or penalties on these assessments are liens on
1186 the property assessed.

1187
1188 b. Foreclosure of assessment liens shall be in accordance with the procedures required for
1189 foreclosure of property tax liens under Alaska Statute.

1190
1191 17.03.020 Priority of Lien.

1192
1193 a. Assessments under this title and any interest or penalties on these assessments are liens on
1194 the property assessed and are prior and paramount to all liens except municipal tax liens.

1195 Assessment liens may be enforced as provided in this Code and AS 29.45.320-29.45.470 for
1196 enforcement of property tax liens.

1197
1198 b. Assessment liens run with the land, and that portion of the assessment under the
1199 assessment contract that has not yet become due is not eliminated by foreclosure of a
1200 property tax lien.

1201
1202 CHAPTER 17.18
1203 DEVELOPER REIMBURSEMENT PROGRAM

1204 Sections:

1205 17.18.010 Purpose.

1206 17.18.020 Definitions.

1207 17.18.030 Developer Requested Special Assessment District

1208 17.18.040 Developer Incentive and Reimbursement Program

1209
1210 17.18.010 Purpose.

1211
1212 It is the intent of this chapter to provide incentive through reimbursement and access to the
1213 City's special assessment district process and procedures to developers expanding access to
1214 public utilities and capital improvements within the boundaries of the City.

1215
1216 17.18.020 Definitions.

1217
1218 In this chapter, unless otherwise provided, or the context otherwise requires, the following
1219 words and phrases shall have the meaning set forth below:

1220
1221 "Benefiting property" means one or more parcel(s) of real property which are adjacent to, will
1222 benefit from, or are likely to require connection to a Municipal Improvement.

1223
1224 "Cost of Construction" means the developer's actual direct cost of constructing a Municipal
1225 Improvement.

1226
1227 "Developer" means an owner of real property who is developing his, her, or its real property.

1228 "Developer Reimbursement Agreement" means a written contract between the City, as
1229 approved by the Council, and one or more developers, which provides for reimbursement of a
1230 portion of the Costs of Construction of a Municipal Improvement by a developer, and the
1231 method for assessing the pro rata share of the Costs of Construction of a Municipal
1232 Improvement to Benefitted Property.

1233
1234 "Municipal Improvement" means water, sewer, electrical, and/or storm water systems or other
1235 capital improvements which have been designed and constructed according to City standards,
1236 approved by the City, accepted by the City, and provide potential benefits and/or service to
1237 Benefitted Property.

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17.18.030 Developer Requested Special Assessment District.

a. A developer may request a Resolution of the Council approving a special assessment district in connection with the construction of a Municipal Improvement as set forth in HCC 17.02.040.

b. A request for special assessment district initiated by a developer shall be filed on the Special Assessment District Resolution Request Form, which is available from the City Clerk's Office.

c. The developer's request must include all information required by the Special Assessment District Resolution Request Form, including, without limitation, a description of the boundaries of the district requested and the Municipal Improvement the developer intends to construct or extend, a cost estimate for the improvements to be constructed, the proposed method used to calculate the amount claimed by each record owner of Benefitted Property in the proposed district, the percentage of the improvement cost to be assessed to Benefitted Properties within the district, and the percentage of the improvement cost to be assessed to the developer's property and/or project.

d. Upon adoption of a Resolution of Council finding there is a necessity for the special assessment district identified by the developer in the developer's application and the initiation of the special assessment district process under this chapter, a Developer Reimbursement Agreement must also be presented to Council for approval. This agreement must include the terms and conditions of the improvement plan and the proposed construction and installation terms by the Contractor.

17.18.040 Developer Incentive and Reimbursement Program.

a. If Council approves the district and the Developer Reimbursement Agreement under the procedures set forth in Title 17.02, and upon completion of the approved Municipal Improvement in accordance with the City's standards and acceptance of the same by the City, and only to the extent permitted by law, the City shall transfer any payments received by the City in payment for the assessments within the district. The City will disburse any payments received from property owners in the district to the developer within 90 days from the date the City collects or receives the assessment payment.

b. The City may collect, but is not required to collect, the amounts assessed to any Benefitted Property for the pro rata share of the developer's Costs of Construction. The Pro Rata Payment must be paid before any Benefitted Property connects to or uses the Municipal Improvement. No Benefitted Property is permitted to connect to or use the Municipal Improvement without first making the Pro Rata Payment. The Pro Rata Payment is in addition to any connection fees, service fees, or other fees that may be charged for connection and/or use of the Municipal Improvement, or any other fees chargeable by the City under the Code for the construction of a particular Municipal Improvement.

1281
1282 c. The City accepts no liability to collect any Pro Rata Payment from the owners of Benefitted
1283 Property, or in the event of non-payment, to pursue enforcement for non-payment of any Pro
1284 Rata Payment, or to disconnect or remove any Benefitted Property from the Municipal
1285 Improvement for non-payment of a Pro Rata Payment. The City assumes no liability or
1286 responsibility regarding the enforceability of any Reimbursement Agreement, or the
1287 developer’s ability to seek a Pro Rata Payment. To the extent permitted by law, enforcement
1288 matters relating in any way to a Pro Rata Payment, or recovery or reimbursement of any Costs
1289 of Construction, shall be the sole responsibility of the private developer.

1290
1291 Section 9: This ordinance is of a permanent and general character and shall be included
1292 in the Homer City Code.

1293
1294 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS ____ DAY OF _____,
1295 2019.

1296
1297 CITY OF HOMER

1298
1299
1300 _____
1301 KEN CASTNER, MAYOR

1302 ATTEST:

1303
1304 _____
1305 MELISSA JACOBSEN, MMC, CITY CLERK

1306
1307
1308 YES:

1309 NO:

1310 ABSTAIN:

1311 ABSENT:

1312
1313 First Reading:

1314 Public Hearing:

1315 Second Reading:

1316 Effective Date:

1317
1318
1319 Reviewed and approved as to form:

1320
1321 _____
1322 Katie Koester, City Manager

1320
1321 _____
1322 Holly Wells, City Attorney

1324 Date: _____
1325

Date: _____

**CITY OF HOMER
HOMER, ALASKA**

Lord/Stroozas

ORDINANCE 19-23(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA REPEALING AND REENACTING HOMER CITY CODE TITLE 14 TO BE ENTITLED “HOMER PUBLIC UTILITY SYSTEMS” AND HOMER CITY CODE TITLE 17 TO BE ENTITLED “PUBLIC ASSESSMENTS” TO: 1) CONSOLIDATE WATER AND SEWER SYSTEM REGULATIONS AND RATES; 2) UPDATE DEFINITIONS AND COMMON TERMS, AND 3) CREATE UNIFORMITY BETWEEN SERVICE AND ASSESSMENT PRACTICES AND REPEALING HOMER CITY CODE CHAPTERS 9.08, 13.24 AND 13.28 TO RELOCATE UTILITY CONSTRUCTION PRACTICES AND FEES FROM HOMER CITY CODE 13.24 AND HOMER CITY CODE 13.28 INTO TITLES 14 AND 17 AND MOVE HOMER CITY CODE 9.08 TO HOMER CITY CODE 17.03 AND UPDATE ASSESSMENT LIEN ENFORCEMENT PROVISIONS TO INCORPORATE STATE LAW REQUIREMENTS.

WHEREAS, The Homer City Code currently requires property owners to connect to the Homer Sanitary Wastewater and Sewage System and the Homer Public Water System and regulates construction, installation, and use of these systems; and

WHEREAS, The regulatory, assessment, and fee provisions regarding Homer’s public utilities are located in various sections throughout the Code; and

WHEREAS, The laws governing Homer’s public utilities have not been recently updated to reflect the City’s growth, progress, and needs; and

WHEREAS, The Code contains technical construction and installation requirements that are best addressed via permit criteria rather than provisions in the Code; and

WHEREAS, It is in the City’s and the public’s best interest to identify assessments and procedures arising from public utilities and capital improvements in the same title and ensure all assessment procedures are clear, consistent, and easily understood; and

WHEREAS, Certain fees and assessments were addressed in Titles 9, 13, and 14 while others were in Title 17.

NOW THEREFORE, THE CITY OF HOMER ORDAINS:

43 Section 1: Chapter 13.24 entitled “Sanitary Systems” is hereby repealed.

44

45 Section 2: Chapter 13.28 entitled “Water Systems” is hereby repealed.

46

47 Section 3: Chapter 9.08 entitled “Enforcement of Local Improvement District
48 Assessments” is hereby repealed.

49

50 Section 4: Title 14 “Public Services” is repealed and reenacted to read as follows:

51

52

TITLE 14

53

CITY OF HOMER PUBLIC UTILITY SYSTEMS

54

55 Chapters

56 14.01 Homer Public Utility Systems-General Provisions

57 14.04 Homer Sanitary Wastewater and Sewage System

58 14.08 Homer Public Water System

59 14.50 Utility Distribution Facilities

60

61

CHAPTER 14.01

62

HOMER PUBLIC UTILITY SYSTEMS-GENERAL PROVISIONS

63

64 Sections:

65 14.01.010 Water and sewer service area.

66 14.01.020 City Manager rule making authority.

67 14.01.030 Immunity for discretionary acts.

68 14.01.040 Violation-Penalty.

69 14.01.045 Violation-Right of appeal.

70 14.01.050 Bond or cash deposit.

71 14.01.060 State contractor required.

72 14.04.070 Utility permits-Appeal procedure.

73 14.01.080 Utility permit appeals-Superior court.

74 14.04.090 Water and sewer rate schedules.

75

76 14.01.010 Water and sewer service area.

77

78 a. No water or sewer service shall be provided beyond the boundaries of the City of Homer
79 except as otherwise provided in this title or upon approval granted by City Council via
80 ordinance.

81

82 14.01.020 City Manager rulemaking authority

83

84 a. The City Manager is empowered to make rules and regulations for the administration of
85 City water and sewer services and construction, repair, operations, and maintenance of City
86 water and sewer systems. Any rules and regulations adopted by the City Manager under this
87 section and the current utility rates adopted by Council shall be available for public
88 inspection at the City Clerk's office, the Public Works Department, and on the City's website.

89
90 b. No person shall fail to comply with any rule or regulation adopted under the authority of
91 this section.

92
93 14.01.030 Immunity for discretionary acts.

94
95 An action for damages may not be brought against the City, or any of its agents, officers,
96 contractors or employees, for a claim based on the exercise or failure to exercise any
97 discretionary function or duty granted in this title, whether or not the discretion was abused,
98 including, without limitation, the exercise of discretion to restrict, interrupt, decrease, or
99 terminate the sale of water to bulk water customers, resellers, or others for export or
100 consumption outside the certificated service area or the discontinuance of water or sewer
101 services. Nothing in this section shall be construed to limit any defenses or immunities
102 available under AS 09.65.070 or any other provision of law.

103
104 14.01.040 Violation-Penalty.

105
106 a. The penalty for violating a provision of this title is the fine listed in the fine schedule in HCC
107 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in
108 court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless
109 another penalty is specifically provided.

110
111 b. The City shall provide notice of a violation via certified return receipt U.S. mail to the owner
112 of the property on which the violation is occurring. This notice shall include the name of the
113 property owner, the location of the violation, the Code provisions violated, and the action
114 necessary to correct the violation.

115
116 c. Before assessing penalties under this section, the City shall provide written notice of
117 penalty to the property owner via certified return receipt U.S. mail and personal delivery.
118 This notice shall include all the information required in subsection (b), the date from which
119 penalties incur, and notice of the right to appeal to the City Manager.

120
121 14.01.045 Violation-Right of appeal.

122
123 a. The finding of a violation and assessment of a penalty within 30 days from the date the
124 notice of penalty was postmarked.

125

126 b. Untimely appeals shall not be accepted. A notice of appeal must be filed in writing with the
127 City Clerk and be accompanied by the appeal fee set forth in the Homer fee schedule. The
128 notice must contain:

- 129 1. Name and address of the owner of the property issued the citation;
- 130 2. A copy of the notice being appealed;
- 131 3. A statement of the grounds for appeal that must include detailed and specific
132 allegations of error and references to applicable provisions of the Code or other law.

