



## Homer City Hall

491 E. Pioneer Avenue

Homer, Alaska 99603

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

# City of Homer Agenda

## City Council Worksession

**Monday, August 12, 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(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 19-089 from Councilmember Lord as backup

### **COMMENTS OF THE AUDIENCE** (3 minutes)

### **ADJOURNMENT NO LATER THAN 4:50 P.M.**

Next Regular Meeting is Monday, August 26, 2019 at 6:00 p.m., Worksession 4:00 p.m. Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



**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.

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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.

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

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

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

14.08.170 Water filling station permit.

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

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

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

CHAPTER 14.50  
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  
PUBLIC ASSESSMENTS

760

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  
GENERAL PROVISIONS

772

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

1331  
1332 ATTEST:  
1333  
1334 \_\_\_\_\_  
1335 MELISSA JACOBSEN, MMC, CITY CLERK  
1336

1337  
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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 19-089**

TO: Mayor Castner and Homer City Council

FROM: Councilmember Lord

DATE: July 22, 2019

SUBJECT: Summary of July 10, 2019 Worksession Regarding Ordinance 19-23(S)  
*(updated with numbers to correlate with backup for August 12 worksession)*

During the July 10th Council worksession, council discussion focused on Title 17. Councilmembers and the Mayor raised a number of questions and next steps that are outlined below. The purpose of this memo is to confirm with Council progress that was made during the worksession and lay the ground work for a worksession scheduled for **August 12 at 4pm** and schedule an extended worksession for the fall on larger 'next step' topic.

### **Title 17 Major Policy Considerations (PHCC = Proposed Homer City Code in Ord 19-23(S))**

## **#1**

### **PHCC 17.01.010 Definitions: Benefited Area**

Proposed Homer City Code recommended benefited area (assigning cost based on the benefited square footage of the property) as the default option for the method of assessing parcels. There was quite a bit of discussion surrounding the pros and cons of implementing a benefited area method. Conversation loosely coalesced around maintaining the definition of benefited area in code so it could be an option, but not designating it as the default, members preferring the per parcel approach where everyone pays the same regardless of lot size.

*Council tasked the sponsors with working on a recommended solution and bringing it to the body.*

### **PHCC 17.02.100 Subdivision after Levy of Assessment**

This section triggers the levying of a subdivision connection fee roughly equal to the original assessment for new parcels created in a subdivision where every lot was assessed equally. It added a sunset equal to the term of the district whereupon the fee would no longer be levied.

*Members agreed with the changes proposed in this section.*

## **#2**

### **PHCC 17.02.190 Hardship Deferral**

Proposed Homer City Code increased the hardship deferral for an annual assessment payment from 125% of federal poverty to 200% of federal poverty guidelines. Council members expressed concern with increasing the hardship deferral. For example, 200% of federal poverty guideline levels for a family of four in Alaska is \$64,380 according

the US Office of Child Care and the median household income for the City of Homer is \$59,185 (in 2017 dollars) according to the US Census. Approximately 39% of Homer households live below median income with 61% living at or above according to the 2017 American Community Survey. This change would potentially greatly increase the number of eligible applicants and have an adverse impact on the health of the funds. Council members requested more data on potential economic impacts to the City.

*Council tasked the sponsors with working on a recommended compromise and bringing it to the body.*

## #3

### **PHCC 17.02.200 Payment In Lieu of Assessment**

Payment in lieu of assessment is a mechanism to collect funds from a property that benefits from the improvement but is not included in the original district. This tool is used very rarely in practice. Councilmember Smith expressed concern over potentially dis-incentivizing future assessments and how that would be accounted for financially in the future. Mayor Castner questioned the ‘one-off’ nature of these assessments.

*Council tasked the sponsors with further thinking through in lieu of assessments, including potential scenarios on Sterling Highway, and brining recommendations back to the body.*

## #4

### **Rulemaking Authority**

Council wanted to clarify the definition of rulemaking authority given to the City Manager and wanted to make sure the word “implement” was used when it came to policy and the City Manager’s role. This triggered a greater discussion regarding the definitions of various terms including rules, regulations, code, policy, and procedures in Homer City code. The follow up on this was two-fold:

*Council tasked the sponsors with working on recommended language that preserved Council’s policy making role as it pertains to this title and bring it to the body.*

*A broader conversation on the roles of Council, manager, and the difference between code policies and procedures was put in the parking lot for a broader conversation, perhaps as an amendment to the operating manual.*

### **Council can Agree on...**

Council came to an agreement on a number of additional items that can be implemented in the next version of Title 14/17 revisions. These include

- Re-ordering residential and industrial waste sections
- Leave natural gas exclusion in levy of assessment after subdividing as written (original code)
- Use term ‘sanitary system’ throughout Title 14 rather than acronym
- Remove word ‘surface’ from 14.04.100
- placing the topic of extraterritorial services to the side while Ordinance 19-19 works its way through the process (parking lot)

### **Next Steps**

In addition to continuing the discussion on Ordinance 19-23(S) at the proposed August 12 worksession, outstanding items that will need to be addressed and adopted by Council are listed below. Council will need to schedule an extend worksession to get through these items. **I would suggest Monday September 16 from 3pm-5pm.**

- Permit applications for a variety of permits (6)
- Changes to the fine schedule to provide enforcement options for some of the newly adopted sections
- Changes to the fee schedule to implement new permit and application fees in the title
- Updating the HART and HAWSP policy manuals to reflect changes in special assessment districts

Enc:

- Policy questions by topic
- #1. Method of Assessment
  - #2. Hardship Deferral
  - #3. In lieu of Assessment
  - #4. Rule Making Authority

# # 1. METHOD OF ASSESSMENT

## ORDINANCE 19-23

**Proposed Homer City Code (bold underline/strike through reflects changes from Ordinance 19-23(S), updated 8/7/19):**

17.02.040c(3).

The Public Works Director shall use the benefited equal area method in calculating the assessment amount unless another method is specified in the improvement plan **including but not limited to benefited area, front footage, or any other allocation method that results in an assessment proportionate to the benefit received.**

17.18.010 Definitions.

“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 benefited 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.