133
134 c. The City Manager may appoint a hearing officer or City official, other than the Public Works
135 Director, to act as the decision maker in an appeal under this section.

136
137 d. An appeal before the City Manager or his or her designee shall be heard within 30 days
138 from the day the appeal is filed. The person against whom the violation is assessed shall be
139 given an opportunity to be heard at a public hearing and shall have an opportunity to make
140 an oral argument and present evidence.

141
142 e. The City Manager or his or her designee shall issue a final written decision with his or her
143 findings no more than 30 days after the hearing.

144
145 14.01.050 Bond or cash deposit

146
147 a. Every person, firm or corporate entity carrying on the business of construction and
148 connecting to City sewer and/or water within the City may be required to deposit a bond or
149 cash deposit in favor of the City in an amount and under such conditions deemed appropriate
150 by the City Manager or his or her designee to cover damages of any kind resulting from that
151 person's, firm's or entity's operations. All such sewer or water construction and connections
152 shall be completed in a good and workmanlike manner in accordance with the specifications
153 required by the City. The bond or cash deposit shall be further conditioned that the principal
154 shall repair any damage done to the public sewer or water system on account of such work
155 and shall return the surface of the ground, street, road, building, facility, right-of-way or
156 easement to its original condition insofar as possible and in accordance with the
157 requirements of the City.

158
159 b. Every person, firm or corporate entity carrying on the business of construction and
160 connecting to City sewer and/or water within the City must be approved in writing by the
161 Public Works Director. The Public Works Director shall approve a person, firm or corporate
162 entity under this section so long as he, she or it:

- 163 1. Meets all state and local licensing requirements
- 164 2. Provides a statement demonstrating experience in substantially similar or the
165 same construction projects
- 166 3. Carries liability insurance in the aggregate amount of not less than \$500,000 or
167 as may be additionally required in an amount in excess of \$500,000 as may be deemed

168 necessary for the work by the Public Works Director or their designee to cover the insurance
169 requirement of the work.

170

171 14.01.060 State contractor required.

172

173 A contractor working for the City on a water or sewer project or conducting construction
174 within a public easement or right-of-way shall file a copy of their current State contractor's
175 certificate with the office of the City Clerk.

176

177 14.01.070 Utility permits-Appeal procedure.

178

179 a. Any person who is dissatisfied with the approval or denial of a permit under this title may
180 appeal the decision to the City Manager no more than 30 days after the Public Works Director
181 approves or denies the permit.

182

183 b. An appeal to the City Manager must be filed within 30 days of the written approval or
184 denial of a permit under this chapter. Untimely appeals shall not be accepted. A notice of
185 appeal must be filed in writing with the City Clerk and be accompanied by the appeal fee set
186 forth in the Homer fee schedule. The notice must contain:

187 1. Name and address of the permit applicant;

188 2. A copy of the order or decision being appealed;

189 3. A statement of the grounds for appeal that must include detailed and specific
190 allegations of error and references to applicable provisions of the Code or other law.

191

192 c. The City Manager may appoint a hearing officer or City official, other than the Public Works
193 Director, to act as the decision maker in an appeal under this section.

194

195 d. An appeal before the City Manager or his or her designee shall be heard within 30 days
196 from the day the appeal is filed. The permit applicant shall be given an opportunity to be
197 heard at a public hearing and shall have an opportunity to make an oral argument and
198 present evidence.

199

200 e. The City Manager or his or her designee shall issue a final written decision with his or her
201 findings no more than 30 days after the hearing.

202

203 14.01.080 Utility permit appeals- Superior Court

204

205 A final decision of the City Manager or his or her designee may be appealed to the Superior
206 Court no later than 30 days following the date the decision of the hearing officer is issued. An
207 appeal to the court must be filed according to the applicable court rules.

208

209 14.01.090 Water and sewer rate schedule

210 a. The City Council shall adopt, renew, review and amend, as necessary, a water and sewer
211 rate schedule annually via resolution. Copies of the rate schedule shall be available at the
212 Public Works Department. The schedule may also be available on the City’s website.

213
214 b. The City will allow, upon approval of a written application and payment of fee established
215 by the City Council, a second water usage meter to measure the flow of City water that is not
216 discharged to the Sanitary System. This second meter will be read monthly and sewer
217 charges will be credited monthly.

218
219 CHAPTER 14.04
220 HOMER SANITARY WASTEWATER AND SEWAGE SYSTEM

221
222 Sections:

- 223 14.04.010 Purpose.
- 224 14.04.015 Definitions.
- 225 14.04.018 Service connection charges.
- 226 14.04.020 Connection – Required.
- 227 14.04.030 Industrial waste.
- 228 14.04.050 Sewer service connection and extension permit.
- 229 14.04.055 Sewer connection and extension permit fee.
- 230 14.04.060 Disposition of revenue.
- 231 14.04.070 Destruction/abandonment of private sewage disposal systems.
- 232 14.04.080 Commercial waste disposal permit.
- 233 14.04.090 Industrial waste disposal permit.
- 234 14.04.100 Discharge of surface drainage into HSWS illegal.

235
236 14.04.010 Purpose.

237
238 It is the intent of this chapter to establish rules and regulations for the operation and
239 installation of the Homer Sanitary Wastewater and Sewage System, which may be called the
240 “HSWS” or the “Sanitary System” throughout this chapter. It is the goal of the City of Homer
241 for all wastewater and sewage within City boundaries to be connected to the HSWS, ensuring
242 proper wastewater and sewage management throughout the City. This Code should be
243 interpreted in furtherance of that goal.

244
245 14.04.015 Definitions.

246
247 For the purposes of this chapter, the following words and phrases shall have the meanings
248 set forth below:

249
250 “ADEC” means the State of Alaska Department of Environmental Conservation.

252 A “directly adjacent” sewer main means either (1) the main extends the entire length of the
253 frontage of the lot along an easement or right-of-way; or (2) it extends at least 10 feet into an
254 easement or right-of-way adjacent to the lot and the Public Works Director determines that
255 the main will not be extended to serve additional lots.

256
257 “Domestic sewage” means waste containing human or animal excretion, other than
258 industrial waste.

259
260 “Dwelling” or “dwelling unit” means any building or portion thereof which contains living
261 facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than
262 one family.

263
264 “Industrial plant” means a plant or works producing waste material, other than domestic
265 sewage.

266
267 “Industrial waste” means liquid or solids contained within a liquid, other than domestic
268 sewage.

269
270 “Multiple-family dwelling” means a building or portion thereof designed for occupancy by
271 two or more families living independently in separate dwelling units which may or may not
272 share common entrances and/or other spaces.

273
274 “On-site sewer connection line” means the part of the sewer connection line located on the
275 property being serviced by that line.

276
277 “Off-site sewer connection line” means the part of the sewer connection line located in a
278 public easement or right-of-way.

279
280 “Premises” means a lot, parcel of land, building or establishment.

281
282 “Sewage” means a combination of liquid- or water-carried human waste conducted away
283 from residences, business buildings and institutions, which is known as domestic sewage,
284 together with the liquid- or water-carried waste resulting from a manufacturing process
285 employed in industrial establishments, including the washing, cleaning or drain water from
286 such process or establishment, which is known as industrial waste.

287
288 “Sewer connection line” means a line or pipe carrying sewage from a premises to a sewer
289 main.

290
291 “Sewer extension” means an extension of the sewer main.
292

293 “Spaghetti line” means a pipe or line connecting to a sewer main that is not directly adjacent
294 to the lot being serviced by the line or pipe.

295

296 14.04.018 Service connection charges.

297

298 A person applying for sewer service to property not previously connected to the Sanitary
299 System shall pay a sewer connection charge, which shall include engineering costs of
300 inspecting and/or installing the on-site sewer connection line and permit application fees
301 and costs. The amount of the sewer connection charge and the costs included in that charge
302 shall be published annually on the City website and a newspaper of general circulation.

303

304 14.04.020 Connection – Required.

305

306 a. Except as otherwise provided in this chapter, no person shall erect or occupy a dwelling or
307 commercial or industrial building directly adjacent to the Sanitary System without
308 connecting to the Sanitary System.

309

310 b. Except when expressly approved by permit, spaghetti lines are prohibited. No service will
311 be provided to a lot that is not directly adjacent to a sewer main.

312

313 c. Where the Sanitary System is not available, a septic system may be used so long as the
314 septic system is installed and maintained as required by ADEC and all other laws and provide
315 adequate disposal of waste.

316

317 d. Except as otherwise provided in this section, Property owners must connect to the Sanitary
318 System no more than three years after the owner of a property receives written notice that
319 the Sanitary System is available to the property.

320

321 e. Property owners with compliant and fully functioning septic systems may wait to connect
322 to the Sanitary System but shall connect to the Sanitary System before and instead of
323 replacing or repairing any substantial component of a septic system on the property.
324 Property owners delaying connection the Sewer System under this subsection must provide
325 written notice of the property owner’s intent to temporarily stay connection only in
326 compliance with the code. The notice of stay must be received by the City no more than 60
327 days after the City provides written notice to the property owner that the Sanitary System is
328 available to the property. A Notice to Stay Connection is available at the Clerk’s office, the
329 Public Works Department, and/or on the City’s website.

330

331 f. Outhouses, cesspools, privies or any private wastewater system that is not subject to
332 approval and regulation by **ADEC** is prohibited within the City.

333

334 14.04.030 Industrial Waste.

335
336 The City shall adopt industrial pretreatment discharge and waste disposal procedures and
337 regulations. These procedures and regulations and any amendments to them must be
338 approved by Council via ordinance.

339
340 14.04.050 Sewer service connection and extension permit.

341
342 a. No person shall install a sewer extension or a sewer connection line without first obtaining
343 a sewer connection permit from the City. Permit applications may be obtained from the
344 Public Works Department, the City Clerk's office, and/or the City's website. Permit fees must
345 be paid at the time the application is submitted. The sewer connection and extension permit
346 fee shall include all inspection and administrative costs. All other fees for delayed or deferred
347 services, in lieu of assessments and necessary right-of-way permits shall be in addition to the
348 permit fee.

349
350 b. A property owner installing a sewer connection or extension which qualifies for a deferred
351 assessment payment or makes a payment in lieu of assessment, shall pay the assessment
352 prior to issuance of the connection or extension permit.

353
354 c. The sewer connection permit criteria shall be identified in the permit application obtained
355 from the Public Works Office.

356
357 d. All work and materials must meet the standards and specifications as described in the
358 permit application, Homer City Code, the Uniform Building Code, and ADEC.

359
360 e. Property owners connecting to the Sanitary System shall provide and pay for all materials,
361 labor, and equipment for the excavation, connection and installation of the sewer line and
362 shall be responsible for any liability, damages or costs arising from installation, excavation,
363 and connection.

364
365 f. All sewer connections and extensions shall be inspected by the Public Works Department
366 before the connection is used. The customer shall make arrangements with the Public Works
367 Department at least 24 hours in advance for all required inspections.

368
369 14.04.070 Destruction/Abandonment of private sewage disposal systems.

370
371 All septic tanks, cesspools, privies, or sewage holding tank/vaults shall be removed, filled or
372 destroyed in full compliance with Conservation requirements and the Uniform Plumbing
373 Code.

374
375 14.04.080 Commercial waste disposal permit.

376

377 a. Except for property owners connecting to the Sanitary System for disposal of waste from a
378 single family dwelling or property owners required to obtain an industrial waste disposal
379 permit, all property owners must obtain a commercial waste disposal permit before
380 discharging any waste into the Sanitary System.

381
382 b. The waste disposal permit application shall be available at the Public Works Office and
383 may be available on the City's website. The permit fee must be paid at the time the
384 application is submitted. The criteria for the permit shall be included in the application.