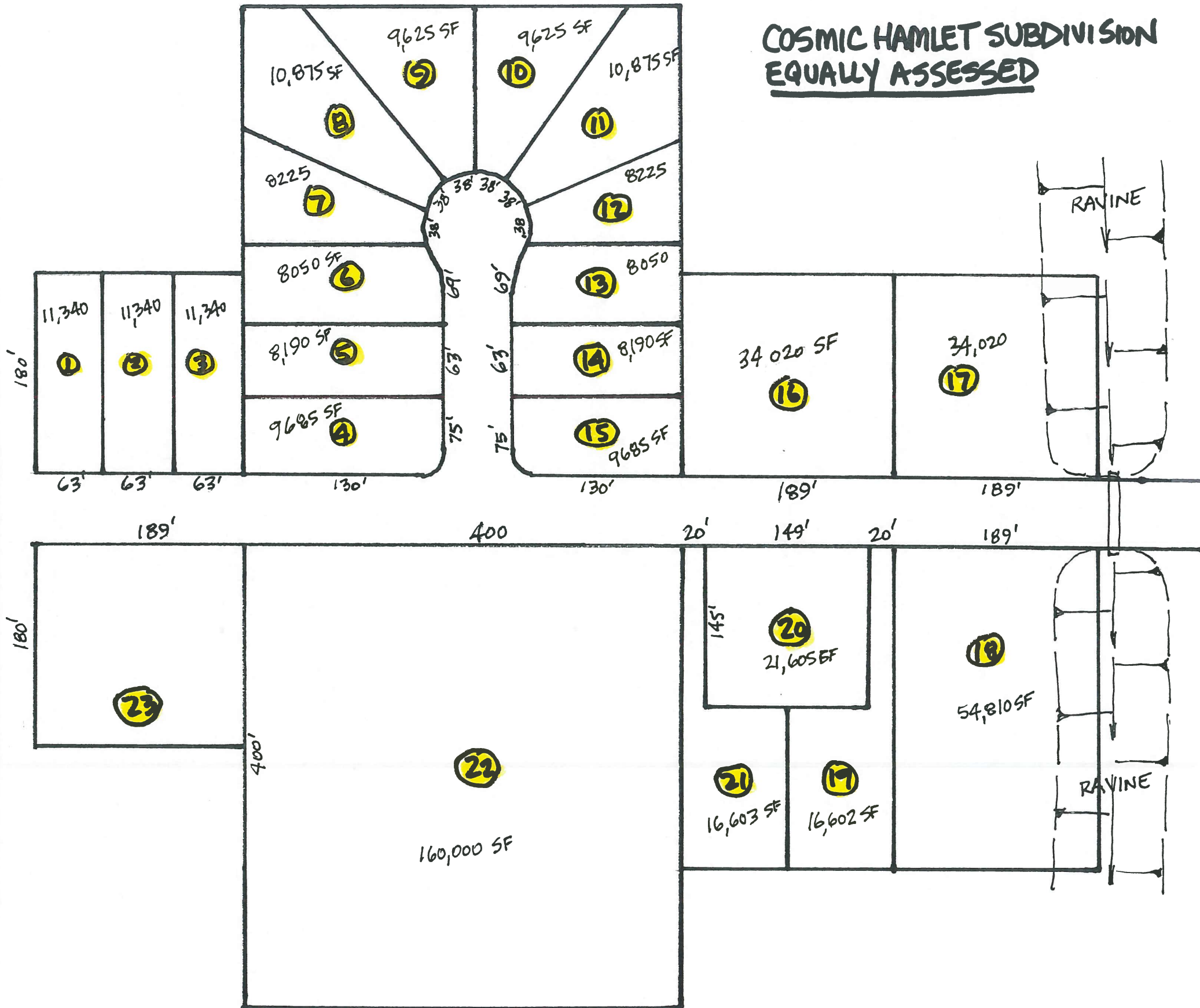
**“Equal area method” means an allocation of costs of a per parcel basis so that each benefited parcel is charged an equal amount.**

**“Front footage” means an allocation of costs based on the linear feet fronting the improvement. Lots having a frontage on multiple sides are exempt from a double front footage assessment unless actually accessing the improvement from multiple sides.**