385
386 c. The Public Works Director shall issue a commercial waste disposal permit so long as:
387 1. The Public Works Director reasonably believes, and the property attests that the
388 type of waste reported by the property owner will not damage the Sanitary System;
389 and
390 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

391
392 d. The Public Works Director or his designee may revoke, modify or impose conditions upon a
393 disposal permit if he or she finds, in his or her sole discretion, that revocation, conditions or
394 modifications to the permit are required to prevent or stop damage to the Sanitary System.
395 Except when immediate action is necessary to protect the Sanitary System and prevent
396 immediate harm to public health and sanitation, the Public Works Director shall provide
397 notice to the property owner at least 30 days before revoking or modifying a disposal permit.

398
399 14.04.090 Industrial waste disposal permit.

400
401 a. All significant industrial users must obtain an industrial waste disposal permit from the
402 City. A significant industrial user means an industrial user of the System who meets any one
403 of the following criteria:

- 404 1. Is subject to or potentially subject to national pretreatment standards promulgated
405 under Section 307(b) or (c) of the Clean Water Act;
406 2. Has in its wastes any priority toxic pollutants listed in 40 CFR 401.15 or 40 CFR Part
407 403 or listed by the Public Works Director;
408 3. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Clean
409 Water Act or regulations promulgated thereto;
410 4. Has a discharge flow of 10,000 gallons or more of wastewater per average work day;
411 5. Has a flow greater than five percent of the flow into the HSWS or of the design
412 pollutant loading capacity of the HSWS; or
413 6. Is determined by the Public Works Director to have a significant impact or potential
414 for significant impact, either singly or in combination with other contributing
415 industries, on the wastewater treatment system, the quality of sludge, the HSWS
416 effluent quality, or air emissions generated by the HSWS.

417

418 b. The industrial waste disposal permit application shall be available at the Public Works
419 Office, and may also be available on the City’s website. The permit fee must be paid at the
420 time the application is submitted. The criteria for the permit shall be included in the
421 application.

422 c. The Public Works Director shall only issue an industrial waste disposal permit after finding
423 that:

424 1. The applicant and the sewage generated on the property subject to the permit
425 complies with the City of Homer Industrial Pretreatment and Discharge Policies as
426 adopted by Council; and

427 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.
428

429 d. The Public Works Director or his designee may revoke, modify or impose conditions upon
430 an industrial waste disposal permit if he or she finds, in his or her sole discretion, revocation,
431 conditions or modifications to the permit are required to prevent or stop damage to the
432 Sanitary System. Except when immediate action is necessary to protect the Sanitary System
433 and prevent immediate harm to public health and sanitation, the Public Works Director shall
434 provide notice to the property owner at least 30 days before revoking or modifying a disposal
435 permit.

436
437 14.04.100 Discharge of surface drainage into HSWS Illegal.
438

439 No connections shall be made to any public sewer or any premises for the purpose of
440 directing or diverting any storm water or any surface or underground drainage into the
441 sewer, and no person shall discharge into any public sewer or house lateral any leader pipe
442 from a roof, surface drain, underground drain or any solid or liquid waste other than the
443 sewage composed of the ordinary liquid wastes of residences, business buildings and
444 institutions from baths, toilets, laundries, wash tubs, sinks and floor drains. Connections of
445 surface or groundwater to the sanitary sewer are considered illegal.
446

447 CHAPTER 14.08
448 HOMER PUBLIC WATER SYSTEM

449 Sections:

450 14.08.010 Purpose.

451 14.08.020 Definitions.

452 14.08.030 Water connections and extensions.

453 14.08.037 Water meters.

454 14.08.040 Water meter installation.

455 14.08.050 Water connection and extension permit.

456 14.08.060 Disconnection due to nonpayment.

457 14.08.070 Frozen pipes – City not liable.

458 14.08.080 Discontinuance of water.

459 14.08.090 Priority use of water.

- 460 14.08.100 Surplus water – Sale.
- 461 14.08.110 Water shortage or emergency declaration.
- 462 14.08.120 Water shortage or emergency – Interruption of sale of surplus water –
- 463 Other measures.
- 464 14.08.130 Water shortage or emergency – Appeal.
- 465 14.08.150 Service deposits.
- 466 14.08.160 Bulk water sales.
- 467 14.08.170 Water filling station permit.
- 468
- 469 14.08.010 Purpose.
- 470

471 It is the intent of this chapter to establish rules and regulations for the operation of the
472 Homer Public Water System. The Homer Public Water System may also be called “HPWS” or
473 the “Water System” in this chapter, permit applications, and/or City regulations and policies.
474 The provisions in this chapter also provide for the financial management of the Water
475 System.

476

477 14.08.020 Definitions.

478

479 For the purposes of this chapter, the following words and phrases shall have the meanings
480 set forth below:

481

482 “Bulk water” means water purchased from the City and supplied to the customer by means of
483 fire hydrant, tanker truck, or by any other means other than through a direct connection from
484 a water main to the premises where the water is consumed.

485

486 “Bulk water customer” means a person who purchases bulk water from the City.
487 A “directly adjacent” water main either (1) extends the entire length of the frontage of the lot
488 along a public easement or right-of-way; or (2) extends at least 10 feet into the easement or
489 right-of-way adjacent to the lot and the Public Works Director has determined that at no time
490 will the water main be extended to serve additional lots.

491

492 “Reseller” or “reseller of water” means a person who purchases water from the City and, for
493 valuable consideration, provides any quantity of such water to another person, but it shall
494 not include any eating or drinking establishment that provides its customers City water only
495 by the glass.

496

497 “Standard service account” means an established City water utility account for metered
498 water service through a direct connection from the City water main to the premises served.

499

500 “Surplus water” means water that the City administration has determined, in its sole
501 discretion, is in excess of the water needed to meet the consumption, sanitation, and fire
502 protection needs within the boundaries of the City.

503

504 “Multiple-family dwelling” means a building or portion thereof designed for occupancy by
505 two or more families living independently in separate dwelling units which may or may not
506 share common entrances and/or other spaces.

507

508 “Off-site water connection line” means the part of the water connection line located in a
509 public easement or right-of-way.

510

511 “On-site water connection line” means the part of the water connection line located on the
512 property being serviced by that line.

513

514 “Premises” means a lot, parcel of land, building or establishment.

515

516 “Water connection line” means a line or pipe carrying water from the water main to a
517 premises.

518

519 “Water extension” means an extension of the water main.

520

521 “Spaghetti line” means a pipe or line connecting to a sewer main that is not directly adjacent
522 to the lot being serviced by the line or pipe.

523

524 “Water filling station” means a non-City facility used to supply bulk water from the Water
525 System to a tanker truck or other means of conveyance.

526

527 14.08.030 Operation of water valves, fire hydrants and curb stops.

528

529 Only authorized City personnel shall operate water valves, fire hydrants, and curb stops.

530

531 14.08.040 Water meter installation.

532

533 a. Property owners must install a water meter and related components before they will be
534 eligible to connect to the Water System. Installation of all water meters must comply with
535 installation instructions drafted by the Public Works Department and approved by City
536 Council and available at the City Clerk’s Office and Public Work’s office. A violation of the
537 installation instructions shall constitute a violation of this chapter.

538

539 b. The property owner required to install the water meter shall be responsible for all costs
540 associated with installation of that meter and its corresponding mechanisms and a rental fee
541 for the meter from the City.

542

543 c. The City shall have the right to install a water meter remote on a building serviced or
544 scheduled to be serviced by the Water System. The meter shall be the size and model
545 indicated by the Public Works Director.

546

547 d. Water meters remain City property. Persons renting meters shall be responsible for
548 damage arising from external damage and freezing. Internal wear and tear and failure of the
549 meter due to general external wear and tear shall be the responsibility of the City. Customers
550 shall provide reasonable access for City personnel to maintain, monitor, and service a meter.

551

552 14.08.050 Water connection and extension permit.

553

554 a. All property owners connecting to the Water System must obtain a permit prior to starting
555 construction.

556

557 b. The Water System connection and extension permit application shall be available at the
558 City Clerk's office, the Public Works Department, and/or on the City's website. The permit fee
559 must be paid at the time the application is submitted. The criteria for the permit shall be
560 included in the application.

561

562 c. The Public Works Director or his or her designee may revoke, modify or impose conditions
563 upon a Water System permit if he or she finds, in his or her sole discretion, that revocation,
564 conditions or modifications to the permit are required to prevent or stop damage to the
565 Water System. Except when immediate action is necessary to protect the Water System and
566 prevent immediate harm to public health and sanitation, the Public Works Director shall
567 provide notice to the property owner at least 30 days before revoking or modifying a Water
568 System permit.

569

570 d. Installation of a Water System connection or extension of a water main must meet the
571 standards and specification in the permit application, the Homer City Code, and any
572 applicable state or federal law or regulations, including but not limited to State of Alaska
573 Department of Labor Occupational Safety and Health requirements.

574

575 e. A property owner installing an on-site water connection line or extending a water main is
576 solely responsible for all costs and liability associated with or arising from the excavation,
577 connection, and installation of the on-site water line or water main extension.

578

579 14.08.060 Disconnection due to nonpayment.

580

581 The City may discontinue water service for nonpayment of any utility service charges,
582 connection fees and related charges. The City shall provide notice to a Water System user at
583 least 30 days before discontinuing water service due to nonpayment.

584
585 14.08.070 Frozen pipes – City not liable.
586
587 Customers will be solely responsible for all on-property frozen water connections and
588 extensions.

589
590 14.08.080 Discontinuance of water.
591
592 Water may at any time be shut off from water mains without notice for repairs, extensions or
593 other necessary purposes. The City will not be liable to the customer for any loss or damage
594 caused by disruptions in water service.

595
596 14.08.090 Priority use of water.
597
598 The first priority of use of the water produced by the Water System is to provide for human
599 consumption, sanitation, and fire protection needs of water consumers within the
600 boundaries of the City of Homer.

601
602 14.08.100 Surplus water – Sale.
603
604 a. Subject to subsection (b) of this section and other provisions of this chapter, water may be
605 made available for sale to bulk water customers, resellers, and others for export or
606 consumption outside the boundaries of the City of Homer.

607
608 b. Notwithstanding any other provision of this title, City Council may by resolution restrict,
609 interrupt, decrease, or terminate the sale of water for export or consumption outside the
610 boundaries of the City if Council determines it is in the best interests of the City to do so.

611
612 14.08.110 Water shortage or emergency declaration.
613
614 a. City Council may declare a water shortage and restrict the use of water within the
615 boundaries of the City if it finds, via resolution, and after conducting a public hearing,
616 insufficient water available to meet the sanitation, fire protection, and consumption needs
617 within the boundaries of the City.

618
619 b. City Council may declare a surplus water shortage via resolution and restrict use of surplus
620 water as Council deems necessary and in the City’s best interest.

621
622 c. The City Manager may declare a water emergency of up to 30 days if he or she finds that
623 there is an imminent threat or actual impairment to the City’s ability to meet water supply
624 demands. The City Manager shall submit a summary of the declaration of water emergency
625 and the reasons for the declaration at the next regularly scheduled Council meeting.

626 14.08.120 Water shortage or emergency – Interruption of sale of surplus water – Other
627 measures.

628

629 a. If a water shortage or water emergency is declared, the City shall first restrict, decrease,
630 interrupt, or terminate the sale of surplus water. The City may take any other measures that
631 the City determines, in its sole discretion, are necessary to address the water shortage or
632 emergency so long as it does so without discrimination between similarly situated
633 consumers.

634

635 b. Any measures adopted in response to a declared water shortage or emergency shall, for
636 the duration of the period of the declared shortage or emergency, prevail over any conflicting
637 provisions of law establishing rights of persons to receive specific or proportionate amounts
638 of the water supply.

639

640 c. Any measures adopted in response to a declared water shortage or water emergency will
641 be made available for public inspection at the City Clerk’s office, at the City Library, and at
642 the Public Works Department while those measures are in effect. Notice of the measures shall
643 also be posted on the City’s website within 48 hours after the declaration of the water
644 shortage or emergency.

645

646 14.08.130 Water shortage or emergency – Appeal.

647

648 Any person aggrieved by a City Council declaration of a water shortage or water emergency
649 under HCC 14.08.110, or by any action taken by the City in response to such a declaration,
650 may appeal the declaration or action to the Superior Court. The appeal must be filed within
651 30 days from the date the declaration was adopted or action taken. The declaration or action
652 of the City shall not be reversed except on the ground that such declaration or action was
653 fraudulent, arbitrary, or capricious.

654

655 14.08.150 Service deposits.

656

657 a. All water service users, at the time the service is established, shall pay a deposit based on
658 meter size, established by Council via resolution.

659

660 b. Deposits and any accrued interest shall be refunded:

661 1. After one year of service provided the customer has made all payments owed in full
662 and at the time due; or

663 2. No more than 45 days after the date customer is disconnected from the Water
664 System or stops receiving service. Service deposits and any interest shall first be
665 applied to any outstanding balance owed by the disconnecting customer. If there is a
666 balance, the remaining deposit and interest after the payment of that balance shall be
667 refunded to the disconnecting customer.

668
669 c. Waiving of Deposits. If a customer has had utility service with the City within the last two
670 years and paid their City utility payments on time, the Finance Department may waive the
671 deposit requirement under this section.

672
673 d. Landlord Agreement. An owner/customer who requests an automatic continuance of
674 utility service between renters may enter into a landlord agreement with the City for this
675 purpose. This request should be directed to the Finance Department.

676
677 14.08.160 Bulk water sales.

678
679 a. Bulk water sales rates shall be established by City Council via resolution. The schedule for
680 service fees shall apply to all bulk water service requests.

681
682 b. The meter deposit will be returned when the meter is returned undamaged.

683
684 c. If a bulk water customer purchases a meter from the City for measuring the quantity of
685 water purchased it shall be exempt from the monthly meter service charge. It is the
686 responsibility of the bulk water customer to maintain that meter so the City can accurately
687 determine the amount of water being purchased. In the event the meter fails, the customer
688 must repair or replace the meter at its sole expense. The City may at any time test the meter
689 for accuracy and reject a repaired meter that it is not accurate.

690
691 14.08.170 Water filling station permit.

692
693 a. No person shall establish or operate a water filling station to obtain water from the Water
694 System unless that person has a water filling station permit issued by the City.

695
696 b. A person shall apply for a water filling station permit on a form provided by the City. The
697 permit application is available at the City Clerk's office, the Public Works Department, and
698 may be available on the City's website. The permit fee must be submitted with the
699 application.

700
701 c. The water filling station permit criteria shall be included in the permit application and any
702 conditions and terms of the permit shall be included on the face of the permit. Water filling
703 station permit terms and conditions may include, but are not be limited to, uniform or site-
704 specific flow rate restrictions, storage tank requirements, and other provisions required by
705 the Public Works Department to minimize adverse effects on the Water System and promote
706 its efficient operation.

707
708 CHAPTER 14.50
709 UTILITY DISTRIBUTION FACILITIES

710 Sections:

711 14.50.010 Definitions.

712 14.50.020 Underground installation of cable extensions.

713 14.50.030 Enforcement of this chapter.

714

715 14.50.010 Definitions.

716

717 The following words, terms and phrases, when used in this chapter, shall have the meanings
718 ascribed to them in this section, except where the context clearly indicates a different
719 meaning:

720

721 “Cable” includes cables and wires of all descriptions.

722

723 “Natural Gas Assessment District” means City of Homer Natural Gas Distribution Special
724 Assessment District created by Homer City Ordinance 13-02.

725

726 “Public utility” includes every corporation, whether public, cooperative, or otherwise,
727 company, individual, or association of individuals, their lessees, trustees, or receivers
728 appointed by a court, that owns, operates, manages, or controls any plant or system for (1)
729 furnishing, by generation, transmission, or distribution, electrical service to the public for
730 compensation; (2) furnishing telecommunication service to the public for compensation.

731

732 “Public utility” includes all public utilities, whether or not subject to regulation by the
733 Regulatory Commission of Alaska.

734

735 “Telecommunications” means the transmission and reception of messages, images,
736 impressions, pictures, data, and signals by means of electricity, electromagnetic waves, and
737 any other kind of energy, force variations, or impulses, whether conveyed by cable, wire,
738 radiated through space, or transmitted through other media within a specified area or
739 between designated points.

740

741 14.50.020 Underground installation of cable extensions.

742

743 After October 24, 2006, all public utility cable facilities, including, but not limited to, electric
744 power, telephone, and telecommunications cables constructed or installed for the purpose of
745 providing utility service to any land not served before that date by overhead cable facilities,
746 shall be installed underground, and no cables or supporting poles shall be constructed or
747 installed above ground for such purpose, unless the utility obtains an approved exception
748 pursuant to HCC 22.10.055(e) or (f).

749

750 14.50.030 Enforcement of this chapter.

751

752 a. In addition to penalties and remedies set forth in this title, no permit may be issued to
753 install a utility line on City property or in a City-owned or controlled easement or right-of-way
754 in violation of this chapter.

755
756 Section 8: Title 17 entitled “Improvement Districts” is hereby repealed and reenacted
757 to read as follows:

758
759 TITLE 17
760 PUBLIC ASSESSMENTS

761 Chapters:

- 762 17.01 General Provisions
- 763 17.02 Special Assessment Districts
- 764 17.03 Enforcement of Public Assessments
- 765 17.05 Homer Public Water System Assessment Fund
- 766 17.10 Water and Sewer Zone Connection Assessments
- 767 17.15 Water and Sewer Individual Connection Assessments
- 768 17.15 Public Utility and improvement short-term financing
- 769 17.20 Developer Reimbursement Plans

770
771 CHAPTER 17.01
772 GENERAL PROVISIONS

773 Sections:

- 774 17.01.010 Definitions.
- 775 17.01.020 Purpose.
- 776 17.01.030 Assessment authority.
- 777 17.01.010 Definitions.
- 778
- 779 17.01.010 Definitions.

780
781 For the purposes of this title, the following words and phrases shall have the meanings set
782 forth below:

783
784 “Benefited area method” means a method of assessment that determines each parcel’s share
785 of the assessment by dividing the total cost of the improvements on which the assessment is
786 based by the total square footage of land benefitted by the improvement and then allocating
787 a portion of the cost of the assessment to each parcel based upon the square footage of the
788 land benefitted by the improvement. The Public Works Director has the authority and
789 discretion to calculate and apply the benefited area method. The square footage included in
790 the calculation shall include only developable land.

791
792 “Cost” means all expenses incurred by the City for an improvement, including but not limited
793 to, advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of

794 property acquisition, payments to construction contractors, costs of interim and long-term
795 financing of the improvement, including costs of issuing bonds and notes, and City
796 administrative costs.

797
798 “Developable land” means land that, in the discretion of the Public Works Director, can be
799 reasonably developed for uses permitted within the property’s zoning district.

800
801 “District” means a special assessment district created under this chapter unless otherwise
802 specified.

803
804 “Improvement” means a capital improvement, including without limitation streets,
805 sidewalks, alleys and bridges; street lighting; drainage and flood control facilities; sanitary
806 sewage collection and treatment facilities; water supply and distribution facilities; natural
807 gas distribution facilities; and parks, playgrounds, public squares and open space.

808
809 “Public Works Director” means the Public Works Director or his or her designee. If the Public
810 Works Director position is not filled or temporarily empty, the City Manager or his or her
811 designee will serve as the “Public Works Director” for purposes of this Title.

812
813 “Special Assessment Application Fee” means the fee charged for the processing of the special
814 assessment district application. The fee is approved annually by Council in the resolution
815 adopting the City fee schedule.

816
817 “Record owner” means the person in whose name real property is listed on the property tax
818 roll prepared by the Kenai Peninsula Borough and thus the record owner of that real property
819 for purposes of this Title.

820
821 17.01.020 Purpose.

822
823 a. The purpose of this title is to identify the assessments the City may charge for acquiring,
824 installing or constructing capital improvements and utility systems that benefit real property
825 within City boundaries.

826
827 17.01.030 Assessment authority.

828
829 The City may assess all or part of the cost of a capital improvement against real property
830 benefited by the improvement, whether the property is privately or governmentally owned,
831 including real property that is exempt from taxation.

832
833 CHAPTER 17.02
834 SPECIAL ASSESSMENT DISTRICTS

835

836 Sections:

- 837
- 838 17.02.030 Purpose and authority for special assessment districts.
- 839 17.02.040 Initiation of a special assessment district.
- 840 17.02.050 Creation of a special assessment district.
- 841 17.02.060 Contract – Approval of increased costs.
- 842 17.02.070 Special assessment roll.
- 843 17.02.080 Certification of assessment roll.
- 844 17.02.090 Payment.
- 845 17.02.100 Subdivision after levy of assessments.
- 846 17.02.120 Reassessment.
- 847 17.02.130 Objection and appeal.
- 848 17.02.140 Interim financing.
- 849 17.02.150 Special assessment bonds.
- 850 17.02.160 Time limit for special assessment districts.
- 851 17.02.170 Water and sewer connections required.
- 852 ~~17.02.180 Road improvement assessments for lots with two street frontages.~~ **[This section**
- 853 **was clarified and moved to a new Chapter, HCC 17.15. The original language of the**
- 854 **section has been edited in HCC 17.15 to permit review of the changes.]**
- 855 17.02.190 Hardship deferrals.
- 856 17.02.200 Payment in lieu of assessment.
- 857
- 858 17.02.030 Purpose and authority for special assessment districts.
- 859
- 860 a. A special assessment district may be created for the purpose of acquiring, installing or
- 861 constructing a capital improvement that primarily benefits real property in the district, in
- 862 contrast to capital improvements that benefit the entire community and are paid for with
- 863 general government resources or improvements that benefit a specific individual parcel.
- 864
- 865 b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment
- 866 district, authorizing an improvement in a special assessment district, approving and levying
- 867 special assessments, payment of special assessments, and the authorization of special
- 868 assessment bonds, for public information and administrative guidance.
- 869
- 870 17.02.040 Initiation of special assessment district.
- 871
- 872 a. A special assessment district may be initiated by:
- 873 1. A Resolution, initiated by a Council member, the City Manager, or through the
- 874 developer reimbursement application process set forth in this Title and approved by a
- 875 vote of not less than three-fourths of Council; or

876 2. A Petition signed by 50% of the total record owners who receive notice from the City
877 Clerk's office that they will be assessed a portion of the costs of a single capital
878 improvement.

879
880 b. Special assessment petition applications are available from the Clerk's office. A benefited
881 property owner proposing a special assessment district by petition must file with the Clerk a
882 complete special assessment petition application no more than 60 days after the notice of
883 assessment is issued to record owners. The Clerk shall approve all properly and timely
884 submitted applications within 10 days of the date on which the application is filed. The Clerk
885 shall notify the petition sponsor in writing that the petition has been approved, prepare the
886 petition, and distribute it by certified mail to all record owners of property in the proposed
887 district no more than 30 days after the petition application is approved.

888
889 c. Upon adoption of a resolution initiating a special assessment district, or the filing of a
890 sufficient petition with the Clerk, the City Clerk shall:

891 1. Schedule a meeting of record owners of real property in the proposed district, notify
892 the record owners by mail of the date, time and location of the meeting, and include a
893 copy of the notice in the City's regular meeting advertisement; and

894 2. Refer the proposed district to the Public Works Director, who shall prepare an
895 improvement plan for the proposed district. The proposed district improvement plan
896 shall include:

- 897 A. The boundaries of the proposed district
- 898 B. The design of the proposed improvement
- 899 C. A cost estimate for the improvement
- 900 D. The assessment allocation method used to calculate the amount owed by
- 901 each record owner in the proposed district
- 902 E. The percentage of the improvement cost to be assessed against properties
- 903 in the district
- 904 F. The time period over which assessments will be financed, and
- 905 G. Preliminary assessment roll for the proposed district.

906 3. The Public Works Director shall use the benefitted area method in calculating the
907 assessment amount unless another method is specified in the improvement plan.

908
909 17.02.050 Creation of a special assessment district.