Enc: Assessment methodology hypothetical scenarios from Public Works Director



# COSMIC HAMLET SUBDIVISION EQUALLY ASSESSED

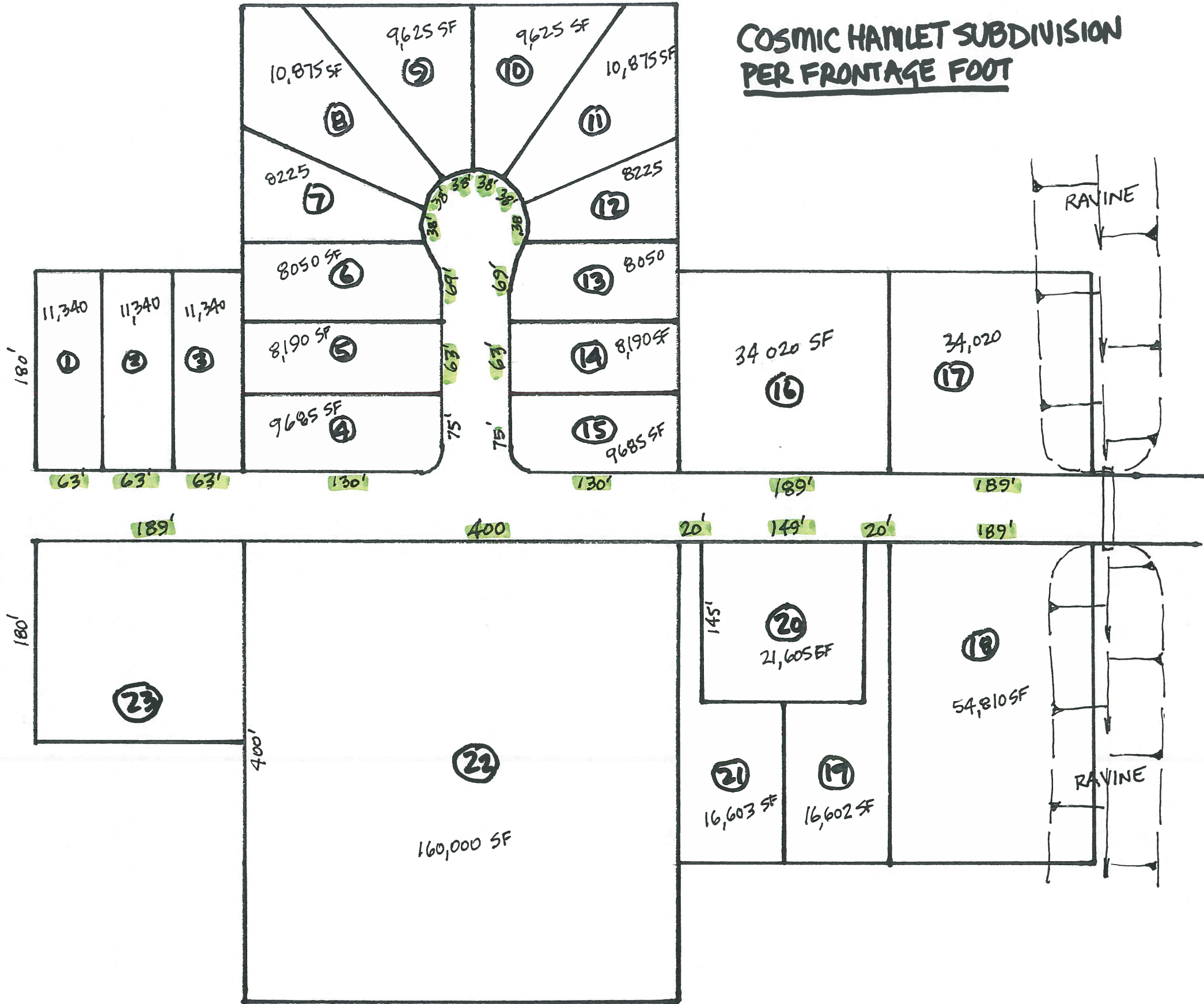


Cosmic Hamlet Subdivision SAD  
Total Property Owner Cost = \$750,000

Lot	frontage foot	lot area (SF)	benefitted area (SF)	Assessment
				equally assessed
Lot 1	63	11340	11340	\$32,609
Lot 2	63	11340	11340	\$32,609
Lot 3	63	11340	11340	\$32,609
Lot 4	130	9685	9685	\$32,609
Lot 5	63	8190	8190	\$32,609
Lot 6	69	8050	8050	\$32,609
Lot 7	38	8225	8225	\$32,609
Lot 8	38	10875	10875	\$32,609
Lot 9	38	9625	9625	\$32,609
Lot 10	38	9625	9625	\$32,609
Lot 11	38	10875	10875	\$32,609
Lot 12	38	8225	8225	\$32,609
Lot 13	69	8050	8050	\$32,609
Lot 14	63	8190	8190	\$32,609
Lot 15	130	9685	9685	\$32,609
Lot 16	189	34020	34020	\$32,609
Lot 17	189	34020	25200	\$32,609
Lot 18	189	54810	25800	\$32,609
Lot 19	20	16602	16602	\$32,609
Lot 20	149	21605	21605	\$32,609
Lot 21	20	16602	16602	\$32,609
Lot 22	400	160000	80000	\$32,609
Lot 23	189	34020	34020	\$32,609