910
911 a. Upon completion of an improvement plan under this chapter, the City Clerk shall set a time
912 for a public hearing on the necessity of the improvement and proposed improvement plan.
913 Notice of the hearing shall be published at least twice in a newspaper of general circulation in
914 the City, and mailed via certified mail to every record owner of real property in the proposed
915 district not less than 60 days before the hearing.

916

917 b. A record owner of real property in the proposed district may file a written objection to the
918 improvement plan with the City Clerk no later than the day before the date of the public
919 hearing on the improvement plan. If owners of real property that would bear 50 percent or
920 more of the assessed cost of the improvement file timely written objections, the Council may
921 not proceed with the improvement unless it revises the improvement plan to reduce the
922 assessed cost of the improvement that is borne by objecting record owners to less than 50
923 percent of the assessed cost of the improvement. If the resolution changes the district
924 boundary in the improvement plan, the City Clerk shall notify all record owners of property
925 included in the district under the improvement plan of the change.

926
927 c. At the noticed date and time, Council shall hold a public hearing and shall adopt a
928 resolution approving the assessment if Council finds, via resolution, that the improvement is
929 necessary and benefits the properties that will be assessed. Council must also approve the
930 proposed improvement plan. The resolution shall contain a description of the improvement,
931 the estimated cost of the improvement, the percentage of the cost to be assessed against the
932 properties in the district, and a description of the properties to be assessed.

933
934 d. If record owners of all real property in the proposed assessment district waive in writing
935 the notice, protest period and public hearing required under this section, the question of
936 creating the district may be submitted to Council without such notice, protest period or
937 public hearing.

938
939 17.02.060 Contract – Approval of increased costs.

940
941 a. After a special assessment district has been created, the City shall contract for the
942 construction of the improvement. If the City will own the improvement, it shall solicit bids for
943 construction of the improvement. If the City will not own the improvement, it shall contract
944 with the owner of the improvement to provide for its construction.

945
946 b. If the cost of constructing the improvement will exceed 15 percent of the estimated cost of
947 construction identified in the improvement plan, the City shall not contract for the
948 construction of the improvement without first notifying all record owners in the district via
949 certified mail of the increased cost and providing record owners in the proposed district 30
950 days to object to the increase.

951
952 c. If the City receives written objections from record owners collectively bearing one-half or
953 more of the cost of the improvement, the City may not contract to construct the
954 improvement unless it can do so at an amount not more than 15 percent above the estimated
955 cost of construction identified in the improvement plan. The City may still impose an
956 assessment or levy taxes on the district for the costs of developing the improvement plan so
957 long as the record owners approved the initiation of the district and the improvement plan.

958

959 17.02.070 Special assessment roll.

960

961 a. After completion of the improvement, the City shall assess costs of the improvement and
962 prepare an assessment roll stating for each property in the special assessment district the
963 name and address of the record owner, Kenai Peninsula Borough parcel number, the legal
964 description of the property, the amount assessed against the property, and the assessed
965 value of the property as determined by the Borough Assessor.

966

967 b. Council shall certify the assessment roll by resolution.

968

969 c. Prior to certifying the assessment roll, Council shall hold a hearing. All record owners in the
970 proposed district will have an opportunity to raise objections to the assessment roll at the
971 hearing. At least 15 days before the hearing, the City Clerk shall send written notice of the
972 hearing on the certification of the assessment roll by certified mail to each record owner
973 appearing on the assessment roll and publish notice of the hearing in a newspaper of general
974 circulation in the City.

975

976 17.02.080 Certification of assessment roll.

977

978 After the hearing the Council shall correct any errors or inequalities in the assessment roll. If
979 an assessment is increased, a new hearing shall be set and notice published, except that a
980 new hearing and notice is not required if all record owners of property subject to the
981 increased assessment consent in writing to the increase. Objection to the increased
982 assessment shall be limited to record owners of properties whose assessments were
983 increased. When the assessment roll is corrected, the Council shall confirm the assessment
984 roll by resolution. The City Clerk shall record the resolution and confirmed assessment roll
985 with the District Recorder.

986

987 17.02.090 Payment.

988

989 a. In the resolution certifying the assessment roll, Council shall fix the time or times when
990 assessments or assessment installments are due, the amount of penalty on a delinquent
991 payment and the rate of interest on the unpaid balance of an assessment. An assessment
992 that is to be paid in a single payment shall not be due before 60 days after billing.

993

994 b. Within 30 days after fixing the time when payment of the assessments is due, the Finance
995 Director shall mail a statement to the record owner of each assessed property identifying the
996 property and stating the assessment amount, the payment due date, and the amount of the
997 penalty on a delinquent payment. Within five days after mailing the statements, the Finance
998 Director shall publish notice of mailing the statements in a newspaper of general circulation
999 in the City.

1000

1001 17.02.100 Subdivision after levy of assessments.

1002

1003 a. Except as otherwise provided in this section or required by a governing tariff, a “subdivided
1004 property connection fee” shall be paid before subdivided lots may be connected to an
1005 improvement for which the original assessment was levied.

1006

1007 b. The “subdivided property connection fee” shall only be required when the original
1008 assessment on the pre-subdivided lot was apportioned equally between parcels and was not
1009 apportioned based upon lot size or area.

1010

1011 c. The amount of the “subdivided property connection fee” shall be equal to the
1012 amount of the original assessment adjusted by the increase in the number of parcels.

1013

1014 d. If the original assessment was payable in installments the City may enter into a
1015 written agreement for the payment of the connection fee in installments on terms that
1016 are substantially the same as those authorized for the payment of the original assessment,
1017 secured by a deed of trust on the parcel.

1018

1019 e. Upon the subdivision of a property assessed as a single parcel in an assessment district for
1020 natural gas distribution improvements where assessments were levied in an equal amount
1021 per parcel (i.e., without regard to parcel area, dimension or other characteristic), the
1022 assessment levied on the property that is to be subdivided shall be paid in full before the
1023 recording of the final plat. No parcel that results from the subdivision shall be subject to
1024 assessment for the improvements, but shall be charged for connecting to the improvements
1025 in accordance with the tariff of the public utility that provides natural gas service to the
1026 parcel.

1027

1028 f. Subdivisions of lots included in the original assessment shall only incur the “subdivided
1029 property connection fee” when the subdivision of the lot occurs on or before the date the
1030 total assessment for the district is paid in full.

1031

1032 g. All subdivided property connection fees collected under this section shall be deposited in
1033 the Homer Accelerated Water Sewer Program fund.

1034

1035 17.02.120 Reassessment.

1036

1037 a. Council shall within one year correct any deficiency in a special assessment found by a
1038 court, under the procedure for certification of the assessment roll in HCC 17.02.

1039

1040 b. Payments on the initial assessment are credited to the property upon reassessment. The
1041 reassessment becomes a charge upon the property notwithstanding failure to comply with
1042 any provision of the assessment procedure.

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17.02.130 Objection and appeal.

a. An assessment may only be contested by a person who filed a written objection to the assessment roll before its certification. Council’s decision regarding an objection to the assessment role is final and may be appealed to the Superior Court within 30 days after the date of certification of the assessment roll.

b. If no objection is filed or appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects.

17.02.140 Interim financing.

a. Council may provide by resolution or ordinance for the issuance of notes to pay the costs of an improvement from the special assessments for that improvement. The notes shall bear interest at a rate or rates authorized by the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement project.

b. Notes issued against assessments shall be claims against the assessments that are prior and superior to a right, lien or claim of a surety on the bond given to the City to secure the performance of the contract for construction of the improvement, or to secure the payment of persons who have performed work or furnished materials under the contract.

c. The Finance Director may accept notes against special assessments on conditions prescribed by the Council in payment of:

1. Assessments against which the notes were issued in order of priority;
2. Judgments rendered against property owners who have become delinquent in the payment of assessments; and
3. Certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments.

17.02.150 Special assessment bonds.

a. Council by ordinance may authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of the bonds shall be payable solely from the special assessments levied against property in the district. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. The benefited property may be pledged by the Council to secure payment of the bonds.

b. On default in a payment due on a special assessment bond, a bondholder may enforce payment of principal, interest, and costs of collection in a civil action in the same manner and

1085 with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
1086 shall be against all property on which assessments are in default. The period for redemption
1087 is the same as for a mortgage foreclosure on real property.
1088

1089 c. Before the Council may issue special assessment bonds, it shall establish a guarantee fund
1090 and appropriate to the fund annually a sum adequate to cover a deficiency in meeting
1091 payments of principal and interest on bonds if the reason for the deficiency is nonpayment of
1092 assessments when due. Money received from actions taken against property for nonpayment
1093 of assessments shall be credited to the guarantee fund.
1094

1095 17.02.160 Time limit for special assessment districts.
1096

1097 a. If five or more years elapse between the creation of a special assessment district and the
1098 City contracting for construction of the improvement, the City may not enter into the contract
1099 unless the Council by resolution extends the period for entering into the contract by not more
1100 than an additional five years.
1101

1102 b. Before the Council acts on a resolution under subsection (a) of this section, the City Clerk
1103 shall mail notice of the resolution to each current record owner of property listed on the
1104 preliminary assessment roll that the City will not contract for construction of the
1105 improvement in the district unless the resolution is adopted. The notice also shall include an
1106 updated copy of the preliminary assessment roll.
1107

1108 17.02.170 Water and sewer connections required.
1109

1110 Except as otherwise provided in Title 14, the owner of property in a water or sewer special
1111 assessment district that contains an occupied building shall connect to the improvement
1112 constructed in the district within three years after the date that the resolution confirming the
1113 assessment roll for the district becomes final.
1114

1115 17.02.190 Hardship Deferrals.
1116

1117 a. A person may obtain a deferment of assessment payments under this section if the person:
1118 1. Has an annual family income that is less than 200% of the current U.S. Health and
1119 Human Services Poverty Guidelines for Alaska;
1120 2. Is the record owner of the assessed property, and permanently resides in a single-
1121 family dwelling on the property; and
1122 3. Is not determined by the City, after notice and hearing, to have been conveyed the
1123 property primarily for the purpose of obtaining the deferment.
1124

1125 b. A person seeking deferment of an assessment payment shall file a written application with
1126 the Finance Director supported by documentation showing that the applicant meets the

1127 criteria in subsection (a) of this section. A person requesting an assessment payment
1128 deferment the first year the assessment is levied must file an application for deferment with
1129 the City no more than 15 days after receiving the initial assessment. A person requesting an
1130 assessment payment deferment under this section in any year after the first year must file an
1131 application for deferment no later than April 15th of the year for which the deferment is
1132 sought. A person must file an application each year for which deferment is sought and shall
1133 be required to prove eligibility for deferment as of January 1st of each year for which a
1134 deferment is requested. Within the same year the City for good cause shown may waive the
1135 claimant's failure to make timely application and approve the application as if timely filed.

1136
1137 c. A person who receives an assessment payment deferment shall execute a deed of trust on
1138 the property subject to assessment, together with a promissory note payable to the City on
1139 demand, to secure the eventual payment of the deferred payment.

1140
1141 d. A deferred assessment payment shall be immediately due and payable upon the earlier to
1142 occur of the following events:

- 1143 1. The sale or lease of the assessed property; or
1144 2. The death of both the deferred assessment applicant and the applicant's surviving
1145 spouse, if any.

1146
1147 e. Except for assessments imposed upon the Natural Gas Assessment District, hardship
1148 deferrals are not available from assessment payments for the infrastructure of a privately
1149 owned utility.

1150
1151 17.02.200 Payment in lieu of assessment.

1152
1153 a. A payment in lieu of assessment may be available to owners of property outside a special
1154 assessment district who want to connect to the improvement funded by a special assessment
1155 district. In order to qualify for connection to an improvement under this section, the record
1156 owner of the property and the City shall enter into a written agreement. The record owner
1157 shall agree in writing to:

- 1158
1159 1. Pay the full and actual costs of extending the benefit of the improvement onto their
1160 property; and
1161 2. Pay in full the property's pro-rated share of the assessed improvement.

1162
1163 b. The Public Works Director retains authority to deny a request for extension of an
1164 improvement under this section.