2286      514,999      397,169

# COSMIC HAMLET SUBDIVISION PER FRONTAGE FOOT

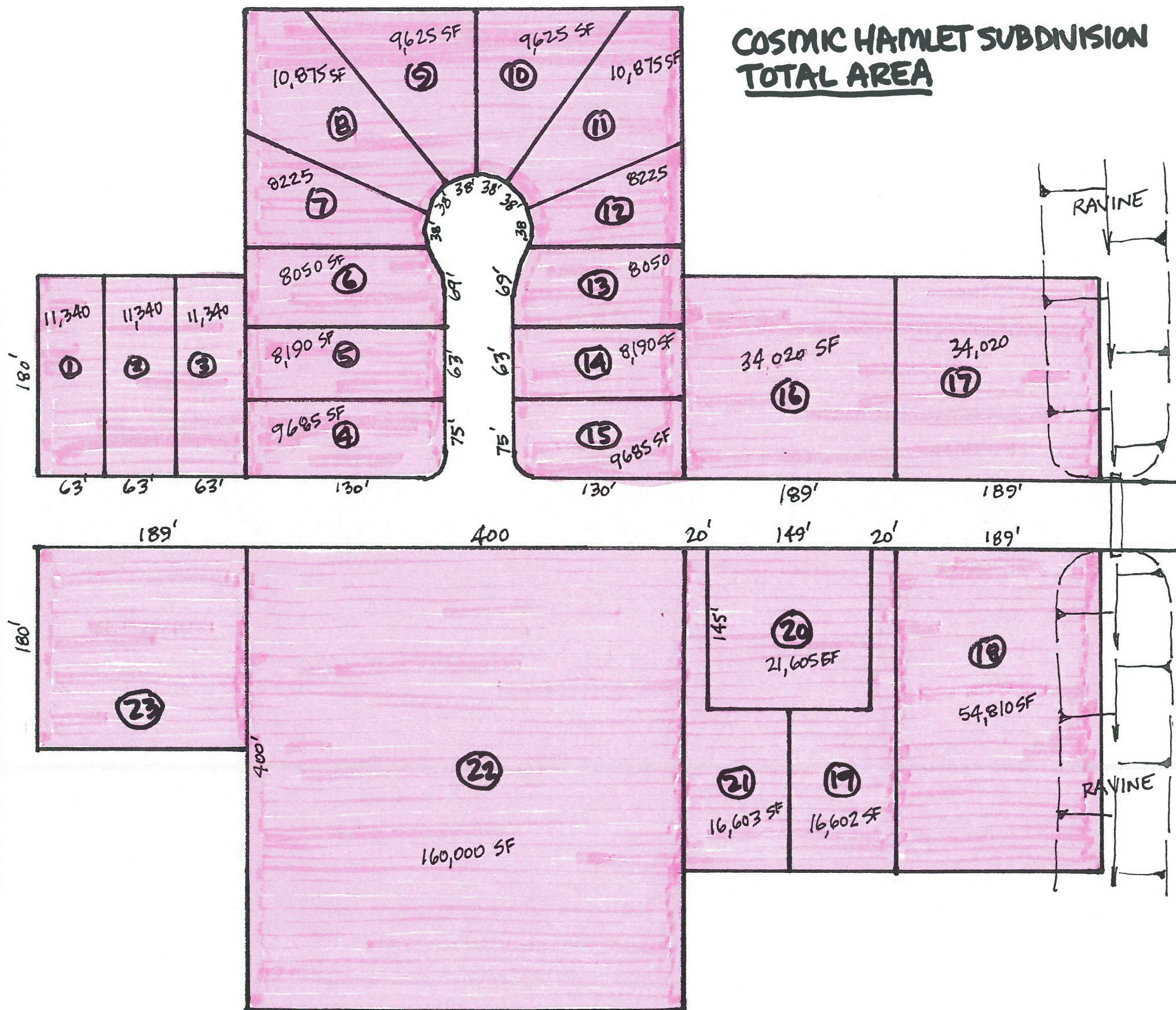


**Cosmic Hamlet Subdivision SAD**  
 Total Property Owner Cost = \$750,000

	frontage foot	lot area (SF)	benefitted area (SF)	Assessment per frontage foot
Lot 1	63	11340	11340	\$20,669
Lot 2	63	11340	11340	\$20,669
Lot 3	63	11340	11340	\$20,669
Lot 4	130	9685	9685	\$42,651
Lot 5	63	8190	8190	\$20,669
Lot 6	69	8050	8050	\$22,638
Lot 7	38	8225	8225	\$12,467
Lot 8	38	10875	10875	\$12,467
Lot 9	38	9625	9625	\$12,467
Lot 10	38	9625	9625	\$12,467
Lot 11	38	10875	10875	\$12,467
Lot 12	38	8225	8225	\$12,467
Lot 13	69	8050	8050	\$22,638
Lot 14	63	8190	8190	\$20,669
Lot 15	130	9685	9685	\$42,651
Lot 16	189	34020	34020	\$62,008
Lot 17	189	34020	25200	\$62,008
Lot 18	189	54810	25800	\$62,008
Lot 19	20	16602	16602	\$6,562
Lot 20	149	21605	21605	\$48,885
Lot 21	20	16602	16602	\$6,562
Lot 22	400	160000	80000	\$131,234
Lot 23	189	34020	34020	\$62,008