1165
1166 c. A payment in lieu of assessment must be paid in an equal or shorter period than the term of
1167 the original assessment.

1168

1169 d. Property accessing an improvement under this section may be included in a special
1170 assessment district for the same service created in the future. If a property is included in an
1171 assessment district under this subsection, the property will receive a credit towards the total
1172 assessment equal to (1) the amount of the “in lieu of assessment” already paid for the
1173 property or(2) the amount of the assessment levied on the property in the future special
1174 assessment district, whichever amount is less.

1175 CHAPTER 17.03

1176 ENFORCEMENT OF PUBLIC ASSESSMENTS

1177 Sections:

1178 17.03.010 Delinquent assessment payments-enforcement.

1179 17.03.020 Priority of lien.

1180

1181 17.03.010 Delinquent assessment payments-enforcement.

1182

1183 a. Assessments under this title and any interest or penalties on these assessments are liens
1184 on the property assessed.

1185

1186 b. Foreclosure of assessment liens shall be in accordance with the procedures required for
1187 foreclosure of property tax liens under Alaska Statute.

1188

1189 17.03.020 Priority of Lien.

1190

1191 a. Assessments under this title and any interest or penalties on these assessments are liens
1192 on the property assessed and are prior and paramount to all liens except municipal tax liens.
1193 Assessment liens may be enforced as provided in this Code and AS 29.45.320-29.45.470 for
1194 enforcement of property tax liens.

1195

1196 b. Assessment liens run with the land, and that portion of the assessment under the
1197 assessment contract that has not yet become due is not eliminated by foreclosure of a
1198 property tax lien.

1199

1200 CHAPTER 17.15

1201 ROAD IMPROVEMENT ASSESSMENTS

1202

1203 Sections

1204 17.15.010 Partial payment for inaccessible frontage road.

1205 17.15.020 Corner lot assessment.

1206

1207 17.15.010 Partial payment for inaccessible frontage road.

1208

1209 a. The record owner of a through lot or flag lot may delay payment of the part of an
1210 assessment for road improvements that is based on frontage on a road to which the lot does

1211 not yet have access. To delay payment under this section, the owner shall enter into a
1212 delayed payment agreement with the City before the end of the period for filing objections to
1213 the district under HCC 17.01.050.

1214

1215 b. A delayed payment agreement shall include provisions confirming:

1216 1. The lot fronts two streets but only has access to one of those streets;

1217

1218 2. The lot owner agrees to pay the part of the assessment based on frontage on
1219 the street to which the lot has access; and

1220 3. When and if the lot acquires access to the other street the property fronts, the
1221 owner agrees to the remaining part of the assessment.

1222

1223 c. A delayed payment agreement shall be recorded with the District Recorder's office.

1224

1225 17.15.010 Corner lot assessment.

1226

1227 The assessment for road improvements against a corner lot shall be based only on the longer
1228 of the lot's road frontages.

1229

1230

1231 CHAPTER 17.18

1232 DEVELOPER REIMBURSEMENT PROGRAM

1233 Sections:

1234 17.18.010 Purpose.

1235 17.18.020 Definitions.

1236 17.18.030 Developer Requested Special Assessment District

1237 17.18.040 Developer Incentive and Reimbursement Program

1238

1239 17.18.010 Purpose.

1240

1241 It is the intent of this chapter to provide incentive through reimbursement and access to the
1242 City's special assessment district process and procedures to developers expanding access to
1243 public utilities and capital improvements within the boundaries of the City.

1244

1245 17.18.020 Definitions.

1246

1247 In this chapter, unless otherwise provided, or the context otherwise requires, the following
1248 words and phrases shall have the meaning set forth below:

1249

1250 "Benefiting property" means one or more parcel(s) of real property which are adjacent to,
1251 will benefit from, or are likely to require connection to a Municipal Improvement.

1252

1253 “Cost of Construction” means the developer’s actual direct cost of constructing a Municipal
1254 Improvement.

1255

1256 “Developer” means an owner of real property who is developing his, her, or its real property.

1257 “Developer Reimbursement Agreement” means a written contract between the City, as
1258 approved by the Council, and one or more developers, which provides for reimbursement of a
1259 portion of the Costs of Construction of a Municipal Improvement by a developer, and the
1260 method for assessing the pro rata share of the Costs of Construction of a Municipal
1261 Improvement to Benefitted Property.

1262

1263 “Municipal Improvement” means water, sewer, electrical, and/or storm water systems or
1264 other capital improvements which have been designed and constructed according to City
1265 standards, approved by the City, accepted by the City, and provide potential benefits and/or
1266 service to Benefitted Property.

1267

1268 17.18.030 Developer Requested Special Assessment District.

1269

1270 a. A developer may request a Resolution of the Council approving a special assessment
1271 district in connection with the construction of a Municipal Improvement as set forth in HCC
1272 17.02.040.

1273

1274 b. A request for special assessment district initiated by a developer shall be filed on the
1275 Special Assessment District Resolution Request Form, which is available from the City Clerk’s
1276 Office.

1277

1278 c. The developer’s request must include all information required by the Special Assessment
1279 District Resolution Request Form, including, without limitation, a description of the
1280 boundaries of the district requested and the Municipal Improvement the developer intends to
1281 construct or extend, a cost estimate for the improvements to be constructed, the proposed
1282 method used to calculate the amount claimed by each record owner of Benefitted Property in
1283 the proposed district, the percentage of the improvement cost to be assessed to Benefitted
1284 Properties within the district, and the percentage of the improvement cost to be assessed to
1285 the developer’s property and/or project.

1286

1287 d. Upon adoption of a Resolution of Council finding there is a necessity for the special
1288 assessment district identified by the developer in the developer’s application and the
1289 initiation of the special assessment district process under this chapter, a Developer
1290 Reimbursement Agreement must also be presented to Council for approval. This agreement
1291 must include the terms and conditions of the improvement plan and the proposed
1292 construction and installation terms by the Contractor.

1293

1294 17.18.040 Developer Incentive and Reimbursement Program.

1295
1296 a. If Council approves the district and the Developer Reimbursement Agreement under the
1297 procedures set forth in Title 17.02, and upon completion of the approved Municipal
1298 Improvement in accordance with the City’s standards and acceptance of the same by the
1299 City, and only to the extent permitted by law, the City shall transfer any payments received by
1300 the City in payment for the assessments within the district. The City will disburse any
1301 payments received from property owners in the district to the developer within 90 days from
1302 the date the City collects or receives the assessment payment.

1303
1304 b. The City may collect, but is not required to collect, the amounts assessed to any Benefitted
1305 Property for the pro rata share of the developer’s Costs of Construction. The Pro Rata
1306 Payment must be paid before any Benefitted Property connects to or uses the Municipal
1307 Improvement. No Benefitted Property is permitted to connect to or use the Municipal
1308 Improvement without first making the Pro Rata Payment. The Pro Rata Payment is in
1309 addition to any connection fees, service fees, or other fees that may be charged for
1310 connection and/or use of the Municipal Improvement, or any other fees chargeable by the
1311 City under the Code for the construction of a particular Municipal Improvement.

1312
1313 c. The City accepts no liability to collect any Pro Rata Payment from the owners of Benefitted
1314 Property, or in the event of non-payment, to pursue enforcement for non-payment of any Pro
1315 Rata Payment, or to disconnect or remove any Benefitted Property from the Municipal
1316 Improvement for non-payment of a Pro Rata Payment. The City assumes no liability or
1317 responsibility regarding the enforceability of any Reimbursement Agreement, or the
1318 developer’s ability to seek a Pro Rata Payment. To the extent permitted by law, enforcement
1319 matters relating in any way to a Pro Rata Payment, or recovery or reimbursement of any
1320 Costs of Construction, shall be the sole responsibility of the private developer.

1321
1322 Section 9: This ordinance is of a permanent and general character and shall be
1323 included in the Homer City Code.

1324
1325 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS ____ DAY OF _____, 2019.

1326
1327 CITY OF HOMER
1328
1329 _____
1330 KEN CASTNER, MAYOR

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1332 ATTEST:
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1334 _____
1335 MELISSA JACOBSEN, MMC, CITY CLERK

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YES:
NO:
ABSTAIN:
ABSENT:
First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form:

Katie Koester, City Manager

Date: _____

Holly Wells, City Attorney

Date: _____



Memorandum 19-058

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: COUNCIL MEMBERS LORD AND STROOZAS
DATE: MAY 22, 2019
SUBJECT: REWRITE OF HOMER CITY CODE TITLE 14 AND TITLE 17

Ordinance 19-23 provides a major overhaul of our City Code regarding water and sewer public utilities and special assessment districts. The legal memo outlines the major changes, encompassing both the proposed structural and policy changes. We have reserved June 11, 2019 at 4:00 p.m. for a worksession on this Ordinance, and we propose at least two public hearings to ensure time for both the public and Council to review and digest these proposed changes.

This is a huge undertaking, and we want to highlight several proposed **policy changes for the Council's** attention:

- Proposed Homer City Code (PHCC) 14.01. While also providing a critical consolidation of general **provisions for Homer's water and sewer utilities, this section also includes basic language that is a skeleton of Ordinance 19-19 (14.04.010)**. We understand these are moving simultaneously, and suggest that the language be maintained in this Ordinance as a place-holder while 19-19 moves through the public process. As this Ordinance will likely take substantially longer to move, an amendment can be made to replace the language on Page 2, Lines 24-26 as appropriate. Note that this Ordinance also proposes deleting HCC 14.04.115
- Homer City Code (HCC)/PHCC 14.04.02 (Page 4 of the legal memo)
- HCC 14.30 deleted, revised and moved to PHCC 17.18. Pulls the developer reimbursement program in line with the special assessment district process and provides clarity on City responsibility (Page 7 of the legal memo)
- PHCC 17.02.010 Provides definitions for benefited area and developable land, providing a clear alternative to equal area assessments and maintaining flexibility in establishing the assessment method for a district.
- HCC/PHCC 17.02.100 is a revision of the subdivision after levy of assessment section of current code which you may recall from Ordinance 18.18 (failed). This proposal clarifies the calculation of the connection fee, and provides for a sunset date equal to the financing terms for the original assessment.
- HCC 17.04.190/PHCC 17.04.190 increases the qualifying income to 200% instead of 125% to be consistent with surrounding communities on the Kenai Peninsula. This would mean a family of four making less than \$64,380 would be able to qualify for a hardship deferral (vs. the current guideline of 125% or \$40,237).

- HCC 17.04.200/PHCC 17.02.200 Provides a clear process for properties outside an assessment district to join the district. See the accompanying diagram.
Future work, following on the heels of this Ordinance, will include updates to HCC 11.38 (the developer reimbursement program for roads), the HAWSP/HART policy manuals, the fee schedule, and a review of the penalty schedule (a copy of our current schedule is included in this packet for your reference).
Similar to the legal memo provided by BHBC, this does not encompass all of the substantive changes in the Ordinance. However, it does highlight significant points that we believe the Council should review and discuss at a minimum, and we look forward to the conversation.

MEMORANDUM 19-063

**TO: HOMER CITY COUNCIL
CITY MANAGER KATIE KOESTER**

FROM: HOLLY C. WELLS

**RE: ORDINANCE 19-23: PUBLIC UTILITY SYSTEM AND SPECIAL
ASSESSMENTS ORDINANCE**

CLIENT: CITY OF HOMER

FILE NO.: 506,742.27

DATE: MAY 22, 2019

Introduction

In early 2018 City Council Member Lord and City administration requested a review of the public utility provisions in the Homer City Code and City practices and procedures regarding public utilities to ensure they were up to date, clear, and consistent. As a result of the substantive review, Ordinance 19-23 proposes substantial changes to the Code's public utility provisions to address the current inconsistencies and outdated procedures enumerated in the Code. The purpose of this memorandum is to provide a blueprint to Council and the public regarding the revisions proposed in Ordinance 19-23. This ordinance was designed to accomplish several goals:

1. Place all Homer City Code provisions that require property owners to pay for public utilities or improvements into one area in the Code so property owners know what to expect.
2. Create clear public utility and improvement assessment procedures that can be consistently applied and anticipated by property owners and future purchasers and investors.
3. Ensure that local laws reflect local practice, obligations, and needs.