2286    514,999    397,169    \$750,000

# COSMIC HAMLET SUBDIVISION TOTAL AREA

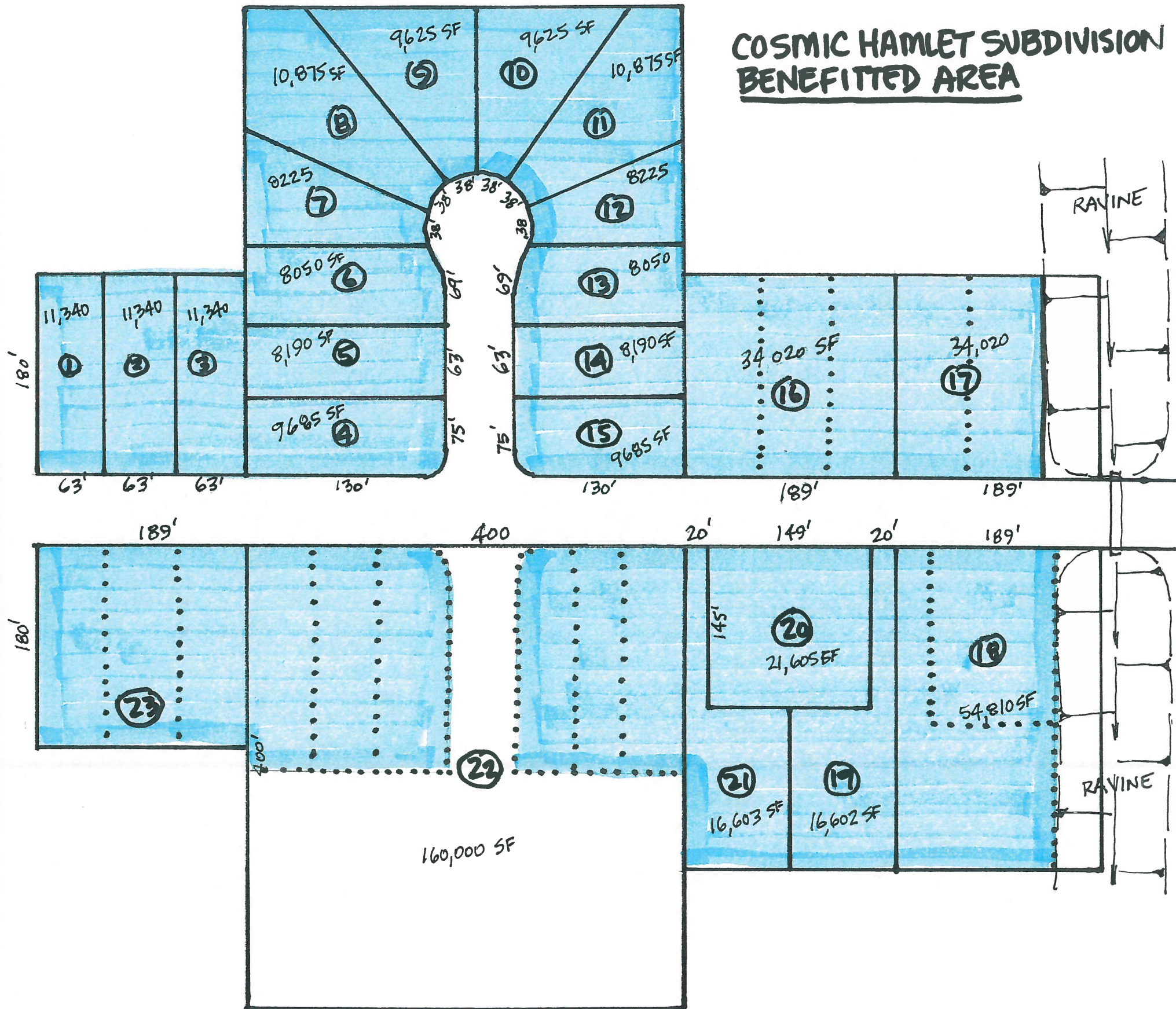


## Cosmic Hamlet Subdivision SAD

Total Property Owner Cost = \$750,000

	frontage foot	lot area (SF)	benefitted area (SF)	Assessment
				per total lot area
Lot 1	63	11340	11340	\$16,515
Lot 2	63	11340	11340	\$16,515
Lot 3	63	11340	11340	\$16,515
Lot 4	130	9685	9685	\$14,104
Lot 5	63	8190	8190	\$11,927
Lot 6	69	8050	8050	\$11,723
Lot 7	38	8225	8225	\$11,978
Lot 8	38	10875	10875	\$15,837
Lot 9	38	9625	9625	\$14,017
Lot 10	38	9625	9625	\$14,017
Lot 11	38	10875	10875	\$15,837
Lot 12	38	8225	8225	\$11,978
Lot 13	69	8050	8050	\$11,723
Lot 14	63	8190	8190	\$11,927
Lot 15	130	9685	9685	\$14,104
Lot 16	189	34020	34020	\$49,544
Lot 17	189	34020	25200	\$49,544
Lot 18	189	54810	25800	\$79,821
Lot 19	20	16602	16602	\$24,178
Lot 20	149	21605	21605	\$31,464
Lot 21	20	16602	16602	\$24,178
Lot 22	400	160000	80000	\$233,010
Lot 23	189	34020	34020	\$49,544
	2286	514,999	397,169	\$750,000

# COSMIC HAMLET SUBDIVISION BENEFITTED AREA



## Cosmic Hamlet Subdivision SAD

Total Property Owner Cost = \$750,000

Lot	frontage foot	lot area (SF)	benefitted area (SF)	Assessment
				per benefitted lot area
Lot 1	63	11340	11340	\$22,081
Lot 2	63	11340	11340	\$22,081
Lot 3	63	11340	11340	\$22,081
Lot 4	130	9685	9685	\$18,859
Lot 5	63	8190	8190	\$15,948
Lot 6	69	8050	8050	\$15,675
Lot 7	38	8225	8225	\$16,016
Lot 8	38	10875	10875	\$21,176
Lot 9	38	9625	9625	\$18,742
Lot 10	38	9625	9625	\$18,742
Lot 11	38	10875	10875	\$21,176
Lot 12	38	8225	8225	\$16,016
Lot 13	69	8050	8050	\$15,675
Lot 14	63	8190	8190	\$15,948
Lot 15	130	9685	9685	\$18,859
Lot 16	189	34020	34020	\$66,244
Lot 17	189	34020	25200	\$49,069
Lot 18	189	54810	25800	\$50,238
Lot 19	20	16602	16602	\$32,327
Lot 20	149	21605	21605	\$42,069
Lot 21	20	16602	16602	\$32,327
Lot 22	400	160000	68000	\$132,409
Lot 23	189	34020	34020	\$66,244
	2286	514,999	385,169	\$750,000

**Cosmic Hamlet Subdivision SAD**

Total Property Owner Cost = \$750,000

	Assessment						
	frontage foot	lot area (SF)	benefitted area (SF)	equally assessed	per frontage foot	per total lot area	per benefitted lot area
Lot 1	63	11340	11340	\$32,609	\$20,669	\$16,515	\$22,081
Lot 2	63	11340	11340	\$32,609	\$20,669	\$16,515	\$22,081
Lot 3	63	11340	11340	\$32,609	\$20,669	\$16,515	\$22,081
Lot 4	130	9685	9685	\$32,609	\$42,651	\$14,104	\$18,859
Lot 5	63	8190	8190	\$32,609	\$20,669	\$11,927	\$15,948
Lot 6	69	8050	8050	\$32,609	\$22,638	\$11,723	\$15,675
Lot 7	38	8225	8225	\$32,609	\$12,467	\$11,978	\$16,016
Lot 8	38	10875	10875	\$32,609	\$12,467	\$15,837	\$21,176
Lot 9	38	9625	9625	\$32,609	\$12,467	\$14,017	\$18,742
Lot 10	38	9625	9625	\$32,609	\$12,467	\$14,017	\$18,742
Lot 11	38	10875	10875	\$32,609	\$12,467	\$15,837	\$21,176
Lot 12	38	8225	8225	\$32,609	\$12,467	\$11,978	\$16,016
Lot 13	69	8050	8050	\$32,609	\$22,638	\$11,723	\$15,675
Lot 14	63	8190	8190	\$32,609	\$20,669	\$11,927	\$15,948
Lot 15	130	9685	9685	\$32,609	\$42,651	\$14,104	\$18,859
Lot 16	189	34020	34020	\$32,609	\$62,008	\$49,544	\$66,244
Lot 17	189	34020	25200	\$32,609	\$62,008	\$49,544	\$49,069
Lot 18	189	54810	25800	\$32,609	\$62,008	\$79,821	\$50,238
Lot 19	20	16602	16602	\$32,609	\$6,562	\$24,178	\$32,327
Lot 20	149	21605	21605	\$32,609	\$48,885	\$31,464	\$42,069
Lot 21	20	16602	16602	\$32,609	\$6,562	\$24,178	\$32,327
Lot 22	400	160000	68000	\$32,609	\$131,234	\$233,010	\$132,409
Lot 23	189	34020	34020	\$32,609	\$62,008	\$49,544	\$66,244
	2286	514,999	385,169	\$750,000	\$750,000	\$750,000	\$750,000

## # 2. HARDSHIP DEFERAL

### ORDINANCE 19-23

**Proposed Homer City Code (bold underline/strike through reflects changes from Ordinance 19-23(S), updated 8/7/19):**

17.02.190 Hardship Deferrals.

a. A person may obtain a deferment of assessment payments under this section if the person:

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

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

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

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

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

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

Enc: Memo from City Manager on poverty levels in Homer area



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

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## Memorandum

TO: Mayor Castner and Homer City Council

FROM: Katie Koester, City Manager

DATE: August 7, 2019

SUBJECT: Homer Hardship Information

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As a follow-up to the July worksessions held on Ord. 19-23(S), the information presented in this memo is intended to provide an overview of poverty levels for Homer’s population and show the potential use of the hardship deferral for annual assessment payments.

Data regarding poverty levels (based on varying percentages) by number of members per household does not exist for the City of Homer. Economist Rob Kreiger with the State of Alaska DOLWD, Research and Analysis Division speculates the U.S. Census Bureau would not publish this detailed information given the City’s insufficient sample size. However, both the State and City staff were able to identify the following pieces of information. Please keep in mind what the data shows today will differ in 5-10 years.

### **% of Families and People Aged 18-64 Whose Income in the Past Twelve Months is Below the Poverty Level:**

8.4% (with +/-2.2% margin of error)

(Staff suggest this is a high estimate for this purpose given many people below poverty level probably do not own homes.)

### **2019 Federal Poverty Guidelines for Alaska:**

<u>Persons in Family/Household</u>	<u>Poverty Guideline</u>	<u>125%</u>	<u>150%</u>	<u>175%</u>	<u>200%</u>
1	15,600	\$19,500	\$23,400	\$27,300	\$31,200
2	21,130	\$26,413	\$31,695	\$36,978	\$42,260
3	26,660	\$33,325	\$39,990	\$46,655	\$53,320
4	32,190	\$40,238	\$48,285	\$56,333	\$64,380
5	37,720	\$47,150	\$56,580	\$56,580	\$75,440
6	43,250	\$54,063	\$64,875	\$64,875	\$86,500
7	48,780	\$60,975	\$73,170	\$85,365	\$97,560
8	54,310	\$67,888	\$81,465	\$95,043	\$108,620



**Ratio of Income to Poverty Level of Families in the Past 12 Months:**

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates	Homer city, Alaska	
	Estimate	Margin of Error
Total:	1,356	+/-81
Under .50	22	+/-18
.50 to .74	13	+/-10
.75 to .99	33	+/-17
1.00 to 1.24	35	+/-17
1.25 to 1.49	39	+/-17
1.50 to 1.74	67	+/-26
1.75 to 1.84	13	+/-9
1.85 to 1.99	53	+/-21
2.00 to 2.99	212	+/-42
3.00 to 3.99	179	+/-40
4.00 to 4.99	168	+/-39
5.00 and over	522	+/-62

**Median Household income (in 2017 dollars)**

\$59, 185

*Income based on 2,176 Households*

**Owner Occupied Housing Rate**

61.3%

*2.47 is average size of owner occupied housing units*

**Poverty Status in the Past 12 Months of Families by Household Type by Number of Persons in Family (at 100% Poverty):**

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates	Homer city, Alaska	
	Estimate	Margin of Error
Total:	1,356	+/-81
Income in the past 12 months below poverty level:	68	+/-26
Married-couple family:	24	+/-15
2 people	6	+/-6
3 to 4 people	8	+/-7
5 to 6 people	10	+/-10
7 or more people	0	+/-12
Other families:	44	+/-21
Male householder, no wife present:	6	+/-8
2 people	3	+/-5
3 to 4 people	3	+/-5
5 to 6 people	0	+/-12
7 or more people	0	+/-12
Female householder, no husband present:	38	+/-17
2 people	20	+/-13
3 to 4 people	10	+/-8
5 to 6 people	4	+/-6
7 or more people	4	+/-7
Income in the past 12 months at or above poverty level:	1,288	+/-84
Married-couple family:	1,039	+/-81
2 people	588	+/-69
3 to 4 people	346	+/-46
5 to 6 people	84	+/-27
7 or more people	21	+/-12
Other families:	249	+/-49
Male householder, no wife present:	61	+/-21
2 people	51	+/-20
3 to 4 people	8	+/-8
5 to 6 people	2	+/-3
7 or more people	0	+/-12
Female householder, no husband present:	188	+/-48
2 people	121	+/-37
3 to 4 people	57	+/-23
5 to 6 people	10	+/-9
7 or more people	0	+/-12



## # 3. IN LIEU OF ASSESSMENT

### ORDINANCE 19-23

#### **Current Homer City Code:**

#### **17.04.200 In lieu of assessment.**

- a. An “in lieu of assessment” must be paid for a property to receive additional water or sewer service within or beyond the area within a local improvement district.
- b. An “in lieu of assessment” shall be computed on the actual cost of the additional water or sewer service, and shall be paid in accordance with HCC [17.04.090](#) and [17.04.100](#).
- c. A property on which an “in lieu of assessment” for water or sewer service has been levied in accordance with subsection (a) of this section nonetheless may be included in special assessment district for the same service in the future date, and will be assessed in that district. An amount not exceeding the lesser of (1) the amount of “in lieu of assessment” paid for the property and (2) the amount of the assessment levied on the property in the future special assessment district shall be a credit against the amount of the assessment levied on the property in the future special assessment district. [Ord. [12-15](#) § 1, 2012].

#### **Proposed Homer City Code (8/7/19):**

#### **17.02.200 Payment in lieu of assessment**

- a. An in lieu of assessment should be used infrequently; its purpose is to allow the City to respond to changing circumstances and allow a lot outside a special assessment district access to an improvement after the formation of the district. It provides a mechanism for the City to be compensated for the access to the improvement while maintaining an incentive for the formation of future special assessment districts.
- b. A payment in lieu of assessment may be available to owners of property outside a special assessment district who want to connect to the improvement funded by a special assessment district. In order to qualify for connection to an improvement under this section, the record owner of the property and the City shall enter into a written agreement. The record owner shall agree in writing to:
  1. Pay the full and actual costs of extending the benefit of the improvement onto their property; and
  2. Pay in full the property’s pro-rated share of the assessed improvement.
- c. The Public Works Director retains the authority to deny a request for extension of an improvement under this section.

d. A payment in lieu of assessment must be paid in an equal or shorter period than the term of the original assessment.

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

Enc:

Memo from City Manager with further explanation of in lieu of assessments

Map from Public Works Director of potential in lieu of assessments



# City of Homer

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## Memorandum

TO: Mayor Castner and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: August 7, 2019  
SUBJECT: Back-up Memo for Title 14/17 Worksession # 3. In Lieu of Assessments

At the July 10 worksession, Council asked for further clarification on how in lieu of assessments are used.

In lieu of assessments are a way to handle outliers. Public Works Director Meyer presented an example at the worksession that was due to changes in technology (which is a good example of why we might need this language in the future; we don't even know how circumstance may change). A property was not included in the district because it was prohibitively expensive due to the technology at the time. That technology has changed and now that property has access to the service due to the change in technology. The City's options are a) don't allow the property to hook up because they did not pay their fair share (which is inconsistent with our policy that if the main fronts your property, you have to hook up); b) allow them to hook up but don't charge them (which is problematic in the case of the particular parcel in question as it is a corner lot and in order for its neighbors to get service, it has to be installed in the other road). This creates a disincentive to participate in the district; or c) proposed code that charges an in lieu of assessment that will be credited to a future SAD. City staff can only recall two such instances of using this tool; it does not come into play very often. Nevertheless, there are a number in the attached map (pink highlights) that could hook up under similar circumstances (changing technology allows for them to cross the road); an in lieu of assessment is the tool we would use to make that equitable.