To this end, this memorandum provides a summary of the proposed substantial changes and the reasons for these changes. It includes tables specifically enumerating most of the changes made to ensure Council focuses on these changes during its consideration of the Ordinance. Of course, in light of the significant changes, this memo should be supplemented with public hearings and Council work sessions to ensure that all of the changes, and the effects of these changes, are understood.

The Reasons Behind the Rewrite

In order to understand the proposed changes, it is helpful to understand the current relevant titles of the Code.

Current Title 14

Currently, Title 14 entitled “Public Services” regulates both the water and sewer systems within the City but has separate sections governing both. While many of the processes related to management of the Homer sewer and water systems are the same, the Code provisions were adopted and apply to each system separately. Additional provisions were adopted or changed sporadically over the last 50 years, with enactment in the late 1960s and the latest amendment in 2013.¹ As a result of the disjointed evolution of HCC Title 14, utility users must be familiar with Code provisions in different Code locations in order to understand their obligations. The inclusion of water and sewer management provisions in multiple Code titles increases the potential for unintended violations of the City Code and leads to frustration among those attempting to comply with local law.

The most substantial changes to Title 14 involve:

1) consolidating common terms and provisions that apply to all Homer’s public utility systems into a single “general provisions” section;

2) integrating Code provisions from Title 13, namely Chapters 13.24 and 13.28, governing the management of the public utility systems into Title 14 so individuals connecting into the systems and users of the system have one place in the Code to look for all the relevant regulations;

3) removing conflicting or inconsistent terminology and requirements in order to ensure that the laws governing the systems are user-friendly; and

4) consolidating the permit and appeals procedures to the greatest extent possible to encourage compliance and ensure the public knows its rights, remedies, and responsibilities.

¹ See Ordinance 13-30(A), which amended HCC 14.08.080 and 14.04.040 to adopt the respective water and sewer rate schedules annually via resolution. Ordinance 90-24(A) repealed and reenacted HCC 14.04, 14.05, and 14.08 to add the industrial wastewater treatment regulations required by the Environmental Protection Agency and the Clean Water Act and to create a mechanism to bill fish processors separately for their water since they use large amounts of water but that water does not enter the City sewer system.

The Ordinance also removes the highly technical and lengthy industrial pretreatment and sewage system regulations in HCC Chapter 14.05 and places them in procedures and regulations approved by Council. To this end, Council will have a resolution approving the industrial waste management policy manual and the proposed manual before it for review in June. The removal of the industrial waste management provisions from the Code and the placement of these requirements into a policy manual prevents the average user of City utilities from being confused or misdirected by the industrial waste requirements.

Current Title 17

Unlike HCC Title 14, HCC Title 17, entitled “Improvement Districts,” has been recently updated and the current special assessment procedure provides a fairly straightforward, albeit in-depth, process for creating a special assessment district. However, additional provisions regarding assessment for public utilities are located in Title 14 and in other areas of the Code. Exceptions to the assessment districts or programs such as the developer reimbursement program are codified in separate titles or, in some cases, by agreement. This inconsistency in process does not provide for a user-friendly assessment process.

The Ordinance consolidates all public assessment processes in Title 17 and incorporates the developer reimbursement program into the special assessment district procedure. The assessment procedures were also changed to adopt a presumed “benefited area” method of assessment while preserving the ability for different methodologies to be used when more appropriate in a particular district. The proposed Title requires a subdividing lot owner to pay the subdivision connection fee in assessment districts where the assessment was equally apportioned between the existing lots but it limits imposition of the assessment fee on subdivided lots to those created before the original assessment amount is paid in full.

Given the unique terrain in Homer, affording flexibility in the assessment methodology provides the City more options to ensure fair and tailored cost distribution in a given district. The Ordinance also directs the Public Works Director rather than Council, to review and approve hardship deferral requests, which provides greater confidentiality to those seeking such a deferment.

Other Relevant Current Code Provisions: HCC 9.08, 11.30, 13.24, AND 13.28

In addition to Title 14 and 17, it is also helpful to examine HCC 9.08, 11.30, 13.24, and 13.28. While these provisions are being repealed, the content of these provisions has been updated and incorporated into the proposed provisions in the Ordinance.

Chapter 9.08 entitled “Enforcement of Local Improvement District Assessments” was codified in the late 1960s. It appears that these provisions properly reflect the process for collecting delinquent assessments under Alaska Statutes. However, Alaska statutes are ever changing and HCC 9.08 does not ensure that the City’s lien enforcement

procedure will change with the statutory requirements. Accordingly, HCC 9.08 was repealed and the identification of delinquent assessment payments as liens and the incorporation of the state process for enforcing and foreclosing on such liens using the property tax procedure was incorporated into HCC 17.03. This ensures that all the provisions regarding public assessments are in one title and easy to locate.

Similarly, HCC Chapter 13.24 entitled “Sanitary Systems” and HCC 13.28 entitled “Water Systems” were both relocated to ensure a user-friendly Code. These provisions were also adopted decades ago as part of a City project to update its construction design manual. The focus of the Council at the time of adoption was to ensure uniform construction practices within City right-of-ways. However, the interplay between the construction practice requirements with management and operation of City water and sewer systems was not anticipated. As a result, many of the definitions and expectations are inconsistent or disjointed. To this end, the Ordinance removes these provisions from the “Standard Construction Practices” title and places them in the respective sections governing the water and sewer systems. The Ordinance also removes many of the specific technical requirements addressed in HCC 13.24 and 13.28 and places those in a permit application process. The permit applications will be presented to Council for review and approval alongside the industrial waste management manual referenced above.

While the majority of Code provisions governing public projects and assessments have been addressed in the Ordinance, HCC 11.30 entitled “Street Extension Cost Reimbursement Plan,” which addresses reimbursement of developers for road projects that benefit adjacent property owners, has not. Although I recommend Council eventually review and update Chapter 11.30 and relocate it if warranted, a review of the road improvement practices will require pointed and independent consideration by Council and the administration and would be difficult to do alongside the Title 14 revisions. For now, Title 11 governs construction of streets, sidewalks, and driveways and thus a developer intending to construct a road will likely turn to Title 11 before beginning road construction and will be aware of the reimbursement program detailed in HCC 11.30. Consequently, HCC 11.30 has not been revised or relocated at this time.

Understanding the Proposed Changes

While the above provides an overview of the most substantial changes in the Ordinance, the following tables present a more detailed summary of the differences between the governing law in this area and the Code provisions proposed in the Ordinance. The first table shows the differences between existing Code Title 14 and Title 14 as proposed in the Ordinance. The second table shows the differences between existing Code Title 17 and Title 17 as proposed in the Ordinance. For ease of reference, the current code is referred to as HCC but proposed sections are identified as PHCC.

Table 1: Title 14 Comparison

Current HCC Title 14	The Ordinance
No Chapter 14.01	PHCC Chapter 14.01 was added to consolidate general provisions that apply to all utilities. It includes a definition of the “service area,” the City Manager’s rulemaking authority, City immunity, and contractor licensure requirements. It also incorporates the appeal and violation procedures that apply to all violations of Title 14 and all Title 14 permit appeals. PHCC 14.01.045 provides the process for setting both water and sewer rate schedules.
No purpose section in HCC 14.04	PHCC 14.04.010 “Purpose” added. This section provides a formal name for the City’s system, namely, the “Homer Sanitary Wastewater and Sewage System” and recognizes the general purpose of the Code to ensure that all properties are eventually connected to the City’s system.
HCC 14.04.010 Definitions	PHCC 14.04.010 is the purpose section and definitions are in PHCC 14.04.015. “Definitions” have been revised to remove definitions not referenced in Title 14 and adds definitions for important terms such as “directly adjacent,” “on-site sewer connection line,” “off-site sewer connection line,” “sewer connection line,” and “spaghetti line.” The Ordinance revises the Code to ensure these defined terms are consistently and uniformly used throughout.
No HCC 14.04.018	PHCC 14.04.018 “Service Connection Charges” consolidates numerous sections regarding fees and costs surrounding connection in one user-friendly location.
HCC 14.04.020 “Connection-Required” Exempts “alternative sanitary facilities” in one subsection but requires all properties to connect to the system when available in another subsection.	PHCC 14.04.020 “Connection-Required” provides property owners three years instead of just one to connect to the City System and provides an exemption from connection for those with compliant and fully-functioning septic systems until those systems require replacement or substantial repair.

HCC 14.04.050 "Sewer service connections and extensions"	PHCC 14.04.050 "Sewer Service connections and extensions permits" removes the lengthy references to the standards and specifications needed to install a connection or extension and instead creates a permit process. This allows the property owner to access the permit application and have clearly-delineated requirements applicable to that process. It also allows the City to update the permit criteria as needed.
HCC 14.04.060 "Disposition of Revenue"	Removed: Provision requiring 100% of funds deposited into "central treasury" of the City and the "sewer utility fund" referred to requirements that are no longer necessary.
HCC 14.04.070 "Destruction of private sewage disposal systems" Requires destruction of private sewage facilities within 60 days of connection to City System.	PHCC 14.04.070 "Destruction/Abandonment of private sewage disposal systems" removes the 60-day restriction because in practice it may be too strict but instead requires compliance with the Alaska Department of Environmental Conservation.
HCC 14.04.080 "Sewage or waste disposal permit requirements" Grants a "permit" to one family existing or "future" dwellings connecting to the system and requires all others to have a permit, except for "significant industrial users." There is no notice provision.	PHCC 14.04.080 "Commercial waste disposal permit" Incorporates as-built and survey requirements unless the specific lease agreement provides otherwise. Simplifies language but adds protections for permit applicants, such as requiring notice before revocation or modification of a permit, except in cases of emergency.
HCC 14.04.090 "Discharge of Surface Drainage into City Sewer"	Moved to PHCC 14.04.100 "Discharge of surface drainage into HSWS Illegal." Simplified and clarified language.
HCC 14.04.100 "Board of Appeals"	Moved to PHCC 14.01.070 and changed from permitting an appeal to the "Board of Appeals," which was Council and the Mayor to the City Manager or a designated hearing officer.
HCC 14.04.105 "Appeals Procedure"	Moved to PHCC 14.01.070 "Utility Permits-Appeal Procedure." Provides less extensive appeal procedures because briefing schedules and process can be tailored to the needs of each case. Different permits will have differing levels of complexity.
HCC 14.04.110 "Appeal to Superior Court"	Moved to PHCC 14.01.080 "Utility Permit Appeals-Superior Court."
HCC 14.04.115 "Extraterritorial services"	Moved to PHCC 14.01.010 "Water and sewer service area." Removes lengthy extraterritorial services application procedure for sewage and provides for a uniform policy for water and sewer, both of which will require Council approval by ordinance before property outside the City will be approved to connect to the System.