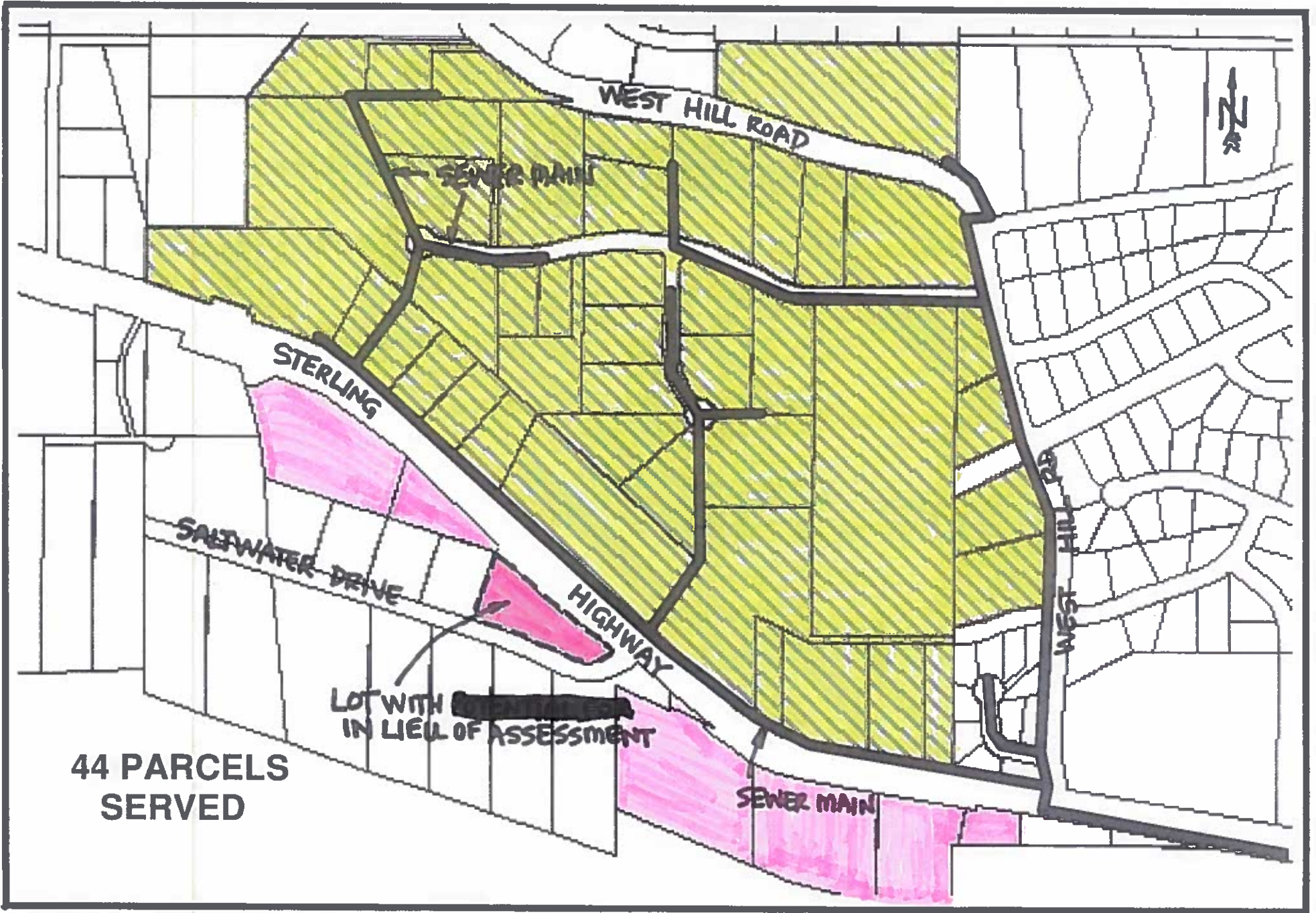
How does that impact HAWSP finances?

Allowing for an in lieu of assessment has a positive impact on HAWSP finances because it gives the fund a mechanism to recoup costs associated with providing access to an improvement. For example, an in lieu of assessment of \$10,000 is paid to the HAWSP fund for corner Lot A, to access an improvement. Ten years later the neighborhood organizes to form a special assessment district (SAD) for that service with an assessment of \$7,000 per parcel. Lot A owes nothing as it has already paid \$10,000 into the HAWSP fund (and the HAWSP retains \$3,000 more than had it waited for the SAD to form). If the SAD comes in at \$13,000 a lot, Lot A is credited the \$10,000 it has already paid and owes \$3,000 as a member of the SAD.

In summary

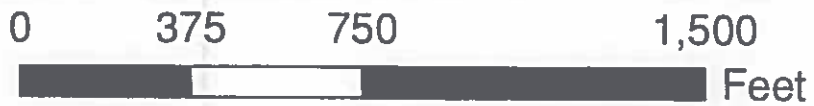
The proposed code changes provide a purpose section to clarify the intent of in lieu of assessments and how infrequently they are used. They also clearly spell out that the property may still be included in a future district and owe the associated costs of that district.

Enc: Map of Hillside acres SAD and eligible lots for in lieu of assessments



**44 PARCELS  
SERVED**

**LOT WITH [REDACTED]  
IN LIEU OF ASSESSMENT**



**HILLSIDE ACRES  
SEWER LID**

## # 4. RULE MAKING AUTHORITY

### ORDINANCE 19-23

**Proposed Homer City Code (bold underline/strike through reflects changes from Ordinance 19-23(S), updated 8/7/19):**

14.01.020 City manager rulemaking authority

a. The City Manager is empowered to make rules and ~~regulations~~ **procedures to facilitate the implementation of the City Code as established by City Council** for the administration of City water and sewer services and construction, repair, operations, and maintenance of city water and sewer systems. Any rules and ~~regulations~~ **procedures** adopted by the City Manager under this section and the current utility rates adopted by Council shall be available for public inspection at the City Clerk's office, the Public Works Department and on the City's website.

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

Enc: Understanding References to Rules, Regulations, Policies, and Procedures in Homer, Alaska



## **Understanding References to Rules, Regulations, Policies, and Procedures in Homer, Alaska**

City Council expressed concern with the often-undefined references to rules, regulations, policies, and procedures throughout the Homer City Code and the characteristics of each of these types of legislative and/or administrative actions. This worksheet attempts to provide a starting place for Council's analysis of these lawmaking tools.

### **I. Ordinances (Codified)**

The most powerful lawmaking authority placed upon the City Council of a first-class city is the Council's ability to adopt ordinances that change the City's Code of Ordinances. Many of the actions the City Council takes are required to be by ordinance under State law.

### **II. Ordinances (Uncodified)**

There are some actions that Council wants to ensure the public has notice and participation in but are not necessarily changes to the Code. Often, Council will adopt ordinances taking these actions so there is a public hearing on the topic. A good example of an uncodified ordinance is the approval of a long-term lease or other negotiated agreement. Generally, the Code will have a provision requiring Council to approve, adopt or amend certain agreements by ordinance rather than by resolution.

### **III. Resolutions**

Resolutions are often used by Council to express its intent, goals, and to take action on less formative matters. Often, City administration will sponsor resolutions in order to trigger Council action and ensure public notice of an administrative action that has a fiscal or policy impact. In Homer, resolutions have been declared to be a "law" and thus Council's actions via resolution should

be treated as law. The Council should not use resolutions to impose fines or penalties directly. Instead, resolutions generally can be used to adopt changes to the amount of a fine or penalty. The reason for this is the constitutional and statutory requirement that people are given notice before they are penalized for not following a law. Many communities pass ordinances requiring certain conduct and authorizing administration to impose more specific rules governing such conduct. However, in order to ensure that the public has knowledge and awareness of, and Council maintains oversight over, the specifics crafted by the administration, Council approval by resolution is required.

#### **IV. Code of Regulations**

Regardless of whether they are called procedures, rules, regulations or some combination thereof, regulations may be drafted by a City Council or drafted by City administration. If, however, regulations are drafted by City administration, Council approval should be required and the City Code should expressly authorize the administration to draft such regulations.

##### **Council-Regulations**

When Council drafts regulations, it does not need an ordinance authorizing it to do so. Homer City Code and State Statute (AS 29.25.040) permit Council to adopt a single “Code of Regulations,” by an ordinance referencing the regulations. A “Code of Regulations” generally encompass regulations that, when violated, constitute a violation of law and trigger a fine or penalty. The actual regulations or any amendments to them do not need to be distributed to the public or read in full when the ordinance is adopted. However, the adopted regulations do need to be available for public inspection at a specified time and place after the hearing. Generally, larger municipalities enact Codes of Regulations, which can take substantial resources to initially create and maintain.

##### **Administration-Regulations/Policies**

The City has not adopted a “Code of Regulations.” Instead, the Council has generally incorporated rulemaking authority into specific Code titles, when

appropriate. Using this method, Council adopts laws prohibiting or requiring certain conduct and triggering a penalty for such conduct. In an effort to ensure that the specific criteria under these sections can be easily updated and tailored, Council then adopts a law enabling the administration to adopt more specific regulations, guidelines, criteria, rules, and/or procedures that fall under the general law but requires Council approval via resolution of such regulations, guidelines, criteria, rules, and/or procedures.

### **Procedures & Policies**

While the terms “policies,” “procedures,” “regulations,” and “rules” are all used interchangeably throughout the City Code and even in relevant case law, there is a layer of administrative procedures and policies that do not necessarily require Council approval. These “procedures and policies” are merely management tools and are designed to create efficiencies rather than requirements. Arguably, there are benefits to ensuring these types of procedures and policies are not subject to Council oversight as they are policies that best serve the City when they can be quickly changed to meet the City’s management interests.

In Homer, City administration and Council have generally turned any standing procedures and policies into regulations by requiring Council approval of these policies and procedures. Similarly, the City has historically used the term “policies and procedures” to refer to what are essentially regulations crafted by City administration and subject to Council approval via resolution.

### **Conclusion§**

Given 1) the current existing interchangeable use of regulations, policies, procedures, and rules throughout the Code; 2) the City’s available human and financial resources; 3) applicable federal, state, and local laws; and 4) the City’s goals, I recommend Council formalize the three-tiered lawmaking system currently used by the City and revise the relevant language and provisions to consistently reflect that system.

### **Tier 1: Council Adopted Ordinances**

The City Council drafts ordinances that provide the basic rights, responsibilities, privileges, and prohibitions within the City. Ordinances are also used to adopt/execute specific agreements when required by the Code.

### **Tier 2: Council Approved Rules and Regulations**

Council adopts ordinances expressly granting the City Manager authority to create and amend “rules and regulations” when Council deems such authority appropriate. Once that authority is granted, the City Manager works with her department directors and other qualified staff to draft rules and regulations. These rules and regulations are then submitted to the City Council for approval before becoming effective. Similarly, any amendments to “rules and regulations” should be approved by Council before they become effective.

If Council adopts this approach, I’d recommend Council change the Code to expressly require adoption of or amendments to rules and regulations that result in penalties by ordinance, rather than resolution. This ensures that the public has as much notice as possible and has an opportunity to participate in a hearing on the regulations before their adoption.

### **Tier 3 Administrative “Policies and Procedures”**

Policies, procedures, manuals, templates and other documents generated in-house purposes of managing the City and streamlining City responsibilities are not subject to Council approval.

While currently there are numerous City “policies” that require Council approval, most of these policies are in fact rules and regulations or user-friendly restatements of Code requirements. Thus, any policies, procedures or manuals that are currently subject to Council approval should be renamed “Rules and Regulations.” This clarifies to the public that the requirements and direction in those “policies, procedures or manuals” are approved by Council and required.

## Ordinances

*Council Approval Required;  
Introduction and public hearing  
required; may or may not be included  
in Homer City Code.*

## Rules & Regulations

*Must be authorized by Homer City  
Code; City Manager drafts the rules  
and regulations; Council approves  
them.*

## Policies & Procedures

*Drafted and applied by City Manager;  
Not subject to Council approval.*