HCC 14.04.120 "Rulemaking Authority"	Moved to PHCC 14.01.020 "City manager rulemaking authority."
HCC 14.04.130 "Violation"	Moved to PHCC 14.01.040 "Violation Penalty" and PHCC 14.01.045 "Violation right to appeal." Adopts uniform appeal procedures and rights to appeal for all Title 14 violations.
Chapter 14.05 "Sewage-Industrial Pretreatment and Discharge"	Chapter 14.05 repealed. Inserted PHCC 14.04.090 "Industrial waste disposal permit requirements." HCC 14.05 incorporated through a separate policy and procedure manual adopted and/or revised by Council via resolution.
HCC Chapter 14.08 "Water Rules and Regulations"	PHCC Chapter 14.08 renames the chapter "Homer Public Water System." HCC Chapter 13.28 is repealed and its provisions incorporated into PHCC 14.08.
HCC 14.08.010 "Purpose"	PHCC 14.08.010 "Purpose" revises the purpose to include reference to the intent to provide for the financial management of the Water System and to include a formal name for the system, namely "The Homer Public Water System."
HCC 14.08.020 "Definitions"	PHCC 14.08.020 provides a consistent definition of "directly adjacent," defines "surplus water," "water connection line," "water extension," "spaghetti line," "water filling station," "on-site water connection line," "off-site water connection line," and provides a definition of "multiple-family dwelling." It removes the definition for "certified service area" since the service area boundaries and limitations were incorporated into PHCC 14.01.010.
HCC 14.08.030 "Water connections and extensions"	PHCC 14.08.030 "Operation of water valves, fire hydrants, and curb stops" incorporates the basic requirement in HCC 13.28.040 "Operation of water valves, fire hydrants, and curb stops" that only City personnel may operate these things.
HCC 14.08.040 "Private water systems-Connection Permits-Fees."	PHCC 14.08.040 "Water meter installations" incorporates the core components of HCC 13.28.050. The more specific criteria regarding water meter installation are now placed in "Water Meter Installation Instructions" adopted by the Public Works Director and approved by Council.
HCC 14.08.037 "Water meters"	Removed.
HCC 14.08.050 "Water connections and extensions."	PHCC 14.08.050 "Water connections and extension permit."
HCC 14.08.060 "Frozen Pipes-City not liable."	Moved to PHCC 14.08.070 "Frozen Pipes-City not liable." No substantial changes.

HCC 14.08.070 "Discontinuance of supply"	Moved to PHCC 14.08.080 and renamed "discontinuance of water". No substantial changes.
HCC 14.08.072 "Priority use of water."	Moved to PHCC 14.008.090 "Priority use of water." No substantial changes.
HCC 14.08.074 "Surplus water-Sale."	Moved to PHCC 14.08.100 "Surplus water-Sale" simplified but not substantially changed.
HCC 14.08.076 "Water shortage or emergency declaration"	Moved to PHCC 14.08.110 "Water shortage or emergency declaration" simplified the water shortage declaration process and requires a resolution by Council but does not require the hearing and other procedures that may derail a response to a water shortage.
HCC 14.08.077 "Water shortage or emergency- Interruption of sale of surplus water-Other measures."	Moved to HCC 14.08.120 and simplified to provide the City Manager with the flexibility to react swiftly to a water shortage but ensure public awareness and notice.
HCC 14.08.078 "Water Shortage or emergency- Appeal"	Moved to PHCC 14.08.130. No substantial changes.
HCC 14.08.079 "Immunity for discretionary acts."	Moved to PHCC 14.01.030 to apply to all public utility systems.
HCC 14.08.080 "Schedule of rates-Rules and regulations and HCC 14.08.090 "Schedule of Rates Outside of the City Limits"	Moved to PHCC 14.01.090 "Sewer and water rate schedule," which consolidates the rate provisions for sewer and water and provides that rates will be in a schedule adopted by Council.
HCC 14.08.091 "Service deposits."	Moved to PHCC 14.08.150 "Service deposits." No substantial changes but language was simplified to identify clear criteria for refund.
HCC 14.08.100 "Bulk Water Sales"	Moved to PHCC 14.08.160; No substantial changes.
HCC 14.08105 "Resale of water"	Repealed.
HCC 14.08.110 "Permit for resale of water"	Moved to PHCC 14.08.170 "Water filling station permit." Requires a permit application but moves the technical criteria for the permit into the permit application itself. It does identify some of the types of criteria that will be included in the application to ensure applicants have notice of the nature and scope of the permit criteria.
HCC 14.08.130 "Permit suspension, revocation" HCC 14.08.140 "Board of appeals-Notice of appeal" HCC 14.08.150 "Appeals-procedure" HCC 14.08.160 "Appeal to superior court" HCC 14.08.170 "Violation-penalty."	Moved to PHCC 14.01.040 "Violation"; PHCC 14.01.065 "Permit suspension, revocation"; PHCC 14.01.070 "Utility permits-Appeal procedure"; and PHCC 14.01.080 "Utility permit appeals-Superior Court" and applied to all City/public utility systems.

HCC Chapter 14.12 "Water and Sewer Zone Connection Fee"	Repealed. This fee has not been charged and is not administered. The Code was adopted to reflect longstanding practice.
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HCC Chapter 14.16 "Sewer Contractors State Registration"	Moved to PHCC 14.01.060 "State contractor required" and applied to all City public utility systems.
HCC Chapter 14.20 "Sewer Contractors Bond"	Moved to PHCC 14.01.050 "State contractor required" and applied to all contractors installing, constructing, maintaining or repairing public utility systems.
HCC Chapter 14.30 "Water and Sewer Extension Cost Reimbursement Plan"	Moved to PHCC Chapter 17.18 "Developer Reimbursement Plan." This new chapter applies to all developers expanding access to public utilities and capital improvements within the City. The new chapter provides a clear procedure by which a developer may trigger a special assessment district process by requesting a resolution from Council. A developer agreement must be submitted with all the terms of the district and the utility or capital improvement installation proposed by the developer and it must be approved by Council. Once an approved agreement is in place and the special assessment district process complete, the City will transfer payments to the developer within 90 days of receipt of those payments. The Code clarifies, however, that the City is not required to collect payments and has no liability to the developer if it does not do so. This is necessary given the fluctuation in municipal resources necessary for enforcement.

Table 2: Title 17 Comparison

Title 17	The Ordinance
<p>HCC Title 17 “Improvement Districts” Chapters 17.04 Special Assessment Districts 17.08 Repealed 17.16 Assessment Fund</p>	<p>PHCC Title 17 “Public Assessments.” Changed title to reflect greater scope. PHCC 17 Chapters 17.01 General Provisions HCC 17.14 moved to PHCC 17.02 “Special Assessment Districts” PHCC 17.03 “Enforcement of Public Assessments” added. HCC 17.16 “Assessment fund” moved and renamed to 17.05 Homer Public Water System Assessment Fund 17.15 Water and Sewer Connection Assessments 17.20 Developer Reimbursement Plans</p>
<p>No Title definition section.</p>	<p>PHCC 17.01.010 “Definitions” provides a definition of “benefited area method” that identifies a method of assessment by which each parcel’s share of an assessment is determined, by dividing the total cost of the improvements on which the assessment is based by the total square footage of land benefitted by the improvement and allocating a portion of the cost of the assessment to each parcel based on that parcel’s square footage of the land benefitted by the improvement. This definition gives the Public Works Director discretion to calculate and apply the benefited area method. This method was proposed because it balances flexibility with oversight. While the Public Works Director uses his discretion, his methodology will be subject to review by Council in the special assessment district process under PHCC 17.02.</p> <p>A definition is also added for “developable land,” which also provides the Public Works Director discretion to determine what property can be reasonably developed for uses permitted within the property’s zoning district to ensure the most accurate proportion of an assessment. Definitions for “Public Works Director” and “Special Assessment Application Fee” were also added.</p>

<p>HCC Chapter 17.02 “Special Assessment Districts” HCC 17.04.040 “Initiation of district.”</p>	<p>PHCC 17.02.040 “Initiation of district” revised to permit a special assessment district to be requested by a developer through a written request form to Council for resolution. This permits a developer to trigger the assessment district process but ensures that all assessments and the obligations that accompany them follow the same notice and hearing procedures. The petition process was not substantially changed but the language was simplified and the contents of the petition required by the Clerk were removed. The Clerk’s petition forms will include that information as a matter of course and under State law. Referral of all proposed districts now go to the Public Works Director rather than the City Manager in order to reflect longstanding practice.</p>
<p>HCC 9.08 “Enforcement of Local Improvement District Assessments” repealed</p>	<p>HPCC 17.03 “Enforcement of Public Assessments” incorporates the essential and current provisions from HCC 9.08. PHCC 17.03.010 declares that assessments create a lien and requires that foreclosure of an assessment lien be done in accordance with the procedures required under Alaska Statute for property taxes, as required by State law. PHCC 17.03.020 acknowledges that a lien under Title 17 has priority.</p>

<p>HCC 17.02.050 “Creation of district.”</p>	<p>Moved to PHCC 17.02.050 “Creation of a special assessment district.” No substantial changes, just clarification of language.</p>
<p>HCC 17.04.060 “Approval of increased costs.”</p>	<p>Moved to PHCC 17.02.060 without substantial changes to the requirements but significant changes to clarify the language.</p>
<p>HCC 17.04.070 “Assessment roll.”</p>	<p>Moved to PHCC 17.02.070 and language simplified.</p>
<p>HCC 17.04.100 “Subdivision after levy of assessments.”</p>	<p>Moved to PHCC 17.02.100 and limited to property that is assessed by a method other than the benefited area method. The connection fee is identified as the amount of the original assessment adjusted by the increase in the number of parcels but does not require an adjustment for CPI. It removes the allocation of assessment amounts among property owners because of the difficulty of administering this provision and limits the duty to pay a subdivided property connection fee to lot subdivisions that occur before the original assessment has been paid in full.</p>
<p>HCC 17.04.170 “Water and sewer connection required.”</p>	<p>Moved to PHCC 17.02.170. The time for connection for water and sewer assessments was extended from one to three years.</p>

<p>HCC 17.04.190 “Deferment of assessment payments for low income residents”</p>	<p>Moved and renamed to PHCC 17.02.190 “Hardship deferrals.” Increased the qualifying income to 200% instead of just 125% of U.S. Poverty Guidelines for Alaska. Under this change, more people will qualify for a hardship deferral but the percentage used mirrors that adopted by the Kenai Peninsula Borough for other deferral and exemption programs. Removed the application to a person with “life tenancy” as the record owner bears the payment obligation. Removed the requirement that a deferral be approved by Council and changed the submission of the applications to the Finance Director rather than Council to protect confidentiality of the deferral process.</p>
<p>HCC 17.04.200 “In lieu of assessment”</p>	<p>Moved to PHCC 17.02.200 “Payment in lieu of assessment.” Payments in lieu of assessment were substantially changed to provide a clear process for parcel owners outside an assessment district to request to join a district. The terms require a written request that may or may not be granted by the Public Works Director and only allow an outside parcel owner to participate if he, she or it pays all costs for extending the improvement onto their property and the pro-rated share of the improvement for which the assessment district was formed.</p>
<p>No HCC 17.18</p>	<p>Added PHCC 17.18 “Developer Reimbursement Plan,” which applies to all developers expanding access to public utilities and capital improvements within the City. It provides a clear procedure by which a developer may trigger a special assessment district process by requesting a resolution from Council. A developer agreement must be submitted with all the terms of the district and the utility or capital improvement installation proposed by the developer and it must be approved by Council. Once an approved agreement is in place and the special assessment district process complete, the City will transfer payments to the developer within 90 days of receipt of those payments. The Code clarifies, however, that the City is not required to collect payments and has no liability to the developer if it does not do so. This is necessary given the fluctuation in municipal resources necessary for enforcement</p>

What Comes Next?

Upon introduction of the Ordinance, the sponsors and the administration will begin preparing several documents that are necessary to complete the revisions proposed in the Ordinance. These documents include:

- 1) The industrial waste management policy manual and a proposed resolution approving the manual;
- 2) Permit applications for the following permits:
 - A. Sewer System extension and connection permit
 - B. Water System extension and connection permit
 - C. Waste Disposal permit
 - D. Water filling station permit
 - E. Commercial waste disposal permit
 - F. Industrial waste disposal permit
- 3) An ordinance updating HCC 1.16.040 "Disposition of scheduled offenses-Fine schedule."
- 4) A resolution updating the City fee schedule to include the permit application and appeal fees imposed under Titles 14 and 17.
- 5) A resolution updating HART and HAWSP manuals and the accompanying updated manuals.

Finally, in addition to the documents identified above, the City administration and Council will need to educate the public regarding the substantial changes to the water and sewer system management and public assessment processes.

Conclusion

While this memorandum attempts to identify the changes between existing Code and the Ordinance, the Ordinance presents significant changes to the structure of the City's process that is not easily captured in a memo. For this reason, I have also attached copies of the current HCC Chapters 9.08, 13.24, and 13.28 and Titles 14 and 17 for easy comparison and reference. In addition, I am prepared to walk Council and the public through the changes in a presentation and any other medium that Council deems helpful.

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